

company law, not only in this country but also in other countries, particularly the United Kingdom.

It could be demonstrated that throughout the years it has been the professional bodies which have been pressing the Legislature to bring the Companies Act up to date. The history of English company law is punctuated by a series of top-level inquiries, one of the famous ones being the Cohen Commission, which was prompted by the professional bodies and whose job was completely to overhaul the company law in England to see that it was being kept up to date with modern trends, and also to ensure that it dealt with the people who wanted to put over smart aleck tricks and by-pass a provision, say, in respect of accounts, annual meetings, prospectuses, and so on. So the law has only been giving effect to the best ethical practices that have been developed over the years.

The idea advanced by the honourable member is a commendable one; and I think he will find in practice that so much progress has been made in achieving uniformity in these laws, which need to be uniform throughout the States—such as hire purchase, company law, business names, and so on—that the practice will be continued by the Attorneys-General and their officers.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

House adjourned at 6.10 p.m.

## Legislative Council

Wednesday, the 22nd August, 1962

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The PRESIDENT (The Hon. L. C. Diver) took the Chair at 4.30 p.m., and read prayers.

### QUESTIONS ON NOTICE

#### ESPERANCE-RAVENSTHORPE ROAD

##### *Expenditure and Total Mileage of Bituminising*

- The Hon. J. J. GARRIGAN asked the Minister for Mines:
  - What amount is it proposed to spend during the current financial year on the continuation of bituminising on the Esperance-Ravensthorpe Road?
  - What total mileage is it anticipated will be completed by the 31st December this year?

The Hon. A. F. GRIFFITH replied:

- £168,000.
- The road is at present sealed to a point 21.4 miles from Esperance. Funds have been provided for priming and sealing to 38.4 miles from Esperance and a further 16 miles of priming to 52.4 miles. The sealed road recommences again at a point 68.6 miles from Esperance and ends at a point 79.6 miles from Esperance, Ravensthorpe being at 120 miles. Funds have also been provided for sealing 3.6 miles eastwards from Ravensthorpe.

- This question was postponed.

## BILLS (2): INTRODUCTION AND FIRST READING

1. Cemeteries Act Amendment Bill.
2. Local Government Act Amendment Bill.

Bills introduced, on motions by The Hon. L. A. Logan (Minister for Local Government), and read a first time.

## AMENDMENTS INCORPORATION ACT AMENDMENT BILL

### *Third Reading*

**THE HON. A. F. GRIFFITH** (Suburban—Minister for Justice) [4.37 p.m.]: I move—

That the Bill be now read a third time.

Before the third reading of this Bill is passed, I would like to avail myself of the opportunity to advise the House that I have inquired into the point raised by Mr. Wise when he spoke in support of the Bill, but questioned one aspect of it should the Bill be passed. He drew attention to the fact that Parliament may pass a Bill which has the effect of ratifying an agreement when the Bill has in it authority to amend the measure by force of arrangement between the parties concerned. Mr. Wise said that where such an agreement was ratified, the amending Bill now before us would place the parties in the position that an amendment to a ratified agreement could be made, yet Parliament might not know about it until some considerable time afterwards. I think that was the point made by Mr. Wise.

The Hon. F. J. S. Wise: That was one of them.

The Hon. A. F. GRIFFITH: I do not think Parliament is going to be any worse off than it is at present because an agreement is introduced into Parliament by means of a ratifying Bill, and because Parliament passes that Bill, including provisions to vary it according to agreement between the parties, since it is envisaged that amendments of this nature would not be of major consequence. In fact, they would be of minor consequence, but in the event of their being of major consequence the original measure containing the agreement should be brought before Parliament for amendment and ratification. I think it is correct to say that the Oil Refinery Industry (Anglo-Iranian Oil Company Limited) Bill brought about a state of affairs whereby there was power in the agreement to alter its terms, but there was no authority to reprint the Bill when it was amended by agreement.

With the passing of this Bill at least we will be able to ensure that this is a step in the right direction, because any amendment of schedules must be incorporated in a reprint, the schedule being the whole of the agreement attached

to any particular Bill. However, I appreciate the point raised by Mr. Wise; because, as he says, there is no provision in this Bill that a report shall be first made to Parliament.

Of course, no report is made to Parliament prior to the completion of an agreement. Any such agreement is brought before Parliament for ratification, and Parliament can adopt one of the two courses open to it: accept the agreement that has been arrived at; or reject the Bill. If the Bill is rejected it does not become an Act. I thought I would make this explanation before the Bill passed the third reading. I hope the points I have made will satisfy the Leader of the Opposition.

**THE HON. F. J. S. WISE** (North—Leader of the Opposition) [4.41 p.m.]: I would not like any confusion on account of this matter; and much of what the Minister said did not clarify the position at all. The simple issue is that where Parliament authorises alterations to an agreement as between the parties, the full authority may be exercised at any time; and no one can cavil at that. My sole concern was—and still is—not that anything be known prior to ratification, or prior to alteration, but that something be known by Parliament subsequent to alteration.

The Hon. A. F. Griffith: I think that will be ensured by the reprinting of the measure.

The Hon. F. J. S. WISE: It may not, because such measures may not be reprinted for months or years. Therefore, my concern is that where there is a variation in an agreement—an agreement which could involve undertakings of considerable magnitude and millions of pounds—Parliament is entitled to know of the variations in the agreement as soon as practicable after they are made.

The Hon. A. F. Griffith: Can you relate that to the position at the present time?

The Hon. F. J. S. WISE: There is no notification to Parliament at any stage at present.

The Hon. A. F. Griffith: At least this Bill is a step in the right direction.

The Hon. F. J. S. WISE: This Bill will only advise Parliament of such happenings when the Minister for Justice or the Attorney-General authorises a reprinting; and that may not be for a long time. All I want is that in some simple form Parliament be advised; because it is entitled to know and should be informed of any changes.

I can imagine that you, Sir, with your insistence upon the protection of the rights of Parliament, would not support any move

that would take anything away from Parliament; and, following that line of thought, I believe that you, as our peer, would, in the occupancy of the Chair, be anxious that Parliament should be advised in a simple form of alterations made subsequent to the passing of an enactment. That is all I am seeking; and I did not raise the matter in any controversial manner.

The Hon. A. F. Griffith: I appreciate that.

The Hon. F. J. S. WISE: I raised the matter in an endeavour to ensure that Parliament be advised of alterations; and, while I am here—however long that may be—when agreements are ratified by this Chamber I hope to see a clause inserted, following the clause allowing variations in agreements subject to the approval of both parties, to ensure that Parliament will be advised at its first meeting by the tabling of papers associated with such alterations. That is my point.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

### BILLS (5): THIRD READING

1. Reprinting of Acts Authorisation Act Amendment Bill.

Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Justice), and transmitted to the Assembly.

2. Building Societies Act Amendment Bill.

Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Housing), and transmitted to the Assembly.

3. Church of England (Northern Diocese) Act Amendment Bill.

Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Mines), and transmitted to the Assembly.

4. Declarations and Attestations Act Amendment Bill.

5. Interpretation Act Amendment Bill.

Bills read a third time, on motions by The Hon. A. F. Griffith (Minister for Justice), and transmitted to the Assembly.

### EVIDENCE ACT AMENDMENT BILL

#### Second Reading

Debate resumed, from the 21st August, on the following motion by The Hon. A. F. Griffith (Minister for Justice):—

That the Bill be now read a second time.

THE HON. E. M. HEENAN (North-East) [4.49 p.m.]: On the suggestion of Mr. Wise, I have had a look at this small Bill which seeks to amend the Evidence Act. Sections 57 to 79 of the Act contain provisions setting forth the rules whereby certain documents can be proved in the courts, or in similar tribunals. For instance, section 75 provides that the mere production of a paper purporting to be printed by the Government Printer, or by the authority of the Imperial Government or the Government of the Commonwealth, or of any State, or of any Australasian colony, shall, before all courts and persons acting judicially, be evidence that the paper was printed by the Government Printer or by such authority.

I quote that as an instance. Members are no doubt aware that the mere production of such a document is accepted in the courts and all other tribunals as proof of its authenticity. That, and similar matters, are dealt with in the Evidence Act. Now this little Bill proposes an extension of these provisions by the addition of the proposed section 79A.

Members are aware that under various Acts of Parliament certain documents, in order to be valid, require attestation, that is, witnessing, by someone in authority—a justice of the peace, a commissioner for declarations, or maybe a notary public. A simple instance of a document which needs attestation is a transfer of land. Someone sells a block of land and the transfer has to be witnessed by a commissioner for declarations, a justice of the peace, a commissioner for affidavits, or, I think, a police officer. Another simple instance of a document which the law demands must be attested, of course, is a will. A will has to be in writing and has to be witnessed by two people.

Under the law of evidence, when a document is required by law to be attested and it comes before a court in any dispute or has to be proved in any court, it must be proved by calling the attesting witnesses. For instance, if a transfer of land is before the court, the law requires that the person who witnessed the signature shall come in and give evidence that it is his signature and that on a certain date it was signed before him. That is the proof that is required in Western Australia at present. That is, of course, if the witness is alive and can be found, or is within the jurisdiction. There are, of course, certain exceptions, but that is the general rule; and apparently it causes inconvenience, expense, and difficulties on occasions.

In England that law has been relaxed by making more simple proof satisfactory. It can well be envisaged that on occasions it might be difficult and inconvenient to call a person who witnessed a document; so in England provision has been made in such cases that secondary proof can be adduced. For instance, if the person who

attested a document is not readily available, someone who knows his signature can give evidence, or someone who was present at the time when he signed it can give evidence, thus simplifying the procedure in certain cases. In England, if the witness is dead, insane, beyond the jurisdiction, or cannot be found, secondary evidence of execution must be given by proof of his handwriting.

If I witnessed a document and could not attend the court, or if it was inconvenient to get hold of me, there are quite a number of people who could come forward and testify as to my signature. At the present time, as the law stands here, that cannot be done; and this Bill has been introduced in order that that form of proof might be accepted. It follows the amendment to the law of evidence which was made in England some time ago.

This can be described as a minor measure, but we are always attempting to simplify the procedure in courts and to render them less expensive; and in my opinion this Bill succeeds in doing that, and is therefore worthy of our support. I am sure the Minister probably could have given more adequate explanations, and there may be other aspects which I have overlooked, but that is my small contribution to the debate.

The Hon. A. F. Griffith: Thank you.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

## COAL MINES REGULATION ACT AMENDMENT BILL

### *Second Reading*

Debate resumed, from the 16th August, on the following motion by The Hon. A. F. Griffith (Minister for Mines):—

That the Bill be now read a second time.

**THE HON. W. F. WILLESEE (North)** [5.1 p.m.]: This Bill is one which, by means of the Coal Miners' Accident Relief Fund, augments the Workers' Compensation Act. That is a contributory fund in which management and employees participate. The male employees contribute at the rate of 9d. per week, and junior males 4½d. per week; and the company contributes a halfpenny per ton of coal actually sold over a given period of time, namely, six months.

When I first looked at the Bill I thought it was somewhat of a pity that it did not contain a more realistic viewpoint; inasmuch as it would have been timely, when it was presented to Parliament, to have increased the contributions from both parties, in view of the depreciating value of the pound over the last few years.

I feel that because of the increments that have occurred in the basic wage, and the resultant increments in the sale price of coal, it would be reasonable to assume that in order to build up this fund we should at least keep pace with the real value of the pound.

The Bill overlooks this particular issue; and, as the Minister explained, it possibly was not the function of the Government to instruct upon this point; although the fund is subject to Government audit. I suggest that any auditor, acting under Government supervision, would have the right of recommendation or suggestion; and I would submit that through the agency of the Government audit it would be reasonable to suggest that the fund be augmented, in respect of the contributory basis, to bring it into line with the present value of the pound as compared with the situation that obtained when the legislation originally became law.

As I understand the position, the extension of the Bill is occasioned in the main by the fact that there is open-cut mining, because open-cut mining brings about a much wider scope of employment than was the case in 1946. Open-cut mining brings forward a very much wider scope of employment whereby the actual term "miner" becomes widened to include associated people within the industry; and the Bill seeks to eliminate the anomaly of a person receiving wages or salary from his employment in mining, yet not being covered by this augmented fund, although probably covered under the Workers' Compensation Act.

The Minister's notes specifically state that the to-and-from principle, as we know it, has been excluded from the Bill, just as it was from the Workers' Compensation Act. I express some regret at that omission, because I feel that this matter, contentious as it might be, will ultimately be accepted as a recognised risk of employment; particularly when we associate this Bill with the enlarged compass of risk when we introduce the truck driver, the surveyor, and others in their associated degrees of employment, who can be hurt quite far from the vicinity of the mine itself.

It seems relatively reasonable to assume that such people going to or coming from their place of employment would suffer a risk of accident equal with the risk they would suffer from, say, one minute to nine until one minute past nine.

I understand that the trustees of the fund have asked for the amendment to the Act as submitted by the Minister. I discussed the Bill with the member for Collie, and he appeared to be somewhat surprised that it was before the House. He told me that he did not know such a Bill was to be brought forward. That is

why I had some diffidence about proceeding with the measure yesterday. However, I believe it is quite probable that the trustees put forward the Bill in good faith; and it can be equally probable that the rank and file of the Collie miners did not know that the Bill was before Parliament or that it was to be put before Parliament at the time it was introduced.

I see no reason why the Bill should not be supported. I regret that the basic principle of the more that one puts into the pudding the more one can take out if it, has not been included; because in respect of a fund such as this, to which the employer and the employee contribute, if we want to increase or extend the benefits we can only do so by contributing at a higher rate.

If we intend to lag in that regard for many years, and if through the economic situation of the pound we find that it is not as valuable as it was in 1946, then obviously we just will not be able to cope with the intrinsic values in circumstances that will arise under this fund.

**THE HON. A. F. GRIFFITH** (Suburban—Minister for Mines) [5.10 p.m.]: Briefly in replying to Mr. Willesee, I am sorry if the member for Collie did not know anything about this matter. As I said when introducing the Bill, the trustees of the fund are there, and they consist of a representative of the Mines Department appointed by myself as the Minister—or by the Minister for Mines—a representative of the mine owners; and a representative of the miners. One would have thought that there would have been at least some local consultation.

However, the fact remains that the trustees made this approach to the department; and I observe from the file that the department wrote back to the secretary to the trustees on the 12th April of this year, and said—

To enable full consideration to be given to this request—  
relating to the request they had made—

—I shall be glad if you will supply me with as complete details as possible as to the type of men who would be affected by such amendments. You only mentioned one category in your letter which was truck drivers.

I should also like some details in regard to the operations of such categories, particularly relating to their off-mine work.

Later the trustees, through their secretary, provided the department with more information concerning the matter.

As I have said—and Mr. Willesee sustains the statement—this Bill is intended to broaden the interpretation of "coal-miner" because of the change in operations. Up until the passing of this Bill

there will be some people working in the Mines who, as they go off a coalmining lease, will not be covered by this particular fund. The Bill will give them, in the circumstances related in my previous speech, cover, accordingly.

So far as widening the scope of the Bill is concerned, I think perhaps that is a matter for the trustees. They have guarded this little account very carefully, and it is their proper duty, in the interests of the people who are to enjoy the benefits of the fund, to ensure that it is, in fact, kept in good repair; as is the situation at the present time.

I do not think there is any necessity for me to say anything more, beyond thanking Mr. Willesee for his support of the Bill.

**Question put and passed.**

**Bill read a second time.**

*In Committee, etc.*

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

## **BP REFINERY (KWINANA) LIMITED BILL**

### *Second Reading*

Debate resumed, from the 16th August, on the following motion by The Hon. A. F. Griffith (Minister for Mines):—

That the Bill be now read a second time.

**THE HON. W. F. WILLESEE** (North) [5.15 p.m.]: This is a very important Bill, the title of which is as follows:—

An Act to enable BP Refinery (Kwinana) Limited to become a company deemed to be incorporated in the State, to preserve the identity of the company so incorporated with BP Refinery (Kwinana) Limited a company within the meaning of the Companies Act 1948 of the United Kingdom and for incidental and other purposes.

From what I can see of the measure it is the first of its kind ever to come to the Parliament of Western Australia. The company in question is deemed, under the Companies Act, to be a foreign company at the moment. It had at its genesis the privilege and right to operate in Western Australia by the sanction of Parliament; and, as such, it enjoys privileges which would extend materially beyond the focus of the Companies Act.

In that respect the basis of this Bill is to incorporate the company in question as a company with all the extended privileges it possesses beyond the capacity of the Companies Act; and it must be again incorporated from within the precincts of Parliament to enable it to operate as a Western Australian company. The process of this development is somewhat interesting in that the entity of the company is being

preserved by two similar Bills being introduced into two Parliaments almost simultaneously.

A Bill will be introduced in England to complement the measure which is being introduced in the Parliament of Western Australia. To put the matter as simply as I see it, it means that we introduce and permit shareholders of a foreign company to become, by title, Western Australians. It would not need a great deal of thought to visualise—and there are many people in this Chamber who could do this better than I—the obvious advantages that would accrue to the shareholders of the company, and the benefits they would derive, by being registered under the Western Australian provisions of this Act.

It is an interesting sidelight to know that this company today is a subsidiary of a very powerful and progressive company, and it has, within its own right, a paid-up capital of £1,000,000; and that £1,000,000 will be transferred to the Registrar of Companies, and the company will become a Western Australian company. The title "foreign company" will disappear with the passing of this Act. I would say that during the time it has operated in Western Australia this company has had an asset backing in this State of somewhere in the vicinity of 8 to 1 or 10 to 1. So, if this company were to sell out at this point of time to a Western Australian company, we would be prepared to estimate its assets in the vicinity of £10,000,000 to £15,000,000.

If at this time we decided we would register the new Western Australian company, with the present asset backing of this company, under the Act assented to by Parliament last year—which will be proclaimed in October of this year—we can realise the very high fees that would have to be paid for incorporation. I intend to deal only with this point in the Bill: That I think the amount of £100 for the incorporation of this company at this stage is ridiculously low. Even if we take the present value of the company, and its present subscribed capital, at £1,000,000, we would under the present Companies Act still arrive at a figure of some £500. If we take the asset value of the company in regard to its production, output, and sales in Western Australia during the time it has been here—it has been here approximately 10 years—I think we would find it has had a 100 per cent. increment per year.

The Hon. A. F. Griffith: Its progress is a good thing.

The Hon. W. F. WILLESEE: I applaud that fact. I hope the company will go on to bigger things. As Western Australia grows, so will the company grow. It is in on the ground floor. But why should this company get the preference of a cheap entry into incorporation, to which we as a Parliament have decided to make every Western Australian company agree in the future? By that I mean we lay down a scale

of figures for incorporation only; yet we say to this company, which is established and based here soundly, "We are ready and prepared by Act of Parliament to change you from a foreign to a Western Australian company. We will leave your shareholders in England, and we will not charge you the full rate for incorporation."

I realise that any State which is growing must do some unusual things to produce unusual circumstances. But there is nothing that I can see which substantiates the action taken by this Bill. I cannot see any reason why this company should be privileged with regard to the rates for incorporation. I believe, because Parliament has agreed that this company should have certain privileges, it can, within its own organisation, lay down pipelines and railway lines and control its own autonomy; but that would be something beyond the province of the Companies Act. I agree that we should reiterate those privileges to this company; but I think it is contemptuous to set a figure of £100 for the incorporation of this company.

Accordingly I intend to submit suitable amendments in the Committee stage in an endeavour to bring the incorporation of this company more into line with Western Australian standards, and to bring it more within the framework of the Western Australian Act which is now about to become a uniform Act of Australia.

**THE HON. A. F. GRIFFITH** (Suburban—Minister for Mines) [5.25 p.m.]: The honourable member obviously supports the Bill, and I would only like briefly to ask him to indicate whether he would find it in order if we proceeded to pass the second reading of the Bill and go into Committee; and then, when we came to the part to which he takes exception, we could report progress, with the permission of the Chamber, to give him an opportunity to examine the point he raised.

The Hon. W. F. Willesee: It will be clause 3.

The Hon. A. F. GRIFFITH: I have a small amendment to clause 2 which I hope to move. It is not on the notice paper, but it merely seeks to alter the date from the 14th May to the 11th June. It might be as well if we left the Committee stage to the next sitting of the House.

The Hon. W. F. Willesee: I would like to put my amendments on the notice paper.

The Hon. A. F. GRIFFITH: In that case I would ask the House to agree to the Committee stage being taken at the next sitting.

Question put and passed.

Bill read a second time.

# **BILLS (4): RECEIPT AND FIRST READING**

1. War Service Land Settlement Scheme Act Amendment Bill.
2. Firearms and Guns Act Amendment Bill.  
Bills received from the Assembly; and, on motions by The Hon. L. A. Logan (Minister for Local Government), read a first time.
3. Business Names Bill.
4. Companies Act Amendment Bill.  
Bills received from the Assembly; and, on motions by The Hon. A. F. Griffith (Minister for Justice), read a first time.

## **ADJOURNMENT OF THE HOUSE: SPECIAL**

**THE HON. A. F. GRIFFITH** (Suburban—Minister for Mines) [5.31 p.m.]: I move—

That the House at its rising adjourn until 4 p.m. tomorrow (Thursday).

Question put and passed.

*House adjourned at 5.32 p.m.*

# **Legislative Assembly**

Wednesday, the 22nd August, 1962

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