Legislative Council,

Thursday, 14th October, 1937.

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The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

QUESTION—RAILWAY, DENMARK-NORNALUP.

Hon. A. THOMSON asked the Chief Secretary: 1, What was the total expenditure on the construction of the Denmark-Nornalup railway? 2, (a) What was the total cost of the construction of the deviation from the old line to the present site at Denmark station; (b) what was the number of miles constructed by such deviation? 3, (a) What value does the Commissioner of Railways place on the rails now in the Nornalup-Denmark section; (b) what is the estimated cost of removing the rails elsewhere?

The CHIEF SECRETARY replied: 1, £380,751. 2, (a) £64,594; (b) six miles 20 chains. 3, (a) £26,970; (b) £3,000 plus freight to where rails would be used.

QUESTION—GOVERNMENT MOTOR CAR.

Hon. V. HAMERSLEY asked the Chief Secretary: 1, Is the motor car, with plate marked "W.A. Govt. 581," the property of the Government? 2, To which department is this car allotted? 3, What is the name of the employee in control of it? 4, Are the Government aware that it is frequently parked for days and nights in all weathers under a tree opposite the employee's residence in Glenroyd-street, Mt. Lawley? 5, Why do not the Government insist that their cars be housed or sheeted to protect them from the weather? 6, When the car with W.A. Govt. plate No. 581 is not parked in Glenroyd-street, where is it parked when not in use?

The CHIEF SECRETARY replied: 1, Yes. 2, P.W.D. 3, Mr. R. W. Edwards. 4, No. 5, Instructions are issued to that effect. 6, This car is used mainly in the country.

BILL—WHALING.

Introduced by the Chief Secretary, and read a first time.

BILL — FREMANTLE MUNICIPAL TRAMWAYS AND ELECTRIC LIGHTING ACT AMENDMENT.

Second Reading.

Debate resumed from the 12th October.

HON. J. J. HOLMES (North) [4.36]: The Bill on the face of it seems a simple little document, proposing to amend the principal Act so as to enable the board to establish a superannuation fund. The Bill stops at that. We learn nothing about the terms and conditions of the superannuation scheme. There is no information as to what the superannuation scheme will cost the Fremantle tramway service, and no information as to the scheme itself. I want to make it clear that I entirely approve of superannuation schemes. However, the House has a right to ask what the superannuation scheme is to be in this instance, the money of the ratepayers of Fremantle being involved. I have looked up the debates in another place. I cannot refer to them, but I think I am in order in mentioning that one page of "Hansard" includes the second reading debate and the Committee stage elsewhere. If ever there was need for a House of review, that need exists in this case. Superannuation is in the air. We get it from all quarters. The police are asking for superannuation, and the railway men are asking for it, and the teachers also. If we let the Fremantle scheme slip through without any conditions, we may establish a precedent for which later we may be sorry. Three years ago when the Perth City Council wanted to establish a superannuation scheme, they put up a Bill to Parliament. I have looked up some of the discussions on that Bill, and I find that before the Perth scheme could be considered it had to have the support of two-thirds of the members of the City Council, and then the ratepayers had to be given an opportunity to approve of the scheme before it was embarked upon. The scheme under the Bill

is to be embarked upon by a simple amendment of the parent Act. That is about all we know of the matter. We have nothing before us to show the amount the board are to subscribe. We know that the Fremantle tramway scheme has cost about £200,000. We know it has been a great success. We are told—and I believe correctly—that on the 30th June of next year that tramway scheme will be a free asset to East Fremantle and North Fremantle. That fact is attributable to the foresight of the men in Parliament at the time the principal Act was passed. They tied up the tramway scheme to such an extent that the ratepayers and property-owners of Fremantle, who would be responsible for finding the money, should have a say in the selection and in the administration of the board. The political element was eliminated altogether. The people who had to pay the piper were given a say. Compare the Fremantle tramways with Government-owned tramways and Government-owned railways and see whether the Fremantle tramway system is not a credit to the men who were in Parliament at that period—and I do not say this because I was one of them. In short, let us get back to the old idea that those shall call the tune who pay the piper. The Bill for the principal Act was carefully gone into, and a select committee to examine it was appointed. I may mention that I was a member of that select committee. A sound business proposition was put up, ensuring that the tramway service should be owned by the Fremantle people. Before passing the present Bill, we should be quite certain as to the amount of money to be allocated to the superannuation scheme. In the Bill there is nothing to tell us by whom the scheme is to be controlled. True, Mr. Fraser has handed me a statement concerning the Fremantle tramway employees' superannuation fund. That fund is at present controlled by the men themselves. That is all right when they are controlling their own fund, accumulated through their own payments. But when the Tramway Board are supposed to contribute, say, 50 per cent. of the fund, surely the board should have some representation in the administration of the fund. We are told that the superannuation fund which has been in existence has been established on a system of 1s. per unit per week. If each of the employees at the present time paid in 1s. per week, it would amount to about £450 per annum, but I understand that they can take up as many units as they like, so that if the tramway men took up five units per week—and I think they would be wise in doing it—that would be 5s. per week each. If the Tramway Board paid in on the basis of five units per man per week the men would be on a pretty good wicket in a few years' time because the money they put in would be doubled, plus interest, when the distribution was effected at a later stage. That would involve the Tramway Board in about £2,000 a year. I entirely agree in a general way with the superannuation proposal but I think a small Bill should be brought down setting out exactly what the proposal is, what charge there will be upon the service, and who will be responsible for the administration. I do not think that is asking too much. A small Bill would meet the case, on technical lines, and I would do my best to help put it through. But to ask the House to embark upon a scheme of this description without any limit as to the amount the Board should pay in—and the board are handling the money of the property owners—is not reasonable. We should not agree to the Bill on the information we have at the present time, and certainly not without some limit as to the maximum amount the board would be called upon to provide. It is not the simple little scheme that I am concerned about, but the principle involved and the far-reaching effect it might have if we allowed the Tramway Board to do as they liked with public money without any condition whatever being imposed by Parliament. I may be stretching a long bow——

Hon. G. Fraser: There is no doubt about that.

Hon. J. J. HOLMES: It would leave the way open for amendments to be sought to the Police Act and the Railways Act and the Education Act, so that policemen, railwaymen and school-teachers might be allowed to have a superannuation fund established on similar lines. Let us see that we do not make the fatal mistake of encouraging others to desire to come under similar proposals. I do not think this House is opposed to superannuation, but I do consider that the House should oppose this amendment, in the absence of further information, and that no scheme should be approved without some limit as to the liability imposed on the Tramway Board. The best and only way to deal with superannuation proposals is by way of

a Bill on sound lines in each case. Unless we are careful, I am afraid that all sorts of superannuation schemes might creep in which would certainly not be of advantage to the State. That is how I view the Bill at the present time. In the absence of information, I feel that, conscientiously, I must oppose the Bill. If we get something definite before us, I may alter my views, but there is the fear that I have expressed lurking in my mind as to the effect of a scheme evolved by an outside body without the approval of Parliament.

THE CHIEF SECRETARY (Hon. W. H. Kitson—West) [4.50]: I find it hard to reconcile the remarks of the hon. member——

Hon. G. Fraser: With the Bill.

The CHIEF SECRETARY: Either with the Bill or with his statement that he believes in superannuation. I can quite understand the hon. member being interested in the affairs of the Fremantle Electric Light and Tramway Board, and I can follow him when he pays this compliment: That the members of the board appointed under the Act, respresenting the property owners and the occupiers in the municipalities of Fremantle and North-East Fremantle, have done quite a good job in administering the affairs of the board, to the extent that to-day they are in a very good financial position. There is no question about that. There is no other concern in the whole of Australia which could submit the same record as that particular board in that regard; brought about, of course, by the fact that the Act has very definitely laid down that there are certain obligations for which the members of the board must have regard. While those obligations represent a very solid impost on the finances of the board, the board from time to time have been able to carry on their business in a way which merits not only the remarks of Mr. Holmes but the eulogistic references which have been made by many other people in times gone by. But the hon. member goes on to say that he does not think this House should be prepared to allow the board to have the responsibility of agreeing with their employees as to just how far they should go in support of a superannuation scheme. The two sentiments do not seem to fit in with each other. Knowing the members of the board and the employees as I do, and knowing perhaps a little more about the present position than does the hon. member, I can assure the House that there is no danger whatever that the board will create a position which might prove embarrassing to the ratepayers of Fremantle and North-East Fremantle. As I understood the Bill when it was explained by Mr. Fraser, it is intended that the board shall provide the sum of 1s. per week per employee irrespective of the number of units that might be taken up by the employees.

Hon. J. J. Holmes: There is nothing to show that; that is the trouble.

The CHIEF SECRETARY: The hon. member may be quite correct in saying that, but he also said that until he had further information as to how far the board were prepared to go, he would be compelled to oppose the measure. So much for his support of superannuation in a semi-governmental concern. There is very little more I care to say on the Bill.

Hon. L. Craig: The maximum liability is 1s. per week?

The CHIEF SECRETARY: Yes, irrespective of the number of units. I think that the men are to be complimented on the fact that they commenced a scheme of this kind.

Hon. G. W. Miles: That fact is not in the Bill.

The CHIEF SECRETARY: It is not necessary

Hon. L. Craig: How do we know that, except that you tell us?

The CHIEF SECRETARY: The House has already been told. I can very well leave it in the hands of Mr. Fraser to reiterate what he has said, and perhaps say a little more on the subject. I am in favour of the Bill. I believe the board should have the right to contribute towards a fund of this kind. The experience of the board has been such that I am quite prepared to leave the matter entirely in their hands because, over a period of years, they have been able to manage the affairs of the board in a way which, without wanting to repeat myself too much, I would say, will bear comparison with any other concern anywhere else in Australia. The financial standing of the board is a fine one and by the end of June next year there will be no loan moneys outstanding and the whole concern will be free of debt and will have assets of between £300,000 and £350,000. In comparison with other concerns, that is a very fine position.

Hon. L. Craig: The board was controlled under certain conditions, was it not?

The CHIEF SECRETARY: The Act under which the board operates lays down the rate of interest, sinking fund and maintenance that shall be provided annually.

Hon. L. Craig: Those conditions have been a help to the board.

The CHIEF SECRETARY: Yes, very helpful indeed.

Hon. J. J. Holmes: I think the Chief Secretary has missed the point I made as to the effect this may have on other schemes.

The CHIEF SECRETARY: I have not missed that point. It is not denied that there is a growing demand for superannuation by members of the Government service, but the Fremantle Tramway Board is not a Government department, although it is a semi-governmental concern. It is, in effect, a municipal board. It is comprised of members elected by the ratepayers of Fremantle and of North-East Fremantle.

Hon. J. J. Holmes: Property owners and occupiers.

The CHIEF SECRETARY: Yes. Ever since the board has been established the relationship between the employers and employees has been very good. The idea of the board at the present time is to endeavour to meet the wishes of the employees in a limited way, and to create a fund which will give a little greater benefit than the employees get as the fund is established at the present time. I see nothing wrong with the Bill and hope the House will support it.

HON. L. CRAIG (South-West) [4.59]: I have some fears similar to those of Mr. Holmes. I did feel that the House should know what the liability of the board would be.

Hon. G. Fraser: I will give that in my reply.

Hon. L. CRAIG: There is nothing in the Bill to allay our fears. It is only what the hon. member is likely to tell us that may alter my views. I agree that superannuation is a very good thing, but there is a danger in this. We have heard what good work has been done by the board. The board has been working under very stringent conditions which have been a great help, but the present members may not always be on the board, and members can be appointed to boards just as they are appointed to Parliament, members who should not be appointed either to boards or to Parliament. Certain conditions should be laid down under which the board's contributions should be limited. The Chief Secretary said that the contributions of the board would be limited to one shilling per man per week. That contribution would certainly not be greater than the contributions made by the employees. I admit that that is quite satisfactory, but there is nothing to prevent the contributions of the board being increased by some board in the future. There is a danger of semi-governmental institutions being controlled indirectly by people who might benefit. The board's contribution should be limited as are the contributions under other superannuation schemes. Having been informed by Mr. Fraser and by the Chief Secretary that the Board's contributions will be limited, I will support the second reading, and in Committee we can further consider the point. I hope the fullest information will be given, because this is the beginning of superannuation schemes for semi-governmental institutions in this State, and the idea will probably grow.

HON. J. NICHOLSON (Metropolitan) [5.1]: The views expressed by Mr. Holmes and Mr. Craig must have impressed members with the need for providing some limitation. I applaud the board for the excellent work that has been done in bringing the Fremantle tramways to the successful position they occupy. I am prepared to give the board the fullest measure of support, provided adequate safeguards are adopted. I believe in schemes of superannuation wherever they can be satisfactorily organised. It is of the greatest benefit to employees to know that they have something to fall back on when they are no longer able to work. The Fremantle Tramway Board is in the nature of a public authority. The control, in a measure, is associated with the two municipalities, and in that respect the board differs from an ordinary business. Had the board been a private company, the position would have been different.

Hon. G. W. Miles: A private company would not have needed to get legislation.

Hon. J. NICHOLSON: If the company had derived its authority under Act of Parliament some authorisation might have been necessary before the company could contribute to a superannuation fund. We are familiar with charters given to companies. Ordinarily a private company would be established under the Companies Act, and if

provision to contribute to a superannuation fund were not included in the memorandum of association, the company could not lawfully contribute until the memorandum had been altered or until the company was reincorporated under a new constitution.

Hon. G. Fraser: Many private superannuation funds are in existence.

Hon. J. NICHOLSON: That is so, but contribution could be made by a company only where the power was given in the memorandum of association. Most companies formed nowadays do include such a power, so that the difficulty does not often arise. The Fremantle Board, as I have pointed out, is really a public authority, and is seeking power to do something that was not given under the authority by which it operates at present.

Hon. G. Fraser: That authority was given in the bad old days, 34 years ago.

Hon. J. NICHOLSON: These circumstances could not have been foreseen at that time. I should be surprised to find that any member objected to the proposal in itself. All that is desired is that proper safeguards shall be inserted in the Bill so that it will not be left to any subsequent board to contribute sums that might be deemed unreasonable. A proper limitation should be imposed upon the board's contribution so that public funds would not be diverted from legitimate purposes and applied to this purpose. I desire to see provision made for a fair contribution by the board. Mr. Holmes referred to the City of Perth Superannuation Fund Act of 1934.

Hon. G. Fraser: An entirely different thing.

Hon. J. NICHOLSON: That measure was introduced for the express purpose of establishing a superannuation fund for the City of Perth, and it contains various safeguards. Whether the whole of those safeguards would be necessary on this occasion is a matter for consideration. I do not think they would be necessary, but still some limitation should be imposed. Probably the matter has not been considered from that standpoint, and I suggest that the mover of the Bill consider it in that light. I am sure that no member would object to assisting such a laudable scheme. It is one that I shall be only too pleased to support with safeguards.

HON. C. F. BAXTER (East) [5.11]: I heartily agree with those members who have spoken in high terms of the administration of the Fremantle Tramways Board. We are fortunate in having a sound board in control of that scheme. Parliament is expected to frame the necessary legislation to govern the actions of the board, and thus protect the ratepayers who have to shoulder the financial responsibility. Very few people do not agree with the principle of superannuation. Superannuation schemes should have been established many years ago and the sooner they are provided the better it will be for all concerned. The only fair basis is one under which the employer and the employee contribute. Then, when an employee cannot further carry on his vocation, there is some provision for him and he has not to depend on the old age pension or charity. However, the Bill itself has to be considered, not what the sponsor of the measure may tell us. No matter what the board's intentions may be, we have to pay regard to the contents of the Bill. Paragraph (f) begins by providing that the board may from time to time support, aid, subscribe or contribute to any scheme. Let members consider how much that might imply. We are asked to give authority, not to contribute to a particular scheme, but to contribute to any scheme. We do not know what schemes might be introduced in future; we do not know what the constitution of the board might be in future. If we passed this Bill we should be giving the board power to go to tremendous lengths, and that would not be fair to the ratepayers of Fremantle. I wish Mr. Fraser to appreciate that I am not opposed to the Bill. I want to see it framed to meet the desires of the board, but the Bill has been badly drafted, and the position for the future must be safeguarded. Paragraph (f) also contains these words, "and to make subscriptions or contributions to any such scheme, fund, or association either in a lump sum or by regular periodical or other payments."

Hon. J. Nicholson: It is very like the form used in a private company's memorandum of association.

Hon. C. F. BAXTER: What might apply to a private company might not apply to the Fremantle Tramway Board. The board is an elected body; we know how public opinion changes and we do not know what the constitution of the board might be in future.

The Chief Secretary: Your remarks are not much of a compliment to the Fremantle ratepayers.

Hon. C. F. BAXTER: What is the use of the Minister talking like that? We know what happens at elections, whether they be for a municipality, Parliament or a tramway trust. We know that a very little happening in our public life can turn a majority of the ratepayers to vote in such a way that they will realise in a short time afterwards that they made a mistake. The position is that we do not know just what will happen in the future. It is not right to put an Act on the statute book that will give a tramway trust all it wants in this direction. The powers it is proposed to give them in the Bill are much too wide and moreover they are not necessary. I hope I can prevail on the sponsor of the Bill, before the Committee stage is reached, to have it re-drafted. Certainly Clause 2 will need to be re-drafted. I am not prepared to support it as it is because the powers it is proposed to give are too wide. If he re-drafts the Bill he can give the Tramway Trust all that they want without leaving it open to the possibility of any extension in other directions. I shall support the second reading.

THE HONORARY MINISTER (Hon. E. H. Gray—West) [5.17]: I am astonished at the remarks of members on this Bill. The Fremantle City Council and the East Fremantle Municipal Council own this undertaking and every year those bodies receive reports of the board's activities. These are audited by the auditor of the board and also the auditors of the municipalities. What has been said by hon. members puts me in mind of someone being given a motor car and then having to obtain permission to obtain petrol with which to run it. The power sought is only a small thing compared with the expenditure in the past. Hundreds of thousands of pounds have been spent. Therefore I cannot see any reason for the opposition that has been shown to the measure. I hope it will be carried as it stands.

On motion by Hon. A. Thomson, debate adjourned.

BILLS (3)—FIRST READING.

1, Supply (No. 2) £1,400,000.
2, Nurses Registration Act Amendment.
3, Employment of Counsel (Regulation).
Received from the Assembly.

BILL—AIR NAVIGATION.

Second Reading.

THE HONORARY MINISTER (Hon. E. H. Gray—West) [5.20] in moving the second reading said: This is a Bill to provide authority for the operation within this State of the Commonwealth regulations governing certain phases of air navigation. The enactment of this measure will ensure that the regulations operating in Western Australia in respect of the airworthiness of aircraft, the licensing and competence of pilots, air traffic rules, and the regulation of aerodromes, will be uniform with those operating in the other States and in the Commonwealth territories. Hon. members will recall that, as a result of the Goya Henry case, it was made clear that the Commonwealth Parliament had no authority to control aviation at large throughout Australia. The subsequent failure of the Commonwealth to obtain by referendum the necessary constitutional power for the complete control of aviation resulted in the whole question being thrown into the melting pot, although the Commonwealth, by virtue of other powers that it possesses, still retains certain powers by implication to deal with flying. For example, under its defence powers it controls military aviation. It is probable that, under circumstances of war, it might be able to extend that power to an unknown extent. Then, again, it has power to deal with aviation in respect to trade and commerce with other countries and among the States, while it has complete control of flying in its own territories, and further powers of unkown extent in regard to external affairs. However, subject to any of the limitations I have mentioned, it is quite definite that the States can legislate in respect to intra-State aviation. Power also exists for the States to pass laws governing interstate flying, within their several boundaries, although the State legislation might be liable to invalidation by reason of the enactment of an inconsistent Commonwealth law. This division of power on the broader issues of aviation administration was not considered satisfactory either by the Federal or the State Governments. In order to arrive at a working agreement that would obviate the unnecessary duplication, inconsistencies and friction that might arise as a result of

divided control, the Commonwealth Government convened a conference of the States. The conference was held in Melbourne on the 16th April last. The Commonwealth was represented by the Rt. Hon. R. G. Menzies, Senator Sir George Pearce, and the Hon. T. W. White. This State was represented by the Acting Premier, the Hon. M. F. Troy, and the Minister for Works and Water Supplies, the Hon. H. Millington. Apart from the representatives of the other States, there were present Captain E. C. Johnston, Controller General of Civil Aviation, and Mr. M. C. Boniwell, the Commonwealth Acting Solicitor General.

It was explained by Mr. Menzies that his Government was anxious for the operation of a uniform control over aviation, more particularly in regard to those matters which are embodied in the present measure. Speaking on behalf of the Government, Mr. Millington said that while this State was prepared to co-operate with the Commonwealth, insofar as power to legislate in all matters necessary to ensure the safety and oversight of both inter- and intra-State aviation was concerned, we desired, nevertheless, to retain full control of commercial planes operating in Western Australia as regards the licensing of commercial planes flying over certain routes. He emphasised that, although the Government had no desire to legislate in any matter affecting air navigation that would involve duplication, it could not agree to any proposal that would inhibit the State in its power to protect the business of our railways. After full discussion with the representatives of the Commonwealth and the other States, the Minister, on behalf of the Western Australian Government, expressed his approval of the proposal for the Commonwealth to assume control of the regulations subject to the reservation I have mentioned.

As a result of the deliberations of the conference, the following decisions were arrived at:—

1. All Governments agreed that there ought to be uniform rules in relation to air navigation and aircraft, and in particular in relation to the airworthiness of machines, the licensing and competence of pilots, air traffic rules, and the regulation of aerodromes.

2. Each State Government reserved the right (subject to the observance of the general rules referred to in paragraph 1) to make its own laws with respect to transport regulations, and also reserved its rights (subject to the observance of the general rules referred to in paragraph 1) to establish State-owned air services.

3. Each State Government agreed that it would submit to Parliament a law relating to air navigation and aircraft, enacting that the Commonwealth rules in force from time to time on the matters referred to in paragraph 1 shall be extended to apply to air navigation and aircraft within the jurisdiction of the State; but nothing in any such law shall affect the reservations specified in paragraph 2.

4. It was agreed by all Governments that, before the laws referred to in paragraph 3 were submitted to the State Parliaments, a committee, representing the Commonwealth and the States, should sit to review the existing regulations.

5. Each State agreed to appoint promptly its representative on the committee mentioned in paragraph 4.

6. All States agreed that the proposed State laws should provide that the administration of those laws should be vested in the Commonwealth.

7. It was agreed that the Commonwealth should draft the Bill proposed to be passed by the States, and send copies of the draft to the States for comment.

8. It was agreed that the date of meeting of the committee mentioned in paragraph 4 should be the 20th May next, and that it should sit in Melbourne.

At the May conference, which was duly held, representatives had the opportunity to discuss the proposed regulations and the draft Bill. The former are based on regulations adopted by an international conference of air navigation experts, and embodied in the Paris Convention of the 13th October, 1919, signed by a majority of the principal countries of the world. A subcommittee comprising representatives of the Commonwealth and each State and including the Western Australian Crown Solicitor, Mr. A. A. Wolff, K.C., at the instance of the conference finally drafted the Bill in the form it is now before the House. Here I would emphasise, especially in view of certain doubts and fears expressed in another place, that under this measure there is nothing to prevent Parliament at any time repealing the proposed enactment, should the Commonwealth ever promulgate regulations prejudicial or repugnant to the State. There has been, both in Parliament and elsewhere, considerable discussion regarding this Bill, which was held to be dangerous from the standpoint of the over-power of the Federal Government. Each State Parliament is jealous of the power vested in it, and naturally is anxious to retain that power. In that re-

gard, the Federal Attorney General, Mr. Menzies, has delivered the following opinion:—

Where power is referred by the State Parliament to the Commonwealth, it may very well be that the power once referred cannot be taken away. I know there are differences of opinion among lawyers on that, but one view fairly widely held is that once the power is referred, it is referred permanently. In the suggestion I have made to you the States would not be referring to the Commonwealth a power to make regulations in relation to intra-State flying. They would be merely saying that whatever the Commonwealth rules on this matter are at any given time, they shall also apply so far as the matter lies within the jurisdiction of the States. Then any change in the Commonwealth law will automatically operate all over Australia; but if a proposal were thought by a State to be dangerous that State would be able to amend its law. It would not have permanently surrendered its power to deal with the matter. It would merely have said—"For the sake of uniformity we shall provide this general rule that the Commonwealth regulations in relation to flying shall apply, not only to the matters within the jurisdiction of the Commonwealth, but also to the matters within the jurisdiction of the State." That arrangement, so far as I can ascertain, is, in substance, one that has been adopted in the United States of America, and it secures complete uniformity in the safety rules and requirements of aviation throughout the country.

The opinion of our own Crown Solicitor on the question whether the Bill refers power to the Commonwealth is as follows:

I see that it has been suggested that the Commonwealth could (if the Bill now before the State Parliament is passed) embark on legislation which would interfere with the domestic transport system or domestic affairs of the State. This is quite wrong. If the Commonwealth did pass such legislation, it would be ultra vires the Commonwealth Constitution. This is what the Commonwealth did in the Henry case, and there the legislation was held by the High Court to be ultra vires.

Any legislation by the Commonwealth which, for example, interfered with the State Transport Co-ordination Act, 1933, or with the control of transport within the State, would be of no effect, and no enactment of the State Parliament can alter the position, unless, of course, we "refer" the power of making that class of legislation to the Commonwealth under the Commonwealth Constitution. There is no Constitutional reference at all by the present legislation. All the present legislation does, in effect, is to adopt for the purpose of the State the navigation regulations of the Commonwealth. If these regulations contained any provision which sought to usurp any of the powers of the State in regard to internal transport, then even the adoption by the State would have no effect because the State Parliament is not entitled by means of a mere adoption Act to take away the rights of the people under the Federal Constitution.

At the last conference it was agreed that any further amendments of the regulations would be submitted to the various States before the amendments were promulgated, and this was regarded as satisfactory by all the delegates present.

As this Act is not in the nature of a "reference Act" within the meaning of the Commonwealth Constitution, if the Commonwealth passed any regulations even within the scope of the Bill now before the House (that is to say a regulation dealing with safety precautions) which did not satisfy the State, the State would be in a position by its own Act to provide that the offensive regulation would not apply in Western Australia, and what is more, the Parliament of this State can at any time, even if this Bill is passed, repeal it absolutely.

As I have already stated, Mr. Wolff was a member of the drafting committee who prepared this Bill, and he discussed the matter at some length with other legal authorities at the conference. Naturally the other States were as much concerned with the question of conserving State rights as we were, and, consequently, every precaution was taken to ensure that the Bill did not involve an inadvertent surrender of State power to the Commonwealth. With regard to any new regulations that may be promulgated after the proposed Act becomes law, I am informed that the Commonwealth Government have agreed that the States shall have the opportunity of first conferring on the matter. I think it is generally recognised that the policing and administration of uniform regulations for the control of air navigation in the Commonwealth should be definitely delegated to one authority. It may be argued that, through the referendum, the people of Australia have already declined to give the Commonwealth that authority. I would point out, however, that there is no analogy between the two questions. In the case of the referendum, the Commonwealth Government asked for certain powers, not only in respect of air navigation, but air transport as well. In this Bill we are not referring to the Commonwealth a power asked for at the referendum, but are saying that, for the sake of securing uniformity in all the States as regards the rules governing air navigation, we will adopt the Commonwealth regulations, and authorise the Commonwealth to police and administer them. At any time we will be quite at liberty to revoke that

authority, and from such time the regulations would cease to have effect in this State. I move—

That the Bill be now read a second time.

On motion by Hon. A. Thomson, debate adjourned.

BILL—MINING ACT AMENDMENT (No. 2).

Second Reading.

Debate resumed from the previous day.

THE CHIEF SECRETARY (Hon. W. H. Kitson—West) [5.40]: This Bill deals with one point only regarding the Mining Act, and that is whether the policy that has been pursued for many years regarding the granting of what are called reservations shall continue. The Bill affects Section 297 of the principal Act, which provides—

The Minister and, pending a recommendation to the Minister, a warden may temporarily reserve any Crown land from occupation, and the Minister may at any time cancel such reservation: Provided that, if such reservation is not confirmed by the Governor within twelve months, the land shall cease to be reserved.

The Minister may, with the approval of the Governor, authorise any person to temporarily occupy any such reserve on such terms as he may think fit.

It has been argued that the Minister has no power under this section to grant reservations for mining purposes, and if this Bill is agreed to, the Minister will no longer have the right or power to grant reservations such as have been agreed to in the past. For the proper consideration of the Bill it is necessary to examine some of the terms used. The term "reserve" is very important in that regard, and, as indicated in the definition section of the Act, it is used in two senses, namely—

(a) Any street or road or any land which for the time being is set apart for any public purpose, or which is a reserve within the meaning of any Act relating to Crown lands and in force for the time being, and not being Crown land within the meaning of this Act, and

(b) Any land which for the time being is excepted from occupation for mining purposes under the provisions of this Act or otherwise.

Thus the first part of the definition covers all reserves which are made under other laws, such as land laws, while the latter part comprehends reserves made under Section 297 which this Bill deals with. When our mining legislation was first enacted, it was borne in mind that certain areas of land had been reserved for the purposes of local authorities.

Hon. J. Cornell: That section was not intended originally for the use to which it has been put.

The CHIEF SECRETARY: That may be the hon. member's impression, but the fact is that when that legislation was enacted it was recognised that the local authorities would require areas to be reserved for townsites, water reserves, and so on and that these lands should not be made the subject of mining operations, except under very special circumstances. Accordingly the Act lays down the principle that these lands are to be protected from occupation unless the Governor specifically gives consent to their being used for mining under Section 296, which reads—

The Governor may, by notice in the "Government Gazette," declare any reserve to be open for mining, and thereupon, and until such notice is revoked, such reserve shall be deemed Crown land within the meaning of this Act.

A certain amount of confusion may have arisen in the minds of supporters of this Bill regarding the classes of reserves dealt with under Sections 296 and 297 respectively. For that reason I say that those two paragraphs have to be considered when we are dealing with the arguments that have been used in connection with the Bill. It will be seen that Section 297 relates to lands belonging to the Crown and not subject to reservation under any other law, lands that may, for reasons which the Government think sufficient, be excepted from occupancy. On the other hand, Section 296 deals with lands that are already reserved under our land laws, but which may be declared open for mining. It has been submitted that the temporary occupancy mentioned in Section 297 was not intended to refer to occupancy for mining purposes. Since, however, the whole of the Mining Act deals with the question of occupancy for mining purposes, the words in the latter part of the section which say that the land reserve may be temporarily occupied on such terms as the Governor may think fit, must refer to the same kind of occupancy as that mentioned in the prior part of the section; that is to say, the Governor may authorise reserve lands under Section 297 to be temporarily occupied for mining purposes. Under the present practice the right of occupancy granted by the Minister is not a right to mine in the fullest

sense, but merely a right to prospect. I understand that in another place an entirely different interpretation has been placed on this section of the Act. But I would remind the House that these matters are not dealt with by the Minister for Mines on his own conception of what the Act or any section of the Act means; he is guided by advice received from the Crown Law Department, and in these cases the Minister has the authority of the Crown Law Department for validating any of the acts he has taken. This practice has been carried on ever since 1904, so it is strange that at this late hour we should have one section of Parliament cancelling what has been the policy of successive Governments for 33 years.

Hon. J. Cornell: Will the Minister cite the mining reservations of those days?

The CHIEF SECRETARY: I am afraid I do not know as much about mining reservations as do those who have been associated with the industry for a lifetime, and so in this instance I am unable to perform what is asked of me.

Hon. J. Cornell: The Minister said that they go back to 1904.

The CHIEF SECRETARY: So they do, but I do not know offhand everything that has happened in the meantime. I am endeavouring to give to the House the information that I have, but I do not profess to be a mining expert, although certainly I have a little knowledge of the subject. The recent revival in mining has again brought into prominence the practice of granting mining reservations which, as I say, can be traced back as far as 1904. That the policy has been justified is demonstrated by the amount of capital that has been introduced into the State and expended in the development of our mines by the companies concerned. I know it has been argued that much of the money expended on mining reservations should never have been expended, but I submit that a large sum of money has been expended in the mining industry probably as the result of the granting of a few of these reservations.

Hon. T. Moore: That is, of late years.

The CHIEF SECRETARY: Yes, since the revival of the mining industry. The actual expenditure in Western Australia as at the 30th June, 1937, by the Western Mining Corporation, has amounted to £1,498,914. The Australian Mines Management and Secretariate has expended £1,516,329 from its inception to the 31st July last. So it will be seen that these two companies together have spent £3,015,243. Apart from these, the Big Bell Mines Ltd. have expended to date £650,000, while the capital of the Consolidated Gold Mines of Coolgardie Ltd., and the Paget Gold Mines of Edjudina Ltd., is £300,000 and £200,000 respectively. They are very big figures that we should take a note of, and if it can be sustained that a great deal of money has been brought into the State as a result of the granting of reservations, that fact should be laid to heart. We are all pleased that there should have been a revival in the mining industry and that so much money has been spent on big mines with the consequent employment of a large number of men. Those companies to which I have referred employ over 2,000 men, the figures being as follows:—

	Men.
Western Mining Corporation, Limited	727
Australian Mines Management and Secretariate	1,005
Big Bell Gold Mines, Limited	359
Consolidated Gold Mines of Coolgardie, Limited	132
Paget Gold Mines of Edjudina, Limited	67
	2,290

It is generally recognised that in the absence of reservations these companies would have invested very little capital. The Minister for Mines emphatically declares that the Western Mining Corporation would not have invested a penny in gold mining in this State had they not been granted a reservation by the Coalition Government—that is to say, not the present Government, but the previous Government. When the present Minister for Mines took office he confirmed the arrangement that had been entered into and approved by the previous Government. The company has justified the Government's decision by expending £1,498,914 in development. Then, again, the late Hon. J. Scaddan, as Minister for Mines, granted reservations to the de Bernales Group. Here again the policy of the present Government of confirming previous reservations has been justified by the benefits that have accrued to the State as a result of the inflow of overseas capital. The Minister for Mines has treated all applications for

reservations, lodged by any person whatsoever, strictly on their merits.

Hon. L. Craig. For what period are reservations given?

The CHIEF SECRETARY: For no definite period. They are subject to cancellation at any time. I think I am justified in saying that the results show that the Minister for Mines has never granted a reservation unless there was ample ground for him to assume that the granting of that reservation would be to the general advantage of the State. Grants have not been restricted exclusively to rich companies. To-day 15 reservations are held by private individuals. These have been granted because the persons concerned had reasonable prospects of interesting capital to have the ground tested. Since the 1st January of this year 10 reservations have been granted, 22 applications have been refused, and 28 reservations have been cancelled. That our system of reserves is favourably regarded in other parts of Australia is illustrated by a request made to the Acting Under Secretary for Mines. Mr. Telfer, it will be remembered, was loaned to the Northern Territory authorities, in order that he might make an inspection of mining leases up there and draft mining legislation. He was asked to include in his draft our provisions for the granting of reservations, the reason being that the Commonwealth Government were informed that a large company was prepared to undertake prospecting up there provided that it could get reservations on the same lines as they are procurable in Western Australia. The policy which this Bill seeks to terminate is one which apparently met with approval elsewhere. I know it has been said that the granting of these reservations has been detrimental to a number of very deserving men who follow the occupation of prospectors.

Hon. L. Craig: It is only the very large reservations that are objected to.

The CHIEF SECRETARY: My reading of the arguments which have been used against the granting of these reservations is not necesarily that some of them are large reservations, but that it is the principle against which the opposition has been raised. I have here figures showing a summary of the reservations at present in force. These will enlighten members. The de Bernales company have 30 reservations comprising 14,007 acres, and the Western Mining Corporation have five reservations comprising 5,025 acres. Other reservations are as follows:—

	Acres.
Beale: Nullagine	10,240
Bonnie Venture	3,840
Paget Goldmines of Edjudina ..	1,000
J. J. Cunningham	540
Aborigines Mission	720
Consolidated Goldmines of Coolgardie	500
Monte Christo	123
McCracken	210
Sparks and Pericles	640

These figures give a total of 17,813 acres covering nine reservations.

Hon. J. J. Holmes: Are these all the reservations?

The CHIEF SECRETARY: That is all dealing with mining, but there are the following reservations dealing with dredging——

Hon. J. J. Holmes: I thought the whole country had been given away.

The CHIEF SECRETARY: Many reservations have been cancelled and many others have been refused. So far as rivers are concerned the following are the reservations:—

Persse-Creaghe, three reservations, Beale, one reservation, and Crothers one reservation.

Hon. G. W. Miles: Is anything being done on those river reservations?

The CHIEF SECRETARY: I do not know to what extent anything is being done there. The summary indicates that there are 50 reservations at present in force covering 39,445 acres.

Hon. J. Nicholson: That would make quite a large farm

The CHIEF SECRETARY: I want this matter to be dealt with from the point of view of what is best for the State. While it may be shown that the granting of one or more reservations may to an extent have prevented a number of prospectors from following their avocation in a particular area, generally speaking the policy of granting reservations has been of great advantage to the State. There may be room for a difference of opinion on the principle underlying the granting of reservations, but there is no justification for some of the remarks that have been passed in the endeavour to justify the passage of this Bill. I am referring now to the remarks of Mr. Williams in this House, when moving the second reading of the measure. I regret very much that he should have seen fit to descend so low as to make the contemptible remarks he did concerning a gentleman who

has a very long record of service in this State. The Minister for Mines can claim to have done something for the mining industry in this State. He has always been able to hold his own particularly when the question of personal honesty and integrity was involved. That Mr. Williams should have endeavoured to impugn the honesty of the Minister for Mines in this case, and to descend to using the language he did, was a very contemptible way of endeavouring to secure the passage of this Bill.

Hon. G. W. Miles: He also made insinuations against the Under-Secretary for Mines.

The CHIEF SECRETARY: I have discussed this matter with the Minister. When going through the remarks of Mr. Williams as they appear in "Hansard" it is exceedingly difficult to get down to anything of a concrete nature. There are a number of generalities in the speech, and these are always difficult to deal with. The Minister for Mines would like to treat with the contempt they deserve those particular remarks of the hon. member. The Minister told me he was not prepared to follow Mr. Williams through all the statements he made. He felt it was highly desirable, however, that something should be said on his behalf. He has therefore submitted to me a few remarks which I propose to read to the House. After hearing those remarks members can determine whether we should take very much notice of what Mr. Williams said in endeavouring to get the Bill through in the manner I have just described. The Minister for Mines in his statement says—

> With regard to the many wild and irresponsible statements made by Mr. Williams during his speech on the introduction of the Bill, I would like to say a word or two. Mr. Williams claimed that he first thought he must have been dreaming. All I can say is I think he is still dreaming, as when he said that I had told him that the Western Mining Corporation, Ltd., were purchasing an interest in the Norseman Gold Mines he is saying something which is utterly untrue. I never mentioned anything of the kind to Mr. Williams, nor did he ask me anything about it. The first intimation I had of any such arrangement was on reading the proof of his speech. He also says that the member for Kanowna (Mr. Nulsen) confirmed his statement. I am prepared to let Mr. Nulsen speak for himself, but I might say that Mr. Nulsen approached me yesterday to ask me what it was all about. I had to inform him that he knew just as much as I did, as I knew nothing of it until I read it in the Press, and learned it from the proof of Mr. Williams's speech. This is only in keeping with many other of Mr. Williams's statements. For instance, Mr. Williams said I was reported in "Hansard" as saying that during the course of the boring on the Big Bell Mines, the Big Bell lode had dipped out of the lease. There again Mr. Williams is evidently dreaming, as I said nothing of the kind. The remarks in that direction were made on the 2nd October, 1935, and appear in "Hansard" on page 996, as follows:—
>
> > The member for Murchison raised the question of the Big Bell reservation, and pointed out that an application had been made for it by an individual. My friend was wrong in his statement when he declared that the man was not given the lease. He did get the lease, but never did a tap of work on it, and when he surrendered it, it was included in the reservation. That man was a member of the boring party at the Big Bell. The Government were paying 50 per cent. of the cost of the boring, and Mr. Mandelstamm the other 50 per cent. After the diamond drilling had been going on for a while a lode was struck considerably earlier than was expected. The individual in question came to the conclusion that the reef, instead of being vertical started to underlie, and he pegged a claim on the block adjoining in the hope of picking it up. Later, however, it was found that the diamond drill had deflected, and had cut the reef much earlier than it otherwise would have done. When he discovered that he had been misled he abandoned the lease, and, as I have said, it was included in the reservation.

That is what the Minister for Mines said in the House. His statement continues:—

> Mr. Williams also said that I had made a misstatement when I pointed out that no reservation had been granted in Western Australia by me or my predecessors in office that was not first submitted to the Executive Council for approval. In reply to that remark I wish to emphasise that this is not a misstatement, but on the contrary, I wish to reiterate the words that Mr. Williams has so strongly objected to. The sum total of Mr. Williams's remarks can be judged by the following statement he makes in dealing with the granting of reservations:—
>
> > "The result of all this is that none of the reservations has produced 100 ounces of gold. That is a fact."

Hon. members will recollect that Mr. Williams when dealing with this matter emphasised this as being a fact. The Minister continues:—

> The following will show how truthful that is, namely, the returns submitted to the Mines Department from the result of mining on

reservations which are still held as reservations:—

	Tons crushed.	Gold Won. (Fine ozs.)
Central Norseman Gold Corporation, Ltd. (June, 1936, to July, 1937)	40,197	10,840·74
Cosmopolitan Mines, N.L. (May, 1936 to August, 1937)	4,451	2,800
Sand Queen Gladsome Mines, N.L. (February, 1936, to August, 1937)	20,436	5034·53
Southern Cross United Mines, Ltd. (September, November, 1936)	287½	71·07
Riverina Gold Mines, Ltd. (March, August, 1937)	7,610	2,955·69
Aladdin Gold Mines, Ltd. (May, 1935, to August, 1936)	9,549	755·64
Atlas Gold Mines, Ltd. (January, 1936, to August, 1937)	1,566	423·50
Total	84,096½	22,881·17

These returns were not obtained as a result of what was said in the House, but were taken from the ordinary monthly returns sent to the Mines Department by the holders of the reservations. They show conclusively that the criticism of Mr. Williams, and other members elsewhere, indicates, although they so emphatically stated that nothing had been produced from the reservations, that they were not aware of the facts.

Mr. Cornell: I rise to a point of order. I feel I must interpose at this stage. I was not here when Mr. Williams made his speech. I understand that you, Mr. President, under Standing Order 394, asked Mr. Williams to withdraw any improper motive he had attributed to the Minister for Mines, and that the hon. member did withdraw the statement. Is that so?

The PRESIDENT: The hon. member withdrew certain statements that he had made concerning the Minister for Mines.

Hon. G. W. Miles: Only certain statements, the unparliamentary ones.

The PRESIDENT: He had made certain accusations doubting the truthfulness of the Minister for Mines.

The CHIEF SECRETARY: We cannot get away from the report of Mr. Williams's speech as it appears in "Hansard."

Hon. J. Cornell: I did not interpose until the Chief Secretary had had his say, but that is my point of order.

The PRESIDENT: The hon. member did withdraw the remarks I asked him to withdraw.

The CHIEF SECRETARY: The hon. member certainly withdrew what you, Sir, considered to be unparliamentary. He did, however, definitely state that not 100 ounces of gold had been won from any of the reservations.

Hon. G. W. Miles: He said somewhere not one ounce had been won.

The CHIEF SECRETARY: I have endeavoured to show from the ordinary returns submitted to the Mines Department that that statement is incorrect. I have also read the statement of the Minister for Mines, wherein he gives a direct denial of the other statements of the hon. member. This should be sufficient for members of this House to realise that the Minister for Mines had nothing to be afraid of in respect to any of his actions. He is prepared at all times to stand by any action he has taken. My desire has been to show that there is no ground whatever for the imputations which have been made against the character of the Minister by the member who introduced the Bill in this Chamber.

Hon. J. Cornell: He withdrew those statements.

Hon. G. W. Miles: He did not withdraw them all.

The CHIEF SECRETARY: The hon. member was not here. That is not what Mr. Williams withdrew. The main statement he withdrew was the statement that something the Minister said was a deliberate lie.

Hon. G. W. Miles: He also made an accusation against the Under Secretary for Mines.

The CHIEF SECRETARY: Yes, he made accusations that were not worthy of any member of this House. There is much more I would like to say, but I will conclude by stating that I oppose the second reading of the Bill.

On motion by Hon. L. B. Bolton, debate adjourned.

ADJOURNMENT—SPECIAL.

THE CHIEF SECRETARY (Hon. W. H. Kitson—West) [6.16]: I move—

That the House at its rising adjourn until Tuesday, the 26th October.

Question put and passed.

House adjourned at 6.17 p.m.