and practice, and will beget from the settler a regard for his obligations which will result in his solvency and be to the good of the State. I commend the Commission for many of their recommendations, which will receive the consideration of the Government, and later probably the endorsement of the House. No Government worthy of their salt would appoint a Royal Commission, and having a knowledge of the recommendations and the evidence on which they were based would, because of superficial criticism by members of the House, desert that Commission. I sympathise with the trustees in many ways. I do not, however, by any means endorse their statements in answer to the criticism of the Commission. Far from doing the State any injury I feel sure the report will do good. If we can pull the State round now, by facing the position, and the Commonwealth Government will give the assistance the Prime Minister has talked about as coming to the farming community, we may then put the industry on a sound basis. The experiences of the farmers during these difficult times will, I hope, not be repeated, but that the lessons to be learned will not be lost by them and the people of the State.

Question put and passed.

ADJOURNMENT—SPECIAL.

THE MINISTER FOR WORKS (Hon. A. McCallum—South Fremantle) [11.36]: I move—

That the House at its rising adjourn until Tuesday next.

Question put and passed.

House adjourned at 11.37 p.m.

Legislative Council,

Thursday, 27th September, 1934.

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

BILL—SOLDIER LAND SETTLEMENT.

Read a third time and *passed*.

BILL—ADMINISTRATION ACT (ESTATE AND SUCCESSION DUTIES) AMENDMENT.

Second Reading.

Debate resumed from the previous day.

HON. H. S. W. PARKER (Metropolitan-Suburban) [4.36]: This Bill appears to me a highly necessary measure, as there is far too much evasion of duties at the present time. Owing to the enormous amount evaded, taxes become heavier and heavier, whereas if everyone paid his just proportion, they would not need to be so severe. It is the honest citizen who suffers for the benefit of the man who is able to evade the taxation. The Bill is in the direction of tightening up probate duties generally. However, there are certain features of the measure with which I do not agree. While it is obvious that if everybody paid, the burden would not be nearly so heavy, yet taxes must not be made so severe that people are induced to exercise their ingenuity to avoid them. In this State it is a serious matter to take away, because a man dies, money that is in industry. That applies to the pastoral industry. When a pastoralist dies, property sometimes has to be sold at a loss, and the purchaser has not the necessary capital to carry on the industry as it should be carried on. That remark applies also to other industries in a young country such as this. The position is quite different in older countries, where people have acquired enormous wealth and large estates, and the policy of Governments for the time being is to break up

those large estates and so avoid one man having too much power. That consideration does not apply here. Policies of life assurance are a different form of wealth from the usual form, because in many cases such policies are maintained at the cost of reasonable comfort to the family. Hardships are often suffered in order that a policy may be maintained to provide for the widow and children. Policies are also kept going in order that a widow may have ready money easily available, unnecessary distress to the family being thus avoided. It would be easy to provide that a life assurance policy should be exempt up to £500 or £1,000.

Hon. J. Nicholson: Some of the other States have such a provision.

Hon. H. S. W. PARKER: I am not wedded to any particular amount. I am open to conviction as to the figure. Let us assume, for the sake of argument, that it is £500. That amount should be exempt so that a widow could walk into a life assurance company's office, after the death has occurred, and immediately collect the money. If it is thought that a wealthy estate should still pay probate duty even on that £500, well and good. If the net value of an estate is, say for the sake of argument, £1,000. there should be no exemption from probate duty. At the same time, let us leave the way clear for the company to pay over the £500 promptly. That would save considerable hardship from time to time. The amount may not be £500; perhaps the House would agree to only £100, or on the other hand it might agree to £1,000. But I certainly hold that life assurance policies are in a different category from other forms of wealth. In many instances they are built up from the hard earnings of the deceased for the sole purpose of having money readily available for his family, himself not being able easily to provide a reasonable amount for the family to carry on awhile. Life assurance is a form of investment which should be encouraged. Otherwise, I feel sure that some astute accountant will point out that when one pays the premium on one's policy, and when one takes into consideration the bonuses, and then takes into consideration the taxes that are paid by the life assurance company, plus the amount that has to be paid on probate, it is a losing proposition to assure one's life. We do want to encourage people to take out life assurance for the purpose of providing, after their decease, for their dependants. We often overlook the fact that there is a Federal estate duty. Every person, except in the Federal Territory, pays a double tax—the Federal duty and the State duty. The present Bill may perhaps be described as cumbersome. I do not think that can be avoided, but it does seem to me that we should endeavour to make our laws and taxes simpler, and to make it less costly to collect taxation than is the case at present. The Bill does not aim at that in any way at all. We now have one department for the collection of land and income tax, to begin with. I do not know why Federal estate duties and State probate duties should not be collected by the State authorities, by arrangement with the Commonwealth, so having one form to fill in, one authority to go to, one authority to fix matters up, and avoiding quite a considerable expense to the estate when it comes to winding up that estate. It is only a matter of arrangement. Probably there would be the question again of bringing the two laws into line. Surely citizens are justified in asking that we should reduce the number of taxing measures and also bring what taxing measures we have into line wherever possible. I would certainly like to see Federal estate duties and State probate duties collected by the one authority, and that one authority decide upon values, and in fact upon the whole question so far as the duties are concerned. I should like to see the laws in that respect simplified. It is often said that laws are made for the benefit of lawyers. Probably everyone will agree that this Bill must prove a great source of work for lawyers. Many problems will arise that will not be solved until dealt with by the courts. Right throughout the Bill it is set out that the Commissioner can do certain things, and provision is made for appeals. There are very few taxpayers who believe that the Commissioner will act for them. Let me cite the position of the Commissioner of Taxation. Everyone believes, I think quite wrongly, the Commissioner looks solely after the interests of the Government and not those of the taxpayers. So it will be agreed that there will be many appeals from the decisions of the Commissioner. Why should we pay one Commissioner out of our revenue, and the Commonwealth pay another Commissioner to do the same work? Those operations should be amalgamated.

The Chief Secretary narrated many ways in which the payment of duty could be evaded, but he overlooked the principal means of evasion of all forms of taxation—by the investment of money in Commonwealth bonds. Those bonds are passed from hand to hand and there is no control over them. They can be hidden away and I have not the slightest doubt that the Commissioner of Taxation will admit that a tremendous amount of taxation is evaded by that process. Here again, surely, the Commonwealth Government should fall into line with us and seek the adoption of some better method of control seeing that there cannot be any check over bonds. In fact, it can be said that bonds constitute a nuisance. They have to be cared for, but can be stolen, in which event they cannot be traced. They virtually represent cash. There is no reason why, instead of being issued as bonds, they should not be treated as stock. A Federal Royal Commission have been considering the incidence of taxation as between the Commonwealth and the States. We would be well advised to leave the taxation of foreign companies in abeyance until we receive the report of the Commission. Certainly we can tighten up the present Act, but it would be well to leave out the portion dealing with the taxation of foreign companies until we see how the Federal Commission deal with that phase and with the question of double taxation. It is said that we should tax foreign companies. Members should not be misled by general talk to the effect that we should tax non-residents of the State if they invest their money in companies that operate in Western Australia. That is not the proposal embodied in the Bill. The suggestion rather is to tax companies operating in Western Australia, and the Bill provides, for what it is worth, the right of that foreign company to collect a refund from the estate of the shareholder who may die. A penalty is provided against the Western Australian attorney if the foreign company does not pay the duty. I can visualise many instances in which it would be impossible for such a company to pay. For instance, when a man dies, his estate is valued as at the date of his death. It is a matter of common knowledge that mining shares that may be worth £1 each at the time of death may be worth 1s. two or three months afterwards, when the estate is wound up. The true value of those shares may be 1s., although at the time of the shareholder's death market considerations may have attached a much higher figure to them. If the company were required to pay duty on those shares, the payment would have to be on the basis of £1 per share, although the company might not have any money with which to make the payment. In that instance, the Bill would involve considerable hardship. It has to be remembered that it is not the estate that is taxed, but the company; and the unfortunate local resident, who may happen to be the attorney for the company, may be victimised by the imposition of a fine of £50. Then again, it must be appreciated that the Bill will alter the whole of the law with regard to property. That law has been built up through the centuries, and is virtually based on that of the Romans. I have always been taught that the greatest lawmakers were the Romans. I agree that conditions have altered considerably, but so have the laws dealing with property, which have been changed to meet the newer conditions. Now we are asked to depart entirely from the ordinary laws of property and to tax, in effect, the person who is not domiciled, or resident, in Western Australia, who perhaps has never been in the State at all, merely because he happens to have invested some money in a company that has some dealings in Western Australia. We have been told that such a law exists in New South Wales and Queensland. That may be so, and I believe it is correct. On the other hand, why should we follow the bad example of other States? Because they have legislated along those lines, we need not necessarily follow them. The effect of the legislation must be to prevent foreign companies operating in Western Australia. They will not dare to take the risk. People will not float a company to operate in Western Australia until they know the industrial conditions, particulars regarding taxation, and the law relating to companies. As soon as they notice a provision in our legislation that a foreign company must pay probate duty on the shares held by a deceased person, the promoters of the company will be frightened away. Then again, I cannot see how the State can derive any benefit from this form of taxation, even if we were to agree to it. In my opinion, the

net result would be the formation of a multiplicity of companies. We will assume that in Melbourne people desire to form a company to operate in a large way in Western Australia. At the same time, they will form in Melbourne what is known as a holding company. The one company will operate in Western Australia but the holding company will hold all the shares. If a shareholder dies his shares will be in the holding company, which actually has possession of the shares, but the other company that operates in the State will have no shareholders to die. Thus it will be seen that the way to evade the payment of the tax will be the establishment of a multiplicity of companies. Here again, that already over-worked section of the community, the legal fraternity, will have to apply themselves busily to the establishment of two companies instead of one, when the State affected is Western Australia. That will be the net result of this legislation. From time immemorial, all laws have been avoided after a while, and the Bill is another the application of which can be avoided very simply with a little more expense and a little more work. Then we must consider the position of an individual who holds shares in a company operating in each State of Australia and also in England. That would apply to banks and other business concerns. If we are to agree to the form of taxation set out in the Bill, it will mean that the tax will have to be paid on shares held in each State, in the Commonwealth, and in England. By that means a number of taxes will have to be paid on the one parcel of shares. It is quite true that the Bill provides that the tax paid in Western Australia shall be only on the proportion represented by the assets in this State. If we can do that, why not tax on the full value of the shares? Are we to believe that the other States and the authorities in England will be as reasonable as ourselves? At the present time, the other States are not content with merely a proportion of the tax; neither is England. They levy probate duty on the full value of the shares registered in their State or country. In those circumstances, why should we not levy probate duty on the full value? In my opinion, the net result of such a course would be that the shares would be of a minus value, and the poor old attorney in Western Australia would have to face the £50 penalty. It is merely human that other countries may not be as reasonable as ourselves. In my opinion, the clauses dealing with the phase I have been discussing should not be passed in their present form. I quite agree it would be an excellent proposition if we could levy the tax on people who do not live in Western Australia and, in a sense, are not concerned with us, but who happen to have shares in companies operating in Western Australia. We cannot expect to do that, nor would it be right. We are sometimes inclined to overlook the fact that capital introduced by foreign companies is taxed by means of dividend duties and other imposts, direct and indirect. We should obtain all the revenue we can in a proper way, and encourage the introduction of capital, but I am afraid that if the Bill be passed in its present form, we will not have the advantage of the great amount of capital that would otherwise be introduced into the State.

Hon. J. Nicholson: A difficulty would arise with regard to shares in that they remain registered for years in the name of one holder, and yet they may have been actually transferred from that person to others without the registration having been altered. That would place a company in a very awkward position.

Hon. H. S. W. PARKER: That is so. The provisions are entirely unworkable because the company may not be aware of the man actually holding the shares at any given time.

Hon. J. Nicholson: They may not know who really owns the shares until an individual dies.

Hon. H. S. W. PARKER: That is so. Unless it is a dividend-paying concern, the management of a mining company cannot know who holds certain shares that are registered in an individual's name. Those shares may be transferred from one individual to another several times over, and no step may be taken to register them again until the death of the actual holder. It seems to me this portion of the Bill has been brought about through the recent Federal Grants Commission. The figures that were submitted by the Chief Secretary are of course the correct figures, but for the purpose of argument they are entirely misleading and erroneous; for this reason, that as regards companies the present law is that the duty has to be paid where the company

has its principal office, where the share register is kept. Probate duty has been paid in Victoria on shares in Victorian companies that have their sole business in Western Australia. Victoria gets the benefit of all that, hence we are told they pay 12s. 1d. per head of population in probate duty, and we are told that South Australia pays 11s. 1d. per head. The majority of our gold mining companies have their head offices in Adelaide, and so South Australia gets all the probate duty. Victoria gets all the probate duty from our breweries, and New South Wales gets probate duty from many of our merchant houses. So it will be seen that those figures are made up from moneys paid by residents of Western Australia. The only true way to get the figures would be to find out how much probate duty has been paid by the estates of deceased residents of those various countries. England has a vast income from foreigners because they have invested in shares in England. It is extremely misleading to suggest that the probate duties are wrong because of the per capita payments per annum of probate duty. It conveys absolutely nothing, and is entirely misleading, to suggest that we are undertaxed because we pay only 3s. 7d. whereas other States pay more; for there is another serious factor to be considered, namely, that in a small community there are no rich estates, and all probate duties are on a sliding scale. It can be taken that when any person dies leaving £750 or less there is virtually no probate duty, or none to speak of; but when we come to people who die leaving £10,000 and upwards, it is then we really get probate duty. Unfortunately in Western Australia we have very few estates per annum of any amount over £10,000. Most wealthy Western Australians have shares in companies operating in Western Australia but registered in other States, and so the estates of such men pay probate duties in the other State. The net result is that where a country has got capital into it the probate duties are not paid in that country at all, but are paid outside. I trust I have shown that those figures submitted are absolutely misleading and in no way support any argument that our duty should be increased. It would be very interesting to find out, if possible, how much duty is paid in the other States on the estates of domiciled Western Australians. Until we learn that, we cannot come to any conclusion as to the value per head of probate duty. An astute accountant can twist figures as he likes, and I suggest the House do not consider figures in any shape or form. Of course I am not in any way suggesting that the Chief Secretary quoted those figures for the purpose of misleading the House, nor am I suggesting that the figures are statistically wrong, for from that point of view probably they are perfectly correct. It seems to me we must encourage capital, and that we can get the duty the Bill is after in a very much better and simpler way, and I think that before long Western Australia will outdo the figures of Victoria. I suggest for the consideration of the Government that the Companies Act be amended so that every company operating in Western Australia shall have a local register upon which any shareholder shall be permitted to register. It is the simplest thing in the world, only the matter of crossing out two or three words now in the Companies Act.

Hon. L. Craig: Surely you would say that every shareholder in Western Australia shall be so registered.

Hon. H. S. W. PARKER: Yes, of course. It is very simple. If we do that we shall find shareholders of other States registering on our register for a good and lawful reason. It is always perfectly lawful to avoid a tax, but not lawful to evade a tax. All that the wealthy man has to do is to distribute his shares through the various States on the different registers, and as a result he will pay probate on the lower rate, although of course he will have to pay to the Commonwealth on the higher rate. A very simple way would be to amend the Companies Act for that purpose, and I feel sure there would be no objection. Operating in Western Australia are many companies that did have local share registers for a number of years. Incidentally it is very much easier to administer an estate where one has only to take out probate in one State instead of having to send over to get it dealt with in other States. At present if a shareholder in a foreign company registered in Melbourne dies, it is necessary to take out probate here and send it over to be dealt with before the courts in that State, and then we have to get the shares transferred in that State. It would be very much easier if it were all done here, as it used to be until Parliament in its

wisdom decided to tax the transfer of shares. The result is that if we have a local share register—I am not speaking of mining companies—if we want to deal in those shares we have to pay the Treasurer an ad valorem duty of one per cent., and of course one is not going to pay £1 in every £100 if it can be avoided—and that is what has to be paid if the shares are registered in Melbourne, Adelaide or Sydney. So it is essential that the Stamp Act be amended by eliminating that tax, which I venture to say brings in very little revenue, for it is there to catch the pennies and lose the pounds, and that is what has happened. What we require to do is to amend the Stamp Act and the Companies Act and make provision for local registers, and then I think the real object of the Bill will be achieved. I will have pleasure in supporting the second reading, but when the Bill goes into Committee, I am afraid I shall have to move several amendments. I trust that will be avoided by sending the Bill to a select committee and so have it worked into proper shape. The amending of the Bill in Committee may have a very serious effect on other sections of the Act. It is a highly technical Bill and so is very dangerous to tamper with by minor amendments. The amendments must be fully and properly considered, and for that reason I do not like the idea of the Bill being amended in Committee.

HON. L. CRAIG (South-West) [5.12]: We have heard two legal members discuss this important Bill, and perhaps it is presumption on my part as a layman to have anything to say about it. I strongly support the Bill in principle. It is very necessary and I am surprised that it was not introduced many years ago. Undoubtedly Western Australia has lost thousands of pounds in probate duty to which it was justly entitled, and I think Parliament is warranted in taking any legitimate step to stop that leakage to other States of money which belongs to this State. However, it is necessary that in dealing with a Bill of this sort we take care that we do not destroy the goose that lays the golden egg, and create injustice by the imposition of double taxation. I strongly support Mr. Parker's suggestion that the Companies Act be amended to compel companies carrying on business in Western Australia to keep a local register of shareholders resident in Western Australia. It is difficult dealing with people resident outside of Western Australia, perhaps in foreign countries. I can see lots of trouble cropping up where companies are liable for probate on the estate of a shareholder who may be resident in Germany, himself perhaps a foreigner. The Norddeutscher Lloyd Company operates in Western Australia. Suppose a shareholder in that company dies in Germany. How could Western Australia collect probate on his holding in the company? It would be impossible. So we should go warily in suggesting the taxing of shareholders in foreign companies who are resident outside of Western Australia. It has been suggested that we might except foreign mining companies. That may be necessary; it is a point that requires careful consideration. Taxation in England is very heavy, and if we are going to tax shareholders of companies registered in England, we shall create hardship and probably prevent money being invested in Western Australia for the development of our mining industry. It must be realised that the only silver lining to the cloud of depression in Western Australia is that provided by the gold mining industry. The pastoral industry and the agricultural industry are in a shocking state; mining is the one bright spot, and we should pause before doing anything that might interfere with the introduction of capital into the State for gold mining. I should like Mr. Nicholson and Mr. Parker to look at Clause 15, which provides that all property of any kind whatsoever over which a deceased person had at the time of his death a general power, enabling him by will or deed to dispose thereof, shall be subject to duty. I know of instances of which the case I am about to cite is an illustration. A testator, whom I will call A, is worth, say, £20,000. He leaves his estate to his wife or someone else, whom I will call B, for life, stipulating that on the death of B it shall pass to C, perhaps a son. C has an interest in the estate to the value of £20,000 which he could dispose of by will, although he may not receive any benefit from it for 20 years.

Hon. J. Nicholson: He would be receiving the income.

Hon. L. CRAIG: No, because the wife has a life interest. If C died, his personal estate might be worth practically nothing, but under Clause 15 C's estate would be liable for probate duty on £20,000. Such a clause

entails a tremendous risk. I know many people who are to receive an estate on the death of the mother or the wife, to whom the estate has been left for life. If one of those persons, say a son, died first, his estate would be liable for duty on the full amount, which he had not received, and to which, had he lived, he might not have become entitled for 20 years.

Hon. J. M. Macfarlane: He would have received nothing from it.

Hon. L. CRAIG: That is so. That provision should be carefully considered. Mr. Nicholson dealt with paragraph (ii.) of the proviso to Clause 49 stating "In this section the term 'assets' means the gross amount of all the real and personal property of the company of every kind," etc. On my first reading of it I considered it grossly unjust, but on reflection it does not appear to be objectionable.

Hon. J. Nicholson: It is capable of a second construction.

Hon. L. CRAIG: The reference to the assets in Western Australia, in proportion to the total assets of the company, I take it, is a distinction without a difference. If the word "capital" were used, it would amount to the same thing. At first I was rather perturbed about the provision.

Hon. J. Nicholson: It is a formula for arriving at the proportion.

Hon. G. W. Miles: Is it all right as it stands?

Hon. L. CRAIG: I think it is. I shall strongly support the Bill, but think that it should be considered by a select committee, so that evidence could be obtained on many of the provisions. Apparently, members of the legal fraternity are perturbed about the far-reaching effects of the measure, and for that reason it is necessary for us to obtain the fullest possible information before we commit ourselves to legislation on the subject.

On motion by Hon. H. J. Yelland, debate adjourned.

BILL—ELECTORAL ACT AMENDMENT.

Second Reading.

Order of the Day read for the resumption from the previous day of the debate on the second reading.

Question put and passed.

Bill read a second time.

BILL—CONSTITUTION ACTS AMENDMENT.

Second Reading.

Order of the Day read for the resumption from the previous day of the debate on the second reading.

Question put and passed.

Bill read a second time.

House adjourned at 5.25 p.m.

Legislative Council,

Tuesday, 2nd October, 1934.

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

QUESTION—UNION WHEAT POOL.

Hon. V. HAMERSLEY (for Hon. C. F. Baxter) asked the Chief Secretary: 1, Are the Government aware that it is the intention of the Union Wheat Pool of Western Australia to give a bill of sale to W. H. Pim, Junior, & Co., Ltd., covering motor cars, plants, machinery, furniture, chattels, fixtures, all grain business, agency, book debts, documents, contracts, leases, licenses etc.? 2, Will the reference to "all grain" cover wheat stored on behalf of clients? 3, What quantity of wheat is held by the Union