

# Legislative Council

Wednesday, the 10th October, 1962

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

## QUESTIONS WITHOUT NOTICE

### SITTINGS OF THE HOUSE

#### Thursday Nights

1. The Hon. F. J. S. WISE: I would like to know the intentions of the Minister for Mines in connection with sittings on Thursdays. To preface my direct question I would like to say I think the Minister has been most considerate to members of the House who have been so circumstanced that sitting early Thursday and getting away at the tea adjournment has been advantageous to them. My question is as follows:—

Is the Minister in a position to state his intentions for the rest of the session in regard to sitting after the tea on Thursdays?

The Hon. A. F. GRIFFITH replied:

As members know, the practice employed over a considerable number of years has been not to sit on Thursday nights until it became necessary to do so; and this is the case towards the closing portion of the session when the notice paper calls for additional time in which to deal with the matters that appear upon it. Up to date that point has not been reached.

I have endeavoured to give notice of intention—not formally, but informally—to members so they would be aware that sittings on Thursday nights were about to commence. Perhaps it would be fair to say at this point of time that having in mind the events of the future and the Government's desire to finish a little earlier this year than usual because of those events we can expect to sit, if necessary, on Thursday nights from tomorrow week onwards.

If we find ourselves in the position that the notice paper does not require us to sit after tea tomorrow week, we will not sit; but

perhaps we can take the notice of the requirement to sit at night on Thursday week if the occasion is called for. By that, I do not want to be misunderstood. Let us say tomorrow week will start the Thursday night sittings.

## EMPIRE GAMES VILLAGE

### *Inspection by Parliamentarians and Cost of Homes*

2. **The Hon. A. L. LOTON** asked the Minister for Housing:

Is it a fact that members of the Legislative Council are included in the invitation extended by the Minister for Health on behalf of the Minister for Housing to members of another place to inspect the Empire Games Village on Wednesday next, the 17th October; and will the Minister now outline the costs incurred by the Housing Commission in arriving at the approximate cost of the homes at the village?

**The Hon. A. F. GRIFFITH** replied:

In respect of the second part of this question I do not know how far you, Mr. President, will allow me to go in an endeavour to answer it, as what I have to say could develop into a second reading speech. However, to deal with the first part of the question, I asked the clerks to place a notice on the door outside of this Chamber—and they did so—as well as at the Legislative Assembly end, saying that I was prepared to agree to the request of Mr. H. E. Graham, M.L.A., and that an inspection of the village would be arranged for members of Parliament at 11 a.m. on the 17th October, 1962. I certainly intended that it should be members of Parliament of both Houses.

I am rather glad that somebody formally asked that members of Parliament should be taken out to have a look at the village; because the type of criticism that was levelled at the village was not only unwarranted, I think—as I said in the Press—but completely out of place. I regret to say that I do not think the publicity has done the situation much good. After all, this is a national matter which we have entered into. The Games have come to Western Australia, and people—literally in their thousands—have been trying to do everything they could to make the Games a success.

So far as the village is concerned, and the houses of the village, I have only had commendation and not criticism of the situation. The Housing Commission, through the Government, set out to build a village which could be occupied by the athletes during the time they were here; which could provide—because it was a situation which would produce many thousands of visitors—an area of housing which they would be able to go and see; which they would be proud to see; and which would give some publicity for Western Australia; and a considerable amount of money has been put into the project.

My predecessor as Minister for Housing—who we know was Mr. Graham—wrote to the Perth City Council and told it that for the purposes of the village it had an open cheque. I did not do that. I wanted to see where our obligations were going to take us.

By way of an arrangement with the Perth City Council and the Government we embarked on two courses: one, to have the road design of the village decided by a competition and to offer quite substantial prizes in order to encourage people to compete, and to provide the publicity which everybody desired Perth to have; and the other, to hold another competition for the design of the houses. In both cases I had nothing to do with the selection myself. I appointed competent committees of professional people able to do this job; and they chose the winners of each design—the road design in the first place, and then the house design.

We called tenders for the houses, and got quite good tender prices. A lot of the builders—as members have probably seen in the Press—have complained about the strictness of the supervision. No secret is made about that, because they were clearly led to understand that supervision would be strict, and that the standard required should be good. And that is what the builders have produced. Now, in the opinion of many people, the village, as it stands at the present time, has cost us something in the order of £907,000.

The Perth City Council gave a grant of 60 or 65 acres of land which at the present time is estimated to be valued at something to the order of £170,000. For some extraordinary reason, to try to gain some political advantage—and I do not think any political

advantage can be gained or should be gained in a matter of this kind; we are all in this for the benefit of our State—criticism has been levelled at the project. The honourable member in another place has seen fit, apparently, to add the two figures—£907,000 and £170,000—together; he has divided that by 150, and has said that the average cost of the houses is the total of those two figures added together and divisible by 150, which gives us something to the order of £7,200 odd.

He forgets, of course, that a good deal of the £170,000 has been absorbed in the costs that went into building this village; costs which normally the Housing Commission does not have to bear. We shared the cost of the construction of the roads. In some cases the Perth City Council paid for all of the roads; in some cases the Housing Commission paid for all of the roads; in other cases they shared the costs. They shared the development works: the earth works, the garden development, the grassing, the watering, the installation of pumps, drainage, and all that sort of thing.

What I would like members to appreciate when they go out—and I hope members will go next Wednesday—is that this is a rather unusual piece of development. Anybody who buys one of these houses is going to buy a house architecturally designed. Admittedly, the designs are repeated. We could not hope to get 150 individual designs—the cost would have been prohibitive—so, admittedly, the designs have been repeated. But each house is architecturally designed. Inside, it is finished beautifully. Each type of design lends itself to siting on the particular block on which it is placed—placed there by the architects responsible, and supervised by the committee I appointed for the purpose.

The street verge in front of each house is planted with grass; and is permanently reticulated; and the people who buy the houses will not have to worry about their street verges because they are permanently watered. They are connected with sewerage, gas, and electric light, of course. Each house has the telephone up to the door; and by the time the personal touch is put on to this area I am quite sure it will assume a different appearance from that which it even has today.

We will build the appropriate type of fence suitable for each location. The owners of the houses will, naturally, move in, plant their own gardens and their own shrubs, and the place will take on an entirely different appearance. In fact, it is no different, really, from any other 150 houses which are built in one block by the commission; but, because it happens to be for a particular purpose, somebody at this late stage—at the wrong time, I think—has sought to move in and to criticise.

The Hon. W. F. Willesee: Are you happy with the price?

The Hon. A. F. GRIFFITH: I have not said what the price is going to be; and I am not going to say what the price will be. I do not want to add to the damage which has already been done; all I want to do, in the interests of the Government, is to get back the amount of money we spent. I am only interested, really, in that; so I have purposely declined to say what I think is—

The Hon. W. F. Willesee: I am an interested buyer.

The Hon. A. F. GRIFFITH: I am grateful for the honourable member's interjection. I have purposely not said what I think each house is going to cost. Each house could be very different in price from the others—very different. Two houses of the same design can be different in price because of the situation that one holds as against the other. One may be high up on a hill; the other may not be so well situated.

I think, Mr. President, by the look on your face, that I have gone as far as you are going to let me go. But I am grateful for the opportunity to make these few brief remarks. I would appeal to members at this point of time to go along with this project; to try and help it in the interests of the Games. If there have been financial mistakes, and if something goes wrong in the future, then that is the time to criticise; and I am quite prepared to accept any justifiable criticism. I do think, however, it would be better for us to go out and have a look at the set-up next Wednesday, as arranged, and if any complimentary remarks can be made, then let them be made; and let us help the project along rather than damn it at present, because I think that is not justifiable.

## QUESTIONS ON NOTICE

### WATER SUPPLY FOR MIDLAND PROVINCE

#### *Gingin Area Survey*

1. The Hon. A. R. JONES asked the Minister for Mines:

In view of representations made by a committee known as the Midland Province Comprehensive Water Scheme Committee to successive Ministers for Country Water Supplies over the past nine years, when promises of survey and prospecting for a supply of water to cater for the area were made, will the Minister inform the House—

- (1) Is the survey of the potential of the Gingin Brook completed?
- (2) If the answer to No. (1) is "Yes", what was the result of the survey?
- (3) Has the drilling programme carried out in the Gingin area been completed?
- (4) If the answer to No. (3) is "Yes", what was the result and report?

#### *Dandaragan Area Survey*

- (5) Was a survey made in the Dandaragan area to try and locate the source and quality of the water feeding into the Moore River?

#### *Eneabba: Wapet Bore Hole*

- (6) Has a full investigation been made into the claim by Wapet that a huge supply of good water had been penetrated in their bore hole north of Eneabba?

#### *Federal Aid*

- (7) In view of the many years which have passed since first representation was made and the increasing need for water, will the Government—
  - (a) formulate a plan which can be put into effect immediately the present promised comprehensive schemes are completed; or
  - (b) try to arrange new and separate finance with the Commonwealth for the proposed Midland Province comprehensive scheme?

The Hon. A. F. GRIFFITH replied:

- (1) Yes.
- (2) Stream gaugings indicate that an average flow of 6,000,000 gallons per day would be available with storage.

- (3) No. If a dam is ultimately required further drilling will be necessary.

- (4) See No. (3) above.

- (5) Yes; but the quantity was too small to warrant development.

- (6) Wapet did not claim that a huge supply of water was struck and did not test the deep bore for supply, but reported that electric logging showed the existence of low salinity aquifers down to a depth of 5,000 feet.

Ample supplies of good quality water are known to exist in the Eneabba area at shallow depths ranging from 150 feet to 500 feet. The significance of the deeper aquifers intercepted in Wapet's bore could only be investigated by another deep bore which could be pump tested for supply and salinity.

- (7) (a) and (b) Gingin Brook is not considered an adequate source of supply for a Midland Province comprehensive scheme; consequently investigations are proceeding for supplies for individual portions of the area.

### SEWAGE

#### *Bacteriolytic Treatment at Schools*

2. The Hon. R. H. C. STUBBS asked the Minister for Mines:

- (1) How many schools had apparatus for bacteriolytic treatment of sewage installed in the years—

1959-60;  
1960-61; and  
1961-62?

- (2) Of these—

(a) how many were financed by arrangements with and assistance of the local authority; and

(b) which are the various towns concerned?

The Hon. A. F. GRIFFITH replied:

- (1) Apparatus for bacteriolytic treatment of sewage was installed as follows:—

1959-60—18 schools.  
1960-61—37 schools.  
1961-62—38 schools.

- (2) (a) 58.

(b) Northampton, Ogilvie, Popanyinning, Yuna, Sawyer's Valley, Tambellup, Three Springs, Widgiemoorltha, Williams, Woodanilling, Yorkrakine, Yarloop, Ardath, Brunswick, Lake Grace, Baldivis, Coorow, Cue, Cranbrook, Coolgardie, East Rockingham,

Gabbin, Kirup, Koorda, Kununoppin, Leonora, Lesmurdie, Mundijong, Mt. Barker, Coomberdale, Carinyah, Forrestfield, Frankland River, Kulin, Morawa, Northcliffe, Rocky Gully, North Dandalup, Pithara, Allanson, Beacon, Calingiri, Coogee, Ejanding, Doodarding, Glenorchy, Jinalgup, Jandakot, Karlgarin, Laverton, Meekatharra, Minnivale, Mullalyup, Pingaring, Salmon Gums, Wubin, Waterloo, Yallingup.

### SUPREME COURT AND CRIMINAL SESSIONS

*Visit by Supreme Court Judge to Bunbury*

3. The Hon. G. C. MacKINNON asked the Minister for Mines:

- (1) Is it still intended to "conduct sittings of the Supreme Court and Criminal Sessions at some of the larger provincial towns"—N.B. quotation from *Hansard* 1960, page 791?
- (2) If the answer to No. (1) is "Yes," will a Supreme Court Judge be visiting Bunbury for the October session?
- (3) If not, why not?

The Hon. A. F. GRIFFITH replied:

- (1) Yes.
- (2) No.
- (3) Up to the present time, visits to Bunbury and other places have been made as determined necessary by the Chief Justice.

A proclamation establishing circuit courts, including one for Bunbury, will be published next Friday; and from February, 1963, onwards, circuit courts will be held each quarter, unless the Chief Justice determines otherwise.

### BUSHFIRES

*Danger from and Control of Tractors and Other Machinery on Roads*

4. The Hon. J. M. THOMSON asked the Minister for Local Government:

As a total ban on harvesting and removal of grain from paddocks is imposed by the Bush Fires Board when there is a highly dangerous fire hazard, will he advise—

- (1) Is the board or any other body empowered to issue instructions banning the movement of tractors and other machinery units likely to cause fire along highways and other public roads?

- (2) If it is considered that the movement of tractors, trucks and other units within a paddock is a fire danger, is the danger equally as great with the movement of tractors and other road making machinery along roads adjacent to crops and pastures?

- (3) What control exists regarding the movement of such vehicles which could contribute to fire-danger hazard?

- (4) (a) If the answer to No. (1) is "No"; No. (2) is "Yes"; and No. (3) is "None," does the Government consider that some control is necessary at the time of the dangerous fire-hazard period?

- (b) If so, could legislation be introduced in this present session to be proclaimed prior to that period of the year when the danger could arise?

The Hon. L. A. LOGAN replied:

- (1) to (4) A local authority or a bushfire control officer may issue a requisition on a person operating a motor vehicle within the district of the local authority and the person concerned shall comply with the requisition. A ban on harvesting and carting of grain has never been imposed by the Bush Fires Board, which has no power to do so. It is not considered that the movement of tractors and other road-making machinery along roads adjacent to crops and pastures is quite as dangerous as the movement of tractors and trucks among crop and grasses in paddocks. A bushfire control officer may, subject to such directions as may be given by the local authority, prohibit the operation of any harvesting machine or tractor on a particular day or during specified periods of the day or may restrict the use of such machines in accordance with conditions stipulated.

### RAILWAY CHARGES

*Increased Freight on Grain*

5. The Hon. R. H. C. STUBBS asked the Minister for Mines:

- (1) Is it intended to increase railway freights on the carriage of—  
(a) wheat;

- (b) oats; or  
(c) barley,  
for the coming harvest?

(2) If so, what percentage increase will apply?

The Hon. A. F. GRIFFITH replied:

- (1) No.  
(2) Answered by No. (1).

### **BROOME DISTRICT HOSPITAL**

*Tenders, Commencement, and Completion*

6. The Hon. W. F. WILLESEE asked the Minister for Mines:

As plans for the construction of the new Broome District Hospital have been approved, will the Minister inform the House—

- (1) When tenders for the erection will be called?  
(2) How soon is it anticipated that work will commence?  
(3) How long will the building take to complete?

The Hon. A. F. GRIFFITH replied:

- (1) to (3) It is expected that tenders will be called in December for the first stage, involving additions to the kitchen and laundry block, including a cool room. In this event, a contract should be let early in 1963, the work to occupy six months to complete. With regard to the additional ward accommodation, there has been a need to revise the plan, and until this has been finalised I am not able to provide a firm date for work to commence. Every effort is being made to finalise plans so that a commencement will be made this financial year as funds have been set aside for the purpose.

### **HEALTH ACT**

*Enforcement of Section 99*

7. The Hon. R. H. C. STUBBS asked the Minister for Mines:

Within local authorities where a medical officer of health has not been appointed pursuant to section 27 of the Health Act, 1911, is it possible for the provisions of section 99 (2) of that Act to be enforced?

The Hon. A. F. GRIFFITH replied:

No. A Bill is to be introduced shortly to repeal subsection (2) of section 99 of the Health Act. This will remove the present anomaly in the Act whereby there is differentiation between local authorities which have a medical officer of health and those which do not. Further, with this subsection of the Act as it now stands, there is

no right of appeal against an inspector's order, which is contrary to the general principles of the Act.

### **HEALTH ACT AMENDMENT BILL (No. 2)**

*Introduction and First Reading*

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

### **MENTAL HEALTH BILL**

*Third Reading*

**THE HON. L. A. LOGAN** (Midland—Minister for Local Government) [4.57 p.m.]: I move—

That the Bill be now read a third time.

**THE HON. J. G. HISLOP** (Metropolitan) [4.58 p.m.]: I just want to have a few words on the Bill at this stage. We must realise that this measure is about to pass and therefore may fix the status of mental health administration for some considerable period. I notice that the director is to be empowered to appoint only permanent medical staff. This interests me considerably because I feel that psychiatry in the field of medicine is going to grow more and more important as the years go by.

It has become quite evident to every one of us that if the field of nervous disorders—the tensions and depressions that seem to be a growing disease in the public of today—is to receive adequate attention, then our students must receive adequate instruction in psychiatry. Restricted as the Bill is, I was just wondering whether arrangements had been made to provide student teaching within the mental health organisation.

It will be necessary also to provide that not only students shall be taught but that those who have qualified and who desire to enter practice shall have the opportunity to enter a hospital, preferably as resident medical officers. Those men, of course, will not be permanent members of the staff but individuals who will probably train for six or twelve months at that hospital. If one of those men desires to go into the field of psychiatry it will be necessary for him to have a longer period of residence.

I would emphasise that there is a growing feeling in Australia that before long we will not need to look overseas for highly-qualified men to carry on teaching in our hospitals and in our universities. This is evidenced by the University of Sydney having made such a commencement in this direction as the appointment of Professor Blackburn, one of the outstanding physicians in Australia in recent times. Another man is Dr. Bryan Hudson, one of Melbourne's brilliant practitioners who has been appointed Professor of Medicine

at Monash University, Victoria. If we throw the hospitals open not only for the training of students but also resident doctors, the time will not be far distant when, in making permanent appointments to these hospitals, we will not need to look abroad for men.

Therefore, I hope the power provided in the Bill to appoint doctors to the hospital does not close the door on the necessary training of students and practitioners. I would be all in favour of the Minister reviewing the conditions if he thought it necessary in order to make certain that the teaching of psychiatry was carried out to a considerable degree within this State.

**THE HON. L. A. LOGAN** (Midland—Minister for Local Government) [5.2 p.m.]: I will pass to the Minister for Health the request made by Dr. Hislop. I do not know whether the curriculum of the Medical School could include students and medical practitioners in this hospital for such training. However, as I say, I will pass the request on to the Minister.

**Question put and passed.**

**Bill read a third time and returned to the Assembly with amendments.**

## **BILLS (2): THIRD READING**

### **1. Bush Fires Act Amendment Bill.**

Bill read a third time, on motion by The Hon. L. A. Logan (Minister for Local Government), and returned to the Assembly with amendments.

### **2. Land Act Amendment Bill.**

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

## **BILLS (2): REPORT**

### **1. Metropolitan Region Town Planning Scheme Act Amendment Bill.**

### **2. Money Lenders Act Amendment Bill.** Reports of Committee adopted.

## **BILLS OF SALE ACT AMENDMENT BILL**

### *Second Reading*

Debate resumed from the 9th October, on the following motion by The Hon. A. F. Griffith (Minister for Justice):—

That the Bill be now read a second time.

**THE HON. F. J. S. WISE** (North—Leader of the Opposition) [5.6 p.m.]: This short Bill to amend the Bills of Sale Act has for its purpose the extension of the registration period from 10 days to 30 days as from the date of the signing of the agreement by the hirer. The particular effect of the amendment within the Act is that it will apply to hire purchase agreements only in so far as they are effected within a certain radius and also, outside

that radius, within a certain period. Further, it does not apply to all documents that are bills of sale, nor does it apply to remote areas.

With the uses that are now made of the Bills of Sale Act by hirers and financial institutions of different kinds, and where there is more than one hirer involved, I notice that the Bill is so drafted that the date of the signature of the last hirer is the date from which the period of registration will commence to apply. I have no objection to the Bill and support the second reading.

**Question put and passed.**

**Bill read a second time.**

*In Committee, etc.*

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

## **WATER SUPPLY FOR MIDLAND PROVINCE**

### *Mines Department Investigations*

The Hon. A. F. GRIFFITH (Minister for Mines): Before we proceed to Order of the Day No. 3 I seek your permission, Sir, to add some further information to that which I gave to Mr. Jones in answer to his question No. 1 on the notice paper. I am sorry I neglected to read a small note that was attached to the bottom of the answer to this question and I would now like to have it recorded, if I may. The additional information is as follows:—

Geraldton is being investigated as a separate entity. Dalwallinu is being connected to the Northern Comprehensive Scheme. The Mines Department is investigating underground water from Encabba through to Geraldton. Gingin Brook may ultimately augment the Northern Comprehensive Scheme.

## **TRUSTEES BILL**

### *Second Reading*

Debate resumed, from the 9th October, on the following motion by The Hon. A. F. Griffith (Minister for Justice):—

That the Bill be now read a second time.

**THE HON. A. F. GRIFFITH** (Suburban—Minister for Justice) [5.12 p.m.]: I would like to say how grateful I am to the members of this House who addressed themselves to the second reading of the Bill. I made my second reading speech some weeks ago and arranged that not only should copies of the Bill be circulated among interested persons in the community, but also that we would not continue to deal with the measure until after the 30th September. By adopting this course, I received from various sections of the community some worth-while comments and suggestions which I may be able to enumerate in

detail as I continue with my speech tonight. At this stage I would like to take the opportunity of thanking those people for examining the Bill and for the part they have played.

When I moved the second reading of the Bill I said that I regarded it as being completely non-political; and I feel that my circulating the Bill among various sections of the community has paid dividends. Of course, this is not the first occasion on which such a step has been taken with a measure of this kind. I would also like to apologise for my temporary indisposition the week before last which prevented my being in the House to hear some of the speeches made on this legislation and the other Bills complementary to it. Although I did not have the opportunity, in view of the circumstances, to listen to the speeches that were made, I subsequently read and examined them and, in collaboration with my departmental officers, I have prepared a somewhat brief reply to some of the points that were raised by members.

I will deal first of all with the remarks of Mr. Wise. During the debate he referred to the report of the Law Reform Subcommittee of the Law Society and suggested that the English procedure of printing and tabling the report might have been followed. The position in this instance and in this jurisdiction is quite different from that obtaining in the United Kingdom. In that country, and in New Zealand, too, the law reform committees are official bodies and are established as such; in the United Kingdom *ad hoc* and in New Zealand permanently.

The Hon. F. J. S. Wise: It will be a good thing when we have one here.

The Hon. A. F. GRIFFITH: I agree with the interjection, and I shall make one or two comments along those lines shortly. These bodies prepare reports for consideration by their Governments, and the reports are printed and tabled.

In the present case the body that considered the legislation has no official standing in this Government or in this Legislature. The report that was made available to members of this House was made available through the courtesy of the Law Society. When questioned upon this point I was hesitant to lay the document on the Table of the House, because it was not mine legally; it belonged to the Law Society and had been made available to me to assist me in the conduct of this piece of legislation.

Like Mr. Wise, I would welcome the printing and tabling of reports dealing with legislation of this kind, but in order to do that we must first of all establish an official law reform society. I know the Chief Justice advocates this course, because I have spoken to him about the matter. I also support the proposition. Such a body could consider matters referred to it by the Attorney-General from

time to time and, of its own motion, any other matters; and it could report and make recommendations as required.

The report of such a body would, unlike the report under discussion at the moment, be a report to the Government, and the Government would have the right to reproduce and table it. Then it would become an official document and could be made available for the use of any member of Parliament who desired to have it. As I have emphasised, that was not the position in this case. I do hope to make some progress on the question of establishing a law reform committee in this State. I believe many people would welcome its advent, and next year I hope to be able to make some progress along those lines.

Mr. Watson made a plea for the attaching, when a Bill is introduced, of a brief summary of the provisions in the Bill, as is done in New Zealand. I agree this could easily be a good system, and one to which the Legislature of this State might well give some consideration; but I would emphasise there would be no benefit for one Government to adopt a procedure of this nature, if subsequently the procedure was relinquished by a succeeding Government. Again, it would have been very difficult to present a precis of a Bill, of the size of this one, in an intelligible form unless there had been a report before the House at some earlier date.

I agree with the comments made by Mr. Wise on the work which apparently went into the preparation of this legislation. In congratulating those concerned with its production in the present form I point out, as Mr. Watson also pointed out, that the proposed piece of legislation puts into statutory form provisions that are frequently encountered in wills and settlements; and for that reason it should greatly simplify the drafting of those instruments, if it becomes law.

It is very appropriate that I should recognise the work of the subcommittee of the Law Society, as I did briefly when moving the second reading of the Bill. In particular I say to Mr. D. E. Allan, the senior lecturer in law at the University, that I am very grateful for his efforts in this connection. I am also grateful to Mr. D. G. Sander, whose work in this connection is also worthy of thanks; he is one of the Parliamentary Draftsmen in the Crown Law Department. Between them, these two gentlemen have been responsible for putting this Bill before Parliament for consideration.

To deal with one or two of the clauses that came under mention, I refer firstly to Mr. Watson's comments on clause 7. I believe he misread the effect of that clause, in thinking that the sole remaining trustee could not appoint other trustees. Sub-clause (1) confers the power on the person

appointed for that purpose in the trust instrument, or upon the surviving or continuing trustees. In this connection section 26 of the Interpretation Act, 1918, provides that the plural includes the singular.

Again, I believe Mr. Watson expressed a fear—I understand it was not expressed in this House, but outside—that subclause (2) would enable two or more trustees to oust one of their fellows. The subclause is not intended to confer such a power. It is intended to mean that two or more trustees may be appointed in place of a trustee who has been replaced under subclause (1). However, to resolve these doubts it is proposed to amend the clause, as is shown in the addendum to the notice paper.

In connection with clause 16, Mr. Wise rightly pointed out that this clause makes no reference to savings banks as a trustee investment. I am advised there was no reason for the omission; it was accidental and escaped the notice of those who considered the Bill. I have given notice of an amendment which will rectify the omission.

I agree with the observation of Mr. Watson that the size of a company is not necessarily a guarantee of stability or prudent management; but what other test can one conveniently write into a Statute? The report of the subcommittee of the Law Society states as follows:—

We are aware that the paid-up share capital of a company is not necessarily the best test of its financial stability, but it is convenient, and supplemented by the requirement of the payment of dividends for 15 years, should provide reasonable security.

I am advised that the Nathan committee in its report in 1952 was not able to suggest a better test, and that although the same warnings were sounded in the U.K. Parliament, similar provisions found their way into the Trustee Investment Act of 1960.

I agree with the comment of Mr. Watson that a paid-up capital of £1,000,000 severely restricts the choice of companies in which a trustee may invest. However, the Law Reform Subcommittee was principally concerned to secure acceptance of the principle that trustees might properly invest in equities, and was therefore anxious to avoid the criticism that too great a choice had been given. The committee expressed the hope in its report that if those provisions worked well, the range of companies might subsequently be broadened.

It is true, as Mr. Watson said, that paid-up capital is not defined in the Bill; nor is it defined in the new Companies Act. It is taken to have the normal meaning on the proportion of nominal capital;

for example, the free value of stock and shares that has been paid to the company. It is a term of art which the courts have no difficulty in interpreting.

The powers conferred upon trustees under part IV, as Mr. Wise said, are very wide. It should be noted that clause 5 provides that they may be modified, excluded or enlarged by the instrument according to the trust. This fact, and the fact that clause 94 gives beneficiaries the right to challenge the exercise by trustees of the powers conferred by the Bill, answer the doubt raised by Mr. Wise as to whether these powers might be too wide. However, all these powers have their counterparts in the legislation of other jurisdictions. These provisions do not appear as a great innovation in relation to the legislation of Victoria and New Zealand—only in relation to the limited scope of our Trustees Act, 1900.

In connection with clause 105 it does not appear that Mr. Wise has perfectly understood the purpose of this clause, which is to abolish a technical rule—the rule in *Howe v. Lord Dartmouth*—which limits the right of the life tenant to a return of 4 per cent. on unauthorised investments, pending their conversion to authorised investments. Under this clause the life tenant will get the actual yield on such investments—usually well in excess of 4 per cent.—unless the will directs otherwise.

Adverting to the comments of Mr. Wise on protective trusts, strictly only section 61 of part V deals with such trusts. The other clauses deal with the maintenance of infant beneficiaries out of income or advancements of capital.

As to section 12 of the Trustees Act, 1900, I understand that the Law Reform Committee appreciated the motives which led to the passing of this section, but stated the view in its report that the principles embodied in that section cannot be reconciled with the rest of the law of trusts; accordingly, it was thought better to deal with the problem in clause 75, in the same manner as other jurisdictions. It is not clear what Mr. Wise referred to when he talked about the case law surrounding section 12. There is, however, abundant authority to show that the discretion conferred on the court by clause 74 should be exercised.

I thank Mr. Heenan for his contribution to the debate, as he, perhaps more than any of us, realises what a complex part of the law is being dealt with in a matter of this nature. I welcome his remarks; and agree with him that this legislation would need to stand the test of time, and that unquestionably time can reveal weaknesses in legislation; and it was ever thus. Despite the intense study that goes into the production of a work such as this, that is the position.

Members may have observed that amendments forecast appear on the addendum to the notice paper. I apologise for the lateness in producing these amendments; they have arisen due very considerably to the fact that the Bill has been circulated so widely, and to the fact that some further suggestions have been made by Mr. Allan in consultation with the Parliamentary Draftsman.

There should not be any difficulty; but if members think I am being unreasonable in asking for these amendments to be considered and dealt with tonight, I shall deal with the problem when it arises. All I need say is that these amendments have been put forward following the wide circulation of this Bill in the manner I have stated. The scheme has the general approval of many sections of the community which are in a position to appreciate its worth. I think it will prove to be a move forward in the right direction.

In conclusion I would like to say that I did not make any reply to the second reading debate on the complementary Bills, but merely permitted them to reach the Committee stage and rest there, the purpose being that we would deal with those Bills when the Trustees Bill had been dealt with in Committee. If during the Committee stage of the Trustees Bill, or the other Bills, any points arise which bear questioning, I think members will accept the situation and be prepared to receive explanations on those points as they arise.

I do not think there is any necessity for me to say anything more at the moment except to repeat my thanks to the House for the manner in which the Bill has been received. As I have said, this Bill is a move in the right direction and so far as I am concerned as the Minister for Justice for the time being I encourage the Law Society—and it does not need a great deal of encouragement—to continue to offer its suggestions and its help.

The Hon. F. J. S. Wise: Especially as it is a voluntary effort.

The Hon. A. F. GRIFFITH: Yes. All the efforts of the Law Society are voluntary. Therefore it is so much more commendable. I am grateful to the members of the society who have put the work into this document; and I am sure that in this matter their efforts will enable us to place on the statute book legislation that will be in a form acceptable and beneficial to the community generally.

**Question put and passed.**

**Bill read a second time.**

*In Committee, etc.*

The Chairman of Committees (The Hon. W. R. Hall) in the Chair; The Hon. A. F. Griffith (Minister for Justice) in charge of the Bill.

**Clauses 1 to 6 put and passed.**

**Clause 7: Power of appointing new trustees—**

The Hon. A. F. GRIFFITH: I move an amendment—

Page 8, line 14—Insert after the word "continuing" the words "trustee or".

This amendment is to resolve the doubts expressed by Mr. Watson on this clause; it will remove all doubt that a sole surviving trustee can exercise the powers conferred by the subclause.

The Hon. H. K. WATSON: Immediately I read the amendment circulated by the Minister it became apparent to me that I had misread the particular provisions in clause 7 to which I referred in my second reading speech. However, the amendment makes it clear that the words as they originally stood were perhaps capable of being misread. I am obliged to the Minister for his amendments because they make the provisions considerably clearer.

**Amendment put and passed.**

The Hon. A. F. GRIFFITH: I move an amendment—

Page 8, lines 24 to 26—Delete all words commencing with the words "a trustee" down to and including the word "trustees" and substitute the following words:—"two or more trustees may be appointed in place of a trustee being replaced under this section".

The change to subclause (2) will make it clear that the intention is to enable the appointment of two or more trustees in place of one trustee replaced under subclause (1), provided the number of trustees is not thereby made to exceed four.

The Hon. H. K. WATSON: I do not propose to move any amendment, but I would like to ask the Minister whether it is necessary to limit the number of trustees to four. It is possible to visualise cases where under certain circumstances and having regard to the wishes of the settlor or testator, as the case may be, the limitation of four could be irksome.

The Hon. A. F. Griffith: I will have a look at it between now and the third reading stage.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 8 to 15 put and passed.**

**Clause 16: Authorised investments—**

The Hon. A. F. GRIFFITH: I move an amendment—

Page 21, lines 1 to 3—Delete paragraph (d) and substitute the following:—

(d) in any one or more of the following, namely—

(i) on fixed deposits in any incorporated or Joint Stock Bank carrying on business in the State;

- (ii) on deposit in the Savings Bank Division of the Rural and Industries Bank of Western Australia; and
- (iii) on deposit in any savings bank authorised to carry on savings bank business under the Banking Act, 1959 of the Commonwealth or under any Act passed in amendment of, or in substitute for, that Act;

This amendment corrects the unintentional omission of reference to savings banks as trustee investments. In addition the provision as to the R. & I. Bank at present in the 1900 Act was overlooked. All these matters are now to be corrected by this amendment.

#### **Amendment put and passed.**

The Hon. A. F. GRIFFITH: I move an amendment—

Page 21, line 8—Delete the words “the shares of”.

Briefly, this amendment was recommended by Treasury officers and the draftsman as the words are redundant in the light of the provisions in line 4 which give alternatives—either “on fixed deposit in or in the shares of”.

#### **Amendment put and passed.**

The Hon. A. F. GRIFFITH: I move an amendment—

Page 21, lines 10 to 14—Delete paragraph (f) and substitute the following:—

- (f) with any dealer in the short term money market, approved by the Reserve Bank of Australia as an authorised dealer, that has established lines of credit with that bank as a lender of last resort;

The Treasurer has sought the omission of the present paragraph (f) because the Treasury would prefer that there should not be two kinds of company investments; and it did not wish to be importuned by persons seeking a certificate for a company that did not comply with the provisions of subclause (4). Accordingly the paragraph has been used to include another provision recommended by the Treasury. This is for investment in the short-term money market. Members will recall that Parliament enacted the Public Moneys Investment Act, 1961, to enable Treasury funds to be placed in the short-term money market; and they will no doubt agree with the Under-Treasurer that an investment that is proper for public moneys ought to be a satisfactory trustee investment.

The Hon. H. K. WATSON: I think the Treasurer's view on this is well taken, particularly now, inasmuch as the legislation itself prescribes what public companies a trustee may invest in. It relieves the Treasury of the rather unenviable task of having to certify one company as against another.

So far as the substitution of the new clause is concerned, I also think that is very desirable; because, after all is said and done, an investment with a dealer on the short-term money market is virtually an investment in Commonwealth bonds. That being so a trustee will have the added advantage of being able to invest money either for three months or at call and still be able to find a trustee security; and occasionally it is desirable to have a trustee security available at call. I support the amendment.

#### **Amendment put and passed.**

The Hon. A. F. GRIFFITH: I move an amendment—

Page 21, lines 25 to 27—Delete the words “, and certified by notice in the Gazette, signed by the Treasurer, as debentures or securities in which trustees may invest”.

This will mean that it will not be necessary to certify every issue made under section 46 of the Fire Brigades Act, 1942; it will be sufficient if the issue is authorised by Statute with the approval of the Governor.

#### **Amendment put and passed.**

The Hon. A. F. GRIFFITH: I move an amendment—

Page 24—Insert after subclause (8) in lines 23 to 25 the following new subclause:—

- (9) The Treasurer may, by notice in the Gazette, revoke any notice given under paragraph (e) of subsection (1) of this section.

This amendment seeks to add a new subclause (9), and this is recommended by the Treasury. Its power is necessary where, after a period of time subsequent to a certificate being issued under paragraph (e) of subclause (1), a society has become unsuitable for the investment of trust money. It will not affect investments already made as these will be protected by clause 20, but trustees will not be able to make new investments in a society in respect of which approval has been withdrawn.

The Hon. H. K. WATSON: I also support this amendment; and in doing so I recall that when the Trustees Act was originally amended to provide that deposits, or shares, in a building society could be certified as being trustee security, the Treasury, to my mind, either misunderstood the provision or interpreted it very liberally because, willy-nilly, they certified every building society then in existence.

In much the same way as this clause provides for companies to have a minimum capital, so I feel that with any future certification by the Treasury with respect to building societies it could well have regard to ensuring that the societies have a considerable minimum capital. I am not suggesting £1,000,000, but I do suggest that in certifying a society the Treasury should see that the capital of the society is at least £100,000; or perhaps £250,000.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 17 to 25 put and passed.**

**Clause 26: Power to deposit money at bank and to pay calls—**

The CHAIRMAN (The Hon. W. R. Hall): The Minister has an amendment on the notice paper to delete this clause and substitute another. It is not permissible to move to delete a clause; but the Minister may move to delete all the words in the clause and substitute the words appearing on the notice paper.

The Hon. A. F. GRIFFITH: I move an amendment—

Pages 32 and 33—Delete all words in the clause and substitute the following:—

A trustee may apply capital money subject to a trust in payment of the calls on any shares subject to the same trust.

The amendment made by the Committee to clause 16—the deletion of paragraph (d) of subclause (1) and the substitution of a new paragraph relating to banks—renders subclause (1) of clause 26 redundant. The present amendment therefore makes subclause (2) of clause 26 the substantive clause.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 27 to 34 put and passed.**

**Clause 35: Surrender of onerous leases—**

The Hon. E. M. HEENAN: This clause deals with the surrender of leases by a trustee. A trustee who is vested with a lease which proves to be onerous and which in the best interests of all concerned should be surrendered is able to surrender such lease provided he complies with certain conditions; and in these circumstances no beneficiary can impeach the trustee for having surrendered it, if he acted *bona fide* and on the advice of a person whom he reasonably believed to be a competent valuer. I move an amendment—

Page 45, lines 15 and 16—Delete the words “a person whom he reasonably believed to be”.

The reason I am moving for the deletion of those words is that in my view they appear to lessen somewhat the strict obligation which a trustee should exercise before taking the extreme course of surrendering a lease.

I think the protection, without these words, will be ample. It should be his obligation to ensure that he obtains his advice from a competent valuer, and we should not let him out by allowing him reasonably to believe. We should place the onus on him to act only on the advice of a competent valuer. It is not asking a trustee too much to act solely on the advice of such a person, and the deletion of the words will not place any undue burden on the shoulders of a trustee.

The Hon. A. F. GRIFFITH: I hope the Committee will not agree to the amendment because it will place an impossible burden on the trustee. I think it would deter him from exercising the power he has; and would it not be easier to find out the *bona fides* of the trustee rather than to discover the lack of competency of a valuer? If there is any incompetence on the part of a valuer, surely that is a matter for the court to decide. I venture to suggest that the average trustee would not seek out a man whom he considered to be incompetent. He would go to a certified valuer because if the valuer was not competent the trustee would be liable. I think the clause should be left as it is in this regard, because if there is any question of incompetency it is a matter for the court to determine.

The Hon. H. K. WATSON: I am rather inclined to agree with the Minister. If the words were deleted there could be endless argument before the court; and probably the matter could not be determined other than by an appeal to the court on the question of whether or not a person was a competent valuer. If the amendment is agreed to I think it will be necessary to have a look at the words “competent valuer” with a view to inserting such words as “a sworn valuer,” or “a member of the Institute of Valuers.”

The Hon. A. F. Griffith: With the clause as it is the court would determine whether he acted reasonably.

The Hon. H. K. WATSON: Yes.

The Hon. E. M. HEENAN: In the next amendment we are going to give a trustee the right to surrender freehold property; and to surrender property is an extreme step. One does not give it back to the Crown unless it is worthless or unless it is onerous to retain and it is something which, in the interests of everyone, should be disposed of. We all know that such circumstances do arise, and a property can become onerous and expensive to retain. However, it seems to me that the phrase “a competent valuer” is a simple one.

If I wanted to surrender land at Esperance, or on the goldfields, I would go to one of several men who are well known for their knowledge of the area and for their competency. The inclusion of the words "a person whom he reasonably believed to be" seems a let-out for the trustee; it seems to authorise him to employ someone who is incompetent, although the trustee reasonably believed him to be competent. I think trustees have to be more circumspect than that.

The amendment does not amount to a great deal in my opinion and I shall not contest the issue very strongly. Trustees have a high standard of conduct to maintain, and before they surrender property it seems reasonable to me that they should get the advice of competent valuers; and they should make sure that those valuers are competent; they should not just reasonably believe them to be.

The Hon. A. F. GRIFFITH: It has been drawn to my attention that the words in question occur in other places in the Bill. I refer the honourable member to paragraph (a) of subclause (1) of clause 22 on page 28.

The Hon. E. M. Heenan: That is all right, then.

**Amendment put and negatived.**

The Hon. A. F. GRIFFITH: I move an amendment—

Page 45—Insert after subclause (1) in lines 6 to 20 the following new subclause to stand as subclause (2):—

(2) Where a freehold is vested in a trustee and the property is of so onerous a nature that it would not be in the interests of the beneficiaries to retain the property, if the Crown agrees to accept the surrender of the freehold, the trustee may surrender, or concur in surrendering, it to the Crown; and the trustee shall not be chargeable with breach of trust nor shall the surrender be impeached by any beneficiary upon the ground only that the property was not of such a nature, if the trustee has acted *bona fide* and on the advice of a person whom he reasonably believed to be a competent valuer, whether that valuer carried on business in the locality where the property is situate or elsewhere.

The two trustee companies which considered the Bill recommended that the provisions applying to onerous leases should be extended to onerous freeholds. Members, particularly those whose provinces include worked-out mining areas, will appreciate that worthless freeholds could become a liability. The question was raised before the subcommittee of the Law Society which agreed that this suggestion was one of merit. I think it is one of

merit, too, particularly as it could apply to worked-out mining areas where, as a result, land becomes worthless.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

*Sitting suspended from 6.15 to 7.30 p.m.*

The Hon. A. F. GRIFFITH: Before we proceed to the next clause might I draw attention to the fact that the marginal note to clause 35 needs correcting? The marginal note reads, "Surrender of onerous leases". There should be added, "or property."

The CHAIRMAN (The Hon. W. R. Hall): That correction will be made by the clerks.

**Clauses 36 to 71 put and passed.**

**Clause 72: Protection of trustee in handing over chattels to life tenant—**

The Hon. A. F. GRIFFITH: I move an amendment—

Page 82—Insert after subclause (3), in lines 1 to 7, the following new subclause:—

(4) Where chattels bequeathed to a person for life or some other limited interest consist wholly of articles of household furniture, the trustee may deliver those articles to that person and shall be entitled to the protection provided by subsection (2), without any obligation to register an inventory under subsection (3), of this section.

The Public Trustee has pointed out that many chattels remain in the house which is the subject of a life estate. The will often give the house and contents to a person for life and in such circumstances it should not be necessary for the inventory to be registered. The clause would be intended more for the protection of the remainder interests in plant and machinery and not in articles of household furniture. The additional subclause would exempt these items from the necessity of registration under the Bills of Sale Act.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 73 to 100 put and passed.**

**Clause 101: Protection of bankers dealing with trustees in certain cases—**

The Hon. A. F. GRIFFITH: Before we proceed with this clause, Mr. Chairman, may I point out that there is an error in the marginal note to clause 81 on page 86? The word "conveyance" is wrongly spelt.

The CHAIRMAN (The Hon. W. R. Hall): That will be rectified by the clerks.

The Hon. A. F. GRIFFITH: I move an amendment—

Page 98, line 12—Delete the word "authority," and substitute the words "authority; or".

This amendment is consequential on the inclusion of the savings banks accounts as trustee investments in clause 16. It is complementary to bankers accepting cheques drawn or endorsed by trustees.

The Hon. A. L. LOTON: What is the reason for deleting the word "authority" and then reinserting it in addition to the word "or"?

The CHAIRMAN (The Hon. W. R. Hall): There is a semicolon involved.

The Hon. A. L. LOTON: It is a matter of convenience?

The Hon. A. F. Griffith: Yes.

**Amendment put and passed.**

The Hon. A. F. GRIFFITH: I move an amendment—

Page 98—Insert after paragraph (b), in lines 8 to 12, the following new paragraph:—

(c) to pay money out of any account of the trust in a savings bank, on presentation of withdrawal forms signed in the manner specified in the authority.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 102 to 109 put and passed.**

**New clause 110—**

The Hon. A. F. GRIFFITH: I move—

Page 103—Insert after clause 109 in lines 22 to 44, the following new clause:—

**Regulations.** 110. The Governor may make such regulations as he thinks fit for the carrying out of the provisions of, and giving effect to, section sixteen of this Act.

The Treasurer has for some time experienced difficulty in establishing standards or desiderata for building societies to be approved as an investment under clause 16; and the power to make regulations which is contained in this clause will ensure a uniform policy in that respect. The Treasury has recommended this course of action.

**New clause put and passed.**

**First schedule put and passed.**

**Second schedule—**

The Hon. A. F. GRIFFITH: I move an amendment—

Page 104—Delete the words "Trustee Act" in line 32 and substitute the words "Trustees Act, 1962".

**Amendment put and passed.**

**Schedule, as amended, put and passed.**

**Title put and passed.**

**Bill reported with amendments.**

## **MARRIED WOMEN'S PROPERTY ACT AMENDMENT BILL**

*In Committee*

Resumed from the 9th October. The Chairman of Committees (The Hon. W. R. Hall) in the Chair; The Hon. A. F. Griffith (Minister for Justice) in charge of the Bill.

**Clause 1: Short title and citation—**

The CHAIRMAN: Progress was reported on clause 1.

**Clause put and passed.**

**Clauses 2 and 3 put and passed.**

**Title put and passed.**

*Report*

**Bill reported, without amendment, and the report adopted.**

## **ADMINISTRATION ACT AMENDMENT BILL**

*In Committee, etc.*

The Chairman of Committees (The Hon. W. R. Hall) in the Chair; The Hon. A. F. Griffith (Minister for Justice) in charge of the Bill.

**Clauses 1 to 3 put and passed.**

**Clause 4: Section 17A added—**

The Hon. A. F. GRIFFITH: I move an amendment—

Page 2, line 26—Insert after the word "corporation" the passage "(including the Public Trustee)".

In the Trustees Act "corporation" is defined as including the Public Trustee, but this is not so in the Administration Act, and it is necessary to make it clear that the Public Trustee is included.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 5 to 9 put and passed.**

**Title put and passed.**

**Bill reported with an amendment.**

## **TESTATOR'S FAMILY MAINTENANCE ACT AMENDMENT BILL**

*In Committee, etc.*

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

## **CHARITABLE TRUSTS BILL**

*In Committee, etc.*

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

## LAW REFORM (PROPERTY, PERPETUITIES, AND SUCCESSION) BILL

### *In Committee*

The Chairman of Committees (The Hon. W. R. Hall) in the Chair; The Minister for Justice (The Hon. A. F. Griffith) in charge of the Bill.

**Clauses 1 to 13 put and passed.**

#### **Clause 14: Options—**

The Hon. H. K. WATSON: Is there any particular reason why the option which may be exercised under this clause is to be void if not exercised within 21 years? Also, since it is customary these days to own shares in a company which, in turn, owns land either directly or with the other system of strata title, it did occur to me to ask why the exemption from the rule against perpetuities should not apply to an option over shares as well as to an option over land itself.

The Hon. A. F. Griffith: I would like a few moments to consider this. Perhaps I could give the answer on the third reading.

The Hon. H. K. WATSON: Yes, thank you.

**Clause put and passed.**

**Clauses 15 and 16 put and passed.**

#### **Clause 17: Accumulations of income—**

The Hon. H. K. WATSON: This clause raises an interesting question to which I made reference during the debate on the Bill dealing with the Statute of Frauds. The Minister could well enlighten us on this interesting point either at this juncture or on the third reading of the Bill. This is a nice point of law. The clause says that the Accumulations Act of 1800 ceases to apply in this State.

The position is that upon the foundation of Western Australia the English laws then in existence automatically applied to this State. But the Accumulations Act of 1800 as passed by the United Kingdom was repealed by the United Kingdom in 1925. We apparently have this rather interesting position that although the Act has been repealed by the United Kingdom since 1925 it still applies to Western Australia; and even in 1962 it requires positive legislation by this State to ensure that it no longer applies.

The Hon. A. F. Griffith: I will give you the answer on the third reading.

The Hon. H. K. WATSON: Thank you.

**Clause put and passed.**

**Clauses 18 to 25 put and passed.**

#### **Title—**

The Hon. A. F. GRIFFITH: I think I can give Mr. Watson some information on clause 14. I am advised in these terms—

- (1) Options other than options contained in leases are made void after 21 years as they tend to deter and impede the proper development of the land by the freeholder.
- (2) The rule does apply to options to acquire shares, but there is no question here of impeding the proper development of the property. Accordingly the rule is left untouched in relation to shares; namely, it does not apply between original contracting parties; and as between their assignees it will be the full perpetuity period.

The Hon. H. K. Watson: Thank you.

The Hon. A. F. GRIFFITH: In connection with clause 17, I am advised—

The Accumulations Act was repealed in England in 1925, but was re-enacted in effect in the Law of Property Act, 1925. The proposal in clause 17 is to abolish it altogether. There are many jurisdictions in which it has never existed without harm to the economy or noticeable injustice.

The Hon. H. K. WATSON: I thank the Minister for his explanations; and in his giving of them I am sure he was able to sympathise with the position in which the President found himself last night.

**Title put and passed.**

#### *Report*

**Bill reported, without amendment, and the report adopted.**

### ADOPTION OF CHILDREN ACT AMENDMENT BILL

*In Committee, etc.*

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

### SIMULTANEOUS DEATHS ACT AMENDMENT BILL

*In Committee, etc.*

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

### TOTALISATOR AGENCY BOARD BETTING ACT AMENDMENT BILL (No. 2)

*Second Reading*

Debate resumed, from the 9th October, on the following motion by The Hon. A. F. Griffith (Minister for Mines):—

That the Bill be now read a second time.

**THE HON. A. L. LOTON** (South) [8.18 p.m.]: When the original legislation was before this Chamber I had some reservations about the support I was prepared to give to it. With the passing of time some of those reservations have been dispelled. At this stage I think that some of the proposed penalties which the board has suggested Parliament should agree to in this Bill are being submitted with a view to diverting our feelings because the figures that were expected as a result of the Totalisator Agency Board's activities have not been realised.

I feel certain that some of the figures that were anticipated by the board have not been forthcoming, and the profits that were expected have not reached the target aimed at by the board. What I am concerned about is that in the space of two years we have this proposal in the Bill before us to increase penalties against a person desiring to make a bet, which, to my mind, is not such a serious crime in our society, especially when we hear of the many cases of young people unlawfully taking control of motorcars, driving them along the highways at danger to the public, and finally causing damage of an undefined amount to the vehicles; and, when charged before the court, the penalty inflicted upon them does not amount to a week's wages for any of the offenders.

By comparison, under this Bill it is proposed to provide for a minimum penalty for a first offence of a fine of not less than £50. To my mind the penalties for each of the two offences I have mentioned do not add up. I know the law must be observed; and when it says that it is illegal for a person to bet with a bookmaker, except the Totalisator Agency Board, offenders must be punished. Nevertheless, I still say that the penalties in this Bill are extremely harsh compared with the penalties that have been imposed on the youthful offenders who unlawfully assume control of vehicles.

**The Hon. C. R. Abbey:** Should we not raise those penalties?

**The Hon. A. L. LOTON:** I do not know; but members must agree that the penalties we read of in the Press which are imposed on those persons who unlawfully assume control of vehicles are not very great. Furthermore, in those cases the offenders who assume unlawful control of vehicles are a danger to every other motorist on the road. I trust, therefore, that the Minister will, by introducing the necessary legislation in this House, take cognisance of what I have said and endeavour to ensure that a greater penalty is imposed on the person who assumes unlawful control of a motorcar. I support the Bill.

**THE HON. A. F. GRIFFITH** (Suburban—Minister for Mines) [8.22 p.m.]: I wish to make only one or two comments in reply to the remarks made by Mr. Loton. In the first place, it is correct to say that the expectations of the Totalisator Agency Board have nothing to do with this Bill which proposes to increase penalties against a person who bets with an illegal bookmaker. The fact remains that there are still cases of bets being made illegally, and this Bill is merely an attempt to stamp out the practice. The only way it can be stamped out is to increase the penalties already provided.

I suppose that on other occasions one could adopt the same line of argument which the honourable member chose to adopt; namely, that in many of our Statutes obvious comparisons can be made between one set of penalties and another. I am not sure on the point without consulting the particular Act, but in the case of a person unlawfully assuming control of a motor vehicle I think the penalty is a £50 irreducible minimum. This Bill merely seeks to put in the hands of a magistrate discretionary power to change the penalty from one amount to another.

**The Hon. A. L. Loton:** But you have stated the minimum.

**The Hon. A. F. GRIFFITH:** Yes; that is so. The honourable member tried to make a comparison between the penalty imposed on a person unlawfully assuming control of a motor vehicle and the penalty that is proposed in this Bill. On previous occasions in this House I have spoken on the subject of those individuals who unlawfully assume control of motor vehicles. In my opinion it is a severe crime and should be regarded as such; and, in fact, it is regarded as such by the courts. I feel certain that the penalty for such an offence is an irreducible minimum of £50.

**The Hon. A. L. Loton:** Nevertheless, no comparison can be made between that penalty and the one which is proposed to be provided for the offence of betting with an illegal bookmaker.

**The Hon. A. F. GRIFFITH:** That may be so, but we cannot say that a person who unlawfully assumes control of a motorcar shall be penalised and a person who bets with an illegal bookmaker shall go free. Penalties must be imposed against both types of offender. I thank the honourable member for his support of the Bill.

**Question put and passed.**

**Bill read a second time.**

*In Committee, etc.*

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

*House adjourned at 8.28 p.m.*