Legislative Assembly,

Wednesday, 16th October, 1935.

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

PAPERS—CROWN LAND OCCUPATION.

Prosecutions at Reedys.

Mr. MARSHALL (Murchison) [4.37]: I move—

That all files, papers, documents, etc., appertaining to the prosecution of twenty-nine residents of Reedys, in the month of March last, for unauthorised occupation of Crown lands, be laid upon the Table of the House.

I thought this motion might have been accepted as formal, but I understand the Minister for Mines contends that the matter concerns the Minister for Lands, although that is not so.

The Minister for Mines: It concerns both.

Mr. MARSHALL: I will explain my case, and leave it to the House to decide whether the papers should be laid on the Table or not. One can never be sure of the actual facts of a case of this kind until it has been possible to peruse the file. The case as presented to me, and from what I know of it through taking part at the latter end of it, was one of the unfairest that has come to my knowledge since I first visited the goldfields. In the outer goldfields, if not in Kalgoorlie and Boulder, numbers of people have occupied land and had their homes upon it for a considerable number of years, and could have been prosecuted for unauthorised occupation. No such prosecutions, however, to my personal knowledge, have been launched, and I do not think they ever have been launched. I know of many cases in which road boards have attempted to get people removed to surveyed blocks for the purpose of organisation and sanitation, but usually before any action has been taken provision has been made, either by the Mines Department or the Lands Department, to provide the necessary blocks for residential purposes. Even when these facilities have been offered I have known of instances where road boards have attempted to shift people from where they first squatted and were in possession without authority, but afterwards determined—there was a case of the kind at Kookynie in the early days—that it would impose too much hardship upon those concerned to do that. Provided people complied with the health laws of the town, the authorities have usually agreed that it was not worth while removing them. That, however, is not the position at Reedys. I propose to have something more to say when we reach the Lands Estimates. It is a shame that at a place like Reedys, which is known as Triton, the Minister for Mines and the Minister for Lands should have failed to make the necessary provision for residents. It was a well known fact that the Triton mine was absolutely guaranteed to go. I do not think there has ever been any doubt about that mine, which was known as comprising the Emu leases, and is now known as Reedys, as well as Triton. There can have been no doubt in the mind of the Minister for Mines or in that of his predecessor that in course of time the mine would develop, and that a small town would spring up on and around the leases. Through having taken a personal interest in the case and gathered a great deal of information about it I know that neither the Mines Department nor the Lands Department took any action to provide blocks or survey the townsite until after development in a big way, following upon the little work that was being done, had commenced. Either the Mines Department or the Lands Department should have had the foresight to survey blocks for residents and have them ready for settlement, but nothing of the kind was done. When it was apparent that it would be necessary to make a survey of the blocks, strange to say, the Lands Department took the responsibility of surveying only the business blocks, and forgot all about the residential blocks until they had dealt with what is known as the business area. I think I can justly accuse the Lands Department of being more desirous of surveying the business blocks so that they might make huge profits out of them, than they were desirous of studying the convenience of the people.

No doubt the department have profited by the sale of blocks in other goldfields towns. I think the Wiluna blocks brought handsome prices when they were sold, and no doubt the experience was the same elsewhere on the goldfields. I do not think the Lands Department were obliged to take the initiative in providing residential blocks. It was more a job for the Mines Department, as is usually the case when the necessary developments have occurred in any prospecting townsite. The Lands Department, however, took the responsibility first of all of surveying the different areas, following upon which they offered the blocks for sale and obtained quite big prices for them. Then it was that the residential section was belatedly surveyed. The residential blocks were surveyed long after the people had become settled in and around the Triton goldmining leases. Members may imagine how long a time elapsed between the survey of the business blocks and the survey of the residential blocks. I understand that an offer of £400 was made for one business block as it was intended to use that for licensed premises, but the deal fell through, and I suppose the person concerned lost his deposit. Two people in particular were invited by the first manager of the mine, Mr. Mathers, to settle in the township. After making preliminary inquiries he found it difficult to retain the services of single men, and also difficult to get married men because of the lack of boarding facilities. Men to-day are not eager to provide for themselves in the primitive way the pioneers did. The manager invited one woman in particular to start a boarding house at Reedys. The lady in question accepted the offer, and the manager chose a site for her. He told her it would be all right if she settled there. The lady got together sufficient capital, and ultimately found a partner, and the two of them erected improvised premises where they conducted a small boarding house. Other people who found employment there were naturally anxious to get their wives and families to live with them, and accordingly built their own homes wherever they could. There was no organisation about it. The Cue Road Board wished to have some semblance of organisation in the residential area, and were not favourably disposed towards people squatting here and there. I do not think that should be allowed if it can be avoided. Although I do not agree with the slipshod method of people being allowed to settle here and there, to the detriment of the comfort and convenience of others, I contend it is a responsibility of the Government, who own all the land except the leases, to see that provision is made for residents quite early in the piece. The Government, however, failed to do this. In the course of time when additional men were being added to the staff of the mine and the Lands Department had an opportunity to make money, they surveyed the business blocks but left the residential part too late for the accommodation of the townspeople. When the blocks were surveyed, an upset price of £25 a block was put upon the land.

Mr. Patrick: For a residential block?

Mr. MARSHALL: Yes. It would have been an exorbitant price even in the early days. For a block to be worth that money it would require to be an extremely well situated block. I immediately wrote to the Minister for Lands and pointed out that practically all those who were residing at Reedys and desired to procure blocks could not possibly pay £25 for them. Most of the people at that centre had been receiving sustenance and had just left the city or the goldfields towns where they had been searching for work. The upset price of £25 per block was extortionate in the extreme. I am pleased to inform the House that, when he received my letter, the Minister for Lands immediately reduced the price by one-half, but I candidly confess that I believe £12 10s. is still too high a price. Most of the blocks at Meekatharra were sold in the early days at an upset price of £10, and I doubt if the blocks at Reedys can be said to be more valuable than those at Meekatharra. Experience has shown that the upset prices for blocks at Meekatharra were fairly reasonable, in view of the fact that the life of the township has now extended beyond 30 years. I have another complaint to lodge regarding the sale of the blocks. In my opinion, the auctioneer, or seller, of the blocks should be well informed regarding the law appertaining to the disposal of Crown lands under such conditions and, in turn, he should see to it that every person requiring a block should know the possibility of purchasing on the freehold basis or on the leasehold

basis. I am positive that, had the people at Reedys known that they had the option of buying residential blocks on the leasehold tenure basis, most of them would have purchased a block. To ask them to pay £25 straight out for a block made the price prohibitive, and the people could not entertain the purchase. In consequence, about four blocks only were sold. I will admit that the people agreed they could not pay the upset price, and therefore did not bid. I understand that the four blocks that were sold were purchased by non-residents of Reedys and were bought for speculative purposes. The people who were resident at Reedys were warned that they were in unauthorised occupation of Crown land. Apparently, one Government department set out to see that another department did not lose on account of the cost of surveys. The residents were told that they would have to buy residential blocks. I understand the warden warned some people and the policeman dealt with others, but the people pointed out to them that the upset price for the blocks was prohibitive and that they could not possibly buy holdings. I have lived and laboured in many towns in the outer goldfields areas, and I have never before known persons in those parts to be charged with the unauthorised occupation of Crown lands. The methods adopted by the Lands Department in selling blocks are absolutely cumbersome and altogether inconvenient. The people finally received summonses charging them with unauthorised occupation, and I am not too sure whether they received a second warning. I want the file so that I may gain some information on that point. They may have received a second notice but by that time the sale of the blocks had been held. If any individual desired to purchase a block at the reduced price of £12 10s., a sale would have to be held. That is the position confronting any resident of Reedys to-day if he should desire to purchase a block. However, these people received their summons and they were expected to go to court, upwards of 70 miles away, in order to answer the charge. When any resident put in an application for a block, he was not able to get possession immediately. If the officials of the Lands Department felt so inclined, they could hold the matter up for three or four months, probably in anticipation of receiving further applications. In those circumstances, the people concerned at Reedys were not able to move. If they had been operating under the Mining Act, with the advantage of a miner's right, then, on application being made to the warden, they could have established themselves properly.

Mr. Patrick: But after a sale, are not the blocks available at the upset price?

Mr. MARSHALL: No. That was not so in this instance.

Mr. Patrick: I always understood that unsold blocks were purchasable at the upset prices that were fixed.

Mr. MARSHALL: If a person lodged an application, it had to be forwarded to the Lands Department and the procedure usually adopted is to hold another sale to enable the applicant to bid for the block. I can inform the hon. member regarding what happened at Reedys respecting some blocks. When the first sale was held the upset price was £25, and when the second sale took place the upset price had been reduced to £12 10s. When the unsold blocks were submitted to auction on the second occasion, the people did not know that they were procurable at £12 10s. Even though a block should have been surrendered to the Crown, it must always be submitted at auction again before it can be sold to an applicant. However, these people were summoned and had to appear in court two days before the second sale was to be held. I have a grudge against the Minister concerned on that account. I happened to reach Reedys when this matter was being freely discussed and after the summonses had been issued against the residents. Let members imagine the position of those people who had to scramble to get bits of homes together. It was impossible for them to raise £25 in order to purchase a residential block. Had they been informed that they could secure the leasehold of blocks they desired, it might have been possible for them to overcome the difficulty. It was utterly impossible for the 29 individuals to get to court, because there were no railway or other transport facilities. It was possible for them to get to the railway, but they had to wait upon a most inconvenient train service. A meeting was held at Reedys and I decided that two or three of them should proceed to Cue. I admit that in one or two instances the residents themselves may have been at fault, but for the most part the cases against the individuals were absolutely similar. While I believe that one

or two were at fault. I desire to have the files so that I may look up that point. I attended the court and appealed to the magistrate to reserve his decision until I could get into touch with the Minister regarding the authorisation for the proceedings. That authorisation came from the Mines Department. I did not think that any Minister for Mines would have treated the 29 people at Reedys so unfairly. They had been practically on the dole for years and had experienced difficulty in the back country in their attempts to establish themselves. The fact that the upset price for residential blocks was exorbitant was admitted by the Minister for Lands, who reduced the figure. I have copies of the correspondence with me. The warden agreed to hold over his decision for a month so as to enable me to get in touch with the Minister. But a most invidious position was created because the very fact that these people had been confronted with a charge of unauthorised occupancy of Crown lands meant that no one would go to Reedys in search of work. No camping area was prescribed. At the same time as I wrote to the Minister for Mines regarding the prosecutions, I also wrote to the Minister for Lands regarding the invidious position that had arisen and asked him to grant a camping area at Reedys. It is 11 miles from the railway at its nearest point. Under existing circumstances it is impossible for anyone to get to Reedys without camping, and it simply meant that people were afraid to go there.

Hon. P. D. Ferguson: Could not they camp on the lease?

Mr. MARSHALL: I will deal with that point too. That is another reason why I want to see the file. So no one could go out there at all and camp. If one got off the train and walked out to see the boss, and if the boss said "Hang on for a day or two and I may have something for you," that applicant would have to go back to the hotel or somewhere else to avoid being prosecuted for unlawful occupation of Crown land. Under date 17th March, I wrote to the Minister for Mines as follows:—

Dear Sir,

I beg to request you to withdraw the action taken against some twenty-nine residents at Reedys under the Mining Act for unauthorised occupation. It is most evident that you were not too well informed of the position at Reedys before taking action. The whole community is up in arms about the matter, and police, warden, and registrar hasten to shed themselves of any responsibility.

At least I consider you might have informed me of the position before taking action, when I could have fully informed you of the position. The reason why the people are squatting here is entirely due to the Government itself. Although Reedys was an assured place before any great move towards development took place, the Government never troubled about providing blocks for settlers until after the big move forward. Further the Government deemed it right to provide business blocks before residential blocks, and then only at an extortionate price, so much so, that the Minister for Lands when made aware of the position immediately altered the value. It would now be interesting to know from any member of the Government where a person just off the dole, or one who has been knocking about the goldfields, could find the necessary money to pay the high price for blocks that the Government asks. Reedys has been singled out for special treatment. It is the only town that I know of on the goldfields where blocks were not made available under the Mining Act. Where are the people to go between land sales? No doubt they will in future be expected to go into the clouds until there is a sale of land and a block secured. Some of these people at Reedys built before any survey was made. They are now to make two homes. An old pensioner—W. Pearce—who has lived out at Reedys for years past has now to disgorge some of his wealth and buy a block. A blind girl—Miss Hylands—sister-in-law to A. A. Coverley, M.L.A., is also to pull her building down and get on to a block. If the Government had made blocks early available and within measure of the people's pocket, none of this trouble would have happened. As there is no camping reserve at Reedys, where will the people looking for work squat? When they secure work there may not be a land sale for months, where will they go to live? All mine accommodation is, and has been, overtaxed for a long time past. I contend that until the Lands Department make blocks available easy of access, and reasonable in price, they have no right to prosecute people for unauthorised occupation; this present Government above all others. Many months ago the local road board stated that it would not take action as per the enclosed cutting, but undoubtedly pressure has been brought to bear. The general opinion here is that the manager of the mine has personal interests which will benefit him extensively if he can bring about the object which the prosecution aims at. None of these people desire to defy the law, but up to date to get within the law has been made impossible by the Government itself. When land is made available to these people they will willingly avail themselves of the opportunity to come within the law, so the purpose of the action has been accomplished. I therefore ask that you withdraw the action. The warden held the case over for a month to see what could be done, and the month is up, I think, on the 4th of next month (April). If you propose to take action along the lines I

suggest, then it must be done without delay. I sincerely hope you will not hesitate, as a great injustice is being done to these people. At the same time I wrote to the Minister for Lands. However, this was the reply I received from the Minister for Mines, dated the 26th March:—

> Dear Sir, In reply to your letter of the 17th instant relative to prosecutions at Cue against persons in unauthorised possession of Crown lands at Reedys, I understand that you addressed a letter to the Hon. Minister for Lands at the same time you wrote to me, and the Hon. Mr. Troy has now replied to you and explained the position in full.

This is what the Minister for Lands had to say in his letter to me on the 23rd March, 1935:—

> Dear Sir, In reply to yours of the 17th instant, I am taking up with the Cue Road Board the provision of a camping area at Reedys. The board will have to be responsible for the control and the provision of sanitary arrangements, but this does not mean that residents of Reedys will be permitted to erect permanent residences on the reserve. The reserve will meet the needs of men in search of employment who remain in the vicinity temporarily. A reserve of this nature was recently created at Mt. Magnet, and meets the situation.
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> There should be no difficulty in the way of any resident securing a block of land at Reedys for residential purposes. Last Saturday 41 blocks were submitted to auction, of which 25 were sold at the upset price, leaving 16 which are still available. The unimproved capital value of these lots is £12 10s., and all the successful applicant has to do is to pay £1 on application (5s. of which is on account of rent and 15s. lease and registration fee). If he desires the freehold he can get it at the upset price. As an alternative the leasehold system is open to him, by which, after the payment of the application fee, he is required to pay only 10s. per year rental. This does not meet over several years the cost of the survey.

That is the reply I got from the Minister for Lands as to my request to the Minister for Mines to withdraw the prosecution until after the sale referred to in that letter. I mentioned in my letter that old Mr. Pearce had been around there for the best part of his life. He is an old-age pensioner and he never did anyone any harm, notwithstanding which he was subjected to the law and, no doubt, fined with the rest of them. The charge against the girl who had lost her sight was withdrawn in court; decency prevailed in that instance and the charge was withdrawn. But the position as I have it—and this is why I want the file—is this: there were two small boarding houses on those blocks without due authorisation. The workers were informed that unless they shifted their patronage to the mine mess-room they were likely to lose their jobs. Then I understand the industrial organisation took up the matter, and I think the party was indirectly informed that if any such action was taken the union also would act. So those workers were not shifted and did not lose their jobs. Then the summonses were issued. The consensus of opinion is that the Minister for Mines listened to the request of the mine manager.

The Minister for Mines: I never saw or heard one.

Mr. MARSHALL: The Minister may not know much about it. His name appears on the letter I received, but whether he knows the facts I cannot say. However, it has cost him a lot of my confidence, because I never thought he would do such a thing, more particularly since I communicated with him and could have furnished him with the full information, notifying him that were the blocks reduced to a reasonable price, the people would be glad to get them. Members must look at this fairly. Those people could not build until they got permits from the road board, for which they would have to pay. Then there was £25 for the upset price of a block of land, after which they could set about erecting primitive homes, mere shelters for their wives and families. I do not know whether the road board in Cue were responsible, or whether the mine manager was responsible, but I do believe the rumour that was going about to the effect that the mine manager was behind it all. I think there is something in that contention, because I wrote to the road board at Cue, asking them if they proposed to take any action, and the cutting referred to in my letter to the Minister for Mines points out that the road board replied to me saying they would have nothing more to do with it. The position became intolerable, the driving of people out of their homes which they had just scraped together, and trying to make them do the impossible when they had no money. I cannot understand why the Minister for Mines did not give further consideration to it when he got my letter. That is my grudge against him, namely that he merely pushed my letter on to the Minister for Lands who, of course, treated it with utter indifference, and fulfilled his part of the job by declaring a reserve, apparently such as they have at

Mt. Magnet. Until I can get the file I do not really know where the big move came from. It may have been that both the mine manager and the road board acted conjointly. But when I got in to Cue to assist the people in the court, no one wanted any responsibility. The warden said, "I notified them." I said, "But you know they could not move," and he replied, "Well, that was all I could do." The policeman said, "Do not blame me, for I had to do my duty." So, too, with the registrar, he could not apologise frequently enough. No one wanted to have anything to do with it. Yet it was done. I say to the Minister for Mines as one who is held in high esteem, that he was not fair in this matter, that he was cruel and unkind, because in a few days more the difficulty would have been overcome. Although I did not mention in my letter that the land sale was on, the Minister for Lands knew of it because he mentioned it. When he wrote, the sale was over. I protest on behalf of the people at Reedys. Where there is an attempt to organise residential areas on the goldfields, I want fair and reasonable treatment. Had the departments been alive to their work, they could have had residential blocks surveyed years before. I believe that surveyors were actually working there, but the departments did not consider it worth while. The lady I mentioned was invited to go there; she scratched together what money she could and started a business with a partner, and then had to suffer this indignity. I cannot forgive the Minister for Mines for not investigating the matter on receiving my letter. Certainly my letter was couched in somewhat strong terms, but that may be usual with me. I had reason to feel hostile. I have never known that sort of thing to happen anywhere on the outer goldfields. I think I could point out to the Minister for Mines many people in his own electorate who are in unauthorised occupation of Crown lands. If the few people at Reedys who were willing to shift in a given time, were jeopardising the health of the other residents, who totalled only a few hundred, how much more dangerous must be those at Kalgoorlie and Boulder to the thousands of people living there. I shall not know where I stand until I get the file. I am sorry that the Minister for Lands is not present. I am under the impression that the Minister for Mines is solely responsible, but he said he was acting in conjunction with his colleague, the Minister for Lands.

The Minister for Mines: You could have had my file at any time, but I cannot speak of the Lands file.

Mr. MARSHALL: The prosecutions emanated from the Mines Department. I was in the court when the authority was handed to the warden. All the negotiations were conducted with the Mines Department. The Lands Department appeared in the matter only when I applied for the reservation and for a reduction in the upset price. In ordinary circumstances I would have expected the authority to be issued from the Lands Department or the Supreme Court, but it came from the Mines Department.

On motion by the Minister for Mines, debate adjourned.

BILL—WESTERN AUSTRALIAN TURF CLUB (PRIVATE) ACT AMENDMENT.

Second Reading.

MR. TONKIN (North-East Fremantle) [5.19] in moving the second reading said: This is quite a simple and straightforward measure designed to restrict the powers of the W.A.T.C. An Act of 1892 constituted the Western Australian Turf Club and conferred certain specific powers, among which was the power to make by-laws. The Act expressly stated that the proposed by-laws were to deal with such subjects as regulating the election or admission of members into the club and the expulsion of members therefrom, for providing for the management of the affairs of the club, for regulating all matters concerning or connected with the lands vested by the Act in the chairman of the club, for the general management of the racecourse and all races and race meetings, and for the working and management of any totalisator or other betting machine. Those powers were fairly comprehensive. The club were also empowered to alter or repeal any such by-laws, but the following proviso was included—

> Provided that no such by-laws be repugnant to the laws for the time being in force in Western Australia.

There was no expressed power in the Act for the club to make what was termed rules of racing in any other sense than as

by-laws. It is true that they were given powers to make by-laws for the general management of the racecourse and the conduct of race meetings, and I suppose such rules could be termed rules of racing, but they were given no power to make rules of racing in a sense other than that of a by-law. Hence there is no definition in the Act of a rule of racing. The interpretation section contains a definition of by-law, but not of a rule of racing. The authority to make by-laws was limited inasmuch as no power was conferred upon the club to go beyond the scope of the Act. The club could not, by means of a by-law, take power which the Act denied them. They could make by-laws to define their powers under the Act, but could not extend their powers by means of a by-law. Although there was no expressed power in the Act to make rules of racing, we find that rules of racing have been made. After those rules were made, the club decided that they needed a by-law to put the rules in order, and they introduced by-law No. 121 which purported to deal with rules of racing. That by-law was to the effect that the committee might from time to time rescind, annul, alter or vary all or any of the rules of racing now in force, and make new rules. How did those rules of racing ever get into force? There was no expressed power granted to the club to make them in the first place. Having made the rules, the club introduced the by-law which gave them power to rescind, annul, alter or vary the rules or to make new rules. By by-law No. 122 it was provided that no new rule or repeal or alteration of a rule should take effect until it had been twice published in the "Racing Calendar." I claim that that was an extension of the club's powers not intended by Parliament in the first place. Here is a further example of the manner in which the club have taken power. There is a by-law to this effect—

> The committee or stewards or any one of them may, *without reason*, refuse admission to all or any of the said divisions to anyone not a member——

The divisions referred to are the different parts of the course, such as the grandstand or the weighing enclosure.

> ——and may, with or without reason, expel any person not a member who has gained admission to any of the said divisions, without refunding such person the money he has paid to obtain entrance.

There is not much British justice in that by-law. On the racecourse it is quite easy to be the victim of mistaken identity. A friend of mine, a member of another place, had an unfortunate experience in that way. He was mistaken for somebody else and experienced some difficulty for a time to prove that he was not the person he was supposed to be. Yet, under the by-law, the committee or stewards or anyone of them might say to a person on the course, "Get off!" without giving any reason and without refunding the amount of admission money paid. That is too much power to give anybody. The Turf Club, however, have taken that power by means of a by-law. I shall quote a number of instances to show how the club have, step by step, assumed power that it was never intended they should have. A question arises as to what subjects should be dealt with by the club under the rules of racing and what subjects should be dealt with under the by-laws. There are definite stipulations regarding the making of by-laws, and adequate safeguards are provided. If nothing is laid down as to the subjects to be dealt with by means of by-laws and the subjects to be dealt with by rules of racing, it is obvious that if the club desire to do something which would be difficult of accomplishment under a by-law, they could simply do it under a rule of racing and avoid their obligation to Parliament. I do not think that is desirable. To give members an idea of the subjects dealt with under rules of racing and by-laws, I will make a few quotations. Here is an example of a by-law—

> All nominations or entries for any race to be run at any race meeting of the club shall be subject to the approval of the committee, who may decline to receive, and, at any time after having received, reject any such nomination or entry without giving a reason for so doing. If any nomination or entry should be rejected, the fees paid in respect thereof shall be refunded.

That is supposed to be a by-law, but it deals with nominations for a race, at any race meeting of the club. Here is a rule of racing, Rule 91—

> Benefit Insurance Fund. (c) Every owner or owner-trainer of a racehorse, not being a licensed trainer, shall pay to the committee a fee of two pounds on or before the 1st day of May in every year.
>
> (i) The expenses of and incidental to the benefit insurance fund and its administration

and to giving effect to Part XXVII (a) of these rules shall be paid out of such fund. The benefit insurance fund shall be applied by the committee in indemnifying employers, being persons from time to time notified as aforesaid against liability for accidents to jockeys and apprentices under the provisions of the Workers' Compensation Act, 1912, or any amendment thereof, or any Act passed in lieu thereof, provided that no such employer shall be in any degree indemnified unless he has during the same racing year as that in which the accident occurs and prior to the accident happening, paid all moneys which, in the opinion of the committee, are payable by him under Part XXVII (a) of these rules, and unless he shall give notice of his claim to indemnity within fourteen days of the accident and permit the committee to take the absolute conduct and control of all proceedings against him and to use his name in such proceedings and in any proceedings to enforce for the benefit of the committee any claim against third parties for indemnity or any order made for costs or otherwise, nor shall he be indemnified as aforesaid if he shall, except at his own cost, admit any liability or settle, defend, or resist any claim without the written authority of the committee, nor if any other insurance or indemnity exists affecting the same risk.

(j) "The Benefit Insurance Fund" may also from time to time be applied by the committee, so far as they in their uncontrolled discretion shall consider expedient, for the benefit of jockeys and apprentices injured by accident, arising out of or in the course of their employment, whether any such persons be legally entitled to compensation under any Act of Parliament or not.

(k) "The Benefit Insurance Fund" shall be deemed and remain the absolute property of The Western Australian Turf Club, and notwithstanding anything herein contained, shall not be deemed benefit or trust funds, and no person other than The Western Australian Turf Club or the committee shall have any claim on, or right to any of the said fund, or be entitled to be indemnified thereout save to the extent that indemnity is from time to time expressly given under these rules to persons notified in the Racing Calendar as aforesaid for the period therein specified.

That purports to be a rule of racing. Such a matter as that is dealt with by a rule of racing, the only requirement being that the rule has to be published twice in the "Racing Calendar." A question concerned with a nomination or an entry for a race is dealt with as a by-law. Comparing the two cases, we see immediately that one is of the greatest moment, because it deals with the Workers' Compensation Act, imposing certain obligations upon employers. However, the club regard it as of so little importance that they deal with it under a rule of racing. On the other hand, a comparatively simple matter such as nomination for a race is considered to be of sufficient importance to be made a by-law. I wonder why so important a matter as insurance was dealt with under the rules of racing. The only conclusion I can come to is that the club feared to deal with insurance by means of a by-law, seeing that they were going into the insurance business, which is outside the scope of their Act. They feared they might not be given permission to embark on insurance. They were not prepared to run the gauntlet of the Chief Secretary's Department in that respect. So they took upon themselves to introduce the benefit fund by a rule of racing. The benefit fund is a serious matter from a State point of view, because it is intended to take the place of what is provided in the Workers' Compensation Act. I am wondering under what power the Turf Club are carrying on insurance. They are not an incorporated company; they are not allowed to be such. Therefore they cannot carry on insurance business as an incorporated company. It appears, however, that they are in fact carrying on an insurance business, because they applied to the Commonwealth Treasurer for exemption under Section 15 of the Commonwealth Insurance Act. That section provides that a deposit must be lodged by any company embarking on insurance business. The Turf Club applied to the Commonwealth Treasurer for exemption from that provision, and received exemption. The section in question reads—

> The Treasurer may exempt from the requirement to make any deposit under this Act any body of persons which satisfies him that it carries on or proposes to carry on insurance business wholly for the purpose of insuring its members or the employees of its members or persons engaged in a particular trade or industry, against liability, loss, or damage contingent upon the happening of any event.

The section renders it possible for exemption to be granted to any body of persons proposing to enter upon the insurance business. The Western Australian Turf Club must have intended to go in for the insurance business, seeing that they applied for exemption. What right had they to enter into that business? When their Act was passed it was for the purpose of enabling them to conduct racing for the entertainment of the public. They were granted certain lands for that purpose. But their Act did not tell them that they could set up as an insurance company, or set up in the insurance business. However, they were granted exemption by the Commonwealth Treasurer,

and they went into the insurance business. But are they complying with the State Workers' Compensation Act, which puts upon employers a definite obligation to insure their employees? Section 10 of our Act says—

> It shall be obligatory for every employer to obtain from an incorporated insurance office approved by the Minister a policy of insurance for the full amount of the liability to pay compensation under this Act to all workers employed by him.

Are the Turf Club the employer? I think not, because they set themselves up as an insurer in the insurance business. Their benefit fund does not make it possible for the real employer to cover all his employees, since it merely makes provision for indemnifying an employer against accident to a registered jockey or an apprentice, saying nothing about a stable attendant. Therefore it is not possible under the benefit fund for an employer to insure all his employees, as the Workers' Compensation Act requires him to do. That might be all right if it were possible for an owner to elect whether he would insure with the Turf Club or take out a policy with an insurance company, in the latter case making certain that he was complying with the Workers' Compensation Act. He could do that only at great loss to himself. If the owner of a racehorse takes out an insurance policy with an incorporated insurance company, he must still make his contribution to the Turf Club's benefit insurance fund. Having made it, he knows that he will get nothing from that fund in the event of an accident, because the racing rule definitely states that where risk is covered by another insurance policy, no payment will be made from the Turf Club's fund. It amounts to this: If I were a registered owner and wanted to live up to my obligations under the Workers' Compensation Act, and therefore took out a policy covering all my employees with an insurance company, I would still be compelled to pay into the benefit insurance fund of the Turf Club. I could not avoid that, though I should derive no benefit from the fund. In my opinion it was never intended by Parliament that the Turf Club should have the power to impose their will upon people in that way. It looks to me as if the club were deliberately flouting the intention of the Workers' Compensation Act. I cannot place any other construction upon their action. To show how unfortunate the present position is I shall quote one case which comes to my mind, as case where a man named Davies was killed off the racehorse Gallant Airman. Davies was a casual employee, neither a registered jockey nor an apprentice. Therefore he was not covered by the Turf Club's benefit insurance. Davies was thrown off the racehorse and was killed. His widow naturally looked for compensation. She looked to the trainer for it. The trainer was unable to pay the amount—I think, £400. He had not the money. The widow then looked to the owner of the horse, Mr. Vincent. Steps were taken to obtain compensation, Jones and Vincent being joined as respondents to the action. There was no fund out of which the money could be paid. The man was not covered by insurance, and Vincent had to find the money. Be it said to his credit that he found the amount, and that it was paid over to the widow. But what an unfortunate position would have arisen if the owner also had been without sufficient means to pay compensation, as the trainer was! In that case the widow would have been deprived of her compensation, no adequate provision having been made. Usually the owner simply pays into the Turf Club's benefit fund, and makes no other provision. What is desired is the setting-up of a fund which would cover all employees about a racecourse, a fund similar to that existing in New South Wales. There every employee is insured under the Workers' Compensation Act, and the money is available in case of accident or death. The present position here is entirely unsatisfactory. The only people who get any satisfaction out of it are the members of the Western Australian Turf Club. They are enabled to set aside quite a large sum of money, which they may at any time decide to appropriate for their own benefit. That is so under the rules of the club. In such circumstances, nobody would have any claim on the fund; club members could leave owners and owner-trainers in the air as regards compensation of injured employees.

The Minister for Justice: The members could not do that for their own benefit though they could do it for the benefit of the club.

Mr. TONKIN: That is so; they could pay the amount of the fund into the club's

account. The club's rule 91 distinctly states—

(k) The Benefit Insurance Fund shall be deemed and remain the absolute property of the Western Australian Turf Club, and, notwithstanding anything herein contained, shall not be deemed benefit or trust funds, and no person other than the Western Australian Turf Club or the committee shall have any claim on or right to any of the said fund, or be entitled to be indemnified thereout save to the extent that indemnity is from time to time expressly given under these rules to persons notified in the Racing Calendar as aforesaid for the period therein specified.

It occurs to me that failure to comply with certain stipulations and conditions precedent laid down would deny any owner the right to indemnification. Let us suppose that an owner has been paying into the fund and believing himself to have covered his jockey or apprentice. Subsequently it transpires that he has not complied with some condition laid down. Then he gets no indemnity from the fund. In such circumstances how will the jockey get on, or how will the apprentice fare? How is the jockey or the apprentice to know that the owner has not complied with certain conditions and that therefore no indemnity is forthcoming? There is nothing definite or stable about that kind of insurance. The Workers' Compensation Act makes definite provision for the taking out of a policy of insurance. If it is discovered that no such policy is in existence, a penalty is provided; and that penalty is imposed upon the employer for so long as he omits to take out the policy. Under this a man will never know where he stands because it may be that the owner has not complied with certain of these conditions. An accident occurs and when the jockey looks for his compensation, if the owner has not the means, not having got an indemnity from the fund, the jockey gets nothing. That is the position we are seeking to remedy. It looks to me as if the subject matter of Rule 91 would be more fitted to form the basis of a by-law rather than a rule of racing, but to make the position clear it is now proposed to give the West Australian Turf Club express power to make rules of racing. The Bill will say to them, "You have power to make rules of racing just as you now have power to make by-laws, but while we give you that power we also enact the same provisions with regard to the making of these rules as are now laid down for the making of by-laws." There is nothing unfair about that. That is to say, they will have to submit to the Chief Secretary the rules of racing, or a copy signed by the chairman, and one month after that the rules of racing shall take effect, provided in the meantime they have been published in the "Government Gazette." The Act now says that when a by-law is made, a copy signed by the chairman must be sent to the Chief Secretary, and subsequently it must be published in the "Government Gazette." One month after that by-law has been sent to the Chief Secretary, unless it has been disallowed in the meantime, it shall have force and effect. We want to make the same provision for rules of racing.

Mr. Moloney: What will be the advantage?

Mr. TONKIN: At the present time the Turf Club can dodge their obligations by doing certain things under the rules of racing. For example, if the club had endeavoured to set up this fund by means of a by-law, that by-law would have been sent to the Chief Secretary, and the Governor, by Order-in-Council, could have disallowed it; but by doing it under the rules of racing, it goes nowhere near the Chief Secretary and the Turf Club can dodge their obligations in that way. What we propose to make them do is to send the rules of racing to the Chief Secretary, and within one month the Governor, by Order-in-Council, may if he so desires disallow the rules of racing. If they are not disallowed within one month, and if they are published in the "Government Gazette," they shall have force and effect in the same way as by-laws. I do not think there is anything unfair in that; it will simply avoid any chance of having such things done under rules of racing which quite properly should be done under by-laws. Who is to be judge as to what matters shall be dealt with under rules of racing or under by-laws? If one reads the rules of racing or the by-laws, it will be found that under the rules there are some subjects which should properly be dealt with under the by-laws, and certain matters appearing under the by-laws which should be dealt with under the rules of racing. We will not leave it to the discretion of the club; we say, "If you are to do these things for the regulation of race meetings, if you want to make rules of racing, make them in the same way as you do the by-laws, so that Parliament shall have some say." The Bill has a retrospective clause. I said at the beginning that I

failed to find in the Act any express power for the making of rules. Subsequently the Turf Club, by means of a by-law, gave themselves the power to alter the rules in existence or to make new rules. Those rules have never been subjected to scrutiny by the Chief Secretary, and it is quite likely, and it has happened, that certain things have been done under the rules which should have been done under the by-laws. The retrospective clause in the Bill will make it obligatory on the club to forward to the Chief Secretary a copy of all rules at present in force, and the Governor may, by Order-in-Council, annul any of those rules within a period of not less than three months after the publication of the Order-in-Council declaring the intention to annul, that is, of course, if it should be decided to annul certain of the rules. This procedure will prevent the assumption of power by the Turf Club in excess of their statutory authority. I think they have exceeded their authority by means of their rules of racing. I am seeking to make them submit all the rules at present in force, so that matters dealt with under one of the rules can be annulled if thought necessary, and any rule considered unsound or unfair, or repugnant to the laws of the State, can be annulled. We want that power. If the retrospective clause is not included, it will mean that all matters dealt with under the rules of racing will continue to be so dealt with. That is not advisable. If the Turf Club are satisfied that they have not exceeded their power, they can have no objection to forwarding the rules along in the ordinary way. If they feel that they have done certain things they should not have done, they will, of course, object to forwarding the rules. I am not anticipating trouble; I only say that we should make provision to look at the rules at present in force and to annul any that may be unsatisfactory. It is necessary that we should control the activities of the Turf Club because they have gone a long way beyond the powers it was intended they should have, and without doubt they have made rules which are repugnant to the laws of the State. I will quote one very important case which will prove that conclusively. Some years ago, I think it was in 1909, during the annual race round at Kalgoorlie, a racehorse named Ellis ran second to Hatteras in the Horseshoe Plate at Boulder. The stipendiary stewards for that meeting were the Turf Club stewards, and they called in the jockey, Joe Trenoweth, after the race and disqualified him for two years. The owner of the horse was not present at the inquiry.

Mr. Moloney: Disqualified him for not winning?

Mr. TONKIN: Yes. After having disqualified the jockey, they called in the owner, Mr. T. K. Lauder, and without the jockey being present, disqualified him for two years, and also the racehorse for a similar period. This was done under the rules of racing then in force. Mr. Lauder made application to the stewards to hear the case in accordance with the law of the land, which provides that an accused person must be present to hear all the evidence and cross-examine the witnesses. The stewards refused this request. They said they had held their inquiry in accordance with the power given them by their own rules of racing. Mr. Lauder then obtained an injunction out of the Supreme Court to restrain the club from proceeding with the disqualification. On the 3rd September, 1909, the Turf Club issued a summons out of the Supreme Court to dissolve the injunction. That summons was heard by a judge in chambers, who upheld Mr. Lauder, and the racehorse Ellis started in the Hannans Handicap on the following day, and in other races for which he had been nominated at the goldfields round. Later the matter was the subject of a Supreme Court action, which was decided in favour of Mr. Lauder. The judgment was—

> That any inquiry by the Western Australian Turf Club officials had to be conducted in accordance with the laws of Western Australia, and not as dictated by any alleged rule of racing contrary to that law. Any rule of racing contrary to the law of Western Australia in that respect was invalid.

That shows conclusively that, under their rules of racing, the Turf Club had taken power which they had no right to assume in excess of their statutory authority; in effect, they had enacted a rule of racing which was repugnant to the laws of the State. The Turf Club can continue to do this under their rules of racing because there is no check on them. All they have to do is to publish the rules in their racing calendar and these rules have force and effect. Seeing that the Turf Club can do as they like under the rules of racing, it is only right and proper that we should have some control over the

making of the rules of racing, and I am therefore endeavouring by means of the Bill to make it obligatory on the part of the Western Australian Turf Club to do with their rules of racing what they are now obliged to do with their by-laws. I move—

That the Bill be now read a second time.

On motion by Mr. Moloney, debate adjourned.

BILL—RURAL RELIEF FUND.

Returned from the Council with amendments.

BILL—DIVORCE AMENDMENT.

Second Reading.

Debate resumed from the 9th October.

THE MINISTER FOR JUSTICE (Hon. J. C. Willcock—Geraldton) [5.59]: As the hon. member who introduced the Bill explained, when application is made for divorce a decree nisi is granted and after the lapse of a certain time the decree is made absolute. There are some people who make application to the court under the divorce laws of the State, secure a decree nisi, and then when the time comes to apply for the decree to be made absolute they withhold action and consequently the matter is not completed. It is contended that the respondent should have the right to go to the court and request that the matter be finalised and the decree made absolute. It is questionable whether that would not be conferring a right upon the wrongdoer. The person who is the respondent in divorce proceedings is the one who is in the wrong. Such person would not be able to take any action to secure a divorce himself, but because some action is partially taken by the petitioner, the person who commits the wrong and is adjudged by the court to be the wrongdoer is to be permitted to have some rights and to obtain some benefit out of the action taken against him.

Hon. C. G. Latham: What benefit would the respondent receive unless he continued the action?

The MINISTER FOR JUSTICE: It is proposed in the Bill that the respondent shall be able to approach the court in order to complete the action.

Hon. C. G. Latham: That is when the petitioner refuses to complete it.

The MINISTER FOR JUSTICE: Yes. Because a person has started an action, why should another person who has done wrong have any rights in the matter? That is something the House will have to adjust. When someone has committed a wrong, and offended against the laws of the land, or against the interests of someone else, and another person takes some steps to protect himself or herself, or his or her rights, but does not complete those steps, the person who has committed the wrong should not derive any benefit from the fact that the action originally taken has not been completed.

Mr. Marshall: Will not the wrongdoer have received some reward, namely the dissolution of the marriage?

The MINISTER FOR JUSTICE: No. The parties do not get a complete divorce until the decree is made absolute.

Mr. Marshall: The fact that a dissolution of the marriage is granted amounts to a reward.

The MINISTER FOR JUSTICE: The dissolution does not have effect until the decree is made absolute.

Mr. Marshall: If the evidence is sufficient, why should there be any final decree at all? Why not grant a dissolution and finish with it?

The MINISTER FOR JUSTICE: There are many reasons for that. There has always been the inalienable right of the King's Proctor or anyone else to intervene in cases of collusion, or in connection with anything that might be brought before the court between the time of the granting of the decree nisi and the decree absolute. It may be that as a result of a divorce action the petitioner may have been granted alimony, or a maintenance order may have been made in favour of the petitioner. Before the decree is made absolute, the fear may be expressed by the petitioner, or it may be apparent, that the intention of the respondent is to marry again, and undertake the responsibilities of another family. The respondent may have only a limited income, out of which he will be expected to keep up the payments made under the maintenance order.

Mr. Withers: Why use the masculine gender?

The MINISTER FOR JUSTICE: If the decree is made absolute and the respondent

marries again and children are born, it may be the fear of the petitioner that she will have no chance of receiving any further alimony, and that the maintenance order will no longer be respected. The respondent may not be in a position to do more than keep the dependants, who will have become his dependants by reason of the fact that a divorce has been granted from his first wife. For these reasons some people have declined to ask for the decree to be made absolute, so that they may prevent the respondent from exercising his rights to the jeopardy and prejudice of the original petitioner. If the Bill is passed people could do exactly the same thing to reach the same position as is reached now without a decree absolute, under either the divorce laws or under a maintenance order.

Mr. Marshall: They could do the same thing by getting a separation order.

The MINISTER FOR JUSTICE: That confers no right upon one of the parties to marry again or do anything of the kind. The Bill will not prevent people who desire to take that action from taking it, and from protecting themselves in the way they seem to be protecting themselves now. There is something to be said for the views of the hon. member who introduced this Bill, for there are other people concerned. The respondent would not worry whether the decree was made absolute or not unless he desired to remarry. He may desire to live with some woman, and would prefer to be married to her. Furthermore, children may be born to them. It is possible that a wrong might be done to the children who would carry the stigma of illegitimacy, and that that state of affairs might be avoided if this Bill were passed. If the petitioner took action under a very old section of the Divorce Act, or obtained a maintenance order from a justice, the same position would arise. There is something to be said for what the hon. member has put up, but there is also something to be said for the rights of the petitioner. At any rate, I am not prepared to support the Bill.

HON. N. KEENAN (Nedlands) [6.7]: The Minister for Justice has very properly brought before the House the fact that this Bill proposes to confer certain benefits upon the wrongdoer. A step of that sort would, of course, be repugnant to us all. At first glance that might constitute a very serious objection to the Bill. There is, however, another side to the question, namely that our marriage laws allow for divorce. In effect if proceedings are taken and an order nisi is made, and the party in whose favour the order is made takes no further steps, things are hung up and left is a most uncertain and questionable state. Sometimes it occurs that the party who has obtained the order nisi uses the position deliberately to extract some promise or treatment from the respondent. That, of course, is a grave evil, but it is what happens to-day. The petitioner may be successful. If the petitioner is a woman, very frequently she wishes to deprive the other woman of the right to marry the respondent. We do not want to assist in that sort of thing. In other cases the petitioner, if a woman, may wish to impose upon her former husband onerous conditions which otherwise he would never be called upon to agree to. We do not want that sort of thing either. I propose to support the second reading of the Bill, but in Committee would like to see words inserted that will clearly make it discretionary on the part of the court whether it will grant to the respondent the relief this Bill holds out to him or her. It is possible to conceive a case where the petitioner is the husband and where he deliberately withholds further proceedings to make the order absolute. With the insertion of these words, I cannot see how the Bill, if it becomes an Act, can do any harm, whereas it is quite possible it will in some cases do a great deal of good. I support the second reading.

MR. SAMPSON (Swan) [6.10]: The House is indebted to the member for South Fremantle (Mr. Fox) for introducing this Bill. I hope the measure will be enacted. The position to-day unfortunately is that very often those who desire to marry again are prevented from doing so because, say, in a spirit of spitefulness, the petitioner will not allow the divorce to be made absolute and thus completed. I am sure, from the standpoint of public policy, it is very desirable that the Bill should become law. I hope the House will not stand for the ungenerous attitude which at present is found to operate with certain people. It is our duty to do what we can, not only to provide for the happiness of those concerned, but to carry out a policy which is

observed in this and most other civilised countries, namely that those who have been parties to a divorce, and in the case of whom the decree has been made absolute, shall be permitted to marry again without fear that the children who may be born shall carry the brand of illegitimacy. I can understand that the Deputy Premier is disinclined to alter existing conditions, but I am sure that the many cases that occur and would be covered by this Bill will justify its enactment. For my part I would like to see the decree absolute made automatic after a certain period, but that has not been asked for in the measure.

Hon. C. G. Latham: Why not abolish the decree absolute?

Mr. SAMPSON: I do not know that that would be right. It is said that a court of divorce is a court of lies. Sometimes I think that is true. I support the measure.

Mr. Marshall: Will you support the proposed amendment?

Mr. SAMPSON: If it aims at making the position broader, I shall support it. I am not inclined to look with favour on the old-fashioned view that once a person is married, no matter what happens, that person has to be held in a state of bondage for the rest of his life. That applies to both parties. There is too much unhappiness altogether in some marriages.

Sitting suspended from 6.15 to 7.30 p.m.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Withers in the Chair: Mr. Fox in charge of the Bill.

Clause 1—agreed to.

Clause 2—Application by respondent for decree absolute:

Hon. N. KEENAN: I propose to ask the Committee to amend paragraph (b) by inserting the words "in its absolute discretion" after "may" in the first line. The reason for that is that "may" does not always import the right to refuse. The amendment will make it clear that the court may, in its absolute discretion, grant this relief. I move an amendment—

That in line 1 of paragraph (b) after "may" the words "in its absolute discretion" be inserted.

Mr. FOX: I have no objection to the amendment.

Amendment put and passed; the clause, as amended, agreed to.

Title—agreed to.

Bill reported with an amendment.

BILL—MINING ACT AMENDMENT.

Second Reading.

Debate resumed from the 2nd October.

HON. N. KEENAN (Nedlands) [7.35]: I am one of those who have considerable doubt as to the legal authority of the Minister to grant certain defined persons the exclusive right to enter upon Crown lands that comprise reserves for the purpose of searching for minerals, particularly gold. The question involved is not one of intricate law but really of a commonsense view of the meaning of the statute. I propose, therefore, to place before the House the reasons why I have come to the conclusion that the Minister is not empowered by the statute to grant concessions of the nature that have been made available under Section 297. There is no question whatever that the Minister has power to make a temporary reserve of any Crown land, provided that such reservation is confirmed by the Governor within 12 months, failing which it ceases to exist. Further, there can be no question either that the Minister has power, with the approval of the Governor, to authorise any person temporarily to occupy any such reserve, on such terms as he may think fit. In the first place, I would point out that the word "temporarily" does not mean, as might be supposed, any short term. It means a definite term as opposed to a reserve that is of indefinite term; that is to say, a permanent reserve. It may be subject to confirmation, of course, by the Governor, for a term of five or ten or fifteen or fifty years, because the word "temporary" is not restricted in its effect. There is no consideration of very great importance in the matter that I want the House to grasp and understand, but it has this bearing: It shows that the difference between a temporary reserve and a permanent reserve is really of small moment inasmuch as a temporary reserve can be one of almost any length of term. I do not want to delay the House by considering that aspect any fur-

ther, but rather to direct attention to the fact that the Minister has the power only to authorise a person to occupy a reserve. That is the whole limit of the power given to him by the statute. The right to occupy land does not connote the right to mine in or upon the land or to sever and take away part of the realty, which is inseparable from the carrying on of mining operations. To carry on mining operations, you must have the right to sever part of the soil and to remove the part so severed. No construction, in my humble opinion, of the word "occupy" can convey that meaning. Moreover, throughout the whole of the Act —I intend to review it shortly—wherever the right of occupation is associated with the right to mine, that intention is expressed in clear terms. Not only is the person, for whose benefit the sections of the Act apply, given the authority to occupy, but also the authority to mine where it is intended that mining shall be associated with, and be part of the enjoyment of, the occupation. Members will bear with me when I say that it is only the commonsense construction that I will place before the House. The matter will not be one involving legal technicalities and will be readily understood. I shall refer to some sections to show that occupation and mining are essentially distinct in the conception of the Act. To begin with, reserves, as defined in Section 3 of the Mining Act, 1904, include "any land which, for the time being, is excepted from occupation for mining purposes," showing a distinct and entire difference between occupation pure and simple and occupation for mining purposes. Land excepted for any other purpose apart from mining would not come within the definition of "reserve." Then I turn to Section 28, which sets out that certain lands are exempt from occupation under a miner's right. One of the principal objects of a miner's right is to enable the holder to carry on mining operations. It also enables him to take up a residential site and provides him with certain easements and other advantages. But with regard to mining it enables him to carry out certain operations on an area in the form of a claim. Under the section I have referred to, certain lands are exempt from occupation by the holder of a miner's right, but there is a proviso attached to the section which sets out that land that has been exempted under the section may be occupied as a claim—that means for mining purposes pure and simple—if the miner shall first make compensation to the occupier of the land for any improvements thereon.

The Minister for Mines: That deals with mining on private property.

Hon. N. KEENAN: No, it has nothing to do with private property; it is merely part of the general exemptions granted under the Mining Act, 1904, and has no relation to the portion that deals with mining on private property. Therefore we can clearly see there is a distinction between mining and occupation pure and simple. It is provided that if the miner first makes compensation to the occupier of the land, he can then proceed to work on it for the purpose of mining operations. Section 30 is the next to which I shall direct attention. That section deals with the authority vested in the Governor to authorise any holder of a miner's right or holders of miners' rights generally to occupy for mining, any Crown land exempted from occupation under the preceding section. Again that clearly shows that where the right is given not only to occupy but to mine, the intention is set out. In the earlier portion of my observations I referred to the fact that the mere right of occupation did not confer the right to sever any part of the soil, and to appropriate the part so severed. That is the essence of mining; without it, mining operations cannot be carried on. The Minister knows that that is so. Those to whom he has granted the so-called concessions require to do so, to bore with diamond drills or any other implement proper to be used, and to take away that which is brought to the surface. Now I call the attention of the House to Section 61, the section dealing with the right to mine on reserves. In that section a mining lease may be granted in respect of land comprised in a reserve—again showing that the mining rights are distinct entirely from reserves. You can have a reserve and, on certain conditions, you can carry on mining operations on that reserve. Lastly I call attention to Section 296, which provides that the Governor may, by notice in the "Government Gazette," declare any reserve—which, of course, includes all reserves, temporary and permanent—to be open for mining, again in the clearest possible terms setting out what it is the Governor is empowered to do in relation to any reserve. He may declare it open for mining, but he has to do so in a certain prescribed

form, by giving notice in the "Government Gazette," and thereupon the reserve is deemed to be open for mining and may be entered upon pursuant to that section. If the meaning contended for by the Minister—and let me say bona fide contended for: because I hope the Minister will understand that in my criticism of the meaning of this section I am not in the smallest sense challenging the bona fides of the Minister—but if the meaning that is contended for by the Minister as the meaning of Section 297 is correct, namely that he has the power to give some designated person or persons the exclusive right to enter upon portion of a reserve and there carry on mining operations, it is obvious that this power is far more extensive than the power given to the Governor in Section 296; for the Minister will have the right to grant an exclusive privilege, whereas the Governor has no such right but can only declare the land open, and everyone becomes entitled on the priority of application to enter upon and mine it; whereas, if the power contended for in Section 297 is correct, it is a far greater power, not only making the area available for mining, but making it available only to some specified person or persons. And while the Governor has the power to declare a reserve open for mining, first he has the power given him by those distinct words, whereas there are no such words whatever to be found in Section 297, empowering the Minister to declare any part of any reserve available for mining. For those reasons I hold the opinion that there is no legal authority vested in the Minister under this Act to grant to any designated person or persons the exclusive right to mine on any part of any reserve of Crown lands. Of course, I may be wrong, for unfortunately human judgment is frequently wrong. I know the Minister has told the House he has been advised to the contrary, and it is quite possible, even probable, that the advice given him is correct and that my view is wrong. But apart from the legal interpretation, which I have tried to make a commonsense interpretation, keeping it apart from the citing of authorities in support of my view—as, for instance, if you allow by lease some person to occupy your land and it happens to contain a coal seam, he would not be entitled, under the lease, to work that coal seam—I have deliberately kept away from that because I merely wanted to place before the House reasons for arriving at a commonsense interpretation of what Section 297 really means. I now propose, apart altogether from the legal interpretation, to point out that although I have had a very long and somewhat intimate knowledge of mining legislation, I can really and honestly say that I never knew a provision of this kind was included in our mining laws until quite recently, and I am certain that so far as any popular acceptation of what the mining laws did mean is concerned, that meaning was never before any of us. But that is, as I say, entirely apart from any strict legal interpretation of the section. I may also point out that the view I have put forward must be the established view, and if any other view be embraced, then Section 296 becomes absurd. But, as I said on the Address-in-reply, whatever the legal position may be, I am quite prepared to admit that the grant of a right to exclusive occupation of certain areas of Crown lands and to examine those areas to see if they contain mining possibilities is conducive of the introduction of capital into the industry, and particularly the introduction of capital into the industry from sources outside of Australia. I have no doubt whatever that the inducement has been effective. I accept without doubt the assurance of the Minister that the result has been achieved, that, in fact, the granting to specific parties of this right, whether it be legally granted or not, has resulted in the introduction of a large, at all events a considerable, capital into the mining industry which otherwise might never have been brought into that industry. And also I have no doubt whatever that the Minister had bona fide exercised that power, believing that the Act gave it to him and using it in his best judgment in the interests of the industry. But although all that has to be admitted, and although I very cordially admit it without the slightest question, nevertheless it also remains as a fact that this power which has been assumed to exist has been used sometimes not wisely and in other cases has been used in far too liberal a sense. In the matter I dealt with on the Address-in-reply I mentioned the case of Norseman and the pertinent facts which, I have been informed existed in that case do not entirely coincide with those the Minister put before the House. My knowledge of the case entirely arises from a set of facts that was

laid before me professionally for an opinion by the solicitors in the case. Those facts were these: this particular area of land has been held by the present company and by its predecessors in title for a very considerable number of years, and the working of that ground as a mining proposition has met with only indifferent success in all those years, and has led, I believe, to reconstruction more than once of the companies working it. It was only when the price of gold became so advanced that it reached a height more than double what it was in the days before England went off the gold standard, that any opportunity arose to carry on those operations with any measure whatever of success, and so it was that, following the large increase in the market price of gold, operations were carried on of a very much more extensive character in regard to this mine, and development work was pushed ahead which otherwise had been more or less neglected. The result was that they discovered that one of their principal reefs would pass out of their ground at quite a shallow depth into land they were not holding as part of their lease. Then it was they applied for a grant of a gold-mining lease, and it was only after they had so applied that they found it was part of a reserve, and therefore it was not open to that company to acquire as a gold-mining lease. The Minister asks, and no doubt it is a pertinent question, why did not they take up that ground before it was given away as part of a concession to the Western Mining Corporation?

The Minister for Mines: Why did not they apply for it before the Western Mining Corporation proved that the values were there?

Hon. N. KEENAN: Yes, why did not they apply for it beforehand? The answer is simple. It is this, that the position they stood in was very different from that of the Western Mining Corporation after they had got the concession; because if the leaseholders had taken up that ground before the concession was granted, they could only have taken it up as a gold mining lease and that involves, after the first year, a rental of £1 per acre and the cost of the survey and the carrying out of the labour conditions which are imposed by the statute.

The Minister for Mines: They could have got exemption from the labour conditions.

Hon. N. KEENAN: I am informed that under the concession which the Western Mining Corporation obtained they held the ground that this company wished to acquire, and an acreage of a very much larger character almost right around the lease; this particular part being only a small fragment of the whole, and I am informed that the Western Mining Corporation paid a rental of only £5 5s.

The Minister for Mines: They did not hold it quite 12 months before they were paying £16 16s.

Hon. N. KEENAN: I am only attempting to make a comparison to show that it does not lie in the mouth of the Minister to say that this company should have taken up the ground beforehand, when they would have had to pay £24 a year for this small fragment of the area which the Western Mining Corporation got for £5 5s. And the Western Mining Corporation had only to carry out such exploratory work as was required by the Minister. So a proper comparison would only lie if the leaseholders had been offered the concession which was afterwards given to the Western Mining Corporation. If they had been offered the right to take up the land on terms equally favourable and had not availed themselves of it, no one could criticise the Minister for giving the land to another party, but in my view—and I am satisfied it is a reasonable view, no land immediately adjoining a working mine should be given away to a third party—an outsider—under any concession unless the leaseholder has first of all been offered the concession and has refused it. Therefore, if I am wrong in my view and if the Minister is legally authorised to grant those concessions, I cannot escape the conclusion that in some instances they have not been wisely granted. I do not propose to deal with the cases of the alleged granting of excessive areas under this system of concessions. That point has been dealt with by others, and moreover it has been dealt with to a large extent by the Minister himself. Rightly or wrongly, I am satisfied that the Minister has not the legal power vested in him that he has exercised in granting all those concessions, and I am also satisfied that if he had that legal power, it has not been wisely exercised. Therefore I find myself in very much of a quandary as to how I shall vote on the motion before the House.

I am also firmly persuaded that if the power were legally vested in the Minister under proper restrictive conditions, it would be conducive to the best interests of the mining industry. Therefore I believe that that power should be granted, but it should be granted on limited conditions, and I propose briefly to outline what I consider those conditions should be. In the first place one of those conditions should prohibit the granting of any reservation in favour of a third party of land immediately adjoining any working mine. In fact, if I might express what I consider would be a proper limit, it should be at least 20 chains from the boundary of any working mine. The reason is obvious. The value of the ground has been discovered, but what is to prevent some person who has no intention at all, except to trade on the work of others, getting a concession immediately adjoining a mine and therefore benefiting by the work of those who are really carrying on the only valuable development of the mining industry?

The Minister for Mines: That is just what happened at Norseman after the other people had spent £132,000 in development.

Hon. N. KEENAN: Does the Minister believe for one moment that the Western Mining Corporation would ever have gone to Norseman had not they known of the results achieved by the Norseman Gold Mining Company for years? It was because they knew there was gold there.

The Minister for Mines: Not by the mines working there at present.

Hon. N. KEENAN: They knew there was gold there because the present mine has been working on gold for 40 years. The Western Mining Corporation made no real discovery; they merely used the knowledge gained by other people.

The Minister for Mines: The mine there has not been in existence for seven years.

Hon. N. KEENAN: I am not referring to the present company.

The Minister for Mines: Nor the mine, either.

Hon. N. KEENAN: But its predecessors have been there for years. I much regret to say that I saw that mine myself 40 years ago and it was working then.

The Minister for Mines: The Norseman mine was working then.

Hon. N. KEENAN: What the Minister means is that the particular company was not working then.

The Minister for Mines: No, I mean that particular mine.

Hon. N. KEENAN: That is strange.

The Minister for Mines: The Norseman mines were working, but it is not the Norseman mine that the Adelaide company is working.

Hon. N. KEENAN: I do not wish to argue that point, because it is well known that gold was found and worked not only in that district but in that neighbourhood, before the Western Mining Corporation ever dreamt of going there. I said that one of the first conditions which, in my opinion, should be attached to the granting of reservations is that no reservation should be granted immediately adjoining the boundaries of any working mine or even within 22 chains of the boundaries of a working mine. Secondly, the area might very well be limited for any one grantee. For instance, one might suggest that not more than 1,000 acres should be granted.

Mr. Marshall: Why not, like the pastoral leases, make it a million acres?

Hon. N. KEENAN: I might suggest that 500 would be sufficient for any one grantee. Some area should be inserted as a limitation to the right of any one grantee to enjoy. Thirdly, I suggest that there should be a limitation for each goldfield, not in respect of each grantee but in respect of all, a limitation which would mean that although the reservations were created, there would be left in each goldfield a substantial part that would be open to all citizens of the State who possessed the right to explore it to carry on their exploratory work. Lastly, I would require that all intended grants should be advertised in the "Government Gazette" and at the office of the warden on the goldfield in which the area was situated, in order to allow other parties who had possibly acquired some rights, although they were not registered, to be represented and heard before the reservation was granted. I have considered whether I should not support the second reading of this Bill and, in Committee, move to amend it to meet the views that I have just indicated; that is to say, to grant to the Minister the power he has been exercising, which he might have been rightly exercising, but which may be made certain by regularising the statute, and do that on the conditions I have mentioned.

In those circumstances, I am prepared to vote for the second reading.

Mr. Marshall: My God, there will be a revolt on our goldfields if any more of this sort of thing goes on.

Hon. N. KEENAN: I once more wish to emphasise this fact, that, holding the views I do, which I hope I have made sufficiently clear, I do not, by voting for the second reading of the Bill, take part in casting any slur on the administration of the Act. In my judgment, I am satisfied that the Minister has acted absolutely bona-fide in the matter, believing that he possessed those powers, and believing also that, in exercising them, he was best serving the interests of the State. I am satisfied that if we pass the measure on the conditions I have indicated, our action would not amount to such a slur, and therefore I am prepared to vote for the second reading. If it were not so late in the session, I would much prefer to see all our mining laws reviewed because, as they exist to-day, they are leading to a very grave abuse of the privileges conferred by the Act. It is not merely the locking up of certain areas of land by reservations that the prospector complains of. Far more he complains of the locking up of the larger areas of land which are held in the interests of speculators and by agents of speculators. There is no develpment of any moment in any part of the State to which certain agents do not rush in motor cars. They do not go, as men used to in the old days, on level terms, each with his 10 toes trying to get in front of the other man.

Mr. Marshall: The survival of the fittest.

Hon. N. KEENAN: Motor cars are used and the whole country is pegged out.

Hon. C. G. Latham: Some of them go out in planes.

Hon. N. KEENAN: Yes, and the whole country is locked up. It is easy for them because, as I explained in my speech on the Address-in-reply, it takes a long time for an applicant for a lease in any outback part of the State to get his lease. Not only by the reservations, but by the abuse of the powers and privileges conferred by the Act, a colossal extent of the mineral areas of the State is to-day locked up. I would like to see the whole of our mining laws recast to prevent a continuance of that state of affairs. What I would like to have dealt with when recasting our laws is the exploitation of the industry by those who manage to get certain rights and who thereupon, without any justification whatever, obtain from the public at large a reward entirely out of proportion to what they hand on to the public. It is true that at the present moment there is no possibility of controlling that sort of thing, but I have no doubt that, given proper consideration, means could be found to control that exploitation of the industry. But we have reached a stage of the session when it is impossible to find time to deal with a statute of that character. I would give power to the Minister under certain conditions to require every transaction connected with a mining tenement to be disclosed before he made any transfer. Then we would get the whole history from the man who first pegged the ground and handed on the option for a shilling to Mr. X, who handed it on for £1,000 to Mr. W, and so on, and it would be clearly seen whether the transaction was one that merited registration. I would give ample power to refuse registration. I do not propose to elaborate that point. What I have said is that the present session has reached such a point that it is impossible to find time to bring in a comprehensive measure of that character. Therefore I am prepared to vote for this Bill, which really deals with only a very small part of the Act, with the intent, in the Committee stage, to move amendments in the direction I have indicated.

MR. WELSH (Pilbara) [8.15]: There are in my district two reservations which have been held for two years without a pick being put in the ground. Neither does there seem to be any intention to develop those reservations.

Mr. Doney: For how many years have the reservations been granted?

Mr. WELSH: Three or four years.

The Minister for Mines: Where are those reservations?

Mr. WELSH: At Nullagine. I do not know exactly who holds them, but when I left there in June last no work whatever had been done on them. One reservation is No. 598, known as "The Little Wonder," and the other is No. 801, comprising 500 acres. A man told me that he sank a shaft on "The

Little Wonder" to a depth of 40 feet before discovering that he was on a reservation. That is distinctly unfair. I do not think reservations are often posted at the Warden's Court.

The Minister for Mines: Yes, invariably.

Mr. WELSH: The men concerned were particularly anxious that I should take the matter up.

The Minister for Mines: I wish you had done so, because I know nothing whatever about the two reservations to which you allude. So far as I know, there are only two reservations in the Nullagine: and on one of these £1,700 has been spent.

Mr. WELSH: There is in my district a reservation on which a large amount of money has been spent, and spent well. When reservations are granted, there should be some means of ascertaining the fact from the local mining registrar. At Nullagine the police constable is the registrar of mines.

The Minister for Mines: That is done in every instance.

Mr. WELSH: I repeat, reservations when granted ought to be worked. I support the second reading of the Bill.

MR. DONEY (Williams - Narrogin) [8.18]: I would like the Minister for Mines to understand that anything I may say must not be construed by him as questioning in any way either the propriety or the bona fides of his actions. The debate on the Bill has produced the somewhat extraordinary spectacle of a Labour member pleading with a Labour Minister not to sacrifice the worker to the capitalist, and on the other hand the Minister as champion of the capitalist declining to budge one single inch in the direction desired by his colleague. I cannot help considering that a most interesting situation. The Bill seeks exactly the same result as its mover sought by way of motion in October, 1934. I recall that on that occasion the House found it extremely difficult to decide whether to support the hon. member's view or the Minister's. The House then seemed to feel a change was certainly desirable, but did not feel like going quite so far as the hon. member wanted to coax it. I hope, therefore, that the member for Murchison in his own interests will accept the amendment suggested by the member for Nedlands (Hon. N. Keenan). Similarly today it will be difficult to determine offhand our attitude towards the Bill. Even the member for Nedlands, with his grasp of the situation, declared that he found himself in a quandary, unable as yet to decide one way or the other in a House that is extremely anxious to get to the bottom of this question. It is most regrettable that the Minister and the member for Murchison are at loggerheads, not only as to facts, but as to opinions. That is really a pity, especially when we remember that both the Minister and the hon. member come from the same type of country. In the hon. member's speech and in that of the Minister, if one says no the other says yes; if one says "I am right," the other says "You are wrong." If one man says there are no pegs, the other says there are pegs. The member for Murchison heatedly declaimed against the alleged free granting of reservations by the Minister for Mines to wealthy investors. The hon. member considers that those reservations retard the progress of the industry and are especially hard on the prospector. Last year, in replying, the Minister expressed quite a contrary view, saying that the reservations were a veritable godsend to the prospector. The Minister considered that they brought fresh capital into the State and prosperity to the industry. The pity of it is that though both gentlemen are sincere in their opinions, yet it is plain that one of them must be wrong. The House will find considerable difficulty in deciding between those highly antagonistic voices. We must look to goldfields members for guidance in the matter, and I hope that when they speak they will find themselves inclined not so much to put up the party viewpoint as to endeavour to express what I may term the goldfields view, and particularly the view held by prospectors, so that when we vote on the question we may have some dependable knowledge of this matter and not risk inflicting injury on those whose livelihood is at stake. I wish that during a debate like this more goldfields members were present. Casting my eye around the Chamber, I do not see more than four members out of the nine who might reasonably have been expected to be present and take some part in this important discussion. The member for Murchison startled the House the week before last, when moving the second reading of the measure, by asserting that the Minister had granted one reservation of 25 miles by 10 miles. If true, that is a huge area; and I presume the statement is true.

The Minister for Mines: Not with the right of occupancy, though. Anybody can go on that reservation and prospect.

Mr. DONEY: What is the purpose of granting the reservation if it does not give the right of occupancy to the reservation holder?

The Minister for Mines: Anybody can go on that area and prospect where he likes.

Mr. DONEY: It is an open reservation?

The Minister for Mines: Yes. All it does is to prevent anybody else from getting a right of survey over the area.

Mr. DONEY: I think the Minister will admit that the area has been held up. It seems to me such an extraordinarily large slice of auriferous country.

The Minister for Mines: What difference does it make? What harm has it done?

Mr. DONEY: If it has not done any harm to anybody else, what benefit is it to the man holding the reservation?

The Minister for Mines: The people holding it are responsible for employing 300 additional men and for an expenditure of £600,000.

Mr. DONEY: On this particular reservation?

The Minister for Mines: On reservations.

Mr. DONEY: I cannot help thinking that in granting a reservation of such huge size, the Minister must surely have been contravening the Act, though I do not say he has been. If the Act permits it, I agree with the member for Murchison that the Act should be amended. This must be good auriferous country; otherwise, presumably, it would not have been reserved. It is to be assumed, too, having regard to the Minister's assertion, that this reservation has brought new capital into Western Australia. Has it actually done that? I hope that in Committee, if the Bill gets there—and I hope it will—the Minister will have something to say in explanation of his action in granting so huge a slice of country to one person or one company. Last year the Minister gave the impression that these reservations were very few and far between. The member for Murchison appears to express the opposite idea. He conveys an impression that these reservations are here, there, and everywhere, and that by their omnipresence no man can prospect on them with any certainty of getting the fruits of his labour. I do not think that at this time of the day people are likely to be impressed by the Minister's claim that these reservations attract capital. In my opinion the House is far more likely to agree that the high price of gold is the lodestar. If the price of gold slumped, it would take something far more potent than reservations to arrest the flight of capital.

The Minister for Mines: How much capital has been attracted to Western Australia outside the reservations during the last 13 months?

Mr. DONEY: That information, I admit, is not in my possession.

The Minister for Mines: Recently there have been only two small flotations, other than local ones.

Mr. DONEY: The Minister is in possession of that information. I am not.

The Minister for Mines: Evidently you do not believe it when I give it to you. I told you the other evening that reservations had been responsible for introducing a million and a-half of money into Western Australia during the last 18 months.

Mr. DONEY: I do not remember that being stated by the Minister.

The Minister for Mines: I said it a fortnight ago.

Mr. DONEY: I do recollect the Minister giving a list of reservations on which a large sum—I think, £350,000——

The Minister for Mines: That was the amount which had been spent, but not the capitalisation.

Mr. DONEY: I understand that the expenditure was in connection with fifteen or twenty reservations.

The Minister for Mines: No.

Mr. DONEY: I may be wrong; I am not asserting it. To the best of my recollection, the expenditure was in respect of a very small number of reservations. I believe the total reservations granted number about 120.

Hon. C. G. Latham: I believe a prospector would do just as much good as those gentlemen.

The Minister for Mines: More prospectors are out now than ever there were.

Mr. DONEY: The member for Murchison conveyed an impression, and pretty well made good his claim, that the reservations are not in the interest of the prospector. I think the hon. member impressed the House with the correctness of that view. I now wish to quote from last session's "Hansard," on page 930 of which the Minister for

Mines is reported, after some references to the Western Mining Corporation and the Western Machinery Company, as saying—

> Personally, if I were to go out prospecting to-morrow, and chose to go to a new district, the first thing I would do would be to go to the office of the local mining registrar and ask if, in his area, there was any reserve that had been granted to the Western Mining Corporation. If there was such a reserve in the district, that is where I should go to commence prospecting. I would do that because I would know that if successful in finding a big low-grade proposition, there was no limit to the capital behind the company, should I want to sell. That is a big inducement to prospectors, because they know that if they find anything, there is capital available if they want to sell. Should they find a small rich show, they are not at any greater disadvantage than they would be on Crown land, so long as they work it themselves.

The Minister for Mines: That is true.

Mr. DONEY: It is all very fine and large, provided it is correct.

The Minister for Mines: It is correct.

Mr. DONEY: I am not disputing it. I am referring to the remarks of the member for Murchison who told the House that there was something in the nature of a gentlemen's agreement between the holders of these reservations which required that none of them should bid for any show found by a prospector upon a reservation when the holders of that reservation had themselves declined to make an offer.

The Minister for Mines: That is absolutely incorrect.

Mr. DONEY: That is what I am complaining about. The House is denied any reliable information. We have the member for Murchison claiming one thing and the Minister definitely insisting that that hon. member is wrong. I am hopeful that other members of mining constituencies will give us the benefit of their views on the matter. Here is the member for Murchison saying that the reservations are the worst thing possible for the prospectors, and the Minister giving the House the impression that the reservations are a godsend to the prospectors, and that the more of them that are granted the better it will be. Following the Minister's speech the other night I discussed the matter with two working miners from the goldfields. I said, "What do you think about it?" Their reply was that the reservations were an absolute curse I do not say they are right; I am merely repeating the opinion they expressed. If I judge the member for Murchison aright he objects not so much to the reservations being granted in exceptional circumstances as he does to their being granted so freely that they hold up prospecting and reserve the plums for those who come in only when the going is good. After listening to the various speakers it seems to me that the reservations are a cheap way of securing for the holders freedom from interference. The last portion of the Minister's speech last week was an impassioned defence of Mr. de Bernales. I could not help wondering at the time against whom this defence was put up.

The Minister for Mines: It was against you for trying to slight him.

Mr. DONEY: That was the attitude adopted by the Minister last week. There is not the slightest need for heat on the Minister's part. I am not saying anything to impugn his character or that of Mr. de Bernales, whom I do not know. Indeed, that which I have heard of him is, I must say, very much to his credit. Although the remarks of the Minister appear to be aimed at this side of the House nothing was said on this side about that gentleman's methods.

The Minister for Mines: Your cross-questioning was not too favourable, you know.

Mr. DONEY: My cross-questioning was not with the object of damning that gentleman in the eyes of the House, but only to try to establish some connection between the Western Mining Corporation and the Machinery Company.

The Minister for Mines: I told you there was no connection whatever between the two, and you interjected about five times to the same effect. You were absolutely trying to mislead members of this House

Mr. DONEY: I said that my impression was, and it still is, that the hon. gentleman had made a mistake, that there was some connection between the two companies.

The Minister for Mines: There you are, insinuating again

Mr. SPEAKER: Order! I ask the Minister to keep order.

Mr. DONEY: I am not insinuating anything, I am speaking plainly or trying to. This is not a personal matter at all, and I am not impugning the bona-fides of Mr.

de Bernales, the Minister or anyone else connected with this matter. It is just a question of getting at facts, and I am submitting that it is difficult to get at the facts so that we may arrive at a sensible decision. I think there are grounds for sending the Bill to a select committee, and for that reason and others to which I have made reference, I shall vote for the second reading.

MR. COVERLEY (Kimberley) [8.37]: It is my intention to oppose the Bill, not because I am concerned about large areas being reserved to the detriment of other people, but because in my experience in the district I have the honour to represent, which is the alma mater of the goldfields of Western Australia, the mining areas there have been lying dormant for years. There is abundant country without reservations of any description and there is nothing to deter prospectors from trying their luck there. It is only within the last year or so that the Minister has thought fit to grant reservations in the Kimberley district, and until then there was no activity at all there. When the reservations were made I found that they did entice English capital to that part of the State. A mining engineer was sent there, and he employed six or seven prospectors, men of experience, and a sampler was placed on the job. Immediately one area was reserved I found that there was a rush to it. Every prospector in the district who had been there for many years and had abandoned prospecting as a livelihood immediately went straight back into the industry. On the last occasion of my visit to the Kimberley district I found that every person who was able to go out prospecting had done so. I do not hesitate to say that if any one of those prospectors came across a potential mine to-morrow, the first thing he would do would be to try to put it on the market. They themselves have not been able to equip it, and so it would become a proposition for flotation. There have been abandoned mining leases in that district for the last 30-odd years, and no one has desired to take them up until recently when reservations were granted. Immediately somebody got a reservation there was a bulldog rush for those areas. I am not concerned about who gets a reservation; my only concern is to see that the district is developed. My grievance against the Minister is that he does not enforce the labour conditions sufficiently on the reservations. If he could by some means compel the concession holders to employ prospectors I would say that he had done something for the outback districts, those parts of the State where people would not go until the concessions were given. The Minister has done the right thing in granting reservations to people who will introduce capital into the country and develop the mining industry. Another matter to which the member for Nedlands (Mr. Keenan) referred has my support. It is beyond the time when the Mining Act should be revised. Quite a lot of amendments could be made, and particularly would I like to see the Minister when submitting an amending Bill make provision for the proper control of oil prospecting in the State. Our laws in connection with oil prospecting are out of date in comparison with the law of the Commonwealth. Whatever may be the fate of the Bill we are now discussing I hope the Minister will take into consideration the necessity for overhauling the Mining Act, and keeping in mind what I have just said about oil prospecting in Western Australia. I support the Minister in his granting of reservations, and hope that he will enforce the conditions to the extent of compelling the holders of the concessions to employ prospectors.

On motion by Mr. Clothier, debate adjourned.

BILL—NATIVE FLORA PROTECTION.

Second Reading.

MR. SAMPSON (Swan) [8.42] in moving the second reading said: In introducing a Bill for the protection of the native flora of Western Australia, I should like to express my appreciation of the courtesy extended to me by the Minister for Agriculture in permitting the Government Botanist, Mr. Gardner, to assist me. I also desire to thank Mr. Davidson, the Town Planning Commissioner, Mr. W. Loaring of Bickley, Mr. J. C. Taylor of Perth, and various others who are particularly interested in the preservation of Western Australian flora. This State is justly famous for its wild flowers, a fact which is generally known. The Bill will be warmly welcomed by most people. It repeals the Act of 1912 and advances the position a few steps further with regard to

the protection afforded. The Bill is drawn on the lines of the Victorian and New South Wales Acts. Previously there was but one measure in existence, the Act which was placed on the statute-book in 1912. About that year the Government Botanist of New South Wales, Mr. J. H. Maiden, paid a visit to the State. He said, while here, that the flora of Western Australia was much more worth protecting because of its beauty than were the wildflowers in any other State he had visited. He was keenly interested in botany, and had given careful attention to the flora of other countries. The Bill is a simple one, and I hope members will give it the consideration to which it is entitled. With every recurring spring a tremendous destruction of wildflowers occurs. The outstanding qualities of our flora have prompted me to appeal to members to pass this Bill. Apart from the scientific value and interest of Western Australian wildflowers, I claim they have an economic value. This may sound a contradiction in terms, but it is nevertheless true. Our wildflowers are of such outstanding and unique beauty that visitors from other countries come to this State to study them. Many years ago Professor Mueller, the great German botanist and scientist, visited Western Australia, and following his visit the Mueller Botanic Society was founded. I regret that organisation is no longer in existence. Possibly the passage of this measure will enable a similar society to be founded. An associated subject is the destruction of trees, to which I will briefly refer. Farmers should be encouraged to protect and preserve at least some of their trees. The wanton destruction which goes on upon most farms is ultimately to the disadvantage of those concerned. To-day Western Australian flora is known throughout the world both by botanists and horticulturists. In the early years of the settlement of Western Australia various collectors visited the State, to one of whom, Professor Mueller, I have already referred. Some of those people were employed by English and Continental gardeners. To-day some of our most common plants are being grown in English and Continental conservatories. Perhaps the most interesting aspect of our flora is that it is quite different from plants which grow elsewhere. Our flora is indeed quite separate and distinct, and presents unusual and different aspects from flora in other countries. In the South-West we have many curious and startling species. We have several varieties of kangaroo paw. We have the weird flannel flower, the pitcher plant, the wax-plant, and many others. Seventy-five per cent. of our flora is absolutely confined to the south-western territory. The colours of the common Leschenaultia and Hovea are unrivalled for their delicacy and richness. Very few flowers can be surpassed in intensity by the scarlet Sturt pea. This flora is one of the State's most valued assets. It is our duty to do all in our power to ensure that it remains for the use and admiration of posterity. The wholesale destruction consequent upon clearing and cultivating cannot well be avoided. Even so, it is understood that by this means several species in our wheat areas are no longer in existence. It is plainly our duty to preserve these plants, and to ensure that our reserves and Crown lands, even our privately-owned land, shall not be ruthlessly exploited by a number of people who journey into the country and destroy numbers of plants through careless plucking. In the Darling Ranges near Perth there is a marked reduction in the number of orchids which were once such a feature of that popular resort. If the plucking and destruction of these and other plants are not regulated, the day is not far-distant when they will disappear from the more frequented spots. Other plants, including the black kangaroo paw, are threatened with extermination. This plant is now almost extinct. The Bill is designed to ensure the preservation of these plants. It is not intended to prevent people from picking flowers so long as the plants are not damaged to an extent that will lead to their destruction. That is a point about the Bill I am anxious for members to realise. It is provided that certain plants which are threatened with extinction may be protected entirely. Apart from this, so long as the plants are not damaged to an extent that will lead to their destruction, the Bill provides only that acts of vandalism shall be stopped. The time is not far distant when such action will be necessary if those plants whose existence is threatened are not protected.

Mr. Sleeman: According to the Bill, if you pick a flower you are guilty.

Mr. SAMPSON: That would apply only in cases where the plant is proclaimed. In that instance the plant will be absolutely

protected. That protection will apply to public lands, roads, reserves, and so on. An interesting article appeared in last Saturday's "West Australian" headed, "Looking at Flora," by Stet. It is an interesting article. It relates to some remarks on our wildflowers made by a visitor. This visitor is referred to by the writer as making the following remarks:—

"You Australians don't deserve to have this beauty growing at your doorsteps! All you do is root it up. You plant stodgy geraniums in the soil where orchids grew. You cling to the beauty of the old world and neglect the different beauty that lies all round you, and which you wantonly destroy. In all your suburbs there is scarcely a wildflower left. You stick them in books; you boast of them to strangers; but you don't really see their loveliness. If you did, you would want to have them growing round you all the year, in your homes and gardens . . . . You are fools! All you deserve is a desert or an aspidistra in a pot . . . ."

The plants mentioned in the Schedule will particularly be protected.

Mr. Raphael: Are you prepared to give sustenance to the boronia sellers when you prevent them from picking that plant?

Mr. SAMPSON: Boronia-pickers must pick the boronia properly. It is best to take it with a sharp knife and not to root up the plant. I will explain later the methods that will be adopted in an attempt to police this measure. The plants set forth in the Schedule must not be destroyed or mutilated so as eventually to destroy them. If the cutting is properly done, it will not be an offence to pick those plants. Cases of wanton destruction do occur, and in such cases penalties are provided. The Bill sets out the maximum penalties that may be inflicted. Provision is made for the absolute protection of certain plants, whether mentioned in the Schedule or not, subject to their being proclaimed.

Mr. Raphael: Do you provide for dandelions?

Mr. SAMPSON: During the wildflower season we have often seen the spectacle of visitors coming back from a trip laden with bunches of flowers, tremendous quantities, both picked and pulled. These can be of no value to the people concerned. In some instances the flowers are thrown away before home is reached. It is not desired to prevent people picking flowers in reasonable quantities, subject to the plants not being so damaged that they may be destroyed. It would be easy to ascertain whether the flowers have been properly picked. In the case of boronia one frequently notices that the sprigs or sections have roots attached to them. This means that the boronia has been violently pulled up. Surely that is not what a lover of flowers would do, nor is it in the best interests of the sellers of boronia.

Mr. Marshall: It will be hard upon the lamb when they pull the "lamb's tail" according to the Schedule.

Mr. SAMPSON: We can discuss the names at a later stage.

Mr. F. C. L. Smith: Will boronia grow again if it is cut?

Mr. SAMPSON: I am informed on good authority that it will do so. The "flannel" or "blanket" plants or "lambs' tails" are the popular names for particular species and are more easily pronounced than the scientific name, which is "Physopsis species." I shall not deal with the scientific names at all.

Mr. Marshall: You are prepared to neglect the double gee.

Mr. SAMPSON: The double gee is not included in the schedule at present, but I know it is an exceptionally popular plant among goats. When I was at Doyle's Well recently, I noticed how fond the goats were of the young green growth of the double gee, but I do not propose to take steps to preserve a plant that in my estimation is a noxious weed and one that I, as an old cyclist, often cursed. I shall be prepared to consider the desires of the member for Murchison (Mr. Marshall), but I hope he will not press that suggestion. I understand that the national floral emblem of Western Australia is claimed to be the Anigozanthos species—in other words, the kangaroo paw. There are many flowers that should be protected. There is the magnificent Christmas tree. A more beautiful tree, when it is in full bloom, could scarcely be imagined. Most decidedly it should be protected.

Mr. Patrick: Is not the Christmas tree a parasite?

Mr. SAMPSON: Even parasites may have their advantages.

Mr. Raphael: Not those in this House.

Mr. SAMPSON: I do not desire to indulge in personalities with the hon. member. I know the Minister for Justice, as

Deputy Premier, will be anxious to know what cost will be involved in this legislation. No expenditure whatever is involved. None is proposed, nor will any be necessary. It is remarkable that, in connection with our indigenous flora, everyone appears to be imbued with the idea that he or she has a right to go on any land and pick flowers. Actually, it is not so. No one has any more right to go on private property and pluck flowers than they have to go and steal wood, gravel, stone or any other commodity. Unfortunately, people seem to exempt from qualms of conscience the stealing of wildflowers. I anticipate the retort that the people must be educated so that full protection may be accorded our wildflowers. I am aware that the children in certain schools already receive instruction regarding the importance of protecting our native flora. It is the same in connection with bird life. There should be introduced a companion Bill to the one I am presenting, the object of which should be the protection of native fauna.

Mr. Raphael: "Shappy" is taking care of the birds and is not allowing anyone to trap them.

Mr. SPEAKER: Order!

Mr. SAMPSON: I desire our birds to enjoy freedom and our wildflowers to grow and flourish on hillsides, in dells and in valleys. I want to preserve some of the beauty of life. Although most of our time is devoted to the utilitarian, there is a love of the beautiful in each one of us. I have referred to the readiness with which people will tear up our wildflowers. How different it is with the cultivated flowers. If a person has a fine flower garden, and someone were to enter it and gather handfuls of larkspurs, or some other blooms, his action would be regarded as a serious offence and possibly would end in a court case. When it is a matter affecting our native flowers, persons imagine that they can behave as they will. Under the Bill, everything grown on Crown lands, in State forests, or on land reserved for public purposes, is protected, and the measure provides for protection in respect of private land as well. It also provides for the protection of flowers growing on the roadside. It will be illegal for anyone to go on private land and tear up wildflowers without the permission of the owner. I feel sure members will applaud the clause in the Bill providing for the disciplining of any person who goes on private land and tears up wildflowers without the permission of the owner. In the first place that individual will be subject to an action for trespass and, with the additional penalty, will be doubly liable. There are people who own land and are concerned in selling wildflowers commercially. It is quite possible for wildflowers to be grown and picked without the plants being damaged. If the Bill should accomplish nothing else than to make people more careful in gathering wildflowers, its passage will not have been in vain. The question will arise as to how the provisions of the Bill are to be made effective. It may be suggested that difficulty will be experienced in policing the measure. The Bill provides for the appointment of honorary inspectors and gives to the police, railway officers and officials of local authorities, the right to act in that capacity. While I acknowledge the difficulty, it is surely time that additional steps were taken to preserve our flora. I would like the beautiful King's Park to be made a garden for the preservation of Western Australian wildflowers. Already there are many wildflowers there, and if it be possible to find funds I am sure visitors to the State would discover greatly added pleasure by reason of the opportunity readily to view the wildflowers, and so in time King's Park might become a sanctuary for Western Australian flora. Judging by the numbers of letters I have received in respect of the Bill, I am led to hope that should the measure be passed it will receive widespread support. Also I am sure that members will lend their aid in putting upon the statute-book a measure calculated to do something towards that end. At the outset I expressed thanks to the Minister for Agriculture for having allowed the Government Botanist to give me his assistance, and I wish now to repeat my thanks to the Minister for his generosity in that regard. I move—

That the Bill be now read a second time.

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

Ayes	31
Noes	3
Majority for	28

Ayes.	
Mr. Boyle	Mr. Redcreda
Mr. Clothier	Mr. Sampson
Mr. Coverley	Mr. Sleeman
Mr. Cross	Mr. F. C. L. Smith
Mr. Cunningham	Mr. J. M. Smith
Mr. Doney	Mr. Thorn
Mr. Fox	Mr. Tonkin
Mr. Hawke	Mr. Wansbrough
Mr. Keenan	Mr. Warner
Mr. Lambert	Mr. Watts
Mr. Latham	Mr. Welsh
Mr. Millington	Mr. Willcock
Mr. Munsie	Mr. Wise
Mr. Needham	Mr. Withers
Mr. North	Mr. Wilson
Mr. Patrick	(*Teller.*)

Noes.	
Mr. Marshall	Mr. Raphael
Mr. Moloney	(*Teller.*)

Question thus passed.

Bill read a second time.

BILL—WORKERS' HOMES ACT AMENDMENT (No. 2).

Second Reading.

HON. N. KEENAN (Nedlands) [9.13] in moving the second reading said: This is a very short Bill designed to amend Section 11 of the principal Act. The reason why the Bill has been brought forward is that whereas I have an amendment on the Notice Paper to insert into another Bill dealing with workers' homes which is also before the House it is, I am informed, not in order. Therefore it has become necessary for me to abandon the intention to move the amendment standing on the Notice Paper and to bring it forward as a separate Bill. The purpose of the Bill is to enable those who have built on land that was made available under the Workers' Homes Act and have repaid the whole cost of the dwelling house, together with all interest on that cost, and therefore are now merely paying a rental in respect of the land on which the house stands, to acquire the freehold of the land by payment of a sum not exceeding 25 times the amount of the rent. The figure 25 is chosen because 25 times the amount of the rent actually put out at four per cent. would return the same amount as the State now receives for rent.

The Minister for Justice: But they do not get quite four per cent. now.

Hon. N. KEENAN: I think the Minister would be glad to get money at four per cent., because that is a reasonable rate. But in addition to that capital sum the State will receive land tax on those properties. As land tax is imposed and collected, there can be no objection whatever. In every other part of the State, on the goldfields and in the agricultural areas, we are giving away the freehold. At Reedys, to which reference was made to-night, the freehold is being made available to people who wish to take it up, and so it is throughout the length and breadth of the State except in this one instance. I have been told by those in whose interests I am asking for this amendment that they are extremely anxious to get the freehold of their blocks. I endeavoured to point out to them that, in reality, if they continued to pay rent, they probably would enjoy a benefit because, if they paid 25 times the rental, the capital sum would be a severe draw on their resources and that capital sum invested at 4 per cent. would give them the rental. However, there is an extraordinary belief amongst them that they are not safe so long as the land is only leasehold. They feel that if they could obtain the freehold, they would be in a position of safety.

The Minister for Justice: The great sanctity of property and life!

Hon. N. KEENAN: There is great sanctity in freehold, which, on examination, is not as great as it appears, but nevertheless is greatly sought. I hope the House will not object to the small amendment which, as I have pointed out, will not involve the State in any financial loss. By reason of the imposition of land tax which could be increased at any time to meet the necessities of State finance, there would be an end to any question of their obtaining an advantage. I know of no reason why we should refuse to grant this request, which involves a short amendment of Section 11 of the Act. The amendment is to insert in the proviso the following words:—

> Provided also that the applicant may, after the capital cost of any dwelling erected on the land from moneys advanced by the board, together with all interest due thereon, has been paid, acquire the freehold of the land at a price not to exceed an amount equal to the rent payable per annum in respect of such land multiplied by twenty-five.

I move—

> That the Bill be now read a second time.

On motion by the Minister for Justice, debate adjourned.

BILL—HEALTH ACT AMENDMENT.

Second Reading.

THE MINISTER FOR HEALTH (Hon. S. W. Munsie—Hannans) [9.25] in mov-

ing the second reading said: This Bill proposes small amendments to the Health Act which have been found necessary in some instances to correct anomalies and in other instances to give facilities in connection with the installation of sewerage services. The first amendment deals with the difference that obtains between the Municipal Corporations Act and the Road Districts Act when a vote is to be taken for the installation of a sewerage system. Under the Road Districts Act it is possible for only those people affected to vote at the poll—the people who will have to pay for the cost of the installation. In a municipality the whole of the ratepayers have the right to demand a poll, irrespective of whether they are interested in the installation of the sewerage system. The amendment will bring the Municipal Corporations Act into line with the Road Districts Act, and will apply only to those ratepayers being served. Really there is no principle involved, and I consider the amendment very necessary. The second amendment deals with the position where a vote has been taken. This amendment has been introduced principally to assist Geraldton. A vote has been taken and everything has been completed. It is necessary under the Act to advertise three times in a local paper and once in the "Government Gazette," but after that, it is not possible for the Minister to give his sanction to the commencement of the work until the expiration of two months. The amendment will reduce the period to one month which, I think, is ample time for the Minister to give his consent or offer any objection. The third amendment relates to the drainage scheme introduced at Katanning. Some time ago I presented an amendment to the Health Act to give the Katanning Road Board power to instal a drainage scheme. We thought at the time that everything necessary had been covered, but there are premises in Katanning which have since been erected or altered and which it is desired to connect with the scheme. As a matter of fact, some were connected with the scheme, but it was discovered that under the Act there was no authority to charge the owners.

Mr. Marshall: How did that come about?

The MINISTER FOR HEALTH: The scheme was installed for a specific purpose and for specific premises. Other premises have been coupled with the scheme, but there is no power under the Act to impose a charge on the owners. The amendment will give the local authorities the right to re-arrange the rates and make the necessary charges. The next amendment deals with the Northam scheme. A Bill was introduced last session to amend the Act in order to give any municipality the right, under certain conditions, to instal a complete sewerage system. Northam is the first country town to do so. All the arrangements have been completed and preparations made to commence the work, but the council have asked for this small alteration. Under the scheme the council are empowered to provide the money for installing the system in private homes. The period for repayment is now set down at ten years. A request has been made that this be extended to 15 years. The bank is agreeable, as it is loan money, and the Government are agreeable, while the local authorities themselves are not only agreeable to extending the time but desire that this should be so, if it is required to take advantage of the longer term.

Hon. C. G. Latham: Which clause refers to that?

The MINISTER FOR HEALTH: Clause 5. The last amendment has to do with non-rateable property. This is a new provision. I cannot see the force of the argument that immediately a sewerage scheme is established Government property immediately becomes non-rateable. Under existing conditions if there is only the ordinary pan system in operation it is possible to charge and collect rates for the use of that system. If the sewerage system is then installed in place of the pan system the buildings become non-rateable. The Bill gives power to the local authorities, irrespective of the position, to rate such buildings once they are connected with the sewerage system.

Hon. C. G. Latham: Including Government property?

The MINISTER FOR HEALTH: Yes. I do not see why Government properties should not be rated for this purpose. If they get the benefit of the sewerage they should pay the sewerage rate. In the case of many schools to-day no rates are paid by the Education Department, but the Health Department are paying the rates in instances where the pan system is in

use. If the sewerage system were installed in lieu of the older system the Health Department would not be called upon to pay the sewerage rates. We should have power under the Health Act to collect such rates when the sewerage system is installed as well as in the case where the pan system is still in existence. I move—

That the Bill be now read a second time.

On motion by Hon. C. G. Latham, debate adjourned.

House adjourned at 9.34 p.m.

Legislative Council,

Thursday, 17th October, 1935.

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

QUESTION—MIGRANTS, REPATRIATION.

Hon. C. F. BAXTER asked the Chief Secretary: As the Premier has been reported to have stated that he is willing to supply a return showing the position regarding the repatriation of migrants, will the Chief Secretary have a return made, showing—(a) the number of persons repatriated: (b) the total cost of such; (c) the names of individuals repatriated; (d) the individual costs of such repatriations?

The CHIEF SECRETARY replied: (a) 81 families; (b) £10,742 16s. 2d.; (c) and (d) It is not considered advisable to publish the names.

QUESTION—ELECTORAL, ENROLMENT.

Hon. R. G. MOORE asked the Chief Secretary: 1, What is the object of enrolling only Legislative Assembly electors in the house to house canvass now being made in the Kalgoorlie, Hannans, and Boulder electoral districts? 2, Is it intended, later on, to make a similar canvass in the North-East and South Provinces? 3, If not, of what use, if any, will be the present canvass in the electoral districts mentioned, in the preparation of the North-East and South Province rolls?

The CHIEF SECRETARY replied: 1, A canvass (electoral census) is not being made in the terms of Sections 39 and 40 of the Electoral Act. If a census had been ordered the results of such census could alone be used in preparing new rolls. (See Subsection 3 of Section 39.) Enrolment for the Legislative Assembly is compulsory but the great number of changes and the large increase in population on the goldfields has necessitated house to house inquiries, preliminary, if found necessary, to enforcing the compulsory sections of the Act. 2, Province electors are given the opportunity of enrolling but there can be no compulsion exercised. No electoral canvass (census) has been ordered. See reply to 1 as to census. (Copies of notices left with electors are attached.) 3, If an electoral canvass (census) was ordered new rolls would have to be prepared and the result of such census could alone be used in preparing such new rolls.

(Copies of Notices.)

To State Legislative Assembly Electors.

Enrolment and notice of change of address are both compulsory: the penalty on conviction for not complying with the Electoral Act being a maximum of £2.

If you have any doubt as to your enrolment, please fill in a claim card and forward it to the Electoral Registrar for your district or to the Chief Electoral Officer, Perth.

The rolls are being reprinted on 30th September, 1935, and persons who fail to enrol or give notice of change of address before that date will render themselves liable to prosecution.

(Signed.) H. R. GORDON,
Chief Electoral Officer.