To bring the Bush Fires Act into line with other Acts administered by local authorities, it is proposed that production in court of the rate book showing ownership of land be deemed to be sufficient evidence as to ownership of that land.

Courts have required that evidence must be supplied in person by a member of the staff of the Bureau of Meteorology. This is costly and most inconvenient when prosecutions are heard in country centres, and the production in court of a certificate issued by the Bureau of Meteorology as to the fire-hazard rating on a certain day should be deemed to be sufficient evidence. The Bill proposes such an amendment.

To give effect to recommendation 15 of the Royal Commission, bushfires advisory committees have been set up in many districts to assist the local authority; and to give a greater backing to their establishment it was thought desirable to include a provision in the Bill regarding such committees.

I desire to again record on behalf of the Government and myself, as the Minister administering the Act for the time being, unqualified appreciation of and thanks to local authorities, members of voluntary bushfire organisations, wardens, farmers, forestry and police officers, and the rural community generally, for their co-operation in matters relating to bushfire prevention and control.

I would like to emphasise that since the Bill was introduced last year a number of people—and the member for Merredin-Yilgarn whilst speaking on the debate last year—have made some helpful suggestions. However, this Bill is merely the basis of recommendations of the Royal Commission, and it is desired that other amendments be considered at some later date, although I do not know when that will be. It is deemed a vital necessity to get this legislation on to the Statute book before the coming season because it is anticipated that there will be a dangerous fire hazard throughout the rural areas.

Mr. Graham: Before you resume your seat, is the second of the controversial points raised by another place touched upon in this Bill?

Mr. BOVELL: No. There is no amendment whatever.

Mr. Graham: That is unfortunate.

Mr. BOVELL: I repeat that the only alteration in this Bill as accepted by the Legislative Assembly is the deletion of clause 68, dealing with the imposition of a fine on local authorities. That is the only alteration in the Bill as it was accepted by the Legislative Assembly during the 1962 session.

Debate adjourned, on motion by Mr. Rowberry.

House adjourned at 9.8 p.m.

Legislative Council

Wednesday, the 18th September, 1963

CONTENTS

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

QUESTION WITHOUT NOTICE

METROPOLITAN REGION SCHEME

Alteration of Tabled Plans

The Hon. F. J. S. WISE asked the Minister for Local Government:

Is he aware that the plans of the metropolitan region scheme, laid upon the Table of the House, have, since being tabled, been altered on more than one occasion by persons visiting this Chamber. If the Minister is aware that such alterations have been made, have they been done with his authority; can he advise the extent of them; and would he consider allowing the plans now on the table, as amended since first having been laid on the table, to stay there for a further 21 sitting days?

The Hon. L. A. LOGAN replied:

I am not aware that the plans have been altered since they were laid on the Table of the House. As the honourable member has brought this to my notice I will ascertain what the true position is and advise him.

QUESTIONS ON NOTICE

SEWERAGE AT MELVILLE

Completion to Baldwin Avenue Pumping Station

1. The Hon. R. THOMPSON asked the Minister for Mines:

   (1) Will the sewerage main works through Melville be completed as far as the Baldwin Avenue pumping station before January, 1964?

   (2) If the answer to No. (1) is "No"—

   (a) how much of this work will be done before January, 1964;

   (b) to what point will it be completed; and

   (c) when will the work to Baldwin Avenue station be finalised?

   The Hon. A. F. GRIFFITH replied:

   (1) No.

   (2) The sections of the main from the corner of Willcock Street and Coogee Road to Barnard Street and from the corner of Rome Road and Marmion Street to Carrington Street, which are mainly of concrete pipes, will be completed by January, 1964; the remainder of the main, which will be steel pipes, will not be completed until early 1965.

FRUIT-GROWING INDUSTRY

Problems Associated with Research

2. The Hon. H. R. ROBINSON (for The Hon. C. R. Abbey) asked the Minister for Local Government:

   (1) Has a request been received from the Western Australian Fruit Growers' Association, during the past twelve months, for more positive action to be taken into the problems associated with research into the fruit-growing industry?

   (2) If so, what action has been taken?

   The Hon. L. A. LOGAN replied:

   (1) Yes.

   (2) The normal expansion of research relating to the fruit industry consistent with availability of funds has been maintained.

WATER ROCK CATCHMENT AT DULYALBIN

Commencement of Work

3. The Hon. J. J. GARRIGAN asked the Minister for Mines:

   (1) Will the Minister inform the House whether it is intended to establish a water rock catchment at Dulyalbin?

   (2) If so, when is the work likely to commence?

   The Hon. A. F. GRIFFITH replied:

   (1) This matter is under investigation.

   (2) The work will be listed for consideration in the 1964-65 draft loan programme.

REGULATIONS: PRECEDENCE OF MOTIONS FOR DISALLOWANCE

President's Ruling

THE PRESIDENT (The Hon. L. C. Diver): At the last sitting The Hon. F. J. S. Wise asked for a ruling regarding the adjournment which had been made to the debate on motions for the disallowance of regulations. In order to arrive at a decision, I have studied the debate which took place when Standing Order No. 104 was adopted, and I consider that this Standing Order was inserted to prevent delays in dealing with motions for disallowance.

For the benefit of members I will quote from this debate. On the 30th September, 1924, in moving the adoption of revised Standing Orders which had been drafted by the Standing Orders Committee, the Chairman of Committees, the late Hon. Sir J. W. Kirwan, in dealing with Standing Order No. 104, spoke as follows:—

Another Standing Order effecting a rather important change is a new one to stand as No. 104. It has reference to a motion for the disallowing of

regulations and provides that such a motion shall take precedence over Government and private business. The reason for this is obvious. A motion to disallow a regulation may be adjourned and placed at the bottom of the Notice Paper, and quite a considerable time may elapse before it can be dealt with. Meanwhile the regulation may be in operation and fees may be collected under it. At a subsequent stage it may be found that a vast majority of the House is opposed to the regulation. This has occurred, and it is manifestly wrong that a regulation to which a majority of members are opposed should remain in operation. The new Standing Order is in accordance with the Standing Order of the Senate, and I think it will also be found amongst the Standing Orders of most Houses of Parliament.

I have also consulted the Standing Orders of other Parliaments, and I find that in most cases similar precedence is given to motions for disallowance. I rule, therefore, that the motions for adjournment referred to by The Hon. F. J. S. Wise are in conflict with the intention of Standing Order No. 104. I can see the need, following a motion for disallowance, for some adjournment to enable the Minister concerned to make suitable inquiries; but I consider that the adjournments which have been made this session are excessive, and I further rule that these motions should be dealt with without more delay, and that they should take precedence at each sitting over Government and private business until they are disposed of.

Personal Explanation

The Hon. A. F. GRIFFITH: I would merely like to say that in arranging the notice paper there was no intention on my part to disregard the Standing Orders. I am grateful this fact has been pointed out. I will, of course, also ensure that your ruling, Mr. President, is in future adhered to.

The last part of your ruling, Sir, attracts my attention, because it is so much to the point. It is not always possible for Ministers to provide the House with information that is necessary, particularly when the disallowance of a regulation may affect the portfolio of a Minister in another place.

The Hon. F. J. S. Wise: That is understood.

The Hon. A. F. GRIFFITH: I would further point out that I believe the notice of motion to disallow regulations—which occurs now on the notice paper to be dealt with on the 24th September—was adjourned to that date as the result of mutual agreement and concurrence between my colleague and somebody else on the other side of the Chamber.

So there was no ulterior purpose in adjourning the motion to that date. I would draw the attention of the House to Order of the Day No. 1 on the notice paper, and point out that I am not in a position to go on with that motion. It will be necessary to ask for another day's adjournment.

I merely wanted to explain that any action on my part was not intended as a breach of the Standing Order, or as an act of discourtesy to the House, but was merely the result of a set of circumstances where, knowing that information would be available at a certain time, I arranged the notice paper accordingly. I will take great care in future to see that Standing Order No. 104 is adhered to.

INDUSTRIAL ARBITRATION ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by The Hon. F. R. H. Lavery, and read a first time.

BILLS (4): THIRD READING

1. Occupational Therapists Act Amendment Bill.

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

2. Beekeepers Bill.

   Bill read a third time, on motion by The Hon. L. A. Logan (Minister for Local Government), and passed.

3. Firearms and Guns Act Amendment Bill.

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

4. Bills of Sale Act Amendment Bill.

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

CRIMINAL CODE AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban—Minister for Justice) [4.52 p.m.]: I move—

That the Bill be now read a second time.

This Bill is a necessary complementary measure supporting the Offenders Probation and Parole Bill. It will come into operation on the day on which part II of that Bill comes into operation.

The Bill repeals sections 666, 667, and 668 of the Criminal Code. All the provisions contained in these three sections of the Criminal Code are being replaced by

relevant sections in the Offenders Probation and Parole Bill. Upon the passing of that Bill, these sections will become redundant in the Code and the complementary procedure is to repeal them in deference to the new penal legislation. I think that is the only explanation necessary.

Debate adjourned, on motion by The Hon. F. R. H. Lavery.

PRISONS ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [4.53 p.m.]: I move—

That the Bill be now read a second time.

This is also one of the brief complementary measures introduced in support of the Offenders Probation and Parole Bill. This Bill deletes the section in the Prisons Act establishing the Indeterminate Sentences Board and provides a new definition of "Parole Board" to accommodate the new body to be established.

There is contained in this measure a qualification to the remission of sentences. This is required to meet the needs of new regulations to be made under the major legislation. In another amendment, the word "parole" is to be used instead of "probation" as that latter word is not now suitable in its application. Redundant sections dealing with release on probation and to test the reform of prisoners under the Indeterminate Sentences Board are repealed by this Bill.

The existing provisions under the Prisons Act for making regulations for the administration of reformatory prisons are now no longer required and are, in fact, redundant in that Act as they are included in the major penal legislation currently before the House. Several consequential amendments appear in this measure on account of new references. I do not think this Bill requires any further explanation; and, I repeat, it is complementary to the Offenders Probation and Parole Bill.

Debate adjourned, on motion by The Hon. F. R. H. Lavery.

OFFENDERS PROBATION AND PAROLE BILL

Second Reading

Debate resumed, from the 17th September, on the following motion by The Hon. A. F. Griffith (Minister for Justice):—

That the Bill be now read a second time.

THE HON. R. F. HUTCHISON (Suburban) [4.55 p.m.]: This Bill has my support as it is in accordance with the progressive trend of social thinking—an advance on the idea that in the matter of dealing with those who offend against the law, purely punitive methods are the answer to the needs of a balanced society. As has been explained, this Bill is to set up a probation system to assist first offenders and others to rehabilitate themselves outside of the prison walls. This concept of rehabilitation is one result of the work of groups of social minded men and women who, over the years, have worked in the community by way of groups and societies which deal with the family problems that result from men and women breaking the law.

These groups, through the years, have performed the immediate social relief work of helping the families of offenders, while after-care groups have endeavoured in some way to help the prisoners themselves when they have been discharged from gaol. A similar society has lately been formed—the Civil Rehabilitation Council—of which I am a member; and this body should have a very important part to play when this proposed probation system comes into being.

As a woman, I would mention women prisoners; and especially those who have families. When young children are deprived of the care of a mother who has fallen foul of the law, but who is still a good mother to her children, there is double punishment and I would ask that every consideration be given to such cases. At the moment there is a case in which I have interceded without success. I suppose there is merit in that when it is considered by those who know; but it did seem such a hardship to see three young children fretting for their mother. I think this case could be given consideration when we have a probation system under which offenders like this woman can be guided on to the road back to society.

There are two women on the proposed board and they should be called to help and advise also in the case of young male offenders. After all, women represent half of society, and young men would be most likely to respond to a woman's understanding and intuition of family and social problems. That is the position in many other countries. Women know the problems of a family as well as the closely allied social problems. When a man is arrested and taken to prison, the family is affected just as much as he is.

There is a tendency still to carry on with the thought of a subordinate image where women are concerned, and they are not called upon sufficiently to display their talents in the field of welfare work. Therefore, I should like to see three women on the parole board.

In England women occupy the position of judges of the courts and therefore should know equally what affects both men and women. A woman's judgment and intuition could be of real value in dealing with both men and women who will come before a board such as the one proposed. Penologists all over the world agree that women play an important part with men as well as with women in matters that will be dealt with by the proposed board. As I have pointed out, women are half of society in everything until it comes to law, when for some reason, it is difficult for women to display their talents in a real way. As women, we have a major interest in sociological questions.

I trust that the Government will not hamper this suggested reform for want of sufficient money. For such reform to have a good chance of success, it will need money. In South Australia the Prisoners' Aid Association is granted £5,000 per annum, while in Western Australia I think the figure is approximately £750. The Minister may be able to confirm that. In Adelaide they began with three full-time officers, and they now have their own headquarters. I am hoping that a similar set-up will come to fruition here.

In my opinion what is needed in Western Australia more than anything else is a chair of preventive criminology at the University. I think we could be the State to introduce this as a major step towards social reform. It would be an emancipating step for us to spend money on research into the causes of crime and its effect on the community. This would be something the Government might consider, and I hope it will.

Particularly mistaken is the trial of natives from outback regions. To put these people into a prison in the metropolitan area is a refinement of cruelty, in my opinion. It is a real example of man's inhumanity to man. Their crimes would, I think, be related to tribal disputes and fringe troubles in the outback, which might be termed as crimes under our laws—the white man's laws. To gaol these people in Fremantle is, as I say, a refinement of cruelty.

The weather environment affects natives very much and they should be placed in open compounds. To imprison natives under our present set-up is cruel, because they have never been used to being confined. They live in the open, and to bring them to Fremantle Gaol under our laws would terrify them. There should be open compounds in areas where weather conditions are more in keeping with their way of life. Also, they should be allowed probation where at all possible.

I have been studying the history of our natives, and the natives owe very little to the white people of this State, if a complete picture could be taken. It is about time we treated them as people. This should be started on the lowest rung of the ladder, so that our natives could receive proper care in the environment to which they are accustomed.

We consider that we are a well developed society. I have been reading that in Chile, which we might think is not as advanced as we are, a person who is charged with an indictable offence is automatically treated as a poor person and is granted a solicitor by the College of Advocates, which would be similar to our Law Society. If a person wishes, and he can afford it, he is permitted to have his own counsel. But no case goes undefended in that country. I obtained that information from the United Nations Public Review of Criminal Policy, 1952, and I thought it would be well worth mentioning.

It has been said that it is 45 years since any substantial alteration was made to our penal system. I sincerely hope this is not taken as a pattern to be followed in the future. I hope that now we are taking this step, it will be a continuing process. As laws can be made, so can they be kept continuously under review; and they should be reviewed, not every 40 years, but perhaps every year. That is why I say that a chair of criminology at the University would be an answer to the problem.

Prisoners touch more closely on the lives of the community than it is at first realised; therefore the problem should be treated as a continuing process, and not something which should be shelved for a number of years. I hope the Government will take notice of this point, because I think it is an important one.

When this Bill becomes law—and I give credit where credit is due for its introduction—I trust that those people who are serving sentences in prisons will soon have the benefit of an enlightened reform properly carried out, and re-education taken up as a pressing need of today.

There should be no such word as "no-hoper". I think it is a terrible word. Surely we should never admit that anyone is beyond redemption! Christ did not say that. He said there was forgiveness for everyone; and it is not for us to say that somebody is a "no-hoper". The use of that word is an indictment against society at large. If we are Christians, then we believe that Christ is still with us; and he is the final judge.

Prisons should be places for re-education, for fitting those who commit crimes for a new concept of living. This should be achieved by medical and psychiatric treatment, and by psychological training.

University courses should be made easy of access, to enable the training of students. We are now raising the University fees and putting them beyond the purses of many young people who would

take up such a course. We are making our University fees too dear; we are pricing University courses beyond the rank and file.

The Hon. A. F. Griffith: How do University fees come under this Bill?

The Hon. R. F. HUTCHISON: We need more University students trained for this service. It would prove to be cheaper for this country in the long run, than for us to maintain our prisons under the old concept. We are inclined to hang to the paths we have travelled for too long, and change comes too slowly. Prevention is better than cure and the probation system will be an interesting innovation. May it prosper. Deprivation of liberty for crimes committed may be necessary as we advance, but the methods of rehabilitation should be through medical care and proper reform.

It is a reflection on us as a community when we have no place but an adult prison in which to deal with very difficult juvenile cases. I know something about this matter, and I made that note so that I would not forget to mention it. I thought that these were the cases which would be dealt with at Riverbank, which is supposed to be a security prison. Surely we can do something, even if we put up another building near the present one, rather than put under-age delinquents in Fremantle Gaol! By doing this we are sending them down the ladder instead of up.

I could never conform to the view of Mr. MacKinnon that punishment of the severest kind should be applied; because cruelty has never achieved anything other than brutalising warped minds.

The Hon. G. C. MacKinnon: I didn't use the word "cruelty". There is a marked difference between severity and cruelty.

The Hon. R. F. HUTCHISON: Perhaps the honourable member can explain the difference. What he might call severity, I would call cruelty. I hope no conditions will be laid down which would hamper the results expected from the probation system. I do not know whether a judge would be the right person to be the chairman. He might be persuaded by the local background attaching to a case. He would certainly know the history of a person who came before him, and would know how to assess a case. I have not reached a definite conclusion on this aspect, but I hope the measure will turn out for the best.

I think this move is a good one and I will support the Bill subject to the reservations I have stated. I hope that when the Bill becomes law, people will be given a real chance to rehabilitate themselves, and that the legislation will not be cluttered up with little pettifogging conditions which people have to put up with. Sometimes we put something into the law which is full of prickles, and the people turn against it. I hope that won't happen in this instance, and that we will have a wide concept.

I propose to read from this book which I have with me. It concerns human relationships inside prisons, and the book was published during the war. One paragraph reads as follows:—

> This new method of treating criminals, technically known as Guided Group Interaction, has been in operation for two years throughout New Jersey's penal system. The idea developed during World War II, when the Army faced a crime wave among draftees. Thousands of young soldiers were accumulating in prison stockades. Nearly two-thirds of these GI jailbirds had civil-arrest records previous to their Army careers. The discipline of military life had only emphasized their eternal feud against organized society. Wartime pressure demanded that these men be corrected, that every possible individual be returned to active service.

Another paragraph reads as follows:—

> Prisoners were required only to listen when another man talked, and to speak, if they spoke at all, about themselves, each other, or the fact of their being in trouble. Before long Fort Knox's return-to-duty rate became so high, and its return-to-prison rate so low, that the Army demanded that all court-martialled prisoners be exposed to group sessions.
>
> The scheme worked. The Army restored 42,000—three divisions—of its long-term military offenders to duty. And 85 per cent. of these men not only made good but were rated, after their first six months back in service, average or above in performance of duty and in personal conduct. Most striking fact of all: the return-to-prison rate dropped from the dismal 60-plus per cent. so common to civilian prisons to below ten per cent.

Another paragraph reads—

> Penologists agree that criminals won't be "cured" in prisons by groups or anything else. Steps must be taken, too, outside prison walls—toward improved parole systems, toward removal of the stigma attached to ex-convicts, toward community understanding. We cannot expect an ex-criminal to "go it alone" in a hostile society more successfully than the rest of us could.
>
> As Mr. Bates said the other day, "Return of the Prodigal Son was only half of that famous Bible story. The other half followed when his community welcomed him home."

I have made my contribution to the debate. I will support the Bill, and I wish the proposed probation system success. I have been interested in these groups for years, and I have tried to bring about something like this. We travel slowly along the path towards reform. A few people here and there do something until the picture builds up, and something is brought forward which affects our legislation. I am saying this with all the sincerity I have within me: I hope that our penal laws will be a continuing process of reconstruction and reform.

I sincerely hope that another 45 years will not elapse before any further reform is made in our penal system, because today we are so far removed from the conditions which existed 45 years ago that it would be nonsensical even to consider no further reform would be made in the future. I support the second reading of the Bill.

THE HON. J. D. TEAHAN (North-East) [5.16 p.m.]: I am sure we all agree that the penal system in this State has failed to achieve its object. As it exists at present it is certainly not a success and reform is overdue. Two statements that were made on this subject struck me rather forcibly. One was that of all the offenders in Fremantle Gaol at least half of them are under the age of 21. The other statement was that of the total number of 4,000 prisoners in Fremantle Gaol for the year ended the 30th June, 1961, 3,000 or more of them had been imprisoned for the fourth time or more. I do not think members need any more convincing figures than those to assure them that our penal system is overdue for reform.

It appears that gaol has no fear for certain types of criminals. It also appears quite forcibly that imprisoning youngsters with hardened criminals means that they are sent to an extremely bad school, and when released quite a few of them are proud of the fact that they have associated with hardened criminals and they come out with no respect whatsoever for authority. Within the last few weeks I read a report of a young man who had succumbed to temptation by stealing from his employer a sum of money which he lost in betting. His is a story we often hear about and often read about. However, I was very pleased to learn that the detective who charged that young man spoke particularly highly of his character and stated that he had known him as a youth. He also stated he had a great regard for him and expected a lot of him.

To me it appears that that young man, like many others, succumbed to the temptation of stealing whilst filling a job, and as a result of this hasty and rash act he found himself in the dock. The judge dealt with him accordingly and his conviction, of course, was recorded, which will be there for life. An entry is recorded on his card that he stole £10 or £15 from his employer and that blot on his character remains there for ever. Quite often, on an application for insurance or for recruitment in the Army or Navy, the question, "Have you ever had a conviction recorded against you?" appears, and any young man who has succumbed to temptation only once would be forced to answer that question in the affirmative and thus jeopardise his chances for whatever he was applying.

In my opinion any conviction recorded against a young man for a first offence should be erased from the record after, say, 10 years. In the majority of cases, the offender himself is generally most remorseful, and the fact that he committed a crime 10 years ago in his youth should be forgotten. Our present penal system does not seem to have the corrective effect that we expect of it and the proposed parole system as provided in this Bill, which has worked so efficiently in other countries, deserves a trial. I feel certain that if the Bill is passed and the new system is put into operation, in the years ahead when we look back in retrospect we will regard the system as a reform that was long overdue, because I am certain the proposed system will bring about the results that we all seek. I support the second reading of the Bill.

THE HON. G. BENNETTS (South-East) [5.21 p.m.]: I am pleased to see a Bill of this nature introduced. I do not suppose in the history of Western Australia or of Australia so many young people have got into trouble as they have today. Of course, a great deal of the crime committed by them has been brought about by parental neglect and domestic troubles and, as a result, in many instances the children are allowed to wander at large. Another important cause is unemployment. Because the scope for employment on the goldfields is very limited—there is only the mining industry and a few large commercial houses that offer any chance of employment to young people—there are many young people from Leaving age up to the age of 21 who are unemployed and who are at a loose end. As a result, many of them get into trouble by not having sufficient money to spend for their needs or for entertainment as other young men have who are employed.

I must admit that I am amazed to see the number of young people who are enticed into hotels and other places, which step often leads them into trouble. The crimes they often subsequently commit are committed on the spur of the moment, and if the young offender is committed to prison in the company of hardened criminals the effect on his mind will remain for the rest of his life. Personally, I would like to see restored the corrective

methods that were used in the past by the police and also by the parents against youngsters. A few years ago the police had more authority to deal with young offenders than they have today. When I was a lad we always respected the police.

What brings this to mind is the case of a young offender that was reported in *The West Australian* by one of the leading reporters. This report stated that one of the penalties which should be inflicted on young people is to give them a good sound lecture, tan their hides, and keep them off the streets for a while. When I was a youngster, children who got into trouble respected such punishment and took more notice of it than the young people do today. Another unfortunate feature regarding juvenile offenders is that they are not getting any assistance from their parents in many instances.

During my speech on the Address-in-Reply debate I cited the case of a mother on the goldfields with three young girls aged 16, 14, and 12 years of age. Those girls had to find accommodation for themselves. Anything could happen to those young people and they would be subject to being picked up by officers of the Child Welfare Department and placed in a home, which would be a tragedy. I know of a case of a young person who was committed to such a home, and whilst there he was made to work practically like a slave.

Whilst on the subject of institutions I can take my mind back a few years to another institution in this State. My son and I visited a patient in a mental institution. This patient was a highly-educated man from Boulder. My son and I were admitted to the cell which was occupied by this man and another patient. We had been there only about five minutes when an orderly came along and inquired what we were doing in that cell because the cellmate of the patient we were visiting was dangerous. As I have said, this man from Boulder was a highly-educated man and he could tell one anything one wanted to know about the proceedings of the State.

Following this, we were removed from the cell by an orderly and taken to another place where we were able to speak to the patient we were visiting. The orderly then informed us that if we interviewed the medical officer we might be able to obtain his release. I saw the medical officer and he told me that if he had any relatives who could care for him and be strict with him he would give consideration to his being released, because in his view he only had lapses now and again. Yet that man was obliged to share the same cell or room as a dangerous patient.

Much the same principle applies to a young offender who is imprisoned in the company of hardened criminals. The crime he commits might be his first and last. Therefore, to such a prisoner the proposed parole system will be of great benefit, and give him a chance to get back on the right track when he is released.

I agree with Mrs. Hutchison that if a woman is appointed to the parole board she will play an important part in this proposed reform, not only in dealing with girls, but also with boys. When a boy who has not been used to having a mother around his home commits an offence, I feel certain that a female member of the parole board—especially if she was a middle-aged woman—would have a great influence in putting such a young man on the right track by having a motherly talk with him.

The Bill is a step in the right direction, and, as with other reform measures, it has my wholehearted support. I know of a young man who is not receiving proper guidance from his parents and unless someone takes him in hand I can foresee his heading for trouble. He has been advised by many people who know him to respect his parents and keep on the right track.

Much encouragement can be given by the police to young lads in a similar position, and should they get into trouble the police should have the authority to assist in correcting them by being able to give them a good whacking. On many occasions, when a young lad has got into trouble, I have heard the father say, "I do not care a damn what young Johnny does," but in those instances when a young man does get out of line a bit of corporal punishment would do him a lot of good. I support the second reading.

THE HON. R. THOMPSON (West) [5.29 p.m.]: Like previous speakers, I intend to support the Bill. At the outset, I would like to say that this legislation is a compliment to a man who was a member in another place for 30 years and who fought for and supported this type of legislation. I refer to The Hon. J. B. Sleeman.

The Hon. G. Bennetts: Yes, he is the man!

The Hon. R. THOMPSON: During the 30 years he was a member of another place he brought before that House on many occasions motions and Bills which sought a relaxation of our prison system which has been in existence virtually without change since the colony was first established.

One of the first things Mr. Sleeman did on becoming a member of Parliament was to bring about the provision of a prison wagon commonly known as the Black

Maria. In the early days people who were sent to gaol used to be marched from the Fremantle railway station to the gaol, and quite often they were boo-ed and cajoled on their way. Mr. Sleeman was successful in getting the Black Maria provided, and this gave protection and privacy to prisoners on their way to gaol.

On the 9th September, 1953, Mr. Sleeman moved his last motion on this matter as follows:—

> That in the opinion of this House, the Minister for Justice should bring down a Bill providing for the parole of prisoners similar to the Canadian Act.

I have not studied fully the Canadian Act, in conjunction with the Act of this State, but from the remarks made by that honourable member it appears that we are now introducing a Bill along the lines of the Canadian Act. As the honourable member said 10 years ago, the parole system is not a new one, and operated in England as far back as 1660. That system known as the ticket-of-leave system was still a parole system. If it had not operated in England, perhaps Australia would not have been colonised to the extent it was by people of British stock. Mr. Sleeman is recorded in *Hansard* as having quoted from the *Canadian Year Book* on that occasion—

> Other countries have also adopted the parole system. It was accepted in Germany in 1871, the Netherlands in 1881, Japan in 1882, the French Republic in 1885 and has since been used by Austria, Italy and Portugal, and certain parts of the United States.

Mr. Sleeman is still hail and hearty today, and I am sure he will be very gratified to see this legislation going onto the Statute book, so that more consideration can be given to people in gaol.

Some years ago I spoke in this House about the position in Fremantle Gaol, and the degrading atmosphere which prevailed there. At that time I quoted the exact number of prisoners, and pointed out that 98 prisoners had for their use on the wood heap five crosscut saws, four to five hammers, six wedges, and approximately five axes. Those were people who had not committed any great crime against the community, yet they were thrown together and forced to live a useless existence. The same remark applies to prisoners engaged on work in the tinsmiths shop, the printing shop, the carpenters shop, and the leathergoods shop. Many of the prisoners have nothing to do other than to idle away their time.

The Hon. A. F. Griffith: A great number of those people would have been convicted by a jury.

The Hon. R. THOMPSON: No; quite a number of them have not been.

The Hon. A. F. Griffith: I said a great number of them.

The Hon. R. THOMPSON: I have not the exact figures, so I cannot argue on that point. The Minister may know the figures, but I do not. The proposed parole system should lend itself to bringing about a more useful existence on the part of some people who have been incarcerated. I recall one particular case which is in line with what Mr. Sleeman was able to achieve over the years. He stated in another place in 1953 that he had been successful in having three life prisoners released from gaol, and each one of them was able to take his place in the community and become a useful and good citizen.

At present there is in the Fremantle Gaol a life prisoner who is held by the prison officials to be a model prisoner. This person did not commit any outrageous crime; he had only been provoked into doing a wrongful act. I understand the prison officials will give a favourable recommendation to that prisoner when the time comes for him to apply for parole. He has been a model prisoner and has set an example to the others from the time he entered the gaol.

I support this measure, if for no other reason than to pay a compliment to an ex-member of Parliament who over a period of 30 years tried to bring about legislation similar to that in the Bill before us—legislation for the benefit of people who suffered under the shocking conditions in Fremantle Gaol.

Debate adjourned, on motion by The Hon. J. Dolan.

BILLS (5): RECEIPT AND FIRST READING

1. Bunbury Harbour Board Act Amendment Bill.
2. Albany Harbour Board 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. Stamp Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. A. F. Griffith (Minister for Mines), read a first time.

4. Pig Industry Compensation Act Amendment Bill.
5. Bee Industry Compensation 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.

COMPANIES ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 10th September, on the following motion by The Hon. H. K. Watson:—

That the Bill be now read a second time.

THE HON. R. C. MATTISKE (Metropolitan) [5.42 p.m.]: I have considered very carefully this Bill which has been introduced by Mr. Watson. I feel there is a great deal to commend it. As stated by Mr. Watson, the effect of the Bill is simply to restore in the companies legislation a provision which was in the repealed Companies Act of 1943-1954.

The particular provision concerns holding companies and insolvent subsidiary companies. During the operation of the Companies Act, 1943-1954, if a holding company was a creditor of an insolvent subsidiary company, its claims upon the winding up of the subsidiary had to be deferred until all the claims of ordinary creditors of the subsidiary were paid in full. I consider that to have been a very equitable arrangement.

A holding company would have been fully aware of all the operating details of a subsidiary company, and would have been in a position to give itself considerable advantages over the other ordinary creditors of the subsidiary company, had it not been for the operation of section 269 (2) of the Act.

I cannot see why, in the redrafting of the legislation along uniform lines by the various States, this particular provision was dropped. I feel the move by Mr. Watson is a very timely one. However, the Bill goes a little further, and seeks to give protection to creditors who, in good faith, have up to the present time, and, in fact, up to the 31st December, 1963, given charges to such a subsidiary company.

I feel it is necessary that those charges be honoured. It concerns, as stated by Mr. Watson, principally banks; and whatever has been done in good faith in the ordinary course of commerce should be honoured. There is, if this Bill becomes law, ample warning for any company which may be interested in giving charges to subsidiary companies to ascertain that the law has been altered and they will have no protection as against an ordinary creditor after the end of the present year.

When speaking to this measure, the Minister gave as his principal objections to it, firstly his desire for uniformity—his desire to maintain that uniformity which we have at the present time in company legislation. However, we already have one precedent where a State has departed from the uniform provisions. In 1962 the South Australian Parliament introduced to the Companies Act an amendment concerning takeovers. If the Minister would refer to section 184 of South Australia's legislation he will find that in subsection (1) there is, under the definition of "turnover scheme", a proviso which states—

> but does not include any scheme involving the making of an offer or offers for the acquisition for cash by or on behalf of a corporation or on behalf of a proposed corporation of all the shares in another corporation the beneficial interests in which are held by the directors of that corporation.

That is one instance where a departure from the uniform legislation has been made by one State, and if my memory serves me right, I think legislation was also introduced into the Victorian Parliament with a view to making some amendment, even though the amendments were not introduced at the same time in each of the other States.

In any case there is a limit to the desire for uniformity. So long as we have the basic legislation comparable in all of the States, each of the States should then—particularly on special points—be able to amend the legislation to give effect to any condition which may obtain in such particular State. I realise fully the desire of the Minister for Justice to have any proposed alterations to the companies legislation discussed at meetings of Attorneys-General, and in that direction we should all be fully co-operative.

The Hon. A. F. Griffith: Do you think I should be given time to do that?

The Hon. R. C. MATTISKE: I think a reasonable time would not be an unjust request; but I do believe that this legislation in its present form is highly desirable and I intend to support the second reading of the measure.

THE HON. G. C. MacKINNON (South-West) [5.50 p.m.]: This Bill, introduced by Mr. Watson, has left me, as a person not very conversant with the Companies Act, in somewhat of a quandary. I have heard the case for, expressed by Mr. Watson, and I have heard a case against, which consists, in the main—with all due respect—of an argument in favour of uniformity.

It is time that, in some way or another, this whole principle of uniformity, was discussed by this Parliament. Without ever having indulged in a debate on this particular question, there have been several Bills already introduced—two at least that I can think of—which have had as their foundation the fact that they are uniform

throughout Australia. I do not think the whole principle has ever been really thrashed out.

Carried to its absurd conclusion, uniformity would, of course, do away with State Parliaments except, perhaps, as instruments of administration.

The Hon. A. L. Loton: Parliaments don't govern.

The Hon. G. C. MacKINNON: To elect the administration, if you like; uniformity would do away with State Parliaments as legislative bodies, and it is as legislative bodies that they perform their main function in its present form is highly desirable, I suppose, and has grown up over the years, that they also have elected the executive arms and operate that function as well.

It is not fair that a Bill of this nature should not be answered on its merits, giving reasons as to why the particular aspect should not be dealt with at this time; and I do not mean just to quote that "it will be discussed by Attorneys-General at a later date and may be incorporated in the future." I would appreciate comments as to why the Bill as such, and the provisions it contains, are unwise.

The Hon. A. F. Griffith: I did not say they were necessarily unwise. I said they had merit but that I had had no opportunity to enable the Ministers on this standing committee to have a look at it.

The Hon. G. C. MacKINNON: The Minister states that the Bill does contain the germ of an idea; that the provisions deserve some consideration; and that some people believe them to be unacceptable. I would like to know why they are unacceptable.

I am not committed to this Bill and I think it fair that as we have agreed to a uniform Companies Act the Minister should on this occasion have the time to enable this measure to be examined. However, as a member of this House—and, I hope, a responsible member—I feel a Bill should be discussed on its merits as a Bill, quite distinctly and separately from the argument as to whether or not it should be accepted because of uniform legislation.

The Hon. F. R. H. Lavery: Have you always thought that?

The Hon. G. C. MacKINNON: Yes. I have spoken this way each time uniform legislation has been introduced, and, if Mr. Lavery likes to go through *Hansard*, he will find that is so—even on the civil aviation legislation.

The Hon. A. F. Griffith: On your argument, if you had unilateral action by any number of the six States, uniformity would go to the pack.

The Hon. G. C. MacKINNON: Yes, of course it would. I have yet to be convinced that uniformity is desirable.

The Hon. A. F. Griffith: If you are going to make a judgment on that basis, it is entirely different.

The Hon. G. C. MacKINNON: I am not making a judgment on that basis. I have already said that as we have accepted the uniform Act, it is only fair that the Minister should have the provisions of this Bill examined.

The Hon. A. F. Griffith: I would like time for this to be done.

The Hon. G. C. MacKINNON: However, it behoves us to remember that, although we have introduced several Bills of a uniform nature into this House, we have never, in fact, held any serious discussion on the desirability or otherwise of uniformity as such. I repeat that if we continue this process to its absurd conclusion—

The Hon. H. K. Watson: I would say its natural conclusion.

The Hon. G. C. MacKINNON: If we continue this process to its natural conclusion, then we disappear as a legislative body. I do not have the scope, and I am quite sure the President would not allow me, to continue that argument here tonight; but it comes down to the question as to whether or not this is a desirable conclusion. I know for a fact that there are some people in Australia who consider it is, and who consider that State Parliaments should disappear.

The Hon. R. F. Hutchison: I for one.

The Hon. G. C. MacKINNON: Mrs. Hutchison is one. She would like a centralised authority in Canberra. I would not, which fact perhaps colours my thinking in regard to uniformity. I would request that, for the sake of those of us who are not altogether sold on the idea of centralised authority or uniformity and all that it entails, a Bill such as this should be discussed on the basis of its merits in order that those of us who do not understand it in all its details might be given an opportunity of hearing both sides, rather than hearing one side from the person introducing the Bill and then being asked to reject it on the ground that the Attorneys-General of the various States have, as yet, had no time to examine it.

I repeat that in view of the fact we have accepted the principle by voting in favour of the uniform Companies Act, it is only fair and just that the Minister should be given time to present this Bill to the Attorneys-General in order that they might examine it. We will then in time, I hope, be informed of their decision and their reasons for or against it.

THE HON. H. K. WATSON (Metropolitan) [5.58 p.m.]: I thank Mr. Baxter, Mr. Mattiske, and Mr. MacKinnon for their contributions to the debate. In respect of the Minister's remarks, I would express regret at his attitude. Mr. Mattiske has

pretty adequately covered the points taken by the Minister, and Mr. MacKinnon has dealt with the question on an even broader basis and principle.

Following on the point made by Mr. MacKinnon I would remind the House that when the principal Bill was introduced and was swallowed, hook, line, and sinker, by the House, it was done so largely on the assurance of the Minister that (a) it was necessary to get the Bill through in a uniform manner; and (b) ample opportunity would be given to members in the near future to make such amendments as were considered desirable, or, rather, to introduce them.

I would pose this question: Is the Act to remain on the Statute book with no attempt made to amend it unless some officer in our Companies Office, or in the Companies Office of any of the other States, decides that it wants amending?

The Hon. A. F. Griffith: That is not fair.

The Hon. H. K. WATSON: Someone has to originate the legislation—

The Hon. A. F. Griffith: That is just not fair.

The Hon. H. K. WATSON: —and I maintain that it is open to any member of this House or of this Parliament to introduce a Bill to amend an Act, whether it is a uniform Act or any other Act. Mr. Mattiske has given an actual illustration of where the so-called uniform Act is not, in one respect at any rate, uniform so far as South Australia is concerned. In like manner, the passing of the small amendment contained in the Bill which I have introduced will in no way upset the broad principle of uniformity.

Sitting suspended from 6.1 to 7.30 p.m.

The Hon. H. K. WATSON: As I was saying before the tea suspension, Mr. Mattiske gave an illustration as to how in South Australia section 184 of the South Australian Companies Act is not uniform with any of the other Companies Acts in Australia; and that lack of uniformity was not even created by an amendment. Sir Thomas Playford, and his Government, or the Attorney-General, or Parliament, made the alteration when the original measure was enacted.

Again, when I was in Melbourne in March last, certain questions arose concerning the Companies Act in its application to a number of Victorian companies which were then under investigation by inspectors appointed under the Companies Act, and there appeared to be weaknesses in the Act. Thereupon the Chief Secretary (Mr. Rylah) announced that he intended to bring down amendments to the Companies Act to cover the weaknesses which had become apparent in the application of the Act to those particular Victorian companies.

Mr. Rylah brought down his Bill within the following week and, as I understand it, without any prior reference to the Attorneys-General or Ministers for Justice in the other States. He presented the Bill to Parliament and, Parliament having passed it, I think he then circulated it among the other States suggesting that in the interests of uniformity they should pass legislation similar to that which he had introduced into the Victorian Parliament.

The Hon. A. F. Griffith: Was this in connection with certain company frauds?

The Hon. H. K. WATSON: Yes, this was in connection with certain company frauds.

The Hon. A. F. Griffith: It is still being considered.

The Hon. H. K. WATSON: It is still being considered by the Attorneys-General as a committee, but Mr. Rylah made up his mind and brought down his legislation six months ago.

I noted from *The Financial Review* of last week that at a committee meeting of registrars of companies, which was held in Sydney a week or a fortnight ago, they were still discussing whether or not they would adopt the proposal which had been introduced in Victoria by Mr. Rylah.

So someone has to start an amendment when one becomes necessary, or is deemed necessary or desirable, and therefore on that score I would say that the Minister's objection to the Bill is really not a valid one, apart from a very critical and pertinent point made by Mr. MacKinnon that if this uniformity is taken to its logical conclusion Parliament as a deliberative body may as well close down.

To return to the actual provisions of this very small Bill, I would remind the House that there is nothing new or novel about the proposal. It is one which was in our Companies Act for ten years, and was introduced by and originated from the Mines Department, which is administered by the Leader of the House. Certainly, he was not the Leader of the House ten years ago.

The Hon. A. F. Griffith: Don't stretch the bow too far.

The Hon. H. K. WATSON: The department was not under the Minister's control when the proposal originated, of course.

The Hon. A. F. Griffith: Don't stretch the bow too far.

The Hon. H. K. WATSON: There is no stretching of the bow.

The Hon. A. F. Griffith: Of course there is.

The Hon. H. K. WATSON: Even if the Minister, as he has on two occasions indicated, is not fully conversant with the provisions of the Companies Act, there will be a file in his own department which will give him a practical illustration as to why

the section was put in the Act in 1953; and we have never been told why or how it came to be dropped from the uniform Act when it was being considered by these committees.

If it is a fact that this section was considered and rejected for some good and sufficient reason, surely the House is entitled to be told why it was rejected! But I am inclined to think it was not excluded through any positive reasoning or any positive action. I have a very strong feeling that it simply fell out by way of lack of knowledge or lack of consideration of the existence of that section in the old Act.

There are many people in Western Australia who, during the past ten years, gave credit to subsidiary companies of holding companies on the faith of that section. It was really a repudiation of that undertaking and assurance when section 269 (2) was not repeated in the uniform Act. The Bill creates no new principle and it is nothing novel; it simply provides and continues the law as it existed for ten years: that where a subsidiary company to a holding company goes into liquidation, and the holding company is a creditor of that subsidiary—really a creditor of itself—then the claims by the holding company against the subsidiary company have to stand aside until ordinary creditors of the company have been paid in full. That is the sum and substance of the provision in the Bill.

The Hon. A. F. Griffith: What will be the extent of the retrospective effect, if any?

The Hon. H. K. WATSON: There is no retrospective effect in the Bill. The clause would go into operation the day the Bill was assented to. Even if there were a retrospective effect it would not be doing anyone an injustice because it would be picking up or cancelling out the retrospective effect of the repeal of that section by the uniform Act.

The Hon. A. F. Griffith: So it is not intended there should be a retrospective effect?

The Hon. H. K. WATSON: That is so, and it could be made very clear if the Minister wanted to make it clear.

The Hon. A. F. Griffith: No, your word is all right.

The Hon. H. K. WATSON: It could be expressly applied to any company going into liquidation after the commencement of the Act. However, there are cases of people who granted credit to companies when the section was in the old Act, and, in so far as any company has gone into liquidation during the past twelve months, those people have really been denied a right they thought they had when they granted credit. For all those reasons I trust the House will pass the Bill.

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

Ayes—18

Hon. N. E. Baxter	Hon. A. L. Loton
Hon. G. Bennetts	Hon. R. C. Mattiske
Hon. D. P. Dellar	Hon. H. C. Strickland
Hon. J. Dolan	Hon. R. Thompson
Hon. J. J. Garrigan	Hon. S. T. J. Thompson
Hon. E. M. Heenan	Hon. H. K. Watson
Hon. J. G. Hislop	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. F. J. S. Wise
Hon. F. R. H. Lavery	Hon. J. D. Teahan
	(Teller.)

Noes—9

Hon. A. F. Griffith	Hon. H. R. Robinson
Hon. J. Heitman	Hon. J. M. Thomson
Hon. A. R. Jones	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. J. Murray
Hon. G. C. MacKinnon	*(Teller.)*

Majority for—9.

Question thus passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. H. K. Watson in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 291 amended—

The Hon. A. F. GRIFFITH: I willingly accept the decision of the Chamber that the Bill be read a second time. There are a couple of points about its introduction that should be made clear. Mr. Watson verbally mentioned to me that he wished to introduce an amendment to the Companies Act, and, because of the uniform conditions that exist throughout Australia in regard to companies, I asked him to put it on paper as this would enable it to be considered by the Standing Committee of State and Federal Attorneys-General.

I received a letter from Mr. Watson setting out his proposals on the 3rd July. The meeting I attended in Adelaide was on the 18th July, which meant I had very little opportunity to place this on the agenda for the meeting. I instructed the Registrar of Companies to circularise Ministers of other States with Mr. Watson's proposals, asking for an expression of their views, because Mr. Watson wanted some action taken in the matter.

As I told members during my second reading speech, I received varying comments from the Ministers, extracts of which I have already read. Some said the idea seemed a good one; others said there appeared to be the germ of an idea; while others said that whilst the principle was not unacceptable, they would like an opportunity to consider it more fully before accepting it, and asked me to get Mr. Watson to delay the introduction of any legislation until it had been considered by the committee on a uniform basis.

It is all very well to say this is not a strict departure from uniformity; that South Australia did something—and in the

case of South Australia we know there were minor departures from uniformity—but the principle remains the same. Members will recall that at the time we were fearful that South Australia would not even pass the Act; but that was sorted out by myself and the Leader of the Opposition, who obtained information to the effect that South Australia was going to introduce a Bill giving effect to the Act; as did every other State in Australia.

Mr. Watson talks about provisions having been written into the Victorian Act by way of amendments six months ago, but I am not sure of that. I do not think it is quite right. The provisions that Mr. Rylah wanted to introduce into the Companies Act were in connection with company frauds that had taken place in Victoria. If I may be permitted to say so, Victoria had taken a belting from some of these companies which have really meted out harsh treatment, and naturally the Victorian Government was anxious, as were those of the other States, to do something about it.

This matter was still under discussion—and continues to be under discussion—at the meeting I attended in Adelaide. It is hoped to produce a uniform Bill for all States to introduce. If each State accepts Bills of this nature and acts unilaterally, the whole principle of uniformity will be lost. That is the point Ministers from other States made when replying to me.

I cannot say why this was left out of the original 1960 draft. I was not Minister for Justice at the time—we had an Attorney-General then. I do know, however, that the whole of the Companies Act was fully considered by Ministers of all States, of all political beliefs, and they all decided that a uniform Companies Act, 1961, would be introduced.

It has been nine months since Parliament last sat. We rose about the 15th November, and I received a letter from Mr. Watson seven months later dated the 3rd July; giving me less than 14 days to do something about it before the Ministers' conference was held. I could not do anything about it, so I arranged for it to go on the agenda of the next meeting, when no doubt it will be considered. In reply to my query Mr. Watson said that the Bill had no retrospective action. All I ask is to be given the opportunity to submit the terms of it to the Ministers in other States, and I would like to move for the insertion of a new clause.

The CHAIRMAN (The Hon. N. E. Baxter): The Minister will have to move his new clause after we have dealt with the clause as printed.

The Hon. J. G. HISLOP: I am sure some members are equally as puzzled as I am. From my reading of the proposed new subsection (3) in clause 2 it would seem that this Bill applies to a company or a corporate body. I am puzzled as to the meaning of the final paragraph, because it seems to exempt a corporation from any relief if it has lent money to an insolvent company. Mr. Watson can tell me whether that is correct or not. I would like to know whether this is real protection to a small investor who has had a terrible hiding in the last year or two. If it is, we should take notice of it. What harm would it do if we let this measure stand over until such time as the Attorneys-General of Australia have had a chance of looking at the problem and arriving at some conclusion? If this protects the small investor I have no doubt it will be introduced into the uniform legislation.

The Hon. A. F. Griffith: We have a Bill of considerable volume dealing with the question of company fraud.

The Hon. J. G. HISLOP: I know that. But would it do any great harm if we let this stand over for the appropriate authorities on uniform legislation to consider? I would only vote for the third reading if I thought this was of real necessity for the protection of the small investor. If Mr. Watson tells me it is an urgent measure which should be introduced straight away I will want to know why. I also want to know if it simply applies to companies or corporate bodies.

The Hon. H. K. WATSON: In respect of the proviso we have found the position in commerce that the holding company advances money by way of loan instead of shares to its subsidiary, after which it gives to a bank, as part of its general security, a charge over the debt owing by the subsidiary to the holding company. There we have the intervention of an outside creditor—the bank.

When this provision was introduced in 1953 it was felt that the banks should be excluded from such a provision. In other words, that the banks should not be denied the right under their security. That is why the proviso was inserted. As I have already explained, events over the last three or four years have indicated that in some cases the banks play along with the holding company and, in the result, the subsidiary company goes into liquidation, which means that the ordinary creditors of that company are deprived of their rights, because the bank steps in and has a charge over all the securities and assets, and realises these in respect of its claim against the holding company.

As I explained, I feel that whilst there is nothing in this Bill which will upset any such charge which has hitherto existed, I suggest Parliament should give the banks fair notice that special protection to them would cease to exist as from the 1st of January next, and that they would have to examine their affairs

if they were granting credit to the holding company upon security which they required from the holding company. They would have to look elsewhere than to the particular debt that was owing by the subsidiary.

On the second question raised by Dr. Hislop there is, in my opinion, a sense of urgency in these provisions. They had been on our Statute book for 10 years for the express purpose of stopping fraudulent practices, initially with mining companies, where it could be found that an overseas mining company worth millions would form a subsidiary company here on the capital of £100 and then put the rest of its investment, not as capital in shares, but as a loan of, say, £100,000 or £200,000.

If the venture were not successful it would wind up with the result that the persons who had done diamond drilling, supplied stores, explosives, and so on would be left lamenting. Over the years we have seen that practice develop not merely in respect of mining companies but with respect to ordinary commercial companies.

This provision did act as a guard against exploitation of the public and of merchants, manufacturers, and retailers supplying goods—and even workmen for unpaid wages, and so on.

The Hon. F. J. S. Wise: You contend that since that provision has been removed from the Act the ordinary shareholder has been placed in a very serious position.

The Hon. H. K. WATSON: He has been made very vulnerable and the gap should be closed as soon as possible for the reasons I have mentioned. The Bill should be dealt with by Parliament in this session for the very reason indicated by the Minister.

The Hon. A. F. Griffith: That being?

The Hon. H. K. WATSON: That it takes so long for the committee of Attorneys-General to arrive at a decision on these things. This has been under consideration since the 8th July; and I should imagine that in order to acquaint the Minister for Justice of their opinions on the matter, there is no reason to wait for a meeting that is held once in every six months. They could discuss the matter by correspondence.

The Hon. A. F. Griffith: Which they have.

The Hon. H. K. WATSON: So there is a decision; and if we regard what the Minister has said as being an adverse and negative opinion by standing committee, I would still invite this committee to exercise its judgment and pass this Bill. If the Bill is not passed this session, it will mean waiting another 12 months before the section will become operative, if it does become operative then; and in the intervening period we might find subsidiary companies and holding companies going into liquidation leaving creditors or small investors, or anybody who deposited money with them, lamenting.

Take the small investor who invested in such a company in 1958. The Act told him that if this subsidiary went into liquidation, any money owing by it to its holding company must be set aside until he had been paid in full. We have disposed of that condition and have left the creditor and investor vulnerable; and for that reason I suggest the gap that was created in 1960 should be blocked up this session. We should not have to wait for another 12 months, during which time unscrupulous persons and company manipulators would be allowed to defraud creditors and the general public.

The Hon. A. F. GRIFFITH: I have reason to believe that the Bill introduced into the Victorian Parliament was one of a corrective nature so far as that Parliament was concerned, but it was not introduced until all the States agreed that they in turn would introduce similar legislation. I understand that we in this State followed that same line. It has been said that the Attorneys-General took a long time to consider this matter.

In a letter from the honourable member on the 3rd July, I was notified of his desire to have this matter considered; but the Attorneys-General meet every quarter. They met in February; and if this matter had been brought to my notice in February, or prior to that, I could have taken it up with the Attorneys-General then. Had it been brought to my notice prior to 14 days before the meeting, I could have had it put on the agenda for consideration by the July meeting in South Australia.

I have a letter here which I will not quote in its entirety as I do not want to compromise the confidence of one of my Ministerial colleagues in one of the other States. However, I will read one comment—

> While this Bill appears to be completely acceptable in principle, the matter I feel needs to be approached with considerable caution until the precise nature of its impact can be more accurately gauged. It also seems to me that unless there are extremely cogent reasons to the contrary, any unilateral action by one State to amend the Companies Act endangers the whole fabric of uniformity and should be discouraged if at all possible. I believe this principle to have particular application to the provisions of the Act regulating priorities in a winding up. This is an area in which the States have been at some pains to enact identical legislation for the purpose of inducing the Commonwealth to adopt the winding up priorities in the bankruptcy legislation.

The letter finishes up by saying—

> As the matter dealt with in the Bill, however, will have far reaching effects and does not appear to be one of great urgency, perhaps you will be able to persuade its sponsor to defer it until such time as the Committee has had an opportunity to consider it.

That was the view of one Minister; and I respect his judgment. All I want is an opportunity for the Ministers to consider the matter. Quite a long period of time elapsed from the time Parliament last sat until July, when this matter suddenly arose as a matter of urgency.

The Hon. F. J. S. Wise: That would be caused by the approach of the Parliamentary session.

The Hon. A. F. GRIFFITH: I agree with that comment. All members know that the committee of Attorneys-General was responsible for this uniform legislation; and I want to see as much protection as possible for the small investor. As Mr. Watson said, some people have suffered badly as a result of company fraud, but the Attorneys-General are at the moment considering the whole question and will bring in quite far-reaching recommendations. I do not intend to oppose the clause, but I will rise again when you, Mr. Chairman, put the title.

Clause put and passed.

New clause 2—

The Hon. A. F. GRIFFITH: I move—

> Page 2—Insert, after clause 1, the following new clause to stand as clause 2:—
>
> 2. This Act shall come into operation on a day to be fixed by proclamation.

This will give me an opportunity to explain to my colleagues in the Eastern States when we next meet that the Legislative Council voted in favour of this Bill, but that it will come into operation on a date to be proclaimed. I will then be able to let them have a copy of the Bill to ascertain the ramifications of the amendment. It can then be proclaimed at an appropriate time. I am asking the Committee to agree to this so that Western Australia will not be the State responsible for the breaking down of uniformity. If this is going to happen we might as well give away the work of the last three years in connection with uniform company legislation in all of the States and the Commonwealth.

Point of Order

The Hon. F. J. S. WISE: Mr. Chairman, I would like your ruling on this matter. I cannot immediately put my finger on the Standing Order, but I think there is one which would rule this motion out of order. I think there is a provision for any new clause that limits the time or operation of a Bill to be in a clause at the end of a Bill. I would like your ruling on that point.

The Hon. H. K. WATSON: I understand the Minister's proposal is not to limit the duration of the Bill, but to delay its proclamation. Unfortunately, Mr. Wise is in the same position as myself; we have not had since the 8th July to consider this amendment. We have not even seen it on the notice paper. The first we heard of it was a few minutes ago.

The Hon. A. F. Griffith: Don't tell me you do not understand it.

The Hon. H. K. WATSON: I would like time to consider it. I hope the Minister will not misunderstand me; but if clause 2—

The Hon. G. C. MacKinnon: Are you speaking to the amendment or to the Point of Order?

The Hon. H. K. WATSON: I am sorry.

The CHAIRMAN (The Hon. N. E. Baxter): In reply to the question asked by Mr. Wise, I should like to advise that I have studied examples from several other Acts. It is not necessary to insert this clause at the end of the Bill.

Committee Resumed

The Hon. H. K. WATSON: The clause appears to be open to serious objection. The Act will come into operation on a date to be proclaimed. By not proclaiming the Act, it could be suspended between heaven and earth for the next 50 years.

The Hon. A. F. Griffith: I do not expect that to happen.

The Hon. H. K. WATSON: I am not so sure. Let us assume that the considered opinion of the Attorneys-General is in accord with some of the views expressed here. The Minister read from the letter. Quite clearly, the writer of that letter is without the nine years' experience which this State has had. There is nothing new about the matter in this State. It does not require more than 10 minutes for us to make up our minds on this. The Minister has had 10 years' experience.

There are a lot of holding companies in the Eastern States, and it is worth while remembering that a subsidiary which exists in this State is generally a subsidiary of a holding company in the Eastern States, where the creditors can make use of this advice. That, to my mind, is not an unimportant consideration.

I would be sorry to see the Bill pass with this provision in it, only to find, when the Act went on to the Statute book, that it was stillborn and was never revived or given fresh life.

Two years ago we were told that a uniform money lenders Bill would be introduced. Two years have gone by and it looks as though it could be another two years before that Bill is introduced.

The leisurely consideration given by the Attorneys-General is such that considerable damage could be done; and people could be exposed to considerable risk if this particular clause were inserted. I would suggest to the Minister that he allow me to ask for leave to report progress, in order that I might give some thought to the matter. My present inclination would be to invite the Committee to vote against the clause.

The Hon. A. F. Griffith: The uniform money lenders Bill, whilst it has nothing to do with this debate, will be introduced in due course.

The Hon. H. K. WATSON: I merely mentioned it by way of a reason.

The Hon. A. F. GRIFFITH: I know the reason why the honourable member mentioned the money lenders Bill. He was perhaps trying to create the impression that this might receive the same sort of treatment. Our Money Lenders Act is probably more up to date than any similar Act in Australia, and we are still considering amendments to it. I would like a little time to enable the other Ministers to have a look at the implications of the Bill. If the Ministers of the five other States, and the Federal Attorney-General, can ascertain tangible reasons for not having the provision in this form, it would surely be fair enough for us to have an opportunity to consider their judgment on this particular point.

The Hon. F. J. S. Wise: It would mean that it could not be dealt with this year.

The Hon. A. F. GRIFFITH: It would mean that; but, on the other hand, if the amendment which we are currently considering, and which will be considered again in New South Wales early in December—

The Hon. H. K. Watson: What about the quarterly consideration? Would it not be in October?

The Hon. A. F. GRIFFITH: We suddenly find that this Bill takes on a degree of urgency. When I asked the honourable member whether it had any retrospective effect he said "No." But when I want an opportunity to study the substance of the matter in question, the Bill assumes a state of urgency. If I am supposed to be responsible for giving birth to a stillborn Bill, then it is fair for me to ask the honourable member what the urgency really is. What is behind this Bill? Men with better brains than I have do not know what is behind this Bill, and they want an opportunity of considering its implications.

The Hon. F. J. S. Wise: I suggest you must smell a rat.

The Hon. A. F. GRIFFITH: I do not smell anything.

The Hon. W. F. Willesee: Have you got a cold?

The Hon. A. F. GRIFFITH: I can still smell when I have a cold. The Bill is either urgent or it is not. It either has a great implication or it has not. The Bill now assumes a degree of urgency, yet we are told that it is not going to be retrospective in its application. I do not quite know what to believe. However, I am prepared to bow to the suggestion of the honourable member that he ask for leave to report progress, in order to give us an opportunity of considering the new clause which I have moved.

The Hon. H. K. WATSON: The Minister asks what is behind this Bill, and he suggests, by implication, that there is something sinister behind it. He asks, "Where is the urgency?" I thought I had explained that if the Bill did not go through this year and if any company went into liquidation in the meantime, the benefits of this section would not apply. I should think that is sufficient explanation for the urgency. The Minister then attaches the question of retrospectivity, but the two things are separate. I said that retrospectivity applies from the date that the Bill comes into operation. I resent the implication by the Minister that there is something sinister behind the Bill.

The Hon. A. F. GRIFFITH: I merely asked if there was anything behind the Bill which I did not understand, because Ministers in other States say that they cannot fully understand it. Mr. Watson knows, from the time he wrote the letter asking that consideration be given to this matter, that I told him it would be too late to have the matter put on the agenda. The next thing I knew was that he had introduced a Bill. I am left standing without being given an opportunity of understanding the implications involved.

The Hon. F. J. S. Wise: How long is it since you first saw the Bill?

The Hon. H. K. Watson: It was introduced on the 28th August.

The Hon. A. F. GRIFFITH: That was about three weeks ago. I am prepared to leave the matter as it is; that the honourable member should ask leave to report progress. Perhaps the Committee will see the wisdom of accepting the amendment at a later stage, and allow the Bill to come into operation on a date to be proclaimed.

The Hon. H. K. WATSON: The Minister said that he does not know what the Bill means. The provision was on the Statute book for nine years, and the Minister, in his capacity as Minister for Mines, has a file which shows what the provision means and how it operates. Also, in his capacity as Minister for Justice, the Minister could find out from his officers how the provision has operated during the past nine years.

Progress

Progress reported and leave given to sit again, on motion by The Hon. A. F. Griffith (Minister for Justice).

REGULATIONS: PRECEDENCE OF MOTIONS FOR DISALLOWANCE

Effect on Notice Paper of President's Ruling

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [8.28 p.m.]: Before we proceed to Order of the Day No. 11, would you be good enough to tell me, Sir, what I should do, when arranging the notice paper, with the Order of the Day which now appears on the notice paper for consideration on the 24th September, in view of the ruling which you gave? I do not want to incorrectly arrange the notice paper again.

The PRESIDENT (The Hon. L. C. Diver): Earlier today I gave a ruling, the latter part of which reads—

> That these motions should be dealt with without more delay, and they should take precedence at each sitting over Government and private business until they are disposed of.

I expect the Minister to do that; namely, to give them precedence.

The Hon. A. F. GRIFFITH: I do not wish to question your ruling, Sir, but the vote of the House adjourned this motion until the 24th September; and it was done, I understand, by mutual arrangement between my colleague and another member. Do I take it, Sir, that the vote of the House must be disregarded and that in arranging the notice paper for tomorrow I must put this item in some other order? I am perfectly willing to do that if it is the correct thing, but I doubt whether I can disregard the vote of the House.

The PRESIDENT (The Hon. L. C. Diver): As a matter of fact, I think the terms I used in my ruling this afternoon were indeed considerate as far as the Minister is concerned. Having ruled in effect that the previous motions were not in order, I think the Minister should give the item precedence on the notice paper forthwith.

METROPOLITAN REGION TOWN PLANNING SCHEME ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 29th August, on the following motion by The Hon. L. A. Logan (Minister for Town Planning):—

> That the Bill be now read a second time.

THE HON. F. J. S. WISE (North—Leader of the Opposition) [8.31 p.m.]: This short Bill of three clauses was introduced by the Minister because, in his words, the clarity and inadequacy of the compensation provisions in their present form have been questioned. The Minister went on to say that assessment of compensation in respect of the Metropolitan Region Scheme is dealt with in one of two ways; namely, where land is required by the authority, the provisions of the Public Works Act apply, and where land is injuriously affected by the scheme, the provisions of the Metropolitan Region Scheme apply.

I suggest that both methods may apply, and do apply, in the one case, in many instances. Not only are the powers of acquisition used within the Metropolitan Region Scheme, but there must continue to be confusion even after the passing of this Bill in regard to the owner's entitlement and the way his entitlement for compensation may be satisfactorily fixed. The difference involved is the difference between compulsory acquisition and resumption. In either case, different courses may be adopted. In the Bill, which refers to section 36 of the principal Act, there is a clause dealing with the assessment of values 60 days prior to the resumption.

The Hon. L. A. Logan: That is in the Public Works Act.

The Hon. F. J. S. WISE: Yes. On the other hand, in connection with the Act that this Bill will amend, the scheme provides that very long notice of intention to acquire certain land shall be given; and to correct the depressing effect of such long notice, the Bill is introduced. But I fail to see how it corrects that effect at all.

It is interesting to me to know that the Minister acknowledges that the notice depresses values, because that is the contention we have held for a long time.

The Hon. L. A. Logan: We do not. We did it as the result of an objection.

The Hon. F. J. S. WISE: Yes; but does the proposed amendment put that situation right? I cannot interpret it as clarifying the issue between the value as such at the time of notice and the avoidance of depressing the value in the period between the time of notice and the date of acquisition; because, as was mentioned on another matter in this Chamber last evening, there is no doubt that if a person has lost the ability to deal with his own asset—to sell it; to deal in it; or to realise on the value it represents to him—he is in a prejudiced position. Therefore, there is no prospective buyer anxious to buy in those circumstances.

If we refer to the Public Works Act and the machinery that is used in it for acquisition for the purposes of public works, which the Metropolitan Region Town Planning Scheme Act contracts out of in regard to any negotiations it makes, we have a conflict in a matter of procedure and, indeed, in the matter of arriving at values. It is not a case of selling; it is a case of being prohibited from selling at

the right value, or at all; because, I repeat: Who wants to buy the properties affected?

This gets to the stage where there is only one prospective buyer—the authority in control of the Metropolitan Region Scheme. No one else is interested, because of the strictures involved and because, in the words of one member, of the confiscation of his asset or his property, which is usual; and that is against his interests. In my view, the delay and postponement of acquisition in key places which must be resumed is unfair and unsound. The persons who are placed in the unfortunate position of deferment of even adequate maintenance or improvement to his property is, in my view, in an untenable position. But that is how he is placed. I suggest that in all key positions where resumptions must occur, urgent action is necessary by those in charge of the scheme.

The Crown has no moral right to depreciate or destroy the assets of any people through any instrumentality; but that is what is happening under this scheme, because the authority is compulsorily taking, in its own time, the assets of the people, and the value of such assets are dying by attrition.

The Hon. L. A. Logan: I do not agree with that.

The Hon. F. J. S. WISE: I am sure that is the situation.

The Hon. L. A. Logan: That is not the case.

The Hon. F. J. S. WISE: One town planning scheme operates for the metropolitan region, and in regard to certain approaches to the city—ring roads and other means of access—it is known now that certain properties must be compulsorily acquired to give effect to the scheme. But the persons who own the titles of those lands have not an unimpeded possession of them in distant view at all. They are going to lose their property—

The Hon. L. A. Logan: Eventually.

The Hon. F. J. S. WISE: —and we have that asset dangling or suspended in regard to the purpose for which it will be used until the time of acquisition, which may be ten or 20 years hence. Where it is obvious it must be acquired, I suggest delay is unfair and unjust.

I would like the Minister, at some point, to give a further explanation of the addition of the words "or decrease", because from the summary he gave on the introduction of the Bill, it seems to me it does not matter at all whether those words are included. If, however, they are added, I am afraid their inclusion will act to the benefit of the Crown and, again, against the individual. That is a situation I resent very much, as I am endeavouring to protect the interests of the people against the Crown. Surely that is one of the functions—one of the basic functions—of members of Parliament in considering legislation of this kind; namely, to attempt to rectify an acknowledged anomaly—that is what Parliament is here for.

The Minister considers that because of the complaint, the inadequacy of the present situation should be remedied. I suggest that the Bill does not meet the situation at all, and I contend that wherever there is the possibility of an individual being prejudicially affected, it should not be tolerated from one week to another.

Before I support the second reading of the Bill, I will need from the Minister or some of his supporters a more adequate clarification than has been given so far.

Point of Order

The Hon. J. G. HISLOP: Before I speak, I would like your ruling, Sir, on this matter. Am I restricted to speaking on the sections noted in the Bill; or in the absence of any restriction in the title, may I speak on town planning generally?

The PRESIDENT (The Hon. L. C. Diver): I would suggest that the honourable member confine his remarks to the subject matter of the Bill.

The Hon. J. G. HISLOP: Then I will be very brief.

Debate (on motion) Resumed

THE HON. J. G. HISLOP (Metropolitan) [8.44 p.m.]: What I feel about this matter is that there should be some arrangement by which we can speak generally on the question of town planning which is, I suggest, of vital importance to the House and to the people. If I have to speak on a disallowance motion—which I might ultimately wish to withdraw—it would only take one voice to say "No" and I could not withdraw my motion. I see no way by which the House can debate town planning, generally, at present.

The Hon. F. J. S. Wise: It is a very awkward situation.

The Hon. J. G. HISLOP: It is appalling that our hands are completely tied in regard to a question that is of vital importance to the public, and one about which I have something to say. However, Sir, I respect your ruling, and all I wish to say about the measure is that I do not think that anybody, no matter what legislation is put up, is going to be able satisfactorily to legislate for injurious affection. I can remember the time when we sat as a Select Committee trying to decide this matter. The whole question of town planning investigated by that Select Committee nearly broke down on the question of injurious affection or betterment, because there are two sides to the question—there is betterment and injurious affection—and I think of the two, injurious affection presents less difficulty, possibly, than does

betterment. I take that view because if we considered a property had been improved as a result of town planning there would be a possibility of some tax being imposed on the individual if that individual sold his property at a later date.

That problem was discussed during a lengthy sitting of that Select Committee. When it comes to injurious affection, I cannot see how the authority can improve on the scheme other than to say, "We want this property at some future date". The problem that arises is whether the actual amount paid for the property is going to be paid on the day the property is resumed. If it is, then there will be an injurious affection to that property. I have some faith, however, in the town planners, because many people whose properties have been resumed have been extremely satisfied with the rather generous approach made to them by the authorities, and the owners of some of the properties which have been resumed have been adequately compensated. Nevertheless, the problem must continue until some solution is found as to the date of payment for the compensation of the individual whose property is to be resumed at some future date.

There is no doubt that the individual whose property is to be resumed at some future date is unlikely to maintain it in good order, so whilst he is saving money on maintenance costs he is losing a considerable amount in its appreciation value. I have listened to evidence from many witnesses who appeared before the Select Committee, and how we are ever going to reach an acceptable solution to such a problem I do not know. The Bill before us seeks some improvement, but like Mr. Wise, I would like to know what the word "decrease" means. As I pointed out, an individual whose property is to be resumed will automatically suffer a decrease because he cannot get the increments he would normally expect, and if that is an increase in value the affected owner is in a peculiar position.

Should one, at the moment an owner's property is to be resumed, say, "This property belongs to us now and here is your fee for the resumption. This is what your property is worth," Governments would then continue to hold the property for the rest of the time, and if the individual desired to continue to occupy it he would be charged rent. Such a situation might be considered, but to introduce the possibility that the individual will suffer a decrease adds to the burden considerably; that is, as to the final burden of the properties which must be taken over by the authority for town planning.

I will be interested to listen to the remainder of the debate on the Bill because I have listened for many days to the debate that has already transpired on this problem. We have found no solution to it and I doubt whether this Bill is any nearer to the solution than some of those measures that have already been tried. In this scheme there will always be some that will be injured. either seriously or in their imagination.

The Hon. F. J. S. Wise: And it will always be difficult to estimate the extent of the injury.

The Hon. J. G. HISLOP: Yes; and it will be difficult to convince them that they are getting value for their properties. because nine people out of 10 are definitely of the opinion that their properties are worth more than they are in the open market.

The Hon. L. A. Logan: Until they get their rate notices and then they say that the values are too high.

The Hon. J. G. HISLOP: Yes. It is purely a question of human nature for one to protect one's own property and its full value. Not for one moment would I like to take over the Minister's task in relation to town planning. In the future somebody might arrive at the solution and enlighten us on how to settle the problem. In the meantime this is all I have to say on the question. I support the Bill.

THE HON. H. C. STRICKLAND (North) [8.51 p.m.]: I wish to express my views on the proposed amendments. They deal, of course, only with sections 36 and 37 of the Metropolitan Region Town Planning Scheme Act. One section applies to injurious affection and the other to the assessed value of a property which is acquired or compulsorily resumed by the Government, which means that the property is confiscated, acquired, or dealt with in some way according to how one might describe it.

In explaining the amendment to section 37, the Minister stated that if compensation were assessed in accordance with the provisions of the Public Works Act, an owner may not receive the full value for his property and no clear provision is made for an additional sum to be paid. The Minister also contended that his proposed amendment to section 37 will safeguard a landowner in such a position and that he will get the market value for his resumed property. Although he did not mention it when introducing the Bill, he has told the House since that properties to be acquired will be purchased at current market values, and the Minister further told us that current market values are those values ruling in the neighbourhood at the time the property is resumed.

With all due respect to the Minister, I am rather confused over the amendment he seeks to section 37 of the Act, as compared to the compensation sections of the Public Works Act. Subsection (5) of

section 37 of the Metropolitan Region Town Planning Scheme Act reads as follows:—

> Notwithstanding anything contained in the Public Works Act, 1902, the value of any land which is compulsorily acquired by the Authority under this section or section thirteen of the Town Planning Act shall for the purpose of assessing the amount of compensation to be paid for the land, be assessed without regard to any increase in value attributed wholly or in part to any of the provisions contained in, or to the operation or effect of, the Scheme.

That means that no matter what the Public Works Act provides in regard to values, the value of any land acquired under the provisions of that Act for the purposes of this scheme shall be assessed without regard to any increased value as a result of the ramifications of the scheme. I believe that that is stated quite clearly.

Although I cannot find any reference to it in the *Parliamentary Debates* as yet, if I recall correctly the Minister said very little when he originally introduced the Bill. The Minister, very wisely, on most occasions is fairly reticent when introducing a Bill, because he reserves anything further he has to say until his reply to the debate. Of course, he complained that I did the same when I was a Minister. Those are the facts. I notice also that this section was not debated to any extent.

When the Stephenson-Hepburn town planning scheme was submitted to the Government, the report contained recommendations for the implementation of the scheme, and the authors of the report had quite a deal to say on compensation and betterment. The Government accepted the recommendation contained in that report in relation to the legislation it introduced, as did a previous Government in attempting to do the same thing. On the question of betterment, Stephenson and Hepburn had this to say in the report—

> Betterment under the existing legislation can be claimed by a planning authority when it can be shown that an owner's property has increased in value by the carrying out of public work. It is limited to 50 per cent. of the increase and must be made within 12 months of the completion of the work.

For reasons stated earlier, Stephenson and Hepburn, in this report, also stated—

> It is not a practicable provision and could well be omitted in the legislation for the Metropolitan Region Town Planning Scheme.

Following that, Governments did omit it from legislation. However, in order to arrest that position, in lieu of the authority being able to claim 50 per cent. of the value of betterment which people are to enjoy, subsection (5) of section 37 of the Metropolitan Region Town Planning Scheme Act was inserted in that Act, and that is the section which I have just read to the House. It precludes any value being assessed for betterment when the value of a property is being assessed under compulsion. That means, of course, when a property is compulsorily acquired the owner takes recourse to litigation; because he has failed to negotiate with the authorities on the value of the property, he allows the matter to go either to arbitration or to a court.

When the matter is taken to the court, the arbitrators must take cognisance of subsection (5) of section 37 which distinctly says that notwithstanding anything contained in the Public Works Act, no assessment can be made of any increase in value. The Minister, by the amendment in the Bill, is seeking to insert after the word "increase" the words "or decrease", which would mean that the wording in section 37 of the Act would then read "increase or decrease in value" which, if agreed to, would mean that the court would be hamstrung still further. It means that if an applicant has included a decreased value of his property in his claim, it must be assessed without regard to the decrease.

The Hon. L. A. Logan: Is that not to the benefit of the individual?

The Hon. H. C. STRICKLAND: That is how the provision will read. Courts interpret Acts as they are printed, and they do not pay any regard to what is said in the debates in Parliament. If the Bill is passed then section 37 (5) of the Act will read—

> Notwithstanding anything contained in the Public Works Act, 1902, the value of any land which is compulsorily acquired by the Authority under this section or section thirteen of the Town Planning Act shall for the purpose of assessing the amount of compensation to be paid for the land, be assessed without regard to any increase or decrease in value attributed wholly or in part to any of the provisions contained in, or to the operation or effect of, the Scheme.

That provision will tie the courts down to a very restricted assessment. I presume the valuation will be based on the value of the property on the date the plan laid on the Table of the House has the force of law.

The Hon. L. A. Logan: You are wrong.

The Hon. H. C. STRICKLAND: I think I am right, and I am trying to convince the House of that. The provisions of the Public Works Act are debarred, and of course that Act was amended by the Hawke Government in 1955 to provide that

property owners shall receive a fair valuation, which the Minister told the House they will receive; that is, the current valuation. Section 63 of the Public Works Act sets out how compensation will be determined. It states—

> In determining the amount of compensation (if any) to be offered, paid, or awarded for land taken or resumed, regard shall be had solely to the following matters:—
>
> (a) The value of such land with any improvements thereon, or the estate or interest of the claimant therein, as on the sixtieth consecutive day preceding the date of the gazetting of the notice of the taking or resumption, without regard to any increased value occasioned by the public work; . . .

Another paragraph of that section states—

> The loss or damage, if any, sustained by the claimant by reason of—
>
> (i) removal expenses; or
>
> (ii) disruption and reinstatement of a business; or . . .
>
> (v) any other facts which the respondent or the Court considers it just to take into account having regard to the circumstances of each case.

As I have pointed out, there are many provisions in the Public Works Act to safeguard owners whose properties are to be resumed; I am referring to the valuation of those properties.

The Hon. F. J. S. Wise: There is provision to add an extra 10 per cent.

The Hon. H. C. STRICKLAND: As the honourable member said, the court can also add an extra 10 per cent. under the Public Works Act to the amount of compensation claimed. Under this proposition of the Minister the Public Works Act will not come into the question at all with regard to the assessment of the value of land which is compulsorily acquired.

The Hon. L. A. Logan: You know why that is so.

The Hon. H. C. STRICKLAND: The Minister says I know the reason, but one can only put one construction on the proposition, and that construction is that property owners will not get the current valuation for land resumed under the town planning scheme. They will not receive the protection provided by the Public Works Act, and they will have to resort to section 37 (5) of the Metropolitan Region Town Planning Scheme Act.

The Minister has been advised that the Bill gives protection to property owners, but I consider he has been wrongly advised. Before I can give the Bill my support I need a much clearer explanation than that. No useful purpose will be served by the Minister merely expressing his opinion that current values will be paid, because that expression of opinion is not worth anything to a property owner whose land is resumed. What counts is what is written into the Act. There is not the slightest doubt that section 37 (5) of the Act will prevent the operation of the compensation provision in the Public Works Act, in the assessment of the value of land resumed.

Whilst up till now section 37 (5) does not provide for any decreased valuation to be taken into account, I say such decreased valuation can be taken into account because it is not specifically precluded. The Minister states that the passage of the Bill will bring about the inclusion of a provision to ensure that any decreased value must not be regarded in the assessment of land resumed, but I consider it has just the opposite effect.

Debate adjourned, on motion by The Hon. R. C. Mattiske.

RIVER BOATS

Amendment of Regulations: Motion

Debate resumed, from the 11th September, on the following motion by The Hon. H. C. Strickland:—

> That the amendments to the regulations made pursuant to the Shipping and Pilotage Consolidation Ordinance, 1855 (Act 37 Vict. No. 14), the Jetties Act, 1926, and the Western Australian Marine Act, 1948-1962, published in the *Government Gazette* of the 19th December, 1962, and laid on the Table of the House on the 6th August, 1963, be amended as follows:—
>
> (1) Regulation 2—By deleting all words after the word "boat" in line 3, down to and including the word "fitted" in line 6 of paragraph (a) of the amendment to regulation 2 of the principal regulations.
>
> (2) Regulation 5—
>
> (a) by substituting for the passage "10 feet" in subparagraph (i) of paragraph (a) of proposed new regulation 48, the passage "6 feet";
>
> (b) by deleting the passage "on a Saturday, Sunday or public holiday," in line 2 of paragraph (1) of proposed new regulation 49;
>
> (c) by substituting for the passage "21 years" in line 2 of subparagraph (b) of proposed new regulation 49A, the passage "17 years"; and

(d) by deleting the passage "carried by, or" in line 3 of proposed new regulation 51B.

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [9.9 p.m.]: I have had a quick look at the proposed amendments to the regulations made pursuant to the Shipping and Pilotage Consolidation Ordinance, the Jetties Act, and the Western Australian Marine Act. I endeavoured to ascertain whether any move had been made by clubs and sporting organisations affected by these regulations for alterations. Up to date I have not found any group or organisation which has requested the amendments under consideration; so I can only presume that Mr. Strickland has worked out these amendments himself. The fact is the regulations were promulgated on the advice of an expert committee in the first place.

The honourable member referred, firstly, to yachts with auxiliary engines which are now exempt from the regulations. The reason for exempting such craft was that they already had identification, because they were registered with yacht clubs. The purpose of the regulations was to bring about identification of river craft.

The small auxiliary engines in these yachts are used when they have to pass under the Fremantle railway bridge where the current runs strongly at certain times. The auxiliary engine gives the vessel the needed power to pass under safely. Such vessel may also need auxiliary power when passing under the Fremantle traffic bridge or the Narrows Bridge, or when approaching moorings.

If any attempt had been made for registration of such types of vessels I am sure the move would have been strongly opposed by yacht clubs established on the Swan River, as well as in other parts of the State.

The second amendment seeks to reduce the depth of water from 10 ft. to 6 ft. The regulation now prescribes that no motorboat which is travelling more than 8 knots can come close to shore in water which is less than 10 ft. in depth. If we were to apply this regulation to other parts of the State the position would become impossible, because, as the honourable member mentioned, there are tidal waters and lakes where the depth is less than 6 ft.

The reason for the regulation was to ensure that in built-up areas, motorboats travelling at more than 8 knots did not come close to the shore where there was less than 10 ft. of water, so that swimmers could be safeguarded. Surely such a regulation should be preserved. I admit that in some parts of the State one has to shut his eyes to the regulation, because it does not apply.

One might suggest that the regulation should be amended to indicate the centres where it should apply, but that would be difficult. It is better to leave the regulation as it is to ensure the safety of swimmers in places where speed boats are likely to travel at more than 8 knots per hour. In this respect we should allow common sense to prevail in other parts of the State.

The motion further seeks to delete the passage "on a Saturday, Sunday or public holiday," from regulation 5. If the amendment is agreed to then at times people will be inconvenienced. At present on a quiet Wednesday morning when there is no other boat on the river, a man can operate a speed boat while his wife skis behind, and no danger is caused. Under the amendment this practice will not be allowed, because the regulation applies to cases where there are only two people on a boat. On occasions it is difficult to find a third person to assist in manning the boat. The regulation enables people during quiet periods of the week to indulge in water sport, when not many boats or skiers are about. If Mr. Strickland deleted those words he would stop that, and I do not think he intends to do so.

The Hon. H. C. Strickland: Would you explain again what you think it is?

The Hon. L. A. LOGAN: I say that if Saturdays, Sundays, and holidays are deleted, the regulations will then apply to every day of the week. At the moment this regulation is only to apply to Saturdays, Sundays, and public holidays when it is necessary to have more than two in the boat. But if these words are deleted, it will apply to every day of the week. Surely Mr. Strickland does not want that to apply to a quiet morning or afternoon? Surely he does not want to refuse a man and his wife, or a young couple the opportunity of operating in all safety? That is what he would be doing, and I do not think he wants to.

In regard to the age, at the moment the regulations say that a boy of 17 with a licence and a child of 14 or over can operate. It also states that if a boy under 17 is operating he has to have someone 21 or over with him. Mr. Strickland wants to reduce the age from 21 to 17.

The reason for the present regulation is this: It may be that a boy of 17 is an expert teacher but he would, at 17, have only just obtained his license and would therefore not have the experience of a person 21 or older. If a person of under 17 is in a boat with a 17-year-old, they should have someone more mature with them. That is all that is for—a safety measure, and I do not think Mr Strickland wants to eliminate any safety provisions. He would be doing this, however, if he allowed a 17-year-old to train with boys under 17. I think Mr. Strickland should

have another look at this one because I am sure he does not intend to delete safety measures from the regulations.

The Hon. H. C. Strickland: If you read my speech you would know what I intended.

The Hon. L. A. LOGAN: The honourable member wanted uniformity.

The Hon. H. C. Strickland: Conformity.

The Hon. L. A. LOGAN: But why allow a 17-year-old lad who has only just obtained his license—

The Hon. H. C. Strickland: Why allow them to take a speed-boat and water skis out. Read the regulation.

The Hon. L. A. LOGAN: I have. But this is dealing with training and teaching them what to do. The last thing the honourable member mentioned, of course, was in regard to advertisements in boats. I have to admit—and I think the honourable member would, too—that when he said the carrying of a newspaper in a boat was tantamount to an advertisement, he certainly drew the long bow. The words can be taken out. I do not think it makes any difference, because these people are still prohibited from carrying advertisements. But to say that to have a newspaper in the bottom of a boat is an advertisement is silly.

The Hon. H. C. Strickland: It says "carries".

The Hon. L. A. LOGAN: But is a newspaper an advertisement in itself? Can a newspaper be described as being an advertisement? We could say that a newspaper contained an advertisement, but not that the newspaper was an advertisement. The honourable member, I think, was drawing the long bow.

I said I would deal with this but there is not very much I can say in any case. However, I have given the explanation after studying this matter for the short time at my disposal, and I would suggest to the House that it should not agree with the amending of these regulations.

Debate adjourned, on motion by The Hon. F. D. Willmott.

MINING ACT AMENDMENT BILL

Third Reading

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [9.20 p.m.]: I move—

> That the Bill be now read a third time.

THE HON. F. R. H. LAVERY (West) [9.21 p.m.]: In view of the fact that a decision of this Council last week precluded me from speaking—I am not objecting; it was quite in order to do so—I feel I cannot let this Bill pass the third reading without making some further comment on it, in view of some statements made both by myself and the Minister. When the Minister replied on the 11th September he said—

> At the outset I want to say I am sorry that I had to call "No" so loudly when Mr. Lavery wanted to adjourn the debate.

I wanted to adjourn the debate because I desired to obtain further information to place before the House. The Minister seemed to get himself into a tangle and had the fantastic idea that those of us who belong to the Labor Party were, when speaking against clause 5 of the Bill, doing so for political reasons. When making his apology to the House he continued as follows:—

> However, Mr. President, I think you will consider it to be fair—when you realise that I have sat here, as I have this evening, for some 2½ hours, and have had a great deal of criticism levelled at me, and at the Government's purpose with the introduction of this Bill, most of it basically untrue —that I should be given an opportunity to make a reply on the same evening that the falsehoods are uttered.

On occasions when I have spoken in this Chamber, I have been asked to withdraw certain things I have said. Personally, I do not think the Minister used very parliamentary language when he said that falsehoods were uttered. During the course of my own speech I asked the Minister the following questions:—

> Is it not a fact that the directors of Whim Creek, who thought they were doing something for themselves and Australia, allowed the directorship of the property to go from their hands to Japanese hands?

That was the first question. Then I asked—

> Did the manager (Mr. Demura) of that mine say that he did not care what rules or regulations the State Government imposed in respect of who should do the work there, because he would obey the orders of his own directorate in Japan?

I asked the Minister whether or not that was a statement of fact. The Minister replied "I really could not tell you."

The Hon. A. F. Griffith: How would you expect me to know?

The Hon. F. R. H. LAVERY: The Minister did not know, so I will tell him. Had he allowed the debate to be adjourned, I would have given this information before. I want to draw attention to portions of two other statements made during the course of the debate.

Several times the Minister stated that clause 5 in the Bill would not be necessary had it not been for the quarrelling between the directors of a certain company. Mr. Wise, during the course of his speech, wanted to know the reason for the inclusion of clause 5, and the Minister replied that it was necessary because of the quarrelling between some shareholders in a particular company.

Later, when Mr. Wise was speaking, he said that the Minister raised the point that these people were engaged on the mines. Mr. Wise stated that the work they were engaged in was a bit beside the question because the Minister had approved of these persons, as technical people, working in the precincts of the mine. The Minister interjected at that stage and said, "Pardon me, I did not."

I am sorry that the statement I am now going to read to Parliament is a little longer than is, perhaps, customary, but I want to read it because I was among those whom the Minister said had uttered falsehoods. He did not mention me by name, but the implication was there.

The Hon. A. F. Griffith: Some falsehoods, I said.

The Hon. F. R. H. LAVERY: I do not intend to argue as to what the Minister actually said because I have his exact words here in front of me. He said—

> —most of it basically untrue—that I should be given an opportunity to make a reply on the same evening that the falsehoods are uttered.

The Minister was implying that they were all falsehoods. He did not say anything about "some". I have here in my hand all the documents appertaining to the case held in the warden's court at Marble Bar, on Tuesday, the 5th February, 1963. I desire to say at this stage that I do not want to imply in the remarks I am making that the Minister did not think what he stated was the truth. I am going to show him that I do know the position by quoting from a signed statement. I am not claiming parliamentary privilege and therefore anyone outside Parliament will be able to take legal action if the words in this statement are not true. This is a statement on behalf of the Australian shareholders in Depuch Shipping and Mining Co. Pty. Ltd. of Western Australia. Although at the beginning it will appear that I may not be referring to clause 5 of the Bill, as I go on members will see that it has reference to that clause. The statement reads—

> Nearly half a century ago copper mining had been successfully carried on at Whim Creek in the State of Western Australia on a parcel of land known as Location 71 which had been granted to the Freeholder prior to the 1st day of January, 1899 by what is known as an Imperial Grant and on surrounding land belonging to the Crown of Western Australia particularly on a hill about three (3) miles away known as Mons Cupri. In 1956 the Hancock Prospecting Pty. Ltd. applied for and was granted Mineral Claim 90 for mining for copper at Whim Creek in the State of Western Australia.
>
> The Mining Act, 1904-1957 of the State of Western Australia has some very sound provisions designed for the purpose of making available to any person who wishes to work it land containing minerals and to preclude such land from being occupied ostensibly for mining purposes but in reality for speculation.
>
> The ideal law is one that is self enforcing so requiring no policeman to maintain it.
>
> In practice the administration of the Mining law in Western Australia nullifies the true intent of the provisions of the Mining Act by fostering the holding of valuable mineral bearing land for long periods for purely speculative purposes and Company flotations wherein a few wax fat and a lot grow lean in Mining Companies floated not for the purpose of establishing industry but for gambling in shares.
>
> Regulation 162 (a) made under the Mining Act, 1904-1957 prescribes that if the holder of a Mineral Claim not exempt from compliance with the labour conditions attached to it fails to work it for fourteen (14) consecutive days then he has abandoned it and is required by law to file a Notice of such abandonment with the Mining Registrar under pain of a pecuniary penalty for default.
>
> Upon abandonment the land becomes available for occupation by any other person who wants to work it.
>
> Under Regulation 162 (a) every claim holder is his own policeman.
>
> Holders of Mineral Claims are required to submit regularly returns of production from their claims the contents of which duly certified by the Mines Department are available to the public.
>
> These Returns or failure to furnish them keeps the Mines Department informed of what work is being performed on the various Mineral Claims and alerts it to instances of non-compliance with the labour condition attached to a claim that may result in a breach of Regulation 162 (a).
>
> The Mining Act contains another very wholesome provision. If for good cause a Claim holder is not able to comply with the labour conditions

attached to his mining tenement he can apply to the Warden for exemption. Notice of the Application has to be published and anyone can object to the granting of the exemption.

There is public hearing in the Warden's Court after which the Warden makes a judicial determination either granting or refusing the exemption.

The use of Temporary Reserves under section 276 of the Mining Act in substitution for Leases or Mineral Claims defeats the above-mentioned and other provisions of the Mining Act designed to protect the public interest.

Up to June 1959 Mineral Claim 90 had produced nothing and there had been repeated periods in excess of fourteen days when it was not exempt from performance of the labour conditions but none were performed on it therefore by reason of Regulation 162 (a) it had been abandoned but no notice of the abandonment was ever filed nor notwithstanding the information conveyed to the Mines Department by the lack of production returns was action ever taken by the Mines Department in respect to the non filing of the Notice required upon abandonment.

The PRESIDENT (The Hon. L. C. Diver): Order! I suggest to the honourable member that he connect his remarks with the Bill that we have before us.

The Hon. F. R. H. LAVERY: I have no hesitation, Mr. President, in saying that I can do that.

The PRESIDENT (The Hon. L. C. Diver): Then I wish the honourable member would do so.

The Hon. F. R. H. LAVERY: I do not want to get anything out of context, and if you will allow me to continue, Mr. President, in a few minutes you will see that these remarks are connected with the Bill before us; because it is a fact that on several occasions during the debate the story and history of Whim Creek was very much to the fore.

The Hon. A. R. Jones interjected.

The Hon. F. R. H. LAVERY: Perhaps if Mr. Jones's property had received the same kind of treatment at the hands of a foreign country as these Western Australian people have received he might believe there is some substance in what I am reading. The statement continues—

In 1959 it became apparent that the base minerals of Western Australia including copper which prior thereto could not be profitably mined for export were acquiring value.

A Company was formed by Mr. James Alexander West and Mr. Ronald Henry Sewell called the Depuch Shipping and Mining Company Pty. Ltd. hereinafter called Depuch for the purpose of reviving copper mining in Western Australia.

Sewell did the field work and West provided the finance (some thousands of pounds) to launch the revival of the industry *without any assistance whatsoever* from the Mines Department of Western Australia.

Depuch took a working option with right of purchase over Location 71 at Whim Creek and Mineral Claim 90 which was then thought to be the hill known as "Mons Cupri".

The Option was worded in such a way that Depuch could purchase "Mons Cupri" separately for £40,000, or it could purchase "Mons Cupri" plus Location 71 for £80,000, but it could not purchase Location 71 independently of "Mons Cupri". West and Sewell did not grasp the significance of this at the time.

One Harry William Woodfield Tokyo Japan came to Perth and after negotiations purchased 55% of the shares in Depuch undertaking to find the additional moneys required to work the Mines and in consequence thereof was given sole and complete charge of the Company's affairs.

After some months it transpired that a sum of £20,000 or thereabouts had been spent at Whim Creek for no result.

In his hour of need Woodfield sought and obtained the assistance of Mr. A. G. Swan to extricate him from the difficulties into which he had got himself and endeavour to salvage the copper mining venture at Whim Creek claiming that if this could be done he might be able to induce The Dowa Mining Co. Ltd. of Japan to come into the venture take over some of his shares and provide additional moneys.

Woodfield agreed that if Swan could salvage Depuch and Woodfield could induce The Dowa Mining Co. Ltd. to come into the venture Woodfield would transfer to Swan half of the shares that might remain to him out of the wreck.

As a result of industry considerable personal inconvenience and hardship Swan cleared up the mess at Whim Creek a sorry mess it was too and put an end to the stream of wasteful expenditure.

Woodfield then claimed that unless the Australian Shareholders West and Sewell were prepared to allow him contrary to an existing Agreement to convert moneys that he had advanced

for further mining operations and which West and Sewell claimed were his personal responsibility into shares so that West and Sewell's shareholding in Depuch would be reduced from 45% to 2% he Woodfield would take action to enforce payment of the moneys advanced which it transpired he could do and put the company into liquidation thereby destroying the work of Sewell to revive the copper mining industry of Western Australia and mulcting West in the total loss of the thousands he had put into it.

In the crush with no means of protecting their investments West and Sewell had to surrender and the share capital of Depuch was re-organised so that the holding of West and Sewell was reduced from 45% to 2%.

In the re-arrangement the Dowa Mining Co. Ltd. of Tokyo Japan got 53% of the total share holding and Rasa Trading Co. Ltd. of Japan got 30%.

Woodfield then had Swan appointed Managing Director the other Directors being West (Life Director by the Articles of Association) and Woodfield (Chairman of Directors) whilst at any meeting of shareholders Dowa could out vote all the other shareholders combined and with the aid of Rasa had over 75% of the votes.

In May 1961 Woodfield and two Japanese Nishida and Nagino came to Whim Creek from where Woodfield and Nishida proceeded to Perth.

On the 13th June, 1961, Woodfield obtained a letter from the Mines Department authorising the employment of Japanese contrary to the provision of Section 291 of the Mining Act of which letter a copy is attached.

It appeared that Dowa had insisted on having not only 75 per cent. of the share capital but also 75 per cent. of the number of shareholders and both Rasa and Woodfield had been obliged to give up some of their shares to Dowa. To give Dowa 75 per cent. of the number of members Swan gave it for its nominees fourteen (14) of his shares.

Swan organised a team of preliminary workers who with Nagino and another Japanese Diamond Driller Suzuki under adverse trying and difficult conditions got things going at Whim Creek.

Areas were being drilled but the Japanese kept the results of all drilling and assays in Japanese and kept them secret from the Australian Managing Director who was the largest Australian Shareholder and the only channel of information to the other Australians concerned.

The Representative of Dowa had promised that no other Japanese Company would come into copper mining in Western Australia and that all the copper mining in Western Australia would be done through Depuch thus giving the Australians some return for their continual concession to the Japanese. This promise has not been kept.

Woodfield returned to Western Australia in February, 1962, with another proposal, namely:—

> "That as Dowa under its agreement had to spend half a million pounds on a plant and in the arranging for the plant wanted to have frequent Directors' meetings at short notice it desired all the Directors be resident in Japan for the time being and six of its Nominees appointed Directors."

This seemed reasonable in the circumstances to West and Swan so they both resigned as Directors and the Board of Directors became Woodfield and six Japanese all resident in Japan.

Woodfield disclosed that he was the Agent or Attorney for the Warman Equipment (W.A.) Pty. Ltd.

In April, 1962, the new Board of Directors carried resolutions thanking West and Swan for past services awarding Swan a bonus of £150 (which it now refuses to pay) and appointing Swan Manager for two years.

There being already four Japanese at the mine then came another one Inoue who according to the sworn uncontradicted testimony of Swan in the Warden's Court on his right to be on the mine being questioned when he was told there was permission for two only to work on the mine said "I don't care what arrangements have been made with your Government we own the mine and will run it as we want to."

Inoue signed an Application for a mining tenement on behalf of Depuch and filed it in the Warden's Court notwithstanding that he had been requested to keep away from the Mines Department.

On the 31st day of June, 1962, the Mines Department sent a letter to Swan a copy of which is attached and the writer went to see the Mines Department about it at which time two more Japanese arrived—Demurra and Yoshida. During the discussions of the matter the Representative of the Mines Department said *inter alia*:—

(a) They got permission for two now there are five when is it going to stop? and

(b) They must obey the law or fight!

The Mines Department did not give any additional permission nor did it indicate that the Act would be amended.

It was learned that without calling tenders or even obtaining a second quote the Directors of Depuch had given a contract to Warman Equipment (W.A.) Pty. Ltd. to erect a new plant for a sum of £400,000 or thereabouts but had carefully concealed the contents of the Agreement from the Australian Manager being an Engineer and the Australian Shareholders even going to the extreme of having the Agreement signed in Western Australia on behalf of the Company by a non shareholder rather than let one of the Australian Shareholders see it.

As the Australian Shareholders had met willingly the continuous requests of Dowa for concessions this was a great shock to them and they considered that their interests were not being protected by even the most elementary of business practices. In addition rightly or wrongly they felt cheated and insulted and decided that they must move to protect the Australian interests since the moneys advanced by Dowa for the plant has to be repaid with interest by Depuch.

The Australian Shareholders asked Dowa that Warman's Agent Woodfield who was Chairman of Directors be removed from the Board of Directors and one of the Australian Shareholders appointed to the Board to give the Australian Shareholders the opportunity of knowing what was happening to their investments.

Whilst correspondence was passing between Perth and Tokyo the Parliament of Western Australia amended the Companies Act making it compulsory for a Proprietry Company to have at least one Director who is ordinarily resident in Australia "why not Western Australia is difficult to understand"? The amendment was pointed out to Dowa and the request pressed for the appointment of one of the Australian Shareholders as a Director or at least some persons nominated by the Australian Shareholders.

It was felt that the Japanese would at least respect the wishes of the Parliament of Western Australia but the request of the Australians was refused and to add insult to injury a non Shareholder a business Associate of Woodfield was elected a Director in token compliance with the amendment to the Companies Act.

Demurra published a Statement in the West Australian Newspaper that there had been located at Whim Creek £15,000,000 worth of copper.

At the end of October 1962 Woodfield again arrived in Whim Creek from Japan accompanied by three Japanese Ichikawa of Rasa one Oyane and another who Woodfield said was a Government Man. Woodfield stated that he and the Japanese had acquired a 90 per cent. interest in the Temporary Reserves for iron ore at Mount Newman standing in the names of Hilditch and Warman and that no iron would be purchased in Japan from either Mount Goldsworthy or Tallering Peak but only from Mount Newman. The Writer then remembered that previously at Meekatharra he had met a party of Japanese who informed him that they had been examining and testing at Mount Newman.

After inspecting Depuch Island Woodfield Ichikawa Oyane and others including employees of Depuch visited the Mount Newman Iron Ore Deposits.

At this time Warman Equipment (W.A.) Pty. Ltd. had started to erect the plant. Before the erection was completed the Engineer in charge resigned.

Woodfield had told the Australian Shareholders they would never get a dividend.

In consequence of an incident arising out of the visit of the Japanese and Woodfield to Mount Newman a difference arose between Swan and Demurra following which Swan was arbitrarily dismissed from his position as Manager.

There are 27 temporary reserves of iron ore at Mount Newman covering 1350 square miles held in the name of Warman (Warman Equipment (W.A.) Pty. Ltd.) and one Hilditch.

Later in Perth Woodfield claimed that

(a) He had been approached by Mr. W. M. Grayden M.L.A.

(b) That he Oyane Ichikawa and others had discussed Mount Newman Iron Ore deposits with the Minister for Mines Griffith and that he Woodfield had told Griffith that "No iron ore would be bought by Japan unless it came from Mount Newman deposits but to save the face of the Government Japan would take half a million tons per year from Mount Goldsworthy and half a million tons from Tallering Peak.

(c) That in the next session of Parliament the Mining Act would be amended to allow the Japanese to work in the mines.

but Woodfield did not disclose that he had obtained a letter from the Minister for Mines which is dated the 30th day of November, 1962 of which a copy is attached as well as a copy of the letter from Woodfield to the Minister dated 14th November, 1962.

As Swan the Australian Shareholder holding the largest number of shares in Depuch and the only channel through which the Australian Shareholders could get some idea of what was happening to their investment had been peremptorily ordered off the claims the Australian Shareholders decided the time had come for the Australians to "make a fight" for some rights in their own country and notified Woodfield that the Japanese working at Whim Creek in defiance of the law must leave. In a statement to the press Woodfield then revealed the existence of the secret letter he had obtained from the Mines Department the original of which was later produced in the Warden's Court.

A new Company has been registered —Mount Newman Iron Ore Company Ltd.—by five gentlemen whose names are not very well known amongst the prospectors of the Pilbarra.

In the Notice in Lieu of prospectus it is disclosed that one of the purposes of the Company is to acquire an option from Warman and Hilditch to purchase certain Temporary Reserves from iron ore for £5,000 in cash and further payments of £145,000 in cash at the option of the Company if it continues the option and if the option is exercised the purchase price is £805,000—in cash £530,000—and in shares £275,000 and that the preliminary expenses are being paid by American Metal Climax Inc.

This Statement has been confined purposely to a chronological narrative of facts without comments or opinions.

Dated the 17th day of September, 1963.

T. J. HUGHES,
Solicitor for the Australian
Shareholders in Depuch.

The following is a letter from the Under-Secretary for Mines (Mr. A. H. Telfer) to Mr. A. G. Swan:—

Dear Sir,

You will remember that in June last year your Company's Solicitors asked for authority for one or two Japanese Engineers to be allowed to supervise technical details regarding testing, and for a short period to have a Japanese instruct one of Depuch Shipping and Mining Company's employees in the use of a rather special drill which was being imported for work on your mine.

The Solicitors advised that it is not contemplated that any Asiatic would be engaged in any mining activities at any stage, but in view of Dowa Mining Company's introducing capital they would like one of their own representatives present to watch their interests.

I should be glad if you would advise me if these representatives are still on the mine and the extent to which they have instructed your employees in the use of the special equipment referred to.

There is a further letter from the Under-Secretary for Mines (Mr. A. H. Telfer) dated the 13th June, 1961, which reads—

Dears Sirs,

Re: Temporary Reserves—Whim Creek

I acknowledge receipt of your letter of the 2nd instant and would advise you that, as I verbally informed Mr. Woodfield and his party last week, there is no objection to the employment of Japanese capital in regard to mining operations in this State. Under the State Companies Act, as you are aware, if a company incorporated in Japan carries on a business in Western Australia it must register under Part XI (Foreign Companies Provisions) of the Companies Act, 1943-1954.

While under the Mining Act in force in this State the employment of any Asiatic or African alien as a miner or in any capacity whatever in or about any mine, claim or authorised holding is precluded, there will be no objection to the Japanese Engineers referred to by you supervising the technical details in regard to the specialised gear which is being brought in to the mine from overseas for the short period mentioned.

The letter from Mr. Woodfield to the Minister for Mines dated the 14th November, 1962, reads as follows:—

re Whim Creek Copper—Depuch Shipping & Mining Co. Ltd.

In 1960 the writer acquired 55% personal share holding of Depuch Shipping & Mining Co. Pty. Ltd. with the intention of supplying Copper Concentrate to Japan but, later in the year, faced with failure through lack of finance and knowledge, was impelled to seek rescue by the Dowa Mining Co. Ltd. of Japan.

Dowa Mining Co. Ltd. of Japan eventually agreed to take over the Company subject to their being allowed to have their own Representatives, financial and highly technical, on the site, otherwise no dice.

of which your Under Secretary was informed. Thus in the first stages two Japanese Advisors came from Japan and now that Warmans are installing an almost unique plant through their collaboration, another three Japanese are here. There is no possible direct nor indirect attempt to have these Japanese, or others, take jobs from Australians—rather they are highly qualified University men who look for life in more pleasant conditions than those of the North West; also it costs more to keep them here than would Australians cost. Thus the Japanese on loan to Depuch here hope to do their jobs, gaining favour in the eyes of their superiors through their devotion, and return to Japan as quickly as possible. They are not employees but representatives and eventually two should be enough for Dowa.

The foregoing recital is a prelude to our request for consideration, if at all possible, towards slight modification in your Mining Act. Clause 291 says:—

> That no Asiatic or African may act in any capacity in or about any mine.

Dowa Mining Co. Ltd. are already committed to something like £625,000 expenditure with much greater investment in view. If they are likely to have their representatives removed from Whim Creek by any authority under Clause 291 they would stop operations immediately and I now fear that outside pressures locally may cause such political action to be motivated.

May I therefore, Sir, with all respect request a Cabinet Minute or Hansard record or modification of the Act to the effect that Depuch's Japanese Nominees may remain at Whim Creek as Overseas Administrative Representatives, not as miners nor workers of the Depuch Mining Company, because I am faced with a possible dilemma for which I would eventually find myself morally responsible—and as you already know we very much regret the—matters which recently became a focus of discontent in your Parliament.

With a renewed assurance of my highest respects and those of the Board, I remain Sir,

Yours faithfully,

(Signed) H. W. Woodfield,
Chairman.

Depuch Shipping & Mining Co. Pty. Ltd.

I have one final letter to read. This letter was written by the Under-Secretary for Mines to Mr. Woodfield on the 30th November, 1962, and reads as follows:—

Whim Creek Copper.

> I am directed by the Hon. Minister for Mines to acknowledge receipt of your letter of the 14th instant and to advise you that, after giving careful consideration to your request, he is agreeable to the four men referred to by you remaining as expert advisers during the plant erection at Whim Creek, and that thereafter two men not employed in any way by the Depuch Company, but purely Dowa Company employees and representatives, might be permitted to stay subject to annual review.

That completes the reading; but I want to draw attention to the fact that if what I have quoted—it is available for any member who cares to read it—does not substantiate what I said on a previous occasion, then I regret I have taken up the time of the House. I previously said words to this effect: Irrespective of the fact that the Minister thinks a number of Asiatics will not come here to work in the mines, my feelings are that we as Western Australians should do all we can to protect our own way of life.

I wish to add a few remarks in regard to the court submissions, even though members have heard enough about them. Evidence was produced on oath that certain inquiries took place on the mine, and I can now make this statement: An inspector of the Mines Department, when he was making a normal inspection of the mine referred to the fact that a particular drive or cross-cut—I do not know which, although I have worked underground—was not safe and it required to be timbered. A member of the Japanese team said to the inspector, "I am a mining engineer and I will decide whether that cross-cut or drive will be timbered." That occurred a considerable time ago, and the particular drive or cross-cut has not yet been timbered.

I agree with the Minister that if these people invest their money in Western Australia they should be entitled to bring in their technicians in order to establish their plant and see to the technical side; but these men have been underground and have been making decisions. I asked the Minister two questions when I commenced my address and he replied that he did not know. He also asked why all the members who were speaking to this clause brought iron ore into it. I will tell him why. Apparently he has not been informed. I am sure he would not tell us a lie—and I say that to him in a very direct manner. I do not think he is aware of the fact that in regard to Mt. Newman a statement has already been made that the Japanese will

shortly control over 90 per cent. of the shares. There was also a statement that there is only one buyer for iron in Japan, and in Western Australia there are either six or seven sellers. This is a vital question.

I do not think there is any member of this Parliament or any person in the State of Western Australia who does not want to see industry come to this State; but when it comes here it must obey our laws. As Mr. Wise said a few nights ago—it might have been last night—when one goes to another country one has to obey its laws. I was due to leave Yokohama on a boat called the *Hanover* at 6 p.m. on the 16th January, 1962. We were told by the purser we had to have our visas stamped before we left Japan. He told us where to go. However, it was a little difficult to make some of the Japanese taxi-drivers know where we had to go and I was unable to get there.

I did get a stamp on my visa by a customs officer on the wharfside and when I went on board it was 6 p.m. However the ship was held up for one hour while I was taken away by a departmental officer who took me to the Immigration Department. An officer there stamped my passport but said to me that because it was after 5 o'clock I could be kept in Japan to wait for another ship because I had broken the law of his country. He was quite justified in telling me that.

Therefore, when they come into our country in connection with mining, it is necessary that we retain section 291 in the Mining Act. The evidence which I placed before the House is in a signed statement that can be used outside Parliament, as is the actual report of the Warden's case at Marble Bar, a copy of which I hold in my hand. I hope the Minister will accept the fact that none of us on this side of the House discussed this matter on a party level.

I would not say that no two of us have discussed it, but we have not made it a political matter. The Minister asked us to believe him last night and we did. I ask him to believe me now. The stand we are taking is for the benefit of our own people. I do not wish to show any disrespect to the Japanese, but it is necessary that they obey our laws. If our laws are not satisfactory to them they can go somewhere else; and I suggest that if they are dissatisfied with our laws they will go somewhere else.

In my opinion we have been going to the Japanese cap in hand in order to sell our iron ore to them. That is a statement which cannot be denied, because Hancock has been there, other people have been there, and the Minister told us he believed that the hold-up for the time being would not be for long and that he would soon be in a position to tell us that iron ore was going to Japan. I, too, hope that that is the position.

The Hon. A. F. Griffith: Where and when was this statement by Mr. T. J. Hughes made?

The Hon. F. R. H. LAVERY: The one I have referred to here?

The Hon. A. F. Griffith: Yes.

The Hon. F. R. H. LAVERY: I can answer in this way: In view of the fact that this matter came before Parliament; in view of the fact that I have been spoken to by three different people outside Parliament; and in view of the fact that the Minister said by implication that we were making a mistake—that the A.W.U. need not worry—I left the Chamber and rang Mr. Swan. I have nothing to hide about this matter. Mr. Swan met me at Parliament House the next morning; and that is why I asked for the adjournment the night before. The statement is dated the 17th September, 1963, and that is when it was given to me.

The Hon. A. F. Griffith: That is the statement you made to the House?

The Hon. F. R. H. LAVERY: Yes; it was given to me to read to Parliament so that the Minister would be advised as to what was going on, because when I asked him a question the answer was, "I do not know," and I believed him.

The Hon. A. F. Griffith: Where did he make it?

The Hon. F. R. H. LAVERY: It is a signed document.

The Hon. A. F. Griffith: Where did he make the statement?

The Hon. F. R. H. LAVERY: How would I know?

The Hon. A. F. Griffith: That is all I want to know.

The Hon. F. R. H. LAVERY: Mr. T. J. Hughes is the representative of the Australian shareholding in the Depuch Mining and Shipping Company. I also understand that at one period he was the legal adviser to the Japanese company. I think I am correct. As a matter of fact, I am sure that I am.

I make this statement despite all its implications. Mr. Woodfield has been able to gain for a Japanese company a most valuable property in this State for a song, by some very astute manoeuvring. I believe that Mr. Woodfield is a person who has very high financial backing by his principals in Japan. I understand that he has also made the statement that the Minister in Western Australia has got to have this section removed. I cannot prove this, but I am prepared to accept responsibility and to state it outside Parliament if necessary. Mr. Woodfield implied that the Minister will have to have section 291 removed

from the Mining Act; that so far as he was concerned the Minister for Mines and the Government could go to the devil. I will stand on that, as the Minister and Mr. Mattiske commented last night that they would stand on what they said.

Those are statements which give me cause for concern.

The Hon. A. F. Griffith: Without having proof, you will stand on that statement?

The Hon. F. R. H. LAVERY: I can supply proof. I would not like to be tempted much further. I think I have been very fair. I think I have proved that the Minister has, within his jurisdiction, allowed certain actions to take place. The letters are here, to prove that the Minister's undersecretary has said that a certain number of men will be there for a specific purpose. I am implying that the Minister does not know what is going on behind his back in the district.

The Hon. J. G. Hislop: What nationality is Mr. Woodfield?

The Hon. F. R. H. LAVERY: Mr. Woodfield was also implicated in the other company—Warman (W.A.) Pty. Ltd. The evidence produced in the wardens court showed that the amount of money being spent by the company is over £1,000,000. The Japanese have become completely in charge up there and they are telling the Australian people what they can do, saying they can go and mind their own darned business—and that includes the Minister. That is the story I have to tell the House, and I oppose the third reading.

THE HON. D. P. DELLAR (North-East) [10.20 p.m.]: It would appear that the opening remarks of the Minister the other evening upset quite a number of members. The Minister's last few remarks were the ones which upset me. They concerned the general atmosphere and political views on this matter. I can assure the Minister now that this is not a political issue so far as I am concerned. I am truthful in saying that.

What has amazed me this evening is that this matter is something which is of very great importance to our country and to our State; and it reflects the state of this House at the present time. I have been told at various times by the Minister that I did not know what I was talking about. I think that this evening Mr. Lavery has given us sufficient proof that I do know what I am talking about. I am referring to the removal of section 291 from the Mining Act.

The situation at Whim Creek proved my point. The Japanese got in there and they worked. As I have said before, once they get in they will work. They brought in ore dressers, diamond drillers, and machine men at Whim Creek. Is that not working our mines? If it is not, then I would like to know what they are doing there. The same think will apply in this case if the section is removed from the Act. Ever since the discussion has taken place in connection with this Bill, it has revolved around iron ore.

The Hon. A. F. Griffith: That is right.

The Hon. F. R. H. Lavery: And copper.

The Hon. D. P. DELLAR: There is more than iron ore in this State. We have minerals of all kinds. When the Minister was speaking to the Bill he gave us several shocks. In a round about way I was trying to assist the Minister.

The Hon. A. F. Griffith: I am sorry if I misunderstood your intention.

The Hon. D. P. DELLAR: I was hoping that the Minister would introduce a clause which would not necessitate the removal of the section from the Act. I still think it could have been done. I strongly object to this provision in the Bill and I will take no part in voting for the removal of the section from the Act; particularly when I know that the difficulty could have been got around in another way, and we would still have had protection and control over our minerals. I cannot see any reason why that could not have been done. If the Minister cannot see in that direction, then I will repeat myself and say that it will be a sorry day when we have to hand over our rights to Japanese or to other Asians.

It has been stated in the House time and time again that we have to abide by their regulations; therefore they should abide by ours. I still strongly oppose the Bill.

THE HON. J. J. GARRIGAN (South-East) [10.26 p.m.]: I represent the men on major mines in Western Australia, and I would suggest that we have the best miners in the world. If we accept this provision we leave the Act as wide open as is the Nullabor Plain. Let us imagine the President, or ourselves, being governed and shoved around by Japanese or other Asians. I strongly oppose the move to have this section removed from the Act. The Minister referred to technicians. There are no better technicians in Australia than those who have been trained at our School of Mines; but there is not enough employment for them. My own son is in Tasmania as a technician.

If it is good enough for the Japanese to buy our iron ore, then it should be good enough for us to supply the labour. In a few years' time all we will have will be a big hole in the ground where the iron ore used to be; and once it has gone it has gone for ever. I therefore suggest that the Minister re-examine this provision in the light of our white Australia policy.

Mr. Lavery brought to my notice some time ago that Japanese were employed at Whim Creek. One was employed there as an ore dresser. An ore dresser is employed on the basic wage. He is not a technician. Another was a diamond driller. A diamond driller is not required to be trained at the School of Mines; he is an ordinary labourer. Those two persons were not employed at Whim Creek as technicians. There was also a machine miner.

I have worked in all sections of the mining industry for many years. I have had all kinds of men employed under me; and I can recall the riots which took place. All over Asian countries there are riots taking place; and what will happen if we employ Asian labour in Australia? With those few remarks I oppose the Bill as violently and as strongly as I did in the first instance.

THE HON. F. J. S. WISE (North—Leader of the Opposition) [10.30 p.m.]: My remarks, Mr. President, will be brief. The other evening one honourable member chided me for making a long speech on this subject, but I have always been able to make my own decisions as to how long I would take to explain a matter, in my own way, and in an understandable way—I hope. There are one or two matters which still require emphasis even at this late stage. One statement I quoted during the Committee stage on this Bill I requote because it was affirmed on two occasions; and this, in fact, is the situation; and it has not been denied.

It has been stated twice that all that is intended with the passing of this legislation is for those who are prepared to invest their money in purchasing iron ore to have an oportunity to come here and supervise the winning of the ore from the ground. The ore is to be transported to Japan and I am sure that the companies will get value for the great amount of money which will be paid for it. That reason is different and distinct from the reasons given to us by the Minister. When I deliberately presented my point to the Minister he made no comment in his reply as to whether that was or was not to be the situation. He did not deny it when his colleague also made the statement and he has not denied it since.

The Hon. R. C. Mattiske: Because his colleague explained the situation.

The Hon. F. J. S. WISE: His colleague put himself in an unusual situation. If I might digress, Mr. President, I have gone to the trouble of preparing some illustrations to prove what I am about to say. When the colleague of the Minister made his statement he had convinced himself that he would vote in the way he spoke, which is not always the case. If you will allow me, Mr. President, I can give the illustrations.

The PRESIDENT (The Hon. L. C. Diver): I think the honourable member should confine his remarks to the subject in hand.

The Hon. F. J. S. WISE: I could give illustrations to back up my last statement, that the honourable member did convince himself that he would vote in the way he spoke.

The Hon. R. C. Mattiske: That is childish.

The Hon. F. J. S. WISE: Some very serious things have been said in connection with this Bill. Our actions should be activated by motives of the highest order because they relate to the use of our national reserves in the way this State decides to use them. That should continue to be the situation: That this State shall remain the judge of its own conditions applying to any industry. We should expect all nations enjoying the use—and purchasing—of our assets to comply with the laws of this State. The laws hold no mystery and they are well known.

No country is more conversant with international laws than is Japan. I hope that this section of the Act, which relates specifically to the conditions under which our mining laws shall be applied by other nationalities, and which insists that no Asiatic shall work in a mine, will be controlled as section 291 now stands.

THE HON. J. G. HISLOP (Metropolitan) [10.35 p.m.]: I have listened with concern to the debate on this matter, and many statements have been made which leave me confounded. I am in a dilemma because I feel I must respect, first of all, the views and the statements expressed by the Minister. However, I am perturbed at the degree of concern—if I can use that word twice—that has been expressed by members of the Opposition. There are many things which puzzle me.

I listened with interest to the long statement read to us by Mr. Lavery and I still do not think that it tells the whole story. Perhaps the Minister will be good enough, if he has the facts on hand at the moment, to tell us whether some of my surmises on this matter are correct. First of all, I would like to know why West and Swan, if they are Western Australians—

The Hon. F. R. H. Lavery: They are.

The Hon. J. G. HISLOP: —looked for Japanese money. Why could they not have formed an Australian company to reopen Whim Creek? Or was it that they put only a small amount of capital into the venture and then invited the Japanese to invest their money? The mine at Whim Creek has been a closed mine for as long as I can remember. I saw that mine in about 1942 and it had not been working for some years. It was a derelict mine which nobody thought was worth tuppence.

Now, as a result of the action of West and Swan—I do not know how much money they had—

The Hon. F. R. H. Lavery: Over £100,000.

The Hon. J. G. HISLOP: —who invited the Japanese to come in and take over 55 per cent. of the capital, they, West and Swan, immediately lost control of the mine. I understand from the figures read to us by Mr. Lavery that they had then, through a Mr. Woodfield, to make application to Dowa to buy back some of the shares. West and Swan had to reduce their share holding to a veritable pittance. It is all so mysterious that that should happen when by this time, surely, the Japanese had made it known that they had really discovered a bonanza. I do not understand the methods of the business.

The next matter which interests me is that West and Swan seem to have bound themselves to the Japanese and allowed a Western Australian asset to be purchased by the Japanese for a relatively small amount, judging from Mr. Lavery's report. The mine will eventually be worth a fantastic sum.

The Hon. F. R. H. Lavery: The estimated figure is £15,000,000.

The Hon. J. G. HISLOP: Anyone who has listened as I have this evening would have to be dumb not to realise that Mr. Woodfield had a pretty close connection with the Japanese. That is why I interjected when Mr. Lavery was speaking and asked what nationality was Mr. Woodfield. I would say that Mr. Woodfield is a naturalised Japanese. He is Australian born and has lived in Japan for 30 years, and I think he has married a Japanese woman.

The Hon. F. R. H. Lavery: Quite correct.

The Hon. J. G. HISLOP: So, I am not at all certain that Mr. Hughes has told the whole story. I do not think that anything like this long report which was read to us should be taken into account when deciding a matter of this nature unless it is completely accurate. There are many doubts in my mind.

If we or our friends had known that Whim Creek could be opened up again we would have immediately looked for an Australian company to invest in. There would be money in quantity at the moment to open up a field of that magnitude if one really knew it was worth while; and the company concerned probably did know it was worth while if it invested £100,000 and then by foolish management lost its hold on this particular mine. The company made repeated applications to the Japanese to take control of it.

Therefore, I am still puzzled because I do not believe that we know the whole story, nor do I believe the pamphlet which was sent to most of us by Mr. T. J. Hughes. I did not appreciate the language used and I very much doubt whether we have the whole truth.

Another aspect of this debate which has puzzled me is why no member of the Opposition has any faith in the control of migration by the Commonwealth Government. One would think that the Commonwealth Government was going to give up the control of migration and there would be an inrush of Japanese ready to stay for an indefinite period working in the mines. Nothing could be further from the truth, surely. Even the five men that were here were limited to a certain period. I understand from inquiries I have made from men who know something about this story that these men were here to supervise the erection of some specially designed plant. When we say that our own engineers and technicians could do the job we must remember that there are always new designs which call for supervision in erection by the men who designed the plant.

I do not believe for one moment that a small mine like Whim Creek could start a rush of Japanese to our mining fields generally.

The Hon. F. R. H. Lavery: What about Mt. Newman?

The Hon. J. G. HISLOP: It appears that the Mt. Newman people may have been dummying for the Japanese; but that is a different story. That opens up another field altogether. As we all know there is nothing to stop an Asiatic or anyone else from owning property in Australia. Property is owned by migrants who are not naturalised Australians.

The Hon. A. F. Griffith: There is nothing to stop Asiatics from working in any other form of industry.

The Hon. J. G. HISLOP: That aspect is different from the one we are dealing with. I deplore the fact that so much emphasis has been placed upon that angle. I would say again that we have been confused by the statement of Mr. Hughes. Frankly, I do not believe that it is a complete statement of affairs so far as Whim Creek is concerned and its relationship with the Japanese. There is a great deal more behind the story than appeared at length in the article in the newspaper.

The Hon. F. R. H. Lavery: That is why we are afraid of this section going out of the Act.

The Hon. J. G. HISLOP: I think a lot more could have been said by Mr. Hughes because, for example, he could have explained why he was the one who spoke; and I am certain he had a great deal

more to do with this case than was intimated in that report in the newspaper. I am not nearly as impressed as Mr. Lavery, but I might have been if, in the newspaper, there had been a more explicit statement which left nothing in doubt.

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [10.46 p.m.]: I intend to reply only briefly to the comments that have been made on the Bill because all ideas and expressions of sentiment on this clause have been adequately ventilated during the debate. Nevertheless I would like to repeat what I had to say during the second reading stage of the Bill on this particular clause. My comments were as follows:—

> Section 291, which it is proposed to delete from the Act, provides for the removal from the goldfield or mineral field of any Asiatic or African alien found mining on any Crown land.
>
> The section also prohibits the employment of an Asiatic or African alien as a miner or in any capacity whatever in or about any mine, claim or authorised holding.
>
> The provision, as has been mentioned, is a very old one introduced into Australian mining legislation when Chinese and Afghans made it a practice of following up the "diggers". They sifted the ore dumps and generally proved an embarrassment to the Australian operators to the extent even of rioting between the Australians and the Chinese.
>
> The Japanese are interested in Western Australian mineral deposits at the present time and have been for quite some time past, and are purchasing certain minerals from Western Australia.
>
> Approaches which have made to Japan have come generally from the Western Australian deposit holders and, quite naturally, the Japanese desire their own geologists and engineers to examine likely deposits and obtain first hand knowledge of them. It is understandable they would also want to exercise some supervision during plant erection period where Japanese equipment might be used. There would appear to be no reasonable cause for objection being taken to their experts being granted such facilities. On the other hand, it has been encumbent on the department to advise the Japanese of the provision contained in section 291.
>
> Bearing in mind, however, that provision of the section, when the matter was referred to me I gave permission for Japanese to be at the mine for the purpose of supervision of the installation of some Japanese equipment that was being installed at the mine.

Mr. Wise said that during some other stage of the debate I apparently went further than that, and that whilst he taxed me on the point I did not attempt to offer any further clarification. In the course of the debate, if any other meaning were introduced than the one I have just read to the House, it is regretted. The intention that was meant was the intention expressed in the words I have just quoted which were spoken by me in my second reading speech when introducing the Bill. I know nothing of the statement apparently made by Mr. Hughes.

Mr. Lavery persisted in asking me what took place and what was said at this particular mine.

The Hon. F. R. H. Lavery: I only asked you once.

The Hon. A. F. GRIFFITH: The question was asked in a persistent way. Of course I could not be expected to know what was said because I was not present at the time.

The Hon. F. R. H. Lavery: I made that clear at the time.

The Hon. A. F. GRIFFITH: Therefore, I am not responsible in any shape or form for the statement Mr. Hughes saw fit to make. There are of course one or two particular points in that statement which are not true. For instance, the statement purported to have been made by Mr. Woodfield on the control that somebody had over the possible supply of iron ore to Japan, and that unless I did something or other no iron ore would be sold to Japan, is quite ridiculous. Mr. Lavery, I think, said that this statement was made recently.

The Hon. F. R. H. Lavery: The statement was made and signed on the 17th of this month.

The Hon. A. F. GRIFFITH: I was given to understand that the statement was made to me by Mr. Woodfield in my office. As I said last night, I am not going to become involved in a controversy with Mr. Hughes.

The Hon. F. R. H. Lavery: You are involved in this one, though.

The Hon. A. F. GRIFFITH: I am not involved at all because the letters which Mr. Lavery read to the House prove quite conclusively, word for word, that the sentiments I expressed when I read my second reading speech in this House were in fact the sentiments that were intended to be expressed months ago.

The Hon. F. R. H. Lavery: They are dated months ago.

The Hon. A. F. GRIFFITH: Of course they are, because they were mentioned months ago, and they confirm the words I used when introducing the second reading of the Bill. That was all that was intended.

The Hon. F. R. H. Lavery: At the time I said that this would help you.

The Hon. A. F. GRIFFITH: I am very glad the honourable member was anxious to help. In regard to an honourable member being asleep, I apologise to Mr. Dellar about that, but I cannot control that situation. The honourable member will have to keep his fellow members awake.

The Hon. F. J. S. Wise: He said it was a member of the Opposition.

The Hon. A. F. GRIFFITH: He said "members of the Opposition."

The Hon. F. J. S. Wise: Yes, his Opposition.

The Hon. A. F. GRIFFITH: I am just making a joke out of it.

The Hon. F. J. S. Wise: As long as you are just making a joke of it.

The Hon. A. F. GRIFFITH: It sometimes happens that text is taken out of context and is made to look like something else. In regard to the claim concerning Mt. Newman and Messrs. Hilditch and Warman, the first time I knew this assertion was being made was when I received a copy of the letter written by Mr. Hughes. If it is worth repeating, I repeat that I have no knowledge whatsoever of any Japanese interest in Mt. Newman. I understand there was a time when Messrs. Hilditch and Warman were negotiating to sell their iron ore deposits to Japan in the same way as does every other person who holds a mining title or a temporary reserve of iron ore deposits. A little while ago I think an honourable member said that there were a number of sellers but only one buyer.

The Hon. F. R. H. Lavery: There were seven sellers and only one buyer.

The Hon. A. F. GRIFFITH: Right. My only knowledge of Messrs. Hilditch and Warman and Mt. Newman is that those two gentlemen have an option agreement with a firm called American Metal Climax Inc.

The Hon. F. R. H. Lavery: That is an American firm.

The Hon. A. F. GRIFFITH: That is so. Apart from that I have no knowledge of the interest of any other person in that area, which is nothing more nor less than a temporary reserve. During the whole period of the administration of the Mines Department by many Ministers for Mines, literally thousands of temporary reserves have been granted in the names of many people. Hilditch and Warman were the people allotted this particular area, and they have been systematically prospecting it, as the other temporary reserve holders have done.

Some of the people who have prospected their areas have come to the Government and made substantial agreements in connection with the establishment of mines and the exploitation of areas. At this point of time the temporary reserve held by Hilditch and Warman has not been negotiated. The only knowledge I have, so far as the title holders are concerned, is that Hilditch and Warman hold a temporary reserve, and I refer again to this arrangement they have made with American Metal Climax Inc.

The Hon. F. R. H. Lavery: I suggest there is something going on behind your back.

The Hon. A. F. GRIFFITH: That is the only situation of which I am aware. All I can say in conclusion is that there may be a great deal more behind this argument which the shareholders of Depuch Shipping and Mining had over a period of time, but I cannot be responsible for that current of events. I did say, and I think it is a reasonable statement to make, that had it not been for this internal quarrel which took place with the shareholders themselves, the situation may not have come to a head in the way it has.

But now that it is sought to remove section 291 of the Mining Act it is suggested by some members that its removal will bring about a situation where a whole flood of Asian people will come into Western Australia, when it has not happened previously. The suggestion has been made that if we remove section 291 from the Mining Act, it is possible that we could get a Commonwealth Government that would take the roof off the Immigration Act. But, as Dr. Hislop so rightly said, that cannot be the case. We know that people visiting Western Australia in any capacity whatever come here for the length of time permitted by the visa issued them by the Commonwealth Government.

The reference made by the under-secretary in the letter he wrote regarding the annual consideration of the visa applies of course only in respect of the length of time for which the Asian has the visa; because once his visa expires he has to leave the country.

The Hon. F. R. H. Lavery: They gave evidence that they were here for two years in one case and three years in another.

The Hon. A. F. GRIFFITH: I believe that two years is the initial period for which visas of this nature are issued. I am not sure on that point, but this situation is controlled by the Immigration Department which keeps a very close watch on matters of that kind.

I say with respect that it is an exaggeration to suggest that if this section is taken out of the Mining Act it will encourage a great flood of Asians to enter

Western Australia and take jobs away from our people here. It is pertinent to remind members that that has not happened in the other States of Australia.

The Hon. F. R. H. Lavery: Mr. Woodfield suggests you are taking it out at his request.

The Hon. A. F. GRIFFITH: I cannot be responsible for what Mr. Woodfield suggests. It is certainly not being done at his request. We are seeking to remove the section from the Act because it is considered to be an archaic law. It has been there for a very long time. The other States of Australia do not have a similar provision in their legislation.

The Hon. H. C. Strickland: They have not the iron ore.

The Hon. A. F. GRIFFITH: Has not Mr. Strickland heard of the Middleback Range in South Australia?

The Hon. F. R. H. Lavery: It is all taken up.

The Hon. A. F. GRIFFITH: Of course it is; but South Australia does not have this provision which prevents an Asian from working in the mines in the Middlebank Range.

The Hon. D. P. Dellar: What mines are there in South Australia?

The Hon. A. F. GRIFFITH: That interjection is not worth spending time on. South Australia, of course, has not anywhere near the same mineral wealth that we have. We all know there are mines in South Australia, as there are in Queensland and New South Wales, and to a lesser degree in Victoria. But none of those States has this provision in its Act. I believe that the criticism levelled at the section under consideration, and at the particular clause, is misplaced, particularly as it relates to the dire effects which members think it might have. As far as I am concerned I do not think it will have that effect. I do not intend it to have that effect.

The Hon. F. R. H. Lavery: I do not want it to have that effect.

The Hon. A. F. GRIFFITH: Nor do I.

The Hon. J. Dolan: What good will it do?

The Hon. A. F. GRIFFITH: I could of course keep on answering interjections of this nature. It should be appreciated that this provision in our Act is archaic, and certain people find it difficult to understand.

The Hon. F. J. S. Wise: A bit like the franchise for the Upper House.

The Hon. A. F. GRIFFITH: We will have an opportunity to deal with that a little later. I do not think the President will allow discussion on that subject now. There is nothing more for me to say on this matter.

The Hon. R. F. Hutchison: You have not answered us yet.

The Hon. A. F. GRIFFITH: All I can say is that the fears expressed by some members as to the effect which the removal of this section of the Mining Act will have are quite misplaced. It will not have the effect they think it will.

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

Ayes—16

Hon. C. R. Abbey	Hon. G. C. MacKinnon
Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. A. F. Griffith	Hon. H. R. Robinson
Hon. J. Heitman	Hon. S. T. J. Thompson
Hon. J. G. Hislop	Hon. J. M. Thomson
Hon. A. R. Jones	Hon. H. K. Watson
Hon. L. A. Logan	Hon. F. D. Willmott
Hon. A. L. Loton	Hon. J. Murray *(Teller.)*

Noes—12

Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. D. P. Dellar	Hon. J. D. Teahan
Hon. J. Dolan	Hon. R. Thompson
Hon. J. J. Garrigan	Hon. W. F. Willesee
Hon. E. M. Heenan	Hon. F. J. S. Wise
Hon. R. F. Hutchison	Hon. H. C. Strickland *(Teller.)*

Majority for—4.

Question thus passed.

Bill read a third time and transmitted to the Assembly.

House adjourned at 11.7 p.m.

Legislative Assembly

Wednesday, the 18th September, 1963

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