

BANK MERGERS (TAXING) BILL

Introduction and First Reading

Bill introduced, on motion by Mr Court (Treasurer), and read a first time.

Second Reading

MR COURT (Nedlands - Treasurer) [4.12 pm]: I move -

That the Bill be now read a second time.

The majority of the provisions to establish a general framework to facilitate bank mergers in Western Australia are contained in the Bank Mergers Bill 1997. As outlined to members in moving the second reading of that Bill the framework created to facilitate bank mergers includes provisions empowering the Treasurer to require payment of an amount in lieu of state taxes and charges which might otherwise be forgone.

It is possible that the determination of such a payment could be seen as imposing a tax. In recognition of the requirement, in section 46(7) of the Constitution Acts Amendment Act, that a Bill imposing taxation shall deal only with the imposition of taxation, the relevant powers for the Treasurer to impose the charge are contained in this Bill. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

BANK MERGERS (TAXING) BILL

Second Reading

Order of the Day read for the resumption of debate from an earlier stage of the sitting.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Mr Johnson) in the Chair, Mr Court (Treasurer) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Requirement for payment of amount instead of State taxes and charges -

Mr RIPPER: How much revenue is due to the State from the forthcoming bank merger? I understand there are probably no more than 6 000 customers, taking into account depositors and borrowers, in that bank merger, and it would be of interest to know what scale of revenue is involved in this exercise.

Mr COURT: The Treasury officers cannot tell the member. It is currently being estimated. The member is right: Apparently there are about 6 000 customers here - about 4 000 depositors and 2 000 borrowers. I think the last merger involved 300 000 customers.

Mr Ripper: Are we talking about hundreds of thousands of dollars or millions of dollars?

Mr COURT: We are probably talking about hundreds of thousands of dollars on this merger and millions of dollars on the previous merger.

Clause put and passed.

New clause 4 -

Dr CONSTABLE: I move -

Page 2, after line 25 - To add the following new clause -

Review of Act

4. (1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as practicable after the expiration of 5 years from its commencement.

(2) In the course of the review the Minister is to consider and have regard to any matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.

(3) The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared, is to cause it to be laid before each House of Parliament.

This is the same amendment I moved to the previous Bill we debated. As a matter of course it is important to have this review clause in the legislation. I hope the Treasurer will accept it in this Bill.

Mr COURT: The Government accepts this amendment.

New clause put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr Court (Treasurer), and transmitted to the Council.

BANK MERGERS (TAXING) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [3.27 am]: I move -

That the Bill be now read a second time.

The majority of the provisions to establish a general framework to facilitate bank mergers in Western Australia are contained in the Bank Mergers Bill 1997. As outlined to members in moving the second reading of that Bill, the framework created to facilitate bank mergers includes provisions empowering the Treasurer to require payment of an amount in lieu of state taxes and charges which might otherwise be forgone.

It is possible that the determination of such a payment could be seen as imposing a tax. In recognition of the requirement, in section 46(7) of the Constitution Acts Amendment Act, that a Bill imposing taxation shall deal only with the imposition of taxation, the relevant powers for the Treasurer to impose the charge are contained in this Bill. The operation and effectiveness of this legislation will be reviewed after five years and the result reported to each House of Parliament. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

House adjourned at 3.28 am (Wednesday)

BANK MERGERS (TAXING) BILL

Hon N.F. Moore (Leader of the House) advised the House that the Bills committee had assigned category B to the Bills.

Cognate Debate

On motion by Hon Max Evans (Minister for Finance), resolved -

That leave be granted for a cognate debate on the Bank Mergers Bill and the Bank Mergers (Taxing) Bill.

Second Reading

Resumed from 6 May.

HON MARK NEVILL (Mining and Pastoral) [8.42 pm]: I begin by complimenting you on your election, Mr President. It is hard to get used to seeing you in the Chair. I expect to see Hon Clive Griffiths walk around the corner and take his place at any moment. I have to get accustomed to seeing you in the Chair. You are assured of my cooperation in your running of the House over the coming years.

The Opposition supports the two Bills that we are debating cognately. While am intrigued by the logic and the form of these Bills, I have no quarrel with their content. The Bills establish a framework which will facilitate bank mergers and allow them to be dealt with by a number of means, including by regulation, by adopting the relevant law of another State or Territory, or by a combination of both of those means. We have been told that the New South Wales Parliament last year enacted legislation similar to this Bill.

This sort of legislation would normally fall foul of uniform legislation concerns, which have grown in recent years, especially when we have been asked to agree to uniform measures at short notice. That resulted in changing the standing orders of this House. As I said, these Bills resemble uniform legislation. However, they are different in some respects. It would be interesting to have the views of a committee of another place, that long-running, much-travelled Standing Committee on Uniform Legislation and Intergovernmental Agreements. However, that is not available.

Hon Kim Chance: Is jealousy coming through?

Hon MARK NEVILL: I stressed the long-running and much-travelled part.

This Bill is different in that it is ancillary to the policy of the legislation. The policy area of legislation is an area of concern to the Commonwealth. Bank mergers have nothing to do with State legislation; they are the province of the Commonwealth. They are controlled by the Trade Practices Act and the Australian Competition and Consumers Commission, which assesses whether mergers comply with that Act. All other legislation that relates to bank mergers, including the Banking Act, which gives the Treasurer power over mergers, the Banks (Shareholding) Act, which restricts individual shareholders' holdings to 10 per cent of banks, and the Foreign Acquisitions and Takeovers Act, is commonwealth legislation. Therefore, bank mergers have little to do with our legislative responsibility. This Bill merely facilitates that merger by making some arrangements to deal with state stamp duty. Those transfers of accounts could occur without this legislation. It is a slow and time-consuming process.

There are problems with this legislation, which I will discuss later. We have been told in the second reading speech that this Bill is modelled on the New South Wales legislation. We have been told also that two mergers are in progress, the first of which is the National Australia Bank's merger with the Bank of New Zealand. I racked my brain earlier today in an attempt to remember when that occurred. I knew it was some time ago. However, a Treasury officer advised me this evening that it occurred in 1992. Therefore, this merger has been a long time coming and I would be bold enough to say that the National Australia Bank and the Bank of New Zealand have probably dragged their feet in getting the merger to this stage. The merger is not a significant merger in terms of the number of accounts in this State. I am not sure what the figure is.

Hon Max Evans: Six thousand.

Hon MARK NEVILL: That is not a large number of accounts when one compares it with the Westpac-Challenge Bank merger, which involved some 330 000, according to the second reading speech. Obviously that would be a very slow and time consuming task.

The second reading speech also states that there is also an expectation that further bank mergers may occur following the Wallis inquiry. I must tick the Minister off because that part of the speech was written before the Wallis report. I have told other Ministers in this House that if the Bill is amended in the other place, the second reading speech should be rewritten.

Hon Max Evans: It was read on 6 May.

Hon MARK NEVILL: The Minister's staff and the Minister should ensure second reading speeches are brought up to date. The Wallis report is a monstrous tome. I was intrigued to find that I was the first person to take it out of the Parliamentary Library. I thought it would have had many other people's fingerprints on it before mine. It is in pristine condition. The Wallis inquiry recommended that banks could merge with life assurance offices; however, it recommended against the four major banks - the National Australia Bank, the ANZ, Westpac and the Commonwealth Bank - merging. If that is a recommendation of the Wallis inquiry, it is not yet a policy of the Government. The Government is yet to respond to that. However, I would be surprised if the Federal Government allowed those four major banks to merge. I do not believe we will see legislation in this House relating to the merger of the National Bank and the ANZ or Westpac, and certainly we would not see mergers being done by way of regulation. That would be an extremely contentious merger. I think most people would object to that.

The second reading speech also states that bank mergers are on the increase. I do not believe that is true. The second reading speech refers to two mergers, the NAB-Bank of New Zealand merger and the St George-Advance Bank merger. They are in train. The only other regional bank that I know of that has not been taken over is the Bendigo Bank. If mergers will not occur among the four major banks, that is not a valid statement. Basically the scraps are left: The regional banks have gone in all but name. They are allowed to keep their name now only because of a change to banking laws about two years ago. They can have only one licence, but they can trade under different names.

This Bill will overcome the expensive and time consuming documentation associated with the transfer of banking business from one bank to another. This must be done because under the law banks can hold only one licence. This Bill purports to facilitate these mergers without delaying the time of the House. That is a dangerous assumption. Bank mergers will still have to be done separately because they will occur at separate times. If bank mergers are done by regulation, they will be subject to disallowance. There is a different effect of disallowance in this case. If the Government increases by regulation drivers' licence fees, anyone who is due to pay the licence must pay the higher fee. If that increase is later disallowed, the fee will revert to the old licence fee. That is an ongoing stream of events that can be affected by disallowance.

In this case the disallowance may occur after a period in which all the transactions have gone through and when there is none to follow. If all the transactions are completed before the disallowance comes into effect, the disallowance will basically be a Clayton's disallowance; therefore, we could be giving ourselves an illusory power. These regulations must be disallowed within 14 sitting days. If members wanted to do that effectively, they would have to move quickly after the regulations were tabled to thwart a bank transferring the accounts quickly. Facilitating this merger by regulation is an odd way of doing it.

People are sensitive to banks and they are sceptical about how banks operate. Just this week there was a 0.5 per cent decrease in the Reserve Bank rate and that afternoon banks announced varying drops in their housing loan interest rates. However, those rate drops will not come into effect for two months. On the other side of the cycle, when interest rates go up and the Reserve Bank announces an increase, will the banks follow suit by announcing an increase in the bank rate the next day, or will that increase be postponed for two months? One can envisage people getting upset about what banks do with their rates when a merger that could be subject to disallowance is before Parliament.

Another mechanism in this Bill is the use of the legislation of another State. That occurred previously in a fair trading Bill that came before the House. That Bill included model legislation that was introduced in the Queensland Parliament and, as I remember it, legal challenges to that legislation had to be dealt with in Queensland. I do not think cross-vesting powers of the two Supreme Courts were in effect, at least not initially. This House should view that sort of strategy with great concern because it takes matters out of the proper control of this Parliament. I do not believe much time is saved by using this style of Bill to facilitate this legislation. The Government must still draft the regulations. These are not large Bills; they are only two or three pages long. To my knowledge such legislation has not been delayed in either House when previous bank mergers have occurred. I do not believe much time will be saved in the House and in drafting.

I telephoned the National Australia Bank Ltd early yesterday morning to discuss this matter with its legislation people. As late as the close of business today my telephone call had not been returned, which does not impress me. I am not sure how much interest the National Australia Bank has in this legislation. It merged with the Bank of New Zealand five years ago. Two days is ample time to get back to me. I gave the bank the number of my mobile phone, which has a message bank. Plenty of others have been able to get through, so the bank cannot say it was unable to reach me.

Members are debating two Bills, the second of which is the Bank Mergers (Taxing) Bill. Clause 3 of that Bill requires the Treasurer to recover from parties any state taxes and charges that would normally have been forgone by this process. New members might not understand that process. When a tax is imposed, a separate Bill must be introduced and that is why the taxing provisions are included in that Bill.

This Bill has been classified as a class B Bill; therefore, it is contemplated that this Bill can be dealt with by the Standing Committee on Legislation. This Bill has been delayed, as has the Iron and Steel (Mid West) Agreement Bill, by the industrial relations legislation.

Hon N.F. Moore: It certainly can be sent to the Legislation Committee, but your leader indicated to me that it would be passed tonight.

Hon MARK NEVILL: The Leader of the House suggests he has been misled by the Leader of the Opposition.

Hon N.F. Moore: Only if it is not resolved.

Hon MARK NEVILL: I changed my mind about sending this Bill to the Legislation Committee about an hour ago. On doing that I immediately advised the Minister for Finance of my change of mind and the reason for that change. I gave him that courtesy. It was my decision, entrusted to me by Caucus. The Leader of the House may not have been aware that I advised the Minister for Finance of that decision. Hon Norman Moore should not reflect on the Leader of the Opposition in that case because we are living in a new world in this place.

Hon N.F. Moore: It's okay, Mr Nevill, so long as we know that when you tell us what is to happen, it will happen.

The PRESIDENT: Order! Hon Mark Nevill should address the Chair.

Hon MARK NEVILL: My party has always supported -

Hon N.F. Moore: Will you be ringing up the banks to tell them, too?

Hon MARK NEVILL: It is not my job to ring the banks; I have already rung the banks and they did not have the courtesy to return my call!

Hon N.F. Moore: I don't blame them.

Hon MARK NEVILL: To whom shall I talk?

The PRESIDENT: Order! Hon Mark Nevill will address the Chair.

Hon MARK NEVILL: We move for the disallowance of regulations quite frequently to debate an issue, and not necessarily to have the regulations disallowed. On occasions, it would have been quite embarrassing if the opposition members' bluff had been called as we have always worked on the premise that nothing would happen because we did not have the numbers. However, things have changed and we must be careful about what we do now. We cannot just move disallowance to debate a matter as it might actually be disallowed!

Hon Max Evans: Hon Alannah MacTiernan found that out one night.

Hon MARK NEVILL: In current circumstances, we must be more circumspect than we may have been in the past.

I have read section 42 of the Interpretation Act many times over the years, and for some reason my view was that disallowance of regulations applied from the date of original gazettal. However, it is a prospective provision as the regulations cease to have effect on disallowance. Therefore, disallowance on the bank Bills' regulations will not affect any transactions carried out before disallowance takes effect. Also, the Opposition can move disallowance, but the Government decides when the motion is dealt with; it may be dealt with three to six months later if a recess is involved, and that is the main concern.

I am not particularly worried about telling the banks about this move as they can wear the decision of this House. This Bill will affect 6 000 depositors, and referral to a committee will have not have the same effect as delaying a merger Bill with which 330 000 depositors might be involved. These transfers can be conducted manually without this legislation. These two Bills, along with the Kingstream Bill, were held up by passionate debate on the industrial relations Bill, but that was the Government's choice as it manages the business of this House. If some problem is caused by that delay, I do not accept full responsibility for that - although I accept my share. Certainly, the Government's management of business has left a lot to be desired. It can allow the banks to conduct these transfers manually or draft a separate Bill to facilitate the stamp transfers in this merger, and I am sure that such Bill would be dealt with urgently.

The Labor Party has a problem with not the policy of the Bill, but the method of its implementation.

Hon Max Evans: You're pre-empting the committee by saying that you want the Bill redrawn in certain ways.

Hon MARK NEVILL: Not necessarily. I am making suggestions to the Government, which it can discuss with the Legislation Committee if the referral is successful. I believe that Hon Helen Hodgson will move for referral to that committee after the second reading is passed. The Australian Labor Party will support the Bill and its referral to the Legislation Committee.

HON H.M. HODGSON (North Metropolitan) [9.04 pm]: It seems to be a tradition for Democrats to be thrown into weighty matters on the first day that they take their seat. I have looked at the Bank Mergers Bill and the Bank Mergers (Taxing) Bill and the second reading speeches. The policy of the Bill is to facilitate bank mergers, which are matters of Federal Government policy, and Reserve Bank and Australian Competition and Consumers Commission supervision. State responsibility is limited to the commercial issues dealing with the transfer of assets and other matters associated with the change of ownership.

I recognise and appreciate the need for commercial certainty in dealing with these issues, and mechanisms are included in the Bill to deal with contractual issues associated with the merger. The other major issue is the protection of the revenue base; namely, the stamp duty or any other taxes involved. The Democrats agree with the general principles of the Bill, but we have two major concerns about some of the mechanisms to be used to implement this policy. We would like to see the matters debated in more detail.

The first of these concerns is the accountability mechanism. Members have heard my colleague Hon Norm Kelly and I speak tonight on accountability. Therefore, it is interesting that the first Bill to come before us is one which falls short in these areas. The Bill delegates legislative authority from Parliament to regulations, which can be laid before Parliament for disallowance. The sitting timetable, when read against the Interpretation Act, indicates that

we have six sitting days before the regulations are laid before the House - that is two weeks. One has 14 sitting days to move for disallowance, which is at least five weeks, and one must debate the motion within 10 days of its introduction. Therefore, we have 30 sitting days from the time that the regulation is gazetted until disallowance may occur. Essentially, any regulated action will be valid if it is not disallowed in that time. That is a concern for the Democrats.

A date is relevant to bank mergers. The last Bill before the House on such matters was the Westpac Banking Corporation (Challenge Bank) Bill 1996, which contained a commencement date defined by proclamation. It was a specific date. It is conceivable that the date on which these Bills before the House take effect could be within the first six sitting days of the timetable I outlined. Therefore, no opportunity would be available to this House or the other place to exercise their rights to scrutinise the regulations. It is a particular problem with a lengthy recess pending; within a few weeks we will rise for the winter recess, which will extend the time involved over several months.

Orders are also referred to in the Bill, and these are a concern as they cannot be disallowed under the same procedure as regulations. I am pleased to see that the Bill contains a mechanism to apply to orders the same process of disallowance as applies to regulations. This is an excellent idea.

The second concern is the arrangement for the collection of tax. A reason given for introducing this Bill is that it will protect the revenue base. My background in the taxation profession means I am well aware of how important it is to protect the revenue base, and it has given me some ideas about how to provide that protection. I notice that the Bill uses the phrase that the amount payable is to be determined by the Treasurer in accordance with such principles as the Treasurer thinks appropriate. That phrase leaves the matter flexible and open-ended, and an explanation is required on why it needs to be left open-ended. My first reaction is that I would prefer to see parameters in place, such as a requirement that the revenue is at least equal to the amount expected to be received in stamp duty on the transfer. It is well and good to say that the current Treasurer will adopt these principles, but who knows who will occupy the Treasury benches after successive elections - who knows, we may see Democrats on those benches one day! It is important that there be parameters in the legislation allowing the Treasurer to apply those principles in reaching that determination.

The Democrats agree with the principle and policy of the Bill, but these issues cannot be resolved tonight. I foreshadow that I will move to refer this matter to the Standing Committee on Legislation for urgent consideration. In view of the urgency with which the Government has said it wants this Bill to pass, I am happy to make that a very urgent review.

Hon Derrick Tomlinson: How long is that?

Hon H.M. HODGSON: The proposal is that the committee report back by 11 June, which might require extra meetings.

HON J.A. SCOTT (South Metropolitan) [9.12 pm]: Mr President, I also congratulate you on your success in achieving the Presidency of this House. Having seen you in other roles, I have great respect for your ability and I am sure you will do a wonderful job in keeping this House in check.

I support the position put by Hon Helen Hodgson. From a philosophical point of view, I am concerned when this House considers Bills that could become template legislation. Such legislation must be very carefully considered in case there is an error because, if there is, it could be very costly.

Hon Mark Nevill has pointed out already that the regulation process can be more time consuming than going through the normal process of debating Bills. After all, bank mergers do not happen every day of the week. Of course, such legislation can be amended later, but it would be much better if we were to get it right the first time.

While the method described might make the process simpler and speedier, which is debatable, the community expects this new House to ensure it is not handing its powers over to the Executive without ensuring that the proper checks and balances are in place.

I have looked at a number of provisions in this Bill, some of which deal with the existing or pending legal proceedings that might be the subject of regulations. There could be a problem if those regulations were challenged in the courts by people with large amounts of money, such as banks, especially if those legal challenges must be sorted out in other States, where we have little control over what happens.

Some other regulations concern me, not just those relating to the legal proceedings but also those dealing with employment, superannuation and related rights of the staff of banks. I would hate to see such related rights disappear because this House did not consider legislation properly. I want to ensure that those rights are safeguarded. I will support the motion moved by Hon Helen Hodgson when it is put at the end of the second reading stage.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.15 pm]: I was pleased with the support I appeared to be getting from Hon Mark Nevill when he said the Opposition supported the legislation, but he quickly moved away from that. If members opposite talk about defeating this legislation, they should remember that the previous two Bills should have been defeated. There was only one Bill; as the then President pointed out, we did not have a separate taxing Bill. Everyone else appeared to have overlooked that. In hindsight, there was a very good reason for that legislation to go to the Standing Committee on Legislation. However, it has since been sorted out.

Hon Mark Nevill referred to the Wallis report. I thought it came out after 6 May and my second reading speech in this House. There has been time to consider it. I confirm that Hon Mark Nevill discussed this with me tonight. It is the Opposition's right to disagree with what is going on.

This is probably the simplest piece of legislation that I will introduce in this House. The bank merger has been approved. Hon Mark Nevill pointed out that the merger of the National Australia Bank and the Bank of New Zealand started five years ago. A few years ago we dealt with the merger of the Australian and New Zealand Banking Group and the Town and Country Bank, which took about four years to complete. The Reserve Bank seems to create time delays and we are required to pass the enabling legislation in the last month or so before the time limit runs out. The Westpac-Challenge merger was expedited because Tony Howath went ahead and did what needed to be done and brought it in well ahead of schedule. Those involved in the Eastern States forget about what is happening here. I remember Ray Turner, the CEO of Town and Country Bank, sitting in the gallery waiting to see the enabling legislation pass on 29 or 30 June. When these mergers happen, the banks end up with only one banking licence and many assets in the old bank. In this case, the two groups have 330 000 deposit accounts and 83 000 loan accounts. The deposit accounts are easily dealt with, but the loan accounts involve mortgages, stamp duty and so on. This legislation is simply about facilitating the transfer of assets by banks doing a deal approved by the Federal Government. The State does not suffer any loss of stamp duty or tax.

Hon Helen Hodgson referred to the Treasurer's role. The Treasurer works through Treasury. We cannot say that the total value of the assets is umpteen billion dollars and tax that amount; each amount must be considered separately according to scales. Treasury must simply approve the method.

Members also referred to accountability. This legislation simply expedites what will happen. The big issue is whether there will be any more transfers. Who knows? The Government is trying to reduce the number of Bills introduced into this House.

Reference was also made to the regulations being disallowed. I do not know why anyone would want to do that. After all, this is simply a mechanism for people to do something they will do anyway. Mention was made of the Standing Committee on Legislation's wanting to see the Bills redrafted specifically for the National Australia Bank and the Bank of New Zealand. As that is the case, I am not quite certain of the mechanics. There is a certain protocol. It has to go to Cabinet to be approved. It could be printed in a couple of weeks. It will not be that quick because there is no way in which one can beat the process. We will look at the position as it emerges. The cost in man hours will be far greater to the State Revenue Department than it ever will be to the banks. They have 6 000 transfers which they will give to State Revenue, which will assess the stamp duty. That will be a longer process than that carried out by the Treasury.

Hon Mark Nevill: Is there provision in the Bill to compensate State Revenue for the work?

Hon MAX EVANS: That comes out under costs, but the department could not pick it up as extra costs. Delegated legislation would not allow that. It would say, "You cannot charge extra costs there for labour otherwise you are raising a tax." Therefore, I do not think we will recover the extra costs. All we will have is stamp duty. I imagine that State Revenue will take some time to work through 6 000 documents. Therefore, we will have X amount of dollars, less my overtime, because I do not think I can charge for it.

I regret that the Opposition feels strongly about this legislation, because there are many more meaningful things it might want to send to the Legislation Committee than this. These Bills are among the simplest pieces of legislation. As Hon Mark Nevill has mentioned, as most of the documents have gone through, we cannot unscramble the eggs. That is what the legislation is all about. It has been split from one Bill for two bank mergers to two Bills, which is the right way to do it. We are doing it this way, even though the former President has left. He quite rightly did not like the previous Bill. We have put it right for him, and I hope he knows about this before he leaves the country. We will not agree to the Bills going to the Legislation Committee. We believe that this is simple legislation. We should just get on with it, pass it and help the banks do their business. I commend the Bill to the House.

Question put and passed.

Bills read a second time.

Referral to Standing Committee on Legislation

HON H.M. HODGSON (North Metropolitan) [9.24 pm]: I move -

That the Bank Mergers Bill and the Bank Mergers (Taxing) Bill be referred to the Standing Committee on Legislation and the committee report the Bills to the House not later than Wednesday, 11 June 1997.

I have already covered most of the reasons that I believe these Bills need to be discussed in more detail. The intention is not simply to slow down the processes and attack the efficient workings of the legislation. Some matters genuinely need to be discussed. They can be discussed quickly with the aid of people experienced in the area. The Legislation Committee is the appropriate place in which to do this. If the Bills classification committee had reviewed this Bill, I hope that it would have come to the same conclusion.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.25 pm]: As I have said, the Government does not support this motion. We believe this is simple legislation; it is well designed and well drafted as a simple mechanism for this bank merger. There may or may not be a third bank merger. Hon Mark Nevill has said that the legislation has been dealt with in this way to reduce the work of the House. We would like to see it get through so that the bank can wind up its business for this year. I presume that the other later merger involving the St George Bank and Advance Bank Australia Ltd, which may be in October or November of this year, would go through very simply. We do not support the motion.

HON J.A. SCOTT (South Metropolitan) [9.26 pm]: I certainly agree with the motion put by Hon Helen Hodgson. The very fact that this type of legislation will be used for successive mergers is all the more reason why it should be very tight, and properly scrutinised. I support the motion.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.27 pm]: Hon Mark Nevill said during his comments earlier this evening that times have changed, and he is quite right. Some things should not change; that is, when we have an agreement in place it should remain in place and we should not be left at the end of a period of agreement finding that the agreement does not stand. I make that comment quickly to indicate that I was led to believe that this legislation would be passed tonight by this Council. Because of that I was happy to organise the program today to ensure that new members had time in which to make their maiden speeches and that we did not take up the time of the House debating other issues.

I am the first to acknowledge that for a variety of reasons some rush is attached to these Bills. In the current context the main one is the need of the banks to have this legislation passed.

Hon Mark Nevill: They have waited five years; they can wait another month.

Hon N.F. MOORE: That is fine. I suggest that the member not tell me that but say to the banks which are waiting for this legislation that he has made that decision. There will be occasions in the future when members on the other side of the House seek to get the pleasure of making decisions which mean that this Government will lose votes and those decisions will affect somebody else outside this Chamber. This legislation does not affect the Government and is nothing at all to do with the Government. We are seeking to facilitate a commercial arrangement. If the Opposition, for reasons best known to itself, wants to use its numbers on this occasion - and I suspect we are about to encounter an historical moment - to delay the passage of this legislation, it is up to members opposite to decide.

Hon Mark Nevill: This could have been dealt with two months ago.

The PRESIDENT: Order!

Hon N.F. MOORE: There is some urgency attached to this legislation, which I have explained.

Hon N.D. Griffiths: We dealt with the labour relations legislation.

Hon N.F. MOORE: The labour relations legislation took three weeks of the time of this House.

Several members interjected.

The PRESIDENT: Order!

Hon N.F. MOORE: Members opposite talked and talked until I could not believe they could talk any more. A member in this House spoke for eight hours on one Bill and did not say anything of any consequence in all that time. He would deny 10 000 other people the chance to say a word. To suggest that somehow or other we are wasting the time of the House is absolute nonsense. We had three weeks of time wasting. To say that the industrial relations legislation and our attitude to it has led to a delay with this legislation is nonsense. We could have dealt with it a long time ago.

I was led to understand certain things would happen with this legislation and now they will not happen, as I understand the position of the Labor Party. It is disappointing because I made arrangements on the basis of that understanding. I will no doubt be told shortly by the Leader of the Opposition that I misunderstood what he said. He can say that, but all that means is that from now on every time we communicate, it will have to be in writing, signed and witnessed by 17 witnesses, so that there can be no argument further down the track. The Government is trying to facilitate a commercial arrangement between the banks. I can think of no reason why sending these Bills to the Legislation Committee will make them any better, within the period of time members opposite propose to look at them. We could easily have spent today debating these Bills at length during a Committee of the Whole House, so that all members could have a say about them and perhaps resolve any problems they might feel that only the Legislation Committee could deal with. However, the Leader of the Opposition did not ask for that. He did not suggest until the last minute that it would go to the Legislation Committee.

It is handy to talk about cooperation. Today I listened to maiden speeches that referred to cooperation and getting together to make things better and being one big happy family. We can be a big happy family only if we know what everybody else is doing. However, if the person who is trying to organise the program is the last to know what is occurring and members opposite renege on arrangements that have been put in place, it is difficult to be cooperative and act as one big happy family.

Hon Mark Nevill: We had to cooperate with every whim of yours for 10 years.

Hon N.F. MOORE: That is not true. However, I do not propose to argue with Hon Mark Nevill on that level, because that would be counterproductive. The Government does not believe it is necessary to refer this Bill to the Legislation Committee. The Government will be happy on future occasions for that to happen. The Bills committee gave this Bill a category B classification today on the basis, as I explained to the Leader of the Opposition, that it would be dealt with tonight and concluded. It would not have made any difference whether it was categorised as A, B or C, because that was my understanding of the situation.

Hon Bob Thomas: We did not know.

Hon N.F. MOORE: The Leader of the Opposition did not put me out of my misery at that time. I wish he had, because we could have made other arrangements for the business of the House for the rest of the day. The B category means that the Bill may go to the Legislation Committee.

Hon Mark Nevill: I advised my leader at eight o'clock that I had changed my mind.

The PRESIDENT: Order! I ask Hon Mark Nevill to cease interjecting.

Hon N.F. MOORE: I acknowledge that Hon Mark Nevill and the Leader of the Opposition are entitled to change their minds, and I accept that it will happen frequently in the future. However, if this House is to operate in a reasonably effective way, arrangements between the various parties should at least last for more than five minutes.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [9.31 pm]: The Opposition agrees with much that the Leader of the Government has said, some of which has been said already. From the brief opportunity I had to listen to the contributions made by other members from this side of the House, and specifically a brief discussion with the leader of the Democrats, Hon Helen Hodgson, I understand that we agree that this legislation should be dealt with expeditiously. I am pleased to see that the motion before the House will ensure that happens. It is proposed to refer the Bill to the Legislation Committee, and it must be back in the House on Wednesday, 11 June, effectively two sitting days. It will be in this place, not the next time we meet as a House, but the day after.

As the Government knows, on behalf of members of the state Parliamentary Labor Party in this place, I have offered it the opportunity to meet tomorrow, the next day, the day after, or next week if the Government's legislative program requires it. We have been told that the Government does not want to avail itself of that offer.

Hon N.F. Moore: We have already organised the Estimates Committees for the next three days.

Hon N.D. Griffiths: They can be shifted.

Hon N.F. Moore: Had I tried to shift them without your agreement, I know what you would have said. Come on, get off the grass.

Hon TOM STEPHENS: I indicated to the government leader that if he was of a mind there was nothing to stop those opportunities being explored. The opposition parties, in particular the state Parliamentary Labor Party, know the temptations with which we are dealing here. We know the great risks involved in being tempted to respond to the way we have been dealt with for year after year. We will resist vigorously that temptation.

Hon E.J. Charlton: Arrangements have always been put in place.

Hon B.K. Donaldson: It is retaliation and revenge.

Hon TOM STEPHENS: Hon Bruce Donaldson is wrong.

Hon B.K. Donaldson: The Leader of the Opposition said it.

Hon Bob Thomas: Hon Bruce Donaldson can talk to his leader about that.

The PRESIDENT: If the Leader of the Opposition addresses his comments to me there will not be any interjections at all.

Hon TOM STEPHENS: I want to disabuse any member on the other side of the House of any suggestion that this is simply a response to years and years of conditioning that has gone on in this House in the way business has been done with the non-conservative parties, and the way that the Labor Party has been dealt with year in and year out. We will resist that temptation. The motion before the House proposes that a specific Bill be referred to the Legislation Committee, be dealt with in double quick time and be back on the floor of the House for its passage to be completed at almost the earliest opportunity - the day after the earliest opportunity. The Leader of the Government indicated that he had been misled. This is not an accurate portrayal of the situation.

Hon N.F. Moore: It is an accurate portrayal of my understanding of the situation. We will get everything in writing now.

Hon TOM STEPHENS: The Leader of the Government allowed himself to mislead himself.

Hon E.J. Charlton: He believed you.

Hon N.F. Moore: I took your word on things, Mr Stephens. I have learnt.

Hon TOM STEPHENS: The Leader of the House may have deliberately misled himself.

The PRESIDENT: I ask the Leader of the Opposition to direct his comments to the Chair.

Hon TOM STEPHENS: Mr President, the Leader of the Government convinced himself that my statement that this legislation would be brought to resolution tonight - I was speaking on behalf of the state Parliamentary Labor Party - would guarantee that this legislation was passed tonight.

Hon N.F. Moore: So that means the Legislation Committee?

Hon TOM STEPHENS: No. I did not know whether a motion would be moved. I want to tell the Leader of the House that the Leader of the Democrats has regularly told me that she will not be treated as some sort of fourth faction of the Labor Party. She had not told me what she would do.

Hon N.F. Moore: This is the tail wagging the dog, by the sound of it.

Hon E.J. Charlton: You are running along like a lamb.

Hon N.F. Moore: This is what happened in the Senate. You became completely irrelevant. You are irrelevant, Mr Stephens.

Hon TOM STEPHENS: I will tell members the chain of events, so that everybody understands the way it works. When I was listening to Hon Ljiljana Ravlich earlier this evening at about eight o'clock I thought I had better write a note to Hon Mark Nevill. I am sure someone has that note as verification of what I said.

The PRESIDENT: Order! Let us address the motion before the Chair.

Hon TOM STEPHENS: Hon Helen Hodgson will find this educative as well. I said in a note to my colleague Hon Mark Nevill, who has responsibility for this legislation, that I thought there was a possibility that the Democrats might choose to send this legislation off to the Legislation Committee, and the Labor Party should be prepared to consider where it was if that were to happen. After some consideration my colleague sent me a note. I hope he does not mind my reading the note to the House.

Hon Mark Nevill: Go for your life.

Hon TOM STEPHENS: The note states -

Tom,

We will support the Bank Merger Bill going to the Legislation Committee.

Mark.

He has responsibility for the handling of that legislation. That is the first that I knew of it.

Hon E.J. Charlton: You lost control of him as well.

Hon TOM STEPHENS: Hon Mark Nevill has responsibility for handling that legislation.

Hon E.J. Charlton: You are the leader.

Hon TOM STEPHENS: I am a cooperative leader for a range of reasons, Mr Charlton.

The PRESIDENT: The Leader of the Opposition can be cooperative if he addresses me and tries to avoid interjections.

Hon TOM STEPHENS: So that members opposite and colleagues on this side of the House who are not in the Labor Party understand the process, I felt it necessary to write another note to my colleague. That note said that I thought he should check with the Leader of the Opposition, Dr Geoff Gallop, and with Hon Max Evans to ascertain their attitude. I then received a note, and I ask Hon Mark Nevill whether I can reveal what Hon Max Evans said.

Hon Mark Nevill: The Democrats and the Greens (WA) will find out I have a mind of my own.

Hon TOM STEPHENS: Hon Mark Nevill does have a mind of his own. The note said that Dr Gallop said okay. Can I reveal what Hon Max Evans said?

Hon Max Evans: You can say what you want to.

Hon TOM STEPHENS: The message was that Hon Max Evans was not fussed about it.

Hon Max Evans: We can't stop you from saying anything.

Hon Mark Nevill: They are Democrats and you are an autocrat, Minister.

Hon TOM STEPHENS: Members of the Labor Party will always be open to listening to the argument. On this occasion it has done that. It was prepared to find out what was proposed in the motion in case it was moved. I did not know at three o'clock this afternoon what would happen about the handling of this legislation. I was not told.

Hon N.F. Moore: Let us work on the basis that we made no arrangement.

Hon TOM STEPHENS: It is important for members to know what happened at three o'clock this afternoon. This legislation was given classification B. Sessional Order No 5(3)(b) reads -

class B means a bill that may pass unamended or unopposed but which appears to require some consideration whether in a committee of the whole House or a standing committee;
This Bill was given that classification -

Hon N.F. Moore: On the basis it would be passed today.

Hon H.M. Hodgson: I did not have the opportunity to consult with you.

Hon TOM STEPHENS: I did not have the opportunity to consult with the Leader of the Democrats. It is one of the difficulties of the classifications committee we will have to address. Nonetheless, it was given classification B and it enabled the Leader of the Democrats to do exactly what she did; that is, to move a motion to refer the legislation to a standing committee for consideration. It is not of great moment; it is something which happened -

Hon Mark Nevill: Because I changed my mind.

Several members interjected.

Hon TOM STEPHENS: I assure every member in this House that I will not mislead anyone. Members should listen to what I say.

Hon N.F. Moore: I don't want to listen to you; I want you to write it down.

The PRESIDENT: Order! I ask the Leader of the Opposition to address me. He appears to be concluding his comments.

Hon TOM STEPHENS: I am doing that, Mr President. I will not mislead anybody with reference to any of the undertakings I give. When I used the word "resolution" I did so because I was not sure in what form the motion would be put to the House. I suspected a motion would be moved and that it would fall within classification B. However, I did not know what would happen until later this evening. In that circumstance, I have a clear conscience

that I did not set out to mislead the Leader of the House. However, he has a mind set; that is, whatever the conservative party believes should happen to legislation, should happen. That is what has happened in the past.

Hon N.F. Moore: If you said that it would go to a committee for consideration, that would have been the end of it.

Hon TOM STEPHENS: I do not need to add anything more. No attempt was made to mislead the Government and no attempt will be made in the future by me to mislead the Government. I am urged on by all my colleagues in reference to that.

Hon N.F. Moore: Let me say we believed them on face value.

Hon TOM STEPHENS: I support the motion moved by the Leader of the Democrats and seconded by my colleague, Hon Mark Nevill.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [9.45 pm]: It is worth noting that it is only a few hours since this historic Legislative Council met. I have listened to every speech and every maiden speech with great interest.

I support the Government's position that the legislation should not be referred to a committee for further consideration. I listened with interest to the Leader of the Opposition say that he will not mislead. I think he should also have said that he will not lead. It is the position in which the Leader of the Opposition finds himself. It has taken only a few minutes into the deliberations of this new Legislative Council for that to happen.

Earlier today I had the privilege of representing the Leader of the House at the gathering outside Parliament House. Like all members who have been in this place for some time I look back on all the good and bad things that have happened. I am a great believer that when one is presented with an opportunity to do something which has not been or could not be done before, one is also confronted with increased responsibility. We cannot have one without the other. This is not the end of the world. All members are in good humour and are accepting the situation. Members have a right to put their point of view.

The Leader of the House and the Leader of the Opposition reach agreement on how the business of this House should proceed. The Leader of the House, in addition to being the Leader of the Government in this place, has always cooperated with the Opposition and he will continue to cooperate with the Labor Opposition, the Democrats and the Greens (WA). He will try to accommodate the wishes of all parties and, if it is necessary, he will delay debate on legislation for a day or a week if they are not ready to deal with it. He will arrange, if necessary, briefings on the legislation. The same consideration was given when the coalition parties were in opposition. They always did their best to ensure the movement of legislation through the Parliament and to cooperate with the then Government.

When members reflect on what happened on the first day of the new Legislative Council they will say it is the day on which the Leader of the Opposition said that this simple piece of legislation would be passed.

Several members interjected.

Hon Kim Chance: We will remember the last day of the last regime.

Hon E.J. CHARLTON: All of a sudden he found that the 12 members of the Labor Party were being directed from the rear. It reminds me of a cap with two peaks which has written on it, "Follow me, I am the leader." I will bring the cap with me tomorrow to show Hon Tom Stephens. This motion, if it is passed, will delay the passage of this legislation by a fortnight, not one day as the Leader of the Opposition advised members of the House. I said to the people who were gathered outside Parliament House today that when I first came into this place and I was tested -

Hon N.D. Griffiths interjected.

Hon E.J. CHARLTON: Hon Nick Griffiths would not understand because he was not here at the time. At that stage there were three National Party members -

Hon W.N. Stretch: Four.

Hon E.J. CHARLTON: There were four, if the member wants to throw in the country member of the Liberal Party as well. Things have changed. Hon Mark Nevill is stuck in the Labor Party, which is dominated by a terrible group of people.

Hon Mark Nevill: I am dominated so much I will change the Bill tonight.

The PRESIDENT: Order! If the Minister addresses his comments to me, there will not be a need for interjections.

Hon E.J. CHARLTON: I look forward to seeing what will happen in the future. It is worth recording that this is how opposition members choose to treat the first piece of legislation that they have the opportunity to debate. We would all do well to reflect on this exercise.

HON NORM KELLY (East Metropolitan) [9.50 pm]: It is good to hear members referring to the history of this occasion. I am sure that it will take some time for the five parties to work in harmony on these sorts of Bills.

I wish to clarify a couple of points. Hon Eric Charlton said that we had received briefings from the department. It was only yesterday that Hon Helen Hodgson and I were offered a briefing. Hon Helen Hodgson received that briefing today. Therefore, it was not until today that we were made aware of some of the ramifications of this legislation. Because of our concerns about certain clauses of the Bill, particularly clause 18, it is understandable that we wish to see it referred to a committee for clarification.

The Minister for Finance referred to the need to expedite business. However, expedition of business should not override accountability measures. The Democrats will push consistently to ensure that these considerations are not overridden, and that accountability measures are placed in legislation.

As much as the Democrats will be working with the other four parties in the Chamber, it is necessary to make it clear that our decisions will be made independently of other parties. We will decide on legislation on a Bill by Bill basis.

Question put and a division taken with the following result -

Ayes (16)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport
Hon E.R.J. Dermer
Hon N.D. Griffiths
Hon John Halden

Hon H.M. Hodgson
Hon Norm. Kelly
Hon Mark Nevill
Hon L. Ravlich
Hon J.A. Scott

Hon C. Sharp
Hon Tom Stephens
Hon K.D.E. Travers
Hon Giz Watson
Hon Bob Thomas (*Teller*)

Noes (14)

Hon E.J. Charlton
Hon M.J. Criddle
Hon B.K. Donaldson
Hon Max Evans
Hon Barry House

Hon Murray Montgomery
Hon N.F. Moore
Hon M.D. Nixon
Hon S.M. O'Brien
Hon B.M. Scott

Hon G.D. Smith
Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Pair

Hon Tom Helm

Hon Peter Foss

Question thus passed.

BANK MERGERS (TAXING) BILL

Hon N.F. Moore (Leader of the House) advised the House that the Bills committee had assigned category B to the Bills.

Cognate Debate

On motion by Hon Max Evans (Minister for Finance), resolved -

That leave be granted for a cognate debate on the Bank Mergers Bill and the Bank Mergers (Taxing) Bill.

Second Reading

Resumed from 6 May.

HON MARK NEVILL (Mining and Pastoral) [8.42 pm]: I begin by complimenting you on your election, Mr President. It is hard to get used to seeing you in the Chair. I expect to see Hon Clive Griffiths walk around the corner and take his place at any moment. I have to get accustomed to seeing you in the Chair. You are assured of my cooperation in your running of the House over the coming years.

The Opposition supports the two Bills that we are debating cognately. While am intrigued by the logic and the form of these Bills, I have no quarrel with their content. The Bills establish a framework which will facilitate bank mergers and allow them to be dealt with by a number of means, including by regulation, by adopting the relevant law of another State or Territory, or by a combination of both of those means. We have been told that the New South Wales Parliament last year enacted legislation similar to this Bill.

This sort of legislation would normally fall foul of uniform legislation concerns, which have grown in recent years, especially when we have been asked to agree to uniform measures at short notice. That resulted in changing the standing orders of this House. As I said, these Bills resemble uniform legislation. However, they are different in some respects. It would be interesting to have the views of a committee of another place, that long-running, much-travelled Standing Committee on Uniform Legislation and Intergovernmental Agreements. However, that is not available.

Hon Kim Chance: Is jealousy coming through?

Hon MARK NEVILL: I stressed the long-running and much-travelled part.

This Bill is different in that it is ancillary to the policy of the legislation. The policy area of legislation is an area of concern to the Commonwealth. Bank mergers have nothing to do with State legislation; they are the province of the Commonwealth. They are controlled by the Trade Practices Act and the Australian Competition and Consumers Commission, which assesses whether mergers comply with that Act. All other legislation that relates to bank mergers, including the Banking Act, which gives the Treasurer power over mergers, the Banks (Shareholding) Act, which restricts individual shareholders' holdings to 10 per cent of banks, and the Foreign Acquisitions and Takeovers Act, is commonwealth legislation. Therefore, bank mergers have little to do with our legislative responsibility. This Bill merely facilitates that merger by making some arrangements to deal with state stamp duty. Those transfers of accounts could occur without this legislation. It is a slow and time-consuming process.

There are problems with this legislation, which I will discuss later. We have been told in the second reading speech that this Bill is modelled on the New South Wales legislation. We have been told also that two mergers are in progress, the first of which is the National Australia Bank's merger with the Bank of New Zealand. I racked my brain earlier today in an attempt to remember when that occurred. I knew it was some time ago. However, a Treasury officer advised me this evening that it occurred in 1992. Therefore, this merger has been a long time coming and I would be bold enough to say that the National Australia Bank and the Bank of New Zealand have probably dragged their feet in getting the merger to this stage. The merger is not a significant merger in terms of the number of accounts in this State. I am not sure what the figure is.

Hon Max Evans: Six thousand.

Hon MARK NEVILL: That is not a large number of accounts when one compares it with the Westpac-Challenge Bank merger, which involved some 330 000, according to the second reading speech. Obviously that would be a very slow and time consuming task.

The second reading speech also states that there is also an expectation that further bank mergers may occur following the Wallis inquiry. I must tick the Minister off because that part of the speech was written before the Wallis report. I have told other Ministers in this House that if the Bill is amended in the other place, the second reading speech should be rewritten.

Hon Max Evans: It was read on 6 May.

Hon MARK NEVILL: The Minister's staff and the Minister should ensure second reading speeches are brought up to date. The Wallis report is a monstrous tome. I was intrigued to find that I was the first person to take it out of the Parliamentary Library. I thought it would have had many other people's fingerprints on it before mine. It is in pristine condition. The Wallis inquiry recommended that banks could merge with life assurance offices; however, it recommended against the four major banks - the National Australia Bank, the ANZ, Westpac and the Commonwealth Bank - merging. If that is a recommendation of the Wallis inquiry, it is not yet a policy of the Government. The Government is yet to respond to that. However, I would be surprised if the Federal Government allowed those four major banks to merge. I do not believe we will see legislation in this House relating to the merger of the National Bank and the ANZ or Westpac, and certainly we would not see mergers being done by way of regulation. That would be an extremely contentious merger. I think most people would object to that.

The second reading speech also states that bank mergers are on the increase. I do not believe that is true. The second reading speech refers to two mergers, the NAB-Bank of New Zealand merger and the St George-Advance Bank merger. They are in train. The only other regional bank that I know of that has not been taken over is the Bendigo Bank. If mergers will not occur among the four major banks, that is not a valid statement. Basically the scraps are left: The regional banks have gone in all but name. They are allowed to keep their name now only because of a change to banking laws about two years ago. They can have only one licence, but they can trade under different names.

This Bill will overcome the expensive and time consuming documentation associated with the transfer of banking business from one bank to another. This must be done because under the law banks can hold only one licence. This Bill purports to facilitate these mergers without delaying the time of the House. That is a dangerous assumption. Bank mergers will still have to be done separately because they will occur at separate times. If bank mergers are done by regulation, they will be subject to disallowance. There is a different effect of disallowance in this case. If the Government increases by regulation drivers' licence fees, anyone who is due to pay the licence must pay the higher fee. If that increase is later disallowed, the fee will revert to the old licence fee. That is an ongoing stream of events that can be affected by disallowance.

In this case the disallowance may occur after a period in which all the transactions have gone through and when there is none to follow. If all the transactions are completed before the disallowance comes into effect, the disallowance will basically be a Clayton's disallowance; therefore, we could be giving ourselves an illusory power. These regulations must be disallowed within 14 sitting days. If members wanted to do that effectively, they would have to move quickly after the regulations were tabled to thwart a bank transferring the accounts quickly. Facilitating this merger by regulation is an odd way of doing it.

People are sensitive to banks and they are sceptical about how banks operate. Just this week there was a 0.5 per cent decrease in the Reserve Bank rate and that afternoon banks announced varying drops in their housing loan interest rates. However, those rate drops will not come into effect for two months. On the other side of the cycle, when interest rates go up and the Reserve Bank announces an increase, will the banks follow suit by announcing an increase in the bank rate the next day, or will that increase be postponed for two months? One can envisage people getting upset about what banks do with their rates when a merger that could be subject to disallowance is before Parliament.

Another mechanism in this Bill is the use of the legislation of another State. That occurred previously in a fair trading Bill that came before the House. That Bill included model legislation that was introduced in the Queensland Parliament and, as I remember it, legal challenges to that legislation had to be dealt with in Queensland. I do not think cross-vesting powers of the two Supreme Courts were in effect, at least not initially. This House should view that sort of strategy with great concern because it takes matters out of the proper control of this Parliament. I do not believe much time is saved by using this style of Bill to facilitate this legislation. The Government must still draft the regulations. These are not large Bills; they are only two or three pages long. To my knowledge such legislation has not been delayed in either House when previous bank mergers have occurred. I do not believe much time will be saved in the House and in drafting.

I telephoned the National Australia Bank Ltd early yesterday morning to discuss this matter with its legislation people. As late as the close of business today my telephone call had not been returned, which does not impress me. I am not sure how much interest the National Australia Bank has in this legislation. It merged with the Bank of New Zealand five years ago. Two days is ample time to get back to me. I gave the bank the number of my mobile phone, which has a message bank. Plenty of others have been able to get through, so the bank cannot say it was unable to reach me.

Members are debating two Bills, the second of which is the Bank Mergers (Taxing) Bill. Clause 3 of that Bill requires the Treasurer to recover from parties any state taxes and charges that would normally have been forgone by this process. New members might not understand that process. When a tax is imposed, a separate Bill must be introduced and that is why the taxing provisions are included in that Bill.

This Bill has been classified as a class B Bill; therefore, it is contemplated that this Bill can be dealt with by the Standing Committee on Legislation. This Bill has been delayed, as has the Iron and Steel (Mid West) Agreement Bill, by the industrial relations legislation.

Hon N.F. Moore: It certainly can be sent to the Legislation Committee, but your leader indicated to me that it would be passed tonight.

Hon MARK NEVILL: The Leader of the House suggests he has been misled by the Leader of the Opposition.

Hon N.F. Moore: Only if it is not resolved.

Hon MARK NEVILL: I changed my mind about sending this Bill to the Legislation Committee about an hour ago. On doing that I immediately advised the Minister for Finance of my change of mind and the reason for that change. I gave him that courtesy. It was my decision, entrusted to me by Caucus. The Leader of the House may not have been aware that I advised the Minister for Finance of that decision. Hon Norman Moore should not reflect on the Leader of the Opposition in that case because we are living in a new world in this place.

Hon N.F. Moore: It's okay, Mr Nevill, so long as we know that when you tell us what is to happen, it will happen.

The PRESIDENT: Order! Hon Mark Nevill should address the Chair.

Hon MARK NEVILL: My party has always supported -

Hon N.F. Moore: Will you be ringing up the banks to tell them, too?

Hon MARK NEVILL: It is not my job to ring the banks; I have already rung the banks and they did not have the courtesy to return my call!

Hon N.F. Moore: I don't blame them.

Hon MARK NEVILL: To whom shall I talk?

The PRESIDENT: Order! Hon Mark Nevill will address the Chair.

Hon MARK NEVILL: We move for the disallowance of regulations quite frequently to debate an issue, and not necessarily to have the regulations disallowed. On occasions, it would have been quite embarrassing if the opposition members' bluff had been called as we have always worked on the premise that nothing would happen because we did not have the numbers. However, things have changed and we must be careful about what we do now. We cannot just move disallowance to debate a matter as it might actually be disallowed!

Hon Max Evans: Hon Alannah MacTiernan found that out one night.

Hon MARK NEVILL: In current circumstances, we must be more circumspect than we may have been in the past.

I have read section 42 of the Interpretation Act many times over the years, and for some reason my view was that disallowance of regulations applied from the date of original gazettal. However, it is a prospective provision as the regulations cease to have effect on disallowance. Therefore, disallowance on the bank Bills' regulations will not affect any transactions carried out before disallowance takes effect. Also, the Opposition can move disallowance, but the Government decides when the motion is dealt with; it may be dealt with three to six months later if a recess is involved, and that is the main concern.

I am not particularly worried about telling the banks about this move as they can wear the decision of this House. This Bill will affect 6 000 depositors, and referral to a committee will have not have the same effect as delaying a merger Bill with which 330 000 depositors might be involved. These transfers can be conducted manually without this legislation. These two Bills, along with the Kingstream Bill, were held up by passionate debate on the industrial relations Bill, but that was the Government's choice as it manages the business of this House. If some problem is caused by that delay, I do not accept full responsibility for that - although I accept my share. Certainly, the Government's management of business has left a lot to be desired. It can allow the banks to conduct these transfers manually or draft a separate Bill to facilitate the stamp transfers in this merger, and I am sure that such Bill would be dealt with urgently.

The Labor Party has a problem with not the policy of the Bill, but the method of its implementation.

Hon Max Evans: You're pre-empting the committee by saying that you want the Bill redrawn in certain ways.

Hon MARK NEVILL: Not necessarily. I am making suggestions to the Government, which it can discuss with the Legislation Committee if the referral is successful. I believe that Hon Helen Hodgson will move for referral to that committee after the second reading is passed. The Australian Labor Party will support the Bill and its referral to the Legislation Committee.

HON H.M. HODGSON (North Metropolitan) [9.04 pm]: It seems to be a tradition for Democrats to be thrown into weighty matters on the first day that they take their seat. I have looked at the Bank Mergers Bill and the Bank Mergers (Taxing) Bill and the second reading speeches. The policy of the Bill is to facilitate bank mergers, which are matters of Federal Government policy, and Reserve Bank and Australian Competition and Consumers Commission supervision. State responsibility is limited to the commercial issues dealing with the transfer of assets and other matters associated with the change of ownership.

I recognise and appreciate the need for commercial certainty in dealing with these issues, and mechanisms are included in the Bill to deal with contractual issues associated with the merger. The other major issue is the protection of the revenue base; namely, the stamp duty or any other taxes involved. The Democrats agree with the general principles of the Bill, but we have two major concerns about some of the mechanisms to be used to implement this policy. We would like to see the matters debated in more detail.

The first of these concerns is the accountability mechanism. Members have heard my colleague Hon Norm Kelly and I speak tonight on accountability. Therefore, it is interesting that the first Bill to come before us is one which falls short in these areas. The Bill delegates legislative authority from Parliament to regulations, which can be laid before Parliament for disallowance. The sitting timetable, when read against the Interpretation Act, indicates that

we have six sitting days before the regulations are laid before the House - that is two weeks. One has 14 sitting days to move for disallowance, which is at least five weeks, and one must debate the motion within 10 days of its introduction. Therefore, we have 30 sitting days from the time that the regulation is gazetted until disallowance may occur. Essentially, any regulated action will be valid if it is not disallowed in that time. That is a concern for the Democrats.

A date is relevant to bank mergers. The last Bill before the House on such matters was the Westpac Banking Corporation (Challenge Bank) Bill 1996, which contained a commencement date defined by proclamation. It was a specific date. It is conceivable that the date on which these Bills before the House take effect could be within the first six sitting days of the timetable I outlined. Therefore, no opportunity would be available to this House or the other place to exercise their rights to scrutinise the regulations. It is a particular problem with a lengthy recess pending; within a few weeks we will rise for the winter recess, which will extend the time involved over several months.

Orders are also referred to in the Bill, and these are a concern as they cannot be disallowed under the same procedure as regulations. I am pleased to see that the Bill contains a mechanism to apply to orders the same process of disallowance as applies to regulations. This is an excellent idea.

The second concern is the arrangement for the collection of tax. A reason given for introducing this Bill is that it will protect the revenue base. My background in the taxation profession means I am well aware of how important it is to protect the revenue base, and it has given me some ideas about how to provide that protection. I notice that the Bill uses the phrase that the amount payable is to be determined by the Treasurer in accordance with such principles as the Treasurer thinks appropriate. That phrase leaves the matter flexible and open-ended, and an explanation is required on why it needs to be left open-ended. My first reaction is that I would prefer to see parameters in place, such as a requirement that the revenue is at least equal to the amount expected to be received in stamp duty on the transfer. It is well and good to say that the current Treasurer will adopt these principles, but who knows who will occupy the Treasury benches after successive elections - who knows, we may see Democrats on those benches one day! It is important that there be parameters in the legislation allowing the Treasurer to apply those principles in reaching that determination.

The Democrats agree with the principle and policy of the Bill, but these issues cannot be resolved tonight. I foreshadow that I will move to refer this matter to the Standing Committee on Legislation for urgent consideration. In view of the urgency with which the Government has said it wants this Bill to pass, I am happy to make that a very urgent review.

Hon Derrick Tomlinson: How long is that?

Hon H.M. HODGSON: The proposal is that the committee report back by 11 June, which might require extra meetings.

HON J.A. SCOTT (South Metropolitan) [9.12 pm]: Mr President, I also congratulate you on your success in achieving the Presidency of this House. Having seen you in other roles, I have great respect for your ability and I am sure you will do a wonderful job in keeping this House in check.

I support the position put by Hon Helen Hodgson. From a philosophical point of view, I am concerned when this House considers Bills that could become template legislation. Such legislation must be very carefully considered in case there is an error because, if there is, it could be very costly.

Hon Mark Nevill has pointed out already that the regulation process can be more time consuming than going through the normal process of debating Bills. After all, bank mergers do not happen every day of the week. Of course, such legislation can be amended later, but it would be much better if we were to get it right the first time.

While the method described might make the process simpler and speedier, which is debatable, the community expects this new House to ensure it is not handing its powers over to the Executive without ensuring that the proper checks and balances are in place.

I have looked at a number of provisions in this Bill, some of which deal with the existing or pending legal proceedings that might be the subject of regulations. There could be a problem if those regulations were challenged in the courts by people with large amounts of money, such as banks, especially if those legal challenges must be sorted out in other States, where we have little control over what happens.

Some other regulations concern me, not just those relating to the legal proceedings but also those dealing with employment, superannuation and related rights of the staff of banks. I would hate to see such related rights disappear because this House did not consider legislation properly. I want to ensure that those rights are safeguarded. I will support the motion moved by Hon Helen Hodgson when it is put at the end of the second reading stage.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.15 pm]: I was pleased with the support I appeared to be getting from Hon Mark Nevill when he said the Opposition supported the legislation, but he quickly moved away from that. If members opposite talk about defeating this legislation, they should remember that the previous two Bills should have been defeated. There was only one Bill; as the then President pointed out, we did not have a separate taxing Bill. Everyone else appeared to have overlooked that. In hindsight, there was a very good reason for that legislation to go to the Standing Committee on Legislation. However, it has since been sorted out.

Hon Mark Nevill referred to the Wallis report. I thought it came out after 6 May and my second reading speech in this House. There has been time to consider it. I confirm that Hon Mark Nevill discussed this with me tonight. It is the Opposition's right to disagree with what is going on.

This is probably the simplest piece of legislation that I will introduce in this House. The bank merger has been approved. Hon Mark Nevill pointed out that the merger of the National Australia Bank and the Bank of New Zealand started five years ago. A few years ago we dealt with the merger of the Australian and New Zealand Banking Group and the Town and Country Bank, which took about four years to complete. The Reserve Bank seems to create time delays and we are required to pass the enabling legislation in the last month or so before the time limit runs out. The Westpac-Challenge merger was expedited because Tony Howath went ahead and did what needed to be done and brought it in well ahead of schedule. Those involved in the Eastern States forget about what is happening here. I remember Ray Turner, the CEO of Town and Country Bank, sitting in the gallery waiting to see the enabling legislation pass on 29 or 30 June. When these mergers happen, the banks end up with only one banking licence and many assets in the old bank. In this case, the two groups have 330 000 deposit accounts and 83 000 loan accounts. The deposit accounts are easily dealt with, but the loan accounts involve mortgages, stamp duty and so on. This legislation is simply about facilitating the transfer of assets by banks doing a deal approved by the Federal Government. The State does not suffer any loss of stamp duty or tax.

Hon Helen Hodgson referred to the Treasurer's role. The Treasurer works through Treasury. We cannot say that the total value of the assets is umpteen billion dollars and tax that amount; each amount must be considered separately according to scales. Treasury must simply approve the method.

Members also referred to accountability. This legislation simply expedites what will happen. The big issue is whether there will be any more transfers. Who knows? The Government is trying to reduce the number of Bills introduced into this House.

Reference was also made to the regulations being disallowed. I do not know why anyone would want to do that. After all, this is simply a mechanism for people to do something they will do anyway. Mention was made of the Standing Committee on Legislation's wanting to see the Bills redrafted specifically for the National Australia Bank and the Bank of New Zealand. As that is the case, I am not quite certain of the mechanics. There is a certain protocol. It has to go to Cabinet to be approved. It could be printed in a couple of weeks. It will not be that quick because there is no way in which one can beat the process. We will look at the position as it emerges. The cost in man hours will be far greater to the State Revenue Department than it ever will be to the banks. They have 6 000 transfers which they will give to State Revenue, which will assess the stamp duty. That will be a longer process than that carried out by the Treasury.

Hon Mark Nevill: Is there provision in the Bill to compensate State Revenue for the work?

Hon MAX EVANS: That comes out under costs, but the department could not pick it up as extra costs. Delegated legislation would not allow that. It would say, "You cannot charge extra costs there for labour otherwise you are raising a tax." Therefore, I do not think we will recover the extra costs. All we will have is stamp duty. I imagine that State Revenue will take some time to work through 6 000 documents. Therefore, we will have X amount of dollars, less my overtime, because I do not think I can charge for it.

I regret that the Opposition feels strongly about this legislation, because there are many more meaningful things it might want to send to the Legislation Committee than this. These Bills are among the simplest pieces of legislation. As Hon Mark Nevill has mentioned, as most of the documents have gone through, we cannot unscramble the eggs. That is what the legislation is all about. It has been split from one Bill for two bank mergers to two Bills, which is the right way to do it. We are doing it this way, even though the former President has left. He quite rightly did not like the previous Bill. We have put it right for him, and I hope he knows about this before he leaves the country. We will not agree to the Bills going to the Legislation Committee. We believe that this is simple legislation. We should just get on with it, pass it and help the banks do their business. I commend the Bill to the House.

Question put and passed.

Bills read a second time.

Referral to Standing Committee on Legislation

HON H.M. HODGSON (North Metropolitan) [9.24 pm]: I move -

That the Bank Mergers Bill and the Bank Mergers (Taxing) Bill be referred to the Standing Committee on Legislation and the committee report the Bills to the House not later than Wednesday, 11 June 1997.

I have already covered most of the reasons that I believe these Bills need to be discussed in more detail. The intention is not simply to slow down the processes and attack the efficient workings of the legislation. Some matters genuinely need to be discussed. They can be discussed quickly with the aid of people experienced in the area. The Legislation Committee is the appropriate place in which to do this. If the Bills classification committee had reviewed this Bill, I hope that it would have come to the same conclusion.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.25 pm]: As I have said, the Government does not support this motion. We believe this is simple legislation; it is well designed and well drafted as a simple mechanism for this bank merger. There may or may not be a third bank merger. Hon Mark Nevill has said that the legislation has been dealt with in this way to reduce the work of the House. We would like to see it get through so that the bank can wind up its business for this year. I presume that the other later merger involving the St George Bank and Advance Bank Australia Ltd, which may be in October or November of this year, would go through very simply. We do not support the motion.

HON J.A. SCOTT (South Metropolitan) [9.26 pm]: I certainly agree with the motion put by Hon Helen Hodgson. The very fact that this type of legislation will be used for successive mergers is all the more reason why it should be very tight, and properly scrutinised. I support the motion.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.27 pm]: Hon Mark Nevill said during his comments earlier this evening that times have changed, and he is quite right. Some things should not change; that is, when we have an agreement in place it should remain in place and we should not be left at the end of a period of agreement finding that the agreement does not stand. I make that comment quickly to indicate that I was led to believe that this legislation would be passed tonight by this Council. Because of that I was happy to organise the program today to ensure that new members had time in which to make their maiden speeches and that we did not take up the time of the House debating other issues.

I am the first to acknowledge that for a variety of reasons some rush is attached to these Bills. In the current context the main one is the need of the banks to have this legislation passed.

Hon Mark Nevill: They have waited five years; they can wait another month.

Hon N.F. MOORE: That is fine. I suggest that the member not tell me that but say to the banks which are waiting for this legislation that he has made that decision. There will be occasions in the future when members on the other side of the House seek to get the pleasure of making decisions which mean that this Government will lose votes and those decisions will affect somebody else outside this Chamber. This legislation does not affect the Government and is nothing at all to do with the Government. We are seeking to facilitate a commercial arrangement. If the Opposition, for reasons best known to itself, wants to use its numbers on this occasion - and I suspect we are about to encounter an historical moment - to delay the passage of this legislation, it is up to members opposite to decide.

Hon Mark Nevill: This could have been dealt with two months ago.

The PRESIDENT: Order!

Hon N.F. MOORE: There is some urgency attached to this legislation, which I have explained.

Hon N.D. Griffiths: We dealt with the labour relations legislation.

Hon N.F. MOORE: The labour relations legislation took three weeks of the time of this House.

Several members interjected.

The PRESIDENT: Order!

Hon N.F. MOORE: Members opposite talked and talked until I could not believe they could talk any more. A member in this House spoke for eight hours on one Bill and did not say anything of any consequence in all that time. He would deny 10 000 other people the chance to say a word. To suggest that somehow or other we are wasting the time of the House is absolute nonsense. We had three weeks of time wasting. To say that the industrial relations legislation and our attitude to it has led to a delay with this legislation is nonsense. We could have dealt with it a long time ago.

I was led to understand certain things would happen with this legislation and now they will not happen, as I understand the position of the Labor Party. It is disappointing because I made arrangements on the basis of that understanding. I will no doubt be told shortly by the Leader of the Opposition that I misunderstood what he said. He can say that, but all that means is that from now on every time we communicate, it will have to be in writing, signed and witnessed by 17 witnesses, so that there can be no argument further down the track. The Government is trying to facilitate a commercial arrangement between the banks. I can think of no reason why sending these Bills to the Legislation Committee will make them any better, within the period of time members opposite propose to look at them. We could easily have spent today debating these Bills at length during a Committee of the Whole House, so that all members could have a say about them and perhaps resolve any problems they might feel that only the Legislation Committee could deal with. However, the Leader of the Opposition did not ask for that. He did not suggest until the last minute that it would go to the Legislation Committee.

It is handy to talk about cooperation. Today I listened to maiden speeches that referred to cooperation and getting together to make things better and being one big happy family. We can be a big happy family only if we know what everybody else is doing. However, if the person who is trying to organise the program is the last to know what is occurring and members opposite renege on arrangements that have been put in place, it is difficult to be cooperative and act as one big happy family.

Hon Mark Nevill: We had to cooperate with every whim of yours for 10 years.

Hon N.F. MOORE: That is not true. However, I do not propose to argue with Hon Mark Nevill on that level, because that would be counterproductive. The Government does not believe it is necessary to refer this Bill to the Legislation Committee. The Government will be happy on future occasions for that to happen. The Bills committee gave this Bill a category B classification today on the basis, as I explained to the Leader of the Opposition, that it would be dealt with tonight and concluded. It would not have made any difference whether it was categorised as A, B or C, because that was my understanding of the situation.

Hon Bob Thomas: We did not know.

Hon N.F. MOORE: The Leader of the Opposition did not put me out of my misery at that time. I wish he had, because we could have made other arrangements for the business of the House for the rest of the day. The B category means that the Bill may go to the Legislation Committee.

Hon Mark Nevill: I advised my leader at eight o'clock that I had changed my mind.

The PRESIDENT: Order! I ask Hon Mark Nevill to cease interjecting.

Hon N.F. MOORE: I acknowledge that Hon Mark Nevill and the Leader of the Opposition are entitled to change their minds, and I accept that it will happen frequently in the future. However, if this House is to operate in a reasonably effective way, arrangements between the various parties should at least last for more than five minutes.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [9.31 pm]: The Opposition agrees with much that the Leader of the Government has said, some of which has been said already. From the brief opportunity I had to listen to the contributions made by other members from this side of the House, and specifically a brief discussion with the leader of the Democrats, Hon Helen Hodgson, I understand that we agree that this legislation should be dealt with expeditiously. I am pleased to see that the motion before the House will ensure that happens. It is proposed to refer the Bill to the Legislation Committee, and it must be back in the House on Wednesday, 11 June, effectively two sitting days. It will be in this place, not the next time we meet as a House, but the day after.

As the Government knows, on behalf of members of the state Parliamentary Labor Party in this place, I have offered it the opportunity to meet tomorrow, the next day, the day after, or next week if the Government's legislative program requires it. We have been told that the Government does not want to avail itself of that offer.

Hon N.F. Moore: We have already organised the Estimates Committees for the next three days.

Hon N.D. Griffiths: They can be shifted.

Hon N.F. Moore: Had I tried to shift them without your agreement, I know what you would have said. Come on, get off the grass.

Hon TOM STEPHENS: I indicated to the government leader that if he was of a mind there was nothing to stop those opportunities being explored. The opposition parties, in particular the state Parliamentary Labor Party, know the temptations with which we are dealing here. We know the great risks involved in being tempted to respond to the way we have been dealt with for year after year. We will resist vigorously that temptation.

Hon E.J. Charlton: Arrangements have always been put in place.

Hon B.K. Donaldson: It is retaliation and revenge.

Hon TOM STEPHENS: Hon Bruce Donaldson is wrong.

Hon B.K. Donaldson: The Leader of the Opposition said it.

Hon Bob Thomas: Hon Bruce Donaldson can talk to his leader about that.

The PRESIDENT: If the Leader of the Opposition addresses his comments to me there will not be any interjections at all.

Hon TOM STEPHENS: I want to disabuse any member on the other side of the House of any suggestion that this is simply a response to years and years of conditioning that has gone on in this House in the way business has been done with the non-conservative parties, and the way that the Labor Party has been dealt with year in and year out. We will resist that temptation. The motion before the House proposes that a specific Bill be referred to the Legislation Committee, be dealt with in double quick time and be back on the floor of the House for its passage to be completed at almost the earliest opportunity - the day after the earliest opportunity. The Leader of the Government indicated that he had been misled. This is not an accurate portrayal of the situation.

Hon N.F. Moore: It is an accurate portrayal of my understanding of the situation. We will get everything in writing now.

Hon TOM STEPHENS: The Leader of the Government allowed himself to mislead himself.

Hon E.J. Charlton: He believed you.

Hon N.F. Moore: I took your word on things, Mr Stephens. I have learnt.

Hon TOM STEPHENS: The Leader of the House may have deliberately misled himself.

The PRESIDENT: I ask the Leader of the Opposition to direct his comments to the Chair.

Hon TOM STEPHENS: Mr President, the Leader of the Government convinced himself that my statement that this legislation would be brought to resolution tonight - I was speaking on behalf of the state Parliamentary Labor Party - would guarantee that this legislation was passed tonight.

Hon N.F. Moore: So that means the Legislation Committee?

Hon TOM STEPHENS: No. I did not know whether a motion would be moved. I want to tell the Leader of the House that the Leader of the Democrats has regularly told me that she will not be treated as some sort of fourth faction of the Labor Party. She had not told me what she would do.

Hon N.F. Moore: This is the tail wagging the dog, by the sound of it.

Hon E.J. Charlton: You are running along like a lamb.

Hon N.F. Moore: This is what happened in the Senate. You became completely irrelevant. You are irrelevant, Mr Stephens.

Hon TOM STEPHENS: I will tell members the chain of events, so that everybody understands the way it works. When I was listening to Hon Ljiljana Ravlich earlier this evening at about eight o'clock I thought I had better write a note to Hon Mark Nevill. I am sure someone has that note as verification of what I said.

The PRESIDENT: Order! Let us address the motion before the Chair.

Hon TOM STEPHENS: Hon Helen Hodgson will find this educative as well. I said in a note to my colleague Hon Mark Nevill, who has responsibility for this legislation, that I thought there was a possibility that the Democrats might choose to send this legislation off to the Legislation Committee, and the Labor Party should be prepared to consider where it was if that were to happen. After some consideration my colleague sent me a note. I hope he does not mind my reading the note to the House.

Hon Mark Nevill: Go for your life.

Hon TOM STEPHENS: The note states -

Tom,

We will support the Bank Merger Bill going to the Legislation Committee.

Mark.

He has responsibility for the handling of that legislation. That is the first that I knew of it.

Hon E.J. Charlton: You lost control of him as well.

Hon TOM STEPHENS: Hon Mark Nevill has responsibility for handling that legislation.

Hon E.J. Charlton: You are the leader.

Hon TOM STEPHENS: I am a cooperative leader for a range of reasons, Mr Charlton.

The PRESIDENT: The Leader of the Opposition can be cooperative if he addresses me and tries to avoid interjections.

Hon TOM STEPHENS: So that members opposite and colleagues on this side of the House who are not in the Labor Party understand the process, I felt it necessary to write another note to my colleague. That note said that I thought he should check with the Leader of the Opposition, Dr Geoff Gallop, and with Hon Max Evans to ascertain their attitude. I then received a note, and I ask Hon Mark Nevill whether I can reveal what Hon Max Evans said.

Hon Mark Nevill: The Democrats and the Greens (WA) will find out I have a mind of my own.

Hon TOM STEPHENS: Hon Mark Nevill does have a mind of his own. The note said that Dr Gallop said okay. Can I reveal what Hon Max Evans said?

Hon Max Evans: You can say what you want to.

Hon TOM STEPHENS: The message was that Hon Max Evans was not fussed about it.

Hon Max Evans: We can't stop you from saying anything.

Hon Mark Nevill: They are Democrats and you are an autocrat, Minister.

Hon TOM STEPHENS: Members of the Labor Party will always be open to listening to the argument. On this occasion it has done that. It was prepared to find out what was proposed in the motion in case it was moved. I did not know at three o'clock this afternoon what would happen about the handling of this legislation. I was not told.

Hon N.F. Moore: Let us work on the basis that we made no arrangement.

Hon TOM STEPHENS: It is important for members to know what happened at three o'clock this afternoon. This legislation was given classification B. Sessional Order No 5(3)(b) reads -

class B means a bill that may pass unamended or unopposed but which appears to require some consideration whether in a committee of the whole House or a standing committee;
This Bill was given that classification -

Hon N.F. Moore: On the basis it would be passed today.

Hon H.M. Hodgson: I did not have the opportunity to consult with you.

Hon TOM STEPHENS: I did not have the opportunity to consult with the Leader of the Democrats. It is one of the difficulties of the classifications committee we will have to address. Nonetheless, it was given classification B and it enabled the Leader of the Democrats to do exactly what she did; that is, to move a motion to refer the legislation to a standing committee for consideration. It is not of great moment; it is something which happened -

Hon Mark Nevill: Because I changed my mind.

Several members interjected.

Hon TOM STEPHENS: I assure every member in this House that I will not mislead anyone. Members should listen to what I say.

Hon N.F. Moore: I don't want to listen to you; I want you to write it down.

The PRESIDENT: Order! I ask the Leader of the Opposition to address me. He appears to be concluding his comments.

Hon TOM STEPHENS: I am doing that, Mr President. I will not mislead anybody with reference to any of the undertakings I give. When I used the word "resolution" I did so because I was not sure in what form the motion would be put to the House. I suspected a motion would be moved and that it would fall within classification B. However, I did not know what would happen until later this evening. In that circumstance, I have a clear conscience

that I did not set out to mislead the Leader of the House. However, he has a mind set; that is, whatever the conservative party believes should happen to legislation, should happen. That is what has happened in the past.

Hon N.F. Moore: If you said that it would go to a committee for consideration, that would have been the end of it.

Hon TOM STEPHENS: I do not need to add anything more. No attempt was made to mislead the Government and no attempt will be made in the future by me to mislead the Government. I am urged on by all my colleagues in reference to that.

Hon N.F. Moore: Let me say we believed them on face value.

Hon TOM STEPHENS: I support the motion moved by the Leader of the Democrats and seconded by my colleague, Hon Mark Nevill.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [9.45 pm]: It is worth noting that it is only a few hours since this historic Legislative Council met. I have listened to every speech and every maiden speech with great interest.

I support the Government's position that the legislation should not be referred to a committee for further consideration. I listened with interest to the Leader of the Opposition say that he will not mislead. I think he should also have said that he will not lead. It is the position in which the Leader of the Opposition finds himself. It has taken only a few minutes into the deliberations of this new Legislative Council for that to happen.

Earlier today I had the privilege of representing the Leader of the House at the gathering outside Parliament House. Like all members who have been in this place for some time I look back on all the good and bad things that have happened. I am a great believer that when one is presented with an opportunity to do something which has not been or could not be done before, one is also confronted with increased responsibility. We cannot have one without the other. This is not the end of the world. All members are in good humour and are accepting the situation. Members have a right to put their point of view.

The Leader of the House and the Leader of the Opposition reach agreement on how the business of this House should proceed. The Leader of the House, in addition to being the Leader of the Government in this place, has always cooperated with the Opposition and he will continue to cooperate with the Labor Opposition, the Democrats and the Greens (WA). He will try to accommodate the wishes of all parties and, if it is necessary, he will delay debate on legislation for a day or a week if they are not ready to deal with it. He will arrange, if necessary, briefings on the legislation. The same consideration was given when the coalition parties were in opposition. They always did their best to ensure the movement of legislation through the Parliament and to cooperate with the then Government.

When members reflect on what happened on the first day of the new Legislative Council they will say it is the day on which the Leader of the Opposition said that this simple piece of legislation would be passed.

Several members interjected.

Hon Kim Chance: We will remember the last day of the last regime.

Hon E.J. CHARLTON: All of a sudden he found that the 12 members of the Labor Party were being directed from the rear. It reminds me of a cap with two peaks which has written on it, "Follow me, I am the leader." I will bring the cap with me tomorrow to show Hon Tom Stephens. This motion, if it is passed, will delay the passage of this legislation by a fortnight, not one day as the Leader of the Opposition advised members of the House. I said to the people who were gathered outside Parliament House today that when I first came into this place and I was tested -

Hon N.D. Griffiths interjected.

Hon E.J. CHARLTON: Hon Nick Griffiths would not understand because he was not here at the time. At that stage there were three National Party members -

Hon W.N. Stretch: Four.

Hon E.J. CHARLTON: There were four, if the member wants to throw in the country member of the Liberal Party as well. Things have changed. Hon Mark Nevill is stuck in the Labor Party, which is dominated by a terrible group of people.

Hon Mark Nevill: I am dominated so much I will change the Bill tonight.

The PRESIDENT: Order! If the Minister addresses his comments to me, there will not be a need for interjections.

Hon E.J. CHARLTON: I look forward to seeing what will happen in the future. It is worth recording that this is how opposition members choose to treat the first piece of legislation that they have the opportunity to debate. We would all do well to reflect on this exercise.

HON NORM KELLY (East Metropolitan) [9.50 pm]: It is good to hear members referring to the history of this occasion. I am sure that it will take some time for the five parties to work in harmony on these sorts of Bills.

I wish to clarify a couple of points. Hon Eric Charlton said that we had received briefings from the department. It was only yesterday that Hon Helen Hodgson and I were offered a briefing. Hon Helen Hodgson received that briefing today. Therefore, it was not until today that we were made aware of some of the ramifications of this legislation. Because of our concerns about certain clauses of the Bill, particularly clause 18, it is understandable that we wish to see it referred to a committee for clarification.

The Minister for Finance referred to the need to expedite business. However, expedition of business should not override accountability measures. The Democrats will push consistently to ensure that these considerations are not overridden, and that accountability measures are placed in legislation.

As much as the Democrats will be working with the other four parties in the Chamber, it is necessary to make it clear that our decisions will be made independently of other parties. We will decide on legislation on a Bill by Bill basis.

Question put and a division taken with the following result -

Ayes (16)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport
Hon E.R.J. Dermer
Hon N.D. Griffiths
Hon John Halden

Hon H.M. Hodgson
Hon Norm. Kelly
Hon Mark Nevill
Hon L. Ravlich
Hon J.A. Scott

Hon C. Sharp
Hon Tom Stephens
Hon K.D.E. Travers
Hon Giz Watson
Hon Bob Thomas (*Teller*)

Noes (14)

Hon E.J. Charlton
Hon M.J. Criddle
Hon B.K. Donaldson
Hon Max Evans
Hon Barry House

Hon Murray Montgomery
Hon N.F. Moore
Hon M.D. Nixon
Hon S.M. O'Brien
Hon B.M. Scott

Hon G.D. Smith
Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Pair

Hon Tom Helm

Hon Peter Foss

Question thus passed.

BANK MERGERS (TAXING) BILL

Hon N.F. Moore (Leader of the House) advised the House that the Bills committee had assigned category B to the Bills.

Cognate Debate

On motion by Hon Max Evans (Minister for Finance), resolved -

That leave be granted for a cognate debate on the Bank Mergers Bill and the Bank Mergers (Taxing) Bill.

Second Reading

Resumed from 6 May.

HON MARK NEVILL (Mining and Pastoral) [8.42 pm]: I begin by complimenting you on your election, Mr President. It is hard to get used to seeing you in the Chair. I expect to see Hon Clive Griffiths walk around the corner and take his place at any moment. I have to get accustomed to seeing you in the Chair. You are assured of my cooperation in your running of the House over the coming years.

The Opposition supports the two Bills that we are debating cognately. While am intrigued by the logic and the form of these Bills, I have no quarrel with their content. The Bills establish a framework which will facilitate bank mergers and allow them to be dealt with by a number of means, including by regulation, by adopting the relevant law of another State or Territory, or by a combination of both of those means. We have been told that the New South Wales Parliament last year enacted legislation similar to this Bill.

This sort of legislation would normally fall foul of uniform legislation concerns, which have grown in recent years, especially when we have been asked to agree to uniform measures at short notice. That resulted in changing the standing orders of this House. As I said, these Bills resemble uniform legislation. However, they are different in some respects. It would be interesting to have the views of a committee of another place, that long-running, much-travelled Standing Committee on Uniform Legislation and Intergovernmental Agreements. However, that is not available.

Hon Kim Chance: Is jealousy coming through?

Hon MARK NEVILL: I stressed the long-running and much-travelled part.

This Bill is different in that it is ancillary to the policy of the legislation. The policy area of legislation is an area of concern to the Commonwealth. Bank mergers have nothing to do with State legislation; they are the province of the Commonwealth. They are controlled by the Trade Practices Act and the Australian Competition and Consumers Commission, which assesses whether mergers comply with that Act. All other legislation that relates to bank mergers, including the Banking Act, which gives the Treasurer power over mergers, the Banks (Shareholding) Act, which restricts individual shareholders' holdings to 10 per cent of banks, and the Foreign Acquisitions and Takeovers Act, is commonwealth legislation. Therefore, bank mergers have little to do with our legislative responsibility. This Bill merely facilitates that merger by making some arrangements to deal with state stamp duty. Those transfers of accounts could occur without this legislation. It is a slow and time-consuming process.

There are problems with this legislation, which I will discuss later. We have been told in the second reading speech that this Bill is modelled on the New South Wales legislation. We have been told also that two mergers are in progress, the first of which is the National Australia Bank's merger with the Bank of New Zealand. I racked my brain earlier today in an attempt to remember when that occurred. I knew it was some time ago. However, a Treasury officer advised me this evening that it occurred in 1992. Therefore, this merger has been a long time coming and I would be bold enough to say that the National Australia Bank and the Bank of New Zealand have probably dragged their feet in getting the merger to this stage. The merger is not a significant merger in terms of the number of accounts in this State. I am not sure what the figure is.

Hon Max Evans: Six thousand.

Hon MARK NEVILL: That is not a large number of accounts when one compares it with the Westpac-Challenge Bank merger, which involved some 330 000, according to the second reading speech. Obviously that would be a very slow and time consuming task.

The second reading speech also states that there is also an expectation that further bank mergers may occur following the Wallis inquiry. I must tick the Minister off because that part of the speech was written before the Wallis report. I have told other Ministers in this House that if the Bill is amended in the other place, the second reading speech should be rewritten.

Hon Max Evans: It was read on 6 May.

Hon MARK NEVILL: The Minister's staff and the Minister should ensure second reading speeches are brought up to date. The Wallis report is a monstrous tome. I was intrigued to find that I was the first person to take it out of the Parliamentary Library. I thought it would have had many other people's fingerprints on it before mine. It is in pristine condition. The Wallis inquiry recommended that banks could merge with life assurance offices; however, it recommended against the four major banks - the National Australia Bank, the ANZ, Westpac and the Commonwealth Bank - merging. If that is a recommendation of the Wallis inquiry, it is not yet a policy of the Government. The Government is yet to respond to that. However, I would be surprised if the Federal Government allowed those four major banks to merge. I do not believe we will see legislation in this House relating to the merger of the National Bank and the ANZ or Westpac, and certainly we would not see mergers being done by way of regulation. That would be an extremely contentious merger. I think most people would object to that.

The second reading speech also states that bank mergers are on the increase. I do not believe that is true. The second reading speech refers to two mergers, the NAB-Bank of New Zealand merger and the St George-Advance Bank merger. They are in train. The only other regional bank that I know of that has not been taken over is the Bendigo Bank. If mergers will not occur among the four major banks, that is not a valid statement. Basically the scraps are left: The regional banks have gone in all but name. They are allowed to keep their name now only because of a change to banking laws about two years ago. They can have only one licence, but they can trade under different names.

This Bill will overcome the expensive and time consuming documentation associated with the transfer of banking business from one bank to another. This must be done because under the law banks can hold only one licence. This Bill purports to facilitate these mergers without delaying the time of the House. That is a dangerous assumption. Bank mergers will still have to be done separately because they will occur at separate times. If bank mergers are done by regulation, they will be subject to disallowance. There is a different effect of disallowance in this case. If the Government increases by regulation drivers' licence fees, anyone who is due to pay the licence must pay the higher fee. If that increase is later disallowed, the fee will revert to the old licence fee. That is an ongoing stream of events that can be affected by disallowance.

In this case the disallowance may occur after a period in which all the transactions have gone through and when there is none to follow. If all the transactions are completed before the disallowance comes into effect, the disallowance will basically be a Clayton's disallowance; therefore, we could be giving ourselves an illusory power. These regulations must be disallowed within 14 sitting days. If members wanted to do that effectively, they would have to move quickly after the regulations were tabled to thwart a bank transferring the accounts quickly. Facilitating this merger by regulation is an odd way of doing it.

People are sensitive to banks and they are sceptical about how banks operate. Just this week there was a 0.5 per cent decrease in the Reserve Bank rate and that afternoon banks announced varying drops in their housing loan interest rates. However, those rate drops will not come into effect for two months. On the other side of the cycle, when interest rates go up and the Reserve Bank announces an increase, will the banks follow suit by announcing an increase in the bank rate the next day, or will that increase be postponed for two months? One can envisage people getting upset about what banks do with their rates when a merger that could be subject to disallowance is before Parliament.

Another mechanism in this Bill is the use of the legislation of another State. That occurred previously in a fair trading Bill that came before the House. That Bill included model legislation that was introduced in the Queensland Parliament and, as I remember it, legal challenges to that legislation had to be dealt with in Queensland. I do not think cross-vesting powers of the two Supreme Courts were in effect, at least not initially. This House should view that sort of strategy with great concern because it takes matters out of the proper control of this Parliament. I do not believe much time is saved by using this style of Bill to facilitate this legislation. The Government must still draft the regulations. These are not large Bills; they are only two or three pages long. To my knowledge such legislation has not been delayed in either House when previous bank mergers have occurred. I do not believe much time will be saved in the House and in drafting.

I telephoned the National Australia Bank Ltd early yesterday morning to discuss this matter with its legislation people. As late as the close of business today my telephone call had not been returned, which does not impress me. I am not sure how much interest the National Australia Bank has in this legislation. It merged with the Bank of New Zealand five years ago. Two days is ample time to get back to me. I gave the bank the number of my mobile phone, which has a message bank. Plenty of others have been able to get through, so the bank cannot say it was unable to reach me.

Members are debating two Bills, the second of which is the Bank Mergers (Taxing) Bill. Clause 3 of that Bill requires the Treasurer to recover from parties any state taxes and charges that would normally have been forgone by this process. New members might not understand that process. When a tax is imposed, a separate Bill must be introduced and that is why the taxing provisions are included in that Bill.

This Bill has been classified as a class B Bill; therefore, it is contemplated that this Bill can be dealt with by the Standing Committee on Legislation. This Bill has been delayed, as has the Iron and Steel (Mid West) Agreement Bill, by the industrial relations legislation.

Hon N.F. Moore: It certainly can be sent to the Legislation Committee, but your leader indicated to me that it would be passed tonight.

Hon MARK NEVILL: The Leader of the House suggests he has been misled by the Leader of the Opposition.

Hon N.F. Moore: Only if it is not resolved.

Hon MARK NEVILL: I changed my mind about sending this Bill to the Legislation Committee about an hour ago. On doing that I immediately advised the Minister for Finance of my change of mind and the reason for that change. I gave him that courtesy. It was my decision, entrusted to me by Caucus. The Leader of the House may not have been aware that I advised the Minister for Finance of that decision. Hon Norman Moore should not reflect on the Leader of the Opposition in that case because we are living in a new world in this place.

Hon N.F. Moore: It's okay, Mr Nevill, so long as we know that when you tell us what is to happen, it will happen.

The PRESIDENT: Order! Hon Mark Nevill should address the Chair.

Hon MARK NEVILL: My party has always supported -

Hon N.F. Moore: Will you be ringing up the banks to tell them, too?

Hon MARK NEVILL: It is not my job to ring the banks; I have already rung the banks and they did not have the courtesy to return my call!

Hon N.F. Moore: I don't blame them.

Hon MARK NEVILL: To whom shall I talk?

The PRESIDENT: Order! Hon Mark Nevill will address the Chair.

Hon MARK NEVILL: We move for the disallowance of regulations quite frequently to debate an issue, and not necessarily to have the regulations disallowed. On occasions, it would have been quite embarrassing if the opposition members' bluff had been called as we have always worked on the premise that nothing would happen because we did not have the numbers. However, things have changed and we must be careful about what we do now. We cannot just move disallowance to debate a matter as it might actually be disallowed!

Hon Max Evans: Hon Alannah MacTiernan found that out one night.

Hon MARK NEVILL: In current circumstances, we must be more circumspect than we may have been in the past.

I have read section 42 of the Interpretation Act many times over the years, and for some reason my view was that disallowance of regulations applied from the date of original gazettal. However, it is a prospective provision as the regulations cease to have effect on disallowance. Therefore, disallowance on the bank Bills' regulations will not affect any transactions carried out before disallowance takes effect. Also, the Opposition can move disallowance, but the Government decides when the motion is dealt with; it may be dealt with three to six months later if a recess is involved, and that is the main concern.

I am not particularly worried about telling the banks about this move as they can wear the decision of this House. This Bill will affect 6 000 depositors, and referral to a committee will have not have the same effect as delaying a merger Bill with which 330 000 depositors might be involved. These transfers can be conducted manually without this legislation. These two Bills, along with the Kingstream Bill, were held up by passionate debate on the industrial relations Bill, but that was the Government's choice as it manages the business of this House. If some problem is caused by that delay, I do not accept full responsibility for that - although I accept my share. Certainly, the Government's management of business has left a lot to be desired. It can allow the banks to conduct these transfers manually or draft a separate Bill to facilitate the stamp transfers in this merger, and I am sure that such Bill would be dealt with urgently.

The Labor Party has a problem with not the policy of the Bill, but the method of its implementation.

Hon Max Evans: You're pre-empting the committee by saying that you want the Bill redrawn in certain ways.

Hon MARK NEVILL: Not necessarily. I am making suggestions to the Government, which it can discuss with the Legislation Committee if the referral is successful. I believe that Hon Helen Hodgson will move for referral to that committee after the second reading is passed. The Australian Labor Party will support the Bill and its referral to the Legislation Committee.

HON H.M. HODGSON (North Metropolitan) [9.04 pm]: It seems to be a tradition for Democrats to be thrown into weighty matters on the first day that they take their seat. I have looked at the Bank Mergers Bill and the Bank Mergers (Taxing) Bill and the second reading speeches. The policy of the Bill is to facilitate bank mergers, which are matters of Federal Government policy, and Reserve Bank and Australian Competition and Consumers Commission supervision. State responsibility is limited to the commercial issues dealing with the transfer of assets and other matters associated with the change of ownership.

I recognise and appreciate the need for commercial certainty in dealing with these issues, and mechanisms are included in the Bill to deal with contractual issues associated with the merger. The other major issue is the protection of the revenue base; namely, the stamp duty or any other taxes involved. The Democrats agree with the general principles of the Bill, but we have two major concerns about some of the mechanisms to be used to implement this policy. We would like to see the matters debated in more detail.

The first of these concerns is the accountability mechanism. Members have heard my colleague Hon Norm Kelly and I speak tonight on accountability. Therefore, it is interesting that the first Bill to come before us is one which falls short in these areas. The Bill delegates legislative authority from Parliament to regulations, which can be laid before Parliament for disallowance. The sitting timetable, when read against the Interpretation Act, indicates that

we have six sitting days before the regulations are laid before the House - that is two weeks. One has 14 sitting days to move for disallowance, which is at least five weeks, and one must debate the motion within 10 days of its introduction. Therefore, we have 30 sitting days from the time that the regulation is gazetted until disallowance may occur. Essentially, any regulated action will be valid if it is not disallowed in that time. That is a concern for the Democrats.

A date is relevant to bank mergers. The last Bill before the House on such matters was the Westpac Banking Corporation (Challenge Bank) Bill 1996, which contained a commencement date defined by proclamation. It was a specific date. It is conceivable that the date on which these Bills before the House take effect could be within the first six sitting days of the timetable I outlined. Therefore, no opportunity would be available to this House or the other place to exercise their rights to scrutinise the regulations. It is a particular problem with a lengthy recess pending; within a few weeks we will rise for the winter recess, which will extend the time involved over several months.

Orders are also referred to in the Bill, and these are a concern as they cannot be disallowed under the same procedure as regulations. I am pleased to see that the Bill contains a mechanism to apply to orders the same process of disallowance as applies to regulations. This is an excellent idea.

The second concern is the arrangement for the collection of tax. A reason given for introducing this Bill is that it will protect the revenue base. My background in the taxation profession means I am well aware of how important it is to protect the revenue base, and it has given me some ideas about how to provide that protection. I notice that the Bill uses the phrase that the amount payable is to be determined by the Treasurer in accordance with such principles as the Treasurer thinks appropriate. That phrase leaves the matter flexible and open-ended, and an explanation is required on why it needs to be left open-ended. My first reaction is that I would prefer to see parameters in place, such as a requirement that the revenue is at least equal to the amount expected to be received in stamp duty on the transfer. It is well and good to say that the current Treasurer will adopt these principles, but who knows who will occupy the Treasury benches after successive elections - who knows, we may see Democrats on those benches one day! It is important that there be parameters in the legislation allowing the Treasurer to apply those principles in reaching that determination.

The Democrats agree with the principle and policy of the Bill, but these issues cannot be resolved tonight. I foreshadow that I will move to refer this matter to the Standing Committee on Legislation for urgent consideration. In view of the urgency with which the Government has said it wants this Bill to pass, I am happy to make that a very urgent review.

Hon Derrick Tomlinson: How long is that?

Hon H.M. HODGSON: The proposal is that the committee report back by 11 June, which might require extra meetings.

HON J.A. SCOTT (South Metropolitan) [9.12 pm]: Mr President, I also congratulate you on your success in achieving the Presidency of this House. Having seen you in other roles, I have great respect for your ability and I am sure you will do a wonderful job in keeping this House in check.

I support the position put by Hon Helen Hodgson. From a philosophical point of view, I am concerned when this House considers Bills that could become template legislation. Such legislation must be very carefully considered in case there is an error because, if there is, it could be very costly.

Hon Mark Nevill has pointed out already that the regulation process can be more time consuming than going through the normal process of debating Bills. After all, bank mergers do not happen every day of the week. Of course, such legislation can be amended later, but it would be much better if we were to get it right the first time.

While the method described might make the process simpler and speedier, which is debatable, the community expects this new House to ensure it is not handing its powers over to the Executive without ensuring that the proper checks and balances are in place.

I have looked at a number of provisions in this Bill, some of which deal with the existing or pending legal proceedings that might be the subject of regulations. There could be a problem if those regulations were challenged in the courts by people with large amounts of money, such as banks, especially if those legal challenges must be sorted out in other States, where we have little control over what happens.

Some other regulations concern me, not just those relating to the legal proceedings but also those dealing with employment, superannuation and related rights of the staff of banks. I would hate to see such related rights disappear because this House did not consider legislation properly. I want to ensure that those rights are safeguarded. I will support the motion moved by Hon Helen Hodgson when it is put at the end of the second reading stage.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.15 pm]: I was pleased with the support I appeared to be getting from Hon Mark Nevill when he said the Opposition supported the legislation, but he quickly moved away from that. If members opposite talk about defeating this legislation, they should remember that the previous two Bills should have been defeated. There was only one Bill; as the then President pointed out, we did not have a separate taxing Bill. Everyone else appeared to have overlooked that. In hindsight, there was a very good reason for that legislation to go to the Standing Committee on Legislation. However, it has since been sorted out.

Hon Mark Nevill referred to the Wallis report. I thought it came out after 6 May and my second reading speech in this House. There has been time to consider it. I confirm that Hon Mark Nevill discussed this with me tonight. It is the Opposition's right to disagree with what is going on.

This is probably the simplest piece of legislation that I will introduce in this House. The bank merger has been approved. Hon Mark Nevill pointed out that the merger of the National Australia Bank and the Bank of New Zealand started five years ago. A few years ago we dealt with the merger of the Australian and New Zealand Banking Group and the Town and Country Bank, which took about four years to complete. The Reserve Bank seems to create time delays and we are required to pass the enabling legislation in the last month or so before the time limit runs out. The Westpac-Challenge merger was expedited because Tony Howath went ahead and did what needed to be done and brought it in well ahead of schedule. Those involved in the Eastern States forget about what is happening here. I remember Ray Turner, the CEO of Town and Country Bank, sitting in the gallery waiting to see the enabling legislation pass on 29 or 30 June. When these mergers happen, the banks end up with only one banking licence and many assets in the old bank. In this case, the two groups have 330 000 deposit accounts and 83 000 loan accounts. The deposit accounts are easily dealt with, but the loan accounts involve mortgages, stamp duty and so on. This legislation is simply about facilitating the transfer of assets by banks doing a deal approved by the Federal Government. The State does not suffer any loss of stamp duty or tax.

Hon Helen Hodgson referred to the Treasurer's role. The Treasurer works through Treasury. We cannot say that the total value of the assets is umpteen billion dollars and tax that amount; each amount must be considered separately according to scales. Treasury must simply approve the method.

Members also referred to accountability. This legislation simply expedites what will happen. The big issue is whether there will be any more transfers. Who knows? The Government is trying to reduce the number of Bills introduced into this House.

Reference was also made to the regulations being disallowed. I do not know why anyone would want to do that. After all, this is simply a mechanism for people to do something they will do anyway. Mention was made of the Standing Committee on Legislation's wanting to see the Bills redrafted specifically for the National Australia Bank and the Bank of New Zealand. As that is the case, I am not quite certain of the mechanics. There is a certain protocol. It has to go to Cabinet to be approved. It could be printed in a couple of weeks. It will not be that quick because there is no way in which one can beat the process. We will look at the position as it emerges. The cost in man hours will be far greater to the State Revenue Department than it ever will be to the banks. They have 6 000 transfers which they will give to State Revenue, which will assess the stamp duty. That will be a longer process than that carried out by the Treasury.

Hon Mark Nevill: Is there provision in the Bill to compensate State Revenue for the work?

Hon MAX EVANS: That comes out under costs, but the department could not pick it up as extra costs. Delegated legislation would not allow that. It would say, "You cannot charge extra costs there for labour otherwise you are raising a tax." Therefore, I do not think we will recover the extra costs. All we will have is stamp duty. I imagine that State Revenue will take some time to work through 6 000 documents. Therefore, we will have X amount of dollars, less my overtime, because I do not think I can charge for it.

I regret that the Opposition feels strongly about this legislation, because there are many more meaningful things it might want to send to the Legislation Committee than this. These Bills are among the simplest pieces of legislation. As Hon Mark Nevill has mentioned, as most of the documents have gone through, we cannot unscramble the eggs. That is what the legislation is all about. It has been split from one Bill for two bank mergers to two Bills, which is the right way to do it. We are doing it this way, even though the former President has left. He quite rightly did not like the previous Bill. We have put it right for him, and I hope he knows about this before he leaves the country. We will not agree to the Bills going to the Legislation Committee. We believe that this is simple legislation. We should just get on with it, pass it and help the banks do their business. I commend the Bill to the House.

Question put and passed.

Bills read a second time.

Referral to Standing Committee on Legislation

HON H.M. HODGSON (North Metropolitan) [9.24 pm]: I move -

That the Bank Mergers Bill and the Bank Mergers (Taxing) Bill be referred to the Standing Committee on Legislation and the committee report the Bills to the House not later than Wednesday, 11 June 1997.

I have already covered most of the reasons that I believe these Bills need to be discussed in more detail. The intention is not simply to slow down the processes and attack the efficient workings of the legislation. Some matters genuinely need to be discussed. They can be discussed quickly with the aid of people experienced in the area. The Legislation Committee is the appropriate place in which to do this. If the Bills classification committee had reviewed this Bill, I hope that it would have come to the same conclusion.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.25 pm]: As I have said, the Government does not support this motion. We believe this is simple legislation; it is well designed and well drafted as a simple mechanism for this bank merger. There may or may not be a third bank merger. Hon Mark Nevill has said that the legislation has been dealt with in this way to reduce the work of the House. We would like to see it get through so that the bank can wind up its business for this year. I presume that the other later merger involving the St George Bank and Advance Bank Australia Ltd, which may be in October or November of this year, would go through very simply. We do not support the motion.

HON J.A. SCOTT (South Metropolitan) [9.26 pm]: I certainly agree with the motion put by Hon Helen Hodgson. The very fact that this type of legislation will be used for successive mergers is all the more reason why it should be very tight, and properly scrutinised. I support the motion.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.27 pm]: Hon Mark Nevill said during his comments earlier this evening that times have changed, and he is quite right. Some things should not change; that is, when we have an agreement in place it should remain in place and we should not be left at the end of a period of agreement finding that the agreement does not stand. I make that comment quickly to indicate that I was led to believe that this legislation would be passed tonight by this Council. Because of that I was happy to organise the program today to ensure that new members had time in which to make their maiden speeches and that we did not take up the time of the House debating other issues.

I am the first to acknowledge that for a variety of reasons some rush is attached to these Bills. In the current context the main one is the need of the banks to have this legislation passed.

Hon Mark Nevill: They have waited five years; they can wait another month.

Hon N.F. MOORE: That is fine. I suggest that the member not tell me that but say to the banks which are waiting for this legislation that he has made that decision. There will be occasions in the future when members on the other side of the House seek to get the pleasure of making decisions which mean that this Government will lose votes and those decisions will affect somebody else outside this Chamber. This legislation does not affect the Government and is nothing at all to do with the Government. We are seeking to facilitate a commercial arrangement. If the Opposition, for reasons best known to itself, wants to use its numbers on this occasion - and I suspect we are about to encounter an historical moment - to delay the passage of this legislation, it is up to members opposite to decide.

Hon Mark Nevill: This could have been dealt with two months ago.

The PRESIDENT: Order!

Hon N.F. MOORE: There is some urgency attached to this legislation, which I have explained.

Hon N.D. Griffiths: We dealt with the labour relations legislation.

Hon N.F. MOORE: The labour relations legislation took three weeks of the time of this House.

Several members interjected.

The PRESIDENT: Order!

Hon N.F. MOORE: Members opposite talked and talked until I could not believe they could talk any more. A member in this House spoke for eight hours on one Bill and did not say anything of any consequence in all that time. He would deny 10 000 other people the chance to say a word. To suggest that somehow or other we are wasting the time of the House is absolute nonsense. We had three weeks of time wasting. To say that the industrial relations legislation and our attitude to it has led to a delay with this legislation is nonsense. We could have dealt with it a long time ago.

I was led to understand certain things would happen with this legislation and now they will not happen, as I understand the position of the Labor Party. It is disappointing because I made arrangements on the basis of that understanding. I will no doubt be told shortly by the Leader of the Opposition that I misunderstood what he said. He can say that, but all that means is that from now on every time we communicate, it will have to be in writing, signed and witnessed by 17 witnesses, so that there can be no argument further down the track. The Government is trying to facilitate a commercial arrangement between the banks. I can think of no reason why sending these Bills to the Legislation Committee will make them any better, within the period of time members opposite propose to look at them. We could easily have spent today debating these Bills at length during a Committee of the Whole House, so that all members could have a say about them and perhaps resolve any problems they might feel that only the Legislation Committee could deal with. However, the Leader of the Opposition did not ask for that. He did not suggest until the last minute that it would go to the Legislation Committee.

It is handy to talk about cooperation. Today I listened to maiden speeches that referred to cooperation and getting together to make things better and being one big happy family. We can be a big happy family only if we know what everybody else is doing. However, if the person who is trying to organise the program is the last to know what is occurring and members opposite renege on arrangements that have been put in place, it is difficult to be cooperative and act as one big happy family.

Hon Mark Nevill: We had to cooperate with every whim of yours for 10 years.

Hon N.F. MOORE: That is not true. However, I do not propose to argue with Hon Mark Nevill on that level, because that would be counterproductive. The Government does not believe it is necessary to refer this Bill to the Legislation Committee. The Government will be happy on future occasions for that to happen. The Bills committee gave this Bill a category B classification today on the basis, as I explained to the Leader of the Opposition, that it would be dealt with tonight and concluded. It would not have made any difference whether it was categorised as A, B or C, because that was my understanding of the situation.

Hon Bob Thomas: We did not know.

Hon N.F. MOORE: The Leader of the Opposition did not put me out of my misery at that time. I wish he had, because we could have made other arrangements for the business of the House for the rest of the day. The B category means that the Bill may go to the Legislation Committee.

Hon Mark Nevill: I advised my leader at eight o'clock that I had changed my mind.

The PRESIDENT: Order! I ask Hon Mark Nevill to cease interjecting.

Hon N.F. MOORE: I acknowledge that Hon Mark Nevill and the Leader of the Opposition are entitled to change their minds, and I accept that it will happen frequently in the future. However, if this House is to operate in a reasonably effective way, arrangements between the various parties should at least last for more than five minutes.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [9.31 pm]: The Opposition agrees with much that the Leader of the Government has said, some of which has been said already. From the brief opportunity I had to listen to the contributions made by other members from this side of the House, and specifically a brief discussion with the leader of the Democrats, Hon Helen Hodgson, I understand that we agree that this legislation should be dealt with expeditiously. I am pleased to see that the motion before the House will ensure that happens. It is proposed to refer the Bill to the Legislation Committee, and it must be back in the House on Wednesday, 11 June, effectively two sitting days. It will be in this place, not the next time we meet as a House, but the day after.

As the Government knows, on behalf of members of the state Parliamentary Labor Party in this place, I have offered it the opportunity to meet tomorrow, the next day, the day after, or next week if the Government's legislative program requires it. We have been told that the Government does not want to avail itself of that offer.

Hon N.F. Moore: We have already organised the Estimates Committees for the next three days.

Hon N.D. Griffiths: They can be shifted.

Hon N.F. Moore: Had I tried to shift them without your agreement, I know what you would have said. Come on, get off the grass.

Hon TOM STEPHENS: I indicated to the government leader that if he was of a mind there was nothing to stop those opportunities being explored. The opposition parties, in particular the state Parliamentary Labor Party, know the temptations with which we are dealing here. We know the great risks involved in being tempted to respond to the way we have been dealt with for year after year. We will resist vigorously that temptation.

Hon E.J. Charlton: Arrangements have always been put in place.

Hon B.K. Donaldson: It is retaliation and revenge.

Hon TOM STEPHENS: Hon Bruce Donaldson is wrong.

Hon B.K. Donaldson: The Leader of the Opposition said it.

Hon Bob Thomas: Hon Bruce Donaldson can talk to his leader about that.

The PRESIDENT: If the Leader of the Opposition addresses his comments to me there will not be any interjections at all.

Hon TOM STEPHENS: I want to disabuse any member on the other side of the House of any suggestion that this is simply a response to years and years of conditioning that has gone on in this House in the way business has been done with the non-conservative parties, and the way that the Labor Party has been dealt with year in and year out. We will resist that temptation. The motion before the House proposes that a specific Bill be referred to the Legislation Committee, be dealt with in double quick time and be back on the floor of the House for its passage to be completed at almost the earliest opportunity - the day after the earliest opportunity. The Leader of the Government indicated that he had been misled. This is not an accurate portrayal of the situation.

Hon N.F. Moore: It is an accurate portrayal of my understanding of the situation. We will get everything in writing now.

Hon TOM STEPHENS: The Leader of the Government allowed himself to mislead himself.

Hon E.J. Charlton: He believed you.

Hon N.F. Moore: I took your word on things, Mr Stephens. I have learnt.

Hon TOM STEPHENS: The Leader of the House may have deliberately misled himself.

The PRESIDENT: I ask the Leader of the Opposition to direct his comments to the Chair.

Hon TOM STEPHENS: Mr President, the Leader of the Government convinced himself that my statement that this legislation would be brought to resolution tonight - I was speaking on behalf of the state Parliamentary Labor Party - would guarantee that this legislation was passed tonight.

Hon N.F. Moore: So that means the Legislation Committee?

Hon TOM STEPHENS: No. I did not know whether a motion would be moved. I want to tell the Leader of the House that the Leader of the Democrats has regularly told me that she will not be treated as some sort of fourth faction of the Labor Party. She had not told me what she would do.

Hon N.F. Moore: This is the tail wagging the dog, by the sound of it.

Hon E.J. Charlton: You are running along like a lamb.

Hon N.F. Moore: This is what happened in the Senate. You became completely irrelevant. You are irrelevant, Mr Stephens.

Hon TOM STEPHENS: I will tell members the chain of events, so that everybody understands the way it works. When I was listening to Hon Ljiljana Ravlich earlier this evening at about eight o'clock I thought I had better write a note to Hon Mark Nevill. I am sure someone has that note as verification of what I said.

The PRESIDENT: Order! Let us address the motion before the Chair.

Hon TOM STEPHENS: Hon Helen Hodgson will find this educative as well. I said in a note to my colleague Hon Mark Nevill, who has responsibility for this legislation, that I thought there was a possibility that the Democrats might choose to send this legislation off to the Legislation Committee, and the Labor Party should be prepared to consider where it was if that were to happen. After some consideration my colleague sent me a note. I hope he does not mind my reading the note to the House.

Hon Mark Nevill: Go for your life.

Hon TOM STEPHENS: The note states -

Tom,

We will support the Bank Merger Bill going to the Legislation Committee.

Mark.

He has responsibility for the handling of that legislation. That is the first that I knew of it.

Hon E.J. Charlton: You lost control of him as well.

Hon TOM STEPHENS: Hon Mark Nevill has responsibility for handling that legislation.

Hon E.J. Charlton: You are the leader.

Hon TOM STEPHENS: I am a cooperative leader for a range of reasons, Mr Charlton.

The PRESIDENT: The Leader of the Opposition can be cooperative if he addresses me and tries to avoid interjections.

Hon TOM STEPHENS: So that members opposite and colleagues on this side of the House who are not in the Labor Party understand the process, I felt it necessary to write another note to my colleague. That note said that I thought he should check with the Leader of the Opposition, Dr Geoff Gallop, and with Hon Max Evans to ascertain their attitude. I then received a note, and I ask Hon Mark Nevill whether I can reveal what Hon Max Evans said.

Hon Mark Nevill: The Democrats and the Greens (WA) will find out I have a mind of my own.

Hon TOM STEPHENS: Hon Mark Nevill does have a mind of his own. The note said that Dr Gallop said okay. Can I reveal what Hon Max Evans said?

Hon Max Evans: You can say what you want to.

Hon TOM STEPHENS: The message was that Hon Max Evans was not fussed about it.

Hon Max Evans: We can't stop you from saying anything.

Hon Mark Nevill: They are Democrats and you are an autocrat, Minister.

Hon TOM STEPHENS: Members of the Labor Party will always be open to listening to the argument. On this occasion it has done that. It was prepared to find out what was proposed in the motion in case it was moved. I did not know at three o'clock this afternoon what would happen about the handling of this legislation. I was not told.

Hon N.F. Moore: Let us work on the basis that we made no arrangement.

Hon TOM STEPHENS: It is important for members to know what happened at three o'clock this afternoon. This legislation was given classification B. Sessional Order No 5(3)(b) reads -

class B means a bill that may pass unamended or unopposed but which appears to require some consideration whether in a committee of the whole House or a standing committee;
This Bill was given that classification -

Hon N.F. Moore: On the basis it would be passed today.

Hon H.M. Hodgson: I did not have the opportunity to consult with you.

Hon TOM STEPHENS: I did not have the opportunity to consult with the Leader of the Democrats. It is one of the difficulties of the classifications committee we will have to address. Nonetheless, it was given classification B and it enabled the Leader of the Democrats to do exactly what she did; that is, to move a motion to refer the legislation to a standing committee for consideration. It is not of great moment; it is something which happened -

Hon Mark Nevill: Because I changed my mind.

Several members interjected.

Hon TOM STEPHENS: I assure every member in this House that I will not mislead anyone. Members should listen to what I say.

Hon N.F. Moore: I don't want to listen to you; I want you to write it down.

The PRESIDENT: Order! I ask the Leader of the Opposition to address me. He appears to be concluding his comments.

Hon TOM STEPHENS: I am doing that, Mr President. I will not mislead anybody with reference to any of the undertakings I give. When I used the word "resolution" I did so because I was not sure in what form the motion would be put to the House. I suspected a motion would be moved and that it would fall within classification B. However, I did not know what would happen until later this evening. In that circumstance, I have a clear conscience

that I did not set out to mislead the Leader of the House. However, he has a mind set; that is, whatever the conservative party believes should happen to legislation, should happen. That is what has happened in the past.

Hon N.F. Moore: If you said that it would go to a committee for consideration, that would have been the end of it.

Hon TOM STEPHENS: I do not need to add anything more. No attempt was made to mislead the Government and no attempt will be made in the future by me to mislead the Government. I am urged on by all my colleagues in reference to that.

Hon N.F. Moore: Let me say we believed them on face value.

Hon TOM STEPHENS: I support the motion moved by the Leader of the Democrats and seconded by my colleague, Hon Mark Nevill.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [9.45 pm]: It is worth noting that it is only a few hours since this historic Legislative Council met. I have listened to every speech and every maiden speech with great interest.

I support the Government's position that the legislation should not be referred to a committee for further consideration. I listened with interest to the Leader of the Opposition say that he will not mislead. I think he should also have said that he will not lead. It is the position in which the Leader of the Opposition finds himself. It has taken only a few minutes into the deliberations of this new Legislative Council for that to happen.

Earlier today I had the privilege of representing the Leader of the House at the gathering outside Parliament House. Like all members who have been in this place for some time I look back on all the good and bad things that have happened. I am a great believer that when one is presented with an opportunity to do something which has not been or could not be done before, one is also confronted with increased responsibility. We cannot have one without the other. This is not the end of the world. All members are in good humour and are accepting the situation. Members have a right to put their point of view.

The Leader of the House and the Leader of the Opposition reach agreement on how the business of this House should proceed. The Leader of the House, in addition to being the Leader of the Government in this place, has always cooperated with the Opposition and he will continue to cooperate with the Labor Opposition, the Democrats and the Greens (WA). He will try to accommodate the wishes of all parties and, if it is necessary, he will delay debate on legislation for a day or a week if they are not ready to deal with it. He will arrange, if necessary, briefings on the legislation. The same consideration was given when the coalition parties were in opposition. They always did their best to ensure the movement of legislation through the Parliament and to cooperate with the then Government.

When members reflect on what happened on the first day of the new Legislative Council they will say it is the day on which the Leader of the Opposition said that this simple piece of legislation would be passed.

Several members interjected.

Hon Kim Chance: We will remember the last day of the last regime.

Hon E.J. CHARLTON: All of a sudden he found that the 12 members of the Labor Party were being directed from the rear. It reminds me of a cap with two peaks which has written on it, "Follow me, I am the leader." I will bring the cap with me tomorrow to show Hon Tom Stephens. This motion, if it is passed, will delay the passage of this legislation by a fortnight, not one day as the Leader of the Opposition advised members of the House. I said to the people who were gathered outside Parliament House today that when I first came into this place and I was tested -

Hon N.D. Griffiths interjected.

Hon E.J. CHARLTON: Hon Nick Griffiths would not understand because he was not here at the time. At that stage there were three National Party members -

Hon W.N. Stretch: Four.

Hon E.J. CHARLTON: There were four, if the member wants to throw in the country member of the Liberal Party as well. Things have changed. Hon Mark Nevill is stuck in the Labor Party, which is dominated by a terrible group of people.

Hon Mark Nevill: I am dominated so much I will change the Bill tonight.

The PRESIDENT: Order! If the Minister addresses his comments to me, there will not be a need for interjections.

Hon E.J. CHARLTON: I look forward to seeing what will happen in the future. It is worth recording that this is how opposition members choose to treat the first piece of legislation that they have the opportunity to debate. We would all do well to reflect on this exercise.

HON NORM KELLY (East Metropolitan) [9.50 pm]: It is good to hear members referring to the history of this occasion. I am sure that it will take some time for the five parties to work in harmony on these sorts of Bills.

I wish to clarify a couple of points. Hon Eric Charlton said that we had received briefings from the department. It was only yesterday that Hon Helen Hodgson and I were offered a briefing. Hon Helen Hodgson received that briefing today. Therefore, it was not until today that we were made aware of some of the ramifications of this legislation. Because of our concerns about certain clauses of the Bill, particularly clause 18, it is understandable that we wish to see it referred to a committee for clarification.

The Minister for Finance referred to the need to expedite business. However, expedition of business should not override accountability measures. The Democrats will push consistently to ensure that these considerations are not overridden, and that accountability measures are placed in legislation.

As much as the Democrats will be working with the other four parties in the Chamber, it is necessary to make it clear that our decisions will be made independently of other parties. We will decide on legislation on a Bill by Bill basis.

Question put and a division taken with the following result -

Ayes (16)

Hon Kim Chance	Hon H.M. Hodgson	Hon C. Sharp
Hon J.A. Cowdell	Hon Norm. Kelly	Hon Tom Stephens
Hon Cheryl Davenport	Hon Mark Nevill	Hon K.D.E. Travers
Hon E.R.J. Dermer	Hon L. Ravlich	Hon Giz Watson
Hon N.D. Griffiths	Hon J.A. Scott	Hon Bob Thomas (<i>Teller</i>)
Hon John Halden		

Noes (14)

Hon E.J. Charlton	Hon Murray Montgomery	Hon G.D. Smith
Hon M.J. Criddle	Hon N.F. Moore	Hon W.N. Stretch
Hon B.K. Donaldson	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon Max Evans	Hon S.M. O'Brien	Hon Muriel Patterson (<i>Teller</i>)
Hon Barry House	Hon B.M. Scott	

Pair

Hon Tom Helm

Hon Peter Foss

Question thus passed.

BANK MERGERS (TAXING) BILL

Hon N.F. Moore (Leader of the House) advised the House that the Bills committee had assigned category B to the Bills.

Cognate Debate

On motion by Hon Max Evans (Minister for Finance), resolved -

That leave be granted for a cognate debate on the Bank Mergers Bill and the Bank Mergers (Taxing) Bill.

Second Reading

Resumed from 6 May.

HON MARK NEVILL (Mining and Pastoral) [8.42 pm]: I begin by complimenting you on your election, Mr President. It is hard to get used to seeing you in the Chair. I expect to see Hon Clive Griffiths walk around the corner and take his place at any moment. I have to get accustomed to seeing you in the Chair. You are assured of my cooperation in your running of the House over the coming years.

The Opposition supports the two Bills that we are debating cognately. While am intrigued by the logic and the form of these Bills, I have no quarrel with their content. The Bills establish a framework which will facilitate bank mergers and allow them to be dealt with by a number of means, including by regulation, by adopting the relevant law of another State or Territory, or by a combination of both of those means. We have been told that the New South Wales Parliament last year enacted legislation similar to this Bill.

This sort of legislation would normally fall foul of uniform legislation concerns, which have grown in recent years, especially when we have been asked to agree to uniform measures at short notice. That resulted in changing the standing orders of this House. As I said, these Bills resemble uniform legislation. However, they are different in some respects. It would be interesting to have the views of a committee of another place, that long-running, much-travelled Standing Committee on Uniform Legislation and Intergovernmental Agreements. However, that is not available.

Hon Kim Chance: Is jealousy coming through?

Hon MARK NEVILL: I stressed the long-running and much-travelled part.

This Bill is different in that it is ancillary to the policy of the legislation. The policy area of legislation is an area of concern to the Commonwealth. Bank mergers have nothing to do with State legislation; they are the province of the Commonwealth. They are controlled by the Trade Practices Act and the Australian Competition and Consumers Commission, which assesses whether mergers comply with that Act. All other legislation that relates to bank mergers, including the Banking Act, which gives the Treasurer power over mergers, the Banks (Shareholding) Act, which restricts individual shareholders' holdings to 10 per cent of banks, and the Foreign Acquisitions and Takeovers Act, is commonwealth legislation. Therefore, bank mergers have little to do with our legislative responsibility. This Bill merely facilitates that merger by making some arrangements to deal with state stamp duty. Those transfers of accounts could occur without this legislation. It is a slow and time-consuming process.

There are problems with this legislation, which I will discuss later. We have been told in the second reading speech that this Bill is modelled on the New South Wales legislation. We have been told also that two mergers are in progress, the first of which is the National Australia Bank's merger with the Bank of New Zealand. I racked my brain earlier today in an attempt to remember when that occurred. I knew it was some time ago. However, a Treasury officer advised me this evening that it occurred in 1992. Therefore, this merger has been a long time coming and I would be bold enough to say that the National Australia Bank and the Bank of New Zealand have probably dragged their feet in getting the merger to this stage. The merger is not a significant merger in terms of the number of accounts in this State. I am not sure what the figure is.

Hon Max Evans: Six thousand.

Hon MARK NEVILL: That is not a large number of accounts when one compares it with the Westpac-Challenge Bank merger, which involved some 330 000, according to the second reading speech. Obviously that would be a very slow and time consuming task.

The second reading speech also states that there is also an expectation that further bank mergers may occur following the Wallis inquiry. I must tick the Minister off because that part of the speech was written before the Wallis report. I have told other Ministers in this House that if the Bill is amended in the other place, the second reading speech should be rewritten.

Hon Max Evans: It was read on 6 May.

Hon MARK NEVILL: The Minister's staff and the Minister should ensure second reading speeches are brought up to date. The Wallis report is a monstrous tome. I was intrigued to find that I was the first person to take it out of the Parliamentary Library. I thought it would have had many other people's fingerprints on it before mine. It is in pristine condition. The Wallis inquiry recommended that banks could merge with life assurance offices; however, it recommended against the four major banks - the National Australia Bank, the ANZ, Westpac and the Commonwealth Bank - merging. If that is a recommendation of the Wallis inquiry, it is not yet a policy of the Government. The Government is yet to respond to that. However, I would be surprised if the Federal Government allowed those four major banks to merge. I do not believe we will see legislation in this House relating to the merger of the National Bank and the ANZ or Westpac, and certainly we would not see mergers being done by way of regulation. That would be an extremely contentious merger. I think most people would object to that.

The second reading speech also states that bank mergers are on the increase. I do not believe that is true. The second reading speech refers to two mergers, the NAB-Bank of New Zealand merger and the St George-Advance Bank merger. They are in train. The only other regional bank that I know of that has not been taken over is the Bendigo Bank. If mergers will not occur among the four major banks, that is not a valid statement. Basically the scraps are left: The regional banks have gone in all but name. They are allowed to keep their name now only because of a change to banking laws about two years ago. They can have only one licence, but they can trade under different names.

This Bill will overcome the expensive and time consuming documentation associated with the transfer of banking business from one bank to another. This must be done because under the law banks can hold only one licence. This Bill purports to facilitate these mergers without delaying the time of the House. That is a dangerous assumption. Bank mergers will still have to be done separately because they will occur at separate times. If bank mergers are done by regulation, they will be subject to disallowance. There is a different effect of disallowance in this case. If the Government increases by regulation drivers' licence fees, anyone who is due to pay the licence must pay the higher fee. If that increase is later disallowed, the fee will revert to the old licence fee. That is an ongoing stream of events that can be affected by disallowance.

In this case the disallowance may occur after a period in which all the transactions have gone through and when there is none to follow. If all the transactions are completed before the disallowance comes into effect, the disallowance will basically be a Clayton's disallowance; therefore, we could be giving ourselves an illusory power. These regulations must be disallowed within 14 sitting days. If members wanted to do that effectively, they would have to move quickly after the regulations were tabled to thwart a bank transferring the accounts quickly. Facilitating this merger by regulation is an odd way of doing it.

People are sensitive to banks and they are sceptical about how banks operate. Just this week there was a 0.5 per cent decrease in the Reserve Bank rate and that afternoon banks announced varying drops in their housing loan interest rates. However, those rate drops will not come into effect for two months. On the other side of the cycle, when interest rates go up and the Reserve Bank announces an increase, will the banks follow suit by announcing an increase in the bank rate the next day, or will that increase be postponed for two months? One can envisage people getting upset about what banks do with their rates when a merger that could be subject to disallowance is before Parliament.

Another mechanism in this Bill is the use of the legislation of another State. That occurred previously in a fair trading Bill that came before the House. That Bill included model legislation that was introduced in the Queensland Parliament and, as I remember it, legal challenges to that legislation had to be dealt with in Queensland. I do not think cross-vesting powers of the two Supreme Courts were in effect, at least not initially. This House should view that sort of strategy with great concern because it takes matters out of the proper control of this Parliament. I do not believe much time is saved by using this style of Bill to facilitate this legislation. The Government must still draft the regulations. These are not large Bills; they are only two or three pages long. To my knowledge such legislation has not been delayed in either House when previous bank mergers have occurred. I do not believe much time will be saved in the House and in drafting.

I telephoned the National Australia Bank Ltd early yesterday morning to discuss this matter with its legislation people. As late as the close of business today my telephone call had not been returned, which does not impress me. I am not sure how much interest the National Australia Bank has in this legislation. It merged with the Bank of New Zealand five years ago. Two days is ample time to get back to me. I gave the bank the number of my mobile phone, which has a message bank. Plenty of others have been able to get through, so the bank cannot say it was unable to reach me.

Members are debating two Bills, the second of which is the Bank Mergers (Taxing) Bill. Clause 3 of that Bill requires the Treasurer to recover from parties any state taxes and charges that would normally have been forgone by this process. New members might not understand that process. When a tax is imposed, a separate Bill must be introduced and that is why the taxing provisions are included in that Bill.

This Bill has been classified as a class B Bill; therefore, it is contemplated that this Bill can be dealt with by the Standing Committee on Legislation. This Bill has been delayed, as has the Iron and Steel (Mid West) Agreement Bill, by the industrial relations legislation.

Hon N.F. Moore: It certainly can be sent to the Legislation Committee, but your leader indicated to me that it would be passed tonight.

Hon MARK NEVILL: The Leader of the House suggests he has been misled by the Leader of the Opposition.

Hon N.F. Moore: Only if it is not resolved.

Hon MARK NEVILL: I changed my mind about sending this Bill to the Legislation Committee about an hour ago. On doing that I immediately advised the Minister for Finance of my change of mind and the reason for that change. I gave him that courtesy. It was my decision, entrusted to me by Caucus. The Leader of the House may not have been aware that I advised the Minister for Finance of that decision. Hon Norman Moore should not reflect on the Leader of the Opposition in that case because we are living in a new world in this place.

Hon N.F. Moore: It's okay, Mr Nevill, so long as we know that when you tell us what is to happen, it will happen.

The PRESIDENT: Order! Hon Mark Nevill should address the Chair.

Hon MARK NEVILL: My party has always supported -

Hon N.F. Moore: Will you be ringing up the banks to tell them, too?

Hon MARK NEVILL: It is not my job to ring the banks; I have already rung the banks and they did not have the courtesy to return my call!

Hon N.F. Moore: I don't blame them.

Hon MARK NEVILL: To whom shall I talk?

The PRESIDENT: Order! Hon Mark Nevill will address the Chair.

Hon MARK NEVILL: We move for the disallowance of regulations quite frequently to debate an issue, and not necessarily to have the regulations disallowed. On occasions, it would have been quite embarrassing if the opposition members' bluff had been called as we have always worked on the premise that nothing would happen because we did not have the numbers. However, things have changed and we must be careful about what we do now. We cannot just move disallowance to debate a matter as it might actually be disallowed!

Hon Max Evans: Hon Alannah MacTiernan found that out one night.

Hon MARK NEVILL: In current circumstances, we must be more circumspect than we may have been in the past.

I have read section 42 of the Interpretation Act many times over the years, and for some reason my view was that disallowance of regulations applied from the date of original gazettal. However, it is a prospective provision as the regulations cease to have effect on disallowance. Therefore, disallowance on the bank Bills' regulations will not affect any transactions carried out before disallowance takes effect. Also, the Opposition can move disallowance, but the Government decides when the motion is dealt with; it may be dealt with three to six months later if a recess is involved, and that is the main concern.

I am not particularly worried about telling the banks about this move as they can wear the decision of this House. This Bill will affect 6 000 depositors, and referral to a committee will have not have the same effect as delaying a merger Bill with which 330 000 depositors might be involved. These transfers can be conducted manually without this legislation. These two Bills, along with the Kingstream Bill, were held up by passionate debate on the industrial relations Bill, but that was the Government's choice as it manages the business of this House. If some problem is caused by that delay, I do not accept full responsibility for that - although I accept my share. Certainly, the Government's management of business has left a lot to be desired. It can allow the banks to conduct these transfers manually or draft a separate Bill to facilitate the stamp transfers in this merger, and I am sure that such Bill would be dealt with urgently.

The Labor Party has a problem with not the policy of the Bill, but the method of its implementation.

Hon Max Evans: You're pre-empting the committee by saying that you want the Bill redrawn in certain ways.

Hon MARK NEVILL: Not necessarily. I am making suggestions to the Government, which it can discuss with the Legislation Committee if the referral is successful. I believe that Hon Helen Hodgson will move for referral to that committee after the second reading is passed. The Australian Labor Party will support the Bill and its referral to the Legislation Committee.

HON H.M. HODGSON (North Metropolitan) [9.04 pm]: It seems to be a tradition for Democrats to be thrown into weighty matters on the first day that they take their seat. I have looked at the Bank Mergers Bill and the Bank Mergers (Taxing) Bill and the second reading speeches. The policy of the Bill is to facilitate bank mergers, which are matters of Federal Government policy, and Reserve Bank and Australian Competition and Consumers Commission supervision. State responsibility is limited to the commercial issues dealing with the transfer of assets and other matters associated with the change of ownership.

I recognise and appreciate the need for commercial certainty in dealing with these issues, and mechanisms are included in the Bill to deal with contractual issues associated with the merger. The other major issue is the protection of the revenue base; namely, the stamp duty or any other taxes involved. The Democrats agree with the general principles of the Bill, but we have two major concerns about some of the mechanisms to be used to implement this policy. We would like to see the matters debated in more detail.

The first of these concerns is the accountability mechanism. Members have heard my colleague Hon Norm Kelly and I speak tonight on accountability. Therefore, it is interesting that the first Bill to come before us is one which falls short in these areas. The Bill delegates legislative authority from Parliament to regulations, which can be laid before Parliament for disallowance. The sitting timetable, when read against the Interpretation Act, indicates that

we have six sitting days before the regulations are laid before the House - that is two weeks. One has 14 sitting days to move for disallowance, which is at least five weeks, and one must debate the motion within 10 days of its introduction. Therefore, we have 30 sitting days from the time that the regulation is gazetted until disallowance may occur. Essentially, any regulated action will be valid if it is not disallowed in that time. That is a concern for the Democrats.

A date is relevant to bank mergers. The last Bill before the House on such matters was the Westpac Banking Corporation (Challenge Bank) Bill 1996, which contained a commencement date defined by proclamation. It was a specific date. It is conceivable that the date on which these Bills before the House take effect could be within the first six sitting days of the timetable I outlined. Therefore, no opportunity would be available to this House or the other place to exercise their rights to scrutinise the regulations. It is a particular problem with a lengthy recess pending; within a few weeks we will rise for the winter recess, which will extend the time involved over several months.

Orders are also referred to in the Bill, and these are a concern as they cannot be disallowed under the same procedure as regulations. I am pleased to see that the Bill contains a mechanism to apply to orders the same process of disallowance as applies to regulations. This is an excellent idea.

The second concern is the arrangement for the collection of tax. A reason given for introducing this Bill is that it will protect the revenue base. My background in the taxation profession means I am well aware of how important it is to protect the revenue base, and it has given me some ideas about how to provide that protection. I notice that the Bill uses the phrase that the amount payable is to be determined by the Treasurer in accordance with such principles as the Treasurer thinks appropriate. That phrase leaves the matter flexible and open-ended, and an explanation is required on why it needs to be left open-ended. My first reaction is that I would prefer to see parameters in place, such as a requirement that the revenue is at least equal to the amount expected to be received in stamp duty on the transfer. It is well and good to say that the current Treasurer will adopt these principles, but who knows who will occupy the Treasury benches after successive elections - who knows, we may see Democrats on those benches one day! It is important that there be parameters in the legislation allowing the Treasurer to apply those principles in reaching that determination.

The Democrats agree with the principle and policy of the Bill, but these issues cannot be resolved tonight. I foreshadow that I will move to refer this matter to the Standing Committee on Legislation for urgent consideration. In view of the urgency with which the Government has said it wants this Bill to pass, I am happy to make that a very urgent review.

Hon Derrick Tomlinson: How long is that?

Hon H.M. HODGSON: The proposal is that the committee report back by 11 June, which might require extra meetings.

HON J.A. SCOTT (South Metropolitan) [9.12 pm]: Mr President, I also congratulate you on your success in achieving the Presidency of this House. Having seen you in other roles, I have great respect for your ability and I am sure you will do a wonderful job in keeping this House in check.

I support the position put by Hon Helen Hodgson. From a philosophical point of view, I am concerned when this House considers Bills that could become template legislation. Such legislation must be very carefully considered in case there is an error because, if there is, it could be very costly.

Hon Mark Nevill has pointed out already that the regulation process can be more time consuming than going through the normal process of debating Bills. After all, bank mergers do not happen every day of the week. Of course, such legislation can be amended later, but it would be much better if we were to get it right the first time.

While the method described might make the process simpler and speedier, which is debatable, the community expects this new House to ensure it is not handing its powers over to the Executive without ensuring that the proper checks and balances are in place.

I have looked at a number of provisions in this Bill, some of which deal with the existing or pending legal proceedings that might be the subject of regulations. There could be a problem if those regulations were challenged in the courts by people with large amounts of money, such as banks, especially if those legal challenges must be sorted out in other States, where we have little control over what happens.

Some other regulations concern me, not just those relating to the legal proceedings but also those dealing with employment, superannuation and related rights of the staff of banks. I would hate to see such related rights disappear because this House did not consider legislation properly. I want to ensure that those rights are safeguarded. I will support the motion moved by Hon Helen Hodgson when it is put at the end of the second reading stage.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.15 pm]: I was pleased with the support I appeared to be getting from Hon Mark Nevill when he said the Opposition supported the legislation, but he quickly moved away from that. If members opposite talk about defeating this legislation, they should remember that the previous two Bills should have been defeated. There was only one Bill; as the then President pointed out, we did not have a separate taxing Bill. Everyone else appeared to have overlooked that. In hindsight, there was a very good reason for that legislation to go to the Standing Committee on Legislation. However, it has since been sorted out.

Hon Mark Nevill referred to the Wallis report. I thought it came out after 6 May and my second reading speech in this House. There has been time to consider it. I confirm that Hon Mark Nevill discussed this with me tonight. It is the Opposition's right to disagree with what is going on.

This is probably the simplest piece of legislation that I will introduce in this House. The bank merger has been approved. Hon Mark Nevill pointed out that the merger of the National Australia Bank and the Bank of New Zealand started five years ago. A few years ago we dealt with the merger of the Australian and New Zealand Banking Group and the Town and Country Bank, which took about four years to complete. The Reserve Bank seems to create time delays and we are required to pass the enabling legislation in the last month or so before the time limit runs out. The Westpac-Challenge merger was expedited because Tony Howath went ahead and did what needed to be done and brought it in well ahead of schedule. Those involved in the Eastern States forget about what is happening here. I remember Ray Turner, the CEO of Town and Country Bank, sitting in the gallery waiting to see the enabling legislation pass on 29 or 30 June. When these mergers happen, the banks end up with only one banking licence and many assets in the old bank. In this case, the two groups have 330 000 deposit accounts and 83 000 loan accounts. The deposit accounts are easily dealt with, but the loan accounts involve mortgages, stamp duty and so on. This legislation is simply about facilitating the transfer of assets by banks doing a deal approved by the Federal Government. The State does not suffer any loss of stamp duty or tax.

Hon Helen Hodgson referred to the Treasurer's role. The Treasurer works through Treasury. We cannot say that the total value of the assets is umpteen billion dollars and tax that amount; each amount must be considered separately according to scales. Treasury must simply approve the method.

Members also referred to accountability. This legislation simply expedites what will happen. The big issue is whether there will be any more transfers. Who knows? The Government is trying to reduce the number of Bills introduced into this House.

Reference was also made to the regulations being disallowed. I do not know why anyone would want to do that. After all, this is simply a mechanism for people to do something they will do anyway. Mention was made of the Standing Committee on Legislation's wanting to see the Bills redrafted specifically for the National Australia Bank and the Bank of New Zealand. As that is the case, I am not quite certain of the mechanics. There is a certain protocol. It has to go to Cabinet to be approved. It could be printed in a couple of weeks. It will not be that quick because there is no way in which one can beat the process. We will look at the position as it emerges. The cost in man hours will be far greater to the State Revenue Department than it ever will be to the banks. They have 6 000 transfers which they will give to State Revenue, which will assess the stamp duty. That will be a longer process than that carried out by the Treasury.

Hon Mark Nevill: Is there provision in the Bill to compensate State Revenue for the work?

Hon MAX EVANS: That comes out under costs, but the department could not pick it up as extra costs. Delegated legislation would not allow that. It would say, "You cannot charge extra costs there for labour otherwise you are raising a tax." Therefore, I do not think we will recover the extra costs. All we will have is stamp duty. I imagine that State Revenue will take some time to work through 6 000 documents. Therefore, we will have X amount of dollars, less my overtime, because I do not think I can charge for it.

I regret that the Opposition feels strongly about this legislation, because there are many more meaningful things it might want to send to the Legislation Committee than this. These Bills are among the simplest pieces of legislation. As Hon Mark Nevill has mentioned, as most of the documents have gone through, we cannot unscramble the eggs. That is what the legislation is all about. It has been split from one Bill for two bank mergers to two Bills, which is the right way to do it. We are doing it this way, even though the former President has left. He quite rightly did not like the previous Bill. We have put it right for him, and I hope he knows about this before he leaves the country. We will not agree to the Bills going to the Legislation Committee. We believe that this is simple legislation. We should just get on with it, pass it and help the banks do their business. I commend the Bill to the House.

Question put and passed.

Bills read a second time.

Referral to Standing Committee on Legislation

HON H.M. HODGSON (North Metropolitan) [9.24 pm]: I move -

That the Bank Mergers Bill and the Bank Mergers (Taxing) Bill be referred to the Standing Committee on Legislation and the committee report the Bills to the House not later than Wednesday, 11 June 1997.

I have already covered most of the reasons that I believe these Bills need to be discussed in more detail. The intention is not simply to slow down the processes and attack the efficient workings of the legislation. Some matters genuinely need to be discussed. They can be discussed quickly with the aid of people experienced in the area. The Legislation Committee is the appropriate place in which to do this. If the Bills classification committee had reviewed this Bill, I hope that it would have come to the same conclusion.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.25 pm]: As I have said, the Government does not support this motion. We believe this is simple legislation; it is well designed and well drafted as a simple mechanism for this bank merger. There may or may not be a third bank merger. Hon Mark Nevill has said that the legislation has been dealt with in this way to reduce the work of the House. We would like to see it get through so that the bank can wind up its business for this year. I presume that the other later merger involving the St George Bank and Advance Bank Australia Ltd, which may be in October or November of this year, would go through very simply. We do not support the motion.

HON J.A. SCOTT (South Metropolitan) [9.26 pm]: I certainly agree with the motion put by Hon Helen Hodgson. The very fact that this type of legislation will be used for successive mergers is all the more reason why it should be very tight, and properly scrutinised. I support the motion.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.27 pm]: Hon Mark Nevill said during his comments earlier this evening that times have changed, and he is quite right. Some things should not change; that is, when we have an agreement in place it should remain in place and we should not be left at the end of a period of agreement finding that the agreement does not stand. I make that comment quickly to indicate that I was led to believe that this legislation would be passed tonight by this Council. Because of that I was happy to organise the program today to ensure that new members had time in which to make their maiden speeches and that we did not take up the time of the House debating other issues.

I am the first to acknowledge that for a variety of reasons some rush is attached to these Bills. In the current context the main one is the need of the banks to have this legislation passed.

Hon Mark Nevill: They have waited five years; they can wait another month.

Hon N.F. MOORE: That is fine. I suggest that the member not tell me that but say to the banks which are waiting for this legislation that he has made that decision. There will be occasions in the future when members on the other side of the House seek to get the pleasure of making decisions which mean that this Government will lose votes and those decisions will affect somebody else outside this Chamber. This legislation does not affect the Government and is nothing at all to do with the Government. We are seeking to facilitate a commercial arrangement. If the Opposition, for reasons best known to itself, wants to use its numbers on this occasion - and I suspect we are about to encounter an historical moment - to delay the passage of this legislation, it is up to members opposite to decide.

Hon Mark Nevill: This could have been dealt with two months ago.

The PRESIDENT: Order!

Hon N.F. MOORE: There is some urgency attached to this legislation, which I have explained.

Hon N.D. Griffiths: We dealt with the labour relations legislation.

Hon N.F. MOORE: The labour relations legislation took three weeks of the time of this House.

Several members interjected.

The PRESIDENT: Order!

Hon N.F. MOORE: Members opposite talked and talked until I could not believe they could talk any more. A member in this House spoke for eight hours on one Bill and did not say anything of any consequence in all that time. He would deny 10 000 other people the chance to say a word. To suggest that somehow or other we are wasting the time of the House is absolute nonsense. We had three weeks of time wasting. To say that the industrial relations legislation and our attitude to it has led to a delay with this legislation is nonsense. We could have dealt with it a long time ago.

I was led to understand certain things would happen with this legislation and now they will not happen, as I understand the position of the Labor Party. It is disappointing because I made arrangements on the basis of that understanding. I will no doubt be told shortly by the Leader of the Opposition that I misunderstood what he said. He can say that, but all that means is that from now on every time we communicate, it will have to be in writing, signed and witnessed by 17 witnesses, so that there can be no argument further down the track. The Government is trying to facilitate a commercial arrangement between the banks. I can think of no reason why sending these Bills to the Legislation Committee will make them any better, within the period of time members opposite propose to look at them. We could easily have spent today debating these Bills at length during a Committee of the Whole House, so that all members could have a say about them and perhaps resolve any problems they might feel that only the Legislation Committee could deal with. However, the Leader of the Opposition did not ask for that. He did not suggest until the last minute that it would go to the Legislation Committee.

It is handy to talk about cooperation. Today I listened to maiden speeches that referred to cooperation and getting together to make things better and being one big happy family. We can be a big happy family only if we know what everybody else is doing. However, if the person who is trying to organise the program is the last to know what is occurring and members opposite renege on arrangements that have been put in place, it is difficult to be cooperative and act as one big happy family.

Hon Mark Nevill: We had to cooperate with every whim of yours for 10 years.

Hon N.F. MOORE: That is not true. However, I do not propose to argue with Hon Mark Nevill on that level, because that would be counterproductive. The Government does not believe it is necessary to refer this Bill to the Legislation Committee. The Government will be happy on future occasions for that to happen. The Bills committee gave this Bill a category B classification today on the basis, as I explained to the Leader of the Opposition, that it would be dealt with tonight and concluded. It would not have made any difference whether it was categorised as A, B or C, because that was my understanding of the situation.

Hon Bob Thomas: We did not know.

Hon N.F. MOORE: The Leader of the Opposition did not put me out of my misery at that time. I wish he had, because we could have made other arrangements for the business of the House for the rest of the day. The B category means that the Bill may go to the Legislation Committee.

Hon Mark Nevill: I advised my leader at eight o'clock that I had changed my mind.

The PRESIDENT: Order! I ask Hon Mark Nevill to cease interjecting.

Hon N.F. MOORE: I acknowledge that Hon Mark Nevill and the Leader of the Opposition are entitled to change their minds, and I accept that it will happen frequently in the future. However, if this House is to operate in a reasonably effective way, arrangements between the various parties should at least last for more than five minutes.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [9.31 pm]: The Opposition agrees with much that the Leader of the Government has said, some of which has been said already. From the brief opportunity I had to listen to the contributions made by other members from this side of the House, and specifically a brief discussion with the leader of the Democrats, Hon Helen Hodgson, I understand that we agree that this legislation should be dealt with expeditiously. I am pleased to see that the motion before the House will ensure that happens. It is proposed to refer the Bill to the Legislation Committee, and it must be back in the House on Wednesday, 11 June, effectively two sitting days. It will be in this place, not the next time we meet as a House, but the day after.

As the Government knows, on behalf of members of the state Parliamentary Labor Party in this place, I have offered it the opportunity to meet tomorrow, the next day, the day after, or next week if the Government's legislative program requires it. We have been told that the Government does not want to avail itself of that offer.

Hon N.F. Moore: We have already organised the Estimates Committees for the next three days.

Hon N.D. Griffiths: They can be shifted.

Hon N.F. Moore: Had I tried to shift them without your agreement, I know what you would have said. Come on, get off the grass.

Hon TOM STEPHENS: I indicated to the government leader that if he was of a mind there was nothing to stop those opportunities being explored. The opposition parties, in particular the state Parliamentary Labor Party, know the temptations with which we are dealing here. We know the great risks involved in being tempted to respond to the way we have been dealt with for year after year. We will resist vigorously that temptation.

Hon E.J. Charlton: Arrangements have always been put in place.

Hon B.K. Donaldson: It is retaliation and revenge.

Hon TOM STEPHENS: Hon Bruce Donaldson is wrong.

Hon B.K. Donaldson: The Leader of the Opposition said it.

Hon Bob Thomas: Hon Bruce Donaldson can talk to his leader about that.

The PRESIDENT: If the Leader of the Opposition addresses his comments to me there will not be any interjections at all.

Hon TOM STEPHENS: I want to disabuse any member on the other side of the House of any suggestion that this is simply a response to years and years of conditioning that has gone on in this House in the way business has been done with the non-conservative parties, and the way that the Labor Party has been dealt with year in and year out. We will resist that temptation. The motion before the House proposes that a specific Bill be referred to the Legislation Committee, be dealt with in double quick time and be back on the floor of the House for its passage to be completed at almost the earliest opportunity - the day after the earliest opportunity. The Leader of the Government indicated that he had been misled. This is not an accurate portrayal of the situation.

Hon N.F. Moore: It is an accurate portrayal of my understanding of the situation. We will get everything in writing now.

Hon TOM STEPHENS: The Leader of the Government allowed himself to mislead himself.

Hon E.J. Charlton: He believed you.

Hon N.F. Moore: I took your word on things, Mr Stephens. I have learnt.

Hon TOM STEPHENS: The Leader of the House may have deliberately misled himself.

The PRESIDENT: I ask the Leader of the Opposition to direct his comments to the Chair.

Hon TOM STEPHENS: Mr President, the Leader of the Government convinced himself that my statement that this legislation would be brought to resolution tonight - I was speaking on behalf of the state Parliamentary Labor Party - would guarantee that this legislation was passed tonight.

Hon N.F. Moore: So that means the Legislation Committee?

Hon TOM STEPHENS: No. I did not know whether a motion would be moved. I want to tell the Leader of the House that the Leader of the Democrats has regularly told me that she will not be treated as some sort of fourth faction of the Labor Party. She had not told me what she would do.

Hon N.F. Moore: This is the tail wagging the dog, by the sound of it.

Hon E.J. Charlton: You are running along like a lamb.

Hon N.F. Moore: This is what happened in the Senate. You became completely irrelevant. You are irrelevant, Mr Stephens.

Hon TOM STEPHENS: I will tell members the chain of events, so that everybody understands the way it works. When I was listening to Hon Ljiljana Ravlich earlier this evening at about eight o'clock I thought I had better write a note to Hon Mark Nevill. I am sure someone has that note as verification of what I said.

The PRESIDENT: Order! Let us address the motion before the Chair.

Hon TOM STEPHENS: Hon Helen Hodgson will find this educative as well. I said in a note to my colleague Hon Mark Nevill, who has responsibility for this legislation, that I thought there was a possibility that the Democrats might choose to send this legislation off to the Legislation Committee, and the Labor Party should be prepared to consider where it was if that were to happen. After some consideration my colleague sent me a note. I hope he does not mind my reading the note to the House.

Hon Mark Nevill: Go for your life.

Hon TOM STEPHENS: The note states -

Tom,

We will support the Bank Merger Bill going to the Legislation Committee.

Mark.

He has responsibility for the handling of that legislation. That is the first that I knew of it.

Hon E.J. Charlton: You lost control of him as well.

Hon TOM STEPHENS: Hon Mark Nevill has responsibility for handling that legislation.

Hon E.J. Charlton: You are the leader.

Hon TOM STEPHENS: I am a cooperative leader for a range of reasons, Mr Charlton.

The PRESIDENT: The Leader of the Opposition can be cooperative if he addresses me and tries to avoid interjections.

Hon TOM STEPHENS: So that members opposite and colleagues on this side of the House who are not in the Labor Party understand the process, I felt it necessary to write another note to my colleague. That note said that I thought he should check with the Leader of the Opposition, Dr Geoff Gallop, and with Hon Max Evans to ascertain their attitude. I then received a note, and I ask Hon Mark Nevill whether I can reveal what Hon Max Evans said.

Hon Mark Nevill: The Democrats and the Greens (WA) will find out I have a mind of my own.

Hon TOM STEPHENS: Hon Mark Nevill does have a mind of his own. The note said that Dr Gallop said okay. Can I reveal what Hon Max Evans said?

Hon Max Evans: You can say what you want to.

Hon TOM STEPHENS: The message was that Hon Max Evans was not fussed about it.

Hon Max Evans: We can't stop you from saying anything.

Hon Mark Nevill: They are Democrats and you are an autocrat, Minister.

Hon TOM STEPHENS: Members of the Labor Party will always be open to listening to the argument. On this occasion it has done that. It was prepared to find out what was proposed in the motion in case it was moved. I did not know at three o'clock this afternoon what would happen about the handling of this legislation. I was not told.

Hon N.F. Moore: Let us work on the basis that we made no arrangement.

Hon TOM STEPHENS: It is important for members to know what happened at three o'clock this afternoon. This legislation was given classification B. Sessional Order No 5(3)(b) reads -

class B means a bill that may pass unamended or unopposed but which appears to require some consideration whether in a committee of the whole House or a standing committee;
This Bill was given that classification -

Hon N.F. Moore: On the basis it would be passed today.

Hon H.M. Hodgson: I did not have the opportunity to consult with you.

Hon TOM STEPHENS: I did not have the opportunity to consult with the Leader of the Democrats. It is one of the difficulties of the classifications committee we will have to address. Nonetheless, it was given classification B and it enabled the Leader of the Democrats to do exactly what she did; that is, to move a motion to refer the legislation to a standing committee for consideration. It is not of great moment; it is something which happened -

Hon Mark Nevill: Because I changed my mind.

Several members interjected.

Hon TOM STEPHENS: I assure every member in this House that I will not mislead anyone. Members should listen to what I say.

Hon N.F. Moore: I don't want to listen to you; I want you to write it down.

The PRESIDENT: Order! I ask the Leader of the Opposition to address me. He appears to be concluding his comments.

Hon TOM STEPHENS: I am doing that, Mr President. I will not mislead anybody with reference to any of the undertakings I give. When I used the word "resolution" I did so because I was not sure in what form the motion would be put to the House. I suspected a motion would be moved and that it would fall within classification B. However, I did not know what would happen until later this evening. In that circumstance, I have a clear conscience

that I did not set out to mislead the Leader of the House. However, he has a mind set; that is, whatever the conservative party believes should happen to legislation, should happen. That is what has happened in the past.

Hon N.F. Moore: If you said that it would go to a committee for consideration, that would have been the end of it.

Hon TOM STEPHENS: I do not need to add anything more. No attempt was made to mislead the Government and no attempt will be made in the future by me to mislead the Government. I am urged on by all my colleagues in reference to that.

Hon N.F. Moore: Let me say we believed them on face value.

Hon TOM STEPHENS: I support the motion moved by the Leader of the Democrats and seconded by my colleague, Hon Mark Nevill.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [9.45 pm]: It is worth noting that it is only a few hours since this historic Legislative Council met. I have listened to every speech and every maiden speech with great interest.

I support the Government's position that the legislation should not be referred to a committee for further consideration. I listened with interest to the Leader of the Opposition say that he will not mislead. I think he should also have said that he will not lead. It is the position in which the Leader of the Opposition finds himself. It has taken only a few minutes into the deliberations of this new Legislative Council for that to happen.

Earlier today I had the privilege of representing the Leader of the House at the gathering outside Parliament House. Like all members who have been in this place for some time I look back on all the good and bad things that have happened. I am a great believer that when one is presented with an opportunity to do something which has not been or could not be done before, one is also confronted with increased responsibility. We cannot have one without the other. This is not the end of the world. All members are in good humour and are accepting the situation. Members have a right to put their point of view.

The Leader of the House and the Leader of the Opposition reach agreement on how the business of this House should proceed. The Leader of the House, in addition to being the Leader of the Government in this place, has always cooperated with the Opposition and he will continue to cooperate with the Labor Opposition, the Democrats and the Greens (WA). He will try to accommodate the wishes of all parties and, if it is necessary, he will delay debate on legislation for a day or a week if they are not ready to deal with it. He will arrange, if necessary, briefings on the legislation. The same consideration was given when the coalition parties were in opposition. They always did their best to ensure the movement of legislation through the Parliament and to cooperate with the then Government.

When members reflect on what happened on the first day of the new Legislative Council they will say it is the day on which the Leader of the Opposition said that this simple piece of legislation would be passed.

Several members interjected.

Hon Kim Chance: We will remember the last day of the last regime.

Hon E.J. CHARLTON: All of a sudden he found that the 12 members of the Labor Party were being directed from the rear. It reminds me of a cap with two peaks which has written on it, "Follow me, I am the leader." I will bring the cap with me tomorrow to show Hon Tom Stephens. This motion, if it is passed, will delay the passage of this legislation by a fortnight, not one day as the Leader of the Opposition advised members of the House. I said to the people who were gathered outside Parliament House today that when I first came into this place and I was tested -

Hon N.D. Griffiths interjected.

Hon E.J. CHARLTON: Hon Nick Griffiths would not understand because he was not here at the time. At that stage there were three National Party members -

Hon W.N. Stretch: Four.

Hon E.J. CHARLTON: There were four, if the member wants to throw in the country member of the Liberal Party as well. Things have changed. Hon Mark Nevill is stuck in the Labor Party, which is dominated by a terrible group of people.

Hon Mark Nevill: I am dominated so much I will change the Bill tonight.

The PRESIDENT: Order! If the Minister addresses his comments to me, there will not be a need for interjections.

Hon E.J. CHARLTON: I look forward to seeing what will happen in the future. It is worth recording that this is how opposition members choose to treat the first piece of legislation that they have the opportunity to debate. We would all do well to reflect on this exercise.

HON NORM KELLY (East Metropolitan) [9.50 pm]: It is good to hear members referring to the history of this occasion. I am sure that it will take some time for the five parties to work in harmony on these sorts of Bills.

I wish to clarify a couple of points. Hon Eric Charlton said that we had received briefings from the department. It was only yesterday that Hon Helen Hodgson and I were offered a briefing. Hon Helen Hodgson received that briefing today. Therefore, it was not until today that we were made aware of some of the ramifications of this legislation. Because of our concerns about certain clauses of the Bill, particularly clause 18, it is understandable that we wish to see it referred to a committee for clarification.

The Minister for Finance referred to the need to expedite business. However, expedition of business should not override accountability measures. The Democrats will push consistently to ensure that these considerations are not overridden, and that accountability measures are placed in legislation.

As much as the Democrats will be working with the other four parties in the Chamber, it is necessary to make it clear that our decisions will be made independently of other parties. We will decide on legislation on a Bill by Bill basis.

Question put and a division taken with the following result -

Ayes (16)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport
Hon E.R.J. Dermer
Hon N.D. Griffiths
Hon John Halden

Hon H.M. Hodgson
Hon Norm. Kelly
Hon Mark Nevill
Hon L. Ravlich
Hon J.A. Scott

Hon C. Sharp
Hon Tom Stephens
Hon K.D.E. Travers
Hon Giz Watson
Hon Bob Thomas (*Teller*)

Noes (14)

Hon E.J. Charlton
Hon M.J. Criddle
Hon B.K. Donaldson
Hon Max Evans
Hon Barry House

Hon Murray Montgomery
Hon N.F. Moore
Hon M.D. Nixon
Hon S.M. O'Brien
Hon B.M. Scott

Hon G.D. Smith
Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Pair

Hon Tom Helm

Hon Peter Foss

Question thus passed.

BANK MERGERS (TAXING) BILL

Hon N.F. Moore (Leader of the House) advised the House that the Bills committee had assigned category B to the Bills.

Cognate Debate

On motion by Hon Max Evans (Minister for Finance), resolved -

That leave be granted for a cognate debate on the Bank Mergers Bill and the Bank Mergers (Taxing) Bill.

Second Reading

Resumed from 6 May.

HON MARK NEVILL (Mining and Pastoral) [8.42 pm]: I begin by complimenting you on your election, Mr President. It is hard to get used to seeing you in the Chair. I expect to see Hon Clive Griffiths walk around the corner and take his place at any moment. I have to get accustomed to seeing you in the Chair. You are assured of my cooperation in your running of the House over the coming years.

The Opposition supports the two Bills that we are debating cognately. While am intrigued by the logic and the form of these Bills, I have no quarrel with their content. The Bills establish a framework which will facilitate bank mergers and allow them to be dealt with by a number of means, including by regulation, by adopting the relevant law of another State or Territory, or by a combination of both of those means. We have been told that the New South Wales Parliament last year enacted legislation similar to this Bill.

This sort of legislation would normally fall foul of uniform legislation concerns, which have grown in recent years, especially when we have been asked to agree to uniform measures at short notice. That resulted in changing the standing orders of this House. As I said, these Bills resemble uniform legislation. However, they are different in some respects. It would be interesting to have the views of a committee of another place, that long-running, much-travelled Standing Committee on Uniform Legislation and Intergovernmental Agreements. However, that is not available.

Hon Kim Chance: Is jealousy coming through?

Hon MARK NEVILL: I stressed the long-running and much-travelled part.

This Bill is different in that it is ancillary to the policy of the legislation. The policy area of legislation is an area of concern to the Commonwealth. Bank mergers have nothing to do with State legislation; they are the province of the Commonwealth. They are controlled by the Trade Practices Act and the Australian Competition and Consumers Commission, which assesses whether mergers comply with that Act. All other legislation that relates to bank mergers, including the Banking Act, which gives the Treasurer power over mergers, the Banks (Shareholding) Act, which restricts individual shareholders' holdings to 10 per cent of banks, and the Foreign Acquisitions and Takeovers Act, is commonwealth legislation. Therefore, bank mergers have little to do with our legislative responsibility. This Bill merely facilitates that merger by making some arrangements to deal with state stamp duty. Those transfers of accounts could occur without this legislation. It is a slow and time-consuming process.

There are problems with this legislation, which I will discuss later. We have been told in the second reading speech that this Bill is modelled on the New South Wales legislation. We have been told also that two mergers are in progress, the first of which is the National Australia Bank's merger with the Bank of New Zealand. I racked my brain earlier today in an attempt to remember when that occurred. I knew it was some time ago. However, a Treasury officer advised me this evening that it occurred in 1992. Therefore, this merger has been a long time coming and I would be bold enough to say that the National Australia Bank and the Bank of New Zealand have probably dragged their feet in getting the merger to this stage. The merger is not a significant merger in terms of the number of accounts in this State. I am not sure what the figure is.

Hon Max Evans: Six thousand.

Hon MARK NEVILL: That is not a large number of accounts when one compares it with the Westpac-Challenge Bank merger, which involved some 330 000, according to the second reading speech. Obviously that would be a very slow and time consuming task.

The second reading speech also states that there is also an expectation that further bank mergers may occur following the Wallis inquiry. I must tick the Minister off because that part of the speech was written before the Wallis report. I have told other Ministers in this House that if the Bill is amended in the other place, the second reading speech should be rewritten.

Hon Max Evans: It was read on 6 May.

Hon MARK NEVILL: The Minister's staff and the Minister should ensure second reading speeches are brought up to date. The Wallis report is a monstrous tome. I was intrigued to find that I was the first person to take it out of the Parliamentary Library. I thought it would have had many other people's fingerprints on it before mine. It is in pristine condition. The Wallis inquiry recommended that banks could merge with life assurance offices; however, it recommended against the four major banks - the National Australia Bank, the ANZ, Westpac and the Commonwealth Bank - merging. If that is a recommendation of the Wallis inquiry, it is not yet a policy of the Government. The Government is yet to respond to that. However, I would be surprised if the Federal Government allowed those four major banks to merge. I do not believe we will see legislation in this House relating to the merger of the National Bank and the ANZ or Westpac, and certainly we would not see mergers being done by way of regulation. That would be an extremely contentious merger. I think most people would object to that.

The second reading speech also states that bank mergers are on the increase. I do not believe that is true. The second reading speech refers to two mergers, the NAB-Bank of New Zealand merger and the St George-Advance Bank merger. They are in train. The only other regional bank that I know of that has not been taken over is the Bendigo Bank. If mergers will not occur among the four major banks, that is not a valid statement. Basically the scraps are left: The regional banks have gone in all but name. They are allowed to keep their name now only because of a change to banking laws about two years ago. They can have only one licence, but they can trade under different names.

This Bill will overcome the expensive and time consuming documentation associated with the transfer of banking business from one bank to another. This must be done because under the law banks can hold only one licence. This Bill purports to facilitate these mergers without delaying the time of the House. That is a dangerous assumption. Bank mergers will still have to be done separately because they will occur at separate times. If bank mergers are done by regulation, they will be subject to disallowance. There is a different effect of disallowance in this case. If the Government increases by regulation drivers' licence fees, anyone who is due to pay the licence must pay the higher fee. If that increase is later disallowed, the fee will revert to the old licence fee. That is an ongoing stream of events that can be affected by disallowance.

In this case the disallowance may occur after a period in which all the transactions have gone through and when there is none to follow. If all the transactions are completed before the disallowance comes into effect, the disallowance will basically be a Clayton's disallowance; therefore, we could be giving ourselves an illusory power. These regulations must be disallowed within 14 sitting days. If members wanted to do that effectively, they would have to move quickly after the regulations were tabled to thwart a bank transferring the accounts quickly. Facilitating this merger by regulation is an odd way of doing it.

People are sensitive to banks and they are sceptical about how banks operate. Just this week there was a 0.5 per cent decrease in the Reserve Bank rate and that afternoon banks announced varying drops in their housing loan interest rates. However, those rate drops will not come into effect for two months. On the other side of the cycle, when interest rates go up and the Reserve Bank announces an increase, will the banks follow suit by announcing an increase in the bank rate the next day, or will that increase be postponed for two months? One can envisage people getting upset about what banks do with their rates when a merger that could be subject to disallowance is before Parliament.

Another mechanism in this Bill is the use of the legislation of another State. That occurred previously in a fair trading Bill that came before the House. That Bill included model legislation that was introduced in the Queensland Parliament and, as I remember it, legal challenges to that legislation had to be dealt with in Queensland. I do not think cross-vesting powers of the two Supreme Courts were in effect, at least not initially. This House should view that sort of strategy with great concern because it takes matters out of the proper control of this Parliament. I do not believe much time is saved by using this style of Bill to facilitate this legislation. The Government must still draft the regulations. These are not large Bills; they are only two or three pages long. To my knowledge such legislation has not been delayed in either House when previous bank mergers have occurred. I do not believe much time will be saved in the House and in drafting.

I telephoned the National Australia Bank Ltd early yesterday morning to discuss this matter with its legislation people. As late as the close of business today my telephone call had not been returned, which does not impress me. I am not sure how much interest the National Australia Bank has in this legislation. It merged with the Bank of New Zealand five years ago. Two days is ample time to get back to me. I gave the bank the number of my mobile phone, which has a message bank. Plenty of others have been able to get through, so the bank cannot say it was unable to reach me.

Members are debating two Bills, the second of which is the Bank Mergers (Taxing) Bill. Clause 3 of that Bill requires the Treasurer to recover from parties any state taxes and charges that would normally have been forgone by this process. New members might not understand that process. When a tax is imposed, a separate Bill must be introduced and that is why the taxing provisions are included in that Bill.

This Bill has been classified as a class B Bill; therefore, it is contemplated that this Bill can be dealt with by the Standing Committee on Legislation. This Bill has been delayed, as has the Iron and Steel (Mid West) Agreement Bill, by the industrial relations legislation.

Hon N.F. Moore: It certainly can be sent to the Legislation Committee, but your leader indicated to me that it would be passed tonight.

Hon MARK NEVILL: The Leader of the House suggests he has been misled by the Leader of the Opposition.

Hon N.F. Moore: Only if it is not resolved.

Hon MARK NEVILL: I changed my mind about sending this Bill to the Legislation Committee about an hour ago. On doing that I immediately advised the Minister for Finance of my change of mind and the reason for that change. I gave him that courtesy. It was my decision, entrusted to me by Caucus. The Leader of the House may not have been aware that I advised the Minister for Finance of that decision. Hon Norman Moore should not reflect on the Leader of the Opposition in that case because we are living in a new world in this place.

Hon N.F. Moore: It's okay, Mr Nevill, so long as we know that when you tell us what is to happen, it will happen.

The PRESIDENT: Order! Hon Mark Nevill should address the Chair.

Hon MARK NEVILL: My party has always supported -

Hon N.F. Moore: Will you be ringing up the banks to tell them, too?

Hon MARK NEVILL: It is not my job to ring the banks; I have already rung the banks and they did not have the courtesy to return my call!

Hon N.F. Moore: I don't blame them.

Hon MARK NEVILL: To whom shall I talk?

The PRESIDENT: Order! Hon Mark Nevill will address the Chair.

Hon MARK NEVILL: We move for the disallowance of regulations quite frequently to debate an issue, and not necessarily to have the regulations disallowed. On occasions, it would have been quite embarrassing if the opposition members' bluff had been called as we have always worked on the premise that nothing would happen because we did not have the numbers. However, things have changed and we must be careful about what we do now. We cannot just move disallowance to debate a matter as it might actually be disallowed!

Hon Max Evans: Hon Alannah MacTiernan found that out one night.

Hon MARK NEVILL: In current circumstances, we must be more circumspect than we may have been in the past.

I have read section 42 of the Interpretation Act many times over the years, and for some reason my view was that disallowance of regulations applied from the date of original gazettal. However, it is a prospective provision as the regulations cease to have effect on disallowance. Therefore, disallowance on the bank Bills' regulations will not affect any transactions carried out before disallowance takes effect. Also, the Opposition can move disallowance, but the Government decides when the motion is dealt with; it may be dealt with three to six months later if a recess is involved, and that is the main concern.

I am not particularly worried about telling the banks about this move as they can wear the decision of this House. This Bill will affect 6 000 depositors, and referral to a committee will have not have the same effect as delaying a merger Bill with which 330 000 depositors might be involved. These transfers can be conducted manually without this legislation. These two Bills, along with the Kingstream Bill, were held up by passionate debate on the industrial relations Bill, but that was the Government's choice as it manages the business of this House. If some problem is caused by that delay, I do not accept full responsibility for that - although I accept my share. Certainly, the Government's management of business has left a lot to be desired. It can allow the banks to conduct these transfers manually or draft a separate Bill to facilitate the stamp transfers in this merger, and I am sure that such Bill would be dealt with urgently.

The Labor Party has a problem with not the policy of the Bill, but the method of its implementation.

Hon Max Evans: You're pre-empting the committee by saying that you want the Bill redrawn in certain ways.

Hon MARK NEVILL: Not necessarily. I am making suggestions to the Government, which it can discuss with the Legislation Committee if the referral is successful. I believe that Hon Helen Hodgson will move for referral to that committee after the second reading is passed. The Australian Labor Party will support the Bill and its referral to the Legislation Committee.

HON H.M. HODGSON (North Metropolitan) [9.04 pm]: It seems to be a tradition for Democrats to be thrown into weighty matters on the first day that they take their seat. I have looked at the Bank Mergers Bill and the Bank Mergers (Taxing) Bill and the second reading speeches. The policy of the Bill is to facilitate bank mergers, which are matters of Federal Government policy, and Reserve Bank and Australian Competition and Consumers Commission supervision. State responsibility is limited to the commercial issues dealing with the transfer of assets and other matters associated with the change of ownership.

I recognise and appreciate the need for commercial certainty in dealing with these issues, and mechanisms are included in the Bill to deal with contractual issues associated with the merger. The other major issue is the protection of the revenue base; namely, the stamp duty or any other taxes involved. The Democrats agree with the general principles of the Bill, but we have two major concerns about some of the mechanisms to be used to implement this policy. We would like to see the matters debated in more detail.

The first of these concerns is the accountability mechanism. Members have heard my colleague Hon Norm Kelly and I speak tonight on accountability. Therefore, it is interesting that the first Bill to come before us is one which falls short in these areas. The Bill delegates legislative authority from Parliament to regulations, which can be laid before Parliament for disallowance. The sitting timetable, when read against the Interpretation Act, indicates that

we have six sitting days before the regulations are laid before the House - that is two weeks. One has 14 sitting days to move for disallowance, which is at least five weeks, and one must debate the motion within 10 days of its introduction. Therefore, we have 30 sitting days from the time that the regulation is gazetted until disallowance may occur. Essentially, any regulated action will be valid if it is not disallowed in that time. That is a concern for the Democrats.

A date is relevant to bank mergers. The last Bill before the House on such matters was the Westpac Banking Corporation (Challenge Bank) Bill 1996, which contained a commencement date defined by proclamation. It was a specific date. It is conceivable that the date on which these Bills before the House take effect could be within the first six sitting days of the timetable I outlined. Therefore, no opportunity would be available to this House or the other place to exercise their rights to scrutinise the regulations. It is a particular problem with a lengthy recess pending; within a few weeks we will rise for the winter recess, which will extend the time involved over several months.

Orders are also referred to in the Bill, and these are a concern as they cannot be disallowed under the same procedure as regulations. I am pleased to see that the Bill contains a mechanism to apply to orders the same process of disallowance as applies to regulations. This is an excellent idea.

The second concern is the arrangement for the collection of tax. A reason given for introducing this Bill is that it will protect the revenue base. My background in the taxation profession means I am well aware of how important it is to protect the revenue base, and it has given me some ideas about how to provide that protection. I notice that the Bill uses the phrase that the amount payable is to be determined by the Treasurer in accordance with such principles as the Treasurer thinks appropriate. That phrase leaves the matter flexible and open-ended, and an explanation is required on why it needs to be left open-ended. My first reaction is that I would prefer to see parameters in place, such as a requirement that the revenue is at least equal to the amount expected to be received in stamp duty on the transfer. It is well and good to say that the current Treasurer will adopt these principles, but who knows who will occupy the Treasury benches after successive elections - who knows, we may see Democrats on those benches one day! It is important that there be parameters in the legislation allowing the Treasurer to apply those principles in reaching that determination.

The Democrats agree with the principle and policy of the Bill, but these issues cannot be resolved tonight. I foreshadow that I will move to refer this matter to the Standing Committee on Legislation for urgent consideration. In view of the urgency with which the Government has said it wants this Bill to pass, I am happy to make that a very urgent review.

Hon Derrick Tomlinson: How long is that?

Hon H.M. HODGSON: The proposal is that the committee report back by 11 June, which might require extra meetings.

HON J.A. SCOTT (South Metropolitan) [9.12 pm]: Mr President, I also congratulate you on your success in achieving the Presidency of this House. Having seen you in other roles, I have great respect for your ability and I am sure you will do a wonderful job in keeping this House in check.

I support the position put by Hon Helen Hodgson. From a philosophical point of view, I am concerned when this House considers Bills that could become template legislation. Such legislation must be very carefully considered in case there is an error because, if there is, it could be very costly.

Hon Mark Nevill has pointed out already that the regulation process can be more time consuming than going through the normal process of debating Bills. After all, bank mergers do not happen every day of the week. Of course, such legislation can be amended later, but it would be much better if we were to get it right the first time.

While the method described might make the process simpler and speedier, which is debatable, the community expects this new House to ensure it is not handing its powers over to the Executive without ensuring that the proper checks and balances are in place.

I have looked at a number of provisions in this Bill, some of which deal with the existing or pending legal proceedings that might be the subject of regulations. There could be a problem if those regulations were challenged in the courts by people with large amounts of money, such as banks, especially if those legal challenges must be sorted out in other States, where we have little control over what happens.

Some other regulations concern me, not just those relating to the legal proceedings but also those dealing with employment, superannuation and related rights of the staff of banks. I would hate to see such related rights disappear because this House did not consider legislation properly. I want to ensure that those rights are safeguarded. I will support the motion moved by Hon Helen Hodgson when it is put at the end of the second reading stage.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.15 pm]: I was pleased with the support I appeared to be getting from Hon Mark Nevill when he said the Opposition supported the legislation, but he quickly moved away from that. If members opposite talk about defeating this legislation, they should remember that the previous two Bills should have been defeated. There was only one Bill; as the then President pointed out, we did not have a separate taxing Bill. Everyone else appeared to have overlooked that. In hindsight, there was a very good reason for that legislation to go to the Standing Committee on Legislation. However, it has since been sorted out.

Hon Mark Nevill referred to the Wallis report. I thought it came out after 6 May and my second reading speech in this House. There has been time to consider it. I confirm that Hon Mark Nevill discussed this with me tonight. It is the Opposition's right to disagree with what is going on.

This is probably the simplest piece of legislation that I will introduce in this House. The bank merger has been approved. Hon Mark Nevill pointed out that the merger of the National Australia Bank and the Bank of New Zealand started five years ago. A few years ago we dealt with the merger of the Australian and New Zealand Banking Group and the Town and Country Bank, which took about four years to complete. The Reserve Bank seems to create time delays and we are required to pass the enabling legislation in the last month or so before the time limit runs out. The Westpac-Challenge merger was expedited because Tony Howath went ahead and did what needed to be done and brought it in well ahead of schedule. Those involved in the Eastern States forget about what is happening here. I remember Ray Turner, the CEO of Town and Country Bank, sitting in the gallery waiting to see the enabling legislation pass on 29 or 30 June. When these mergers happen, the banks end up with only one banking licence and many assets in the old bank. In this case, the two groups have 330 000 deposit accounts and 83 000 loan accounts. The deposit accounts are easily dealt with, but the loan accounts involve mortgages, stamp duty and so on. This legislation is simply about facilitating the transfer of assets by banks doing a deal approved by the Federal Government. The State does not suffer any loss of stamp duty or tax.

Hon Helen Hodgson referred to the Treasurer's role. The Treasurer works through Treasury. We cannot say that the total value of the assets is umpteen billion dollars and tax that amount; each amount must be considered separately according to scales. Treasury must simply approve the method.

Members also referred to accountability. This legislation simply expedites what will happen. The big issue is whether there will be any more transfers. Who knows? The Government is trying to reduce the number of Bills introduced into this House.

Reference was also made to the regulations being disallowed. I do not know why anyone would want to do that. After all, this is simply a mechanism for people to do something they will do anyway. Mention was made of the Standing Committee on Legislation's wanting to see the Bills redrafted specifically for the National Australia Bank and the Bank of New Zealand. As that is the case, I am not quite certain of the mechanics. There is a certain protocol. It has to go to Cabinet to be approved. It could be printed in a couple of weeks. It will not be that quick because there is no way in which one can beat the process. We will look at the position as it emerges. The cost in man hours will be far greater to the State Revenue Department than it ever will be to the banks. They have 6 000 transfers which they will give to State Revenue, which will assess the stamp duty. That will be a longer process than that carried out by the Treasury.

Hon Mark Nevill: Is there provision in the Bill to compensate State Revenue for the work?

Hon MAX EVANS: That comes out under costs, but the department could not pick it up as extra costs. Delegated legislation would not allow that. It would say, "You cannot charge extra costs there for labour otherwise you are raising a tax." Therefore, I do not think we will recover the extra costs. All we will have is stamp duty. I imagine that State Revenue will take some time to work through 6 000 documents. Therefore, we will have X amount of dollars, less my overtime, because I do not think I can charge for it.

I regret that the Opposition feels strongly about this legislation, because there are many more meaningful things it might want to send to the Legislation Committee than this. These Bills are among the simplest pieces of legislation. As Hon Mark Nevill has mentioned, as most of the documents have gone through, we cannot unscramble the eggs. That is what the legislation is all about. It has been split from one Bill for two bank mergers to two Bills, which is the right way to do it. We are doing it this way, even though the former President has left. He quite rightly did not like the previous Bill. We have put it right for him, and I hope he knows about this before he leaves the country. We will not agree to the Bills going to the Legislation Committee. We believe that this is simple legislation. We should just get on with it, pass it and help the banks do their business. I commend the Bill to the House.

Question put and passed.

Bills read a second time.

Referral to Standing Committee on Legislation

HON H.M. HODGSON (North Metropolitan) [9.24 pm]: I move -

That the Bank Mergers Bill and the Bank Mergers (Taxing) Bill be referred to the Standing Committee on Legislation and the committee report the Bills to the House not later than Wednesday, 11 June 1997.

I have already covered most of the reasons that I believe these Bills need to be discussed in more detail. The intention is not simply to slow down the processes and attack the efficient workings of the legislation. Some matters genuinely need to be discussed. They can be discussed quickly with the aid of people experienced in the area. The Legislation Committee is the appropriate place in which to do this. If the Bills classification committee had reviewed this Bill, I hope that it would have come to the same conclusion.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.25 pm]: As I have said, the Government does not support this motion. We believe this is simple legislation; it is well designed and well drafted as a simple mechanism for this bank merger. There may or may not be a third bank merger. Hon Mark Nevill has said that the legislation has been dealt with in this way to reduce the work of the House. We would like to see it get through so that the bank can wind up its business for this year. I presume that the other later merger involving the St George Bank and Advance Bank Australia Ltd, which may be in October or November of this year, would go through very simply. We do not support the motion.

HON J.A. SCOTT (South Metropolitan) [9.26 pm]: I certainly agree with the motion put by Hon Helen Hodgson. The very fact that this type of legislation will be used for successive mergers is all the more reason why it should be very tight, and properly scrutinised. I support the motion.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.27 pm]: Hon Mark Nevill said during his comments earlier this evening that times have changed, and he is quite right. Some things should not change; that is, when we have an agreement in place it should remain in place and we should not be left at the end of a period of agreement finding that the agreement does not stand. I make that comment quickly to indicate that I was led to believe that this legislation would be passed tonight by this Council. Because of that I was happy to organise the program today to ensure that new members had time in which to make their maiden speeches and that we did not take up the time of the House debating other issues.

I am the first to acknowledge that for a variety of reasons some rush is attached to these Bills. In the current context the main one is the need of the banks to have this legislation passed.

Hon Mark Nevill: They have waited five years; they can wait another month.

Hon N.F. MOORE: That is fine. I suggest that the member not tell me that but say to the banks which are waiting for this legislation that he has made that decision. There will be occasions in the future when members on the other side of the House seek to get the pleasure of making decisions which mean that this Government will lose votes and those decisions will affect somebody else outside this Chamber. This legislation does not affect the Government and is nothing at all to do with the Government. We are seeking to facilitate a commercial arrangement. If the Opposition, for reasons best known to itself, wants to use its numbers on this occasion - and I suspect we are about to encounter an historical moment - to delay the passage of this legislation, it is up to members opposite to decide.

Hon Mark Nevill: This could have been dealt with two months ago.

The PRESIDENT: Order!

Hon N.F. MOORE: There is some urgency attached to this legislation, which I have explained.

Hon N.D. Griffiths: We dealt with the labour relations legislation.

Hon N.F. MOORE: The labour relations legislation took three weeks of the time of this House.

Several members interjected.

The PRESIDENT: Order!

Hon N.F. MOORE: Members opposite talked and talked until I could not believe they could talk any more. A member in this House spoke for eight hours on one Bill and did not say anything of any consequence in all that time. He would deny 10 000 other people the chance to say a word. To suggest that somehow or other we are wasting the time of the House is absolute nonsense. We had three weeks of time wasting. To say that the industrial relations legislation and our attitude to it has led to a delay with this legislation is nonsense. We could have dealt with it a long time ago.

I was led to understand certain things would happen with this legislation and now they will not happen, as I understand the position of the Labor Party. It is disappointing because I made arrangements on the basis of that understanding. I will no doubt be told shortly by the Leader of the Opposition that I misunderstood what he said. He can say that, but all that means is that from now on every time we communicate, it will have to be in writing, signed and witnessed by 17 witnesses, so that there can be no argument further down the track. The Government is trying to facilitate a commercial arrangement between the banks. I can think of no reason why sending these Bills to the Legislation Committee will make them any better, within the period of time members opposite propose to look at them. We could easily have spent today debating these Bills at length during a Committee of the Whole House, so that all members could have a say about them and perhaps resolve any problems they might feel that only the Legislation Committee could deal with. However, the Leader of the Opposition did not ask for that. He did not suggest until the last minute that it would go to the Legislation Committee.

It is handy to talk about cooperation. Today I listened to maiden speeches that referred to cooperation and getting together to make things better and being one big happy family. We can be a big happy family only if we know what everybody else is doing. However, if the person who is trying to organise the program is the last to know what is occurring and members opposite renege on arrangements that have been put in place, it is difficult to be cooperative and act as one big happy family.

Hon Mark Nevill: We had to cooperate with every whim of yours for 10 years.

Hon N.F. MOORE: That is not true. However, I do not propose to argue with Hon Mark Nevill on that level, because that would be counterproductive. The Government does not believe it is necessary to refer this Bill to the Legislation Committee. The Government will be happy on future occasions for that to happen. The Bills committee gave this Bill a category B classification today on the basis, as I explained to the Leader of the Opposition, that it would be dealt with tonight and concluded. It would not have made any difference whether it was categorised as A, B or C, because that was my understanding of the situation.

Hon Bob Thomas: We did not know.

Hon N.F. MOORE: The Leader of the Opposition did not put me out of my misery at that time. I wish he had, because we could have made other arrangements for the business of the House for the rest of the day. The B category means that the Bill may go to the Legislation Committee.

Hon Mark Nevill: I advised my leader at eight o'clock that I had changed my mind.

The PRESIDENT: Order! I ask Hon Mark Nevill to cease interjecting.

Hon N.F. MOORE: I acknowledge that Hon Mark Nevill and the Leader of the Opposition are entitled to change their minds, and I accept that it will happen frequently in the future. However, if this House is to operate in a reasonably effective way, arrangements between the various parties should at least last for more than five minutes.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [9.31 pm]: The Opposition agrees with much that the Leader of the Government has said, some of which has been said already. From the brief opportunity I had to listen to the contributions made by other members from this side of the House, and specifically a brief discussion with the leader of the Democrats, Hon Helen Hodgson, I understand that we agree that this legislation should be dealt with expeditiously. I am pleased to see that the motion before the House will ensure that happens. It is proposed to refer the Bill to the Legislation Committee, and it must be back in the House on Wednesday, 11 June, effectively two sitting days. It will be in this place, not the next time we meet as a House, but the day after.

As the Government knows, on behalf of members of the state Parliamentary Labor Party in this place, I have offered it the opportunity to meet tomorrow, the next day, the day after, or next week if the Government's legislative program requires it. We have been told that the Government does not want to avail itself of that offer.

Hon N.F. Moore: We have already organised the Estimates Committees for the next three days.

Hon N.D. Griffiths: They can be shifted.

Hon N.F. Moore: Had I tried to shift them without your agreement, I know what you would have said. Come on, get off the grass.

Hon TOM STEPHENS: I indicated to the government leader that if he was of a mind there was nothing to stop those opportunities being explored. The opposition parties, in particular the state Parliamentary Labor Party, know the temptations with which we are dealing here. We know the great risks involved in being tempted to respond to the way we have been dealt with for year after year. We will resist vigorously that temptation.

Hon E.J. Charlton: Arrangements have always been put in place.

Hon B.K. Donaldson: It is retaliation and revenge.

Hon TOM STEPHENS: Hon Bruce Donaldson is wrong.

Hon B.K. Donaldson: The Leader of the Opposition said it.

Hon Bob Thomas: Hon Bruce Donaldson can talk to his leader about that.

The PRESIDENT: If the Leader of the Opposition addresses his comments to me there will not be any interjections at all.

Hon TOM STEPHENS: I want to disabuse any member on the other side of the House of any suggestion that this is simply a response to years and years of conditioning that has gone on in this House in the way business has been done with the non-conservative parties, and the way that the Labor Party has been dealt with year in and year out. We will resist that temptation. The motion before the House proposes that a specific Bill be referred to the Legislation Committee, be dealt with in double quick time and be back on the floor of the House for its passage to be completed at almost the earliest opportunity - the day after the earliest opportunity. The Leader of the Government indicated that he had been misled. This is not an accurate portrayal of the situation.

Hon N.F. Moore: It is an accurate portrayal of my understanding of the situation. We will get everything in writing now.

Hon TOM STEPHENS: The Leader of the Government allowed himself to mislead himself.

Hon E.J. Charlton: He believed you.

Hon N.F. Moore: I took your word on things, Mr Stephens. I have learnt.

Hon TOM STEPHENS: The Leader of the House may have deliberately misled himself.

The PRESIDENT: I ask the Leader of the Opposition to direct his comments to the Chair.

Hon TOM STEPHENS: Mr President, the Leader of the Government convinced himself that my statement that this legislation would be brought to resolution tonight - I was speaking on behalf of the state Parliamentary Labor Party - would guarantee that this legislation was passed tonight.

Hon N.F. Moore: So that means the Legislation Committee?

Hon TOM STEPHENS: No. I did not know whether a motion would be moved. I want to tell the Leader of the House that the Leader of the Democrats has regularly told me that she will not be treated as some sort of fourth faction of the Labor Party. She had not told me what she would do.

Hon N.F. Moore: This is the tail wagging the dog, by the sound of it.

Hon E.J. Charlton: You are running along like a lamb.

Hon N.F. Moore: This is what happened in the Senate. You became completely irrelevant. You are irrelevant, Mr Stephens.

Hon TOM STEPHENS: I will tell members the chain of events, so that everybody understands the way it works. When I was listening to Hon Ljiljana Ravlich earlier this evening at about eight o'clock I thought I had better write a note to Hon Mark Nevill. I am sure someone has that note as verification of what I said.

The PRESIDENT: Order! Let us address the motion before the Chair.

Hon TOM STEPHENS: Hon Helen Hodgson will find this educative as well. I said in a note to my colleague Hon Mark Nevill, who has responsibility for this legislation, that I thought there was a possibility that the Democrats might choose to send this legislation off to the Legislation Committee, and the Labor Party should be prepared to consider where it was if that were to happen. After some consideration my colleague sent me a note. I hope he does not mind my reading the note to the House.

Hon Mark Nevill: Go for your life.

Hon TOM STEPHENS: The note states -

Tom,

We will support the Bank Merger Bill going to the Legislation Committee.

Mark.

He has responsibility for the handling of that legislation. That is the first that I knew of it.

Hon E.J. Charlton: You lost control of him as well.

Hon TOM STEPHENS: Hon Mark Nevill has responsibility for handling that legislation.

Hon E.J. Charlton: You are the leader.

Hon TOM STEPHENS: I am a cooperative leader for a range of reasons, Mr Charlton.

The PRESIDENT: The Leader of the Opposition can be cooperative if he addresses me and tries to avoid interjections.

Hon TOM STEPHENS: So that members opposite and colleagues on this side of the House who are not in the Labor Party understand the process, I felt it necessary to write another note to my colleague. That note said that I thought he should check with the Leader of the Opposition, Dr Geoff Gallop, and with Hon Max Evans to ascertain their attitude. I then received a note, and I ask Hon Mark Nevill whether I can reveal what Hon Max Evans said.

Hon Mark Nevill: The Democrats and the Greens (WA) will find out I have a mind of my own.

Hon TOM STEPHENS: Hon Mark Nevill does have a mind of his own. The note said that Dr Gallop said okay. Can I reveal what Hon Max Evans said?

Hon Max Evans: You can say what you want to.

Hon TOM STEPHENS: The message was that Hon Max Evans was not fussed about it.

Hon Max Evans: We can't stop you from saying anything.

Hon Mark Nevill: They are Democrats and you are an autocrat, Minister.

Hon TOM STEPHENS: Members of the Labor Party will always be open to listening to the argument. On this occasion it has done that. It was prepared to find out what was proposed in the motion in case it was moved. I did not know at three o'clock this afternoon what would happen about the handling of this legislation. I was not told.

Hon N.F. Moore: Let us work on the basis that we made no arrangement.

Hon TOM STEPHENS: It is important for members to know what happened at three o'clock this afternoon. This legislation was given classification B. Sessional Order No 5(3)(b) reads -

class B means a bill that may pass unamended or unopposed but which appears to require some consideration whether in a committee of the whole House or a standing committee;
This Bill was given that classification -

Hon N.F. Moore: On the basis it would be passed today.

Hon H.M. Hodgson: I did not have the opportunity to consult with you.

Hon TOM STEPHENS: I did not have the opportunity to consult with the Leader of the Democrats. It is one of the difficulties of the classifications committee we will have to address. Nonetheless, it was given classification B and it enabled the Leader of the Democrats to do exactly what she did; that is, to move a motion to refer the legislation to a standing committee for consideration. It is not of great moment; it is something which happened -

Hon Mark Nevill: Because I changed my mind.

Several members interjected.

Hon TOM STEPHENS: I assure every member in this House that I will not mislead anyone. Members should listen to what I say.

Hon N.F. Moore: I don't want to listen to you; I want you to write it down.

The PRESIDENT: Order! I ask the Leader of the Opposition to address me. He appears to be concluding his comments.

Hon TOM STEPHENS: I am doing that, Mr President. I will not mislead anybody with reference to any of the undertakings I give. When I used the word "resolution" I did so because I was not sure in what form the motion would be put to the House. I suspected a motion would be moved and that it would fall within classification B. However, I did not know what would happen until later this evening. In that circumstance, I have a clear conscience

that I did not set out to mislead the Leader of the House. However, he has a mind set; that is, whatever the conservative party believes should happen to legislation, should happen. That is what has happened in the past.

Hon N.F. Moore: If you said that it would go to a committee for consideration, that would have been the end of it.

Hon TOM STEPHENS: I do not need to add anything more. No attempt was made to mislead the Government and no attempt will be made in the future by me to mislead the Government. I am urged on by all my colleagues in reference to that.

Hon N.F. Moore: Let me say we believed them on face value.

Hon TOM STEPHENS: I support the motion moved by the Leader of the Democrats and seconded by my colleague, Hon Mark Nevill.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [9.45 pm]: It is worth noting that it is only a few hours since this historic Legislative Council met. I have listened to every speech and every maiden speech with great interest.

I support the Government's position that the legislation should not be referred to a committee for further consideration. I listened with interest to the Leader of the Opposition say that he will not mislead. I think he should also have said that he will not lead. It is the position in which the Leader of the Opposition finds himself. It has taken only a few minutes into the deliberations of this new Legislative Council for that to happen.

Earlier today I had the privilege of representing the Leader of the House at the gathering outside Parliament House. Like all members who have been in this place for some time I look back on all the good and bad things that have happened. I am a great believer that when one is presented with an opportunity to do something which has not been or could not be done before, one is also confronted with increased responsibility. We cannot have one without the other. This is not the end of the world. All members are in good humour and are accepting the situation. Members have a right to put their point of view.

The Leader of the House and the Leader of the Opposition reach agreement on how the business of this House should proceed. The Leader of the House, in addition to being the Leader of the Government in this place, has always cooperated with the Opposition and he will continue to cooperate with the Labor Opposition, the Democrats and the Greens (WA). He will try to accommodate the wishes of all parties and, if it is necessary, he will delay debate on legislation for a day or a week if they are not ready to deal with it. He will arrange, if necessary, briefings on the legislation. The same consideration was given when the coalition parties were in opposition. They always did their best to ensure the movement of legislation through the Parliament and to cooperate with the then Government.

When members reflect on what happened on the first day of the new Legislative Council they will say it is the day on which the Leader of the Opposition said that this simple piece of legislation would be passed.

Several members interjected.

Hon Kim Chance: We will remember the last day of the last regime.

Hon E.J. CHARLTON: All of a sudden he found that the 12 members of the Labor Party were being directed from the rear. It reminds me of a cap with two peaks which has written on it, "Follow me, I am the leader." I will bring the cap with me tomorrow to show Hon Tom Stephens. This motion, if it is passed, will delay the passage of this legislation by a fortnight, not one day as the Leader of the Opposition advised members of the House. I said to the people who were gathered outside Parliament House today that when I first came into this place and I was tested -

Hon N.D. Griffiths interjected.

Hon E.J. CHARLTON: Hon Nick Griffiths would not understand because he was not here at the time. At that stage there were three National Party members -

Hon W.N. Stretch: Four.

Hon E.J. CHARLTON: There were four, if the member wants to throw in the country member of the Liberal Party as well. Things have changed. Hon Mark Nevill is stuck in the Labor Party, which is dominated by a terrible group of people.

Hon Mark Nevill: I am dominated so much I will change the Bill tonight.

The PRESIDENT: Order! If the Minister addresses his comments to me, there will not be a need for interjections.

Hon E.J. CHARLTON: I look forward to seeing what will happen in the future. It is worth recording that this is how opposition members choose to treat the first piece of legislation that they have the opportunity to debate. We would all do well to reflect on this exercise.

HON NORM KELLY (East Metropolitan) [9.50 pm]: It is good to hear members referring to the history of this occasion. I am sure that it will take some time for the five parties to work in harmony on these sorts of Bills.

I wish to clarify a couple of points. Hon Eric Charlton said that we had received briefings from the department. It was only yesterday that Hon Helen Hodgson and I were offered a briefing. Hon Helen Hodgson received that briefing today. Therefore, it was not until today that we were made aware of some of the ramifications of this legislation. Because of our concerns about certain clauses of the Bill, particularly clause 18, it is understandable that we wish to see it referred to a committee for clarification.

The Minister for Finance referred to the need to expedite business. However, expedition of business should not override accountability measures. The Democrats will push consistently to ensure that these considerations are not overridden, and that accountability measures are placed in legislation.

As much as the Democrats will be working with the other four parties in the Chamber, it is necessary to make it clear that our decisions will be made independently of other parties. We will decide on legislation on a Bill by Bill basis.

Question put and a division taken with the following result -

Ayes (16)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport
Hon E.R.J. Dermer
Hon N.D. Griffiths
Hon John Halden

Hon H.M. Hodgson
Hon Norm. Kelly
Hon Mark Nevill
Hon L. Ravlich
Hon J.A. Scott

Hon C. Sharp
Hon Tom Stephens
Hon K.D.E. Travers
Hon Giz Watson
Hon Bob Thomas (*Teller*)

Noes (14)

Hon E.J. Charlton
Hon M.J. Criddle
Hon B.K. Donaldson
Hon Max Evans
Hon Barry House

Hon Murray Montgomery
Hon N.F. Moore
Hon M.D. Nixon
Hon S.M. O'Brien
Hon B.M. Scott

Hon G.D. Smith
Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Pair

Hon Tom Helm

Hon Peter Foss

Question thus passed.

BANK MERGERS (TAXING) BILL

Hon N.F. Moore (Leader of the House) advised the House that the Bills committee had assigned category B to the Bills.

Cognate Debate

On motion by Hon Max Evans (Minister for Finance), resolved -

That leave be granted for a cognate debate on the Bank Mergers Bill and the Bank Mergers (Taxing) Bill.

Second Reading

Resumed from 6 May.

HON MARK NEVILL (Mining and Pastoral) [8.42 pm]: I begin by complimenting you on your election, Mr President. It is hard to get used to seeing you in the Chair. I expect to see Hon Clive Griffiths walk around the corner and take his place at any moment. I have to get accustomed to seeing you in the Chair. You are assured of my cooperation in your running of the House over the coming years.

The Opposition supports the two Bills that we are debating cognately. While am intrigued by the logic and the form of these Bills, I have no quarrel with their content. The Bills establish a framework which will facilitate bank mergers and allow them to be dealt with by a number of means, including by regulation, by adopting the relevant law of another State or Territory, or by a combination of both of those means. We have been told that the New South Wales Parliament last year enacted legislation similar to this Bill.

This sort of legislation would normally fall foul of uniform legislation concerns, which have grown in recent years, especially when we have been asked to agree to uniform measures at short notice. That resulted in changing the standing orders of this House. As I said, these Bills resemble uniform legislation. However, they are different in some respects. It would be interesting to have the views of a committee of another place, that long-running, much-travelled Standing Committee on Uniform Legislation and Intergovernmental Agreements. However, that is not available.

Hon Kim Chance: Is jealousy coming through?

Hon MARK NEVILL: I stressed the long-running and much-travelled part.

This Bill is different in that it is ancillary to the policy of the legislation. The policy area of legislation is an area of concern to the Commonwealth. Bank mergers have nothing to do with State legislation; they are the province of the Commonwealth. They are controlled by the Trade Practices Act and the Australian Competition and Consumers Commission, which assesses whether mergers comply with that Act. All other legislation that relates to bank mergers, including the Banking Act, which gives the Treasurer power over mergers, the Banks (Shareholding) Act, which restricts individual shareholders' holdings to 10 per cent of banks, and the Foreign Acquisitions and Takeovers Act, is commonwealth legislation. Therefore, bank mergers have little to do with our legislative responsibility. This Bill merely facilitates that merger by making some arrangements to deal with state stamp duty. Those transfers of accounts could occur without this legislation. It is a slow and time-consuming process.

There are problems with this legislation, which I will discuss later. We have been told in the second reading speech that this Bill is modelled on the New South Wales legislation. We have been told also that two mergers are in progress, the first of which is the National Australia Bank's merger with the Bank of New Zealand. I racked my brain earlier today in an attempt to remember when that occurred. I knew it was some time ago. However, a Treasury officer advised me this evening that it occurred in 1992. Therefore, this merger has been a long time coming and I would be bold enough to say that the National Australia Bank and the Bank of New Zealand have probably dragged their feet in getting the merger to this stage. The merger is not a significant merger in terms of the number of accounts in this State. I am not sure what the figure is.

Hon Max Evans: Six thousand.

Hon MARK NEVILL: That is not a large number of accounts when one compares it with the Westpac-Challenge Bank merger, which involved some 330 000, according to the second reading speech. Obviously that would be a very slow and time consuming task.

The second reading speech also states that there is also an expectation that further bank mergers may occur following the Wallis inquiry. I must tick the Minister off because that part of the speech was written before the Wallis report. I have told other Ministers in this House that if the Bill is amended in the other place, the second reading speech should be rewritten.

Hon Max Evans: It was read on 6 May.

Hon MARK NEVILL: The Minister's staff and the Minister should ensure second reading speeches are brought up to date. The Wallis report is a monstrous tome. I was intrigued to find that I was the first person to take it out of the Parliamentary Library. I thought it would have had many other people's fingerprints on it before mine. It is in pristine condition. The Wallis inquiry recommended that banks could merge with life assurance offices; however, it recommended against the four major banks - the National Australia Bank, the ANZ, Westpac and the Commonwealth Bank - merging. If that is a recommendation of the Wallis inquiry, it is not yet a policy of the Government. The Government is yet to respond to that. However, I would be surprised if the Federal Government allowed those four major banks to merge. I do not believe we will see legislation in this House relating to the merger of the National Bank and the ANZ or Westpac, and certainly we would not see mergers being done by way of regulation. That would be an extremely contentious merger. I think most people would object to that.

The second reading speech also states that bank mergers are on the increase. I do not believe that is true. The second reading speech refers to two mergers, the NAB-Bank of New Zealand merger and the St George-Advance Bank merger. They are in train. The only other regional bank that I know of that has not been taken over is the Bendigo Bank. If mergers will not occur among the four major banks, that is not a valid statement. Basically the scraps are left: The regional banks have gone in all but name. They are allowed to keep their name now only because of a change to banking laws about two years ago. They can have only one licence, but they can trade under different names.

This Bill will overcome the expensive and time consuming documentation associated with the transfer of banking business from one bank to another. This must be done because under the law banks can hold only one licence. This Bill purports to facilitate these mergers without delaying the time of the House. That is a dangerous assumption. Bank mergers will still have to be done separately because they will occur at separate times. If bank mergers are done by regulation, they will be subject to disallowance. There is a different effect of disallowance in this case. If the Government increases by regulation drivers' licence fees, anyone who is due to pay the licence must pay the higher fee. If that increase is later disallowed, the fee will revert to the old licence fee. That is an ongoing stream of events that can be affected by disallowance.

In this case the disallowance may occur after a period in which all the transactions have gone through and when there is none to follow. If all the transactions are completed before the disallowance comes into effect, the disallowance will basically be a Clayton's disallowance; therefore, we could be giving ourselves an illusory power. These regulations must be disallowed within 14 sitting days. If members wanted to do that effectively, they would have to move quickly after the regulations were tabled to thwart a bank transferring the accounts quickly. Facilitating this merger by regulation is an odd way of doing it.

People are sensitive to banks and they are sceptical about how banks operate. Just this week there was a 0.5 per cent decrease in the Reserve Bank rate and that afternoon banks announced varying drops in their housing loan interest rates. However, those rate drops will not come into effect for two months. On the other side of the cycle, when interest rates go up and the Reserve Bank announces an increase, will the banks follow suit by announcing an increase in the bank rate the next day, or will that increase be postponed for two months? One can envisage people getting upset about what banks do with their rates when a merger that could be subject to disallowance is before Parliament.

Another mechanism in this Bill is the use of the legislation of another State. That occurred previously in a fair trading Bill that came before the House. That Bill included model legislation that was introduced in the Queensland Parliament and, as I remember it, legal challenges to that legislation had to be dealt with in Queensland. I do not think cross-vesting powers of the two Supreme Courts were in effect, at least not initially. This House should view that sort of strategy with great concern because it takes matters out of the proper control of this Parliament. I do not believe much time is saved by using this style of Bill to facilitate this legislation. The Government must still draft the regulations. These are not large Bills; they are only two or three pages long. To my knowledge such legislation has not been delayed in either House when previous bank mergers have occurred. I do not believe much time will be saved in the House and in drafting.

I telephoned the National Australia Bank Ltd early yesterday morning to discuss this matter with its legislation people. As late as the close of business today my telephone call had not been returned, which does not impress me. I am not sure how much interest the National Australia Bank has in this legislation. It merged with the Bank of New Zealand five years ago. Two days is ample time to get back to me. I gave the bank the number of my mobile phone, which has a message bank. Plenty of others have been able to get through, so the bank cannot say it was unable to reach me.

Members are debating two Bills, the second of which is the Bank Mergers (Taxing) Bill. Clause 3 of that Bill requires the Treasurer to recover from parties any state taxes and charges that would normally have been forgone by this process. New members might not understand that process. When a tax is imposed, a separate Bill must be introduced and that is why the taxing provisions are included in that Bill.

This Bill has been classified as a class B Bill; therefore, it is contemplated that this Bill can be dealt with by the Standing Committee on Legislation. This Bill has been delayed, as has the Iron and Steel (Mid West) Agreement Bill, by the industrial relations legislation.

Hon N.F. Moore: It certainly can be sent to the Legislation Committee, but your leader indicated to me that it would be passed tonight.

Hon MARK NEVILL: The Leader of the House suggests he has been misled by the Leader of the Opposition.

Hon N.F. Moore: Only if it is not resolved.

Hon MARK NEVILL: I changed my mind about sending this Bill to the Legislation Committee about an hour ago. On doing that I immediately advised the Minister for Finance of my change of mind and the reason for that change. I gave him that courtesy. It was my decision, entrusted to me by Caucus. The Leader of the House may not have been aware that I advised the Minister for Finance of that decision. Hon Norman Moore should not reflect on the Leader of the Opposition in that case because we are living in a new world in this place.

Hon N.F. Moore: It's okay, Mr Nevill, so long as we know that when you tell us what is to happen, it will happen.

The PRESIDENT: Order! Hon Mark Nevill should address the Chair.

Hon MARK NEVILL: My party has always supported -

Hon N.F. Moore: Will you be ringing up the banks to tell them, too?

Hon MARK NEVILL: It is not my job to ring the banks; I have already rung the banks and they did not have the courtesy to return my call!

Hon N.F. Moore: I don't blame them.

Hon MARK NEVILL: To whom shall I talk?

The PRESIDENT: Order! Hon Mark Nevill will address the Chair.

Hon MARK NEVILL: We move for the disallowance of regulations quite frequently to debate an issue, and not necessarily to have the regulations disallowed. On occasions, it would have been quite embarrassing if the opposition members' bluff had been called as we have always worked on the premise that nothing would happen because we did not have the numbers. However, things have changed and we must be careful about what we do now. We cannot just move disallowance to debate a matter as it might actually be disallowed!

Hon Max Evans: Hon Alannah MacTiernan found that out one night.

Hon MARK NEVILL: In current circumstances, we must be more circumspect than we may have been in the past.

I have read section 42 of the Interpretation Act many times over the years, and for some reason my view was that disallowance of regulations applied from the date of original gazettal. However, it is a prospective provision as the regulations cease to have effect on disallowance. Therefore, disallowance on the bank Bills' regulations will not affect any transactions carried out before disallowance takes effect. Also, the Opposition can move disallowance, but the Government decides when the motion is dealt with; it may be dealt with three to six months later if a recess is involved, and that is the main concern.

I am not particularly worried about telling the banks about this move as they can wear the decision of this House. This Bill will affect 6 000 depositors, and referral to a committee will have not have the same effect as delaying a merger Bill with which 330 000 depositors might be involved. These transfers can be conducted manually without this legislation. These two Bills, along with the Kingstream Bill, were held up by passionate debate on the industrial relations Bill, but that was the Government's choice as it manages the business of this House. If some problem is caused by that delay, I do not accept full responsibility for that - although I accept my share. Certainly, the Government's management of business has left a lot to be desired. It can allow the banks to conduct these transfers manually or draft a separate Bill to facilitate the stamp transfers in this merger, and I am sure that such Bill would be dealt with urgently.

The Labor Party has a problem with not the policy of the Bill, but the method of its implementation.

Hon Max Evans: You're pre-empting the committee by saying that you want the Bill redrawn in certain ways.

Hon MARK NEVILL: Not necessarily. I am making suggestions to the Government, which it can discuss with the Legislation Committee if the referral is successful. I believe that Hon Helen Hodgson will move for referral to that committee after the second reading is passed. The Australian Labor Party will support the Bill and its referral to the Legislation Committee.

HON H.M. HODGSON (North Metropolitan) [9.04 pm]: It seems to be a tradition for Democrats to be thrown into weighty matters on the first day that they take their seat. I have looked at the Bank Mergers Bill and the Bank Mergers (Taxing) Bill and the second reading speeches. The policy of the Bill is to facilitate bank mergers, which are matters of Federal Government policy, and Reserve Bank and Australian Competition and Consumers Commission supervision. State responsibility is limited to the commercial issues dealing with the transfer of assets and other matters associated with the change of ownership.

I recognise and appreciate the need for commercial certainty in dealing with these issues, and mechanisms are included in the Bill to deal with contractual issues associated with the merger. The other major issue is the protection of the revenue base; namely, the stamp duty or any other taxes involved. The Democrats agree with the general principles of the Bill, but we have two major concerns about some of the mechanisms to be used to implement this policy. We would like to see the matters debated in more detail.

The first of these concerns is the accountability mechanism. Members have heard my colleague Hon Norm Kelly and I speak tonight on accountability. Therefore, it is interesting that the first Bill to come before us is one which falls short in these areas. The Bill delegates legislative authority from Parliament to regulations, which can be laid before Parliament for disallowance. The sitting timetable, when read against the Interpretation Act, indicates that

we have six sitting days before the regulations are laid before the House - that is two weeks. One has 14 sitting days to move for disallowance, which is at least five weeks, and one must debate the motion within 10 days of its introduction. Therefore, we have 30 sitting days from the time that the regulation is gazetted until disallowance may occur. Essentially, any regulated action will be valid if it is not disallowed in that time. That is a concern for the Democrats.

A date is relevant to bank mergers. The last Bill before the House on such matters was the Westpac Banking Corporation (Challenge Bank) Bill 1996, which contained a commencement date defined by proclamation. It was a specific date. It is conceivable that the date on which these Bills before the House take effect could be within the first six sitting days of the timetable I outlined. Therefore, no opportunity would be available to this House or the other place to exercise their rights to scrutinise the regulations. It is a particular problem with a lengthy recess pending; within a few weeks we will rise for the winter recess, which will extend the time involved over several months.

Orders are also referred to in the Bill, and these are a concern as they cannot be disallowed under the same procedure as regulations. I am pleased to see that the Bill contains a mechanism to apply to orders the same process of disallowance as applies to regulations. This is an excellent idea.

The second concern is the arrangement for the collection of tax. A reason given for introducing this Bill is that it will protect the revenue base. My background in the taxation profession means I am well aware of how important it is to protect the revenue base, and it has given me some ideas about how to provide that protection. I notice that the Bill uses the phrase that the amount payable is to be determined by the Treasurer in accordance with such principles as the Treasurer thinks appropriate. That phrase leaves the matter flexible and open-ended, and an explanation is required on why it needs to be left open-ended. My first reaction is that I would prefer to see parameters in place, such as a requirement that the revenue is at least equal to the amount expected to be received in stamp duty on the transfer. It is well and good to say that the current Treasurer will adopt these principles, but who knows who will occupy the Treasury benches after successive elections - who knows, we may see Democrats on those benches one day! It is important that there be parameters in the legislation allowing the Treasurer to apply those principles in reaching that determination.

The Democrats agree with the principle and policy of the Bill, but these issues cannot be resolved tonight. I foreshadow that I will move to refer this matter to the Standing Committee on Legislation for urgent consideration. In view of the urgency with which the Government has said it wants this Bill to pass, I am happy to make that a very urgent review.

Hon Derrick Tomlinson: How long is that?

Hon H.M. HODGSON: The proposal is that the committee report back by 11 June, which might require extra meetings.

HON J.A. SCOTT (South Metropolitan) [9.12 pm]: Mr President, I also congratulate you on your success in achieving the Presidency of this House. Having seen you in other roles, I have great respect for your ability and I am sure you will do a wonderful job in keeping this House in check.

I support the position put by Hon Helen Hodgson. From a philosophical point of view, I am concerned when this House considers Bills that could become template legislation. Such legislation must be very carefully considered in case there is an error because, if there is, it could be very costly.

Hon Mark Nevill has pointed out already that the regulation process can be more time consuming than going through the normal process of debating Bills. After all, bank mergers do not happen every day of the week. Of course, such legislation can be amended later, but it would be much better if we were to get it right the first time.

While the method described might make the process simpler and speedier, which is debatable, the community expects this new House to ensure it is not handing its powers over to the Executive without ensuring that the proper checks and balances are in place.

I have looked at a number of provisions in this Bill, some of which deal with the existing or pending legal proceedings that might be the subject of regulations. There could be a problem if those regulations were challenged in the courts by people with large amounts of money, such as banks, especially if those legal challenges must be sorted out in other States, where we have little control over what happens.

Some other regulations concern me, not just those relating to the legal proceedings but also those dealing with employment, superannuation and related rights of the staff of banks. I would hate to see such related rights disappear because this House did not consider legislation properly. I want to ensure that those rights are safeguarded. I will support the motion moved by Hon Helen Hodgson when it is put at the end of the second reading stage.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.15 pm]: I was pleased with the support I appeared to be getting from Hon Mark Nevill when he said the Opposition supported the legislation, but he quickly moved away from that. If members opposite talk about defeating this legislation, they should remember that the previous two Bills should have been defeated. There was only one Bill; as the then President pointed out, we did not have a separate taxing Bill. Everyone else appeared to have overlooked that. In hindsight, there was a very good reason for that legislation to go to the Standing Committee on Legislation. However, it has since been sorted out.

Hon Mark Nevill referred to the Wallis report. I thought it came out after 6 May and my second reading speech in this House. There has been time to consider it. I confirm that Hon Mark Nevill discussed this with me tonight. It is the Opposition's right to disagree with what is going on.

This is probably the simplest piece of legislation that I will introduce in this House. The bank merger has been approved. Hon Mark Nevill pointed out that the merger of the National Australia Bank and the Bank of New Zealand started five years ago. A few years ago we dealt with the merger of the Australian and New Zealand Banking Group and the Town and Country Bank, which took about four years to complete. The Reserve Bank seems to create time delays and we are required to pass the enabling legislation in the last month or so before the time limit runs out. The Westpac-Challenge merger was expedited because Tony Howath went ahead and did what needed to be done and brought it in well ahead of schedule. Those involved in the Eastern States forget about what is happening here. I remember Ray Turner, the CEO of Town and Country Bank, sitting in the gallery waiting to see the enabling legislation pass on 29 or 30 June. When these mergers happen, the banks end up with only one banking licence and many assets in the old bank. In this case, the two groups have 330 000 deposit accounts and 83 000 loan accounts. The deposit accounts are easily dealt with, but the loan accounts involve mortgages, stamp duty and so on. This legislation is simply about facilitating the transfer of assets by banks doing a deal approved by the Federal Government. The State does not suffer any loss of stamp duty or tax.

Hon Helen Hodgson referred to the Treasurer's role. The Treasurer works through Treasury. We cannot say that the total value of the assets is umpteen billion dollars and tax that amount; each amount must be considered separately according to scales. Treasury must simply approve the method.

Members also referred to accountability. This legislation simply expedites what will happen. The big issue is whether there will be any more transfers. Who knows? The Government is trying to reduce the number of Bills introduced into this House.

Reference was also made to the regulations being disallowed. I do not know why anyone would want to do that. After all, this is simply a mechanism for people to do something they will do anyway. Mention was made of the Standing Committee on Legislation's wanting to see the Bills redrafted specifically for the National Australia Bank and the Bank of New Zealand. As that is the case, I am not quite certain of the mechanics. There is a certain protocol. It has to go to Cabinet to be approved. It could be printed in a couple of weeks. It will not be that quick because there is no way in which one can beat the process. We will look at the position as it emerges. The cost in man hours will be far greater to the State Revenue Department than it ever will be to the banks. They have 6 000 transfers which they will give to State Revenue, which will assess the stamp duty. That will be a longer process than that carried out by the Treasury.

Hon Mark Nevill: Is there provision in the Bill to compensate State Revenue for the work?

Hon MAX EVANS: That comes out under costs, but the department could not pick it up as extra costs. Delegated legislation would not allow that. It would say, "You cannot charge extra costs there for labour otherwise you are raising a tax." Therefore, I do not think we will recover the extra costs. All we will have is stamp duty. I imagine that State Revenue will take some time to work through 6 000 documents. Therefore, we will have X amount of dollars, less my overtime, because I do not think I can charge for it.

I regret that the Opposition feels strongly about this legislation, because there are many more meaningful things it might want to send to the Legislation Committee than this. These Bills are among the simplest pieces of legislation. As Hon Mark Nevill has mentioned, as most of the documents have gone through, we cannot unscramble the eggs. That is what the legislation is all about. It has been split from one Bill for two bank mergers to two Bills, which is the right way to do it. We are doing it this way, even though the former President has left. He quite rightly did not like the previous Bill. We have put it right for him, and I hope he knows about this before he leaves the country. We will not agree to the Bills going to the Legislation Committee. We believe that this is simple legislation. We should just get on with it, pass it and help the banks do their business. I commend the Bill to the House.

Question put and passed.

Bills read a second time.

Referral to Standing Committee on Legislation

HON H.M. HODGSON (North Metropolitan) [9.24 pm]: I move -

That the Bank Mergers Bill and the Bank Mergers (Taxing) Bill be referred to the Standing Committee on Legislation and the committee report the Bills to the House not later than Wednesday, 11 June 1997.

I have already covered most of the reasons that I believe these Bills need to be discussed in more detail. The intention is not simply to slow down the processes and attack the efficient workings of the legislation. Some matters genuinely need to be discussed. They can be discussed quickly with the aid of people experienced in the area. The Legislation Committee is the appropriate place in which to do this. If the Bills classification committee had reviewed this Bill, I hope that it would have come to the same conclusion.

HON MAX EVANS (North Metropolitan - Minister for Finance) [9.25 pm]: As I have said, the Government does not support this motion. We believe this is simple legislation; it is well designed and well drafted as a simple mechanism for this bank merger. There may or may not be a third bank merger. Hon Mark Nevill has said that the legislation has been dealt with in this way to reduce the work of the House. We would like to see it get through so that the bank can wind up its business for this year. I presume that the other later merger involving the St George Bank and Advance Bank Australia Ltd, which may be in October or November of this year, would go through very simply. We do not support the motion.

HON J.A. SCOTT (South Metropolitan) [9.26 pm]: I certainly agree with the motion put by Hon Helen Hodgson. The very fact that this type of legislation will be used for successive mergers is all the more reason why it should be very tight, and properly scrutinised. I support the motion.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [9.27 pm]: Hon Mark Nevill said during his comments earlier this evening that times have changed, and he is quite right. Some things should not change; that is, when we have an agreement in place it should remain in place and we should not be left at the end of a period of agreement finding that the agreement does not stand. I make that comment quickly to indicate that I was led to believe that this legislation would be passed tonight by this Council. Because of that I was happy to organise the program today to ensure that new members had time in which to make their maiden speeches and that we did not take up the time of the House debating other issues.

I am the first to acknowledge that for a variety of reasons some rush is attached to these Bills. In the current context the main one is the need of the banks to have this legislation passed.

Hon Mark Nevill: They have waited five years; they can wait another month.

Hon N.F. MOORE: That is fine. I suggest that the member not tell me that but say to the banks which are waiting for this legislation that he has made that decision. There will be occasions in the future when members on the other side of the House seek to get the pleasure of making decisions which mean that this Government will lose votes and those decisions will affect somebody else outside this Chamber. This legislation does not affect the Government and is nothing at all to do with the Government. We are seeking to facilitate a commercial arrangement. If the Opposition, for reasons best known to itself, wants to use its numbers on this occasion - and I suspect we are about to encounter an historical moment - to delay the passage of this legislation, it is up to members opposite to decide.

Hon Mark Nevill: This could have been dealt with two months ago.

The PRESIDENT: Order!

Hon N.F. MOORE: There is some urgency attached to this legislation, which I have explained.

Hon N.D. Griffiths: We dealt with the labour relations legislation.

Hon N.F. MOORE: The labour relations legislation took three weeks of the time of this House.

Several members interjected.

The PRESIDENT: Order!

Hon N.F. MOORE: Members opposite talked and talked until I could not believe they could talk any more. A member in this House spoke for eight hours on one Bill and did not say anything of any consequence in all that time. He would deny 10 000 other people the chance to say a word. To suggest that somehow or other we are wasting the time of the House is absolute nonsense. We had three weeks of time wasting. To say that the industrial relations legislation and our attitude to it has led to a delay with this legislation is nonsense. We could have dealt with it a long time ago.

I was led to understand certain things would happen with this legislation and now they will not happen, as I understand the position of the Labor Party. It is disappointing because I made arrangements on the basis of that understanding. I will no doubt be told shortly by the Leader of the Opposition that I misunderstood what he said. He can say that, but all that means is that from now on every time we communicate, it will have to be in writing, signed and witnessed by 17 witnesses, so that there can be no argument further down the track. The Government is trying to facilitate a commercial arrangement between the banks. I can think of no reason why sending these Bills to the Legislation Committee will make them any better, within the period of time members opposite propose to look at them. We could easily have spent today debating these Bills at length during a Committee of the Whole House, so that all members could have a say about them and perhaps resolve any problems they might feel that only the Legislation Committee could deal with. However, the Leader of the Opposition did not ask for that. He did not suggest until the last minute that it would go to the Legislation Committee.

It is handy to talk about cooperation. Today I listened to maiden speeches that referred to cooperation and getting together to make things better and being one big happy family. We can be a big happy family only if we know what everybody else is doing. However, if the person who is trying to organise the program is the last to know what is occurring and members opposite renege on arrangements that have been put in place, it is difficult to be cooperative and act as one big happy family.

Hon Mark Nevill: We had to cooperate with every whim of yours for 10 years.

Hon N.F. MOORE: That is not true. However, I do not propose to argue with Hon Mark Nevill on that level, because that would be counterproductive. The Government does not believe it is necessary to refer this Bill to the Legislation Committee. The Government will be happy on future occasions for that to happen. The Bills committee gave this Bill a category B classification today on the basis, as I explained to the Leader of the Opposition, that it would be dealt with tonight and concluded. It would not have made any difference whether it was categorised as A, B or C, because that was my understanding of the situation.

Hon Bob Thomas: We did not know.

Hon N.F. MOORE: The Leader of the Opposition did not put me out of my misery at that time. I wish he had, because we could have made other arrangements for the business of the House for the rest of the day. The B category means that the Bill may go to the Legislation Committee.

Hon Mark Nevill: I advised my leader at eight o'clock that I had changed my mind.

The PRESIDENT: Order! I ask Hon Mark Nevill to cease interjecting.

Hon N.F. MOORE: I acknowledge that Hon Mark Nevill and the Leader of the Opposition are entitled to change their minds, and I accept that it will happen frequently in the future. However, if this House is to operate in a reasonably effective way, arrangements between the various parties should at least last for more than five minutes.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [9.31 pm]: The Opposition agrees with much that the Leader of the Government has said, some of which has been said already. From the brief opportunity I had to listen to the contributions made by other members from this side of the House, and specifically a brief discussion with the leader of the Democrats, Hon Helen Hodgson, I understand that we agree that this legislation should be dealt with expeditiously. I am pleased to see that the motion before the House will ensure that happens. It is proposed to refer the Bill to the Legislation Committee, and it must be back in the House on Wednesday, 11 June, effectively two sitting days. It will be in this place, not the next time we meet as a House, but the day after.

As the Government knows, on behalf of members of the state Parliamentary Labor Party in this place, I have offered it the opportunity to meet tomorrow, the next day, the day after, or next week if the Government's legislative program requires it. We have been told that the Government does not want to avail itself of that offer.

Hon N.F. Moore: We have already organised the Estimates Committees for the next three days.

Hon N.D. Griffiths: They can be shifted.

Hon N.F. Moore: Had I tried to shift them without your agreement, I know what you would have said. Come on, get off the grass.

Hon TOM STEPHENS: I indicated to the government leader that if he was of a mind there was nothing to stop those opportunities being explored. The opposition parties, in particular the state Parliamentary Labor Party, know the temptations with which we are dealing here. We know the great risks involved in being tempted to respond to the way we have been dealt with for year after year. We will resist vigorously that temptation.

Hon E.J. Charlton: Arrangements have always been put in place.

Hon B.K. Donaldson: It is retaliation and revenge.

Hon TOM STEPHENS: Hon Bruce Donaldson is wrong.

Hon B.K. Donaldson: The Leader of the Opposition said it.

Hon Bob Thomas: Hon Bruce Donaldson can talk to his leader about that.

The PRESIDENT: If the Leader of the Opposition addresses his comments to me there will not be any interjections at all.

Hon TOM STEPHENS: I want to disabuse any member on the other side of the House of any suggestion that this is simply a response to years and years of conditioning that has gone on in this House in the way business has been done with the non-conservative parties, and the way that the Labor Party has been dealt with year in and year out. We will resist that temptation. The motion before the House proposes that a specific Bill be referred to the Legislation Committee, be dealt with in double quick time and be back on the floor of the House for its passage to be completed at almost the earliest opportunity - the day after the earliest opportunity. The Leader of the Government indicated that he had been misled. This is not an accurate portrayal of the situation.

Hon N.F. Moore: It is an accurate portrayal of my understanding of the situation. We will get everything in writing now.

Hon TOM STEPHENS: The Leader of the Government allowed himself to mislead himself.

Hon E.J. Charlton: He believed you.

Hon N.F. Moore: I took your word on things, Mr Stephens. I have learnt.

Hon TOM STEPHENS: The Leader of the House may have deliberately misled himself.

The PRESIDENT: I ask the Leader of the Opposition to direct his comments to the Chair.

Hon TOM STEPHENS: Mr President, the Leader of the Government convinced himself that my statement that this legislation would be brought to resolution tonight - I was speaking on behalf of the state Parliamentary Labor Party - would guarantee that this legislation was passed tonight.

Hon N.F. Moore: So that means the Legislation Committee?

Hon TOM STEPHENS: No. I did not know whether a motion would be moved. I want to tell the Leader of the House that the Leader of the Democrats has regularly told me that she will not be treated as some sort of fourth faction of the Labor Party. She had not told me what she would do.

Hon N.F. Moore: This is the tail wagging the dog, by the sound of it.

Hon E.J. Charlton: You are running along like a lamb.

Hon N.F. Moore: This is what happened in the Senate. You became completely irrelevant. You are irrelevant, Mr Stephens.

Hon TOM STEPHENS: I will tell members the chain of events, so that everybody understands the way it works. When I was listening to Hon Ljiljana Ravlich earlier this evening at about eight o'clock I thought I had better write a note to Hon Mark Nevill. I am sure someone has that note as verification of what I said.

The PRESIDENT: Order! Let us address the motion before the Chair.

Hon TOM STEPHENS: Hon Helen Hodgson will find this educative as well. I said in a note to my colleague Hon Mark Nevill, who has responsibility for this legislation, that I thought there was a possibility that the Democrats might choose to send this legislation off to the Legislation Committee, and the Labor Party should be prepared to consider where it was if that were to happen. After some consideration my colleague sent me a note. I hope he does not mind my reading the note to the House.

Hon Mark Nevill: Go for your life.

Hon TOM STEPHENS: The note states -

Tom,

We will support the Bank Merger Bill going to the Legislation Committee.

Mark.

He has responsibility for the handling of that legislation. That is the first that I knew of it.

Hon E.J. Charlton: You lost control of him as well.

Hon TOM STEPHENS: Hon Mark Nevill has responsibility for handling that legislation.

Hon E.J. Charlton: You are the leader.

Hon TOM STEPHENS: I am a cooperative leader for a range of reasons, Mr Charlton.

The PRESIDENT: The Leader of the Opposition can be cooperative if he addresses me and tries to avoid interjections.

Hon TOM STEPHENS: So that members opposite and colleagues on this side of the House who are not in the Labor Party understand the process, I felt it necessary to write another note to my colleague. That note said that I thought he should check with the Leader of the Opposition, Dr Geoff Gallop, and with Hon Max Evans to ascertain their attitude. I then received a note, and I ask Hon Mark Nevill whether I can reveal what Hon Max Evans said.

Hon Mark Nevill: The Democrats and the Greens (WA) will find out I have a mind of my own.

Hon TOM STEPHENS: Hon Mark Nevill does have a mind of his own. The note said that Dr Gallop said okay. Can I reveal what Hon Max Evans said?

Hon Max Evans: You can say what you want to.

Hon TOM STEPHENS: The message was that Hon Max Evans was not fussed about it.

Hon Max Evans: We can't stop you from saying anything.

Hon Mark Nevill: They are Democrats and you are an autocrat, Minister.

Hon TOM STEPHENS: Members of the Labor Party will always be open to listening to the argument. On this occasion it has done that. It was prepared to find out what was proposed in the motion in case it was moved. I did not know at three o'clock this afternoon what would happen about the handling of this legislation. I was not told.

Hon N.F. Moore: Let us work on the basis that we made no arrangement.

Hon TOM STEPHENS: It is important for members to know what happened at three o'clock this afternoon. This legislation was given classification B. Sessional Order No 5(3)(b) reads -

class B means a bill that may pass unamended or unopposed but which appears to require some consideration whether in a committee of the whole House or a standing committee;
This Bill was given that classification -

Hon N.F. Moore: On the basis it would be passed today.

Hon H.M. Hodgson: I did not have the opportunity to consult with you.

Hon TOM STEPHENS: I did not have the opportunity to consult with the Leader of the Democrats. It is one of the difficulties of the classifications committee we will have to address. Nonetheless, it was given classification B and it enabled the Leader of the Democrats to do exactly what she did; that is, to move a motion to refer the legislation to a standing committee for consideration. It is not of great moment; it is something which happened -

Hon Mark Nevill: Because I changed my mind.

Several members interjected.

Hon TOM STEPHENS: I assure every member in this House that I will not mislead anyone. Members should listen to what I say.

Hon N.F. Moore: I don't want to listen to you; I want you to write it down.

The PRESIDENT: Order! I ask the Leader of the Opposition to address me. He appears to be concluding his comments.

Hon TOM STEPHENS: I am doing that, Mr President. I will not mislead anybody with reference to any of the undertakings I give. When I used the word "resolution" I did so because I was not sure in what form the motion would be put to the House. I suspected a motion would be moved and that it would fall within classification B. However, I did not know what would happen until later this evening. In that circumstance, I have a clear conscience

that I did not set out to mislead the Leader of the House. However, he has a mind set; that is, whatever the conservative party believes should happen to legislation, should happen. That is what has happened in the past.

Hon N.F. Moore: If you said that it would go to a committee for consideration, that would have been the end of it.

Hon TOM STEPHENS: I do not need to add anything more. No attempt was made to mislead the Government and no attempt will be made in the future by me to mislead the Government. I am urged on by all my colleagues in reference to that.

Hon N.F. Moore: Let me say we believed them on face value.

Hon TOM STEPHENS: I support the motion moved by the Leader of the Democrats and seconded by my colleague, Hon Mark Nevill.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [9.45 pm]: It is worth noting that it is only a few hours since this historic Legislative Council met. I have listened to every speech and every maiden speech with great interest.

I support the Government's position that the legislation should not be referred to a committee for further consideration. I listened with interest to the Leader of the Opposition say that he will not mislead. I think he should also have said that he will not lead. It is the position in which the Leader of the Opposition finds himself. It has taken only a few minutes into the deliberations of this new Legislative Council for that to happen.

Earlier today I had the privilege of representing the Leader of the House at the gathering outside Parliament House. Like all members who have been in this place for some time I look back on all the good and bad things that have happened. I am a great believer that when one is presented with an opportunity to do something which has not been or could not be done before, one is also confronted with increased responsibility. We cannot have one without the other. This is not the end of the world. All members are in good humour and are accepting the situation. Members have a right to put their point of view.

The Leader of the House and the Leader of the Opposition reach agreement on how the business of this House should proceed. The Leader of the House, in addition to being the Leader of the Government in this place, has always cooperated with the Opposition and he will continue to cooperate with the Labor Opposition, the Democrats and the Greens (WA). He will try to accommodate the wishes of all parties and, if it is necessary, he will delay debate on legislation for a day or a week if they are not ready to deal with it. He will arrange, if necessary, briefings on the legislation. The same consideration was given when the coalition parties were in opposition. They always did their best to ensure the movement of legislation through the Parliament and to cooperate with the then Government.

When members reflect on what happened on the first day of the new Legislative Council they will say it is the day on which the Leader of the Opposition said that this simple piece of legislation would be passed.

Several members interjected.

Hon Kim Chance: We will remember the last day of the last regime.

Hon E.J. CHARLTON: All of a sudden he found that the 12 members of the Labor Party were being directed from the rear. It reminds me of a cap with two peaks which has written on it, "Follow me, I am the leader." I will bring the cap with me tomorrow to show Hon Tom Stephens. This motion, if it is passed, will delay the passage of this legislation by a fortnight, not one day as the Leader of the Opposition advised members of the House. I said to the people who were gathered outside Parliament House today that when I first came into this place and I was tested -

Hon N.D. Griffiths interjected.

Hon E.J. CHARLTON: Hon Nick Griffiths would not understand because he was not here at the time. At that stage there were three National Party members -

Hon W.N. Stretch: Four.

Hon E.J. CHARLTON: There were four, if the member wants to throw in the country member of the Liberal Party as well. Things have changed. Hon Mark Nevill is stuck in the Labor Party, which is dominated by a terrible group of people.

Hon Mark Nevill: I am dominated so much I will change the Bill tonight.

The PRESIDENT: Order! If the Minister addresses his comments to me, there will not be a need for interjections.

Hon E.J. CHARLTON: I look forward to seeing what will happen in the future. It is worth recording that this is how opposition members choose to treat the first piece of legislation that they have the opportunity to debate. We would all do well to reflect on this exercise.

HON NORM KELLY (East Metropolitan) [9.50 pm]: It is good to hear members referring to the history of this occasion. I am sure that it will take some time for the five parties to work in harmony on these sorts of Bills.

I wish to clarify a couple of points. Hon Eric Charlton said that we had received briefings from the department. It was only yesterday that Hon Helen Hodgson and I were offered a briefing. Hon Helen Hodgson received that briefing today. Therefore, it was not until today that we were made aware of some of the ramifications of this legislation. Because of our concerns about certain clauses of the Bill, particularly clause 18, it is understandable that we wish to see it referred to a committee for clarification.

The Minister for Finance referred to the need to expedite business. However, expedition of business should not override accountability measures. The Democrats will push consistently to ensure that these considerations are not overridden, and that accountability measures are placed in legislation.

As much as the Democrats will be working with the other four parties in the Chamber, it is necessary to make it clear that our decisions will be made independently of other parties. We will decide on legislation on a Bill by Bill basis.

Question put and a division taken with the following result -

Ayes (16)

Hon Kim Chance
Hon J.A. Cowdell
Hon Cheryl Davenport
Hon E.R.J. Dermer
Hon N.D. Griffiths
Hon John Halden

Hon H.M. Hodgson
Hon Norm. Kelly
Hon Mark Nevill
Hon L. Ravlich
Hon J.A. Scott

Hon C. Sharp
Hon Tom Stephens
Hon K.D.E. Travers
Hon Giz Watson
Hon Bob Thomas (*Teller*)

Noes (14)

Hon E.J. Charlton
Hon M.J. Criddle
Hon B.K. Donaldson
Hon Max Evans
Hon Barry House

Hon Murray Montgomery
Hon N.F. Moore
Hon M.D. Nixon
Hon S.M. O'Brien
Hon B.M. Scott

Hon G.D. Smith
Hon W.N. Stretch
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Pair

Hon Tom Helm

Hon Peter Foss

Question thus passed.