Legislative Council

Thursday, the 10th October, 1968

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 2.30 p.m., and read prayers.

QUESTION ON NOTICE

ELECTRICITY CHARGES

Reduction in Northern Areas

The Hon. H. C. STRICKLAND asked the Minister for Mines:

In view of the 1967-68 profitable trading results of electricity undertakings conducted by the Public Works Department at—

Roebourne, 48 per cent. surplus;

Kununurra, 57 per cent. surplus;

Halls Creek, 86 per cent. surplus;

will the Government consider reducing the existing high charges to consumers in these towns?

The Hon. A. F. GRIFFITH replied:

The financial results in 1967-68 for the following electricity undertakings conducted by the Public Works Department are:—

Roebourne	
Surplus on working expenses	$8,872
Percentage of surplus to working expenses	29.77 per cent.
Interest on capital and depreciation	$14,990
Loss after providing for interest and depreciation	$6,118
Kununurra—	
Surplus on working expenses	$61,077
Percentage of surplus to working expenses	34.99 per cent.
Interest on capital and depreciation	$82,013
Loss after providing for interest and depreciation	$20,936
Halls Creek—	
Surplus on working expenses	$13,742
Percentage of surplus to working expenses	75.70 per cent.
Interest on capital and depreciation	$7,096
Profit after providing for interest and depreciation	$6,646

Charges to consumers are currently under review.

BILLS (3): THIRD READING

1. Scientology Bill.

   Bill read a third time, on motion by The Hon. G. C. MacKinnon (Minister for Health), and transmitted to the Assembly.

2. Police Act Amendment Bill.

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

3. Fisheries Act Amendment Bill.

   Bill read a third time, on motion by The Hon. G. C. MacKinnon (Minister for Fisheries and Fauna), and transmitted to the Assembly.

WESTERN AUSTRALIAN MARINE ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [2.39 p.m.]: I move—

That the Bill be now read a second time.

This Bill proposes some amendments to the Western Australian Marine Act. Section 17 of that Act provides for the making of regulations generally. Paragraph (v) of that section covers regulations which, at present, may be made prescribing the number and description of persons to be carried as crew of any class or kind of coast-trade ship or harbour and river ship, and it provides also for the granting of exemptions from any such regulations.

International Labour Conference Convention No. 58 requires that children under the age of 15 years shall not be employed or work on vessels, other than vessels upon which only members of the same family are employed. To enable the State to ratify this, it is proposed to insert a new paragraph in this section for prescribing the records to be kept of persons under the age of 16 years, employed in any capacity on harbour and river ships.

Other relevant paragraphs in clause 3 of the Bill amend penalties under section 17 and provide for an increase in the penalty for a breach of any regulation applicable to requirements of coast-trade and harbour and river vessels. Existing penalties, set in 1948, are considered to be an inadequate deterrent now. The proviso to section 21 (3) of the Act, states that engineers' certificates are not necessary on vessels used north of the 27th parallel of south latitude. There was little marine activity in the north-west in 1948 when the parent Act was proclaimed and employers encountered considerable difficulty in meeting the requirements of the subsection which relates to engine room manning. With current north-west development and the availability of certified personnel, this situation no longer holds and it is proposed to delete the proviso to this subsection. Furthermore, an amendment to subsection (5) will increase penalties for uncertified persons acting in the capacity of masters, mates, and engineers on coast-trade and harbour and river vessels and also appropriate penalties applying to persons employing uncertificated personnel in these capacities.

It is further proposed by the addition of new subsections (7) and (8), to enable the Harbour and Light Department to ensure that certificated personnel are at their duty stations on harbour and river vessels when this is considered most necessary. A need for statutory requirements of this nature has become apparent through cases where personnel with suspended certificates have continued to

operate in the capacity of the certificate, whilst employing a certificated person on board the vessel to perform other duties, such as deckhand or barman. The requirement now to be inserted in the Act will nullify the practice of dummying which has been causing some general concern.

Section 44 carries a deterrent against passenger overloading; and, again, in this matter the penalty is to be increased to render the deterrent more effective.

The next amendment comes within division 7 of the Act, which covers regulations for preventing collisions, and other relevant matters. Under section 91, any damage to person or property, caused or contributed to by reason of the non-observance of the prescribed regulation by any ship, is deemed to have been occasioned by the default of the person in charge of the deck of the ship at the time of the incident. This is unless it can be shown to the satisfaction of the court before which the case is tried, that the circumstances of the case made a departure from the regulations necessary.

It is proposed to add a new section 91A to this division, to require coastal-trade vessels meeting with any serious dangers to navigation, such as are described in clause 6, to report such danger to ships in the vicinity and to shore stations. This statutory requirement will ratify the Commonwealth Government's acceptance of the requirements of the Safety of Life at Sea Convention at Geneva, in 1960. The next section in the Act, section 92, states the duties of masters in case of collision. A new section, 92A, is to be inserted to require coast-trade vessels to proceed to the assistance of distressed ships or aircraft. Provision is here made for the master of the distressed vessel or aircraft to requisition any vessels in the area which he considers may be capable of rendering the best assistance. Provision is made also for the release of vessels from the obligation to proceed to the assistance of the vessel or aircraft in distress, when some other vessel has been requisitioned to render assistance. Appropriate penalties are provided for non-observance of these requirements. The passing of this new section will also be a ratifying act, similar to that contained in the preceding clause of the Bill.

Section 98 states that—

> If it appears to the Department that a formal investigation into any casualty, incompetency or misconduct, is requisite or expedient, the Department shall, either upon or without any preliminary enquiry as aforesaid, with the approval of the Minister, refer the matter of the casualty to the Court of Marine Inquiry and if the Department thinks fit, prefer or cause or permit to be preferred a charge of incompetency or misconduct, or both, before the Court which shall thereupon hold a formal investigation.

This section has been found to be ambiguous in that there is some doubt as to the department's authority to prefer charges where a collision has not actually occurred. It is proposed to repeal and re-enact this section to clarify the authority of the Harbour and Light Department to refer the matters of casualties, incompetency, and misconduct of vessels or persons under State jurisdiction to a court of marine inquiry.

Subsection (1) of section 105 is to be re-enacted to clarify the authority of the court of inquiry to hold formal investigations into casualties affecting licensed fishing and whaling vessels and into charges of misconduct and incompetency of persons holding certificates to operate these vessels. The re-enacted subsection also will clarify the authority of the court of marine inquiry to hear joint charges of misconduct and incompetency against multiple offenders involved in the same incident.

Clauses 10 and 11 increase penalties for non-possession of a boat license in connection with fishing, pearling, whaling, or hire vessels, and breaches of any regulations applicable to requirements for fishing, pearling and whaling vessels, and hire boats respectively.

Section 205 contains an interpretation of "vessel" as meaning vessels other than those propelled solely by oars or other prescribed power, held for the purpose of pleasure privately, and not for hire or reward. This comes under division 2, private pleasure boats.

This interpretation prevents the department from enforcing the carriage of safety equipment on rowing boats in unprotected waters. These boats are subject to the same dangers as power boats when in unprotected waters and should, for safety reasons, carry the prescribed equipment. It is not intended that this equipment should be elaborate, but in the interests of boat safety, rowing boats should carry a waterproof red hand flare, a waterproof orange smoke flare, an efficient anchor and line, and a life jacket for each person on board.

Also, there is to be an increase in the general penalty covering breaches of sections of the Act for which no penalty is specifically provided.

Finally, it is proposed to modify personal qualifications required in future of candidates for examination to qualify as masters or mates of coast-trade ships or masters of harbour and river ships; third class engineers of coast-trade ships or harbour and river ships, which are propelled by steam or motor power or both; marine motor engine-drivers of harbour and river ships, the propelling power of which is less than 150 brake horsepower;

or coxswains of harbour and river ships. Only British subjects are at present eligible to sit for such examinations.

The relevant subsection sought to be repealed is contained in part III of the principal Act. The desire is to repeal the provision that no candidate shall be eligible to sit for an examination unless he is a British subject and to insert in lieu merely a provision that if an alien or migrant can write and speak intelligible English, he may be eligible for examination.

The amendment is included in this Bill because of a motion that was carried at a Safety of Life at Sea Convention in Geneva in 1960, when it was considered that international boundaries could be held to be broken down by such a move. The Commonwealth similarly moved in 1967, and since that time other States have followed suit, with the exception of South Australia. In addition, one or two of the States that have moved in this regard have also included another provision to the effect that a migrant must be resident in the State for 12 months.

There is no necessity to include this provision in the Western Australian Act, because it would be unrealistic to try to recruit people for a particular purpose and then expect them to reside in the State for 12 months before they became eligible to be admitted for examination. The States of Victoria and New South Wales have the same sort of provision as that contained in this Bill.

Debate adjourned, on motion by The Hon. R. Thompson.

FIREARMS AND GUNS ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. A. F. Griffith (Minister for Mines), read a first time.

AERIAL SPRAYING CONTROL ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [2.52 p.m.]: I move—

> That the Bill be now read a second time.

In the drawing up of regulations under the Aerial Spraying Control Act of 1966, it became evident that some minor amendments would be necessary to that legislation and this is one of the reasons for that Act not yet being proclaimed.

These amendments have been devised to reconcile some differences between States where aerial spraying legislation operates. They are in relation to the terms of insurance policies available from companies, the liability of aerial operators, and the wording of security clauses written into the various State Aerial Spraying Control Acts.

At a conference held in Melbourne last October at the instigation of the Australian Agricultural Council, agreement was reached on all matters requiring legislative uniformity. That conference was attended by an officer of the Western Australian Department of Agriculture and by officers of other State departments and the departments of Primary Industry and Territories.

This Bill provides for the widening of the interpretation of "owner" as used in relation to aircraft. The provision which places liability on the owner of an aircraft, should it be used for aerial spraying by an unqualified person, even though without the owner's knowledge, is to be deleted.

Another amendment ensures that security covers loss or damage to property caused by agricultural chemical whether by aerial spray or spraydrift.

This compares with the current wording which involves damage caused by any operation associated with aerial spraying, including transport of chemicals to the site of operations, and which would demand a high premium.

The primary intention of the Act, of course, is to provide protection from spraydrift. The reference in the Act to liability for personal injury or loss of life is regarded as a doubtful inclusion for an Act designed to protect crops and is to be deleted.

While the Act requires the Director of Agriculture's approval of the company issuing an insurance policy, it is proposed to extend this to his approval of the policy itself, and the Bill makes such provision.

Policies to be issued will provide an "excess" clause of $100, which I am advised is acceptable to operators and will reduce the premium. I understand that, in all aviation policies, it is usual for an "excess" provision to apply.

It is intended that provision made for liability in the aggregate for any one accident should be a $30,000 minimum, irrespective of the number of claimants involved. This aspect has been clarified on the understanding that the wording of the Act as passed should be interpreted as extending the liability from one accident to cover each injured party to the extent of $30,000. On this interpretation, the security would cover farm employees, relatives of the farm owner, visitors, and so on. But operators claim that no insurer would provide cover at a reasonable cost for what could amount to unlimited liability. The Act, as amended, would provide a reasonable security from which

claims for damage, arising particularly from the misuse of agricultural chemicals, may be met.

While the Act requires the owner of an aircraft, from which aerial spraying is carried out, to keep certain records, the amending Bill will place a degree of responsibility for keeping such records on the operator of the aircraft, who may not be the owner. These records would detail a number of particulars, such as the name of the pilot in command, the name of the person for whom the spraying is being carried out, the location of the land, its acreage, the type of chemical used, and so on.

The amending Bill makes provision for insurers to be kept informed of all cases of alleged damage following aerial spraying operations. This is at the request of the Australian Aviation Underwriting Pool, as the Act, as passed, places no obligation on the Director of Agriculture to so inform the insurer. This provision will obviate what otherwise would be, perhaps, a considerable lapse of time before advice of loss or damage was given to the insurer. The request for such an amendment appears to be quite reasonable when we consider that the type of damage embraced by the insurance coverage is likely to be such that early inspection would be necessary.

In the event of an allegation of injurious effect by spraydrift or aerial spraying being lodged by notice to the Director of Agriculture, this officer will be obliged to furnish a copy of such notice to the owner of the aircraft alleged to have caused such damage in the course of spraying operations. I commend the Bill to the House.

Debate adjourned, on motion by The Hon. J. Dolan.

ART GALLERY ACT AMENDMENT BILL

Second Reading

Debate resumed from the 8th October.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the Opposition) [2.58 p.m.]: It is not my intention to take much time to express my support of the Bill, because it has been supported already by several members of the House and with a variety of speeches. Suffice to say that there is in the Bill provision for three types of art galleries. The first is the central or main Art Gallery in Perth. Then there is the branch art gallery which will come within the complete control and jurisdiction of the central Art Gallery, and there is the third category known as the regional art gallery.

A regional art gallery will be considered to be that which will be established, in the main, by local authorities in country centres. The question arises whether, within this measure, the central Art Gallery will have sufficient scope to maintain the same efficient control and administration over a regional art gallery as it can apply to a branch art gallery which, in effect, is an extension of the main gallery.

I took the opportunity to place on the notice paper an amendment which has appeared over the last two days. It is one which I felt would lend strength to the Art Gallery's executive when it dealt with its regional art galleries and made certain commitments to them. Obviously, if the Art Gallery is able to control its material in its own right when it transmits that material to a regional branch, it should have the same capacity, right of entitlement, and control of the material as it would have if it were exhibiting itself. So the purpose of the amendment was to give the Minister concerned time to have a look at it and submit it to those whose advice might help, to see whether they are completely satisfied that the legislation before us is exactly what they want.

With those remarks I support the Bill; and perhaps I have circumvented slightly what might be said in Committee.

THE HON. L. A. LOGAN (Upper West —Minister for Local Government) [3.3 p.m.]: From the number of members who have spoken during the second reading debate, it is obvious that many are interested in the Art Gallery. I think we can be happy that this is so, because it generally reflects the thoughts and ideas of the populace as a whole when members themselves are interested. This is also reflected in the fact that, generally speaking, members have accepted the Bill as presented to them.

I was pleased to hear Dr. Hislop mention Sir Claude Hotchin; and Mr. Dolan brought to light the names of other people who have given much to art in Western Australia. Sir Claude, from a financial point of view, has given much over the last 20 years, not only to enable galleries to be set up in 13 different centres, but also to assist artists themselves.

I think we all appreciate the fact that it is no good an artist producing art work if nobody buys it, because he would go broke. It is through the good grace of Sir Claude Hotchin that he has bought many of the works that artists have produced. I think it is in this regard that most of us think of Sir Claude Hotchin. If one looks along the corridor of Parliament House—as Dr. Hislop said—one will find works of art that have been purchased by Sir Claude and made available to this House.

I think the only items raised were in regard to regional and branch control. One was raised by Mr. Willesee. I have

had an opportunity to obtain an answer for him, but before dealing with it, I would mention that Mr. Claughton raised one or two queries. I think it is fair to say at the moment that there is no intention of starting branch galleries. I do not think this could be done even if it were desired, because the finance is not available. The board has enough ahead of it in connection with the Art Gallery here without starting branch galleries at the present time.

In regard to branch galleries, if members will look at the Bill they will see it is the responsibility of the Art Gallery Board to establish, control, and manage them. This is entirely different from the position in regard to regional art galleries. As stated by Mr. Willesee, they will be set up mainly by local authorities—not necessarily so, but mainly. The operative part of the Bill is clause 3 (f), in which appear the words, "advise and assist, on such terms and conditions as the Board determines."

I do not think it is the intention of the Art Gallery Board to take control away from the regional art galleries, but I think it is fair enough for the board to advise and assist. It can do this in many ways. It can offer expert advice; and can also loan certain materials from the Art Gallery. It is on this latter point that I think Mr. Willesee is wondering whether there is sufficient control in regard to material loaned from the Perth Art Gallery to a regional art gallery.

I have had the opportunity to discuss this with the Parliamentary Draftsman who, in turn, discussed it with the director (Mr. Norton). If I read the report which I have, perhaps it will allay the fears of Mr. Willesee and Mr. Claughton. I quote as follows:—

> S.10 (2) (b) of the principal Act authorises the Board to make property under its care and control available to other bodies and persons and on such terms and conditions as it thinks fit. The Director of the Gallery (Mr. Norton) has advised me that before the Board lends any of its property to another body (e.g. to the Bunbury Council for an exhibition put on by the Bunbury Council) the Board first ensures that the borrowing body has the facilities to properly take care of the property and then insures the property against loss or damage to the property in transit to or from the Gallery and while it is on exhibition. The borrowing authority is generally required to pay the premiums of insurance. It is of course scarcely necessary to add that the lending by the Board of its property to another Board does not affect the Board's legal title to the property.

In effect, material is never out of the ownership of the board; it is loaned on certain conditions. Continuing—

> Accordingly, in my view, the present provisions of the Act are sufficient to protect the Board's interest in its property while it is on loan to other bodies or in transit for that purpose. The Board's administrative procedures also seem sufficient to cope with the possibility of loss or damage. It is emphasised that nothing in the Art Gallery Act, either in its present form or as proposed to be amended by this year's Bill, obliges the Board to lend its property to any particular body or person and it does so only when it is satisfied that the property will be well cared for.
>
> In addition to lending property to other bodies for exhibitions, etc., the Board of course removes its property from the Art Gallery in Perth from time to time to conduct its own exhibitions in country centres and for other purposes, such as the restoration of property and photographic reproduction purposes. In these circumstances the property remains in the physical control of the Board but is nevertheless invariably specially insured for the whole of the period it is off the Art Gallery premises in Perth. In my opinion no further amendment to the Act is necessary to deal with the circumstances mentioned in this paragraph.

I hope that reply is satisfactory to Mr. Willesee. I think it was fair enough to raise the question in order to clarify the situation; and the honourable member was good enough to place his amendment on the notice paper to give me an opportunity to have a look at it. I thank all members for their contributions to the debate on the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. F. R. H. Lavery) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 18 amended—

The Hon. R. F. CLAUGHTON: I would like to thank the Minister for his statement on the suggested amendment. I went through this Bill fairly carefully with the thought that the Art Gallery was concerned that its standing would fall when works were moved to regional art galleries. If the Art Gallery people are satisfied that they are covered, then we will not pursue the matter.

I pay tribute to Sir Claude Hotchin whose bequest to the local authorities forms the basis of the regional galleries

as suggested in this Bill. Another matter which I did not raise during the second reading was that it might be worth while to look at the composition of the board when the regional art galleries are established. The present board is working particularly well with its five members. However, the Public Library Board has 13 members, many of whom are representatives of local government. I am told that those people contribute something of value to the board meetings. If the Art Gallery Board moves into the country at some future time, perhaps representatives of local government associations or shire councils could be included on the board.

The Hon. L. A. LOGAN: The point raised by Mr. Claughton is worth thinking about. At the moment, of course, five members are sufficient because they deal only with the Perth Art Gallery. When the work expands, and the board has to move around the State, we can then take some interest in this aspect. I am sure consideration will be given to it.

The Hon. W. F. WILLESEE: All my fears are at rest; I will not move the amendment I have on the notice paper.

Clause put and passed.

Clauses 4 to 7 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

House adjourned at 3.16 p.m.

Legislative Assembly

Thursday, the 10th October, 1968

The DEPUTY SPEAKER (Mr. W. A. Manning) took the Chair at 2.15 p.m., and read prayers.

QUESTIONS (31): ON NOTICE

GLENMERVYN DAM

Commencement and Capacity

1. Mr. KITNEY asked the Minister for Works:
   (1) When is work scheduled to commence on the Glenmervyn dam?
   (2) When completed, what will be the estimated holding capacity of the dam in gallons?

   Mr. ROSS HUTCHINSON replied:
   (1) Tenders will be invited on the 19th October, 1968, and it is anticipated that the successful contractor will commence work within 10 to 12 weeks of that date.
   (2) 325,000,000 gallons.

COMO HIGH SCHOOL

Staff and Hall

2. Mr. MAY asked the Minister for Education:
   (1) Will he advise the anticipated staff composition of the new Como high school?
   (2) Will this school be provided with a large hall suitable to conduct gymnasium classes?

   Mr. LEWIS replied:
   (1) The staff will consist of a principal, a deputy principal, a principal mistress, and assistants. The number of assistants will be dependent upon enrolments and the classes established.
   (2) A large covered area has been designed adjacent to the changerooms and cafeteria. Similar structures in the new high schools at South Fremantle and Rossmoyne have proved to be most effective.

POWER STATIONS

Price of Fuel Oil, and Production Percentages

3. Mr. JONES asked the Minister for Electricity:
   (1) Is the price paid for fuel oil being used at the South Fremantle Power Station in accordance with the Government tender board schedule of prices?
   (2) What percentage of power at present being generated by the State Electricity Commission is produced at—
      (a) Bunbury;
      (b) Muja;
      (c) South Fremantle;
      (d) East Perth;
      (e) Collie?

   Mr. NALDER replied:
   (1) The price of fuel oil is confidential.
   (2) For the year ended the 30th June, 1968—
      (a) 27.4 per cent.
      (b) 55.5 per cent.
      (c) 12.3 per cent.
      (d) 2.3 per cent.
      (e) 2.5 per cent.

BALD HILL AND EMU BROOK AREA

Future Development

4. Mr. McIVER asked the Minister for Lands:

   What is the Government's intention for the future of the Bald Hill-Emu Brook waterfall area having regard to the preservation of the flora and fauna therein and the provision of a recreational reserve and tourist attraction in the vicinity of Emu Brook waterfall?