# Legislative Council

Wednesday, the 9th September, 1970

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

## QUESTIONS (6): ON NOTICE

### 1. NATIVES

*Population, and Employment Statistics*

The Hon. F. J. S. WISE, to the Minister for Mines:

(1) What are the estimates of the total population in Western Australia of all persons who are subject to the provisions of the Native Welfare Act, 1963, for the years ended the 30th June, 1969, and the 30th June, 1970?

(2) How many in each year were people of—
(a) full aboriginal blood; and
(b) part aboriginal?

(3) What percentage of the total population of people of—
(a) full aboriginal blood; and
(b) of part aboriginal blood,
are children up to 15 years of age?

(4) What numbers of people of full blood were cared for in Mission Stations in the State, in 1969 and 1970?

(5) What number of persons subject to the Native Welfare Act live or have lived on reserves adjacent to towns in both years 1969 to 1970?

(6) For the years 1968, 1969 and 1970, what number of adults and what percentage of total work force of both full blood and part aboriginal blood, were in employment in—
(a) full time basis;
(b) part time basis; or
(c) seasonally employed, in
(i) farming pursuits;
(ii) pastoral pursuits;
(iii) industrial undertakings;
(iv) mining industry in any form of mining operation; and
(v) prospecting activities?

The Hon. A. F. GRIFFITH replied:

(1) The 30th June, 1969—23,427.
The 30th June, 1970—23,814.
In addition there are estimated to be in excess of four thousand persons of one quarter or less Aboriginal descent. These people are eligible to apply for assistance under the provision of the Act.

(2) The 30th June, 1969 — 9,246 (estimated).
The 30th June, 1970 — 9,349 (estimated).

(3) Not available. The only estimates maintained in regard to children are on the basis of those under 16. The estimated percentages compiled from the best information available, but not necessarily accurate are—

| | Full | Part |
|---|---|---|
| The 30th June, 1969— | 37.3 | 55.3 |
| The 30th June, 1970— | 36.1 | 56.3 |

(4) No attempt is made to maintain an accurate estimate, as, in this respect, no distinction is made between persons of part and full Aboriginal descent. An approximation of both years would be—2,700.

(5) Not available. These people are free agents and the numbers on reserves adjacent to towns fluctuate widely.

(6) (a) to (c) Estimates of the number of male Aborigines employed were:

| | 30-6-68 | 30-6-69 | 30-6-70 |
|---|---|---|---|
| (i) | 1,294 | 1,002 | 571 |
| (ii) | 1,859 | 1,893 | 1,659 |
| (iii) | 1,152 | 1,423 | 1,461 |
| (iv) & (v) | 199 | 160 | 337 |

The other information requested is not available.

### 2. STATE ELECTRICITY COMMISSION

*Charges in Rural Areas*

The Hon. V. J. FERRY, to the Minister for Mines:

In respect of the State Electricity Commission Group Contributory Scheme—

(a) has there been a recent review of capital contribution rates with a view to reducing the financial strain on consumers in rural situations;

(b) if so, will the Commission be giving consideration to reducing these charges; and

(c) when may it be expected that these benefits will be passed on to consumers of electric power in rural situations?

The Hon. A. F. GRIFFITH replied:

(a) Yes.

(b) The Commission has considered the level of capital contribution required from the rural consumer, and in the absence of any alternative source of additional capital funds has reluctantly decided

that it is impossible to vary the scheme at the present time.

(c) See (b) above.

3. TRANSPORT

*Restrictions in Southern Areas*

The Hon. E. C. HOUSE, to the Minister for Mines:

(1) As the Government has announced its intention to allow unrestricted transport, subject to permit, north of the 26th parallel because of benefits to the area, could not this also be applied to areas in the south of the State which would benefit by a similar transport permit system operating to the Port of Albany?

(2) Does the Minister realise that the relaxing of the transport restrictions in this section of the State would—

(a) result in considerable saving on transport costs to farmers in the areas concerned;

(b) act as a stimulant to the Albany town and port; and

(c) as a rural relief measure, help combat rising costs?

The Hon. A. F. GRIFFITH replied:

(1) The Government's decision in respect to the northern part of the State was not primarily aimed at cost reduction. The two most important aspects related to establishing the true demand for sea services before the Government makes a large investment in new ships and providing the Pilbara region, which is predominantly industrial, with the quality of transport it needs. In this context it should be understood that direct road freight rates to Port Hedland may be, depending upon the commodity, up to $6 per ton higher than rail-road freight rates.

We do not expect the change in policy to have any significant effect in Kimberley where the sea freight rates are up to $70 per ton below road freight rates.

(2) (a) to (c) As the honourable member will know, a number of studies have been made in the Great Southern area. To date we have not been able to devise a system which would permit a change from the present arrangements and which would not seriously prejudice the stability and economics of W.A.G.R. operations.

Studies are continuing.

4. FLUORIDATION OF WATER SUPPLIES

*Country Towns*

The Hon. E. C. HOUSE, to the Minister for Health:

(1) Do country towns connected to the comprehensive water scheme only receive water into the town from the scheme—

(a) when the weirs are overflowing;

(b) when the local dams are unable to supply the demand?

(2) If so, is fluoride only available to consumers through the scheme at intermittent intervals?

(3) Does the Minister realise that most parents in the areas concerned are under the impression that fluoride through the water is available, and have ceased using fluoride tablets?

(4) Could the Minister suggest a satisfactory solution to this problem?

The Hon. G. C. MacKINNON replied:

(1) (a) No.

(b) Yes.

(2) Yes.

(3) Yes.

(4) A satisfactory practical solution has not been determined at this stage. Supplementary tablets and local fluoridation present difficulties due to the variation in time and volume of augmentation of the local supply.

5. WATER SUPPLIES

*Key Dam Scheme*

The Hon. E. C. HOUSE, to the Minister for Mines:

Owing to the delay in the completion of the modified comprehensive water scheme, would the Minister consider including those areas not presently completed in the Farm Water Supply Advisory Committee's scheme for Key Dams?

The Hon. A. F. GRIFFITH replied:

This is a policy which has been applied since the inception of the Farm Water Supply Scheme on the 28th June, 1965.

6. EDUCATION

*Halls and Gymnasiums.*

The Hon. R. F. CLAUGHTON, to the Minister for Mines:

(1) Which schools are listed for a hall/gymnasium in the building programme for 1970-71?

(2) Which schools were provided with a hall/gymnasium in the years—
(a) 1967-68; and
(b) 1968-69?

The Hon. A. F. GRIFFITH replied:

(1) General provision has been made for two halls. A final decision will be dependent upon other building commitments.

(2) (a) None.
(b) Applecross Senior High School.
Hollywood Senior High School.

## STANDING ORDERS SUSPENSION

*Introduction of Bills*

**THE HON. A. F. GRIFFITH** (North Metropolitan—Minister for Mines) [4.43 p.m.]: I move—

> That for the remainder of this session, so much of the Standing Orders be suspended so as to enable the second reading introduction of Bills to be proceeded with immediately upon the completion of the first reading stage.

I would like to explain that I did intend previously to raise a matter which was of a similar nature to the subject matter of this motion. When I have concluded my remarks it may be said that I have not been speaking exactly to the subject matter of the motion.

In making my contribution to the Address-in-Reply debate I did have in mind the thought of discussing this and an allied subject. As members are probably aware, there is a Standing Order in another place which states—

> Bills may be introduced and taken to the stage that the Motion "That the Bill be now read a second time" has been moved before the Address-in-Reply to the Governor's Speech has been adopted, but no other business beyond that which is of a formal character shall be entered upon.

There is a proviso to this Standing Order.

I would ask members to accept what I am saying in the spirit intended. For some time it has occurred to me that the Standing Orders Committee of this House might well have a look at the situation. This occurred to me more than ever on the last occasion when we dealt with the Address-in-Reply. I am not saying this in any critical sense, but on the second day there was one speech in the debate before the debate was adjourned; on the third day there was another speech before the debate was adjourned; and on the fourth day, which was a Thursday, there were a couple of speeches before the debate was adjourned.

The Hon. F. J. S. Wise: And in the meantime we could not go on with any other business.

The Hon. A. F. GRIFFITH: That is right. Then in the last week when the debate on the Address-in-Reply was concluded there were 10 or a dozen speakers. Had we in this House been able to give notice of the introduction of Bills, to move the first reading of Bills, and to move the second reading of Bills, then members would have had an opportunity to study the Bills while the Address-in-Reply debate was proceeding.

The proviso to Standing Order 36 of another place, to which I have referred, is one with which I cannot agree. It states—

> Provided, however, that the introduction of Bills under this Standing Order shall not prevent any discussion on the subject matter of any such Bill during the Address-in-Reply debate.

I repeat, with respect, that that proviso does not appeal to me, because if it is adopted and put into practice then a Bill can be discussed twice. I am not certain of this, but I understand this is not the practice that is adopted in the Legislative Assembly. What is done in that House is to permit the introduction, the first reading, and the moving of the second reading of a Bill; and the general second reading debate is left over until after the Address-in-Reply debate has been concluded.

The Hon. I. G. Medcalf: Is that not designed to prevent members from addressing themselves to the subject matter in the Address-in-Reply debate?

The Hon. A. F. GRIFFITH: Probably that is the purpose; but in the way it is framed the Standing Order could relate to a Bill that is introduced.

The Hon. F. J. S. Wise: Under that a member would be permitted to introduce the second reading of a Bill but other members would be debarred from discussing it.

The Hon. A. F. GRIFFITH: Yes, as long as the other members do not actually discuss the subject matter of the Bill in the Address-in-Reply debate.

The Hon. F. J. S. Wise: It would not be fair to stultify a member.

The Hon. A. F. GRIFFITH: If we interpret the Standing Order correctly, there would be two goes—to use an expression—available to members to deal with the subject matter of a Bill. One occasion would be in the Address-in-Reply debate, and the other would be in the second reading stage of the Bill.

The Hon. I. G. Medcalf: Would not that be covered by the Standing Orders that the discussion on the second occasion would be repetitious or irrelevant?

The Hon. A. F. GRIFFITH: That would depend entirely upon the presiding officer. When I said that I do not agree with that Standing Order, I meant that I would not agree to it if it was applied in any other way than it is applied in the Legislative Assembly.

I felt that by moving this motion I would have the opportunity to address you, Mr. President, on this subject; and also to suggest that there might be occasions when it would be a time-saving device to adopt such a Standing Order to enable a Minister or a private member to give notice of intention to introduce Bills, and the next day to move the first readings—even if it is before the Address-in-Reply debate has been concluded. After all, what is the first reading of a Bill? In the first reading stage the opportunity is given merely to name the title of the Bill. As soon as that has been done the second reading of the Bill could be taken. This is a time-saving device to be used on occasions when time is needed.

I do not necessarily want this motion to be passed this afternoon, if I can make the statement in an apologetic manner. I merely want to have the opportunity for the House to listen to me on this subject; and for me to make a request through you, Mr. President, to the Standing Orders Committee to have a look at this situation. Following the practice that is adopted in the Legislative Assembly the Standing Orders Committee of this House might well come forward with an appropriate amendment to our Standing Orders to provide an opportunity for us to adopt, as from the next session of Parliament, the same practice.

I do not want it to be said that I and my colleagues are in any way trying to short-circuit the processes and thereby prevent the normal and traditional passage of Bills, because there is tradition behind giving notice of the introduction of a Bill, of having it read a first time, and then on the following day of having it read a second time.

Of course, when Standing Orders are suspended at the latter part of the session all these traditions go overboard for the convenience of introducing a Bill and passing it through all stages on the one day. Without unduly wasting the time of the House I repeat: I am grateful for the opportunity to introduce this matter. I am interested to hear the thoughts which members might have.

The prime purpose I have in mind is, through you, Mr. President, to ask the Standing Orders Committee to have a look at this aspect so that next year, during the Address-in-Reply, the Government might be in a position to assemble its legislative programme—as we have done on this particular occasion when seven or eight Bills were ready to go forward. Although the Bills were innocuous, and certainly did not require a great deal of study, they could have been introduced earlier. However, there could have been a Bill which needed considerable study, and more time could have been given to that study as a result of the Bill being introduced early in the session.

**THE HON. W. F. WILLESEE** (North-East Metropolitan—Leader of the Opposition) [4.52 p.m.]: I think the proposal put forward by the Leader of the House is a very good move. I speak from the point of view of having to accept legislation at short notice. I think it is a good idea that wherever possible we be given the longest possible time available to us to study proposed legislation, acknowledging that at the end of a session legislation must be pushed to a certain degree. That has occurred over the years, and will continue as long as Governments prevail.

I find it most irritating to have to sit in idleness, virtually, throughout the Address-in-Reply, knowing full well that the Government has a legislative programme which we could be looking at and examining. If the proposed procedure is followed we will have time to form objective ideas and thoughts, and we will have time to seek the views of different organisations and of the people. However, under present circumstances, we cannot examine proposed legislation until the Address-in-Reply is completed.

It is true that at this stage of the present session we have already passed, virtually, six or seven Bills. However, we find that a most serious problem occurs in one of those Bills and I refer to the Auctioneers Act Amendment Bill. Had we had time to investigate that legislation in detail—albeit it lay upon the Table of the House for a time—I am sure that we, as a House, would have come up with a different concept. That is point number one, in a simple issue.

Over the years we have developed the process of passing legislation. It seems that we must get the legislation through and we do not give the members of this House the necessary time to investigate deeply any situation which they might want to look at, and which might be affected by the legislation.

With the passing of this motion we will give members every opportunity to investigate Bills which are presented to us. If it is possible I would like to see the process go even further so that legislation could be introduced before the Address-in-Reply was completed. The Government could introduce all the available legislation on the first day of Parliament. I do not think that would stultify the rights of individual members to speak.

If a member does not wish to speak during the Address-in-Reply debate he can speak to the Supply Bill, and before the end of the session he has another opportunity to speak while debating the second Supply Bill. In addition, members will have a further opportunity to speak on all the different subjects which are brought up while discussing legislation during the session. One hundred Bills of varying degrees are introduced throughout the year.

I am all in favour of the motion moved by the Minister—the Leader of the House—and I hope it will receive serious thought and consideration. I hope that we arrive at a decision which will not only facilitate the business of the House, but which will also give members a greater opportunity to investigate deeply the provisions contained in any proposed legislation, not necessarily so that we can defeat the legislation, but so that we can provide for better legislation to be put on the Statute book.

**THE HON. F. J. S. WISE** (North) [4.57 p.m.]: I support the motion and I support the thoughts of my leader in connection with the merit he sees within it. In addition to the points raised by my leader, I hope the motion will stimulate the thinking of members, and their responsibility in connection with Bills.

Without casting any slur upon anybody, I think there is ample scope for very many members in this Chamber to make contributions to Bills, which opportunity they do not avail themselves of at the moment. On many occasions another member may have made a careful analysis of a Bill, or someone else may have raised the same matters which the particular member proposed to mention. However, that should not deter members. I suggest, and I speak without any ego, there should be a desire for Parliament to assume its proper place and accept its rightful responsibility.

Considerably greater contribution could be made to debates after a more thorough scrutiny and examination of Bills than is the case now. Any move which will provide for a more competent and thorough examination is a good move.

The Minister suggested that this is a subject which the Standing Orders Committee might well look at. The Standing Orders Committee consists of men of experience: yourself, Mr. President; the Chairman of Committees; the Deputy Chairman of Committees, Mr. Willmott; Mr. Strickland—who unfortunately is not as well as we would wish—and one who has had the privilege of seeing the House of Commons at work recently, Mr. Jack Thomson. From a scrutiny by the members I have mentioned of the requirements to facilitate the passage of legislation during the period when the Address-in-Reply is before us, will emerge something worthy of our consideration—something which will provide for ease of application. I support the motion.

**THE HON. A. F. GRIFFITH** (North Metropolitan—Minister for Mines) [5.00 p.m.]: I thank Mr. Willesee and Mr. Wise for their remarks. The only appropriate way for me to make a suggestion of this nature is through the Standing Orders Committee, and I now feel sure, Sir, that you, as its chairman, will be good enough to consider the suggestion I have made.

The **PRESIDENT**: I shall.

The Hon. A. F. GRIFFITH: Thank you, Sir. Might I say that if this motion is passed—and it seems that it will be passed—Ministers will use it sparingly. It need not necessarily be used with every Bill, but if we had a Bill of such a nature that notice of it could be given today, the first reading could take place tomorrow, and the second reading could follow immediately, it would enable a slightly longer adjournment to be given. That is the spirit in which the suspension of Standing Orders will be used.

I might say that I understand the original reason for having the second reading on another day was that the Bill had to be sent away to be printed, but that is no longer a difficulty. Therefore, apart from upholding a long-standing tradition, it serves no other real purpose. We have a motion to introduce a Bill; the first reading merely gives the title, and it is the second reading that is important. We will use this suspension sparingly and to the advantage of members, where possible.

Question put and passed.

## BILLS (5): THIRD READING

1. Coal Mine Workers (Pensions) Act Amendment Bill (No. 2).

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

2. Child Welfare Act Amendment Bill.

   Bill read a third time, on motion by The Hon. L. A. Logan (Minister for Child Welfare), and transmitted to the Assembly.

3. Offenders Probation and Parole Act Amendment Bill.

4. Roman Catholic Vicariate of the Kimberleys Property Act Amendment Bill.

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

5. Petroleum Pipelines Act Amendment Bill.

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

## AUSTRALIA AND NEW ZEALAND BANKING GROUP BILL

*Second Reading*

**THE HON. A. F. GRIFFITH** (North Metropolitan—Minister for Justice) [5.06 p.m.]: I move—

That the Bill be now read a second time.

The Bill has the purpose of facilitating the merging of the businesses of Australia and New Zealand Bank Limited and The

English, Scottish and Australian Bank Limited, and the businesses of their subsidiary savings banks. Under a scheme of arrangement approved by the shareholders of the two banks and the High Court in England, a merger of the shareholdings in the banks was effected in the middle of last year by the formation of a new company, Australia and New Zealand Banking Group Limited, which then acquired all the shares in the two existing trading banks, and the then shareholders of the two banks received in exchange for their shares a relative number of shares in the new bank. The scheme of arrangement envisaged the joinder of the banking businesses, and this is the subject of the Bill now before the House.

Furthermore, as part of the total reorganisation, the Australia and New Zealand Banking Group Limited is transferring the incorporation and domicile of the Australia and New Zealand Savings Bank Limited from the United Kingdom to Victoria.

The merger between the banks is seen as a natural development. The larger bank will be able to care more effectively for the business of large corporations; it will bring about an ability to maintain and develop specialist services catering for both large and small customers; it will enable greater advantage to be taken of improved efficiency, including wider application of computers, which becomes possible with a large volume of business; and in due course gradually to reduce, and in future to avoid, the otherwise inevitable and costly duplication of offices.

On the 15th May, 1970, the Parliament of the United Kingdom passed the Australia and New Zealand Banking Group Act, 1970, by which the merger is to be effected, and it conforms to the previous general pattern of legislation for the amalgamation of banks in England. The mergers of Barclays Bank with Martins Bank Ltd., and of the Westminster Bank Ltd. with the National Provincial Bank, have recently taken place under somewhat similar Acts of Parliament.

The merger of A.N.Z. and E.S.A. banks, both of which are incorporated in the United Kingdom, involves the following:—

(a) The formation of the new company named Australia and New Zealand Banking Group Limited (Group) in the United Kingdom, and the acquisition by group of the whole of the issued share capital of A.N.Z. and E.S.A. in exchange for the issue of group's own shares. This exchange has been carried out and both A.N.Z. and E.S.A. are now wholly-owned subsidiaries of group.

(b) The amalgamation of the banking undertakings of A.N.Z. and E.S.A.—with the exception of certain excluded assets—by transferring the same to group.

(c) The transfer of incorporation of A.N.Z. Savings Bank—which is incorporated in the United Kingdom—to Victoria so that A.N.Z. Savings Bank may be deemed to be a company incorporated in Victoria.

(d) The amalgamation of the banking undertaking of E.S.A. Savings Bank—which is incorporated in Victoria and is a subsidiary of E.S.A Bank—with A.N.Z. Savings Bank, which is a subsidiary of A.N.Z. Bank.

In general terms the United Kingdom Act referred to provides that on an appointed day the undertakings of A.N.Z. and E.S.A. banks will—subject to the exclusion of the excluded assets referred to—be transferred to and vested in group, which thereafter will conduct the combined undertakings. A.N.Z. and E.S.A. will continue to exist for limited purposes as property-owning companies holding the property excluded from the transfer of the undertakings. The United Kingdom Act referred to also authorises the A.N.Z Savings Bank to seek the transfer of its incorporation from the United Kingdom to Victoria.

As the existing banks carry on business outside the United Kingdom and have substantial assets in the Australian States and elsewhere, the question arose as to the capacity of the United Kingdom Parliament to legislate effectively to pass the whole of the undertakings to group, and, of course, the undertaking of the E.S.A. Savings Bank was outside the legislative field of the United Kingdom Parliament. To overcome any disability arising in this respect, supplementary Acts are being sought in the Australian States and other areas giving effect to the provisions of the United Kingdom Act.

This supplementary legislation will, to the extent to which the United Kingdom Act may not itself be wholly effective to transfer the undertakings of the existing banks, render the transfer of the undertakings and the vesting of the assets wholly effective. In general, the scheme of the local legislation is the local enactment of the operative provisions of the United Kingdom Act other than certain provisions which are appropriate only in the United Kingdom; for example, evidential provisions and certain provisions relating to Northern Ireland and Scotland.

The merger is being effected with the approval of the Treasurer of the Commonwealth, who, on the 22nd May, 1969, gave his consent pursuant to section 63

of the Banking Act, 1959, to the transfers of the businesses of A.N.Z. and E.S.A. to group, and the business of the E.S.A. Savings Bank to the A.N.Z. Savings Bank.

The State of Victoria passed supplementary legislation, entitled the "Australia and New Zealand Banking Group Act, 1970," on the 7th April, 1970, which has the following general effect:—

(a) It confirms, so far as Victoria is concerned, the transfer of the undertakings of A.N.Z. and E.S.A. banks to group.

(b) It enables the A.N.Z. Savings Bank to transfer its incorporation to Victoria and to become a company deemed to be incorporated under the Companies Act, 1961, of Victoria.

(c) It then proceeds to transfer the undertakings of the E.S.A. Savings Bank to the A.N.Z. Savings Bank.

The transfer of the undertakings effected by the United Kingdom Act and the Victorian Act referred to is intended to take effect on a day to be appointed—referred to in the Acts as "the appointed day"—which is intended to be the 1st October, 1970. However, whilst the merger has been completed so far as the share exchange is concerned, the two separate existing banking entities are continuing to carry on business independently, and it is desired to merge the banking operations completely. . Similar mergers have been carried out in the past between comparatively small banks without any special legislative assistance, but it is now recognised that the sheer volume of paper work involved in preparing full documentation to effect such a union makes it almost impracticable.

In practical terms the merger of these banks will involve:—

(a) the transfer of well over 1,000,000 accounts;

(b) the transfer of borrowing arrangements for some hundreds of thousands of customers of the two existing trading banks and E.S.A. Savings Bank.

The time and effort involved in carrying out the changeover by means of separate transactions with each of the individual customers would be enormous and would involve not only the staffs of the banks but also the customers themselves and the officers of Government departments, such as those in the Stamp Duties Office and the Land Titles Office.

It would be necessary, for instance, to obtain—

(i) authority from each customer to transfer accounts from one bank to another; new mandates for operation of a variety of types of account: new authorities for periodical payments; and new indemnities for various purposes connected with the accounts; and

(ii) new securities—gaurantees, mortgages, liens, etc.—from customers and their sureties, or authority for transfer of existing securities where practicable. The work involved in the preparation of documents, obtaining of signatures, stamping and registration in real terms would be totally unproductive, at the expense of and with delays to new transactions.

Experience with the merger of the Bank of Australasia with The Union Bank of Australia Ltd. in Australia and New Zealand Bank Limited in 1951 shows the magnitude of the task mentioned which today would be multiplied many times.

The purpose of the legislation is, therefore, threefold. Firstly, it will reduce the volume of paper work and cut red tape to a minimum. There are benefits for both the Government and the banks concerned. For example, it would be difficult for the Stamp Office and the Titles Office to handle all the necessary changes which would have to be made and would cause a sudden flood of paper work to arrive at the desks of hard-worked officers.

Secondly, it is desirable to preserve the rights of the staff of the existing banks, and to give them complete continuity in relation to their employment. It is possible to do this by renewal of contracts; but a more effective and expeditious way to do it is by the form of this legislation.

Thirdly, it is necessary for the special provisions of the evidence legislation relating to bankers' books to continue to apply to the existing banks, even after they have ceased to hold a banking license.

The saving of documentation is not intended by the banks to deprive the State, or any State of the Commonwealth, of any revenue which might have been derived from the stamping of such documentation.

It is planned that the transfers of the undertakings under all Acts, whether of the United Kingdom or elsewhere, will be made effective on the one day—the 1st October, 1970—by appropriate timing of the machinery steps necessary under the individual Acts. By this method—that is, the combined operation of the United Kingdom legislation and the local supplementary legislation—all the accounts of customers of the existing banks will be appropriately transferred on the appointed day and will thereafter continue to operate as accounts with group—or, in the case of savings banks, with the A.N.Z. Savings Bank—without any further steps being taken. Moreover, existing securities held by existing banks will continue for the benefit of group, or the A.N.Z. Savings Bank, as the case may be, in respect of advances both prior to or subsequent to amalgamation.

The Act of Parliament proposed for Western Australia may be explained in this way: The preamble recites the present situation regarding the relationship between the banks and the proposals for the merger, and the aims of the legislation, and is generally self-explanatory.

As regards clause 1, subclause (1) formally provides for the short title and citation of the proposed Act. Subclause (2) deals with the commencement of the Act. It is contemplated that the legislation should commence on the 1st October, 1970, and on that day the undertakings of the existing trading banks should be vested in group, and the undertaking of the E.S.A. Savings Bank should be vested in the A.N.Z. Savings Bank. However, subclause (2) makes provision in paragraph (b) for the possibility—considered remote—that a later date may have to be fixed, in which case that will be done by a Governor's proclamation. If no such contingency arises the Act will commence and the undertakings will vest on the 1st October, 1970, under paragraph (a).

Clause 2 sets out the division of the Act into parts. Part II deals with the vesting of the undertakings of the existing trading banks in group. Part III deals with the vesting of the undertaking of the E.S.A. Savings Bank in the A.N.Z. Savings Bank in practically identical terms. Part IV contains certain general provisions.

The next clause, clause 3, declares that the Act binds the Crown. The necessity for the clause arises from the need to ensure that the benefits of Government guarantees given in respect of certain securities held by the existing banks will continue with group. It will also ensure that any accounts which a Government department might have with any of the banks concerned are transferred in the same fashion as accounts of private customers.

Clause 4 is the interpretation clause and provides definitions of a number of terms used in the Bill. Notes on the principally defined terms are as follows:—

"Appointed day": For the purpose of the Act the appointed day is the day on which the Act comes into operation and the undertakings are transferred as explained in relation to clause 1 (2).

"Excluded assets": Lands constituting bank premises are to remain in the ownership of the existing banks. The purpose of this definition is to exclude land held by the existing banks otherwise than by way of mortgage and securities in land to pass to group, and also to exclude from the transfer of assets any records required to be kept by the present banks under the Companies Act.

"Liabilities": They are defined as covering all obligations whatsoever of the existing banks except such as relate to excluded assets.

"Property": This is widely defined to include all the property, assets, rights, and powers of the existing banks.

"Security": Is widely defined to cover all types of security which might be held by the existing banks.

"The undertaking of an existing bank" covers all of the property and all of the liabilities of an existing bank on the appointed day with the exception of excluded assets and liabilities relating thereto.

"The undertaking of E.S.A. Savings Bank" is similarly defined.

The remaining definitions are formal and speak for themselves.

As Parts II and III, dealing with the trading banks and the savings banks respectively, follow similar lines, the comments I am about to make refer to the relevant clauses of the two parts:

Clauses 5 and 13 are the principal operative clauses vesting the undertakings in group and the A.N.Z. Savings Bank respectively. The effect is that on the appointed day the undertakings of the existing banks, as defined, and the undertaking of the E.S.A. Savings Bank, as defined, will, by virtue of the legislation and without any further act, be vested in the new bank, or the A.N.Z. Savings Bank, as the case may be. The clauses follow cognate provisions contained in the United Kingdom Act and the Victorian Act already referred to.

By virtue of clauses 6 and 14, all rights and liabilities of the existing trading banks and the E.S.A. Savings Bank existing on the appointed day are transferred to group, or the A.N.Z. Savings Bank, as appropriate, and made binding on the transferee banks as if they had been originally party to the transactions; but the provisions of this clause do not apply to any contract or other arrangement which relates to an excluded asset. Thus the need for replacement of the innumerable contractural arrangements to which the banks are parties will be avoided.

Clauses 7 and 15 are in amplification of clauses 6 and 14, and provide in detail for the establishment between the new banks, and the customers of and other persons dealing with the existing banks, of exactly the same relationships as already exist with the old banks.

By paragraph (a) the relationship existing between an existing bank and a customer will, on the appointed day, become a relationship between the new bank, or the A.N.Z. Savings Bank, as the case may be, and that customer, and all existing instructions or authorities given by a customer will be preserved until revoked

or cancelled by a customer. By paragraph (b) existing securities will be deemed to be transferred to the new bank, or the A.N.Z. Savings Bank, as the case may be, on the appointed day, and the respective transferee bank will be entitled to hold the same for debts and liabilities thereby secured at the appointed day which are transferred under the Act. Where the security extends to secure further advances and future debts and liabilities it will be available in the hands of the transferee bank for debts and liabilities which the customer may incur after the appointed day with that bank.

In paragraph (c) the transferee bank is given the same rights and priorities and is made subject to the same obligations and incidents as applied to the bank from which the security was transferred. Under paragraph (d) anything held in safe custody by an existing bank will, after the appointed day, be held by group or the A.N.Z. Savings Bank for the same person and on the same terms. Paragraph (e) provides, in effect, that all negotiable instruments drawn, given, accepted, or endorsed before, on, or after the appointed day, will be treated by group, or the A.N.Z. Savings Bank, in the same way as they would have been treated by the present banks had there been no merger.

Clauses 8 and 16 have the effect that any actions or arbitrations which at the appointed day are pending by or against an existing bank shall not abate or be discontinued or otherwise affected but may be continued by or against the new bank, or the A.N.Z. Savings Bank, instead of the existing banks. They further provide that causes of action which at the appointed day are in existence, and might be the subject of future proceedings by or against the existing banks, or the E.S.A. Savings Bank may, after that day, be made the subject of proceedings by or against the new bank, or the A.N.Z. Savings Bank, as the case may be. Thus continuity of the rights both of the banks and of third parties having claims against them are preserved. The clauses further provide that if a judgment or award is made in any such proceedings against the new bank, or the A.N.Z. Savings Bank, it may also be made effective against the existing trading banks, or the E.S.A. Savings Bank which, of course, retains some assets—for example, the excluded assets.

In this manner the rights of the party in whose favour the judgment or award is made are fully preserved. However, the provisions of clauses 8 and 16 do not apply to proceedings relating to excluded assets which are dealt with by clauses 9 and 17. These clauses provide, in effect, that any party to an action, arbitration, or proceeding relating to an excluded asset, who may have taken his proceedings against the new bank, or the A.N.Z. Savings Bank may, where the need arises, amend his proceedings by substituting the name of the existing bank, or the E.S.A. Savings Bank, as a party, and he is exempted from liability for costs occasioned by the amendment.

The reason for this is that excluded assets remain with the existing banks and there may be cases where, in relation to an excluded asset—for example, a piece of land—proceedings are taken against group, or the A.N.Z. Savings Bank, and it is afterwards found necessary or desirable to substitute the existing bank which is the owner of the asset concerned. The clauses enable that to be done.

Clauses 10 and 18 relate to evidence and their effect is that the provisions of the Evidence Act, 1906, which relate to putting of bankers' books in evidence are to continue in operation with respect to the books of the existing banks which are transferred under the Act so that those books do not cease to be available as evidence because of the existing banks ceasing to operate as such.

Clause 11 provides that except where the context otherwise requires, any reference to an existing trading bank in any other enactment or in any document whenever made or executed is to be treated as a reference to group; but the clause does not extend to references to an existing trading bank in any pension scheme, provident fund, or officers' guarantee fund, nor does it extend to any reference which relates to an excluded asset. The exclusion of reference to excluded assets follows from the general exclusion of excluded assets from the vesting provisions of the Bill. References to pension funds, provident funds, and officers' guarantee funds are excluded because such schemes and funds are dealt with and preserved by the following clause, clause 12.

Clause 12 deals with the position of bank staff. It preserves any right which at the appointed day had accrued, or was accruing, to an employee of an existing trading bank under any Statute, award, or industrial agreement, or under any pension scheme, provident fund, or officers' guarantee fund. Rights will continue to accrue against group. Service with group will be regarded as continuation of the employment existing at the appointed day and the accrued or accruing rights will be enforceable against group in the same way at the same time and to the same extent as they might have been enforced against the existing trading banks if there had been no merger.

Clause 12 has no counterpart in part III of the Bill dealing with the E.S.A. Savings Bank, for the reason that neither the E.S.A. Savings Bank nor the A.N.Z. Savings Bank employs any staff of its own; but the work of both savings banks is carried out by staff members of the existing trading banks.

Clause 19 applies the same provisions in respect to the E.S.A. Savings Bank as clause 11 enacts with reference to the trading banks, save that clause 19, for the reason already stated, necessarily makes no reference to pension schemes, provident funds, or officers' guarantee funds. That is the only reason for not dealing with clauses 11 and 19 together in explaining the Bill.

The purpose of clause 20 is to ensure that where an existing bank was occupying premises under any instrument—a lease, for example—which contains provisions restricting the transfer or subletting of the premises the occupation of those premises by group is not a contravention of those provisions. The clause also declares that no contract or security is invalidated or discharged by any transfer or vesting made by the Bill.

Clause 21 seeks to facilitate service of documents—which include summonses, orders, and other legal processes and notices—and enables them to be served on any of the merging banks, so avoiding any difficulty which might arise from similarity of names, or from the exclusion of particular assets from the transfers made under the Bill.

Clause 22 arises because of the exclusion of certain assets from the statutory transfer effected by the Bill. It provides that persons dealing with the banks, and the Registrar-General, are not concerned to inquire whether property the subject of a particular transaction is or is not an excluded asset. It further provides that if the new bank, or the A.N.Z. Savings Bank, deals with any person in relation to an excluded asset it will be deemed in favour of that person that the new bank, or the A.N.Z. Savings Bank, had authority to enter into the transaction. However, the clause also preserves the liabilities of the banks between themselves in relation to any such excluded asset. The result is that interested parties will be enabled to enter into property transactions with the group of banks without having to enter into inquiries as to whether an asset is or is not excluded from the vesting provisions of the Bill.

Clause 23 is introduced to save the paper work involved by both the banks and the various registries in which securities are registered in physically recording the transfer of the many thousands of securities held by the two existing banks to the new bank. The clause has been welcomed by the Commissioner of Titles and the Registrar of Companies, the two officers most concerned.

A saving provision is designed in clause 24 to ensure that neither group nor the A.N.Z. Savings Bank is by the Act relieved from any statutory provision relating to banking companies.

Clause 25 is a mere reaffirmation of what would be the position in any event and the Commissioner of State Taxation and the banks have evolved a scheme to ensure payment of all stamp duties properly payable and, at the same time, the saving of work by both the banks and the Stamp Office.

In conclusion, the legislation before the House is, I understand, for all practical purposes, identical in form and content with that already passed in Victoria and South Australia and currently before Parliament in Queensland and New South Wales, where it was introduced as a private member's Bill. In Tasmania, I believe, a similar Bill is about to be presented.

Debate adjourned, on motion by The Hon. W. F. Willesee (Leader of the Opposition).

## AUCTIONEERS ACT AMENDMENT BILL

*Report*

Report of Committee adopted.

## BILLS (4): RECEIPT AND FIRST READING

1. Workers' Compensation Act Amend- Bill (No. 2).

   Bill received from the Assembly; and, on motion by The Hon. G. C. MacKinnon (Minister for Health), read a first time.

2. Aerial Spraying Control Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Local Government), read a first time.

3. Prevention of Cruelty to Animals Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. G. C. MacKinnon (Minister for Health), read a first time.

4. Lotteries (Control) Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Local Government), read a first time.

## AERIAL SPRAYING CONTROL ACT AMENDMENT BILL

*Second Reading*

**THE HON. L. A. LOGAN** (Upper West—Minister for Local Government) [5.38 p.m.]: I move—

That the Bill be now read a second time.

The amendments contained in this Bill to amend the Aerial Spraying Control Act are intended primarily to enable a pool of companies to underwrite policies and

to give authority to the Director of Agriculture to approve conditions, warranties, and exclusions in the contract. Other States of the Commonwealth are taking similar action to amend their legislation in the same direction.

In order that members might better appreciate the reasons for bringing this piece of legislation to the House, I would state first and foremost that the original Bill introducing aerial spraying control in this State was prepared and endorsed by the Australian Agricultural Council and by a meeting of Attorneys-General.

The main provisions of the legislation come under four headings: Firstly, to ensure that pilots, in particular, are conversant with the dangers associated with chemicals used for aerial spraying; secondly, to reduce the risk of damage from aerial spraying by the declaration of hazardous areas where susceptible crops occur and to prescribe conditions for application of chemicals; thirdly, to provide that the owners of aircraft undertaking aerial spraying lodge a security for the purpose of protecting persons who may suffer loss as a consequence of spraying operations; and finally, to require aerial operators to keep detailed records of operations.

Our initial legislation was assented to in December, 1966, and as aerial spraying operators are not confined to State boundaries, it was agreed that, as far as possible, there should be uniformity between the States, particularly in relation to security sections involving compensation for damage. Prior to its proclamation, however, aerial operators drew attention to problems that could arise due to differences in corresponding legislation in the States of Victoria and Queensland.

Consequent upon this, and arising from a meeting of officers concerned and arranged by the Australian Agricultural Council, recommendations were made for amendments to the three Acts with a view to removing such difficulties.

Those recommendations were supported by both the aerial operators and the insurance underwriters and they were incorporated in the Aerial Spraying Control Act Amendment Act, No. 31 of 1968, assented to on the 4th November, 1968. Those amendments were directed towards the clarification of these matters and to some relatively minor alterations to the security section.

However, subsequent to this, the Victorian Crown Solicitor expressed the view that the policy offered by the Australian aviation underwriting pool did not meet fully the requirements of the Act in that State and it followed that a similar situation would apply in Western Australia also.

Nevertheless, it was agreed at a further meeting that no alternative to the policy offered by the Australian aviation pool was available, nor could the underwriters be directed to alter the form of the policy offered.

Therefore, as it was considered that in the main the cover offered was reasonable, this latter meeting recommended that those States with operative legislation should make amendments to the security sections to provide a conditional rather than a restrictive framework, thus enabling the form of policy which was being offered to be accepted by the responsible person and, on the passing of these further amendments, would meet legislative requirements.

At the same time, it was agreed that the Victorian Department of Agriculture should approach the underwriters to obtain clarification of some points and also to arrange, if possible, alterations which would improve the policy from the departmental viewpoint. Progress in that direction has been made.

In commending the Bill to the House I would reiterate that in conformity with the already expressed need for uniformity, legislation of a similar nature is proposed in other States.

Debate adjourned until Tuesday, the 15th September, on motion by The Hon. J. Dolan.

## LOTTERIES (CONTROL) ACT AMENDMENT BILL

*Second Reading*

**THE HON. L. A. LOGAN** (Upper West—Minister for Local Government) [5.45 p.m.]: I move—

That the Bill be now read a second time.

This Bill deals with two aspects of the administration of the Lotteries (Control) Act. The first of these relates to the short-term investment of available funds and the second is concerned with the promotion of the local lottery against which some incursions have been made by Eastern States lotteries.

Members will be well aware of an amendment to section 9 of the Lotteries (Control) Act which was passed in 1966 and obliged the commission to provide 20 per cent. of its gross proceeds to a hospital fund account. This is one of the aspects of administration by virtue of which the Lotteries Commission has funds available for short-term investment. Such funds are not transferred after each lottery but at intervals as directed by the Treasurer.

Other funds which become available for short-term investment arise from a number of grants which are made by the commission, from time to time, but are not required to be taken up immediately. Hence, it will be appreciated that by the nature of its business, the commission will invariably have money available for call on short term.

One example, for instance, which might be cited is the Kalgoorlie Cup Lottery. Other similar examples could be quoted.

The Kalgoorlie Cup Lottery was launched about six weeks prior to the running of the cup and, receiving a ready response from subscribers, the sweep filled quickly, with the result that the commission held, in respect of that sweep, approximately $100,000 for a period of two weeks or so before it was needed for disbursement.

As I have indicated, this course of events applies to other lotteries. The commission always has two or three lotteries current at any given time, with a considerable temporary accumulation of funds, usually in excess of $50,000, which can be made available for the short-term money market where substantial profits can be acquired as compared with the interest rate payable on deposits in excess of $20,000.

It has transpired, as a consequence of these circumstances, that the Lotteries Commission recently invested funds which involved security by way of the State Electricity Commission of Western Australia. However, the commission is inhibited in this performance by the restriction of section 9(2) of the Act and the Auditor-General, acting on Crown Law opinion, has pointed out that such transactions are *ultra vires* the Lotteries (Control) Act.

One of the main objects of this piece of legislation now before members is, therefore, to amend the Act in order that the commission might utilise the facilities available for money on call or short-term investment without greatly weakening the security of repayments of such moneys. It would be helpful, I think, if I were to read for the benefit of members an appropriate part of the Act dealing with investment. The section in question states as follows:—

> The Commission's funds may be invested in its name in Commonwealth inscribed stock or in any security if the repayment of the moneys thereby secured is guaranteed by the Crown in the right of the State.

The restrictive effect of this provision in the light of present-day financial arrangements becomes obvious, and members may be assured that if the amendment now proposed is agreed to, the commission, as a matter of normal business prudence, can be relied upon to observe the interests of all parties concerned because the only requirements sought are to place the commission in a position no worse than that of any trustee who is charged with the care of a trust fund.

With respect to the second proposed amendment, I would inform members that Eastern States lotteries have again been turning their attention to the Western Australian market; for example, the South Australian lotteries body recently conducted a "householder" mail drop, both in Kalgoorlie and Bunbury. This move evidently met with some success because there was a corresponding fall off in sales in the local lottery in the two areas.

The commission regards the best way of combating these tactics is to make the Western Australian lottery more attractive. One way of doing this, which has been submitted, is to offer lottery tickets as consolation prizes for near-miss tickets. This practice is employed in a number of Eastern States lotteries and it is claimed has a public appeal.

Therefore, in introducing to members this Bill which has as its main objective the better investment of lottery funds, opportunity is being taken to seek an amendment to section 10 (b) of the Act, which has restricted, up to this point, the distribution of all prizes to cash. It is now proposed to amend this section of the Act to enable prizes to be distributed in the lottery by way of cash or by the issue of tickets in lotteries being conducted by the commission. I commend the Bill to the House.

Debate adjourned until Tuesday, the 15th September, on motion by The Hon. W. F. Willesee (Leader of the Opposition).

*House adjourned at 5.50 p.m.*

# Legislative Assembly

Wednesday, the 9th September, 1970

The SPEAKER (Mr. Guthrie) took the Chair at 4.30 p.m., and read prayers.

## ADDRESS-IN-REPLY

### *Acknowledgment of Presentation to Governor*

**THE SPEAKER** (Mr. Guthrie): I desire to announce that, accompanied by the member for Mirrabooka (Mr. Cash), the member for Roe (Mr. Young), the member for Mt. Hawthorn (Mr. Bertram), the member for Northam (Mr. McIver), and the member for Albany (Mr. Cook), I waited upon His Excellency the Governor and presented the Address-in-Reply to His Excellency's Speech when he opened Parliament. His Excellency was pleased to reply in the following terms:—

> Mr. Speaker and members of the Legislative Assembly: I thank you for your expressions of loyalty to Her Most Gracious Majesty The Queen and for your Address-in-Reply to the Speech with which I opened Parliament.