Legislative Assembly

Wednesday, 3 April 1985

THE SPEAKER (Mr Harman) took the Chair at 2.15 p.m., and read prayers.

EDUCATION: TEACHERS

Promotions: Petition

MR GORDON HILL (Helena) [2.17 p.m.]: I present a petition containing one signature. It reads as follows—

To—

The Hon. the Speaker and Members of the Legislative Assembly of the Parliament of Western Austrtalia in Parliament assembled. WE, the undersigned citizens of Western Australia:

Respectfully express deep concern at the proposed Education Department promotional changes and ask the Government to withdraw the conditions of special promotion in primary schools as detailed in the Education Circular, February 1985, Volume 87, Number 1, Pages 2 to 8, and restore status quo until such time as a newly constituted and representative committee incorporating practising primary principals is formed to devise an acceptable alternative.

Your Petitioners, therefore, humbly pray that you will give this matter earnest consideration and your Petitioners, as in duty bound, will ever pray.

I certify that the petition conforms to the Standing Orders of the House.

The SPEAKER: I direct that the petition be brought to the Table of the House.

(See petition No. 89.)

PARLIAMENTARY PRIVILEGE

Select Committee: Motion

MR D. L. SMITH (Mitchell) [2.22 p.m.]: I move—

That a Select Committee be appointed to inquire into and report upon complaints of breach of privilege referred to it by the House; that the Committee have power to send for persons, papers and records; to sit on days on which the House does not meet and to move from place to place.

The question of privilege is dealt with by section 36 of the Constitution Act on which our system of government is based. It gives the power to the Assembly and the Council to pass an Act dealing with their own privileges. That was done by the passing of the Parliamentary Privileges Act 54 Victoria No. 4, a copy of which we all have before us in the blue handbook, *Acts and other information relating to Parliament*.

The nature of privilege is dealt with in the text on the House of Representatives practices edited by J. A. Pettifer and also in the text on House of Commons practices by Erskine May. Those texts on the Parliamentary Privileges Act make it clear that the House has the power to appoint committees of inquiry to consider breaches of privilege. I do not want to go into the nature of those breaches of privilege, but quite obviously they could be breaches by persons outside the House or by people within the House.

It has been the Government's view, and my view, for some time that in the House this session there have been breaches of that parliamentary privilege by members along the lines of those covered within the practices of both the House of Representatives and the House of Commons.

It is a valuable tool when there is an allegation of a breach of privilege that instead of the matter being debated at length here and witnesses having to come before the Bar of the House, the matter be referred to a Select Committee and the witnesses dealing with that breach of privilege heard by a small number of people in the usual way of Select Committees of the House examining witnesses. The committee could then report back to the House as to its findings on that allegation of breach of privilege.

The penalties to be imposed on any person found guilty of a breach of privilege would remain a matter for the House. I would envisage that the committee would investigate only the content of the breach of privilege and then report back as to whether there had been a breach, what the committee thought the nature of the breach was, and the circumstances surrounding it, thus leaving the way open for the House itself to decide on an appropriate penalty.

The House of Representatives has had a standing committee on privileges for many years. In fact, most of our brother Parliaments have standing committees to deal with breaches of privilege. On this occasion it is not envisaged that there be a standing committee, but just a Select Committee with an indefinite term, and that any breaches of privilege could be raised here and the House could then decide on what matters were referred to the Select Committee. As I have said the Select Com-

mittee would then report back to the House on its findings.

I do not intend to speak at any length in support of the motion. A Select Committee would be a very valuable aid to rectify some of the problems which have been obvious this year. It is obvious that we, on this side, have alleged that breaches of privilege have occurred this session.

Mr MacKinnon: How many have there been?

Mr D. L. SMITH: I take the Opposition's position that it is proper for its members to say that there has been no breach of privilege.

Mr MacKinnon: Give us just one example.

Mr D. L. SMITH: One example would be the speech by the member for Gascoyne on the Tourism Commission. In my view that was clearly a situation involving a breach of privilege.

Mr Hassell: So that is what this is all about!

Mr D. L. SMITH: It is not about that particular matter. It is a general situation that has long been recognised as being necessary by our brother—and sister—Parliaments. I think members on this side can make the allegation that members opposite have been guilty of breaches of privilege.

The proper way to consider whether that allegation is true is on a bipartisan basis. We should refer such allegations to a Select Committee so that it can then report back to us on a bipartisan basis as Select Committees almost always do.

I commend the motion to the House.

MR TONKIN (Morley-Swan—Leader of the House) [2.28 p.m.]: I second the motion. The reason I did not move it myself is that, under our Standing Orders, the mover of a motion must be a member of the committee, and it was not desired to have a Minister on the comittee, but to have only backbenchers on it. I gave notice of the motion and I speak now to indicate that this is not a matter really for private business but a matter for the Government; it is a matter of Government policy.

This Parliament does not have a committee of privilege. The Westminster system—the mother of Parliaments—which we are so fond of quoting as being followed by us, does have, and has had for a long time, a committee of privilege, as has the Victorian Parliament and as has the national Parliament of Australia.

The purpose of a committee of privilege is twofold: One is that if a member of the House claims that privilege has been breached, because he has had applied to him what he claims to be undue duress or force in an endeavour to influence his behaviour in Parliament, such a claim can be investigated by a committee of privilege. It could involve a bribe, such as when the previous member for Mt. Marshall, Mr Ray McPharlin, claimed in the House that an attempt had been made to bribe him with respect to the mining legislation.

Bribing someone or the threat of force is a breach of privilege and the Statutes provide for ways of dealing with that situation. A member could raise this matter and it would then be up to the House to direct that it be referred to the Select Committee. I want to make that clear; the Select Committee does not have power of its own motion and it is only by resolution of this House that a matter can be referred to it.

There have been many cases of alleged breaches of privilege of that nature in the House, and the fact is that it has not been taken very seriously by the House. I remember when in Opposition rising on a matter of privilege and the then Speaker (now Sir Ross Hutchinson), instead of treating it with the importance it deserved, thought it was some kind of joke. That indicates we do not have very high standards in this House, not only in that respect, but in other respects as well.

Mr Old: I find it hard to believe, given the way you behave in this place.

Mr TONKIN: I accept that the member has problems with belief.

Mr Thompson: You were thrown out of this Parliament more times than any other member of Parliament.

Mr TONKIN: I am very proud of that because on each occasion that I was suspended from this House I was complaining about the corrupt electoral laws which elect this Parliament. Only one thing makes me ashamed; that is, I am a member elected under the fraudulent and dishonest laws designed to give the conservative parties an advantage.

Mr Mensaros: Then you ignored the Governor's command to go to the Legislative Council.

Mr TONKIN: The Governor's command! The member lives in the Middle Ages. There is a different tradition in eastern Europe; in this place we have a proud tradition of dissent—a British tradition, something which the member probably does not understand.

The other form of alleged breach which could be referred to a Select Committee would be if it were claimed that a member of the House had abused the right and privilege of Parliament by defaming someone outside the House who could not defend himself or herself. I am aware that many members have offended in this regard.

Mr Thompson: Can you give some examples where that has been treated as a matter of privilege in any other Parliament?

Mr TONKIN: There is no question—

Mr Thompson: Give some examples! You gave some earlier on one definition of breach of privilege; now give another for this little construction you are putting together. You cannot, because it has no precedent.

Mr TONKIN: Well, I do not believe that that is so, but I do not have chapter and verse.

Mr Thompson: You gave us chapter and verse on one definition; give us chapter and verse on this.

Mr TONKIN: I did not give chapter and verse on the other definition.

Mr Thompson: You gave an example.

Mr TONKIN: Yes.

Mr Thompson: Give an example to support this definition.

Mr TONKIN: The example I gave was from this House.

Mr Thompson: You cannot. You are making a farce of the whole thing.

Mr TONKIN: I did not give an example of the other type of definition; I gave examples of what had happened in this House.

Mr Thompson: You gave an example of how you raised it as a matter of privilege.

Mr TONKIN: That is right, but it was not treated in other Parliaments as a matter of privilege. I have not given any example in respect of the first category.

Mr Old: You haven't a feather to fly with.

Mr TONKIN: That is the member's opinion. I believe the people are tired of members of Parliament defaming people who have no chance to reply. I am happy to agree that a number of members may have offended in this regard. If I have offended, the matter should have been referred to a Select Committee of this nature. We continually tried to establish Select Committees in this Parliament and members opposite and their conservative friends blocked us.

Mr Old: You were lucky.

Mr TONKIN: No, I think that was bad for the Parliament. The Select Committees for which we on this side of the House continually asked were desirable. The only problem is that members opposite, as conservatives, would not allow the Parliament to operate in that proper way.

As a Government we are saying that, irrespective of whether there was such a committee in the past, it should have existed and there should be a committee of privilege. It is the Government's policy that there should be a committee of privilege.

Mr Hassell: Did the Cabinet agree to this?

Mr TONKIN: I am not going to discuss what happened in Cabinet.

Mr Hassell: This is your own little project.

Mr TONKIN: Is it? If that is so I would expect to be disciplined by my Cabinet colleagues. I guess that if it is not a Cabinet decision they will be free to vote as they wish on the matter.

Mr MacKinnon: Like they have for years.

Mr TONKIN: I state again that this is Government policy; this is a decision of Government. Does that answer that question?

This Select Committee will only have the powers of a Select Committee; that is, to call for papers and persons and that kind of thing. Any action taken in respect of any findings of the Committee will be by the House itself. I mention this because the Deputy Leader of the Opposition raised it with me and asked what powers the Committee would have to discipline a member, for example. I said to him it did not have any power to discipline a member. It has the power to investigate by calling for persons and papers and moving from place to place and making recommendations to the House.

I am quite prepared to say that abuses of privilege have occurred by members on both sides of the House. I do not know whether that excuses it in this tit for tat kindergarten which some people call a Parliament. I say it does not. If I have offended in some way, how does it excuse such behaviour? It does not.

Mr Old: It makes you a bigger hypocrite.

Mr TONKIN: The member can call me that if he likes. We have said consistently from that side when we did not have the numbers that there should be a system of committees.

Mr Old: I never heard you say that.

Mr TONKIN: I moved for it time and again.

Mr Old: You wanted committees for everything.

Mr TONKIN: I was chairman of a Select Committee of this House which found in favour of a committee system for the Parliament. That was never put into operation by the conservatives in nine years. There should be a committee of privilege. If members opposite want to be part of the Westminster system, which I suggest is a very proud tradition, this House should follow that line. The committee should have the power not only to inquire into the need to discipline members of

Parliament, but to protect members. It is not adequate if a member rises in this place to complain of a breach of privilege or a member of the public complains that a member has abused privilege of the House to debate the matter. We are too clumsy; we do not have the mechanism for doing that. We have the power to establish a committee and I have invited the Opposition to nominate two names. I understand it is not ready to proceed and that it would like the motion deferred.

Mr Hassell: Adjourned in the usual way for proper consideration. You think it is an important motion, don't you?

Mr TONKIN: Sure. I do not quarrel with that, and I am happy for the debate to be adjourned.

Although the Deputy Leader of the Opposition might not have taken it to the party room, I told him about it yesterday morning at our weekly meeting.

Mr Hassell: Yes, but we had not heard what the mover had to say. We often hear about legislation in advance of its coming here, but that does not mean that we can decide on it.

Mr TONKIN; That is fair enough. All I am saying is that I informed the Deputy Leader of the Opposition about it before the party meeting. As the Leader of the Opposition says, it is normal to adjourn a motion like this. We brought it on knowing that it would be adjourned. The Government has had this attitude ever since it became the Government. Before it ever became the Government, its attitude was that there should be a committee of privilage, so we are concerned to see that committee operate. There will be a forum to which a member of the public or a member of this House can go if he feels he has been badly treated in some way.

The committee, of itself, will have power only to inquire, to send for papers and persons, and to move from place to place.

Mr Blaikie: What is the membership of the Westminster Committee? What is the ratio of Government to Opposition members?

Mr TONKIN: Traditionally under the Westminster system the government always has a majority.

Mr Blaikie: Are you talking about the privileges committee? I think you should check up on that.

Mr TONKIN: If the member for Vasse is disputing that, he should check on the matter, It is the custom of this House for a Select Committee to have a majority of Government members. It is our intention to have a majority of Government members as is the case with all Select Committees.

We are ready to nominate three members and I have invited the Opposition to nominate two people to be members of this committee. I believe that the committee is desirable. It should not be used in a partisan manner. If it is, the public will see it for what it is. The Chamber should remember that the committee has to come back to this House to report. If it is clearly seen that the committee is making an unfair recommendation or if the House makes a decision which is unfair, the political process will operate.

Mr Hassell: One way to guarentee that it would not be partisan would be to have equal numbers. The committee could then not agree if it was partisan.

Mr TONKIN: As the Leader of the Opposition knows, that is not the system in this House.

Mr Hassell: No, but that is the position under the Westminster system which you were citing only a few minutes ago as the model you were following.

Mr TONKIN: The fact is that every Select Committee set up by this House has had a Government majority. That is democratic because the Government has a special responsibility. However, if there were the situation in which three Government members ganged up on someone and there were a 3:2 decision, there would be debate in this House and the political process would operate. If any Government is seen to act in an unfair and unethical manner, the political process would operate. It would be exposed for what it is.

Mr Blaikie: So you are extending the political process; that is all you are doing.

Mr TONKIN: I hope that this committee will not be childish and give tit for tat. One has only to think of the petrol debate yesterday to be ashamed to be part of the political process. People on both sides of the House exhibited the kind of emotional maturity of three-year-olds. Surely we can lift our game. The people deserve politicians who are a little more sober and responsible.

Mr Clarko: That is rank hypocrisy because when you sat here you were the most bellicose, outrageous member of the Parliament.

Mr TONKIN: I accept the member's right to make that judgment.

Mr Blaikie: It was not a judgment, but a very carefully considered observation.

Mr TONKIN: Members can now see how we are giving tit for tat. Members of the Opposition cannot resist. They just do not have the maturity to be able to get above this kind of mud-slinging attitude. I am not attacking any member of the Opposition. It should be possible for the Oppo-

sition to realise that this is a very important function of the Parliament and that the people have a right to demand some kind of protection from unsubstantiated attacks upon them.

Mr Laurance: You are trying to muzzle the Parliament; that is what you are doing. There is absolutely no precedent for it.

Mr TONKIN: No precedent in this Parliament?

Mr Laurance: In the Westminster system. There is for breach of privilege by outside persons, but not by a member of Parliament. If you do this you will muzzle members of Parliament.

Mr TONKIN: I do not believe that at all. If a member of Parliament has substantiated his remarks and has clearly been responsible, and if this House or a committee of the House was to treat him unjustly, whoever perpetrated that unfair attack on the member and tried to muzzle him would be subject to the political process. I have enough faith in it to know that.

Mr Rushton: You operate on the numbers.

Mr TONKIN: The member for Dale knows very well that the numbers in this House are exercised in a public way. If we exercise numbers in an unfair and inequitable way the public will judge. We do have elections in this State. Even though the Opposition has tried to pervert its course, the electoral process will take care of unfair attacks.

I have every faith that the people of Western Australia will be able to sift the evidence and make their judgments accordingly. Any Government that attempted unfairly and unethically to muzzle a member of Parliament would stand condemned. The House must remember that numbers are a function of time. Whoever has the numbers in this place today may not have them tomorrow. I believe that people on both sides of the House would do well to remember that. I hope the time has come when people in this place can rise above narrow partisan interest and see to it that the public and the privileges of this House are protected. If members of the Opposition do not think that is possible, I do not share their cynicism or their very low opinion of human nature.

For those reasons, the Government puts forward this motion. I understand that debate on the motion will be adjourned so that the Opposition can consider its position. As the Leader of the Opposition has pointed out, that is the normal way for debate. We are happy that that should happen. In the meanwhile I am happy to have discussions on the matter with the Leader of the Opposition or the deputy leader or anyone else behind the Chair, because this is too important to be regarded in a very narrow partisan way. The motion moved by the member for Mitchell is desirable. I have already expained why the member moved it: The mover must go on the committee and it is not envisaged that a Minister would sit on the committee.

Debate adjourned, on motion by Mr Williams.

BILLS (4): INTRODUCTION AND FIRST READING

1. Western Australian Planning Commission Bill.
   Bill introduced, on motion by Mr Pearce (Minister for Planning), and read a first time.
2. Reserves and Land Revestment Bill.
   Bill introduced, on motion by Mr McIver (Minister for Lands and Surveys), and read a first time.
3. Rural Reconstruction and Rural Adjustment Schemes Amendment Bill.
   Bill introduced, on motion by Mr Evans (Minister for Agriculture), and read a first time.
4. Bunbury Railway Lands Bill.
   Bill introduced, on motion by Mr Grill (Minister for Transport), and read a first time.

MISCELLANEOUS REGULATIONS (VALIDATION) BILL

Second Reading

MR GRILL (Esperance-Dundas—Minister for Transport) [2.53 p.m.]: I move—

That the Bill be now read a second time.

The Bill proposes to validate a number of legislative instruments which inadvertently were not tabled in the Legislative Assembly as required by law.

Mr Old: Shame!

Mr GRILL: On whom?

Mr Old: The Government.

Mr GRILL: Everybody.

Mr Peter Jones: Is it our fault? Are you blaming us?

Mr GRILL: Yes.

Mr Peter Jones: My God! You are trying to spread it around.

Mr GRILL: Members will be aware that the Interpretation Act requires that regulations and by-laws are published in the *Government Gazette* and then tabled in both Houses of Parliament within six sitting days. If they are not so tabled, they cease to have effect.

The instruments, which are listed in the schedule to the Bill, have previously been tabled in the Legislative Council, but not in the Legislative Assembly.

That failure was due to an administrative oversight at Parliament House. Parliamentary staff have been unable to locate the relevant papers or to ascertain the reason for the failure of the usual procedures.

Mr Old: I thought the Speaker told us that was not correct.

Mr Peter Jones: That is in conflict with the statement the Speaker made. He made a statement from the Chair.

Mr GRILL: Members opposite can present their arguments later on, but I doubt that they will.

Mr Old: Why not?

Mr GRILL: I doubt that they will.

Crown Law Department officers were made aware of the oversight in mid-March, and the Government has responded immediately to restore the position.

The Bill will give effect to the instruments as if all proper procedures had occurred, and will allow members of this House the opportunity to consider the instruments in the same manner as the Legislative Council has already done. Tabling of the relevant instruments in this House has been arranged for today.

Clause 3 of the Bill effects the validation.

The Government is most concerned at the situation which has arisen. I am sure that parliamentary staff and counsel will be vigilant to ensure that there is no repetition of this unfortunate occurrence.

Mr Peter Jones: Are they to be tabled today?

Mr GRILL: I hope they will be, yes.

Mr Peter Jones: Are you sure they were not tabled yesterday? There was a lot of tabling yesterday and nearly none today.

Mr GRILL: Good luck! Let us have the situation remedied now. Let us have it validated. Let us not go witch-hunting for some officer. Let us not create unnecessary fuss over the whole matter.

Mr Peter Jones: They were tabled yesterday, so we now know which papers to look at. They were done yesterday.

Mr GRILL: I commend the Bill to the House.

Debate adjourned, on motion by Mr Mensaros.

OFFENDERS PROBATION AND PAROLE AMENDMENT BILL

Second Reading

MR GRILL (Esperance-Dundas—Minister for Transport) [2.58 p.m.]: I move—

That the Bill be now read a second time.

Before the enactment of the Acts Amendment (Abolition of Capital Punishment) Act 1984—the "abolition Act"—the Offenders Probation and Parole Act required the Parole Board to furnish a first written report on a prisoner to the Minister as follows—

(a) for a prisoner undergoing a sentence of life imprisonment commuted from a sentence of death, 10 years after the date of commutation;

(b) for a prisoner undergoing a life sentence that had not been commuted, five years after the date of sentence;

(c) for a prisoner undergoing a sentence of strict security life imprisonment commuted from a sentence of death, 20 years after the date of commutation.

The effect of these provisions was that a person convicted of wilful murder and sentenced to the mandatory punishment of death was subject to a minimum period of imprisonment of 10 years if the sentence was commuted life, and 20 years if the sentence was commuted to strict security life imprisonment.

The abolition Act removed death as a sentencing option for the crime of wilful murder, and provided mandatory alternative sentences of strict security life imprisonment or life imprisonment. The abolition Act also amended the Offenders Probation and Parole Act to require the Parole Board to furnish a written report on a prisoner undergoing a sentence of strict security life imprisonment 20 years after the date of sentence. No other provision was made in respect of the parole period of a prisoner convicted of wilful murder, and sentenced to life imprisonment.

Accordingly, the range of sentences now open to a court for wilful murder is strict security life imprisonment with a minimum period before parole of 20 years, or life imprisonment with a minimum period before parole of five years.

It is proposed to amend the Offenders Probation and Parole Act to increase from five to 10 years the minimum period before consideration of parole for a prisoner sentenced to life imprisonment following a conviction of wilful murder. This is effected by clause 3 of the Bill.

It is proposed that the amendment have effect from the date of proclamation of the abolition

Act, namely, 5 September 1984. This is effected by clause 2.

The amendment will not affect the position where people convicted of wilful murder are sentenced to strict security life imprisonment. In such cases, the minimum period of imprisonment will continue to be 20 years.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Mensaros.

MINING AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from 21 March.

MR PETER JONES (Narrogin) [3.00 p.m.]: This Bill is complementary to the Aboriginal Land Bill in that it seeks to define the way in which mining tenements for which application has been made on land that has been awarded by the tribunal set up under the Aboriginal Land Bill will be administered. It sets out the administrative procedures which will apply and all sorts of provisions, for example in relation to entry by permit. It identifies and defines the land, the status of negotiations and the fact that a permit will last for four months. It also deals with the vexed question of compensation and introduces the concept of compensation for social disruption in residential areas.

In the past we have been accustomed to the question of compensation for physical disruption; that is, disruption which involves damage to roads or interference with pastoral or farming activities. Compensation has been awarded for physical disturbance once agreement has been reached. If agreement is not reached, under the legislation arrangements will be available for a tribunal to consider the matter. This Bill introduces an element which Mr Holding has claimed under the Federal Aboriginal land rights model legislation—the question of compensation for social disruption over a number of years.

In its argument with its Federal colleagues the State Government took great exception to the pressure from the Federal Government to include social disruption because it is an open-ended item.

We will not have a bar of it and we are drawing attention to this aspect. It is an open-ended load of rubbish, a most dangerous, highly costly, and never-ending form of compensation. Yet in this Bill the Government has introduced it for residential areas. That narrows down the area over which it might apply but nevertheless introduces the principle of compensation for social disruption.

The legislation also provides for the establishment of a tribunal with Aboriginal representation. The Bill is entirely complementary to the Aboriginal Land Bill and, just as we rejected that Bill and will not have a bar of it, we reject this Bill. It is opposed.

MR TAYLOR (Kalgoorlie) [3.04 p.m.]: Once again we have a Bill that represents an indication of the degree of consultation that this Government has been prepared to undertake to come up with legislation agreed to by a great and diverse number of interests. The legislation before us is indicative of the work that the Minister for Minerals and Energy, the Premier and others have been prepared to put into this process to ensure that we can bring forward to the House legislation that has the support of such interest groups. The legislation is predicated on a course of moderation and equity on the part of all parties involved in the mining industry. It has special regard for the cultural, economic and social conditions of the Aboriginal people but at the same time it achieves a sense of balance that retains and maintains the economic and social well-being of the community as a whole. Those of us in this Parliament, and we represent the community as a whole, would have to agree, if they look at the legislation setting aside their base political interest, that from the point of view of the interest of the entire community this legislation achieves a sense of balance. It achieves the sense of balance that has been missing in this sort of legislation for many years.

I pay tribute to the people who have been involved in the formation of this legislation, particularly the Minister for Minerals and Energy, the Premier, Mr Graham McDonald, the member for Kimberley and the many others mentioned in the Minister's second reading speech. Should the legislation be passed, this State will owe those people a great deal with regard to the future relationship between the Aboriginal community and the mining industry. Contrary to what has been said in the debate on the Aboriginal Land Bill we do not seek to turn back the clock. As a Government we want to go forward into the future, hand in hand with the mining industry and the Aboriginal people and to try to ensure that there is some conciliation as far as these people are concerned. We do not seek to dispossess those in the community who currently privately hold or own land.

Coming from Kalgoorlie I am aware that the Aboriginal people in and around my electorate have a wide range of views on these matters. Some agree with the Government's point of view, others violently disagree, and others do not care at all. That in itself is not unusual as far as the community as a whole is concerned. If legislation affects people some are concerned about that legislation and may agree or disagree, but others could

not care less because they do not care to involve themselves in things which happen in the community. From that point of view Aboriginal people are no different from any others.

We have chosen to introduce this legislation to try to introduce some sanity to the issue. I firmly believe that the Opposition's stance on this Bill, as indicated ever so briefly by the member for Narrogin, will disadvantage the mining community and the mining industry as a whole. The mining industry, including mining and exploration groups, has made its wishes clear: As far as it is concerned the legislation should proceed. It disappoints me immensely that the member for Narrogin should take this stance. He was the Minister for Mines in the previous Government and is recognised as having been a good Minister in that portfolio. He must have been contacted by people in the mining and exploration industries and also probably by Aboriginal people on the question of this legislation. Having had discussions with those people it surprises me that he should adopt the attitude he has put forward today.

The mining industry, through the Australian Mining Industry Council, has consistently recognised and supported over recent years the desires and aspirations of the Aboriginal people in this State. It is true that there have been great difficulties, and a number of people involved in this Parliament at the time of the Noonkanbah issue are well aware of those difficulties. Putting that aside, in general, the mining industry has been responsive to those needs. It has agreed that the Aboriginal people should be free to choose their own way of life, whether that be traditional or otherwise.

The Australian Mining Industry Council has made it quite clear that it is its wish that Aboriginal people should have their own say in their own affairs. The council has made it quite clear also that it will work and has worked over recent years to ensure the protection of archaeological, anthropological, and cultural sites which are of significance to Aboriginal people. The council has also worked to ensure that Aboriginal people are less reliant on others for their economic well-being and, to the extent that is possible, in some communities it has ensured that Aboriginal people have obtained jobs and have been trained in its work force.

These objectives of the Australian Mining Industry Council are maintained and achieved through the package of Bills which this Government has presented to this House over the last couple of weeks. The Government has placed before this House the objectives which can be achieved for Western Australia and which will ensure that this State continues to maintain its position as a State with one community of people, and that has at all times been our objective.

The Bill proposes to amend the Mining Act to deal with the terms and conditions upon which mining exploration and development may occur on land granted under provisions of the Aboriginal Land Bill. If that Bill, which is so closely allied to this Bill, is not passed in the Legislative Council, this Bill will fall by the wayside.

It is my belief and understanding in talking to mining and Aboriginal people, that if that occurs, we will be left virtually in a state of limbo and we shall be staring down the barrel of unrealistic and unsuitable Commonwealth legislation.

In relation to my understanding of the Mining Act I refer to a paper prepared by Michael Hunt, who also prepared the Hunt report. This paper was written in 1982 and is headed, "The Legislation Relating to Aboriginal Land Rights in Western Australia with Particular Reference to Mining and Petroleum Exploration and Exploitation". In looking at the current situation, Mr Hunt had this to say—

> This Act came into operation on January 1, 1982.
>
> In relation to the application procedure for a mining tenement over an Aboriginal reserve, the *Mining Act* imposes no restrictions on marking out and/or applying for a mining tenement over the reserve: s.26(2)(c).
>
> A prospecting licence or a mining lease requires physical entry on the reserve to mark out the tenement. An exploration licence is not required to be marked out, and thus no physical entry is required for the application.
>
> Of course, all three tenements generally require physical entry for the purpose of exercising the rights of prospecting, exploring or mining conferred by the tenement.
>
> The Act provides procedures relating to "mining" (which is defined to include "prospecting" and "exploring") on reserves which differ according to the nature of the reserve. In relation to Aboriginal reserves, it provides in s.24(7)(a) that mining can take place on an Aboriginal reserve provided the written consent of the Minister for Mines is given. Before giving his consent the Minister for Mines is required to consult with (but not necessarily obtain the concurrence of) the Minister for Community Welfare.

That is the current situation under the mining legislation as I understand it as far as this State is concerned. Basically it boils down to miners being

required to obtain entry onto Aboriginal reserves being controlled by the entry permits which can be issued.

While there may be consultation with the Aboriginal Lands Trust which, in turn, must consult with the Aboriginal people occupying such reserves, there is no statistical information which allows direct negotiations to occur between a mining explorer and those Aboriginal people occupying the reserve to which the miner seeks access.

In this paper written in 1982, Michael Hunt was quite critical of what is really now the existing situation. He had this to say about what he called "the present State Government policy" which, of course, is really the policy of the former Government—

> The present State Government policy concerning agreements between miners and Aboriginal groups places the miner in an invidious position. This policy, as understood by the writer, is that the Government has instructed miners not to enter into any agreement with any Aboriginal group conferring upon such a group the right to receive money or royalty or to impose restrictions upon mining in return for which the group will raise no objection nor impediment to the miner's activities.
>
> Conversely if the miner declines to negotiate on these matters with the Aboriginal group then that group is likely to take action against the miner. Such action may involve generating adverse publicity for the miner and will certainly involve rejecting an entry permit application—which, of course, may force the miner to seek political assistance from the Minister.
>
> The miner, who generally speaking, is quite happy to negotiate with the Aboriginal group, is left in the unfortunate position of being the "meat in the sandwich" in this confrontation.

That is the current situation. I firmly believe that, if this Bill is passed by this Parliament, it will go a long way towards relieving that position.

It is my firm belief that the Government has put forward a Bill which, as the Minister said, represents a fine balance which will allow mining exploration and development to proceed subject to the protection of Aboriginal interests specified. It will also avoid the difficulties which have arisen in other parts of Australia at the interface of Aboriginal and mining parties.

It is my understanding that this legislation has the public support of the Aboriginal Lands Trust, the Aboriginal Advisory Council, the Federation of Aboriginal Land Councils, the Australian Mining Industry Council, the Chamber of Mines, the Pastoralists and Graziers Association, the Primary Industry Association, the Australian Mining and Exploration Council, and the Australian Petroleum Explorers Association. That covers the entire range of parties who have a vested interest in this legislation. It disappoints me, and I am sure it will disappoint the people in the mining industry and some members in the Aboriginal community, that the Opposition in this Chamber has chosen to dismiss this legislation so briefly. It is my hope that the Legislative Council will see the basic goodwill that exists behind this legislation and the basic need for this Bill as far as our community is concerned. It is my hope that the Legislative Council will see fit to pass this legislation.

MR PARKER (Fremantle—Minister for Minerals and Energy) [3.17 p.m.]: I thank members for their contributions and, in particular, the member for Kalgoorlie for his support for the Bill.

As the member for Kalgoorlie indicated, this Bill has had substantial input from the mining industry not only in this State, but also nationally. For example, the Australian Mining Industry Council had its executive director, Mr Strong, involved in all of the important discussions which took place on the Bill. Many of the large mining houses, such as Western Mining Corporation and CRA, made their corporate legal officers available for the purpose of assisting with the drafting committee's work in relation to this Bill. As the member for Kalgoorlie said, this Bill is something which the mining industry wants.

I, like the member for Kalgoorlie, am surprised that the attitude of the Opposition should be to oppose this Bill, even recognising that the Opposition opposes the basic concept of land rights, because if there is any chance whatever of the Aboriginal Land Bill being adopted by this Parliament—the member for Narrogin is probably more aware of whether that is a possibility than I am—it is certainly the case that this Bill must be passed in order to give the mining industry the protection and access it needs to be able to carry on a viable mining industry.

I make the point as to how this Bill and the whole question of miners versus Aboriginal land issues has developed in Western Australia and the impact it has had nationally. There is no doubt that, prior to the decision the Government made last year in releasing the statement of principles following the issuing of the Seaman report, setting up the drafting committee, and negotiating with the industry and the Commonwealth, the conventional wisdom in support of some form of Aboriginal land tenure was that the model to be followed was the Northern Territory model, and some

people still hold that point of view. Some people would still like to see Western Australia, or Australia as a whole, adopt the Northern Territory model or a modification thereof for their own purposes.

Western Australia is the principal mining and exploration State in the Commonwealth and we recognised that it was not possible and simply was not a good idea. It was not done for political purposes, but because we believed that we needed to devise a system of Aboriginal land tenure which, on the one hand, allowed the legitimate aspirations of Aboriginal people to be satisfied and, on the other hand, ensured that the life blood of this State's economy—namely, the mining and exploration areas and the pastoral and agricultural areas—should be protected. It does not matter whom in industry the Government asks; such a person will say that this Bill and what it represents, and the way in which the Government of WA has chosen to proceed, has completely recast the whole national debate on Aboriginal land tenure. Whatever the fate of the Bills which are currently before this Parliament, there is no question but that the whole basis and direction of the debate on Aboriginal land tenure in Australia has changed completely as a result of the activities of the Western Australian Government. Even taking the Commonwealth Government's preferred model for national legislation with which we do not agree and which we will not support, it is a far cry from the original position adopted by the Commonwealth and is certainly a very far cry from the Liberal model for land rights, which was the model imposed upon the Northern Territory in 1976. Of course, the Northern Territory Government has made it very clear that it would be delighted if this legislation operated in that Territory and, indeed, very senior members of the mining community have said that if this legislation were operating in the Northern Territory, they would return to that area with their exploration teams tomorrow to do the work that they have been prevented from doing under the Northern Territory legislation.

This Bill does not represent merely a very good compromise; I suppose any form of social change represents a compromise between the different interests and, as the member for Kalgoorlie said, we have been very successful in ensuring that anyone who is affected by this Bill is in a position of agreeing with it. That achievement aside, this Bill will work. It will form a very good basis, not only for Western Australia but for Australia as a whole; the mining industry can point to it in other parts of Australia to ensure that it has a model for what will operate properly in those areas. It would be a very sad day, not only for this State but for the whole of Australia, if this legislation were to be defeated in either this House or the other place. I sincerely hope that that will not be the case. Certainly, if the Aboriginal Land Bill is passed it is absolutely vital—and even the member for Narrogin would recognise this point—that this Bill be passed.

Finally, I deal briefly with the point made by the member for Narrogin concerning the question of compensation for social disruption. The issue of compensation for social disruption—and that definition, it is true, has been a vexed issue—is a difficult one, but the State has always taken the view that some compensation should be made for social disruption. This provision was included in the original statement of principles that we issued at the time of the release of the Seaman report. The question is how it should be defined and made to work in such a way that it cannot act as a *de facto* recognition of the minerals which are in the ground and over which the tenement is sought. We believe we have achieved that compensation in this Bill. We have certainly done it to the satisfaction of the mining industry which, after all, will be the industry upon which any compensation claims will be imposed. It is quite adequately expressed and adequately contained in the legislation to ensure that the fears held by the member for Narrogin about that specific issue will not be realised.

I commend the Bill to the House.

Question put and passed.

Mr Peter Jones: Divide!

Bill read a second time.

Point of Order

Mr PETER JONES: I called "Divide".

Mr Taylor: Read the Standing Orders.

The DEPUTY SPEAKER: Is the point of order that you called "Divide"?

Mr PETER JONES: Yes.

The DEPUTY SPEAKER: The Standing Orders expressly state that if one person votes and that person then calls for a division I am not entitled to offer that person a division.

In Committee

The Chairman of Committees (Mr Barnett) in the Chair; Mr Parker (Minister for Minerals and Energy) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Commencement—

Mr PETER JONES: Clause 2 provides that the provisions of this measure shall come into oper-

ation on such day as is, or days as are respectively, fixed by proclamation. That means that the provisions of this Bill, which are obnoxious, shall begin to apply whenever the Bill is proclaimed. I did not have very much to say on the second reading so we could hear why the Government felt that it needed this Bill which, after all, is only contingent upon the Aboriginal Land Bill. The Government proposes that these provisions should apply and should virtually stand in their own right. No matter what the Government puts forward about that contention, it cannot escape the fact that this is not a totally separate measure from the Aboriginal Land Bill, and I will have more to say about that later.

Mr Parker: Did I claim that it was?

Mr PETER JONES: Would the Minister like to review quietly what the member for Kalgoorlie said? We can work out why he threw in that remark. The situation is that so far as this Bill is concerned—I repeat that it is an obnoxious piece of legislation—

Mr Parker: Everybody does not think so. It has an impact only on the mining industry, and the mining industry supports it.

Mr PETER JONES: Of course the mining industry supports the Bill because, as the member for Kalgoorlie said, it has a vested interest in it.

Mr Parker: The legislation affects no-one else.

Mr PETER JONES: I want to make it clear that the Minister and the member for Kalgoorlie who have spoken in support of this Bill have justified the Bill on the basis that those who are most affected by it support it.

Mr Parker: No-one else is affected by it.

Mr PETER JONES: Those who are most affected by it support it. I could give plenty of examples where those who are most affected by a whole range of other matters within the community are not supported by the Government. Just think; today is the thirty-third day since the pickets went up at Argyle and we see a situation where those people who want to work and who have a vested interest are not being supported by the Government.

Mr Parker: Yes, they are, and you know it very well.

Mr PETER JONES: That is absolute rubbish. All the Government has been prepared to do in that matter is to stand behind the administrative industrial procedures and to allow them to flow. The Government has not helped those people.

Several members interjected.

Mr PETER JONES: I will tell members what he has done later. The justification for this Bill as advanced by the Government is simply that those who are most affected by the legislation do support it.

Mr Parker: Because they are entirely affected by it. No-one else is affected by it.

Mr PETER JONES: Does the Minister not think I am affected by it? Does he not think that all other members in the community are affected by the preferential arrangement which the Government has brought before this Parliament, and of which this Bill is a part? The Minister said by interjection a moment ago that the efforts to divorce this Bill—the member for Kalgoorlie spoke about this matter—from the other Bill—

Mr Parker: No-one is trying to divorce it.

Mr Taylor: I do not remember saying that, to be quite honest.

Mr PETER JONES: The member said that, regardless of the fate of the other Bill, this one should stand.

Mr Taylor: No, I did not say that. I called on the Legislative Council to pass this Bill and the other Bill because they went together.

Mr PETER JONES: The member also said that, regardless of what happened to the other one, this one should stand.

Mr Taylor: I did not say that.

Mr PETER JONES: Well, we are back exactly to where we started. They are one and the same.

Mr Parker: There is no question about that. This Bill impacts only on the mining sector and the mining sector supports it; that is the point.

Mr PETER JONES: We are discussing clause 2 which deals with the date of commencement of the Bill. The Minister and his colleague have now confirmed that this Bill is an integral part of the Aboriginal land package, and the Aboriginal Land Bill has already proceeded through this Chamber.

Mr Parker: There is no question about that.

Mr PETER JONES: Right. I do not want to begin debating that Bill again.

Mr Parker: That is not what we are trying to do, either.

Mr PETER JONES: I am trying to make the point that, because they are contiguous, they are related and they are also obnoxious.

Mr Parker: I would like to know what the mining industry told you about this legislation.

Mr PETER JONES: If the Chairman will let me, I will explain.

The CHAIRMAN: I take this opportunity to advise the member of a couple of matters. Firstly, we are discussing clause 2. The member's com-

ments should be specifically related to that clause. He should not continue to range as wide as I have allowed him to range until now.

Secondly, a Standing Order, of which the member would be aware, prohibits him from debating matters which have already been the subject of a Bill in this Chamber in this session.

Mr PETER JONES: I am aware of that. That is the reason I raised the point. I wanted to mention some matters that had been raised in the second reading of this Bill,

Mr Parker: You want an undertaking that this Bill will not be proclaimed if the other Bill is not passed by the other House. That is the only relevant matter that can arise under clause 2.

Mr PETER JONES: I have no intention of asking for that. We opposed the Aboriginal Land Bill and remain opposed to it. The matters mentioned by the member for Kalgoorlie will be raised during the third reading debate.

Clause put and passed.

Clauses 3 to 25 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Leave granted to proceed forthwith to the third reading.

MR PARKER (Fremantle—Minister for Minerals and Energy) [3.36 p.m.]: I move—

That the Bill be now read a third time.

MR PETER JONES (Narrogin) [3.37 p.m.]: During Committee the question was raised by the member for Kalgoorlie about what I might have said to people who approached me about this Bill. I refer to the Minister's second reading speech, and remind the House of the organisations which he identified as having a part in the drafting of this Bill. The organisations include the Aboriginal Lands Trust, the Aboriginal Advisory Council, the Federation of Aboriginal Lands Councils, the Australian Mining Industry Council, the Chamber of Mines, the Pastoralists and Graziers Association, the Primary Industry Association, the Association of Mining and Exploration Companies, and the Australian Petroleum Exploration Association. I inform the member for Kalgoorlie that not one of those bodies has been in touch with me about this Bill.

Mr Parker: APEA spoke to you about the package.

Mr PETER JONES: Not about this Bill. Is the Minister calling me a liar? The Minister told the Premier that the Leader of the Opposition and I had been screaming at each other.

Mr Parker: I did not say that.

Mr PETER JONES: That is what the Premier implied. I repeated it when I was challenged in this House.

Mr Parker: I do not know what you are talking about.

Mr PETER JONES: Yes, the Minister does. In fact, the Speaker called me to order. The member was not here when we heard the outbursts from the Premier and Deputy Premier about the screaming and the pressure.

Mr Parker: What are you talking about?

Mr PETER JONES: They said that that was what they understood was going on.

Mr Parker: I do not know what you are talking about.

Mr PETER JONES: Perhaps the Minister ought to tell his colleagues. I will tell him exactly what I told the House. Mr Orchison asked whether he could see the Leader of the Opposition and me after the opening of the APEA conference because of a statement which appeared in that morning's Press in which he was quoted as having indulged in some "heavy lobbying". He sought to explain to us not only that he had not said that, but also that he was issuing a statement correcting it. He showed us the first draft of that statement. That was what that was all about. In all fairness to him, he also asked us what would be our attitude to that statment.

Mr Old: Did you raise your voice?

Mr PETER JONES: As always, I was a model of decorum. Not one of those bodies has been in touch with me. A person whom I saw at another function asked me what was the likely attitude of the Opposition to the legislation. But he went on and assumed that, because it was so much allied and virtually related and compatible with the Aboriginal Land Bill, it would be opposed. Indeed, the matter was not discussed with us from his point of view but it was by me because I raised with him the matter of compensation for social disruption, to which reference had already been made.

I think it is time we went back and I answered a number of other comments that were made. The Minister says that the mining industry wants this legislation and that is why this Parliament should pass it. What was said in that other debate to which we cannot refer is still valid: The wishes of

the mining industry are not paramount in these matters.

It is the overall principle which is involved and it affects all the people in the Western Australian community, not just those in the mining industry. If we reject the principle the Government has tried to foist upon this State we reject this Bill. I am surprised that any other consideration should have been given to it. All this does is to put some administrative detail to a principle that is obnoxious and which should have been rejected.

How can the Government say that the Opposition should accept and support this legislation because it dots the "i's" and crosses the "t's", when the Opposition still rejects the basic principle to which it is related?

Procedures are involved in this question and, however imperfect they are, they do exist. They are guidelines, and APEA has, in the last two weeks, republished those guidelines which were developed in conjunction with the various State authorities. Indeed, the officers from the various departments in this State were very much involved. For example, officers from the Department for Community Welfare and the Department of Aboriginal Planning, as they existed at that time, were involved and the procedure was changed. All these officers participated in helping APEA produce guidelines which have become a national model.

It is not right to say that nothing exists. Nothing exists in the statutory form the Government is trying to inflict upon this State, and I hope the Government is not successful.

The Minister's second reading speech referred to Aboriginal heritage. I have read an abstract of a paper that the registrar of Aboriginal sites will present at a forthcoming conference on the role of Government in these activities. I will be horrified if his paper flags up and develops what he is referring to in the abstract paper because far from having a responsible set of guidelines, the abstract paper flags up a greater intervention from his department regarding the activities of explorers and the like. I hope the abstract paper is not reflecting the main substance of the paper because, if it is, we will have another battlefield on which to fight.

It is one thing to provide a system which protects, in a very genuine way, identified Aboriginal sacred sites, but is is another thing to have it administered in the way that it has been in the past. On occasions, it has become little better than an area in which trendy anthropologists could influence those concerned. However, that is what happened and it cannot be tolerated.

It has been suggested by the member for Kalgoorlie that if this Bill is not passed things will be in a state of limbo. That is stupid because firstly, it implies that the state of limbo exists now and from the degree of activity that is taking place—for which the Government is taking credit—it would reflect that a state of limbo exists. Under the Aboriginal Affairs Planning Authority Act the Minister for Mines cannot grant a permit without the permit to enter first coming from the Minister responsible for that Act.

Secondly, the Minister responsible for Aboriginal affairs should, under this legislation, be required to indicate conditions under which a permit to enter is given. For example, should there be any special conditions regarding the use of airstrips, no alcohol on the premises, no firearms, and activities during mustering—it is a situation that has worked quite well with responsible people. It is not a law and we should not be wasting the time of this House discussing it. It is a normal activity which is carried out by responsible people.

Mr Bridge: On many occasions it has not been carried out by responsible people.

Mr PETER JONES: That is right. However, on many occasions they are responsible and they have the same intentions. The Minister responsible for giving approval to enter must include the conditions on the permit. I have already mentioned the conditions such as no alcohol and no firearms. When I was Minister I know that before I could grant approval I had to obtain the advice from the Minister responsible for that particular activity and in one particular case specific restrictions were included regarding the use of an airstrip and roads which would interfere with cattle mustering.

Mr Taylor: If it works so well now, why is the mining industry so pleased that the legislation has come forward?

Mr PETER JONES: I am no apologist for the mining industry, as the Labor Party appears to have become, and no way will I attempt to give any reason why it should be saying what it is saying or doing what it is doing.

Mr Taylor: The fact is that it does not work well now and there could be difficulties in the mining industry. The industry likes to know where it is going.

Mr PETER JONES: Perhaps the member for Kalgoorlie should talk with the member for Kimberley, because I agree that there are instances where it does not work well among unreasonable people. The point I was making was: Are there many instances where the range of exploration activity now being undertaken proceeds

on a commonsense and compatible basis and where agreement has been reached?

Reverting to the point made by the member for Kalgoorlie, I am not an apologist for the mining industry, nor will I allow the selfish interest of that industry to predominate.

Mr Taylor: It is a national interest.

Mr PETER JONES: It suits the member for Kalgoorlie to say that now. He did not say that when he was on this side of the House because he ripped into the industry about royalties.

Mr Taylor: Not I.

Mr PETER JONES: The member for Kalgoorlie was part of the team. Ask the Deputy Premier how he ripped into the industry.

The Opposition will not allow the interests of those bodies to impinge upon the basic principle it rejects; that is, that no-one should be entitled to have preferential access to land on the basis that has been proposed by the Government. As I have already mentioned, there are bases for access to land which are different, but they do not apply to this Bill. The Opposition cannot support a Bill which contains provisions which are part of the principle involved.

The matter was raised again by the member for Kalgoorlie when he referred to the Hunt report of 1982. He might correct me if I am wrong, but I think it was the mining and petroleum paper. He said that he understood direct cash grants would be paid to Aborigines. Not only was he right then, but he is still right today and it is not on as far as the Opposition is concerned.

I understand that the Government does not support the principle of giving cash handouts directly to Aborigines. I want to make that point quite clear.

Mr Parker: When you were in Government you devised a system of sharing the royalties the Government received from minerals. The royalties were given to Aboriginal organisations, but not to individuals.

Mr PETER JONES: That is correct. It was a responsibility of Government to pay the rebates on a set scale.

The comment was made by the member for Kalgoorlie—not directly but indirectly in reference to the Hunt paper—that that position still applies notwithstanding the sympathy that some Government members might have with other schemes. The Minister can correct me if I am wrong, but I understand the member for North Province supports direct cash grants.

Mr Parker: I do not think he supports direct cash grants to individual Aborigines. He supports many things, but I do not think that is one of them.

Mr PETER JONES: I accept that but I have been told that he supports them. I understand that he has submitted that some of the funds provided as part of the Argyle diamond mine project development with the Aboriginal communities should be paid directly to Aborigines. The Minister would be aware that the agreement provided that those funds were to be used for capital works, such as the construction of houses at Greenhill.

Mr Parker: He did not put that proposition to me.

Mr PETER JONES: Fine. I return now to the basic point: The Bill is rejected because, as has been clearly outlined, it is a rider and running mate for the Aboriginal Land Bill. I want to make certain that that point is clarified beyond doubt.

There is no way that we are able to reject one Bill and accept the other; one is simply an administrative vehicle for the other.

I repeat that whatever might be the view of the mining industry and those other bodies which have been identified by the Minister, their particular vested interest—to use the words of the member for Kalgoorlie—in this matter is not mine, nor is it the vested interest of the Opposition.

We do not accept the principle upon which this Bill or the other Bill is based. The Bill is opposed.

Question put and a division taken with the following result—

Ayes 25	
Mr Bateman	Mr Jamieson
Mrs Beggs	Mr Tom Jones
Mr Bertram	Mr McIver
Mr Bridge	Mr Parker
Mr Bryce	Mr Pearce
Mrs Buchanan	Mr Read
Mr Terry Burke	Mr D. L. Smith
Mr Burkett	Mr Taylor
Mr Carr	Mr Tonkin
Mr Davies	Mrs Watkins
Mr Evans	Mr Wilson
Mr Grill	Mr Gordon Hill
Mr Hodge	*(Teller)*
Noes 20	
Mr Blaikie	Mr McNee
Mr Cash	Mr Mensaros
Mr Clarko	Mr Old
Mr Court	Mr Rushton
Mr Cowan	Mr Spriggs
Mr Coyne	Mr Stephens
Mr Hassell	Mr Thompson
Mr Peter Jones	Mr Tubby
Mr Laurance	Mr Watt
Mr MacKinnon	Mr Williams
	(Teller)

Pairs

Ayes	Noes
Mr Brian Burke	Mr Crane
Mr Hughes	Mr Grayden
Mr Troy	Mr Bradshaw
Mr P. J. Smith	Mr Trethowan
Mrs Henderson	Dr Dadour

Question thus passed.

Bill read a third time and transmitted to the Council.

ACTS AMENDMENT (LOTTERIES) BILL

Returned

Bill returned from the Council without amendment.

HEALTH AMENDMENT BILL

Second Reading

Debate resumed from 20 March.

MR THOMPSON (Kalamunda) [3.57 p.m.]: When introducing this Bill the Minister said he was justifiably proud that the Government was presenting it. With that flourish he came along with legislation which does not change very much at all. The rhetoric evident in the speech he delivered indicates that either he does not understand the Bill or that the person who wrote the speech does not know what is in the Bill.

I would like the Minister to demonstrate to me that this legislation is monumental stuff. About the only thing it seems to do is give recognition to food vending machines. The rest of the Bill seems to have very little impact when one takes into account the existing laws. Some monumental achievements have been effected under present laws; for instance, legislation was introduced to prevent seafood from being taken from polluted waters, and provision was made for the prevention of swimming during the time of a poliomyelitis epidemic. Yet this Bill merely introduces food vending machines. It is hardly earth-shattering material!

The Bill very effectively and significantly increases the level of maximum penalties. The increase is about twentyfold and that is justified bearing in mind the effects of inflation since these penalties were last addressed by the Parliament.

For quite some considerable time the Health Ministers of the States have been endeavouring to bring in legislation which will result in uniform food provisions across the nation. This Bill provides the mechanism for that to occur. The Bill itself does not actually set up uniform food regulations. What it does is allow the States to introduce regulations which will result in food regulations being standardised throughout Australia. In that endeavour this Bill has our support.

Quite a lot of emphasis is placed on the definition of "adulterated". The penalty for offences in respect of adulteration has been increased to $5 000. At the same time, subsection (3) of section 220 of the present Act is omitted. This limited the adulteration of whisky and brandy. In doing that the Government is making it possible for the distillers and distributors of spirits to increase their profit levels significantly at the expense of the people who consume those beverages.

The Bill will delete the definition of "food" from the interpretations clause of the Act and include it in a separate area. This has left the remainder of that clause more or less as it was, except for little changes of expression to give it a new look. The net result is a hotch-potch and it needs rethinking and rewriting.

Now that the definition of "food" has been deleted, the section on drugs seems rather inflated as many of those provisions originally applied to food rather than drugs. Furthermore the new Bill proposes to establish a drug advisory committee the duties of which are not entirely clear and may even extend to include the slaughtering of animals, the production of milk and dairy produce, and the sale of horseflesh, as these have been left out of the food sections.

The functions of the drug advisory committee are further complicated by the existence of the poisons advisory committee established under the Poisons Act. All drugs are listed in the schedules of the Poisons Act and the poisons advisory committee has considerable authority over sales and distribution.

As things stand under the new Bill, there would be a drug advisory committee, a poisons advisory committee, a pesticides advisory committee, and a foods advisory committee. There is a problem here; it would inevitably lead to confusion and a lack of proper control, and I suggest the Bill be delayed till further thought is given to the reconstruction of that part of it.

I suggest for consideration that division 2, slaughtering of animals and meat, division 3, the sale of horseflesh, division 4, milk and dairy products, be included under the advisory functions of the foods advisory committee, and that division 5, drugs, division 6, medicines, and disinfectants, division 7, manufacture of therapeutic substances, and division 8, pesticides, similarly should be under the control of the poisons advisory committee. This would reduce the four advisory committees to two; that is, foods, drugs, pesticides, and poisons advisory committees to foods advisory committee and poisons advisory committee only. The poisons advisory committee would consist of a

small nucleus and a chairman from each of its subcommittees, each subcommittee to represent individual schedules in the Act or groups of schedules such as a subcommittee each for domestic poisons, therapeutic drugs, drugs of addiction, commercial, industrial, and agricultural poisons.

I am of the firm opinion that one of the great dangers to health today is the development and use in industry and agriculture of a variety of toxic substances. Information on these substances is often very scanty in the early stages of their use because industry often seeks to protect its manufacturing secrets, so a subcommittee of the poisons advisory committee, dealing with these groups, would have greater opportunity to supervise the use of toxic substances.

There is a growing concern among people in the community about the use of toxic substances, and it is an unfortunate fact that the marketing of a product is sometimes way down the track before the full impact of its toxic substances becomes apparent. In this day and age, when farmers and producers of food are looking for ways to reduce their costs, and many of them are turning to chemicals to help them in that fight, we need to have a very firm regard for the impact of those substances which are being used. So, Mr Speaker, I seriously raise with the Minister this question of the use of such substances.

There is a very significant danger to public health from the use of toxic materials. It is often the case that a company, because it wants to guard some breakthrough it has made in the production of its food, is reluctant to divulge just what process is involved. The Government and the departmental officers of the Government need to give very firm attention to the way in which food is produced, particularly where it is known that chemicals are being used in its production.

The administration of food legislation in Australia is the responsibility of each individual State and Territory. No single authority is responsible for food legislation, and the involvement of the National Health and Medical Research Council in the formulation of food standards largely stems from efforts to achieve uniformity in food legislation throughout Australia.

The National Health and Medical Research Council is not a legislative body. However, through its specific food committees, it has been responsible for the development of food standards and the evaluation of food additives in Australia since 1953.

The formulation of food standards involves extensive consultation between the food standards committee, States and Territory departments of health and other Government departments, industry, consumers, research organisations, and other interested bodies, and the relevant committees of the National Health and Medical Research Council. When formulating food standards the committee also takes cognisance of overseas food standards and recommendations of international standards. Once approved, the National Health and Medical Research Council food standards are recommended to the Australian States and Territories for adoption in their own respective food legislation. Food standards approved by the National Health and Medical Research Council prior to June 1983 were included in the document concerning "approved food standards and approved food additives". Although these approved food standards have contributed to a substantial uniformity in food legislation in Australia, it has not been possible to achieve complete uniformity because of the differences between food Statutes and the provisions of the health Acts of the various States and Territories.

The Australian Health Ministers, at their conference in May 1975, unanimously endorsed a proposal for the establishment of a joint Commonwealth-State-Territory working party to draw up model food legislation suitable for uniform adoption throughout Australia.

The working party formed to undertake this task consisted of senior health and legal representatives from the States and Territories as well as from the Commonwealth. In formulating the model food Act this working party examined those provisions relating to food in the food and health Acts of the States and Territories. Cognisance was also taken of the food legislation of the United Kingdom, Canada, New Zealand and Ireland. By 1980 the working party had completed its work and the Health Ministers at their meeting in May 1980 endorsed the model food Act and agreed unanimously to initiate procedures toward its adoption in their respective jurisdictions.

In October 1981 the drafting of the model food standards regulations to accompany the model food Act was completed. The model food standards regulations include all those compositional and labelling requirements for specific foods which are contained in the National Health and Medical Research Council approved food standards and in the food legislation of the States and Territories of Australia. No changes in the technical content of the standards were made. Only the drafting was altered to a format consistent with the requirements of the model food Act.

At its ninety-third session in June, 1982 the NH & MRC adopted these model food standards

regulations and recommended they be adopted by the States and Territories in conjunction with the model food Act. It directed simultaneously that its equivalent approved food standards in the NH & MRC document "Approved Food Standards and Approved Food Additives" be rescinded.

The model food standards regulations will be under continual review, and amendments recommended by the food standards committee and adopted by the NH & MRC will be issued later on, I understand.

Model food standards regulations have no legal significance until incorporated into legislation. Indeed, that is the purpose of the Bill. Work has now commenced on the drafting of the model food hygiene regulations also to accompany the model food Act. When completed these regulations will form section III of this document.

It is my understanding that the industry has been heavily involved in the preparation of the model food Act and regulations. The present system provides the opportunity for industry organisations such as the Council of Food Technology Association to be represented on the National Health and Medical Research Council working committees, food standards committees, and food legislation committees.

I commend the Government for its approach in involving industry in the compilation of those regulations, because if there is no goodwill generated in the area it will be very difficult for the model food regulations to be applied.

The industry has pointed out an area of concern which is that it is now five years since the Ministers agreed to act and in that time there has been some aspiration to have the regulations and model Acts put into effect. The industry is crying out for this legislation and for the regulations that will follow.

In his second reading speech, the Minister identified the following aims of the Bill: It would achieve uniform food legislation throughout Australia; upgrade and update food legislation in WA; provide more information to consumers; assist industry, particularly manufacturers who market interstate; and update and clarify the powers of health authorities.

Features of the legislation were again highlighted by the Minister: Essentially, it would result in the adoption of the agreed model Act, and the incorporation of the most recently agreed NH & MRC recommendations regarding the labelling ingredients; date marking; country of origin; names and addresses; and food additives numbering system for allergy sufferers.

The Minister went on to say that the Bill would ensure that the Act became the principal food legislation, thereby overriding every other consideration. It will qualify the basis of offences and the powers and responsibilities of various parties. The Bill broadens and updates the basis of sampling and investigation and provides the opportunity for a defendant to pass responsibility to the other party where the other party can be shown to be at fault; that is, in the retailer-manufacturer relationship.

The Opposition does have some areas of concern. With the amount of consultation which has occurred to date, as I understand the situation, the industry does not really have any major concerns with the Bill. The Bill has been studied by the Opposition and we have a couple of minor amendments we would like to see made; and we would like the Minister to clarify one or two points.

The powers of health surveyors is something that we would like the Minister to further clarify. Some concern was expressed by members of the Opposition when this matter was discussed in our party room and one of those areas of concern was the power given to health surveyors. That concern has also been expressed by the industry. Therefore in Committee we will examine a little more closely the power the Bill confers on health surveyors.

One power to be given to health surveyors will allow them to seize documents in connection with an investigation in regard to food regulations. There appears to be unlimited power. It seems possible that a health surveyor will be able to have access to books and documents of a confidential nature when they in no way relate to the complaint of the matter under investigation.

The other area of concern relates to the seizure of articles of food. The industry has some concern about the period of time involved with articles being seized. However, we can spend more time on this during the Committee stage. We would also look at the question of defence and in particular at the "all-reasonable precautions" principle that the industry believes should be included.

The Minister in his second reading speech actually addressed this matter and from memory he acknowledged that there was some concern attached to it. However, he said that to take any action to amend the Bill would be to stray from the intention of having uniform food laws.

I submit to the Minister that in one State—I think it is Victoria—there has been a departure from the food standards model. I see no reason to prevent this Parliament, if it thinks it appropriate, also to depart from the model. I do not see why we could not enshrine a departure in our legislation.

The Bill breaks very little new ground. It does not do much at all except to provide the framework for Western Australia to join the other States and Territories of the Commonwealth in bringing in uniform regulations and regulations which industry knows will be applied in other States. Those regulations will overcome one of the problems industry has faced in recent years. I understand industry also feels there is a need for this legislation to provide some control over imported food.

The Opposition supports the Bill. We express some concern in the areas I have briefly outlined, and it is our intention to raise further questions during the Committee stage. We may even contemplate moving amendments in the event of the Minister's not being able to satisfy our concern.

MR HODGE (Melville—Minister for Health) [4.22 p.m.]: I thank the member for Kalamunda for his contribution to the debate and his general support of the legislation. He raised a number of interesting points and I will try to respond to each of them. I was a little surprised that he said at the outset he did not regard this as a very significant reform and he thought that either I did not know much about the Bill or the person who wrote the speech did not know much about it.

Mr Thompson: Was it the same person?

Mr HODGE: No, it was not. As I said by way of interjection, the member is wrong on both counts. I have read the Bill fairly thoroughly, and while I do not claim to be an expert, I think I have a reasonably good working knowledge of it. The person who prepared the draft of the speech for me is the officer I have in the House today. He is a senior officer and was on both working parties which drew up the legislation.

Mr Thompson: If I am wrong I will apologise.

Mr HODGE: He has lived with it for many years, and I assure the member he can be considered to be an expert in this area.

Mr Thompson: If he is that good you had better send him over here to give me a hand!

Mr HODGE: The member was quite right when he said that this legislation acts as the vehicle for the carriage of uniform food regulations. The regulations are at a very advanced stage of preparation, and it would be our intention to enact them as soon as possible after the passage of this legislation.

The member also referred to the increase in penalties. It is quite true that there has been a very significant increase in penalties in most instances. I point out that the penalties are taken from the model food legislation. They are consistent with the penalties in other States and take into account the criticism made from time to time by the courts of Western Australia about the inadequate level of fines.

The member mentioned the business about alcohol levels, and the alcoholic content of our whisky being brought into line with the rest of Australia. I could not follow the point he made; he seemed to be implying that somehow or other this would allow some profiteering to occur. I cannot see that. All we have done is to bring the alcoholic content levels of our spirits into line with those of other States. We were the only State out of step.

Mr Old: We have to hope that some unscrupulous people do not continue to water it down.

Mr HODGE: They cannot do that; if they do, they will break the law. I guess one cannot always prevent people from breaking the law, but it would be a breach of the law to lower the alcoholic content below that prescribed. I cannot see how profiteering could occur.

The member for Kalamunda referred to the number of specialist committees provided in this legislation and suggested they should be reduced from four to two. At the moment the legislation provides that there shall be a pesticides committee, a drugs committee, a food committee, and a poisons committee. My advice is that all these committees are considered essential because they are really dealing with quite specialist areas and they require people on them with different qualifications and expertise. One could imagine that the person dealing with food perhaps would have different qualifications and experience from a person giving advice on pesticides. We feel a case has not been made out to reduce the number of committees from four to two. Our experience and that of the Health Department recognise that it is best to have these smaller expert committees advising the Government.

The member made passing reference to the need for therapeutic substances legislation. I assure him that that is currently being drafted. The legislation is in the pipeline and at a reasonably advanced stage. We would not have wanted to hold up this legislation any longer. The member himself pointed out how many years it has taken to get to this stage. We are conscious of that and we are addressing the matter; it is being attended to now.

The member also mentioned the question of residue levels of chemicals in foods and said that these needed attention. Again, I can assure him this will be attended to in the new model food regulations. In fact, these regulations will go into great detail in laying down the criteria for levels of residues that will be permitted in food. These

regulations are at a very advanced stage of preparation.

The member for Kalamunda also pointed out what he considered were some inadequacies and failings in the layout of the Health Act when this amendment goes through. It is quite true that it is a very ancient piece of legislation dating back to 1911. It is a very thick volume indeed and it has grown like Topsy over the years. We acknowledge that the legislation itself really could do with a good overhaul and I have set up a working party in the Health Department for that express purpose—to start working on a complete overhaul of the Health Act to make it meet modern day requirements. Much of the legislation is still written in the old style of drafting that was appropriate in 1911, but is not appropriate for the 1980s.

Mr Thompson: It is hard to follow now.

Mr HODGE: The member is quite right. However, he seemed to be suggesting that because of its inadequacies I should not proceed with this legislation. If that is what he is suggesting, I find it hard to understand because he referred to the fact that the industry had been crying out for years for this legislation. That is true; representatives of the industry have been to see me several times since I became Minister, pressing that we introduce the legislation as soon as possible and get it through this House. I cannot imagine he is serious in suggesting that we should hold up this legislation because of the inadequacies of the parent Act. I would be most strongly opposed to that.

The member indicated that he and his party have some reservations about the powers of health surveyors as set out in the Bill and that he would probably pursue that point in Committee. In that case it is probably not worth my while debating it at length at this stage. I remind the member that while the health surveyors will be given quite wide and strong powers, they are our frontline troops in the provision of public health. The health surveyors are very important people in protecting public health.

We rely on health surveyors for the fundamentals of our health care system. No matter how sophisticated any system is, such as modern teaching hospitals, open heart surgery and miracle drugs, it would be futile if we did not have the fundamentals of health care looked after—for example, pure food, clean water and proper sewerage facilities; we rely on the health surveyors for these sorts of things.

Mr Old: Some of them are very good, but some are very officious.

Mr HODGE: That is true of all walks of life.

Mr Old: It is more true in regard to health surveyors.

Mr HODGE: Health surveyors have a difficult task in small communities and the job they are asked to do is not always popular with the locals or the business people. I do not envy them their task. I could not deny that there are some health surveyors, as in other professions, who get carried away with their powers.

I point out to the member for Kalamunda that there are secrecy provisions in the legislation and heavy penalties will be imposed on health surveyors who divulge information that they are given in the course of performing their duties.

The member for Kalamunda was concerned about the seizure provisions; that is, where a health surveyor seizes food he suspects is not wholesome.

Following a briefing with my department and the industry about the seizure provisions it was decided to extend the period a person may appeal against the seizure of his goods from three days to five days. That was a direct result of approaches from industry.

It is true that Victoria has departed from the model food legislation in a couple of areas. It is the only State to have done so and it did it because it had provisions under its old legislation that it believed were successful. Therefore, it transposed those conditions into its new legislation.

As I said in my second reading speech I have written to the chairman of the model food law working party pointing out this difference and asking whether his party would consider this important matter and advise the States accordingly. I stress at this stage that it is only Victoria which has departed in any substantial way from the model food legislation, and it is a great pity because it is a chink in the armour of having this model food legislation throughout Australia. I would be loath to depart from the model unless I received a distinct recommendation from the chairman of the working party advising that all States should follow Victoria's example.

I have covered most of the points raised by the member for Kalamunda. He raised a number of pertinent points and he has put a great deal of effort into studying this rather complex piece of legislation. I thank him and the Opposition for their general support of the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr Barnett) in the Chair; Mr Hodge (Minister for Health) in charge of the Bill.

Clauses 1 to 6 put and passed.

Clause 7: Part VIII repealed and Parts VIIA and VIII substituted—

Mr THOMPSON: Clause 7 would have to be the largest single clause one could come across. It covers a tremendous amount of legislation and, in point of fact, it is a clause which covers most of this legislation.

An area of concern for the Opposition is that part of the clause gives the power to health surveyors to seize any books of account, records of any kind and documents. The industry is very concerned about that point and I also have some concern because it appears that the health surveyors are being given fairly wide powers.

The legislation should require the health surveyor to demonstrate that the documents he proposes to seize are, in fact, related to the matter that he is investigating. The people in the industry accept that there must be secrecy provisions in the Act, and they are not nervous that the information contained in the documents will be divulged. While that is not a major concern the people in the industry are quite apprehensive that there will be a possibility of their books being seized when those books are used every day in the normal running of their business. If they are kept for extended periods it will make it that much more difficult for the business to operate. I refer to books of account, books which have formulas contained in them, wages sheets and the like. Under the power that will be given to the health surveyors by this Bill, they will have the power to seize any documents they choose. It appears they can hold on to those documents for extended periods when there may not have been a need for those books to be seized in the first place. The absence of the books and documents from the premises of a particular food manufacturer could cause him considerable concern.

The Opposition asks the Minister to comment on this matter and indicate to the Chamber whether he is prepared to look at softening the impact and implication of that part of this clause.

Mr HODGE: I am familiar with that part of this clause to which the member for Kalamunda has referred. I am aware that some sections of industry are apprehensive about the powers that will be given to health surveyors under this legislation. At one stage my department considered departing from the model food legislation and making it a requirement that the health surveyor would have to obtain the permission of the Executive Director of Public Health before he could seize such documents. That point was seriously canvassed, but for a number of reasons we did not settle on taking that course.

We were of the opinion, and in fact very experienced officers in the health department advised, that that could be counterproductive to the efficient working of the legislation. A health surveyor could go the premises, see the documents that he considered needed to be seized, and would then have to go to the Executive Director of Public Health to obtain permission to seize them. That could perhaps take a couple of days, during which time those documents could disappear and be lost for ever as evidence. We did not think that it was a practical proposition.

I reassure the member for Kalamunda that this provision has been working successfully for some time in two large Australian States. In New South Wales the Pure Food Act, which has been in operation for many years, has a similar provision and to the best of my knowledge the industry has not found any problems which inconvenience it. Similarly in Queensland, this legislation has been in place since 1981 and to the best of my knowledge that industry also has not experienced any difficulties.

I appreciate the apprehension of the industry but practical experience suggests that it does not create the difficulties feared. At this stage I think it important that we stick as closely as possible to the model legislation and to consider the experience in other States to see how it works in practice in those States. Neither State has experienced problems and they have similar provisions in place which have been working successfully for many years.

Mr OLD: By interjection I indicated to the Minister that I felt that under some circumstances health inspectors exceed their authority. He quite correctly pointed out that this happens in any regulated industry. I entirely agree with what he said. I am not here to embark on a crusade about the attitude of health inspectors.

A problem stems from the fact that health surveyors—they used to be called health inspectors and I do not know how they assumed that grandiose title—are a reasonably recent introduction into country areas. At one time not so long ago the shire clerk usually performed the duties of health and meat inspectors. It is a step forward for most shires to have health surveyors and provided they undertake their duties in a manner befitting the area in which they live, that is reasonable. However, they are generally trained in the metropoli-

tan area where deep sewerage is in place and in the event that no deep sewerage is available buildings are constructed on deep, sandy soil and, therefore, the disposal of effluent presents no difficulties. However in some farming areas and country towns the soil is heavy and underlaid with clay eight inches to two feet below the soil and that is a different kettle of fish altogether. In those areas it is almost impossible to undertake efficient drainage and disposal of effluent. Apart from going back to the nightsoil system, I do not know what can be done except to impress upon health surveyors that when they go to those terrible places beyond the escarpment different circumstances exist and they should tone down their commands commensurate with the conditions under which they are working.

Not long ago health surveyors suddenly became very keen on prosecuting people who were killing their own meat. It is true that in some cases rackets were going on where farmers allowed people to kill meat on their property and sell it in the town. That of course was highly undesirable and illegal and it needed to be stopped. However, if the law were followed to the nth degree, a person would not be able to kill a chook in his backyard and eat it for his dinner, which has long been an Australian custom. If the Health Act and regulations were applied in their entirety people in the country and in the city would not be able to kill a chicken, duck, pigeon, or anything in their backyard. That is ridiculous and it is obvious that the Act must be applied with some measure of understanding.

Not long ago a person in my constituency was apprehended by the local health surveyor and a charge was laid. Not only was the charge laid against the wrong person but also the number of carcases involved was incorrect. The whole matter was a complete foul-up. That has not added to the standing of health surveyors.

I ask the Minister to ensure that officers of his department are made aware of the conditions which prevail in some country towns. Although the preservation of a high standard of public health is the prime consideration of a health surveyor, it should be tempered with the knowledge that local conditions do not always allow the same standards to be applied as are applied in areas with different conditions; namely, in the case of sewerage and the type of soil on the coastal plain which allows for far better disposal of effluent than is possible in country areas.

Point of Order

Mr THOMPSON: I seek your guidance, Mr Chairman. Clause 7 is a very long clause which deals with several sections of the existing Act. It would present difficulties if we could speak only three times on this clause. I seek your indulgence in allowing us to speak three times on each of the proposed sections so that we may effectively deal with the Bill.

The CHAIRMAN: I appreciate the difficulties faced by the Opposition. I agree that it is an extraordinarily long clause which covers some 110 pages. It is rather unusual. It is also rather unusual at this late stage for the member to ask me to split the clause. There is no doubt whatsoever that had the member asked me to split the clause prior to its commencement, I would have done so. However, I rule that the clause must now be maintained in one part.

Mr THOMPSON: I suggest that you might wish to reconsider your decision, Mr Chairman. The alternative is that I shall move amendments which would give me an opportunity to speak on those amendments. I have not prepared amendments and the preparation would involve my writing them in longhand while everyone sits in silence and then speaking three times to that amendment. I would then find something else to amend which would involve members again waiting while I wrote them out in longhand before speaking to the amendment on a further three occasions. The time of the Chamber would be saved if you, Mr Chairman, were prepared to reconsider your decision. I wish to address only two parts of clause 7 which would involve six minor contributions to the debate. If we proceed in the way you suggest, we shall be here until it gets dark.

The CHAIRMAN: I take this opportunity to tell the member for Kalamunda that I am beginning to see reason. I would like him to indicate to me those parts of the clause he wants to address and that will enable me to decide how to break it up.

Mr THOMPSON: I wish to refer to new sections 246ZB and 246ZG. Currently we are talking about the ramifications of new section 246ZB.

The CHAIRMAN: It is my decision that clause 7 be broken up into two parts, the first part ending at 246ZB and the balance of the clause forming the second part.

Committee Resumed

Mr THOMPSON: It would not be unreasonable if the Minister accepted the proposition that, in proposed new section 246ZB (1) (a)(v) after the word "documents" in line 19 the following words be added—

> on reasonable grounds such books, accounts, records, or documents are relevant to the alleged offence.

Such an amendment would not detract from the powers of a health surveyor. He would still have access to the documents which he can reasonably expect to be related to the matter under investigation. Although the provision would give the health surveyor the opportunity to have access to those documents, it places a responsibility on him to satisfy himself that he is taking only those books which he needs.

If they have the power to take all the books, some people would simply grab all of them. The proposed amendment will make the position simpler, because the health surveyor will not be able to take away all the books and, in the solitude of his office, laboriously go through them, setting aside those which are of no consequence until he finds the records which are pertinent to the matter under investigation.

I suggest that the Minister consider our proposition. Depending on his reaction, we shall make a decision about whether to amend the Bill here or in the other place. I would be prepared to accept an undertaking from the Minister that he consider the matter prior to the Bill going to the Legislative Council. We are not asking the Minister to depart greatly from the powers which health surveyors have. We recognise their job and, in the interests of my health, the Minister's health, and the health of the people in the community, those powers must be available; but we believe that this provision could result in excessive action being taken.

If provision is written into the legislation that health surveyors take into account the fact that the books must be relevant to the matter under complaint, it places a responsibility on them to look for only those books and they will not be able to take the easy way out and grab other documents which cannot reasonably be expected to be related to the matter under consideration.

Mr HODGE: The member for Kalamunda is labouring under a misunderstanding in respect of this clause. The aspect to which he is taking exception relates only to matters to do with food that is for resale. When the member for Katanning-Roe was speaking, he got off the track onto other matters of concern to him about the slaughtering of animals on farms and the like.

Mr Old: They were related to the duties of health surveyors.

Mr HODGE: The provision before the Committee deals only with the powers of a health surveyor in connection with seizing documents relating to food which will be for sale. Farmers killing animals on their own farms is not a matter which would come under this provision.

I am not prepared to accept the amendment proposed by the member for Kalamunda. It would be a retrograde step at this very early stage, before the legislation is through the Parliament, for this Parliament to start doing its own thing. The whole purpose of the model food legislation which has been drawn up laboriously over a period of 5 years, to which the member himself referred, and on which industry has been thoroughly consulted, is to gain uniformity. It would be a very serious step for us to make unilateral decisions in this State Parliament about those sorts of changes. The practical experience in two other Australian States has not borne out any problems with this sort of provision.

If we run into problems, I would be prepared to look at the matter again. However, I point out to the member for Kalamunda the provision relating to secrecy which appears at page 99 under proposed new section 246ZM. Quite clearly that lays down strict requirements as to a health surveyor disclosing information or making public information which comes into his possession. It provides a penalty of up to $2 000 for an individual health surveyor breaching that secrecy provision.

We have catered adequately for the concerns voiced by the member for Kalamunda and at this stage it would be a step in the wrong direction to depart from that uniformity without any good reason having been demonstrated. The member for Kalamunda's proposed amendment is really only based on a fear of what might happen. There is no evidence in Australia that the operation of this provision has resulted in any problems. Had practical problems been experienced, it may have been a different story.

Mr THOMPSON: The Minister misunderstands my concern. I do not distrust health surveyors in the use that they may make of the records they take into their possession. I believe that they will abide by the secrecy provisions. However, I am concerned that they will remove from the premises of a businessman records which that businessman needs in conjunction with running his business. A health surveyor may take those documents away for long periods and cause that businessman problems in the day-to-day operation of his business.

I point out to the Minister also that he places too much importance on the desire for uniformity of food laws in Australia. There is no reason that we cannot amend the Bill as I have suggested, because it will not have any great impact on the

operation of the model. If a health surveyor in this State had to have due regard for the books he was about to seize being related to the matter under investigation and a health surveyor in South Australia did not have to do that, it would not have any impact on the uniformity of the legislation.

Mr Hodge: You are wrong. If, for example, in another State a product was found which was perhaps contaminated or contained a dangerous additive, the Health Department could check that product in that State and it may be that the only way the health surveyor could check that product would be to seize a copy of the formula for the production of that product.

Mr THOMPSON: The Minister is making my point for me. He would then approach the person and say, "I want to seize your books and I have reasonable grounds to believe that the formula under which the product is manufactured should be got rid of because we believe it does not comply with the law". He could still obtain the formula and not have to take the wages book, which he can do under the existing provisions. The uniformity aspect is simply not interfered with.

Mr Hodge: Are you saying you should be allowed to take only those books which the manufacturer volunteers are relevant?

Mr THOMPSON: I am not saying that at all.

Mr Hodge: Why would the health surveyor want to take anything away that is not relevant to the job before him?

Mr THOMPSON: He may not, and he should not do so, but if he has the power to take all the books he may decide to take them—

Mr Hodge: I think you are really jumping to the wrong conclusion.

Mr THOMPSON: I do not think so, because I have had practical experience in dealing with people who administer Acts under which people operate businesses, and the main thing that small business people in this community are screaming about is undue interference in their day-to-day operations by people who operate under the Acts that we pass in this Parliament. It is true that we must have regard for the health of our people, but at the same time we should not clothe health surveyors with powers which allow them to stray into areas in which they really have no interest.

I simply cannot accept that the Minister's agreeing to either amend the Bill now in this House or consider having it amended in another place would weaken the Bill. It would not weaken it at all. It will write into the legislation a safeguard that will be of some solace to people who will be required to operate under the Act. This matter has come to our attention from people in industry and other concerned people, and I can see the legitimacy of their complaints.

The Opposition does not seek to weaken the powers of health surveyors. We simply seek to place some onus on a health surveyor to examine only those documents which relate to the matter under investigation. In that case the Minister has said he would not be at all impeded in the exercise of his duty, and the universal application of the law would not be interrupted if we were to adopt this provision in this State in a situation where that provision was not written into legislation in other States.

Both the Minister and I agree that the part of the legislation we are now considering is the framework under which regulations providing uniformity of food laws will be put into effect. I simply agree with the Minister that this minor amendment to this part of the Bill will not be an impingement on the universal application of the legislation, and it will not in any way reduce the powers of health surveyors to exercise their duties. It will very effectively force or cause health surveyors to at least take into account the fact that the books or records that they seize must be related to the matter which is the subject of the complaint.

The CHAIRMAN: I will not put this whole clause because other members may wish to speak to part of it.

Mr THOMPSON I take it the Minister's silence indicates that he does not intend giving any further consideration to the point that we raised. I have argued our point and he has argued his; I think he is wrong and he thinks I am wrong, and we agree to disagree. Be aware that I will talk to my colleagues in the Legislative Council and recommend to them that they argue the point with the Minister when the legislation reaches that House.

I now refer to proposed section 246ZG, the first part of which reads as follows—

> (1) When an article is seized and detained by a health surveyor under section 246ZB, the person from whom the article was seized may within 5 days after that seizure make application in the prescribed form to a Local Court for an order directing the health surveyor to release the article seized and detained by him.

The period of five days seems to be an unnecessarily short time, and I suggest it should be amended to read " five working days" because if that period involves a weekend it will impact on

the person from whom the goods were seized. It seems to me that to include the word "working" after the "5" so that the provision reads "may within 5 working days after the seizure make application", would not unduly affect the operation of the legislation, but it would provide a safeguard to the person from whom the goods were seized. I seek the Minister's comment on that matter.

Mr HODGE: I assure the member for Kalamunda that this point was checked out. Originally it was proposed that the prescribed period would be 72 hours and it was extended to five days. I am assured by Parliamentary Counsel that the Interpretation Act means that five days is indeed five working days and does not cover a weekend. That point was specifically checked with Parliamentary Counsel.

Mr THOMPSON: I thank the Minister for his assurances on that matter. The Opposition will let that point rest.

I turn now to the question of defence, and the "all reasonable precautions" provision. The Minister has conceded that there has been this variation in the Victorian legislation. It seems that if Victoria thought it appropriate to differ from the model legislation, bearing in mind the importance the Minister has placed on the model legislation being accepted Australia-wide, it would be reasonable that we should do that in this State. It is unfair that a handler of food who takes all the necessary precautions to reduce or prevent contamination should then be prosecuted even though it might have been beyond his capacity to prevent such contamination occurring. I think that if a handler of food or a manufacturer can demonstrate that he has taken all reasonable precautions to ensure that contamination does not occur, it is pretty harsh for him to be found guilty. I believe a little more discretion should be given to the courts. The law, as it is now structured, gives no discretion to the courts. They have no alternative but to find guilty the alleged offender even though he may have taken all reasonable, and even some unreasonable, precautions to prevent contamination.

By not incorporating the "all reasonable precautions" provision, the Government has indicated it does not have any faith in a commonsense approach by the judiciary to this matter. Magistrates and judges are not fools. They would not give a person a light sentence if it could be proved that, although he submitted the "all reasonable precautions" argument in his defence, he had not taken all reasonable precautions. I ask the Minister to explain why he has not included this provision in the Bill. In the absence of such justification will he indicate that he is prepared to amend the Bill.

Mr HODGE: I am not prepared to amend the clause in the way suggested by the member. The main reason for that is as I have argued before: That would be a major and radical departure from the model food legislation.

Mr Thompson: It has already been done in Victoria.

Mr HODGE: Yes, and the other States are not very happy about it. Queensland, Tasmania, and South Australia have all enacted legislation. None of them has departed in any way from the model food legislation.

There is sufficient flexibility in the legislation already. Proposed section 246ZX allows for considerable flexibility that was not there before. Under this proposed section, if a retailer, for example, is before the courts for selling contaminated food, he can now say to the court that he was not fully responsible for the contaminated food and that a certain manufacturing company was. The court now has the flexibility to summons the representative of that manufacturing company and, if appropriate, to find the company guilty of the offence. The issue of flexibility has been opened up in the legislation.

In respect of penalties, there is tremendous flexibility with a whole scale of different maximum penalties for different people in the food chain. For instance, the highest penalties would apply to the manufacturers who are proved to have committed an offence. There are lower penalties for retailers who have committed an offence. I think there is already tremendous flexibility in the legislation. That flexibility is not in the legislation at the moment. Victoria's departure from the model food legislation is not a reason to follow that lead and depart in this major way from the legislation. Victoria had had that type of provision in its old legislation and there was considerable pressure on the Government to maintain the status quo. That is why Victoria departed from that provision.

If, at any time, the model food legislation was considered by the national authorities to be in need of change, we would be prepared to give that consideration, but, certainly at this stage, what the member for Kalamunda is proposing is a major departure from the model food legislation, which the Government is not prepared to consider.

[Questions taken.]

Sitting suspended from 6.00 to 7.15 p.m.

Clause put and passed.

Clauses 8 to 13 put and passed.

New clause 14—

Mr THOMPSON: I move an amendment—

Page 125, line 30—Insert after clause 13 the following new clause to stand as clause 14—

It is a defence to a charge under section 246L, 246M, 246N or 246T for the person charged to prove—

(a) that having taken all reasonable precautions (including, in the case of milk, analysis or other adequate test) against committing an offence he had at the time of the alleged offence no reason to suspect that there was in regard to the food in question any contravention of this Act;

(b) that on demand by any authorized officer he gave all the information in his power with respect to the person from whom he obtained the food in question; and

(c) that otherwise he acted innocently—

and has, not less than seven days before the hearing of the prosecution, notified the informant in writing that he intends to avail himself of the protection of this sub-section giving details of the reasonable precautions which he claims he has taken.

I indicated during the debate on clause 7 that it was my view that the "all reasonable precautions" provision should be included in the legislation. The Victorian Parliament has already acted to implement the uniform legislation and has decided to vary from the model to the extent that it has incorporated the defence of taking all reasonable precautions.

The Minister has said he is not happy to accept that proposal. However, the grounds on which he has rejected it do not relate to the effect of what I am trying to do, but rather to the fact that it will be a variation from the model.

I do not believe that the purpose for which this legislation is before the Parliament will be defeated by our incorporating this particular provision. It will not affect in any way at all the ability of manufacturers to meet the standards principle and it will not advantage or disadvantage people in this State with respect to the manufacture or distribution of food. It will certainly not inhibit the health surveyors or others responsible for policing the Act. All it does is to ensure that someone who is being investigated for contamination of food will be able to enter in his defence the proposition that he has taken all reasonable precautions.

I know the Minister has said that provision exists in the legislation to pursue the individual whom the court considers was responsible for the contamination of the food; but it means that a person who may well be innocent must be taken before the court and subjected to considerable inconvenience and expense in the process. If this clause is written into the legislation it could result in prosecutions being taken not against the individual who has the food in his possession at the time of contamination, but against someone who passes the food on to him in a contaminated form.

The procedure is not interrupted by this. All it does is remove from the procedure the process of pursuing people guilty of contaminating food and the individual may well be innocent.

I therefore submit to the Minister that there is a clear precedent for changing the model, that it is sensible, reasonable, and desirable, and that he should accept my amendment.

Mr HODGE: The member for Kalamunda indicated before the dinner break that he was considering moving in this direction. I took the opportunity, therefore, over the dinner break, to seek further advice and to give the matter further consideration. I am now even more strongly of the view that that sort of amendment is unnecessary and undesirable. In fact, I think it shows that the member has really not quite grasped the legislation before the Committee. I am not being critical of him; it is complex and detailed legislation.

Perhaps I will go into more detail than I did before the dinner break as to why I am not prepared to accept the amendment. Firstly, I do not accept it for straightout technical reasons, which are not the most important ones. The member for Kalamunda, in framing his amendment, has lifted out a section of the Victorian legislation and, almost word for word, is seeking to transplant it into our legislation. It cannot be done quite that simply. The words used in the Victorian legislation do not fit in with our legislation. It would not make sense to include it in the form proposed by the member for Kalamunda.

However, more fundamentally than that is the fact that I do not believe his amendment will make all that much difference, even if it were accepted. The member's remarks have indicated that the amendment will not achieve what he sets out to achieve. It is really only a form of defence for a person who has been charged and who has to go before a court; he can claim he took all reasonable precautions to prevent an offence occurring but, despite those reasonable precautions, the offence

still occurred. That is what the Victorian section is all about. A person still has to go to court but is able to say to the court that he did everything reasonable and possible under his control, to stop the offence occurring and to stop the food being contaminated, but, nevertheless, it was still contaminated. He can still do that under our legislation. It is open to the court to decide whether a conviction should be recorded and if so, how severe the penalty should be and, if the person is genuine and has proved to the satisfaction of the court that he has taken reasonable precautions, if a conviction is recorded, a light penalty would be imposed.

In addition, if a person summonsed to appear before the court for allegedly selling food that is not wholesome is not to blame, there is provision under the legislation for him to say to the court that he was not solely or even partly to blame and that "X" contributed to the contamination or was solely to blame for it. Under this legislation, the court has the power to have that person appear before it and, if it sees fit to convict that person, he will be penalised according to the discretion of the courts.

It seems to me that the member for Kalamunda is trying to achieve something that is already in the legislation and, therefore, his amendment is unnecessary. This matter has been exhaustively thought through.

A working party comprising senior health officers and senior Parliamentary Counsel from every State of Australia drew up this legislation. It has been exhaustively gone through by senior Parliamentary Counsel from each State, including Western Australia. I am sure that if those Parliamentary Counsel considered that this sort of amendment would contribute something to the legislation it would be written into the Bill.

I do not believe the amendment moved by the member for Kalamunda will achieve the desired result because it is also technically inadequate. For those reasons, I reject the amendment.

Mr THOMPSON: I accept the Minister's assessment of the technical inadequacies of the amendment I have moved. However, I will persevere with the amendment, if not to have it accepted in word, to have it accepted in principle by the Minister.

The Minister says that the legislation has been thoroughly investigated by the Parliamentary Counsel of each State as well as by people in the health field and that it is as a result of the working party that this legislation has been drawn up.

Notwithstanding that, Victoria has decided to incorporate the clause to which I have drawn attention in moving this amendment. If it is so essential for this provision to be enshrined in our legislation, why was it not included in the Victorian legislation? Victoria is not an insignificant State in terms of food manufacturing and distribution. It is a more important State than Western Australia in that regard. If Victoria thought it appropriate to make such a diversion from the model Bill it signals to me that we should do the same.

Mr Hodge: I have written to the chairman of the working party asking the working party to give consideration to this. I have sent a telex with the aim of speeding up that investigation. If the working party recommends to all States that they should change this clause, I will be prepared to change it.

Mr THOMPSON: I accept that as second best.

Mr Hodge: It is not a bad offer.

Mr THOMPSON: It is not bad, but my average in regard to obtaining concessions is not all that crash-hot. The Minister has not conceded anything. The point I made earlier is one concession which the Minister should have made and I believe that a concession should be made in this instance.

A provision should be incorporated in the legislation to ensure that someone is not unjustly dealt with. If a "reasonable precautions" provision is not enshrined in the legislation it stands to reason it cannot be entered as a defence. A person may take all reasonable precautions, but a court has no alternative but to find him guilty.

Mr Hodge: All courts have the ability to dismiss charges.

Mr THOMPSON: If they cannot submit they have taken all reasonable precautions—

Mr Hodge: They can. That defence is not precluded just because it is not written into the legislation.

Mr THOMPSON: If it is written into the legislation and the court is satisfied that the persons charged have taken all reasonable precautions the charge can be dismissed. They can demonstrate to the court that they took all reasonable precautions, and the court must accept it even if it feels there is not much strength to it. Under my amendment there will be an indication to the court that the Parliament, which has the responsibility for making the law—the court merely interprets the law—intended that the court should pay particular attention to the "reasonable precautions" provision.

I adhere to my view that this amendment is reasonable and I ask the Committee to support it.

New clause put and a division taken with the following result—

Ayes 15

Mr Bradshaw	Mr McNee
Mr Cash	Mr Old
Mr Clarko	Mr Rushton
Mr Court	Mr Thompson
Mr Cowan	Mr Trethowan
Mr Grayden	Mr Watt
Mr Peter Jones	Mr Williams
Mr MacKinnon	*(Teller)*

Noes 21

Mrs Beggs	Mr Jamieson
Mr Bridge	Mr Tom Jones
Mr Bryce	Mr Pearce
Mrs Buchanan	Mr D. L. Smith
Mr Terry Burke	Mr Taylor
Mr Carr	Mr Tonkin
Mr Davies	Mr Troy
Mr Evans	Mrs Watkins
Mr Grill	Mr Wilson
Mr Hodge	Mr Gordon Hill
Mr Hughes	*(Teller)*

Pairs

Ayes	Noes
Mr Crane	Mr Brian Burke
Mr Coyne	Mr Barnett
Mr Blaikie	Mr P. J. Smith
Mr Hassell	Mr McIver
Mr Tubby	Mr Parker
Mr Spriggs	Mr Read
Mr Mensaros	Mr Burkett

New clause thus negatived.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Mr Hodge (Minister for Health), and transmitted to the Council.

ACTS AMENDMENT (STRATA TITLES) BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr Grill (Minister for Transport), read a first time.

Second Reading

Leave granted to proceed forthwith to the second reading.

MR GRILL (Esperance-Dundas—Minister for Transport) [7.41 p.m.]: I move—

That the Bill be now read a second time.

This Bill is associated with the Strata Titles Bill 1985. It proposes to amend, in an essentially technical manner, a number of relevant Statutes so as to ensure that they will be consistent with the new strata titles legislation.

Clauses 3 to 7 propose to amend the Sale of Land Act 1970. Clauses 8, 9, and 10 will amend the Real Estate and Business Agents Act 1978, the Valuation of Land Act 1978, and the Land Tax Assessment Act 1976, respectively.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Williams.

WESTERN AUSTRALIAN PLANNING COMMISSION BILL

Second Reading

MR PEARCE (Armadale—Minister for Planning) [7.42 p.m.]: I move—

That the Bill be now read a second time.

This legislation stems from the decision of the Government, in accordance with its platform on urban and regional planning, to review the statutory planning system in Western Australia.

The present system of statutory planning in this State has contributed immeasurably to the orderly and progressive planning of the metropolitan region and the country areas. In the metropolitan area, the metropolitan region scheme, prepared and carried out by the MRPA, is the blueprint for urban development and the basis for all important land use planning decisions.

In the country areas, all the major towns and urban centres have been guided in their growth and development by advisory subregional plans jointly prepared by local authorities and State instrumentalities. In addition, the stage has been reached where practically every country town and shire has a town planning scheme.

I could speak at length about the achievements in planning under the present system; however, it has to be admitted that it is no longer as effective and efficient as is necessary. There have been many suggestions for improvements both from within and outside Government and the need for a review of the planning system has long been argued. During this last decade various studies have been carried out for the Government of the day: In 1977 the Graham report; in 1978 the Gorham report; the Fraser report in 1979; and in 1984 the report on land resource management in Western Australia by the task force set up by this Government to investigate and make recommendations on that matter.

While the present system has many good features worth retaining, it is being emphasised more and more that there is a great need for a change of approach in statutory planning. The present

legislation comprises the Town Planning and Development Act 1928, the Metropolitan Region Town Planning Scheme Act 1959, and a body of subordinate legislation, some of it also many years old.

The 1928 Act has undergone extensive amendment since its promulgation and there is general agreement among planners and others affected by it that there is a great need for revision, updating, and consolidation of the legislation. There is a need to replace the older, inherently inflexible town planning schemes reliant on zoning controls, with policy-based schemes and other planning machinery which has the necessary flexibility to encourage the best forms of development and enable the best planning solutions to be chosen. Under the old kind of schemes, all too often the development which has been designed to wriggle its way between the regulatory traps and pitfalls, finally gains approval.

So it was with the need for a more responsive and effective planning system in mind that the Government in 1983 appointed the committee of inquiry into statutory planning in Western Australia to undertake a major review of the system. The membership of the committee of inquiry was representative of the private and public sectors and of planning, local government, the environment, land development, and Government administrative interests. Briefly, the terms of reference of the committee were—

> to examine the statutory planning process and the legislation with a view to streamlining and reducing the time taken to process applications;
>
> to examine the structure and roles of the Town Planning Department, Town Planning Board, Metropolitan Region Planning Authority, and the local authorities in the statutory planning process;
>
> to examine the town planning appeals system;
>
> to examine the planning systems in the other Australian States to see whether any of their practices are worthy of adoption.

In December last, the committee of inquiry submitted its report to the Government.

The principal recommendation of the committee was that a Western Australian planning commission should be established to be responsible for statutory planning at the State and regional levels. It was envisaged that the existing planning bodies at the State level, the Metropolitan Region Planning Authority, the Town Planning Board and the Town Planning Department, would be integrated into a single organisation, a commission with State-wide responsibility for land use planning.

The report set out proposals for the membership and organisation of the commission with two executive-type committees for the Perth region and the country areas respectively. It proposed standing advisory committees, one representative of State Government departments and instrumentalities, and another of local government representatives.

The Government, after considering the report, decided to act as soon as possible to establish the commission with the responsibility for advising Government on the legislation necessary for bringing the new planning system into effect.

The Government also decided it would make no commitments regarding the detailed recommendations of the committee of inquiry, but it would release the report to all interested parties for comment.

It is intended by the Government that the responsibility of the commission initially will be to advise the Government on the legislation necessary to bring the new State planning system into effect.

It is therefore intended to proceed as follows—

> to establish the Western Australian Planning Commission under this legislation with provision for its membership to be not less than three or more than five including its chairman;
>
> the formulation by the commission of proposals for new planning legislation taking account of the recommendations of the committee of inquiry, especially the consolidation of the existing legislation into a single planning Act;
>
> interim continuance of the present planning legislation; and
>
> interim continuance of the present State planning bodies to carry out their present functions pending finalisation of new legislation.

The Bill before the House is therefore only to set up the commission with a membership of not less than three or more than five including the chairman. The chairman is to be full-time but the other appointed members may be full-time or part-time. The chairman is to have practical knowledge and experience in such matters as planning, local government, commerce and industry, and the other appointed members are to have knowledge and experience in urban development, local government, environmental matters, or community affairs.

In order to provide an effective administrative and professional link with the support staff of the commission, it is provided that the town planning commissioner is *ex officio* a member of the commission. As is usual with a commission, its members are appointed by the Governor, and in this case their term is not to exceed five years.

The principal function of the committee is to advise the Minister on the revision and co-ordination of urban and regional planning and development in the State and to review the two planning Acts and other legislation and to report to the Minister on its consolidation.

In the interim the Government is taking immediate legislative steps to implement a number of recommendations of the committee of inquiry for improving and speeding up decision-making under the present statutory planning process. It is intended to make certain amendments to the existing Act which in time will be included in the new legislation.

I believe this Bill represents the most important phase in the introduction of a new planning system to guide the land use planning and development of this State for many years to come.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Trethowan.

BUNBURY RAILWAY LANDS BILL

Second Reading

MR GRILL (Esperance-Dundas—Minister for Transport) [7.51 p.m.]: I move—

That the Bill be now read a second time.

As part of the Government's commitment to the "Bunbury 2000" concept, Westrail has moved its operations out of the Bunbury City centre to new facilities constructed at Picton. Clearance of the railway area in Bunbury is almost complete.

The purpose of Westrail's moving was to enable expansion of the Bunbury central business district and development of the foreshore area.

The land involved is mentioned in this Bill in its several parts and is delineated on lands and surveys public plan, Bunbury 01:33, 01:32, a copy of which I now table.

The plan was tabled (see paper No. 583).

Tenure of this land is quite complex at the present time, consisting in the main of land resumed in 1893 for railway purposes and vested in the Commissioner of Railways; freehold land held by the commissioner; road reserves; portion of an "A"-class reserve; portion of a "B"-class reserve; and two "C"-class reserves. The Commissioner for Railways, supported by the Under Secretary for Lands, has recommended to me that special legislation is the most practical and prompt way of establishing ownership of the property to be disposed of. This will provide a composite historical record and will avoid what might otherwise be a time consuming and complex exercise.

For the past 15 months negotiations have been proceeding between Westrail, Bunbury City Council, and other organisations, including the Department of Lands and Surveys and the South West Development Authority, and agreement has been reached about future uses for the whole area. An amendment—No. 19—to the City of Bunbury town planning scheme No. 6 has been prepared giving effect to these changes in land use purpose and has been approved by the Minister for Planning.

The proposals as agreed provide for exchange of land between Westrail and council; vesting of land in council; closure of existing roads and opening of new roads; and disposal of land by the Commissioner for Railways.

Briefly, the railway land between Stirling and Clifton Streets, and including the existing Blair Street, will be subdivided into four new lots and rezoned to central business district, commercial B, special use, arterial roads, local roads, parks, recreation, and drainage. Blair Street will be reconstructed fronting the foreshore.

All the land will be subdivided in the normal manner and the area rezoned for commercial purposes sold by the Commissioner for Railways. Proceeds will be used to offset Westrail's costs in re-establishing its operations at Picton.

The existing Bunbury railway station will be retained, upgraded, and vested in the Bunbury City Council and used as a tourism centre.

In commending the Bill to the House I would stress that the legislation has the full support of the Bunbury City Council, the South West Development Authority, and Westrail. It will greatly facilitate the completion of the project and the early establishment of substantial commercial developments.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Blaikie.

RACE MEETINGS (TWO-UP GAMING) BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr Pearce (Minister for Education), read a first time.

Second Reading

Leave granted to proceed forthwith to the second reading.

MR PEARCE (Armadale—Minister for Education) [7.55 p.m.]: I move—

That the Bill be now read a second time.

On 20 August 1984, the Government established a committee to inquire into and report upon gaming in Western Australia. That report was forwarded to the Government in December 1984 and contained a series of recommendations.

One of the recommendations contained in the report related to the playing of two-up. The report said "two-up played pursuant to the traditional rules should be permitted".

The Government therefore decided that, as it was still considering the major elements contained in the Mossenson report, it would, as an interim measure, introduce legislation to allow two-up to be played on a limited basis.

The purpose of this legislation is to provide for the playing of two-up in country race clubs—both galloping and trotting—after the last race of the day.

The Government endorses the proposition put forward by the Mossenson report that the practice of playing two-up after country race meetings should be legalised; firstly, to recognise a perfectly common and harmless activity, and secondly, and more importantly, to assist the viability of many country race clubs.

This Bill reflects that proposition and provides for a country race club, or a person authorised in writing by the committee of that club, to apply to the Minister for a permit to play the game of two-up.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Bradshaw.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS BILL

Report

Report of Committee adopted.

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Mr Bryce (Minister for Small Business), and transmitted to the Council.

TRANSPORT AMENDMENT BILL

Report

Report of Committee adopted.

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Mr Evans (Minister for Agriculture), and transmitted to the Council.

House adjourned at 8 p.m.

QUESTIONS ON NOTICE

2937 and 2981. *Postponed.*

FISHERIES: TUNA

Japanese Vessel: Visit

2982. Mr MacKINNON, to the Minister for Transport:

(1) Is he aware that on 2 November 1984, a Japanese tuna vessel Fukuseki Maru No. 28 spent 35 minutes in Gage Roads to pick up spare parts and then sailed immediately?

(2) Is he also aware that due to the imposition of section 130C of the Customs Act the ship's agent received an invoice for $27 910.07 from the Australian Customs Service (the ship took on no fuel)?

(3) Does he still stand by his answer to question 2620 of 13 March, regarding visits to Fremantle of foreign tuna boats when he said: "It has yet to be established to my satisfaction that imposition of the duty will cause a reduction in the visits to Fremantle by foreign tuna vessels."?

(4) If not, will he urgently support the Opposition's approach to the responsible Federal Minister requesting an immediate change be made to section 130C of the Customs Act to ensure that these vessels are encouraged and not discouraged to use Australian ports for their provisions?

Mr GRILL replied:

(1) to (4) On March 25, I received a letter from the Fremantle based agent of the Japanese tuna vessel Fukeseki Maru No. 28. The letter contained information on the incident referred to by the member in his question.

When and if it is established, to my satisfaction, that the imposition of duty under section 130C of the Customs Act might cause a reduction in visits to Fremantle by foreign tuna vessels, I will make appropriate representations to the Federal Government.

As I told the member, in response to his two previous questions, the matter raised by him is being thoroughly investigated. Among other things, I wish to find out whether or not any group of Western Australians would be seriously disadvantaged if foreign tuna vessels using Fremantle are exempted from paying duties levied in accordance with the provisions of Section 130C of the Customs Act.

I am determined that Government representations in this and other transport related matters should reflect a clear sighted and responsible attitude. We will act when all of the relevant facts and arguments can be seen in an undistorted perspective. The investigation I have ordered should be completed in a week or two. When the report on that investigation is available, I will decide on what form any representations to the Federal Government should take.

PARLIAMENT

Prorogation

2983. Mr HASSELL, to the Premier:

(1) When does he anticipate that Parliament will rise at the conclusion of the current session?

(2) Will Parliament then be prorogued?

(3) On what approximate date?

(4) When is the Government planning or does it expect to formally reopen Parliament for the Budget session?

Mr BRIAN BURKE replied:

(1) Before Anzac Day.

(2) to (4) No decision has been made on these matters.

2984. *Postponed.*

ANIMALS: DOGS

Fights: Northbridge

2985. Mr CASH, to the Minister for Police and Emergency Services:

(1) Is he aware of a report in the *Guardian Express* on Tuesday, 26 March 1985, that dog fights are being conducted in the Northbridge area?

(2) Is he aware of the claim that thousands of dollars are changing hands at these dog fights?

(3) (a) Is the practice understood as cruel by his responsible officers;

(b) what action has been instituted by his department to prevent these fights?

Mr CARR replied:

(1) Yes.

(2) and (3) Police Liquor and Gaming Branch are currently investigating this matter. No evidence has been established at this time.

ANIMALS: CATS

Straying

2986. Mr BATEMAN, to the Minister for Local Government:

(1) In view of the ever increasing number of straying cats in the metropolitan area which are causing loss of birdlife plus damage to aviaries, etc, will he detail procedures enabling a landowner to destroy straying cats on his property?

(2) What is the responsibility of cat owners to contain their cats on their own property?

(3) Will he further detail what remedy is available to prosecute people who dump cats in bush areas, etc?

Mr CARR replied:

(1) I am not aware of any such procedures.

(2) None of which I am aware. However, I understand that there may be provision under the Health Act for local authorities to make by-laws for the control of domestic animals.

(3) I understand that it is an offence under the Prevention of Cruelty to Animals Act to abandon a domestic animal.

PLANNING: ZONING

Wattle Grove

2987. Mr BATEMAN, to the Minister for Planning:

(1) What is the area bounded by the Gosnells-Beechboro Highway, Welshpool Road and Hardey Road, Wattle Grove currently zoned as?

(2) Are there any future plans to rezone this area, if so, what are they?

(3) Is there any fact in the suggestion the Perth Airport extensions will involve Wattle Grove?

(4) If "Yes", exactly what area of Wattle Grove will be affected?

Mr PEARCE replied:

(1) Currently this area is zoned as "rural" in the Metropolitan Region Scheme and Kalamunda Town Planning Scheme No. 2.

(2) Yes. The Kalamunda Council has applied for the re-zoning of the land to "Special Wattle Grove" which would restrict uses to those of rural capability.

(3) No.

(4) Answered by (3).

GAMBLING: TOTALISATOR AGENCY BOARD

Trifecta: Carryover

2988. Mr BATEMAN, to the Minister representing the Minister for Racing and Gaming:

(1) When a trifecta carryover is incorporated in the following week's trifecta dividend, does the Totalisator Agency Board take a further percentage out of the carryover money plus Government tax or is the final week's betting that is taxed plus percentage taken out by the Board?

(2) Will the Minister also say what percentage tax is paid to the Government on turnover by the board and what percentage is deducted by the board before the percentage payout to the bettor is calculated?

(3) Will the Minister further say what was the sum total of uncollected bets accumulated by the Totalisator Agency Board for the year 1983-84?

Mr PEARCE replied:

(1) Money carried forward to the next pool attracts no further deduction.

(2) Turnover tax is 7% on all bets. Deductions from trifecta pools before taxation is 20%.

(3) The amount paid to the Government on 30 June, 1984, for unclaimed dividends for the twelve months to 31 October, 1983, was $1.04 million.

A. A. AND A. M. BLAIR: MT. ANDERSON STATION

Compensation: Payment

2989. Mr RUSHTON, to the Minister for Lands and Surveys:

(1) Is he aware that the compensation payment to Mr A. A. (Sandy) Blair of Serpentine for the loss of Mount Anderson Station has not been made by the Aboriginal Development Commission?

(2) Has Mr Blair's solicitor issued a writ to obtain payment?

(3) Will the Government honour its responsibility and commitment and make the payment now that the Aboriginal Development Commission has reneged on its obligation to accept the umpire's decision?

Mr McIVER replied:

(1) to (3) I am not aware of the situation as presented by the member. However I will have the matter investigated and provide a written response as soon as possible.

2990. *Postponed.*

LIQUOR: WINE

Nine Club: Advertisement

2991. Mr RUSHTON, to the Minister representing the Minister for Racing and Gaming:

(1) Is the Minister aware of the advertisement by the Daily News Nine Club on page 33 of the *Daily News* on 28 March 1985, involving purchase and delivery of wine in the metropolitan area?

(2) Has the club a licence to sell wine?

(3) Is he aware the offers in the advertisement are outside the law to implement?

(4) If the club does not hold a licence, how are the provisions of the Act enforced, especially as relating to supply to underage persons?

Mr PEARCE replied:

(1) Yes.

(2) No.

(3) and (4) If the liquor is sold through an existing licensed outlet, there appears to be no illegality: however, the Liquor and Gaming Branch of the Police Department is currently investigating these matters.

2992. *Postponed.*

ROAD: NANGA BROOK ROAD

Upgrading

2993. Mr RUSHTON, to the Minister for Transport:

(1) Is the Nanga Brook Road, Dwellingup on a high priority for a road grant on this year's Main Roads Department programme to upgrade the road to at least a bitumen prime?

(2) Is he aware of the dangerous traffic condition of this road?

(3) Will he please advise me of the—

(a) accidents occurring on this road in the past 12 months:

(b) daily traffic on this road during—

(i) week days;

(ii) Saturdays and Sundays;

(iii) public holidays?

(4) Will he have a traffic count taken on this road for the coming Easter holiday?

(5) Is he aware the Government's decision to declare the Northern Jarrah Forest Reserve has generated more recreation and tourist visitors?

(6) Will he have the Main Roads Department include a special grant this year for this road to the Shire of Murray to upgrade Nanga Brook Road to a safe condition appropriate to the traffic now using this road?

Mr GRILL replied:

(1) Nanga Road in Dwellingup is the responsibility of Murray Shire Council. A request for funds has been submitted by Council to upgrade this road and is being considered by the Main Roads Department.

(2) No, but the route will be inspected as part of the Main Roads Department's assessment.

(3) (a) seven reported accidents.

(b) based on information provided to the Main Roads Department, the estimated traffic counts are:—

(i) 60 vehicles per day.

(ii) 150 vehicles per day.

(iii) 700 vehicles per day during the Easter holiday period in 1984. Other public holiday traffic information is not known.

(4) The Main Roads Department considers it has sufficient traffic count information for an assessment to be made. Council could, if necessary, arrange additional traffic counts.

(5) No, but this could well be the case.

(6) The matter is under consideration.

2994 to 2997. *Postponed.*

SEWERAGE: STORM-WATER DISCHARGE

Smoke Test

2998. Mr MENSAROS, to the Minister for Water Resources:

(1) Has the announced "smoke test" yet been applied to detect illegal storm-water discharge into the Metropolitan Water Authority's sewer?

(2) If so, with what results?

(3) Have there been any prosecutions or infringement notices initiated?

(4) If so, how many?

Mr TONKIN replied:

(1) Investigations into the illegal discharge of stormwater to the MWA sewers commenced in Mt. Hawthorn on Monday 1 April 1985. This work includes the use of smoke detection methods.

(2) 70 properties have so far been inspected and 4 were found to have stormwater connections to the sewer. The owners have been requested to rectify the matter within 30 days.

(3) No.

(4) Not applicable.

WATER RESOURCES: WATER AUTHORITY

Acts: Reprinting

2999. Mr MENSAROS, to the Minister for Water Resources:

After passing the Acts Amendment and Repeal (Water Authorities) Bill 1985, will he cause all the amended Acts to be reprinted and/or consolidated in one printed edition so that there should be a somewhat better way of finding and learning existing legal provisions in force pertaining to water and associated undertakings?

Mr TONKIN replied:

It is proposed to review existing legislation on water related matters and consolidate in a single Act all matters concerning the Water Authority of Western Australia.

WATER RESOURCES: STATUTES

Consolidation

3000. Mr MENSAROS, to the Minister for Water Resources:

What is the planned timetable to consolidate all the fragmented and over-amended statutes into one Act of Parliament pertaining to water and associated undertakings?

Mr TONKIN replied:

The aim is to have a consolidated Act in place as soon as possible following the review mentioned in my reply to question 2999.

The member will appreciate that, because of the complexity of the task, it is not possible to work to a planned timetable given the Government's need to constantly review drafting priorities.

CRIME: FRAUD

Motor Vehicle Insurance

3001. Mr MENSAROS, to the Minister for Police and Emergency Services:

(1) How many cases of fraudulent criminal activity (where deliberate motor vehicle wrecking was involved to gain insurance payments on these vehicles) were investigated by the police in 1984?

(2) How many charges, or multiple charges involving organised criminal activity, were laid during the same period?

Mr CARR replied:

(1) Between 1 January 1984 and 31 December 1984, the CIB Motor Squad investigated 344 instances involving the theft and destruction of motor vehicles.

It is suspected that at least a third were destroyed for insurance purposes.

(2) During the same period, 103 persons were charged with 156 offences relating

to the theft, destruction and fraudulen conversion of motor vehicles.

There is no indication of a large scale organisation destroying motor vehicles for insurance purposes.

GOVERNMENT BUILDINGS: ASBESTOS

Removal

3002. Mr MENSAROS, to the Minister for Works:

(1) What is the Government's policy regarding the dismantling of existing asbestos installation in buildings owned by the Government, or by Government instrumentalities?

(2) If, and where, asbestos material will be removed, will the work be done by contractors or day labour?

(3) If day labour is going to do any work will the Government department or instrumentality, who employ day labour, be registered in accordance with the Construction Safety Amendment Regulations 1984 to the Construction Safety Act 1972-78?

Mr McIVER replied:

(1) The Building Management Authority's policy is to either remove or passivate by approved methods any asbestos fibre where its condition is considered to be a hazard.

(2) The work could be carried out by either contractors or day labour.

(3) Yes.

SPORT AND RECREATION: WATER-SKIING

Murray-Serpentine Rivers

3003. Mr MENSAROS, to the Minister for Transport:

(1) Are there any designated areas on the Murray and Serpentine Rivers where water-skiing and wind-surfing is allowed?

(2) If so, which are these areas?

(3) If not, are these exercises entirely banned on these rivers or are they allowed on every part of the rivers?

Mr GRILL replied:

(1) Skiing is not permitted on either the Murray or the Serpentine River. Sailboards are classified as vessels and are permitted on any navigable water.

(2) Not applicable.

(3) An 8 knot speed limit applies on both rivers and to tow a skier a vessel would have to exceed this speed considerably. However it is permissible to tow a child on a surf board or foam float board behind a vessel providing the child is sitting not standing, and the vessel does not exceed the speed limit.

TRADE

Bunbury: Free Trade Area

3004. Mr HASSELL, to the Minister with special responsibility for "Bunbury 2000":

(1) Who is carrying out the study for Bunbury to become a free trade area?

(2) What are the terms of reference of the study?

(3) When was it commissioned?

(4) When will it be completed?

(5) To whom will the report be made?

(6) What practical benefits are seen by him as being achieved should Bunbury become a free trade area/port?

Mr GRILL replied:

(1) Barker Berry, Consulting Engineers & Designers, Perth.

(2) Preparation of a detailed report on—

Attractions of Free Trade Zones to Commonwealth, State and Local Governments;
Attractions to Overseas Industries to relocate in the South West Region;
Types of Industry likely to be interested in Zone operations;
Financial Penalties to be incurred by Governments if these exist;
Any incentives necessary to attract overseas interests, etc;
Necessary legislation if required at Federal and State level;
Proposals for consideration.

(3) March 6, 1985.

(4) April 26, 1985.

(5) The South West Development Authority.

(6) Preliminary investigations have indicated that Free Trade Zones are now becoming an essential trade element

throughout the world. There are now more than 500 established in 76 countries. It is likely that, to maintain present trade status internationally, Australia will need to operate accordingly. Detailed study now being carried out will hopefully provide information to support the indications previously referred to.

3005 to 3008. *Postponed.*

ROADS: BALCATTA ROAD

Freeway Section: Closure

3009. Mr COURT, to the Minister for Transport:

(1) When will the Balcatta Road section which crosses the Freeway be closed?

(2) Will this be at the same time as the new on and off ramps become operational in the area?

(3) Is his department satisfied that there will be suitable access to the Balcatta industrial area under the proposed road system?

Mr GRILL replied:

(1) Balcatta Road will be cut at the Freeway after the North Perimeter Highway bridge and links to Balcatta Road, both east and west of the Freeway, have been completed. Traffic will thus be able to continue crossing the Freeway without interruption as works progress. It is anticipated that the detouring of Balcatta Road traffic via North Perimeter Highway bridge will commence in August or September 1985.

(2) The new on and off ramps north of North Perimeter Highway cannot become operational until the new Freeway extension is opened in 1986.

(3) Yes.

3010 to 3018. *Postponed.*

FISHERIES: FISH FARMING

Regulations: Committee

3019. Mr BRADSHAW, to the Minister for Fisheries:

(1) What are the terms of reference for the State Government committee to investigate the regulations governing fish farming in Western Australia?

(2) Will amateur marroning be affected by the investigation at places like Logue Brook Dam or any other public dam?

Mr EVANS replied:

(1) I will provide the Member for Murray-Wellington with the Terms of Reference for the Fish Farming Regulations Review Committee and a copy of my Press Release announcing the appointment of the Committee.

(2) The Terms of Reference do not include as an issue marroning at public dams.

The paper was tabled (see paper No. 581).

3020. *Postponed.*

HEALTH: FUNDING

Federal Government

3021. Mr BRADSHAW, to the Minister for Health:

(1) How much money did the Federal Government provide for all health purposes for the State in the years—

(a) 1982-83;

(b) 1983-84; and

(c) 1984-85?

(2) Was a component included in these budgets for inpatient and outpatient supply of drugs and medication?

(3) If so, how much?

(4) What was the cost to provide inpatients with drugs and medication in public hospitals in—

(a) 1981-82; and

(b) 1983-84?

(5) What was the cost to provide outpatients with drugs and medication in public hospitals in—

(a) 1981-82; and

(b) 1983-84?

(6) What are the criteria for a patient to be classified or entitled to obtain outpatient drugs and medication in public hospitals?

(7) Has the policy regarding the supply of outpatient drugs and medication in public hospitals changed in the last two years?

Mr HODGE replied:

(1) (a) 1982-83—$152 176 000.
(b) 1983-84—$190 677 000.
(c) 1984-85—$258 521 000 (Estimate).

(2) Funds are provided by way of specific purpose grants and no specifically identifiable amounts were specified for drugs and medications.

(3) Not applicable, refer to (2) above.

(4) and (5) The department's records do not separately identify expenditure on inpatients and outpatients under this classification of expenditure. Additionally only a summary classification of "medical and surgical" is maintained and this covers, in addition to drugs and medications, items such as appliances, instruments, bandages and medical gases.

Expenditure under the classification "medical and surgical" is as follows—
(a) 1981-82—$27 272 000.
(b) 1983-84—$36 326 000.

(6) Patients may obtain their supplies of medication from the outpatients pharmacy of a hospital provided they are being treated by a medical practitioner in an outpatients clinic or at the emergency centre of that hospital. In rural areas, the opportunities for this are obviously limited, but where necessary, the teaching hospitals post the drugs to patients.

(7) The Medicare agreement requires "that a hospital does not, except in an emergency, write a prescription in respect of a patient of that hospital to be dispensed by a pharmaceutical chemist not employed or engaged by the hospital which prescription would attract pharmaceutical benefits". Thus hospitals are generally required to supply those items which are NHS benefits to the patients as a result of a service received at the hospital. This is in line with the policy prior to Medicare, thus there has been no substantial change in policy in the last two years. The usual practice is to supply starter doses only for those patients attending district or regional hospitals since patients are usually seen at hospitals by their private practitioners, and following up at that practitioner's consulting room. If there are special circumstances, greater quantities may be supplied but that is exceptional.

ABATTOIRS: LAMB MARKETING BOARD

Members

3022. Mr MacKINNON, to the Minister for Agriculture:

(1) Who are the current members of the Western Australian Lamb Marketing Board?

(2) What are the terms of their appointment?

Mr EVANS replied:

(1) and (2)
F. J. Malone—Chairman—5 years, expiring 2/12/87;
H. I. King—Representing meat trade—3 years, expiring 1/12/87;
J. D. Tighe—Representing producers—3 years, expiring 24/10/86;
J. B. Newman—Representing producers—3 years, expiring 19/9/87;
J. D. Burston—Ex officio, General Manager.

SPORT AND RECREATION: CYCLES

Second-hand: Dealers

3023. Mr MacKINNON, to the Minister representing the Minister for Consumer Affairs:

(1) How many bicycle retailers in Western Australia are currently licensed to deal with second-hand cycles pursuant to sections 3 and 15 of the Second-hand Dealers Act 1906-1965?

(2) When was the last time any charges were laid against a bicycle retailer for dealing in second-hand cycles whilst not being properly licensed?

(3) Who polices these provisions within the Second-hand Dealers Act?

Mr TONKIN replied:

As this legislation has only recently been transferred to the Consumer Affairs portfolio my response mainly relies upon advice from the dealers squad of the Police Department.

(1) Officers advise that it is not possible to distinguish second-hand dealers who retail second-hand bicycles from second-hand dealers at large. This is because there is no separate licence for second-hand bicycle dealers.

(2) None since the transfer of the legislation. I am unaware of previous history.

(3) The dealers squad of the Police Department in co-operation with the Department of Consumer Affairs.

EDUCATION: PRIMARY SCHOOL

Burrendah: Administration Facilities

3024. Mr MacKINNON, to the Minister for Education:

(1) Has the design work for the upgrading of the staff and administration facilities at Burrendah primary school yet been completed?

(2) If not, what is causing the delay?

(3) If such work has been completed, when is it anticipated the job will proceed to tender?

Mr PEARCE replied:

(1) Yes.

(2) Not applicable.

(3) Later this month.

HEALTH: AIDS

Testing: Youths

3025. Mr MacKINNON, to the Minister for Community Services:

(1) With respect to the four boys aged from 12 to 16 years who, it was reported in *The West Australian* of 8 January, appeared in the Perth Children's Court charged with loitering for the purpose of prostitution, were all these boys checked to determine whether or not they had contracted Acquired Immune Deficiency Syndrome (AIDS)?

(2) If so, what was the result of these tests?

(3) Have any of these boys again been apprehended following their Court appearance in January?

(4) Were any further tests conducted on these boys to confirm their condition?

(5) Are such tests conducted on all persons now apprehended and charged with similar offences?

(6) If not, why not?

Mr WILSON replied:

(1) All four boys were checked for AIDS and Hepatitis.

(2) Three of the boys were cleared on both counts. One boy had AIDS antibodies confirmed.

(3) Two of the boys were subsequently apprehended for property and breach of good order offences and are still in custody as a result of a Court action. The other two have not reoffended.

(4) One of the boys reapprehended was the boy who had been earlier diagnosed as having AIDS antibodies and he is subject to ongoing tests. The other boy who was cleared at the time of the original arrest has been retested. No results are available yet.

(5) There have been no boys apprehended and brought into custody on such charges since January. If there had been, they would have been checked.

(6) Not applicable.

EMPLOYMENT AND TRAINING: SKILLS WEST '85

Funds: Allocation

3026. Mr MacKINNON, to the Minister representing the Minister for Employment and Training:

Who are the members of the Job Placement and Training Committee which deals with the allocation of funds for the Skills West '85 programme?

Mr PEARCE replied:

Mr M. Cross (Chairman)
Mr K. Ferrier
Mr B. Hamilton
Mr J. Leon
Mr D. Fardon
Mr R. Reid
Mrs J. Wade
Dr M. C. Wood
Mr L. Hitchen
Mr K. Simpson.

3027. *Postponed.*

ABORIGINAL LAND BILL

Melville Reserve

3028. Mr MacKINNON, to the Minister for Lands and Surveys:

(1) What is the location of the Department of Community Welfare land listed on

page 176 of the Aboriginal Land Bill and shown as Reserve 35369 Melville?

(2) What is located on this land?

(3) What is the current valuation of this property?

Mr McIVER replied:

(1) Reserve 35369, which is vested in the Minister for Community Services, is set apart for the purpose of "Hostel" and is located on Canning Highway, Melville, between Prinsep and Money Roads.

(2) "Karingal" Hostel.

(3) I am not aware of the current valuation of this property and would suggest the member re-direct this question to the Minister for Budget Management.

COMMUNITY SERVICES DEPARTMENT

Christmas Island Residents

3029. Mr MacKINNON, to the Minister for Community Services:

(1) Does the Department of Community Services provide any services or support to residents of Christmas Island?

(2) If so, what is the nature of those services provided?

(3) What is the name of the officer or officers involved in delivering these services?

Mr WILSON replied:

(1) The Department for Community Services by arrangement with the Department of Territories provides a visiting social work service to Christmas Island.

This service involves approximately six two week visits a year to the island by a social worker.

(2) In the main the services provided by the departmental social worker encompass individual counselling, family counselling, the provision of child care information and support, and family linkage work between those families with members resident on the island and in Western Australia.

(3) During the first year of the service, which was 1984, the departmental officer who visited Christmas Island was Mr R. Chelliah.

3030. *Postponed.*

TOURISM: SOUTH-WEST

Study

3031. Mr MacKINNON, to the Minister representing the Minister for Tourism:

Is the Tourism Commission planning a tourism study of the south-west; if so, what will be the basis of that study?

Mr BRIAN BURKE replied:

Yes. A tourism development plan study will be conducted to establish a statistical and market research base of current and potential visitor travel to the south-west. It will also identify potential tourism sites and projects, where possible, taking them to the pre-feasibility stage of planning. The south-west plan will be a component of the state tourism plan and will be a "blue-print" for professional and planned tourism development throughout Western Australia.

HOUSING: PENSIONERS

Willetton

3032. Mr MacKINNON, to the Minister for Housing:

When is it anticipated that pensioner accommodation will be constructed on the State Housing Commission's Willetton, Portcullis Drive, Estate?

Mr WILSON replied:

Construction of 17 pensioner units is expected to commence on Lot 316 Ringarooma Drive in late June 1985.

It is planned to construct further units on the vacant sites in Portcullis Drive, pending appropriate approvals in mid to late 1985-86.

3033. *Postponed.*

QUESTIONS WITHOUT NOTICE

Mr J. J. O'CONNOR: CASINO

Malaysia: Attendance

958. Mr HASSELL, to the Deputy Premier:

(1) Is the Deputy Premier aware of the recent report during the very serious Argyle dispute that Mr John O'Connor, Secretary of the Transport Workers Union, was at Christmas Island?

(2) Is he also aware that, as a matter of fact, on 27 March during the continuation of the dispute, Mr John O'Connor and Mr Kevin Reynolds were together at Genting Berhad's casino in Malaysia?

(3) Is he further aware that while genuine workers at the Argyle mine site were being disrupted in their work and had their jobs at risk, Messrs O'Connor and Reynolds were enjoying the facilities of the casino, its restaurants and piano bar?

(4) Further, is he aware that on Friday night last, Messrs O'Connor and Reynolds returned to Perth travelling first class on the airline, undoubtedly without any restrictions on the transport of their personal belongings?

(5) Is this conduct on the part of the would-be representatives of Australian workers part of a new plan by the Government to resolve the Argyle dispute?

The SPEAKER: Order! The question is out of order. It does not fall within the Minister's responsibilities.

Point of Order

Mr HASSELL: The question directly relates to the Argyle dispute and to the way in which the matter is being conducted by this Government.

The SPEAKER: There is no point of order.

Questions without Notice Resumed

AGRICULTURE: RURAL SECTOR HARDSHIP

Alleviation: Government Initiatives

959. Mr TAYLOR, to the Minister for Agriculture:

Can the Minister outline any recent Government initiatives to alleviate hardship in the rural sector?

Mr EVANS replied:

I thank the member for some notice of this question and take this opportunity to announce in the Parliament that the State Government has approved a special carry-on loan scheme to assist struggling farmers. The Government has allocated $2.8 million to the scheme.

Like the 1984 special carry-on loan scheme, the Government's objective is to provide funds to farmers who meet the elegibility criteria of the debt reconstruction provision of the rural adjustment scheme with the exception that the long-term viability prospects are limited.

The loans are to be made available mainly to grain growers, but other farmers may be financed at the discretion of the Rural Adjustment Authority.

It is a move designed to give farmers in financial difficulty some breathing space to reassess their future in agriculture and to minimise the number of forced farm sales.

The loans will normally be limited to $40 000 but in cases where the current difficulties are the result of prolonged adverse circumstances, loans of up to $60 000 may be considered.

Farmers interested in this scheme should make application to the Rural Adjustment Authority. Applications will first be considered for assistance under the rural adjustment scheme.

Where applicants fail to meet the rural adjustment scheme eligibility requirement of long-term viability, they will be considered for assistance from the special carry-on scheme.

I would like to point out to farmers that the deadline for applications is the end of May 1985.

DEPUTY PREMIER

Office: Expenditure

960. Mr MacKINNON, to the Deputy Premier:

(1) Is the Deputy Premier aware of information published in the *Government Gazette* of 27 March which indicated that for the six months ended 31 December 1983, expenditure on the Deputy Premier's office was $458 109, yet for the same six-month period ending 31 December 1984, the figure was $1 574 844? In other words, that was in excess of three times the amount of the previous six-month period.

(2) Could he give an explanation to the House as to the reason for that dramatic and large increase?

Mr BRYCE replied:

(1) I say with some interest that I regret that these days I do not have enough time to read all the *Government Gazette* issues as they come out. I suggest that quite a few members in the Chamber have not

kept up-to-date their reading of the *Government Gazette*.

Mr Carr: I am sure they would.

Mr BRYCE: One member thinks that most members read the *Government Gazette*. Public confession is good for the soul, and I confess that I do not read it often. With respect to the first part of the question regarding the issue of the *Gazette* of 27 March, I answer that I have not seen the statement.

(2) I proffer a suggestion that the substantial increase is a result of the Government's decision last year to transfer to the office of the Deputy Premier responsibility for all the electorate offices and their staff in Western Australia. Since that is now under the control of my office for the first time—it certainly was not in the previous year—a sum of money involving somewhere between $1 million and $2 million needed to be spent. That would be the only explanation I could offer off the cuff.

Mr Peter Jones: You sign the warrants every month, don't you?

Mr BRYCE: I sign those meaningless warrants. I have gone about the business of changing those warrants to make them more meaningful. I suggest that in the past many Ministers signed those warrants without thoroughly comprehending all the detail involved.

Mr Peter Jones: You are not saying that that is what you do?

Mr BRYCE: No. I am telling the member for Narrogin, whatever way he wants to misrepresent it, that there was transferred from the Department of Premier and Cabinet to the office of the Deputy Premier, financial responsibility for electorate offices. The money involved is somewhere between $1 million and $2 million. We have not spent that money on typewriters, ribbons, or equipment for the office or anything else.

TRANSPORT: RAILWAYS

Railcars

961. Mrs HENDERSON, to the Minister for Transport:

Could the Minister for Transport inform the House concerning the new suburban railcars—

(a) The value of these 10 new railcars;

(b) any special features;

(c) whether the noise problem which delayed their acceptance has been solved; and

(d) the significance of this boost to the rail system.

Mr GRILL replied:

(a) The ten new ADL/ADC class railcars have a value of $9.6 million.

(b) The railcars are the second set of 10 which feature air-conditioning, but they also incorporate a number of refinements on the first order. These include fabric-covered seats—the first cars in WA to be so fitted—and the installation of a special area in the power cars to accommodate passengers in wheelchairs.

The new railcars are fully compatible with the previous 10 cars allowing complete interchangeability of parts and more importantly a high degree of operational flexibility. This will allow each railcar set to be built up with other cars to match passenger demand.

The railcars are of stainless steel construction utilising certain techniques developed by Pullman-Standard of America.

Each coach is serviced by two roof-mounted Sigma refrigerated air-conditioning units with provision for heating of the cars in cool weather.

The air-conditioning enables use of fixed, heat reflecting, laminated glass which considerably improves safety.

The carriages ride on air cushion self-levelling suspension.

The power cars obtain propulsion from two Cummins six-cylinder turbo charged diesel engines which develop 212 kw (285 BHP) each. These are coupled to Voith turbo transmissions.

Electro-pneumatic disc brakes are fitted. Each two car pair seats 134 passengers. Passenger safety and comfort is enhanced with air operated double sliding doors controlled by the guard which allow quick boarding and detraining.

The driver's compartment features a centrally located driving position for improved vision.

(c) The noise problem has been solved. The specifications for noise were extremely high and it is a tribute to the manufacturers, A. Goninan and Company, that they have broken new ground in being able to meet them. The extra boost to the travelling public in comfort should be well-appreciated as they now offer probably the quietest form of transport in the city.

(d) The significance of these railcars is that we now have a very real expression of our commitment to the surburban rail system. These railcars were ordered soon after we were elected to office and made the commitment to reopen the Fremantle line. These cars now allow some of the very old rolling stock to be withdrawn from service thus improving the overall standard of the passenger rail system in Perth. The new cars mean that 25 per cent of the rail system is now air-conditioned.

ENVIRONMENTAL PROTECTION AUTHORITY

Chairman: Full-time

962. Mr HASSELL, to the Minister for the Environment:

(1) Is a full-time chairman to be appointed to the Environmental Protection Authority?

(2) If so, when was the position advertised?

(3) What salary will the position carry?

(4) Is Barry Carbon being considered for the position?

(5) Would the Minister support Mr Carbon's appointment?

Mr DAVIES *replied:*

(1) to (5) I am happy to tell the Leader of the Opposition what I have told every newspaper reporter who has asked me about this matter today. The Chairman of the Environmental Protection Authority, Professor Bert Main, has extended his term to 31 May and will retire after that. It is the second extension he has given us. He has been very generous with his time. He is well-respected and will be a hard man to replace. In the context of looking for replacements, a number of names have been mentioned. No selection has been made. No decision has been taken as to whether a full-time man will be appointed.

Mr Hassell: Has the position been advertised?

Mr DAVIES: No. It is not even necessary to advertise it. There is no requirement to advertise the position. What the Government will do in respect of the matter will be the Cabinet's decision. I am not able to disclose to the Leader of the Opposition, who would not want me to do so, the nature of any Cabinet discussions at this stage. He might want me to tell him those decisions, but he would understand that as much as I like him and although it is Easter, I could not do it.

EDUCATION: ETHNIC SCHOOLS

Subsidies

963. Mrs BEGGS, to the Minister for Education:

Will the Minister give details of the proposed subsidies for ethnic community schools?

Mr PEARCE replied:

I am pleased to announce to the House that the Government made a decision recently to take out of the 1985-86 Budget a sum of $120 000 to provide a *per capita* subsidy of $30 for every student in an ethnic school. There are, I think, some 27 such ethnic schools which operate out of school hours in Western Australia; and each of those schools receives a subsidy from the Commonwealth Government of $37. Our contribution of $30 per student in addition to the Commonwealth sum will take us into the second stage of our subsidies for such schools.

The subsidy recognises the important part that these ethnic schools play in keeping alive the culture and the language of the ethnic communities which make a great contribution to the cultural life of Western Australia.

Although the sum will be taken out of the 1985-86 Budget, the $30 *per capita* subsidy will be allocated for this school year; and in each subsequent school year the registered schools will receive the same subsidy.

A statement of the guidelines of eligibility for the scheme will be issued freely to all ethnic schools, and the money will be paid to them as soon after 1 July as is practicable.

MINERALS: DIAMONDS

Dispute: Government Action

964. Mr PETER JONES, to the Deputy Premier:

As today is the 33rd day since the picket was placed on the Argyle project, and in view of the latest action by the TWU to ban food and essential supplies from going into the project site, in the absence of the Premier can the Deputy Premier tell me if the Government is still prepared to take any action to help people receive these essential supplies, and also to support the people who want to work on the project?

Mr BRYCE replied:

Let me assure the member for Narrogin that at about this time tomorrow I am sure the Premier will have some rather good news for him in respect of that dispute. I know that the member for Narrogin is most anxious about it, and that his concern is not for matters related to the body politic, but for the smooth running of the project. I am sure that the member will have the opportunity to put the question to the Premier tomorrow.

GOVERNMENT CONTRACTS

Local Preference

965. Mrs BUCHANAN, to the Minister for Industrial Development:

Has the State Government made a decision about the issue of State purchasing preferences?

Mr BRYCE replied:

The Government of Western Australia has decided to join the Federal Government and the Governments of Queensland, Victoria, Tasmania, and South Australia in working towards the abolition of State purchasing preferences. Convincing arguments have been put forward that Australian industry will become less fragmented and more competitive if preferences are abolished. Furthermore, many dynamic Western Australian companies are poised to make major sales to other State Governments—a market worth at least $8 billion a year—if they are not penalised by local preference.

As a result of our decision, Western Australia will be nominating a senior representative to join the State preference and industrial restructuring advisory committee (SPIRAC). This body will be determining the rules of the game for providing restructuring assistance and aid to companies adversely affected by the abolition of preferences. By joining SPIRAC, we are obtaining a seat at the bargaining table from which will come fundamental recommendations.

I emphasise that while we are entering into this agreement in good faith, our support for a decision to abolish preferences will depend on fair treatment for Western Australian industry. I have undertaken to ensure that adequate adjustment assistance will be available for the few WA companies that would be adversely affected by removal of preferences. I will also need to be convinced that Australian suppliers will generally receive preference over importers and that rigorous antidumping provisions will be enforced.

The meeting of industry Ministers in February decided that SPIRAC should concentrate initially on heavy engineering and computer hardware. In these areas, very few WA firms have used the 10 per cent preference to win Government contracts, and none relies on the application of preferences for commercial survival. However, in time SPIRAC's brief will almost certainly be extended to consider other manufactured goods.

The Government's decision follows in the wake of continuing discussions with employer and union representatives. It is my firm intention that relevant organisations should continue to be consulted about the progress of the State preference issue and industrial restructuring assistance. To this end, I am inviting the Confederation of WA Industry, the Trades and Labor Council,

and the WA Chamber of Commerce and Industry to participate in a working group to monitor the progress of SPIRAC and to help me ensure that SPIRAC accommodates the interests of local industry. I also intend to meet with management and union representatives of companies likely to be affected by changes in purchasing preference arrangements.

CHEMICALS

Polychlorinated Biphenyls: Disposal

966. Mr LAURANCE, to the Minister for Industrial Development:

(1) Is the proposal for the disposal of PCBs and other hazardous chemicals in Kalgoorlie, which has been given provisional backing by the State Government, the same as the proposal which has been put before the Government by a company known as Sheen International Ltd?

(2) If local authorities in the eastern goldfields approve, and the proposal can be shown to be environmentally safe, will the Government assist Sheen International to persist with this new industry in the goldfields?

Mr BRYCE replied:

(1) and (2) Sheen International presented a submission to me, which I was pleased to receive and have processed and assessed by the venture taskforce of the Department of Industrial Development. At the same time, a proposition has come down from the eastern goldfields regional development committee which is, in fact and in essence, the same proposal. The Government recognises that we have an important question to address in Western Australia, and because it is a sensitive one we do not intend to shy away from the issue.

It is not true that the proposal has Government backing, but the proposal to proceed with a feasibility study has Government backing. We want to have a very careful look at the proposal; and I take the opportunity to emphasise that not only does the project have to be proved to be economically viable, but subsequently it will be subject to very stringent environmental considerations. Then there would be a decision by the Government in respect of whether the project should be supported.

HEALTH: DENTAL

School Dental Service: Risks

967. Mrs BEGGS, to the Minister for Health:

(1) Has the Minister seen the scurrilous article in last week's *The Sunday Times* in which the President of the WA Branch of the Australian Dental Association (Mr Waldon) made a scathing attack on the school dental service claiming it is dangerous?

(2) If so, can he advise the many parents who must be worried by the article whether there is any substance to the allegations made by Mr Waldon?

Mr HODGE replied:

(1) and (2) I did indeed see the very worrying report to which the member refers and the highly-emotive, wildly inaccurate claims made by Mr Waldon. The most disturbing of those comments was the reference to a young boy who allegedly died after fluoride treatment. The clear implication was that the death occurred as a result of treatment received in our school dental service.

I can assure parents who may be alarmed by this nonsense that there has never been a death in Western Australia as a result of treatment by the school dental service. The tragedy to which Mr Waldon refers was, I understand, a death in the United States four years ago and it occurred not in a school but in a private dental clinic.

I would also make the point that the school dental service discontinued routine application of fluoride some years ago and has never used the gel referred to in the article in *The Sunday Times*.

I view this matter so seriously that I have today asked the Health Department to write to the Australian Dental Association formally complaining about the comments from Mr Waldon and asking if his views are association policy. If they are not, the association should publicly dissociate itself from Mr Waldon's attack.

PASTORAL INDUSTRY: LEASES

Emanuel Family: Sale

968. Mr BLAIKIE, to the Minister for Lands and Surveys:

(1) Has the Government made any decision on the sale of the Emanuel pastoral leases and can he advise to whom?

(2) Can he advise what role the WA Development Corporation, Exim, and Mr Keith Gale have had in the negotiation and sale of the leases?

(3) Have any Aboriginal groups indicated any interest in the leases in whole or in part, and if so what groups?

Mr McIVER replied:

(1) to (3) Discussions have taken place on the Emanuel leases, and to the best of my knowledge no Aboriginal groups have made application for any of the leases.

TECHNOLOGY PARK

Establishment: Incentives

969. Mr COURT, to the Minister for Technology:

Will the Government be offering special incentives for companies in regard to Technology Park, and if so—

(a) what will those incentives be;

(b) will they apply equally to Australian and international companies?

Mr BRYCE replied:

(a) and (b) We anticipate circumstances where major companies from other parts of the world or other parts of Australia are interested in locating in Technology Park. Because of the advantage that would bring to Western Australia, we are prepared to be completely flexible in our approach to negotiations to attract those companies.

I can indicate to the member for Nedlands that I do not intend to spell out in an encyclopaedic form everything we are prepared to negotiate with respect to these companies because I do not particularly want the information used in South Australia, Canberra, or anywhere where technology parks are operating. If and when we consummate a deal or an arrangement for a company which can bring appropriate and useful technology to this State by its settling into Technology Park, and it is deemed necessary to negotiate a special deal to accommodate that company, we will be happy to provide the details subsequently.

HEALTH: SPEECH PATHOLOGISTS

Appointments: Applications

970. Mr McNEE, to the Minister for Health:

The Minister might recall a couple of weeks ago supplying information on the appointment of a speech therapist to the Midland area. As a consequence, could the Minister please advise the House whether applications for the position of speech therapist in the Midland area have been received? If so, can he advise the House when an appointment is likely to be made?

Mr HODGE replied:

I regret I cannot give that information to the member off the cuff. If he rings the parliamentary liaison officer in my office he will make every effort to obtain that information for the member.

LOCAL GOVERNMENT: SOUTH PERTH CITY COUNCIL

Lease: Waste Disposal Site

971. Mr GRAYDEN, to the Minister for Planning:

(1) What is the current position in respect of the leasing of the old tip site at the corner of Goss Avenue and Manning Road to the South Perth City Council?

(2) Has the lease agreement for this site which was being drawn up by the Metropolitan Region Planning Authority been finalised as yet?

(3) If not, when is it anticipated the lease agreement will be finalised?

Mr PEARCE replied:

I thank the member for ample notice of this question, the answer to which is as follows—

(1) and (2) The Metropolitan Region Planning Authority does not yet hold title to the land and it is unable to complete negotiations with the South Perth City Council.

(3) Negotiations will continue shortly after the title is issued.

ROTTNEST ISLAND BOARD

Chairmanship: Premier

972. Mr MacKINNON, to the Deputy Premier:

Earlier this week I asked the Premier several questions concerning the chairmanship of the Rottnest Island Board and he undertook to provide replies.

The questions were—

(1) Is the Premier still occupying the position of Chairman of the Rottnest Island Board?

(2) Does he intend to retain this position?

(3) If not, who will replace him as chairman and when?

Is the Minister in a position to answer the questions?

Mr BRYCE replied:

Yes, the answers are as follows—

(1) No.

(2) Not applicable.

(3) Mr Dempster is the acting chairman and it is assumed that a new chairman will be appointed in due course.

TAXES AND CHARGES: EXEMPTION

Gold: Submission

973. Mr PETER JONES, to the Deputy Premier:

Is the Government intending to include within its submission to the tax summit the request that gold should continue to retain its tax-exempt status and that it should not be subject to any form of royalty?

Mr BRYCE replied:

To the best of my knowledge that issue has not been seriously canvassed. I think there was some reference to it on the list of questions on the hot line. The preliminary proposition forwarded to the Federal Government and to EPAC on this matter certainly did not incorporate that.

Mr Peter Jones: Was the whole submission forwarded?

Mr BRYCE: The preliminary submission has gone to EPAC.

Mr Peter Jones: From the State Government?

Mr BRYCE: Yes, and it did not incorporate that proposition.

ALUMINIUM SMELTER

Sites: Alternative

974. Mr BLAIKIE, to the Minister for Minerals and Energy:

Following his visit to Brunswick Junction last night to explain his Government's reasons for locating a smelter at the site known as Kemerton, now that the Minister has learned at first hand of that community's rejection of Kemerton, will he give an undertaking that the Government will have the two Collie region sites again made available for review and active consideration?

Mr PARKER replied:

As I told the meeting last night, the environmental review and management programme prepared for the smelter has come down in favour of the utilisation of the Kemerton-Parkfield site for the smelter.

Mr Blaikie: That was the decision of the Government, not the ERMP?

Mr PARKER: The ERMP is in favour of the Parkfield site, as are the Government and the joint venturers. The ERMP is a joint venture document. The EPA has not yet made a decision. That is where the member for Vasse may be confused.

As I said to the meeting last night, the Government, in making its final decision, will take account of a number of factors, the principal being the decision and recommendation of the Environmental Protection Authority on its assessment of the public input and the basic ERMP document itself. That report will no doubt be made available to the Government and will form the basis of the Government's decision-making.

As I also indicated to the meeting, I will see that the Government takes into account all of the major factors, one of which is the feelings expressed by a section of the community at the meeting last night who were opposed to the smelter. As I said to the meeting, that is the Government's position. If the Environmental Protection Authority were to say that the Collie site was better than the Kemerton site, obviously the Government and the partners would have to evaluate their position in the light of such a statement.

TECHNOLOGY PARK

Facilities: Completion

975. Mr GRAYDEN, to the Minister for Technology:

What is the approximate time schedule for the completion and occupation of the four types of facilities planned for Technology Park?

Mr BRYCE replied:

I thank the member for some notice of this question. The information sought is as follows—

Facilitator units: Building will be completed by 30 April 1985, for occupancy late May/early June after fitting out.

Incubator units: Will be completed and available for occupancy in May.

Enterprise units: Are not expected to be completed before December 1985.

Commercial areas: Are available now.

LOCAL GOVERNMENT: STIRLING CITY COUNCIL

Chinese Restaurant Rezoning: Minister's Action

976. Mr RUSHTON, to the Minister for Planning:

(1) Has he taken action against the City of Stirling for its refusal to allow the operation of a Chinese restaurant in the Labor Party building on Wanneroo Road?

(2) Under what sections of the Act has he taken this action?

(3) Is he aware of a QC's legal advice that he, the Minister, would be acting illegally if he overruled the council?

(4) What are the rights of the councillors to take action against his illegal and autocratic action?

(5) What is the present position in regard to the dispute between the Government and the City of Stirling over the zoning of the Labor Party building to include a Chinese restaurant and the approval of the city's town planning scheme?

Mr PEARCE replied:

(1) to (5) I guess the member for Dale should have consulted with his colleagues because he would then have been more up-to-date with this situation than he obviously is. He has bought into the debate two weeks after the events to which he refers. Briefly, the facts of the matter are as follows. I gave a direction to the City of Stirling some weeks ago, under section 18(1) of the Town Planning and Development Act, to amend its scheme in accordance with the requirements of the previous Minister, Hon. Peter Dowding, before the scheme could be approved. At present the City of Stirling still has not done that. The city sought from me an extension of time so that it could undertake to obtain a legal opinion. I gave that extension. The city obtained a legal opinion from a QC, who happened to be Mr Viner, and it sent me a copy of his opinion along with a resolution of the city asking me to reconsider my attitude. I obtained advice on Mr Viner's opinion, which I must say read more like a political pamphlet than a legal opinion. I obtained advice which was to the effect that the legal opinion seemed to be based on an unamended copy of the Act. Mr Viner has only recently returned to law after having spent some time as a Liberal Party member of Federal Parliament. I took advice on the points raised within his opinion and I was informed that they did not bear on the fundamental issues of the right of the Minister to require amendments to any town planning or district planning scheme. To that extent, the advice that we have from Mr David Malcolm QC, who is the top planning lawyer in the State, was rather different from Mr Viner's opinion. However, rather than taking any draconian action such as instituting legal action—which is clearly a right the Government has—I wrote back very courteously to the City of Stirling and had the letter delivered by courier before its meeting yesterday evening. I indicated that I had seen the city's legal opinion and had given consideration to the city's objection to my decision, and I advised that I could not agree to change my decision. I therefore asked the city to finalise its scheme and to send it to me for gazettal as soon as possible. I am advised that last night the city referred the matter back to its town planning committee for further consideration and report to be considered later at a full council meeting. Although the time for the decision has expired and

many developers are anxious about their developments, I am anxious for the full council to give consideration to its town planning committee's report before considering what action the Government will take.

I express very strongly the hope that the City of Stirling will recognise the legality of the situation and forward an amended copy of the scheme to me as soon as possible.

TAXES AND CHARGES: TAX SUMMIT

Submission: Timing

977. Mr HASSELL, to the Deputy Premier:

(1) Now that he has disclosed the Government's attitude and has made a submission to EPAC concerning the tax summit, will he advise whether the submission was prepared prior to or subsequent on the collation of information received from the tax hot line?

(2) Who prepared the submission?

(3) Was it approved by Cabinet?

(4) Will he table a copy of the submission?

Mr BRYCE replied:

(1) to (4) The submission incorporated information that was gleaned from the tax hot line.

Mr Hassell: The information you said you didn't have time to table.

Mr BRYCE: I did not say that. I said that I had not made up my mind to table it. The Leader of the Opposition should get things straight. We are not sure that we can trust the Leader of the Opposition to deal with papers honestly and sincerely, or even properly. The results of the tax hot line were considered prior to the preparation of the document sent to EPAC. It was worked on by representatives of the Department of Industrial Development and the Department of Premier and Cabinet, and it was sent some few weeks ago. Just so that the Leader of the Opposition will not feel at all as though he is being treated like a mushroom, I inform him that the document will be a public document because it will be made public by EPAC.

ALUMINIUM SMELTER

Sites: Alternative

978. Mr BLAIKIE, to the Minister for Minerals and Energy:

Following the undertaking and the answers given by him last night at Brunswick and in the House today, will he advise whether the EPA will have the opportunity to make an evaluation of the Kemerton smelter site *vis-a-vis* the Worsley site and to submit a recommendation to the Government on a preferred location, or is it committed to evaluating the Kemerton site only?

Mr PARKER replied:

I do not know how many times I have to advise the member on this matter, but the EPA is committed to doing its job, which is to evaluate the environmental review and management programme submitted to it by the project partners, and also the public comment which has been received on that ERMP. Included in that evaluation will be the most extensive work ever undertaken on a resource project in WA, which has been funded at much greater levels than ever before, to ensure that the full environmental considerations which need to be undertaken by the EPA can be considered so that it is in full receipt of all relevant information in order for it to advise the Government on the decision it should make.

HEALTH: HOSPITALS

Public Patients

979. Mr HODGE (Minister for Health):

On Wednesday, 27 February this year the Leader of the Opposition directed question 2312 to me. I replied at the time that the information he sought was not readily available and that I would provide it to him in writing at the first opportunity. I now table the reply.

The reply was tabled (see paper No. 582).