stressed that this will exclude them only from taking under instruments made prior to the adoption order, and then only if they have not been expressly included.

The amendment is considered necessary and desirable in conformity with the law reform scheme, but will be of little practical consequence other than to make the presumption against child-bearing effective. It is not proposed to proceed further in the Chamber with this Bill until the current Trustees Bill is further proceeded with.

Debate adjourned until Tuesday, the 28th August, on motion by The Hon. R. F. Hutchison.

SIMULTANEOUS DEATHS ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban —Minister for Justice) [5.48 p.m.]: I move—

That the Bill be now read a second time.

This is the last of the seven Bills which form part of the legislative scheme comprising the eight Bills relating to the law of trusts. I am sure that members will appreciate that, although the adjournments of the debates have been taken by various members in this House, in dealing with any of the seven subsequent Bills I have introduced it is very necessary to study the principal Bill—that is the Trustees Bill—in order to understand the effects of the other Bills.

This Bill is consequential upon the provisions of clause 21 of the Law Reform (Property, Perpetuities, and Succession) Bill. It provides that where property is given to the survivor of two or more children of the testator, and all those children predecease the testator in such circumstances that it cannot be said which of them survived the other or others of them, the gift will take effect as though it had been made to those children in equal shares. It is not proposed to proceed further in the Chamber with this Bill, until the current Trustees Bill is further proceeded with.

Debate adjourned until Tuesday, the 28th August, on motion by The Hon. F. J. S. Wise (Leader of the Opposition).

House adjourned at 5.50 p.m.

Legislative Assembly

Thursday, the 16th August, 1962

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

QUESTIONS ON NOTICE

SCHOOLS IN CANNING ELECTORATE

Technical Institute at Collier Plantation

1. Mr. D. G. MAY asked the Minister for Education:

(1) When will the first stage of the proposed technical institute, Collier Plantation, be commenced?

(2) What is the anticipated cost of the school?

High School at Collier Plantation

(3) Is there any provision made for a high school to be built in the Collier Plantation?

(4) If so, will the high school be under the jurisdiction of the State—that is, a State high school?

Bentley High School: Five-Year Status

(5) In view of the fact that 105 children from Manning attend the Applecross High School and 40 children from Riverton attend Bentley High, will he give consideration to the Bentley High School being extended to a five-year high school?

Mr. LEWIS replied:

(1) Plans are being drawn at the present time but if the honourable member means when will the building actually commence it is not known as yet but it is hoped that it will be towards the end of the current financial year.

(2) This question cannot be answered until the architects have completed the plans.

(3) Yes.

(4) Yes.

(5) A watch is kept on the whole of the metropolitan high school numbers, particularly at post-Junior level, and when it is considered necessary to raise the status of Bentley High School by the addition of a fourth and fifth year this will be done. At the moment it is not considered that this is necessary.

PARKING AT NIGHT TIME

Rear Light on Vehicles

2. Mr. GRAHAM asked the Minister for Transport:

(1) Under what circumstances is a motorist permitted to park his vehicle on a street at night time without the rear light being switched on?

(2) Is there a regulation which permits this?

Mr. CRAIG replied:

(1) Where street illumination is provided in the city block throughout the night, the rule requiring motor vehicles to have parking lights in operation is not enforced.

(2) There is no regulation to permit this, but it is the recommendation of the Australian Road Traffic Code Committee that where street lighting enables a parked vehicle to be clearly observable for a distance of 600 feet, such vehicle need not have parking lights burning.

MURDERS AND HANGINGS

Dates of Occurrence in Past Six Years.

3. Mr. GRAHAM asked the Minister for Police:

(1) On what dates have murders been committed in W.A. during the past six years?

(2) On what dates did hangings take place during that period?

Mr. CRAIG replied:

(1) 1956—

26th January.
28th January.
February-April.
August.
22nd September.
8th December.

1957—
11th February.
22nd February.
2nd April.
2nd May.
6-7th July.
31st July.
8th September.
16th October.
5th December.

1958—
13th January.
25th January.
21st February.
15th March.
30th March.
8th August.
9th November.

1959—
29th January
30th January.
6th May.
23rd May.
22nd June.
22nd October.
31st October.
6th November.
19th December.

1960—
8th February.
23rd April.
13th June.
16th June.
26th June.
4th July.
12th September.
3rd December.
29th December.

1961—
9th January.
19th August.
13th September.
16th September.
24th September.
15th October.
26th October.
28th December.

1962—
20th February.
27th February.
21st April.
11th April.

(2) The 18th July, 1960.
The 6th June, 1961.

RUSSIAN RESEARCH SHIP SCIENTISTS

Government Reception

4. Mr. DAVIES asked the Premier:

(1) Did the Government arrange any official reception or "sightseeing" for scientists from the Russian research ship *Vityaz* which recently visited this State?

Inspection of Government Establishments

(2) Did the Government permit any unofficial inspections of Government establishments including schools, by these visiting scientists?

Mr. BRAND replied:

(1) No.

(2) No request was received.

DAIRYING DISTRICTS IN SOUTH-WEST

Agricultural Department Offices

5. Mr. I. W. MANNING asked the Minister for Agriculture:

(1) What number of Agricultural Department offices are there in the dairying districts south of Pinjarra?

(2) In what towns are the offices located?

(3) Is it intended to establish offices in other south-west towns?

(4) If so, where and when?

Agricultural Department Extension Officers

(5) How many extension officers are employed in the dairying districts, and in what towns do they reside?

Mr. NALDER replied:

(1) Eight.

(2) Albany, Bridgetown, Bunbury, Busselton, Denmark, Harvey, Manjimup, Mt. Barker.

(3) Yes.

(4) Not yet decided.

(5) Albany—
2 Veterinary Surgeons.
1 Stock Inspector.
1 Vegetable Instructor.
1 Horticultural Instructor.
1 Vermin Control Officer.

Bridgetown—
3 Agricultural Advisers.
1 Stock Inspector.
1 Horticultural Instructor.
1 Dairy Technician.
3 Vermin Control Officers.

Bunbury—
1 Veterinary Surgeon.
3 Agricultural Advisers.
2 Stock Inspectors.
2 Dairy Instructors.
1 Horticultural Instructor.
1 Vegetable Instructor.
1 Field Assistant.
1 Irrigation Technician.
1 Fruit Fly Inspector.
1 Weed Control Officer.

Busselton—
1 Agricultural Adviser.
2 Dairy Instructors.
1 Dairy Technician.
2 Vermin Control Officers.

Denmark—
1 Agricultural Adviser.
1 Dairy Instructor.
2 Field Assistants.

Harvey—
2 Agricultural Advisers.
1 Fruit Fly Inspector.

Manjimup—
3 Agricultural Advisers.
1 Veterinary Surgeon.
3 Horticultural Instructors.
1 Dairy Instructor.

Mt. Barker—
1 Agricultural Adviser.
1 Vermin Control Officer.

These figures do not include 21 herd recorders or 15 artificial breeding field operators.

FORRESTFIELD WATER SCHEME

Source of £30,000 Allocation

6. Mr. OLDFIELD asked the Minister for Water Supplies:

(1) Is it a fact that the sum of £30,000 required to finance the Forrestfield water scheme promised during the Darling Range by-election was diverted from the Avon Electorate and thereby deprived the people of Avon from enjoying an adequate supply of water for a further 12 months or more?

(2) If so, how does he reconcile this with the Government's declared policy of decentralisation?

(3) If not, for what purpose was the £30,000 previously allocated?

Mr. WILD replied:

(1) and (2) No. The water supplies for Forrestfield and the Avon Electorate are controlled by two completely separate departments, i.e., the Metropolitan Water Supply, Sewerage and Drainage Department and the country water supplies section of the Public Works Department, and there therefore is no interchange of loan funds.

The £30,000 in question is to provide for a large feeder main in William Street, East Cannington, as a prerequisite to consideration of the Wattle Grove-Forrestfield water scheme and at the same time improve existing supply in Wattle Grove, and meets requests for water from residents in William Street.

(3) For the construction of the William Street main.

PERTH CITY COUNCIL BY-LAW No. 65

Tabling of File

7. Mr. GRAHAM asked the Minister representing the Minister for Town Planning:

(1) Repeating my request for the tabling of the files in connection with by-law No. 65 made by the City of Perth under the provisions of the Local Government Act and the Town Planning and Development Act, why was a single file specially prepared for the purpose?

(2) Where are the missing papers including particularly notes of the discussion between the Minister and Perth City Council on the 16th November last, and ministerial and departmental minutes, notations, etc., made before and after those talks?

Mr. LEWIS replied:

No answer will be given to questions such as these which contain insinuations and are not according to fact.

IRRIGATION

Boyanup-Elgin Area

8. Mr. I. W. MANNING asked the Minister for Works:

What progress is being made towards the provision of an irrigation system to serve the Boyanup-Elgin area?

Mr. WILD replied:

Most of the area has been land classified and surveyed. Investigations are actively proceeding on—

(a) water use on average type soils;

(b) water storage.

FOOTWEAR

Types Manufactured by Local Companies

9. Mr. HAWKE asked the Minister for Industrial Development:

(1) How many classes of boots and shoes have been manufactured by Pearse Bros. in recent years?

(2) How many classes of footwear have been manufactured in the footwear factory referred to by him in his reply to my question on notice on Tuesday last?

Mr. COURT replied:

(1) Twenty-seven.

(2) Six.

NON-GOVERNMENT SCHOOLS: STATE AID

Premier's Comment

10. Mr. HALL asked the Premier:

(1) Is he correctly reported as having said at Bunbury on Monday night, the 13th August last: "The question of State aid to church schools is a controversial question and would become more so"?

Investigation by All-Party Committee

(2) If so, and in view of the fact that the Queensland State Government has already assisted the non-Government schools in that State, will he agree to the forming, in this State, of an all-party committee to investigate the matter of assistance to all non-Government schools, and that such committee also investigate the matter of assistance to parents of children attending Government schools so that all relevant information can be accumulated to enable the State Government to place before the Commonwealth Government a strong case for financial assistance to church schools in this State?

Mr. BRAND replied:

(1) Yes.

(2) I have agreed, at the request of the two Archbishops of Perth, to receive a deputation from a committee which they have jointly appointed, to discuss the question of State aid to church schools.

Until the deputation has had the opportunity of presenting its case, I do not propose to make any pronouncements upon courses of action, such as that proposed by the honourable member.

IRON ORE: SCOTT RIVER DEPOSITS

Establishment of Industry

11. Mr. HAWKE asked the Minister for Industrial Development:

(1) What stage has been reached in the negotiations for the establishment of an industry at Scott River near Augusta based upon local iron ore deposits?

(2) Is it certain that the suggested industry will be established?

Mr. COURT replied:

(1) The establishment of an industry at Scott River near Augusta based upon local iron ore deposits is the subject of the Iron Ore (Scott River) Agreement Act No. 35 of 1961.

The company has completed most of the field work to establish sufficent iron ore reserves for a long-term project.

Port investigation work has proceeded to a point where the company is ready to submit to the Government under the terms of the agreement details of a bulk ore loading terminal capable of handling 1,250 tons per hour and complete the turnround of a 20,000-ton bulk loader in 24 hours. Investigation and testing of technical processes in Britain and on the Continent to treat the Scott River iron ore and produce heat hardened iron pellets have reached the stage where two overseas contractors have submitted tenders to the company for plants capable of producing the required volume of heat hardened pellets. The company's current plans are based on an initial plant capacity of 500,000 tons of heat hardened pellets per year instead of the equivalent of 250,000 tons as originally proposed.

(2) Whether the company is able to proceed to the next and final stage of the agreement and give notice of its intentions will depend on its current efforts to establish overseas markets at economic prices.

RAILWAY MARSHALLING YARDS AT NORTHAM

Selection of Site

12. Mr. HAWKE asked the Minister for Railways:

(1) Has a site yet been decided on for the marshalling yards at Northam in connection with the uniform gauge railway line from Kalgoorlie to Kwinana?

(2) If so, in what area at Northam are the marshalling yards to be located?

(3) If no decision has yet been made, when is a decision likely to be made?

Mr. COURT replied:

(1) No.

(2) Answered by No. (1).

(3) The position should be clarified within a few weeks.

BUNBURY REGIONAL HOSPITAL

Plans and Calling of Tenders

13. Mr. TONKIN asked the Minister for Health:

(1) Are the plans for the Bunbury Regional Hospital being drawn by the Architectural Division of the Public Works Department?

(2) If not, what firm of architects has been given the job?

(3) When is it expected that plans, working drawings and specifications will be completed and ready for the calling of tenders?

Mr. BRAND (for Mr. Ross Hutchinson) replied:

(1) Yes.

(2) Not applicable.

(3) Tenders for the nurses' home will be invited in September, 1962, and for the main hospital building in March, 1963.

COLLIE RIVER BRIDGE AT EATON

Contract, Price and Use of Main Roads Department Employees

14. Mr. TONKIN asked the Minister for Works:

(1) On what date was the contract let for the construction of the bridge over the Collie River at Eaton?

(2) To whom was the contract let and at what price?

(3) What were the circumstances under which employees of the Main Roads Department were put to work on the construction of the bridge, in conjunction with the employees of the contractor?

(4) On what date did employees of the Main Roads Department commence work on the bridge?

(5) How many employees of the Main Roads Department are at present working on the bridge and in what capacities?

(6) Where are the Main Roads Department employees camped and what distance do they travel daily to and from work?

(7) What financial arrangement has been agreed to in connection with the costs involved in employing employees of the Main Roads Department on the construction of the Collie River bridge?

(8) Is it true that a Main Roads Department surveyor is made available each time it is necessary to cut off a pile?

(9) Is a charge made to the contractor for this service?

(10) As the job has been given to private enterprise, why is not a surveyor in private practice employed in connection with the cutting off of piles?

(11) Did he direct the Commissioner for Main Roads to assist the contractor or was action taken by the commissioner on his own initiative?

(12) What precedent exists for the action which has been taken in connection with the contract in question?

Mr. WILD replied:

(1) The 23rd February, 1962.

(2) A. F. Ball & Sons at £32,850 18s.

(3) Unfortunately considerable time was lost in commencing construction of the bridge owing to the lowest tenderer withdrawing his tender, thus making it necessary to re-call tenders. The existing bridge being inadequate in stength for the transport of construction materials for the Laporte Industries project, the completion of the new bridge to the stage where traffic could use it was a matter of considerable urgency, and that is why some key employees of the Main Roads Department were put to work to accelerate the rate of construction.

(4) The 25th July, 1962.

(5) Six—one supervisor, two carpenters, two timber squarers and one truck driver.

(6) Camped west of Brunswick Junction, travelling 14 miles daily to and from the work.

(7) The total expenses incurred by the department in the transfer of the departmental bridge team is deducted from the contractor's progress payment claims.

(8) It is a function of the department to satisfy itself that pile cut-off levels are accurate. Levels are indicated from time to time as may be required before cut-off.

(9) No.

(10) The survey work is only intermittent and a departmental officer is available to carry it out. A surveyor in private practice would not be readily available under these conditions.

(11) The matter was discussed with the commissioner, after which the necessary action was taken.

(12) There has been no comparable precedent. The contractor agreed to allow early use of the bridge for heavy haulage prior to its completion, and an increased rate of progress was to be further attained with departmental assistance.

SULPHUR EXTRACTION

Testing of Kalgoorlie Concentrates

15. Mr. EVANS asked the Minister representing the Minister for Mines:

What is the latest information available as to the project of testing concentrates from Kalgoorlie goldmining ores for the extraction of sulphur?

Mr. BOVELL replied:

A lengthy technical report has been made on the work done to date on this subject, and such report can be made available for the honourable member's perusal, if he so desires.

RAILWAY CONCESSIONS

Suspension During Commonwealth Games

16. Mr. HEAL asked the Minister for Railways:

Is it a fact that during the Commonwealth Empire Games rail concessions will be suspended?

Mr. COURT replied:

No. In fact additional special return concession tickets of single fare plus one half will be issued from the 15th November to the 1st December inclusive, to people travelling from country stations to the metropolitan area.

These tickets will be available for return journey for one month from the date of issue and will apply to travel by rail services and road bus services where no alternative rail service exists.

The normal students' concession fares will also be extended to cover the early closing of schools due to the Commonwealth Games.

ENTERTAINMENT CHARGES

Concessions for Children

17. Mr. HALL asked the Chief Secretary:

(1) Is he aware that certain places of entertainment are charging school children of tender years full admission charges?

(2) If so, upon a case being made out, would he take the appropriate action to ensure that children pay only children's concessional rates?

(3) If he has no authority, will he undertake to introduce legislation to meet the position?

Mr. BRAND (for Mr. Ross Hutchinson) replied:

(1) to (3) There is no price control in this State covering admission charges to places of entertainment, and the charging of half prices to children is a concession on the part of entertainment proprietors.

The Chief Secretary's Department has no authority over prices charged for entertainments, with the exception of Sunday entertainments, where a maximum amount is specified in the Sunday Entertainment License.

It is considered that the present position is satisfactory and it is not intended to introduce any legislation to cover this matter.

TRANSPORT: GOVERNMENT AND PRIVATE

Concessions to Juveniles

18. Mr. HALL asked the Minister for Transport:

(1) Does the Government allow concessional fares to juveniles on all forms of Government and semi-Government forms of transport and, if so, what is the concessional rate and at what age does the concession terminate?

(2) Is there any provision made for juveniles to travel on private bus routes with concessional fares?

(3) If so, what is the amount allowed by private bus companies, and at what age does the concession terminate?

Mr. CRAIG replied:

(1) Yes. Children's fares on rail and bus services are fifty per cent. of the adult fare, or, in certain instances slightly less. The ordinary half fare for children applies from five to fourteen years of age but scholars' concessions apply irrespective of age.

A child between three and sixteen years may travel intrastate by the vessels of the State Shipping Service at a quarter of the adult fare.

(2) Yes.

(3) Conditions in respect of privately owned services are similar to those applicable to Government and semi-Government bus services.

19. *This question was postponed.*

APPRENTICES

Metal Trade Figures

20. Mr. JAMIESON asked the Minister for Labour:

What is the respective trade break-up of the metal trade apprentice figures as supplied by him in answer to question No. 16 on Tuesday, the 14th August, 1962?

Mr. WILD replied:

	30/6/1959	30/6/1962
Metal Trades:		
Blacksmith trades	19	18
Moulding and Coremaking Trades:		
Jobbing, moulding and/or coremaking	49	57
Steel Construction Trades:		
Boilermaking and/or structure steel and/or First Class Welding	227	255
Sheet Metal Working Trades:		
Sheet metal working—first class	90	126
Coppersmiths	15	12
Metal Spinning	—	6
Fitting and Machining Trades:		
Fitting	249	246
Turning	20	87
Fitting and turning	174	263
Machinery — first class	17	27
Brass finishing	3	3
Pattern Making	14	11
Welding — first class	25	78
Turner—machinists	85	—
Electrical Trades:		
Electrical fitting	31	257
Electrical installing	—	215
Auto electrical fitting	1	50
Radio servicing	27	32
Electrical section	314	—
Electroplating Trades:		
Electroplating	9	10
Mechanics and Repairing:		
Motor mechanics ..	381	692
Motor cycle mechanics	4	7
Refrigeration fitters	43	51
Precision Instrument Making:		
Scientific instrument making	2	10
Watch and clock repairing	—	8
Optical	11	11
Trades not elsewhere classified:		
Locksmithing	1	1
Scale adjusting	4	2
Saw doctoring	1	2
Battery fitting	1	—
Engineering (miscellaneous industries)	449	—
Mechanic (office machinery)	—	18
	2,266	2,555

WILSON PRIMARY SCHOOL

Calling of Tenders

21. Mr. JAMIESON asked the Minister for Education:

(1) When is it proposed to call tenders for the Wilson Primary School?

(2) Will he give a guarantee that this school will definitely be available for the beginning of the 1963 school year?

Mr. LEWIS replied:

(1) Provision has been made on the current estimates for this school but the execution of the work will depend on then available funds.

(2) Answered by No. (1).

CANCER PATIENTS

Number Treated by Linear Accelerator

22. Dr. HENN asked the Minister for Health:

(1) Would he inform the House how many patients suffering with cancer have been treated by the linear accelerator since it has been in use, at the Institute of Radiotherapy?

(2) Could he say—

(a) how many were treated as public and private patients;

(b) total number of attendances in this period?

Mr. BRAND (for Mr. Ross Hutchinson) replied:

(1) From the 22nd May, 1961 to the 30th June, 1962—262 patients have been treated.

(2) (a) 134 public patients and 128 private patients.

(b) 5,200.

WATER SUPPLY DEPARTMENT

Tabling of File No. 8140/60

23. Mr. HAWKE asked the Minister for Water Supplies:

Will he lay upon the Table of the House Metropolitan Water Supply Department File No. 8140/60?

Mr. WILD replied:

Yes, for one week.

The file was tabled.

STANDARD GAUGE RAILWAY

Engagement of Maunsell and Partners

24. Mr. HAWKE asked the Minister for Railways:

(1) On what financial basis are Maunsell & Partners engaged by the Government in connection with the proposed standard gauge railway line from Kalgoorlie to Kwinana?

(2) Which phases of the planning and of the actual work will the firm advise the Government upon?

(3) What is the minimum total amount the Government considers it will have to pay to the firm for its activities in connection with the project?

Mr. COURT replied:

(1) Reimbursement of direct costs and payment of a percentage fee on the cost of work designed and/or supervised by the consultants.

(2) To report on the over-all project and to act as consulting engineers for constructional works westward of Northam, also to supervise construction work to formation level between Midland and Northam. It is also intended, subject to Commonwealth approval, to extend these duties to include design and supervision to formation level east of Northam.

(3) To June, 1963, direct costs are estimated at £251,500 and fees at £43,500. Of the total sum of £295,000 the Commonwealth will be required to meet £250,750 under terms of the standard gauge agreement.

In addition other works related to the standard gauge project, carried out by G. Maunsell & Partners, the cost of which is the sole responsibility of the State is estimated to cost £27,000 of which £23,500 are direct costs and £3,500 fees.

Subsequent costs will depend on the extent of the consultants' duties.

QUESTIONS WITHOUT NOTICE

NON-GOVERNMENT SCHOOLS: STATE AID

Deputation to Premier: Date

1. Mr. TONKIN asked the Premier:

Arising from his answer to question No. 10 asked by the member for Albany, what date has been fixed for the deputation referred to by him in connection with State aid for denominational schools? Is it to be before or after the Bunbury by-election?

Mr. BRAND replied:

I have written to the Archbishops and when they learn of the date, the Deputy Leader of the Opposition will also be informed.

PRIVATE MEMBERS' BUSINESS

Consideration of Motion on Mineral Claims

2. Mr. TONKIN asked the Premier:

In the event of Government business being completed before 5 p.m. today would he agree to permit the first item of private members' business to be dealt with in order that the other side to the question of the objection by Hancock Prospecting Pty. Ltd. to the granting of mineral claim No. 292 may be presented to the public a week earlier than would otherwise be the case?

Mr. BRAND replied:

Whilst I anticipate that Government business may finish before five o'clock, unless there is an opportunity in the case of the subject referred to, of a reply by the Government or anyone involved in the debate, I feel I should not give any decision at this point but see what progress we make, especially in view of the fact that a number of Government members are desirous, for one reason or another, of going to Bunbury and having the same opportunities as have so many Opposition members who are absent this afternoon.

IRON ORE: HAMERSLEY RANGE

Proposal for Development by Rio Tinto

3. Mr. TONKIN: I do not think the Premier will be able to get out of this one as easily as he did out of the last one! I ask him:

(1) Was a firm proposal in writing submitted to the Government last year by Mr. Duncan, world chief of Rio Tinto, under which he offered to proceed immediately to invest many millions in iron ore development in the vicinity of Duck Creek near the Hamersley Range?

(2) Did the proposal involve the company in providing all the money necessary fully to carry out its undertaking to build a port to take vessels up to 40,000 tons, provide requisite housing and provide a railway, all without cost to the Government?

(3) Did Mr. Duncan further undertake to make a much larger investment to establish an integrated iron and steel industry in the north?

(4) Will he lay upon the Table of the House Mr. Duncan's letter containing the proposals?

Mr. BRAND replied:

As I had no notice of the question —and I am not being critical about that as it has been done from time to time—

Mr. May: He is drawing attention to it now.

Mr. BRAND: It is being asked merely to draw attention to the matter? Is that what the Deputy Leader of the Opposition intends?

Mr. Tonkin: No.

Mr. BRAND: I am sorry.

Mr. Tonkin: That was not my idea. I want the information.

Mr. BRAND: If the Deputy Leader of the Opposition had given me some time, I might have been able to give the information. But this I want to say to the House: Mr. Duncan, as world chief of Rio Tinto, had discussions of a confidential nature with the Government, and as far as I am aware the letters which followed were of a semi-confidential nature. Certainly Rio Tinto did not put up to the Government any firm proposals involving all these items the Deputy Leader of the Opposition has referred to.

Mr. Curran: What does "semi-confidential" mean?

Mr. BRAND: The member for Cockburn had better keep quiet or go back on the wharf and talk about semi-confidential things.

Mr. Jamieson: Better than selling apples!

Mr. Tonkin: Don't get nasty so early in the sitting.

Mr. BRAND: I would like to say that as far as the suggestion of the Deputy Leader of the Opposition is concerned with regard to the laying of the files on the Table of the House, at this stage at least we do not propose to do so.

I would point out to the House, too, that following the discussions which took place when Mr. Duncan was here, the Government made final decisions on the areas which were to be allotted to the various companies for exploration over a period of two years; and Rio Tinto, along with other companies now associated with it, was one of those which received a very large area with which, I understand, it is very, very satisfied. I am sure that Mr. Duncan would not like the affairs of the company discussed in this House, nor any of the discussions and communications which took place prior to the final decisions of the Government over the leases.

SCARBOROUGH HIGH SCHOOL

Upgrading

4. Mr. NIMMO asked the Minister for Education:

When will the Scarborough High School be upgraded to a senior high school?

Mr. LEWIS replied:

A fourth year will be established in 1963. In 1964 a fifth year will be established, when it will be officially classified as a senior high school.

SULPHUR EXTRACTION

Tabling of Report

5. Mr. EVANS asked the Minister representing the Minister for Mines:

Further to my question No. 15, will he have the report tabled or in some other way made available in the House?

Mr. BOVELL replied:

I have already indicated that the honourable member may peruse these papers himself. As this does not concern my department, that is as far as I can go.

WAR SERVICE LAND SETTLEMENT SCHEME ACT AMENDMENT BILL

Second Reading

MR. NALDER (Katanning—Minister for Agriculture) [2.40 p.m.]: I move—

That the Bill be now read a second time.

At present, if a lessee under the War Service Land Settlement Scheme Act negotiates to sell his property he must ensure that a deposit sufficiently large enough to clear his debt to the Crown is obtained, as the Minister cannot approve of a contract of sale without all debts due to the Crown having first been met.

This has provided a measure of hardship in the case of some settlers, and the purpose of this amending Bill is to enable regulations to be made empowering the Minister to approve of the sale of leases without all Crown debts being first paid.

The proposition has been discussed with the Commonwealth authorities, who have approved of the concession and have accepted the amendment in the suggested form.

The proposed concession will be of great benefit to lessees who have been unable to negotiate to advantage the sale of their leases on terms ensuring that all debts to the Crown are first cleared, and from that point of view this is a very desirable piece of legislation.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr. I. W. Manning) in the Chair; Mr. Nalder (Minister for Agriculture) in charge of the Bill.

Clause 1: Short title and citation—

Progress reported and leave given to sit again, on motion by Mr. Tonkin (Deputy Leader of the Opposition).

FIREARMS AND GUNS ACT AMENDMENT BILL

Second Reading

MR. CRAIG (Toodyay—Minister for Police) [2.45 p.m.]: I move—

That the Bill be now read a second time.

This proposed amendment to the Firearms and Guns Act could be considered to be a minor one. Nevertheless, it is very important to property owners who are situated outside the metropolitan area and other built-up areas of this State.

It is an endeavour to curb somewhat the activity of the indiscriminate shooter, and the Bill has particular reference to the type of sportsman—if we may call him such—known as "the spot light shooter". I think members are fully aware that some of these people go out of an evening seated on the back of a utility or truck equipped with a spot light; and they discharge their firearms from a roadway towards some object or animal on the road; or, for that matter, into private property. That is how danger to people and damage to property occurs.

The Firearms and Guns Act as it stands makes no provision for the shooter operating from a roadway. There is provision for an unauthorised shooter who enters private property and discharges a firearm. He may be penalised to the extent of £10 and have his firearm confiscated, and his gun license cancelled. If he is apprehended in firing from a roadway in what could be considered a dangerous manner, the only way in which he can be treated is under the Traffic Act, when he can be fined up to £20. There is no provision for confiscation of his firearm or cancellation of his gun license.

The purpose of this Bill is to make the penalty more or less uniform. The extent of the penalty will be £10; and an offender's firearm will be confiscated and his gun license cancelled. This will apply to any unauthorised person who knowingly discharges a firearm from a roadway, across a roadway into private property, or, for that matter, from private property on to a roadway. I think members will appreciate the importance of this measure and the dangers which can arise from such a situation.

Mr. Cornell: What constitutes a roadway?

Mr. CRAIG: It is defined.

Mr. Evans: Can the Minister tell me whether there are any circumstances set out in the Property Act which define what might be termed a lawful excuse?

Mr. CRAIG: A proposed amendment to this Act refers to "without lawful excuse, knowingly discharging . . ." I therefore submit this Bill to the House.

Debate adjourned, on motion by Mr. Evans.

IRON ORE (MOUNT GOLDSWORTHY) AGREEMENT BILL

Second Reading

MR. BOVELL (Vasse—Minister for Lands) [2.50 p.m.]: I move—

That the Bill be now read a second time.

I have much pleasure in submitting this Bill for the consideration of the House, because I think it is an endeavour on behalf of the Government to use our iron ore deposits to the best advantage to the State and nationally. I shall outline the general conditions which are contained in the agreement within the Bill itself.

Tenders, closing on the 4th September, 1961, were invited by the Government for the mining, transport, and shipment of up to 15,000,000 tons of iron ore from the Mt. Goldsworthy deposit situated approximately 62 miles east of Port Hedland. The deposit had earlier been diamond drilled by the Mines Department, and such drilling had shown the existence of at least 30,000,000 tons of good grade iron ore. The Commonwealth Government was approached before the calling of tenders, and it agreed to approve export by the successful tenderer of up to 15,000,000 tons from the lens at the deposit, subject to—

(a) the annual rate not exceeding 1,000,000 tons;

(b) the make-up of the ore parcels of which export would be allowed being a mixture of the two grades of ore in the same proportions as the proportions in which the reserves of 30,000,000 tons referred to contain ore that was above and below 60 per cent. iron content. This was to ensure that some slightly lower grade ore shown in the drilling operations should also be produced proportionately and included in export, and thus the remaining 15,000,000 tons not be of lower grade than that exported;

(c) the successful tenderer carrying out an exploration programme of the Mt. Goldsworthy deposit on a basis that is acceptable to the Commonwealth and State Governments.

The Government tender called for the development of the deposit; the construction of a loading berth and ancillary harbour facilities at Port Hedland, or at an alternative site; and the provision of transport facilities by road or rail between the site and the harbour.

Six tenders were received and were finally examined and closely considered by a Cabinet subcommittee, comprising the Premier and the Ministers for the North-West, Mines, and Works. The joint tender of Consolidated Gold Fields (Australia), Cyprus Mines Corporation, and Utah Construction and Mining Company, known as the Joint Venturers was finally accepted as offering the best return to the State in all respects.

An agreement as in the schedule to this Bill was then negotiated as the result of long and exhaustive discussions and meetings. Under the agreement the major obligation of the State is to provide the necessary titles to the Joint Venturers in regard to the mining deposit, a railway, townships, a causeway from the shore to the island, and a harbour. The agreement provides, firstly, that the Joint Venturers would, within one month of execution, be granted a temporary reserve of the Mt. Goldsworthy iron ore deposits for a term of 18 months. The Joint Venturers then have to carry out an intensive programme of geological exploration of the deposit, and fully investigate all other matters such as a railway route, water sites, water supplies, town sites, market prospects, etc.

Once the Joint Venturers have satisfied themselves that the project is economic they are required to give the State formal notice that they intend to proceed with the rest of the project. If on the contrary their investigations prove unsatisfactory, they can notify the Government that they do not intend to proceed any further. In the event of their deciding to continue they must—

(1) develop the mine and fully equip same with all necessary mining and power plant and gear capable of handling not less than 3,000 tons of ore per day;

(2) lay out and provide a town near the mine including roads, amenities, school, water, and other necessary services;

(3) construct a 4 ft. 8½ in. railway line from the mine to the wharf at Depuch Island, and provide for the running of such railway with sufficient locomotives, freight cars, and other stock to haul the tonnage of ore to be produced.

Mr. W. Hegney: When do they expect the line to Depuch Island to be completed?

Mr. BOVELL: That will depend on negotiations that will proceed, and if the honourable member had been listening—

Mr. W. Hegney: I am listening.

Mr. BOVELL: —he would have heard me say the Joint Venturers were studying the economics of the proposition, and they have to give the State notice of their intention to proceed.

Mr. W. Hegney: Have you any idea when it will be done?

Mr. BOVELL: I cannot give any indication at the moment.

Mr. W. Hegney: That's the answer. Thanks very much.

Mr. BOVELL: To continue with the requirements—

(4) construct a causeway from the mainland to Depuch Island, a distance of approximately three miles, and a railway and road thereon;

(5) erect upon the island a wharf, workshops, screening, stockpiling, bulk handling, loading installations, power house, and plant adequate to load ships of not less than 30,000 tons dead weight.

They are to make available the wharf facilities, causeway and approaches for use by third parties so long as this shall not interfere with their operations;

(6) carry out such dredging to the approaches to and the swinging basin at the island as they may consider necessary to accommodate ships of the tonnage required;

(7) erect a Depuch townsite of the extent required with suitable housing facilities, schools, amenities, water supplies, etc.;

(8) royalty: The Joint Venturers are required to pay to the State royalty on all ore shipped (other than beneficiated ore) at the rate of 7½ per cent. of the f.o.b. revenue, with a proviso that such royalty shall not be less than 4s. 6d. per ton—7½ per cent. would be approximately 6s. on present values. On beneficiated ore, and this means ore which is not high enough in grade to be direct shipped, and which is before shipment treated in some way—such as pelletising, concentrating, or sintering—the royalty is 1s. 6d. per ton.

This lower royalty is in accordance with the Government's desire to encourage the erection of treatment plants for processing our minerals. Such treatment

plants would employ large numbers of men and would treat the lower grade ores;

(9) rental: The Joint Venturers have to pay £1,800 per annum as rental for the mining lease;

(10) term: The term of the Agreement shall be 21 years, and it shall continue thereafter for successive periods of 21 years as long as the Joint Venturers give notice of their desire to continue and with an obligation to continue to ship not less than 1,000,000 tons in any financial year.

The Joint Venturers in all these matters must consult with the State and with the various State authorities concerned. The State has preserved rights and areas on the island which will enable it to ensure the use of the port and island should subsequently other producers or parties desire to export therefrom. In effect, the Joint Venturers are being leased such areas as are necessary only for their own project, and this will leave areas for others if required.

The State has selected its own harbour advisers in Rendell, Palmer and Tritton, and the Joint Venturers must consult with such advisers in connection with the erection of port facilities and general development and utilisation of the island as a deep-sea port. At the end of 20 years the Joint Venturers must also pay 2s. 6d. per ton for all ore thereafter shipped with a minimum payment of £75,000 per annum. This is entirely independent of the royalty charge.

The Joint Venturers, if they proceed with the project will spend in the vicinity of £12,000,000 on the full programme of works. Already they have made great progress in their investigation work and have a considerable staff of experts mining, surveying, and examining. Our latest advices are that the ore deposit is standing up very well to the mining examination. It is anticipated that the time required to bring the whole project into being will be approximately 3½ years.

Although at the present time the Commonwealth Government's permit to export is limited to 1,000,000 tons for 15 years, the agreement envisages and provides scope for greater tonnages subject, of course, to Commonwealth permission, and the State Government is naturally very anxious to see this industry promoted on a long-term basis. Its value to the State can be gauged from the details given. The agreement itself is detailed and clear. It is significant to say that this is an agreement whereby the Joint Venturers take all the pecuniary risk, and the State is practically free of any financial obligation whatever.

Debate adjourned for one week, on motion by Mr. Sewell.

BUSINESS NAMES BILL

Second Reading

MR. COURT (Nedlands—Minister for Industrial Development) [3.7 p.m.]: I move—

That the Bill be now read a second time.

This is the third Bill to be introduced into the Western Australian Parliament which has been framed as a result of co-operation between the Commonwealth and State Attorneys-General. The subject of business names is closely related to parts of the law relating to companies, and it is essential that the law regulating the use of business names be kept in line with the law regulating the use of company names.

Apart from that point, the law of business names affects the commercial community throughout Australia and some considerations which made uniformity in the company law desirable apply in this field. In Western Australia there has been no substantial revision of this law for 20 years. The Bill, however, does not make great changes in principle to the law, but a new requirement is that a resident agent must be appointed when the persons in respect of whom the business name is registered are outside the State, or have no fixed address within the State.

This should be a useful provision as it will facilitate the control of undesirable business practices, especially by itinerant vendors in the country. I think all members will agree with that proposition, and it is difficult to understand why something has not been done about it in the past.

At the moment, anybody from another State can register a business name in Western Australia and carry on business under that name. A resident of this State who seeks to claim against those people may find that they all reside outside Western Australia and that there is no ready means of redress. This Bill provides for the appointment of an agent who is resident within the State and then process can be served on him. The law relating to what names may be registered is now stated in similar terms to the law contained in the Companies Act passed by this Parliament last year.

A draft Bill relating to business names prepared under the direction of the committee of Attorneys-General was circulated widely to interested organisations throughout Australia and the Bill now brought before this Parliament has been revised in the light of the comments received. However, the greater part of the Bill is substantially the same as our present Business Names Act, 1942, and those changes that the Bill will make in the law will be readily adopted by the business community.

Laws in similar form to this Bill have already been enacted by the Parliaments of the States of New South Wales and

Victoria. It is expected that the remaining States will shortly follow suit. I am confident that the Bill will meet the needs of commerce in this State and will produce additional safeguards against some doubtful practices. The Bill provides that the Act shall come into force on a date to be fixed by proclamation and it is intended that that date will be the date the Companies Act, 1961, commences operation. I commend the Bill to the House.

Debate adjourned, on motion by Mr. W. Hegney.

COMPANIES ACT AMENDMENT BILL

Second Reading

MR. COURT (Nedlands—Minister for Industrial Development) [3.10 p.m.]: I move—

That the Bill be now read a second time.

Members will recall that when the Companies Act, 1961—that is, the one known as the uniform Act—was before this House as a Bill, an undertaking was given that it would not be brought into operation in the State until it had been amended to bring it into conformity with the uniform Bill in the form as finally agreed to by the Standing Committee of Attorneys-General; and as it has been since enacted in New South Wales, Victoria, Queensland, and the Australian Capital Territory.

This Bill is intended to, and does, bring our new Companies Act broadly into line with the Acts now operating in the places I have just named. In addition to the amendments needed for uniformity purposes, the Bill contains two matters; where there is by reason of other local laws the need for special provisions which will be peculiar to this State.

The first of these concerns the bringing into the registration system under the Companies Act all company charges which are subsisting and registered under the Bills of Sale Act at the commencement of the principal Act. Instead of being re-registered under the Bills of Sale Act on the appropriate renewal dates, all such charges will need then to be registered under the Companies Act. The second variation from the standard provisions is designed to obviate the necessity for lodgment of two annual returns by any company in the year of commencement of the new Act.

Some information regarding the more detailed provisions of the Bill is, firstly that the Bill provides that the Amendment Act shall come into operation on the day the principal Act comes into operation. The Bill also ameliorates, or seeks to ameliorate, the conditions under which an auditor of a company may be disqualified by reason of conditions existing prior to the commencement of the principal Act.

Yet another provision extends slightly the number of interrelated companies which may qualify as exempt proprietary companies. It also allows the shares in a proprietary company to be held by a non-profit company without that fact affecting the status of the former as an exempt proprietary company. The clause also provides that where redeemable preference shares in a proprietary company are held by a public company, that shareholding will not of itself affect the proprietary company's status.

Provision is included to ensure that where a person is disqualified from acting as auditor, he must knowingly so act to become liable to penalty. The clause also confers on the Companies Auditors Board a discretion to excuse a breach in a special case.

There is a provision for information to be included in a return of lodgment of shares making a disclosure of the full name of the allottee where he is, for example, an oriental and consequently may not have a surname as we understand the term. Part of the particular clause is to give the registrar power to dispense with the production of a stamped original contract relating to the allotment of shares at the time of the filing of a certified copy of that contract.

There is an amendment which permits the use of the share premium reserve in the creation or building up of the statutory reserve required to be maintained by Commonwealth law in the case of a life insurance company. It is also intended in the Bill to establish beyond doubt that section 68 applies only to option to take up shares granted after the commencement of the Act. The Bill is also designed to permit a corporation to act as trustee for debenture holders, where it might otherwise be disqualified by subsection (5) of section 74. Certain limits are imposed in the amendment which will ensure that the trustee corporation will be, for practical purposes, independent of the company issuing debentures to the public.

There is a provision in the Bill which gives the registrar power to extend the time in which a company is obliged to furnish to any person a copy of the whole or any part of its register of members. It also gives power to ensure that no local company is obliged, by reason of section 158 of the principal Act, to file two annual returns in this calendar year.

There is a provision which permits a foreign company opening a branch register in this State, but not otherwise carrying on business here, to register for a concessional fee. A further provision in the Bill adjusts the scale of fees, and incidentally reduces the capital fee of the registration of a foreign company to one-half of the rate prescribed on the incorporation of a local company. Provision

is made for the amendments necessary to tables A and B (which are normally referred to as statutory articles) so as to make them consistent with the body of the Act.

In another clause there is provision which rewrites requirements concerning the contents of company accounts. This rewrite is the result of close analysis that had been made by the various institutes of accountancy after consultation with their executive bodies as part of the work of this joint committee of Attorneys-General.

The Companies Act is an important piece of legislation for industry and commerce. This is part of the attempt that has been made for many years to achieve a degree of uniformity. I suppose it is impossible to have complete uniformity; but members will appreciate when they study the Bill in conjunction with the Act passed last year, that the Attorneys-General have gone as far as is reasonable or humanly possible towards achieving this uniformity throughout Australia, and so removing many anomalies.

I should make it clear that it was intended to proclaim the uniform companies Act on the 1st October. However, this will be contingent, first of all, on the passage of this particular piece of legislation, and on a review of the situation that has taken place in all other States to ensure that this State falls into line, as near as possible, with the attempts at uniformity.

Debate adjourned, on motion by Mr. Jamieson.

GRAIN POOL ACT AMENDMENT BILL

Second Reading

MR. NALDER (Katanning—Minister for Agriculture) [3.20 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to amend the Grain Pool Act, 1932-1961. It will be recalled that during the 1961 parliamentary session the name of the Wheat Pool Act was changed to the Grain Pool Act. The major reason for this action was the fact that the pool was not confined to the handling of wheat alone, and the use of the word "grain" was therefore much more appropriate.

Unfortunately, in dealing with this matter, the necessity to change the name of the corporate body from "The Trustees of the Wheat Pool of Western Australia" to "The Grain Pool of W.A.", was overlooked and the purpose of this amending Bill, therefore, is to put the matter in order.

In drafting this legislation, the Crown Law Department has recommended that the opportunity be taken to delete the interpretation of "Minister" as this is unnecessary in view of the provisions of section 4 of the Interpretation Act, 1918-1957. The other amendments in the Bill are consequential.

Debate adjourned, on motion by Mr. Hall.

SUPERANNUATION AND FAMILY BENEFITS ACT AMENDMENT BILL

Second Reading

MR. BRAND (Greenough—Treasurer) [3.23 p.m.]: I move—

That the Bill be now read a second time.

This is yet another short Bill. It contains an amendment which follows the amendment made to the Superannuation and Family Benefits Act which was passed by Parliament last year. The Bill seeks to rectify the position in regard to employees contributing to the provident fund established under the Superannuation and Family Benefits Act who, although fit for appointment under the Public Service Act, were not acceptable for membership in the superannuation fund.

It will be recalled that last year an amendment to the Act was passed by Parliament which provided for a subsidy by the State where the provident subscriptions were made to the superannuation fund as a condition of service. However, no retrospective effect was provided in the legislation, and only those subscriptions made after the date of assent to the amendment—that is, after December, 1961—would be subsidised.

Approximately 20 subscribers covered by the Act, who had previously been subscribing to the account for as long as ten years approximately, prior to December, 1961, would suffer by the non-effective application of the amendment. It has been considered that the principle of subsidisation in respect of the employees concerned applies equally to the past, as well as to the future subscriptions. The proposals now submitted will remedy that situation by giving retrospective effect to last year's amendment to the Act.

The cost to the State will be approximately £9,000 spread over a number of years as the retirements take place. We cannot give an assessment of that period, but as the employees retire they will benefit as a result of the amendment made last year.

Other minor amendments included in the Bill are all concerned with the subject of the provident account conditions, and they will rectify minor doubts as to the definition of condition of service, by particular reference being made to only those employees who, because of inability to pass the required medical examination for entry into the superannuation scheme, or because

of old age, would be covered by the subsidy provisions relating to the provident subscriptions.

The amendment made to the Act last year corrected an anomaly which was being suffered by those who were not medically fit to make the grade for entry into the superannuation fund. This Bill simply makes retrospective the provisions of that Act.

Debate adjourned, on motion by Mr. Tonkin (Deputy Leader of the Opposition).

BILLS (3): MESSAGES

Appropriation

Messages from the Governor received and read recommending appropriation for the purposes of the following Bills:—

1. Iron Ore (Mount Goldsworthy) Agreement Bill.
2. Business Names Bill.
3. Superannuation and Family Benefits Act Amendment Bill.

PRIVATE MEMBERS' BUSINESS

Consideration of Motion on Mineral Claims

MR. BRAND (Greenough—Premier) [3.28 p.m.]: I would like to inform the House I have agreed with the Deputy Leader of the Opposition that he should proceed with his motion on the notice paper, that being a private member's motion. I want it to be clearly understood that in arriving at my decision I am not setting any precedent whatsoever. On this occasion the Government business has been completed quite early in the day, and the honourable member has requested that he be permitted to go forward with his motion. I hope there will be enough time left today to enable the Government to reply, if necessary.

MINERAL CLAIMS

Royal Commission on Minister's Actions: Motion

MR. TONKIN (Melville—Deputy Leader of the Opposition) [3.29 p.m.]: I move—

> That the action of the Hon. Minister for Mines in refusing to accept the decision of Warden N. J. Malley that the objection by Hancock Prospecting Pty. Ltd., to the granting of Mineral Claim No. 292 was dismissed with costs to be taxed and in rejecting his recommendation that Mineral Claim No. 292 W.P. subject to survey and to the excision therefrom of P.A. 284 be granted to the Depuch Shipping and Mineral Co. Pty. Ltd., thus enabling the firm of Lohrmann, Tindal and Guthrie to obtain by administrative act a decision which it failed to obtain in the Warden's Court and which may make a difference of £40,000 one way or the other, to the parties concerned, appears to be lacking in the principles of law, equity and justice, and to be inconsistent with his action in the case of James Moffat Henderson and Elizabeth Henderson—Objection to Application by E. J. Pike and J. W. Jeffreys.
>
> The further action of the Hon. Minister for Mines in directing that a survey of the lands known as "Mineral Claim 90" and "Mineral Claim 292" be carried out, in order to cure the invalidity of the application made in July, 1956, by Langley George Hancock appears to be unlawful and not capable of proper execution.
>
> Grave public disquiet having resulted from the actions of the Hon. Minister, it is imperative in the public interest and for the preservation of public confidence in the impartial administration of the law that a Royal Commission be immediately appointed to inquire into the matter and make recommendations to enable Parliament to take such steps, if any, as it considers necessary or desirable to deal with the situation which has arisen.

I wish to thank the Premier for agreeing to my request in connection with this motion. I did study the notice paper for today very carefully before I put the request to him, because I calculated that we would not be engaged for more than one hour and a half on Government business. I felt it was not unreasonable, in view of the large amount of time left, for me to debate this matter.

I am very appreciative of the Premier's action in agreeing to my request. I shall endeavour to complete what I have to say well within the time left, to enable a reply to be made by the Government this afternoon, if it is felt desirable to do so.

As I have said in the motion that certain acts of the Minister were unlawful, it is necessary, in order that my argument may be followed properly, to quote the law. It is not much good saying somebody is not obeying the law, without showing what the law is. This being done, members would be able to form their own judgment.

Windeyer is very clear on ministerial responsibilities. I have his *Legal History* here with the pages marked, and I have made an extract from them. These are the relevant extracts which I desire to quote. They are as follows:—

> The King's Minister of State who acts in contravention of the law can be brought before the King's Court.
>
> This doctrine of Ministerial responsibility is accepted today.
>
> It is the duty of the servants of the Government to carry out lawful orders —it is equally their duty to disobey unlawful orders.

So, if a Minister gives an order which is unlawful, the person to whom the order is given cannot say, "I am doing this because I was ordered to do so by the Minister". It is his duty to disobey the order if it is an unlawful order. The Act of Settlement says—

> The laws of England are those of the people thereof and all the Kings and Queens who shall ascend the throne of this realm ought to administer the Government of the same according to the said laws and all their officers and Ministers ought to observe them, respectively, according to the same.

In simple words, it means that Ministers of the Crown must obey the law. They cannot put themselves above the law and do something which the law gives them no power to do. Finally, I wish to make a quotation which I took from *Halsbury's Laws of England*, Third Edition, page 235, paragraph 506, which reads as follows:—

> The Crown in Relation to the Executive:
>
> There is no act of the executive for which some officer or Minister of the Crown is not responsible, and for which he may not be made liable either to punishment upon an impeachment or in a court of law in the case of tortious or criminal acts or, in the case of bad advice given to the Crown, to censure or loss of office.

This question with which I am dealing concerns the administration of the Mining Act and the regulations; and I propose to quote the relevant regulations. They are as follows:—

> Regulation 147. Every mining tenement not previously surveyed shall be taken possession of and marked off by fixing firmly in the ground at each corner or angle thereof (or as near as practicable thereto) a substantial post or cairn of stones projecting not less than three feet above the surface and set in the angle of two trenches, not less than four feet in length and six inches deep, and cut in the general direction of the boundary lines. When the nature of the ground will not permit trenches being cut, rows of stones of similar length shall be substituted. The boundary lines shall also be cleared from post to post.
>
> Regulation 148. One of the corner posts or cairns shall be the datum post, and thereon or in proximity thereto shall be firmly fixed, at the time of marking off, a notice in the form No. 22 in the Schedule, setting out the particulars therein prescribed.
>
> Regulation 150. A person duly marking off and posting a notice shall, subject to the provisions of the Act, have an exclusive right to the ground for the purpose for which it is marked off, pending registration where registration is necessary.
>
> Regulation 151. It shall not be necessary to mark off ground which is identical with any forfeited, abandoned, or surrendered mining tenement which has been already surveyed, but the prescribed notice shall be affixed to one of the existing survey posts, and all other provisions shall be complied with.
>
> Regulation 152. Anyone who marks off more ground than he is entitled to shall be liable to have the surplus ground marked off at either end or side, at the option of any other miner or person who may desire to occupy such surplus, but the original occupant shall be entitled to retain that portion of the ground which contains his workings or on which any permanent building has been erected.
>
> Regulation 154. Every application for a mining tenement shall be accompanied with or contain a sketch showing the boundaries of the land, which shall be fixed where possible by reference to some existing survey mark, or to some feature on the land, or adjacent thereto—

I want members to keep those words clearly in mind because they have a very definite bearing on what I am going to say. I refer to the words, "to some feature on the land, or adjacent thereto;" and the word "adjacent", of course, has a very precise and definite meaning. Continuing—

> —and where it has reference to an underground tenement it shall show the portion of the surface, if any, required by the applicant.

The rest of the regulation I do not propose to read, because it has no application to the question in hand. Continuing with other regulations—

> Regulation 162 (a). No holder of a mining tenement other than a lease shall abandon same without executing and lodging for registration, within 14 days of such abandonment, at the Warden's office in the goldfield in which such mining tenement is situate, a surrender in the form No. 15 in the Schedule.
>
> Penalty £10.

I want members to note this particularly: In this regulation "abandonment" means non-compliance with the labour conditions imposed by the Act and these regulations for a period of 14 consecutive days excluding, however, any period during which exemption is granted. Continuing with the regulations—

> Regulation 166. The holder of any mining tenement, or any shareholder therein shall point out the corner

posts and boundary lines to any person requiring the information, provided that the request be made at a reasonable time during working hours.

Having laid the basis for what I propose to say, I shall proceed with the argument. James Moffat Henderson and his wife Elizabeth Henderson pegged a claim and proceeded to work it and produced some 30 tons of metal from the claim. But two gentlemen, called E. J. Pike and J. W. Jeffreys, pegged over them and lodged a claim to the area, and the Hendersons lodged an objection on the grounds that overpegging of their claim was taking place. They had not abandoned it; they were entitled to it; it had been properly pegged; they had observed the law; and the people who had overpegged were not entitled to the claim.

The solicitor acting on behalf of the Hendersons wrote this letter to the Minister for Mines on the 8th September—

> Re Mining Act, 1904-1957—in re James Moffat and Elizabeth Henderson—objection to application by E. J. Pike and J. W. Jeffreys for Mineral Claims No. 625 and 626 in the Pilbara Gold Fields.
>
> On the 22nd ult. the Warden delivered a reserved decision in the Warden's Court at Marble Bar on the applications of E. J. Pike and J. W. Jeffreys for mineral claims No. 625 and 626 respectively in the Pilbara Gold Fields and on the matter of an application by my clients the Hendersons to amend the description of Prospecting Area No. 2614.

Now before I proceed to read the rest of the letter I wish to point out something so that the contents of the letter can be more readily followed.

Members heard me read the regulation which says that when a description of a claim is being given its position is to be related to some feature on the ground or adjacent thereto. When the Hendersons made claim to their prospecting area they described its position as being 10 miles south-south-east of Mt. Edgar homestead. What they should have said was that it was 10 miles south-south-east of Mt. Edgar, Mt. Edgar being some 10 miles away.

Now by no stretch of the imagination can that be considered adjacent thereto. So if they had not included any description or any reference whatever to Mt. Edgar homestead or Mt. Edgar they would not have lost this case in the Warden's Court; but by relating it in error to Mt. Edgar homestead instead of Mt. Edgar they lost the claim. The warden dismissed their objection and granted the claim to those who had overpegged. It was against that decision in those circumstances that this letter was written. And now I proceed to quote—

> In consequence of his finding on the facts and his interpretation of the law the Warden has recommended the granting subject to survey of the mineral claims to the applicants and rejected my clients' application to amend the description of Prospecting Area 2614 so my clients have instructed me to make a submission to you showing cause why you should not approve of the recommendation of the Warden.
>
> My clients were registered as the holders of Prospecting Area No. 2614 in the Pilbara Gold Field on the 14th of June 1960 and entered into occupation of the ground comprised therein.
>
> .Had my clients not specified any feature pursuant to Regulation 154 in their application for the prospecting area it would in no way have affected the merits of the application nor invalidated the registration.
>
> In an effort to comply with Regulation 154 they selected as the Feature Mt. Edgar ten miles or thereabouts distant from the grounds marked out but in error wrote Mt. Edgar Homestead.
>
> In my opinion such an error could not invalidate the application for the prospecting area nor abrogate its registration.
>
> If an objection had been taken to the application on the grounds of the above error it is difficult to conceive the objection being upheld because even if it could be regarded as a misdescription it is too inconsequential to support an objection in addition to which Section 247 of the Act would have applied.
>
> Before a year had elapsed from the registration of the prospecting area applications were made by Pike and Jeffreys respectively for mineral Claims 625 and 626 over ground which included that alienated by Prospecting Area No. 2614.

Mr. Burt: Were they working the prospecting area at the time?

Mr. TONKIN: They produced 30 tons. However, at that particular time he had an accident to his eyes and was away.

Mr. O'Connor: Over what period was the 30 tons obtained?

Mr. TONKIN: Only a matter of a few months.

Sitting suspended from 3.45 to 4.5 p.m.

Mr. TONKIN: The letter I was quoting proceeds—

> Apparently at this time or in consequence of applications by Pike and Jeffreys my clients became aware of

the misdescription of The Feature and made an application to amend the description of prospecting area 2614.

It seems to me that the application was misconceived quite unnecessarily and that the decision of the warden does not revoke the registration of prospecting area nor affect the rights of my client to occupation of the ground comprised therein at the time mineral claims were marked out.

Henderson lodged objections to the applications by Pike and Jeffreys alleging that some of the ground sought to be taken as mineral claims were already alienated in prospecting area 2614.

As the expense involved precluded my clients from having counsel representing them at the Warden's Court in Marble Bar a submission for presentation to the court was prepared for him and three copies despatched on the 7th of July, 1961, for use by him on the 18th of July, 1961, by tendering one to the warden the other to the other parties and one for his own use. The submission that was to be tendered reads:—

(1) Prior to the 13th June, 1960, I marked off a prospecting area to be registered in the names of myself and my wife Elizabeth Henderson.

(2) At the time both myself and my wife held miners' rights and so were entitled to mark off the land under the provisions of regulation 5.

(3) The land was marked off strictly in compliance with the provisions of regulation 147.

(4) My wife and myself took possession of the land marked off as we were entitled to do by section 26 (1) of the Mining Act and by regulation 150.

(5) Application on Form 23 was made for the registration of the prospecting area and the area was registered.

(6) It is desired to draw attention to the wording of the application, particularly these words: "We hereby apply for registration of the land taken possession of and marked off by us on . . ."

(7) It is submitted that we applied for and got registered all the land we had actually marked off and that we did not and could not have applied for nor have registered any other piece of land.

(8) Form 23 goes on to say: "The land is more particularly described in the Schedule hereto"; this is thereby ancillary, being a description in words of the land marked out, starting from the all-important datum peg, and does not mean a geographical description of the area in which it is situated.

(9) What is important in this regulation is that the boundaries of the land marked off shall be disclosed starting from the datum peg reference to any other point being more amplification and to better fix if possible the site of datum peg but it is procedural and does not affect the substantial claim "to the area marked off."

(10) Form 23 also provides "and the position thereof is shown on the annexed sketch or plan." Regulation 154 provides that every application for a mining tenement shall be accompanied with or contain a sketch showing the boundaries of the land which shall be fixed where possible to some existing survey mark or to some feature on the land or adjacent thereto. There was no survey mark. There was no feature on the land except perhaps the old shaft, nor was there any feature adjacent thereto. A geographical landmark ten miles away is not adjacent to the land. The reference to the Mt. Edgar Homestead is mere surplusage in the application and colourless and does not alter the substance of the application "for the land marked off."

(11) In the circumstances P.A. 2614 was properly marked off applied for held and registered on the 13th day of June, 1960.

(12) Therefore this area could not be marked out for a Mining Tenement by any other persons during the ensuing twelve months.

(13) If the prospecting area was not worked every day that does not cancel it but merely makes it liable to forfeiture. There has been no application for forfeiture but even if there were such an application the Warden could accept our explanation for the omission.

(14) If during the period of twelve months during which we held the P.A. our Mining Rights expired, section 39 (1) of the Mining Act cured the omission by the antedating of the renewal to the date of expiry of the previous one.

In the circumstances objection must be upheld.

On the 21st of July, 1961, a letter was received from my clients informing me that my communication containing the submissions although dated the 7th of July, 1961, did not reach them until the morning of the 18th

of July, 1961, and then only after the husband had left for Marble Bar to attend the Warden's Court.

My clients informed me that during the hearings in the Warden's Court Pike admitted that he Pike "had pushed Henderson's datum peg over."

Such an admission would show that Pike had warning that the ground had been marked out and put the onus on him of checking at the office of the Registrar to ascertain whether the ground was alienated and in any event it would or should have completely destroyed his standing in the Court for pushing over "datum pegs" is not very favourably looked upon on Mineral Fields nor in the Courts.

I have perused what purports to be a copy of the reasons given by the Warden for his findings from which it is obvious that the Warden interpreted the law as being that unless my client were allowed to correct the records by altering The Feature from "Mt. Edgar Homestead" to "Mt. Edgar" their prospecting area became void *ab initio*. It is submitted that this is a completely wrong view of the law.

There does not seem to be any power to revoke a prospecting area after registration and even if at the correct time objection had been taken to the application for the prospecting area based upon the error in describing The Feature, Section 247 of the Act would have come to the aid of the applicant and the record would then have been amended.

If a mining tenement could become cancelled *ab initio* on discovery later of some error or defect even of a very unsubstantial nature in the application then great uncertainty will prevail on the mineral fields and severe hardships may be inflicted particularly on the backbone of the industry the prospectors.

The Warden says "There is a general laxity in the Pilbara area concerning marking off lodging of applications working conditions and applications for exemption far too little regard being paid to the requirements of the regulations on which a miner's title to ground is based.

It is thought that this statement would be more complete if after the word "regard" there had been added the words "by Wardens dealing with applications for forfeiture for non-compliance with labour conditions."

Why start the very desirable reformation by selecting a *bona fide* prospector like Henderson without warning.

The Warden says *inter alia* "no real attempt had been made by Henderson to peg". "No more than nominal pegging had been carried out". "It is doubtful whether pegs were fixed at the other corners". These are very vague expressions and seem to bypass substantial issues as for instance was there a datum peg and if so did Pike push it over?

Does the term "other corners" mean two or three corners?

It is to be noted that the Warden does not say there were not four pegs one at each corner.

It is contrary to all legal thinking to assume that something has not been done because there is a doubt whether it has been. The presumption in favour of things having been done correctly must prevail *omnia esse recte acta praesumuntur*.

On the finding of the Warden, Henderson is entitled to be given the benefit of the doubt particularly as he testified to four pegs.

It is difficult to see how whether Pike was put on inquiry is relevant to the question whether there was a Prospecting Area registered over the ground he marked out.

It is understood that evidence was given that Pike saw Henderson work the grounds inspected the copper lode with Henderson and borrowed equipment from Henderson on the ground so if that plus seizing a datum peg did not put him on inquiry what would?

The Warden also says "although there is no provision in the Act or regulations for amendment to description of claims it is obvious that such a power must exist to correct errors particularly reference points which are frequently likely to prove incorrect in a sparsely settled area."

There is power and very wide power in Section 247 of the Act to correct errors, in fact there is not only power to correct but the Act makes it mandatory on the court to do so. The Warden should have dealt with ground in the Prospecting Area not what someone said about it.

It is admitted that the Warden confused the functions of The Feature mentioned in Regulation 154 erroneously thinking it to be a part of the description of the land marked out instead of a point for the purpose of more easily finding the location of the ground concerned.

What is in the prospecting area is the ground marked out and occupied and shown in the sketch or plan that must accompany the application.

For the reason stated above it is claimed that the Warden was wrong both in law and on the facts and that it was not open to Pike and Jeffreys to mark out the ground comprised in Prospecting Area 2614.

Under Section 276 of the Mining Act, 1904-57, Crown land may be reserved by the Minister from occupation as a mining tenement and then the Minister may authorise any person or persons to occupy it.

It seems that once the land is reserved no part of it can be marked out as a mining tenement and there are no pre-requisites to reservation such as marking out. All the Minister has to do is specify the land he is reserving, being free to use whatever means of identifying the ground reserved he may choose.

The Minister reserved a certain parcel of land in reserve No. 1852H and adopted a very practical method of identification to wit a sketch on which there are a number of well defined points from which a surveyor could start to find the boundaries.

Inquiries have disclosed that starting from the mistake about The Feature relating to Prospecting Area 2614 the syndicate asked for temporary reservation to be made and this was done.

The ground reserved is that shown in the plan on which the Minister acted and it seems to me that the erroneous inclusion of Prospecting Area 2614 on the Plan or the fact that the ground included was not what the requisitionists really desired could not affect the location of the ground so reserved.

It seems clear that neither Prospecting Area 2614 nor Mineral Claims 626 and 626—

I think there is some error there. Continuing—

—are located on Temporary Reserve 1852H and the objection on that ground was misconceived but that the Warden is in error in saying that the applicants for the Temporary Reservation are "bound by the terms of their application." They are bound by the Minister's decision as to the ground being reserved and he did not reserve the land surrounding Prospecting Area 2614 but that specified in a certain plan.

Because it is the actual ground that determines the matter the point on which the objection that the ground applied for as Mineral Claims was part of Temporary Reserve 1852H fails inevitably makes good the objection that the part of the ground applied for was covered by Prospecting Area 2614.

It is therefore requested that you do not approve of the recommendation of the Warden on the grounds that:—

(a) It was contrary to the law to mark out part of a registered prospecting area for a Mineral Claim.

(b) Even if it were lawful it would be inequitable to do so.

Now when he heard of the application to amend the description made on behalf of the Hendersons the warden decided he would not grant that application; and on the objection of the Hendersons to the claim of Pike and Jeffreys the warden dismissed the objection; and recommended to the Minister that the claim of Pike and Jeffreys be granted. The Minister upheld the warden's decision in circumstances that I have outlined, and which I think were pretty tough on the Hendersons. However, the fact is the warden made a decision and the Minister upheld it.

I would like members to contrast the Minister's action in this with the one I am now about to tell the House. Hancock pegged a claim—back in 1956, I think it was—and when he did so he made a declaration as follows:—

I, Langley George Hancock of 150 Victoria Avenue, Dalkeith, W.A. do solemnly and sincerely declare—

(1) That I am the Managing Director of the Hancock Prospecting Pty. Ltd. whose registered office is situated at 11 Harvest Terrace, Perth.

(2) That the company is the applicant for Mineral Claim 90 situated at Mons Cupri containing 10 acres.

(3) That the company is the holder of a miner's right No. 13675 dated at 19/6/56.

(4) That the ground applied for is Crown lands and was pegged out by myself in accordance with Regulations 147 and 148 of the Mining Act, 1904, at the time and date mentioned in the application.

(5) That all notices have been posted in accordance with the said regulations.

The significant fact is that when an officer of the Mines Department went looking for the pegs which Handcock said he had put in they could not be found.

Mr. Grayden: That applies to every mining lease in the north-west.

Mr. TONKIN: Oh no it does not! It did not apply to Henderson. Hancock pegged this claim and did not produce a ton of stuff from it. If he claimed he had worked it he would be able to show money he paid in wages—because he would not work it himself. So it would be a simple matter for him to say, "That is what I have paid in wages, and that is what I have paid in pay-roll tax. That is what my production was." But he could not show any of that information. So it locks crystal clear that he had committed an act of abandonment, inasmuch as for 14 consecutive

days he did not comply with the conditions of the Act, and therefore the claim was abandoned.

Mr. Guthrie: Did he have any exemption?

Mr. TONKIN: However, he did get the Depuch Mining Company interested in this so-called claim, and it entered into an indenture to purchase Mons Cupri and/or another area. If it wanted Mons Cupri it had to buy both areas for £80,000. It could not buy Mons Cupri on its own. But it could buy the second area on its own for £40,000.

Mr. Guthrie: That is not correct, of course.

Mr. TONKIN: The honourable member will have his opportunity to speak.

Mr. Guthrie: I am merely correcting you.

Mr. TONKIN: I am making the speech, and that is what I say. If the honourable member disagrees with it or proves it is wrong, that is his prerogative. But my information is that Hancock provided in this indenture for a total payment of £80,000 if they bought the lot. They could not buy Mons Cupri alone, but they could buy the other one alone for £40,000. So if they wanted Mons Cupri they had to pay £80,000 for the lot.

Mr. Guthrie: You are saying it wrongly.

Mr. TONKIN: All right; you correct it later and I will be the first to admit your having proved to me I am in error.

Mr. Guthrie: I would not try to prove anything to you.

The SPEAKER (Mr. Hearman): Order!

Mr. TONKIN: Well keep quiet then! The Depuch Mining Company was quite agreeable to this proposition and went merrily along—and here the member for Subiaco can give me the exact figures because I do not know them—and spent, I understand, the sum of £130,000.

Mr. Guthrie: I would not know what they spent.

Mr. TONKIN: I thought you had all the information.

Mr. Guthrie: I am only talking about the agreement.

Mr. TONKIN: It could have been £150,000; but in any event it was quite a lot of money.

Mr. Guthrie: But not on Mons Cupri.

Mr. TONKIN: Then somebody said to them, "Did you know that you ought to make sure this claim you are working on is really in existence? You had better start some inquiries"—and they made some inquiries. They found out it had never been surveyed. When the claim was made for it, it was supposed to be identical with another claim which had been surveyed. But that could not be proved. In fact, no claim had been granted in connection with this piece of land. So the persons concerned became quite disturbed.

This letter throws considerable light on this question. It is addressed to the Secretary, Wright Prospecting Pty. Ltd., 609 Wellington Street, Perth; it is dated the 12th April, 1962, and reads as follows:—

> Dear Sir,
>
> Re Depuch Shipping & Mining Company Pty. Ltd. Indenture dated 14th August, 1959. Mineral Claim 90.
>
> Further to my communication of the 9th inst. relative to the indenture of the 14th August, 1959, between Hancock Prospecting Pty. Ltd. and others of the one part and Depuch Shipping & Mining Co. Pty. Ltd. of the other part the question has arisen whether there is or ever was an area of land known as Mineral Claim 90 and if there ever was such a claim whether it has been abandoned by the claim holder.
>
> Recently a surveyor from the Mines Department of Western Australia went to Whim Creek to survey the boundaries of the alleged Mineral Claim 90 but was unable to find survey pegs or other evidence that the land had ever been taken possession of and marked out in accordance with the provisions of the Regulations under the Mining Act, 1904-1957. In view of a recent decision of the Warden and the West Pilbara Goldfields confirmed by the Minister for Mines on appeal it seemed it may well be that Mineral Claim 90 does not or ever did exist and the land thought to be comprised therein by the supposed Mineral Claim Holder was Crown Land to be taken possession of as a Mining Tenement by any person electing to do so. It was thought that the best course would be for the Depuch Mining Company Pty. Ltd. to take possession of and peg an area of land including wholly or in part that considered by the Claim holder to be Mineral Claim 90, whereby by objecting to the grant of such Mineral Claim the vendor of Mineral Claim 90 could come into court and have determined the matters in issue concerning the alleged Mineral Claim 90. Following my advice the Depuch Shipping & Mining Co. Pty. Ltd. applied for Mineral Claim 292 in the West Pilbara comprising 240 acres or thereabouts surrounding or adjacent to Mons Cupri, notice of which application was published in *The West Australian* Newspaper of the 13th March, 1962, and in the *Northern Times* of the 15th March, 1962.

The hearing being listed for the Tuesday next, the 17th instant, at Marble Bar. Information has been received from the Mining Registrar at Marble Bar that the time has elapsed for lodging of objections, but none has been lodged.

Here I need add my own assumption: In ordinary circumstances, a claim having been made for this area, one could have expected the person who considered himself the original owner to lodge an objection; but Hancock was not worried about it.

Mr. Guthrie: He did not know about it.

Mr. TONKIN: He knew all right.

Mr. Guthrie: No he didn't.

Mr. TONKIN: Yes he did. I say he knew.

Mr. Guthrie: No.

Mr. TONKIN: Hancock knew this. He had an indenture binding Depuch to buy this area and he was going to plead the indenture.

Mr. Guthrie: Did he have one to bind with?

Mr. TONKIN: He was going to plead the indenture if Depuch had endeavoured to escape from the contract; so why should he worry to object to Depuch's claim to something it had agreed to buy? He had to be prodded a bit. Continuing with the letter—

Investigations at the Mines Department has disclosed:—

(a) The Application for Mineral Claim 90 described the land as being identical with former Mining Lease 242 giving no intimation that a datum peg had been erected or the area otherwise marked out according to the regulations 147 and 148 nor was Application accompanied by any sketch.

Which, of course, the regulation requires. Continuing—

(b) In view of the form of the Application it appears that the Applicant relied on Regulation 151.

(c) Before the Application was granted a Statutory Declaration had to be filed of compliance with the provisions of the Regulations but as this is filed at Marble Bar it has not been inspected.

(d) The land comprised in what was known formerly as Mining Lease 242 had never been surveyed hence the inability of the surveyor to find survey pegs. The Officers concerned at the Mines Department have informed me that it is impossible to mark out by survey the lands alleged to have been contained in Mineral Claim 90.

(e) From the 15th of January, 1957, to the 4th November, 1959, no exemption from the compliance with the labour conditions had been obtained from which it follows that unless the labour conditions were complied with then by reason of Regulation 162 (a) the Mineral Claim if it ever did exist had been abandoned.

In the above circumstances it was somewhat surprising to find the Claim Holder of what purports to be Mineral Claim 90 not lodging an objection to have the position clarified.

As at present informed it seems to me that in the aforesaid indenture The Vendors purported to sell something they either never owned described as Mineral Claim 90 or alternatively if they had owned it had lost it by abandonment so therefore if the option is ever exercised The Vendors will not be able to perform it by conveying an area of land that will be surveyed by the Mines Department as Mineral Claim 90 or recognising the current existence of Mineral Claim 90.

This action on the part of Depuch was for the purpose of having the matter determined as to whether or not Mineral Claim 90 existed.

I will now read a letter from the Under-Secretary for Mines, dated the 30th October, 1961, to a firm of solicitors who were then acting for Depuch. It reads as follows:—

I acknowledge receipt of your letter regarding the position of the above mineral claim.

It was Mineral Claim 90, West Pilbara. Continuing—

It is a fact that our Government surveyor was unable to find the pegs of Mineral Claim 90 when he went on the ground to survey the block, although Messrs. Hancock Prospecting Pty. Ltd. were asked to confirm the pegging of the Mineral Claim prior to the Surveyor's visit to the area.

So if the position was as the member for South Perth wants to imply—that the pegs had been put in, but because of the passage of time they were lost—why did not Hancock conform to the law and maintain his pegging?

Mr. Grayden: For a dozen different reasons.

Mr. TONKIN: Never mind difficulties. Why did he not obey the law and confirm the pegging when he was asked by the Mines Department? Why on earth did he not go and do it?

Mr. Grayden: For a dozen different reasons.

Mr. TONKIN: Continuing with the letter—

> A search through our records has disclosed that the only description available is that of an old application for Mineral Lease 56, (later Mineral Lease 242) which is identical with the application for Mineral Claim 90. A copy of the application form for Mineral Lease 56 is enclosed for your information, from which you will see that our information regarding both the position and the length of the boundaries of the mineral claim are very vague. It would appear from the sketch that the sides are in the proportion of 2 : 1 which would make the distances about 14 chains by 7 chains.
>
> As the Mining Act requires that a mining tenement must be pegged and the pegs maintained, it is suggested that perhaps you could advise the holders that the area should be properly pegged and the pegs maintained in accordance with the requirements of the Mining Act.

That was an instruction from the Under-Secretary for Mines. This letter then passed between the solicitors acting on behalf of the two parties—

> The receipt is acknowledged of copy of an objection lodged by Hancock prospecting Pty. Ltd. to the application of Depuch Shipping & Mining Company Pty. Ltd. for Mineral Claim 292.
>
> In order that my client may consider the aforesaid objection and prepare any answer he wishes to make to it will you be good enough to furnish me with the following particulars:—

It seems to me that all these requests would be reasonable requests to a man who was not scared by anything and whose position was secure. They are—

> (a) The positions of the corner posts are fixed when Mineral Claim 90 was taken possession of and marked out.
>
> (b) Which of the aforesaid posts was the datum peg.
>
> (c) The feature specified.
>
> (d) Alternatively the positions of the survey posts if any that delineated the area taken possession of.
>
> (e) The position of the survey posts to which the prescribed notices were affixed.
>
> (f) The names and addresses of each of the persons who worked on Mineral Claim 90 on each of the days in the period commencing on the 15th of January, 1957 and finishing on the 4th November, 1959.
>
> (g) Details of the work performed by each of such aforesaid persons.
>
> An early reply to this communication will be appreciated so that the case in answer to the objection if any may be adequately prepared and presented to the Warden at the hearing in the May sittings of the Warden's Court at Marble Bar.

I will now read a further letter—

> Dear Sir,
>
> Please take notice that Depuch Shipping and Mineral Co. Pty. Ltd. requires Hancock Prospecting Pty. Ltd. to point out to the aforesaid Depuch Shipping and Mineral Co. Pty. Ltd. the corner posts and boundary lines of Mineral Claim 90 in the West Pilbara Goldfields, of which Hancock Prospecting Pty. Ltd. claimed to be the holder.
>
> This request is made pursuant to Regulation 166 of the Regulations under the Mining Act 1904 to 1957.
>
> It is desired by Depuch Shipping and Mineral Co. Pty. Ltd. that the aforesaid corner posts and boundary lines shall be pointed out to the representative of Depuch Shipping and Mineral Co. Pty. Ltd., Mr. Alexander Gerard Swan and or his nominee at Whim Creek on either Friday or Saturday next the 11th and 12th inst.
>
> It will be appreciated if the aforesaid Mr. Alexander Gerard Swan can be informed by telephone call or telegram to Whim Creek at what time he can expect the representative of Hancock Prospecting Pty. Ltd.

I now read from a further letter—

> On the 16th ult. a communication was forwarded to you requesting certain particulars in the matter of the objection lodged by the Hancock Prospecting Pty. Ltd. to the application of Depuch Shipping and Mineral Co. Pty. Ltd. for mineral claim 292 but no reply has been received thereto.
>
> If your client does not intend to furnish the particulars requested it will be appreciated if you will be good enough to acknowledge receipt of the aforesaid communication of the 16th ult. requesting the same.
>
> Enclosed herewith is a copy of a request made under regulation 166 of the regulations under the Mining Act,

1904 to 1957, which has been delivered direct to Hancock Prospecting Pty. Ltd.

That letter brought forward this reply—

Dear Sir,

We received your letters of the 16th April and the 8th May. We take the view that your requests in your letter of the 16th April are irrelevant.

So if we ask a man where his corner posts are or where his datum peg is, it is irrelevant! If we want to know how many men he employed and where they are to prove that he worked a claim, it is irrelevant.

Mr. Grayden: Sometimes he has to go hundreds of miles to do that.

Mr. TONKIN: He does not have to go hundreds of miles to point out where the pegs are. The letter continues—

As regards your request made pursuant to regulation 166 of the Mining Act we seriously doubt whether in view of the shortness of the notice our client will be able to have anybody on the site at the times requested.

Mr. Grayden: A very reasonable reply.

Mr. TONKIN: Of course it is, if one wishes to dodge the issue! Because of an undertaking which I gave the Premier, I will turn now to what the warden had to say when he dealt with this case. This is the warden's report to his Minister, and I quote—

On the 27th day of February, 1962, the Depuch Shipping and Mineral Co. Pty. Ltd. applied for a mineral claim No. 292 for copper, silver, zinc and lead in the West Pilbara gold field, the datum point for the description of the ground applied for being referred to a pole on the top of Mons Cupri Hill at Whim Creek. With the application was a sketch, as required by the regulations, illustrating the position of the claim.

The application was duly advertised and subsequently, after notice had been given, an objection to the granting of the claim was lodged by Hancock Prospecting Pty. Ltd. on the ground that "portion of the lands comprised in the said mineral claim 292 are comprised in mineral claim 90 of which the objector is registered as the holder of 96/96th shares".

The application came on for hearing in the Warden's Court at Marble Bar on the 15th May last in the presence of counsel for the applicant and for the objector.

The objector elected to call no evidence (other than the Mining Registrar to produce office records)—

Of course Hancock would not go in the box! If he had, he would have been in trouble because he would have been questioned on his declaration. I shall continue to read—

—and based its objections on two grounds; firstly that it was and had been for over five years the registered holder of mineral claim 90 and secondly that by an indenture dated the 14th day of August, 1959, and entered into by the parties (and others), the applicants were granted the right to mine and work M.C. 90, with an option of purchase and that the applicants were thereby estopped from denying the existence of the claim.

This proves the very point I was making a short time ago: that Hancock did not want to object to the pegging of this claim by Depuch because he would rely upon his indenture and endeavour to estop Depuch from denying the existence of the claim which was the subject of the appeal governed by the indenture. I quote further—

On the 27th July, 1956 the objecting Company had filed an application for M.C.90 as a mineral claim for copper. The description of the claim given was identical with old M.L. 242 at "Mons Cupri" and there was no accompanying sketch as required by Reg. 154.

That is what the warden is saying; proving that the regulation had not been applied—

Mr. Grayden: Why did the Mines Department accept the application?

Mr. TONKIN: The honourable member should ask the Minister why. I quote further—

Notice of the application was duly advertised and a statutory declaration made by Langley George Hancock on behalf of the company was lodged, declaring, among other things, that the land was pegged out by himself in accordance with regulations 147 and 148 of the Mining Act and that notice had been duly posted.

It is common-ground that mining lease 242 has never been surveyed and therefore, in my view, the provisions of regulation 151 are not applicable and it would be necessary for an applicant to comply with the marking off requirements of regulations 147 and 148. A statutory declaration of

compliance was lodged and in the absence of any evidence to the contrary I must assume the correctness of the contents thereof. The application was subsequently recommended by the Warden and was on the 15th October, 1956, approved, subject to survey, and to the ground applied for being Crown land.

The Company retained possession of the claim until the signing of the indenture produced and still assumes registry as the holder thereof. It is suggested by the applicant that there had not been a compliance with the labour conditions up to the date of the signing of the indenture and that the claim must be deemed to have been abandoned under provision of regulation 162 (a) but there is no evidence to this effect and this contention cannot be sustained.

The second submission of the objector is that there is in existence a deed entered into by the parties (and others) on the 14th August, 1959; that the recital thereto sets out that Hancock Prospecting Pty. Ltd. is registered as the holder of 96/96th shares of Mineral Claim 90 situated in Whim Creek District West Pilbara Goldfield and being the copper mine known as "Mons Cupri" and that is therefore estopped from denying the existence of the claim. It is submitted on behalf of the applicant that estoppel cannot be pleaded upon a recital in a deed and authority has been quoted in support. If I found it necessary to rule on this matter I would uphold the applicant's submission particularly as this is not an action on the deed but is a collateral matter (see Phipson 9th Ed. p. 705). In the present instance different considerations arise.

Since August, 1959, the applicant has under the deed held an option of purchase with the sole and uncontrolled right to work and mine the said premises (including Mineral Claim 90) and generally exercise the powers, privileges and authorities conferred upon or vested by the registered proprietor of the said premises. Ample opportunity therefore existed for the applicant to ascertain the existence or otherwise of the mineral claim.

Furthermore, in pursuance of its obligations under clause 10 of the indenture, the applicant has on four occasions applied for and been granted long term exemptions from the working conditions for the said claim. By regulations 172 and 174 the applicant is required to post the notice of application and the certificate of exemption on a conspicuous part of the tenement and again I must assume this was carried out, particularly as on at least two occasions the attention of the company was drawn to these requirements by the Mining Registrar.

> For these reasons I am of opinion that while the applicant is not estopped from denying the existence of the claim, such a denial is of no avail in the present proceedings. But while it cannot successfully deny the existence of the claim, it is entitled to aver that the limits of its boundaries cannot be defined and this is, in effect, the substance of the applicant's case.

I wish to interpolate here that the action of the Minister for Mines in directing that a survey be made would, in effect, if carried out, give existence to a claim which the warden said was impossible to define. We can see the implication there. If, as the warden says, the limits of the boundaries cannot be defined, then the agreement is abrogated because there is nothing to sell.

Mr. Grayden: He said that only because no evidence was given.

Mr. TONKIN: But if the Minister directs that somebody should go out and survey something and then call it mineral claim 90, the Minister, by his action, brings into existence something which previously did not exist at all; and I say that under the law he has no power to do that. I shall read further:—

> The action of the applicant in pegging ground on which, according to the witnesses called, there was no evidence of mining activity (other than the datum peg of prospecting area No. 284), places an onus on the objector of establishing that an encroachment upon its mineral claim has taken place as claimed. It is not sufficient to say that M.C. 90 is registered and exists. Positive evidence of its location is required to sustain an objection that the ground now applied for encroaches on an existing claim.

Up to this stage Hancock is not able to submit positive evidence of the existence of his claim; but if the Minister's direction is carried out Hancock will immediately be presented with positive evidence of the existence of his claim—and that is my objection.

Mr. Grayden: He has been paying lease fees since 1956, and you want to take it off him.

Mr. TONKIN: I suggest that the honourable member offer his services to the firm of solicitors fighting this case; but they will still lose it! I repeat what I have just read—

> It is not sufficient to say that M.C. 90 is registered and exists. Positive evidence of its location is required to sustain an objection that the ground now applied for encroaches on an existing claim. The description of M.C. 90 is merely "identical with old M.L. 242 at Mons Cupri". No sketch is provided as required by Reg. 154 and from office records it appears that the description originally given of M.L. 242 was "identical to the boundaries of old M.L. 56" which was not only unsurveyed, but was in fact refused.

Mr. Premier, I find there are still two pages left of this judgment. I am conscious of the fact that I have about exceeded the time that was in my agreement. If you desire me to sit down, I shall, but if you prefer that I should complete reading the judgment, I would like to do so; but I will not do it without your permission.

Mr. Brand: How long will it take?

Mr. TONKIN: There are two pages of it left.

Mr. Brand: Very well; continue.

Mr. TONKIN: The judgment goes on—

> Although the objector complains that "portion of the lands comprised in the said mineral claim 292 are comprised in mineral claim 90" no effort has been made before me to establish the manner and extent of the encroachment alleged. In certain circumstances the appropriate remedy for such a complaint would be an excision of the ground applied for, shown to overlap an existing claim, but on the evidence submitted in this case it would be impossible for me to determine whether or not this was appropriate.
>
> I am unable for the foregoing reasons to determine whether an encroachment or over-pegging of the objector's claim has in fact taken place.
>
> It should perhaps be pointed out that the primary responsibility for the present situation is attributable to the failure of the Mines Department to carry out a survey of the ground applied for as required.
>
> In July, 1956, Hancock Prospecting Pty. Ltd. made application for mineral claim 90 in the West Pilbara goldfield and at the time of applying paid the requisite survey fees. On the 15th October, 1956, the granting of the claim was approved, subject to survey and to the ground applied for being Crown land. The claim was then registered and a certificate issued, but the title acquired by the applicant was provisional only, and at the date of this hearing over five and a half years later, no survey has yet been carried out and the applicant's title is not confirmed.
>
> Once a proper survey had been conducted and the claim plotted, the future determination of its boundaries would have been relatively simple even if the pegs or boundary marks had been in some way destroyed or removed. The present case is not an isolated instance, long delays being common in this area, which is a reflection on the efficiency of the department. Having received a survey fee it has an obligation to carry out the work without delay and it is in my view unreasonable to expect the claim holder to maintain the boundaries and pegs as laid down by the regulations for such an extended period.
>
> However, in the absence of a properly conducted survey, I am of the opinion that the obligation rests on a claim holder to keep the limits of his tenement adequately defined, not only to facilitate a subsequent survey, but to clearly indicate to others the boundaries of the claim. Indeed provision is made by Regulation 164 for a penalty for a failure to maintain the required marks.
>
> In the circumstances I hold that the objector's case fails. The objection is therefore dismissed with costs to be taxed.

I claim that the Minister has no legal authority to take to himself any appellate jurisdiction to deal with this matter. It is final; the warden has rejected the objection; he dismissed it with costs, and that decision cannot be interfered with by the Minister. But by ordering a survey, he is trying to do just that very thing. to continue—

> The ground applied for apparently encroaches on P.A. No. 284. No objection has been lodged by the holder and it is contended on behalf of the applicant (though I suspect without much force) that in the absence of an objection the company is entitled to the area affected.
>
> To uphold the applicants contention would result in the continuity of a miner's title being dependent on

an assiduous reading of all newspapers circulating in the area and I am unable to agree with it.

The evidence of the witnesses for the applicant indicates that the datum peg for the prospecting area was clearly visible and that the application papers were still affixed thereto. No boundary pegs were seen, but no attempt was made to measure out the ground as set out on the notice and there is therefore no definite evidence that the other markings did not in fact exist. In this instance there is an adequate datum point with a description of the situation and boundaries of the claim affixed thereto and in my opinion any encroachment upon P.A. 284 should be excised from the ground applied for.

I therefore respectfully recommend for the Honourable the Minister's approval, subject to survey, and to the excision therefrom of P.A. 284, application for mineral claim No. 292 W.P.

The Minister, quite contrary to what he did in the Henderson case, refused to accept the warden's recommendation.

Mr. Grayden: With every justification.

The SPEAKER (Mr. Hearman): Order!

Mr. TONKIN: I do not think so. That is the burden of my complaint in connection with this matter, and the reason I consider the whole question should be inquired into in the public interest.

MR. BOVELL (Vasse—Minister for Lands) [5.7 p.m.]: I have listened with close attention to the Deputy Leader of the Opposition who, in his opening remarks, endeavoured to establish that the Minister had given a decision previously; but later he came around to establish further, that the decision given in this matter by the Minister was inconsistent.

In the first place I want to say that no decision whatsoever has yet been made by the Minister for Mines in regard to the application for mineral claim No. 292. The Minister has not, as the Deputy Leader of the Opposition implied, refused to accept the warden's recommendation. All that has happened so far is that following the receipt of evidence and the warden's recommendation, the Minister, on the advice of his officers, called—I impress upon members that this was on the advice of the Minister's officers—for a survey of the boundaries in order to enable himself to ascertain clearly the relative positions of mineral claim No. 90.

Mr. Tonkin: Under what authority is he carrying out that survey?

Mr. BOVELL: He is carrying it out under the Act.

Mr. Tonkin: Under what particular regulation?

Mr. BOVELL: I do not intend to answer the interjection of the Deputy Leader of the Opposition. I listened attentively to him and I heard him say to the member for Subiaco that he was making his speech. Well, I am making mine.

Mr. Tonkin: I thought you might answer that one, because it would be simple to answer.

The SPEAKER (Mr. Hearman): Order!

Mr. BOVELL: I was referring to the fact that the Minister was endeavouring to ascertain clearly the relative positions of mineral claim No. 90 which was granted in 1956 and is still in existence in the register of the department, and the area applied for as mineral claim No. 292.

Immediately the surveyor completed the survey of claim No. 90, the solicitor for the Depuch Company lodged an objection to it with the warden; and this objection is listed for hearing at Marble Bar in the September court.

The Minister for Mines had proposed, on receipt of the surveyor's report, to then consider all the facts and arrive at a decision. But now he will await the outcome of the latest objection before doing that. Therefore the Minister for Mines has come to no decision whatsoever; nor has he had any approach made to him in the matter by the solicitors of either party.

The general points in the history of the matter are—I would request members to take particular notice of the events that led up to the circumstances of this matter which has been raised by the Deputy Leader of the Opposition—

(1) Mineral claim No. 90 of 10 acres was applied for at Marble Bar on 2nd July, 1956. It was described as being identical with mineral lease 242 which had never been surveyed. This application for M.C. 90 came before the warden, Marble Bar on the 21st September, 1956, and was recommended by him for approval.

On the 24th October, 1956, the Acting Minister of the day approved of it subject to survey and to being Crown land, which is the usual procedure.

(2) On the 19th August, 1959, the Depuch Company took an option of purchase over mineral claim 90, and subsequently on four occasions applied to and was granted by the warden's

court long periods of exemption from the working conditions. It was a condition of the option agreement that the Depuch Company as purchaser should keep claim 90 from being forfeited or liable to forfeiture.

Any person granted exemption must post the certificate of exemption on the claim, and Depuch was so advised by the Registrar and presumably did so. To continue—

(3) On the 12th March, 1962, Depuch Company applied at Marble Bar for mineral claim 292 of 240 acres.

(4) On the 16th April, 1962, the Hancock Company lodged an objection to the granting of claim 292 on the grounds that it included mineral claim No. 90.

(5) On the 15th May, 1962, the objection and application were heard in the Marble Bar warden's court, and the warden reserved his decision.

(6) On the 19th June, 1962, he gave his decision dismissing Hancock's application with costs to be taxed, and recommending the granting of mineral claim 292 subject to survey and to the excision of a prospecting area 284 which was within the ground applied for.

Mr. Tonkin: That was not an application by Hancock; it was an objection.

Mr. BOVELL: To continue—

(7) The warden in his decision stated inter alia—

Although the objector complains that portion of the lands comprised in the said Mineral Claim 292 are comprised in Mineral Claim 90, no effort has been made before me to establish the manner and extent of the encroachment alleged. In certain circumstances the appropriate remedy for such a complaint would be an excision of the ground applied for shown to overlap an existing claim, but in the evidence submitted in this case it would be impossible for me to determine whether or not this was appropriate. I am unable, for the foregoing reasons, to determine whether an encroachment or overpegging of the objector's claim has, in fact, taken place.

(8) It was in the warden's power to have ordered a survey before submitting his recommendation, but he did not do so.

Mr. Tonkin: That is right; and the Minister has no power to do it.

Mr. BOVELL: I am talking of the warden.

Mr. Tonkin: The warden did not do it; and the Minister has no power to do it.

Mr. BOVELL: The Minister is entitled to and indeed should, because he is the authority who must decide—

Mr. Tonkin: Where does it say that in the law?

Mr. BOVELL: The Deputy Leader of the Opposition referred to a judgment. That was not a judgment; it was a recommendation to the Minister under the Act.

Mr. Tonkin: What? A dismissal with costs is not a judgment?

Mr. BOVELL: It is not a judgment.

Mr. Tonkin: Of course it is!

Mr. BOVELL: The Minister is entitled to—and indeed should, because he is the authority who must decide—obtain such information as will assist him to come to a fair and proper decision; and to him and his departmental advisers it appeared essential that the positions of the several boundaries should be established. Perhaps I might be permitted to repeat that. The Minister is entitled—

Mr. Tonkin: But who says that?

Mr. BOVELL: I am saying it. The Minister is entitled—and indeed should because he has the authority—to make such a decision. After obtaining such information as would assist him he came to a fair and proper decision. To him and his departmental advisers it appeared essential that the positions of the several boundaries should be established.

As you are aware, Mr. Speaker, I am not the Minister for Mines, but in this Chamber I act for him. Therefore I think it appropriate to quote in this Chamber at this stage the Minister for Mines's own words on this matter. I quote—

It was in the warden's power to have ordered a survey before he submitted his recommendation to me—

That is, to the Minister

—but he did not do so.

Mr. Tonkin: That is not disputed.

Mr. BOVELL: Continuing—

Had he ordered a survey I do not think any of this difficulty would have been encountered. The fact remains he did not order a survey. I

am advised by my legal advisers—and the relevant portion of the Act deals with it—that I am entitled to, and indeed should, do this because I am the man who is to make this decision.

I am entitled to obtain any information I think I should obtain to come to a fair and proper decision. To my departmental officers this has appeared essential; that the position of the several boundaries should be established. So that is what I did in this case. I accepted the recommendations of my officers and I ordered that the survey be taken . . . . The act I performed in ordering this survey is in fact a lawful act;—

Mr. Tonkin: If it is lawful, quote the law.

Mr. BOVELL: I continue—

—and the only public disquiet that may have been created concerning this matter is one that some people have endeavoured to whip up—

Mr. Tonkin: What a lot of nonsense! If it is lawful, quote the law!

The SPEAKER (Mr. Hearman): Order!

Mr. BOVELL: If the cap fits, the Deputy Leader of the Opposition can wear it. I continue to quote the remarks of the Minister for Mines—

I repeat the only thing a Royal Commission could possbily find out is the information contained on this file—

that is, the Mines Department file—

—and I would be very pleased indeed to make the information available to any honourable member; because I have nothing whatever to fear.

In answers I supplied to questions in another place—

that is, here in the Assembly. I answer, questions in this House on behalf of the Minister for Mines. Continuing—

—I said quite clearly that I had not acted as a court of appeal. That I had not refused to accept the warden's decision; that I had not in fact made some decision which would enable some person to get £40,000. It is a poor state of affairs when a Minister's integrity is in doubt in a matter of this nature.

In the Legislative Council there are three members of the Opposition representing this area. In this Chamber the member for the district is on the Opposition side of the House, and yet not one of those members has raised this matter.

Mr. Tonkin: They have not had much chance yet, have they?

Mr. BOVELL: All the protests are coming from the Deputy Leader of the Opposition who, in fact, is not directly interested in the area concerned. I am informed that the Under-Secretary for Mines had advised the member for the district—that is, the member for Pilbara—of the position before notice of motion was given by the Deputy Leader of the Opposition.

Mr. Tonkin: What is the point in that?

Mr. H. May: He is telling you that you had nothing to do with it.

Mr. BOVELL: If the member for Pilbara had not been satisfied he would have taken appropriate action in this Chamber. Let us analyse the motion before the House. I will deal with the initial part first of all. Before doing so I will quote the motion from the notices and orders of the day. It reads as follows:—

Mr. TONKIN: To move, That the action of the Honourable Minister for Mines in refusing to accept the decision of Warden N. J. Malley that the objection by Hancock Prospecting Pty. Ltd., to the granting of Mineral Claim No. 292 was dismissed with costs to be taxed and in rejecting his recommendation that Mineral Claim No. 292 W.P. subject to survey and to the excision therefrom of P.A. 284 be granted to the Depuch Shipping and Mineral Co. Pty. Ltd., thus enabling the firm of Lohrmann, Tindal and Guthrie to obtain by administrative act a decision which it failed to obtain in the Warden's Court and which may make a difference of £40,000 one way or the other, to the parties concerned, appears to be lacking in the principles of law, equity and justice, and to be inconsistent with his action in the case of James Moffat Henderson and Elizabeth Henderson—Objection to Application by E. J. Pike and J. W. Jeffreys.

That is very extravagant language, if I may be permitted to say so, Sir. However, in answer to that portion of the motion I can say that no decision has yet been made by the Minister. I will now quote the second part of the motion—

The further action of the Honourable Minister for Mines in directing that a survey of the lands known as "Mineral Claim 90" and "Mineral Claim 292" be carried out, in order to cure the invalidity of the application made in July, 1956, by Langley George Hancock appears to be unlawful and not capable of proper execution.

This is a lawful act.

Mr. Tonkin: Were they able to survey the claim?

Mr. BOVELL: I am telling the honourable member that it is a lawful act.

Mr. Tonkin: Were they able to survey the claim?

Mr. BOVELL: I am dealing with the motion as it appears on the notice paper.

Mr. Tonkin: That is in the motion. Was the surveyor able to survey the claim?

Mr. BOVELL: I will continue—

> Grave public disquiet having resulted from the actions of the Honourable Minister, it is imperative in the public interest and for the preservation of public confidence in the impartial administration of the law that a Royal Commission be immediately appointed to inquire into the matter and make recommendations to enable Parliament to take such steps, if any, as it considers necessary or desirable to deal with the situation which has arisen.

"Grave public disquiet"! What extravagant words! The only public disquiet that has been engendered—if it has been engendered—has been engendered by the Deputy Leader of the Opposition in confusing the public mind. There was no suspicion whatsoever of any underhanded action by the Minister in dealing with this matter. I feel that the case that has been submitted in reply to the Deputy Leader of the Opposition proves beyond doubt that the Minister for Mines was quite within the law and quite within his rights to take the action that he did.

I believe the Deputy Leader of the Opposition has endeavoured to whip up, without any foundation whatever, public concern over something that has never happened. He has tried today to prove that there has been some inconsistency. In one case a decision has been made; in another case, a decision has not yet been made. The Minister for Mines has taken action in this matter, which action is entirely lawful and has been taken on the advice of his departmental officers, who are considered as being among the most efficient within the Public Service.

As you know, Mr. Speaker, I have been a member of this Chamber for a considerable length of time, and I have had the opportunity of listening to the speeches made by the Deputy Leader of the Opposition over many years. Perhaps I might go back to 1947 when he raised the matter of the Lake Chandler alunite. When the McLarty-Watts Government was elected to office he sat on the other side of the House where he is now, but not in the same seat.

With other members, I had not been long elected to this House before I listened, almost awestruck, to the brilliant way he addressed the Chamber, and he practically convinced me that there was some foundation in what he was saying. Then, later on, we heard about Captain Bruce and bricks. Bricks were dropped from every hod in Western Australia; but, there again, without any foundation whatsoever. Then again, we heard the Deputy Leader of the Opposition—as member for North-East Fremantle, as he was in those days—talking about the sirex wasp; and he waved pieces of timber around in this House. I know something about the sirex wasp, because, as Minister for Forests, I have made a study of it in the last 12 months, and there is no sirex wasp in Western Australia.

Mr. Tonkin: How big is the sirex wasp, if you have made a study of it?

Mr. BOVELL: I have seen it and the sizes of the wasp range from the very minute to ones about an inch long. The ones that I saw in Victoria are quite big. I have seen hundreds of these wasps. They were exhibited to me in Victoria recently when I represented this State as the Minister for Forests. Therefore, although I have seen many sirex wasps, I have never seen any in Western Australia, but the Deputy Leader of the Opposition has stated that he has.

Mr. Tonkin: What a lot of nonsense!

Mr. BOVELL: Time and time again I have sat in this Chamber and listened to the Deputy Leader of the Opposition raising a mare's nest; and this, in my opinion, is a definite example of his raising, once again, a mare's nest, because there is no foundation whatsoever in what the Deputy Leader of the Opposition has claimed. He has not proved his case in any way; and, on behalf of the Minister for Mines and the Government—and especially to protect the integrity of the Minister for Mines—I strongly oppose any suggestion that there has been any malpractice in this matter. If a Royal Commission were appointed its only finding could be that no decision has yet been made.

Are we, as responsible members of this Parliament, going to agree to the appointment of a Royal Commission to inquire into a matter on which no decision has yet been made; and when, even if a Royal Commission were appointed, the only conclusion that could be arrived at is that no decision has yet been made? I oppose the motion.

Debate adjourned, on motion by Mr. H. May.

House adjourned at 5.30 p.m.