

Hon. G. Fraser: You are going in for direct action.

Hon. W. J. MANN: What are the courses open to the House? Are we going to accept your ruling, or move to disagree with it?

The PRESIDENT: It is competent for the House to dissent from my ruling.

Hon. J. CORNELL: You have not actually given a ruling, Mr. President.

Hon. C. F. BAXTER: There is really nothing we can do beyond what you, Mr. President, have already suggested; but probably it would be as well to carry the motion and let the matter stand over until Wednesday's sitting. We are quite within our rights in maintaining our stand, and there can be no change in the meantime. If another place has made a mistake, we should not condone that mistake. I consider that hon. members would be well advised to carry the motion moved by the Honorary Minister.

Question put and passed.

BILL—FINANCIAL EMERGENCY TAX.

Assembly's Message.

Message from the Assembly received and read notifying that it had made the amendment requested by the Council.

House adjourned at 12.13 a.m. (Wednesday).

Legislative Assembly,

Tuesday, 18th December, 1934.

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

QUESTION—OLD MEN'S HOME.

Quality of Meals.

Hon. N. KEENAN asked the Minister for Health: 1, Has his attention been called to the fact that at a general meeting of the inmates of the Old Men's Home called on Tuesday, the 4th December, a resolution was unanimously passed to protest against the unfitness for human consumption of the meat served for dinner on Sunday, the 2nd December? 2, Is he aware that very grave dissatisfaction exists amongst the inmates of the Old Men's Home at the quality of meals supplied to them, and that this dissatisfaction has been much intensified by the occurrence of Sunday, the 2nd December? 3, Is he prepared to appoint some independent person to inquire into the grievances of the inmates of the Old Men's Home? 4, If yes, will such appointment be made at an early date, and will the inmates be given reasonable notice beforehand of the date and place fixed for the inquiry?

The MINISTER FOR HEALTH replied: 1, I am informed that there was no general meeting of inmates as suggested, and consequently no resolution of protest. Some question was raised regarding certain corned beef supplied, and this is being investigated. It should be remembered that all meat supplied to this institution is subjected to special inspection by qualified meat inspectors, in addition to usual abattoir inspection. 2, I am not aware that dissatisfaction

tion exists as suggested. Certain complaints were made previously; these were investigated and were not substantiated. I personally visited the home and satisfied myself that certain complaints were not correct. 3 and 4, An independent inquiry, particularly after the result of my own investigations, is not warranted. I am satisfied that the complaints emanate mainly from a small coterie. In such an institution it is inevitable that some grievances and complaints will be forthcoming. A visiting committee of independent people visit the home regularly, have free access everywhere, and are available to receive complaints—if any.

QUESTION—LIQUOR LAWS, ADMINISTRATION.

Mr. MARSHALL asked the Minister for Police: Will the Government take the necessary steps to see that the licensing laws are reasonably administered on the East Murchison and Murchison Goldfields, especially at Wiluna, as per the statement of the Minister in "Hansard," page 1340?

The MINISTER FOR POLICE replied: The administration of the Licensing Act is a responsibility of the Police Department.

BILL—FINANCIAL EMERGENCY TAX ASSESSMENT ACT AMENDMENT.

Council's Message.

Message from the Council that it disagreed to the further amendments made by the Assembly to the Council's amendments Nos. 1 and 2 and insisted on its original amendments, and also insisted on amendment No. 3 to which the Assembly had disagreed, now considered.

In Committee.

Mr. Sleeman in the Chair; the Acting Premier in charge of the Bill.

Council's amendment No. 1. Clause 2.—Delete this clause.

Assembly's amendment on Council's amendment—

Strike out the word "Delete" and insert the word "Amend" in lieu thereof. Add the words "by striking out paragraphs (a) and

(b) and inserting in lieu thereof, paragraphs as follows:

(a) by deleting paragraph (d) and inserting in lieu thereof a paragraph as follows:—

(d) in receipt of salary or wages in the amount of thirty shillings per week or more but less than the amount of the weekly basic wage, and having no other source of income, or in receipt of income including salary or wages in the amount of seventy-eight pounds per annum or more but less than an amount per annum ascertained by multiplying by fifty-two the amount of the weekly basic wage aforesaid, who prove to the satisfaction of the Commissioner that they are regularly maintaining or contributing to the maintenance of one or more members of their family who is or are resident and domiciled in Western Australia; or

(b) by adding to the section a subsection as follows:—

(2) For the purposes of paragraph (d) of subsection (1) hereof, the words "the amount of the weekly basic wage" shall mean the amount of the weekly basic wage as declared under and in accordance with the provisions of the Industrial Arbitration Act, 1912-1925, which is ruling on the dates hereinafter mentioned respectively in the district or locality in which the person (being a person earning salary or wages) is for the time being earning such salary or wages, or in which the person (being a person deriving income) has his permanent home on the 30th day of June ending the year in which such income is derived (as the case may be), that is to say:—

(a) on the thirty-first day of December, one thousand nine hundred and thirty-four insofar as relates to the tax payable or to be assessed in respect of the period commencing on the first day of January, one thousand nine hundred and thirty-five, and ending on the thirtieth day of June next following; and

(b) on the preceding thirtieth day of June in each and every year insofar as relates to any period of twelve months ending on the thirtieth day

of June in any year after the said thirtieth day of June, one thousand nine hundred and thirty-five.

Provided that—

- (i) In the case of a person (being a person earning salary or wages) any variation by way of increase made in the amount of the weekly basic wage to operate in any year after the thirtieth day of June, one thousand nine hundred and thirty-five, as from the thirty-first day of December in that year shall be applied so as to extend the exemption under this paragraph for the benefit of such person for the balance of such year; and
- (ii) In the case of a person resident outside of the State of Western Australia the amount of the weekly basic wage applicable to such person shall be the amount of the weekly basic wage aforesaid ruling in Perth on the appropriate date aforesaid."

The CHAIRMAN: The Council's reason for disagreeing is that it considers there is no justification for the extension of existing exemptions.

The ACTING PREMIER: We have a nice kettle of fish as a result of the Council's messages on the assessment and tax Bills. I do not think it is within the memory of any member that this Chamber has previously had to face such a position. If we accepted the Council's amendments on both bills, chaos would be created and the administration of this law would be made impossible. One Bill fixes the exemption at £3 10s. and the other at £3 12s. How would it be possible for the Commissioner of Taxation to administer the law under those two decisions? The position has been brought about by the desire of a majority of the Legislative Council to increase the tax on the lower paid section of the community and relieve the section in receipt of higher incomes. The amendment to the assessment Bill proposes to lower the exemption from the basic wage to £3 10s. Our request was that the basic wage in each district should be the amount of the exemption. There can be no question that the Government have a clear mandate to exempt basic wage earners from this taxation. That cannot be disputed by any unbiassed person. When this legislation was first

introduced we stated from the Opposition side of the House and we stated from a hundred platforms during the elections that we stood for the exemption of workers on the basic wage. There is no other Legislative Council throughout the continent that would step in to prevent the Government from giving effect to a policy that the people had endorsed. It is accepted by every second Chamber that, if the people have endorsed the policy, the Council have no right to interfere. Particularly does that relate to financial matters. In New South Wales where, until recently, there was a nominated Chamber, all that was necessary to be done was to show that the proposal of the Government was part of the policy speech of the party in office and the measure was passed without question. We have been to the country and declared for the exemption of basic wage earners; we have been returned with an overwhelming endorsement by the people, and a Chamber that does not represent one-third of the number of voters represented by this House endeavours to deny us the right to give effect to our policy. In no other State is that attempted, much less pressed. I refer members to the Constitution Act Amendment Act, 1921, Section 46, Subsection 3 reads—

The Legislative Council may not amend any Bill so as to increase any proposed charge or burden on the people.

Subsection 4 contains the following:—

The Legislative Council may at any stage return to the Legislative Assembly any Bill which the Legislative Council may not amend, requesting by message the omission or amendment of any item or provision therein; Provided that any such request does not increase any proposed charge of burden on the people.

Thus, not only may the Council not amend the Bill to increase a proposed charge or burden on the people, but may not even send us a message including such a proposal. Those two subsections are as plain as the English language can make them. I do not think it can be disputed that the power of finance is in the hands of this Chamber and that another place may not do anything that would increase the burden on the people. The point might be taken that the tax has been altered and spread over a wider field, and that in the aggregate it would not increase the burden on the people, but that is not the position here.

The tax is the same. The exemption in the tax Bill is £3 12s., but the exemption in the assessment Bill has been lowered to £3 10s. and that would increase the burden on a large number of wage-earners who receive between £3 10s. and £3 12s., and also on a large number of workers on the goldfields who receive up to £4 2s. All those people would be brought under the tax, and that was not proposed in the Bill sent to the Council. It is quite clear, therefore, that the Council's proposals would impose the tax on a larger number of taxpayers. If the two subsections I have quoted mean anything, it is that this House must be untrammelled in the control of finance. The Council does not enter at all into matters of finance. An old and frequently-quoted saying is that finance is government and government is finance. If the Council's attitude were permitted, control would be taken out of the hands of the Government and given to a Chamber that has no responsibility at all for finance. The Council wishes to frame the financial policy of the Government without having to shoulder the responsibility that the Government have to bear. I propose to ask for your ruling on the Council's message, Mr. Chairman, in the light of the two subsections I have quoted. 'A similar position was created at this time last year, with the result that the Bill was lost and a special session had to be convened immediately after the holidays to get the emergency legislation re-enacted. At that time the principle that the Government propose in the Bill was endorsed by both Houses, namely, the principle that workers on the basic wage should be exempt. Such workers are taxed at the moment, and we are merely asking for a further application of the principle that both Houses affirmed last year. The basic wage has been increased, but the men in receipt of margins have also been increased and they will have to pay more tax. Consequently, in that respect the Government will be in much the same position. But the principle of this Bill is the same as that of which both Houses approved last year. I submit that the time is long overdue for a clear definition of the respective powers of the two Houses in regard to finance. It is no use our having this argument and squabble every year, the result being that the finances of the country are upset and nobody knows where he is. Under such

conditions it is impossible to budget ahead, or for the officers of the Government to calculate. This position has existed for many years. It will be satisfactory for all concerned if the relationship of the Chambers in this respect is finally determined. Later I shall submit a motion which will put into operation machinery to give effect to the decision arrived at by both branches of this Parliament in 1927.

The CHAIRMAN: That has nothing to do with the amendment under discussion, has it?

The ACTING PREMIER: No; but I thought it well that the relationship should be determined while the question was under discussion. Whatever comes out of this situation will affect what I have to say. My suggestion is that each House should appoint a committee to draft its case, and that then the cases should be submitted to the Judicial Committee of the Privy Council in accordance with the decision reached by both Houses in 1927.

Hon. C. G. Latham: That decision was not carried into effect by the Government of the day.

The ACTING PREMIER: It should have been. However, I understand there was a difficulty in getting another place to state its case. What will be the position if the Bill is lost? The Government cannot submit to having the control of the finances taken out of their hands. The loss of the Bill would mean the loss of half a million or more of revenue. Arrangements for an overdraft have been settled with the Commonwealth Bank, and a deficit of £650,000 has been agreed upon in consultation with the Commonwealth and the other States. If we ask for another half-million, we shall certainly not get it, and so the services of the country will suffer. I propose to press you, Mr. Chairman, to give a ruling whether the Council's amendment is in order, having regard to the provisions I have quoted.

The CHAIRMAN: The Acting Premier has asked for a ruling whether the Legislative Council's amendment is in order. I point out to the Committee that Subsection 3 of Section 46 reads—

The Legislative Council may not amend any Bill so as to increase any proposed charge or burden on the people.

This Bill falls within the category of "any Bill," and there is a proposed charge or bur-

den on the people. I uphold the point of order raised by the Acting Premier and rule that the amendments of the Legislative Council contravene Subsection 3 of Section 46 of the Constitution Acts Amendment Act, 1889.

The ACTING PREMIER: I move—

That the amendment insisted on by the Council be again disagreed to.

Hon. C. G. LATHAM: I sincerely hope the Acting Premier will not lose the opportunity of trying to arrive at a satisfactory arrangement between the two Houses. I endeavoured to follow the hon. gentleman's reasoning. It seems to me that the point raised now should have been taken when the Council's message first reached this Chamber. It was not taken then.

The Acting Premier: Because we were considerate enough to try an alternative course.

Hon. C. G. LATHAM: I hope that the method previously adopted will be adopted on this occasion, and an effort made to arrive at a compromise. I agree that the Government cannot submit to the loss of half a million of revenue. However, let us not assume an attitude of defiance at this stage. In 1927 a similar difficulty arose between the two Chambers, and on the definite understanding that the matter should be referred to the Judicial Committee of the Privy Council the Legislative Council agreed to forgo its amendment. Nothing has been done in that direction, but that is not the fault of this Chamber.

The Acting Premier: It is the Council's fault.

Hon. C. G. LATHAM: I understand that the Government of the day took no action whatever to give effect to the decision. I hope that in the circumstances the present Government will show themselves to be in earnest with regard to giving effect to the decision, so that these arguments may be avoided in future. I hope also that the Acting Premier's course will be tempered with that common sense which is characteristic of him.

The Acting Premier: Your Government were up against it in the same way.

Hon. C. G. LATHAM: I know that. It is not only Labour Governments that have encountered this difficulty. It is necessary to finalise the session as early as possible, and we have no objection to the Government

obtaining the money they need. However, I hope the Acting Premier will afford an opportunity for amicable settlement of the question.

Question put and passed; the Council's amendment again disagreed to.

Resolution reported, and the report adopted. A committee consisting of Messrs. Willcock, Latham, and McCallum drew up reasons for disagreeing with the Council's amendments. Reasons adopted.

The ACTING PREMIER: I move—

That the following message be transmitted to the Legislative Council:—"In reply to Message No. 28 from the Legislative Council dealing with the Financial Emergency Tax Assessment Act Amendment Bill, the Legislative Assembly would point out to the Legislative Council that the amendment made by it to Clause 2 would be a direct contravention to Subsection 3 of Section 46 of the Constitution Acts Amendment Act, 1899-21, wherein it is enacted that the Legislative Council may not amend any Bill so as to increase any proposed charge or burden on the people, and that therefore it is outside the powers of the Legislative Assembly to consider the same. The Legislative Assembly, therefore, requests the Legislative Council to again consider the Bill."

Question put and passed.

BILL—FINANCIAL EMERGENCY TAX.

Council's Requested Amendment.

Message from the Council requesting that an amendment be made now considered.

In Committee.

Mr. Sleeman in the Chair; the Acting Premier in charge of the Bill.

Clause 3—Delete "thirty-five" at the end of the clause and substitute the word "thirty-four."

The ACTING PREMIER: The Council's requested amendment merely corrects a clerical error. We accept that correction. What will happen to the Bill afterwards, I do not know. I move—

That the amendment be made.

Question put and passed; the Council's amendment made.

Resolution reported, the report adopted, and a message accordingly returned to the Council.

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

Council's Amendments.

Schedule of 55 amendments made by the Council now considered.

In Committee.

Mr. Sleeman in the Chair; the Minister for Justice in charge of the Bill.

No. 1. Clause 4.—Insert after the word "administrator," in line 1 of Subclause 1, the words "to whom probate or administration may be granted."

The MINISTER FOR JUSTICE: It will facilitate the consideration of the Council's amendments if members have before them copies of the Bill as amended in this Chamber and considered in another place. Bills in that amended form have been distributed and perhaps it would be well if I were to comment briefly as a preliminary to consideration of the Council's proposals. After the Bill had left this Chamber, it was referred by the Council to a select committee, the members of which took a lot of evidence and worked in close collaboration with the Parliamentary Draftsman. Many of the amendments on the Notice Paper represent alterations in verbiage. Some make the position clearer but others, in my opinion, do not represent much of an improvement, but, in the historic phrase used by a former Premier: "They will not do any harm." In the circumstances, I do not intend to disagree with them, but where amendments made by the Council tend to alter the principle we aim at, I shall deal with the position more fully. Many of the amendments will effect an improvement in the Bill because evidence was given before the select committee by many people interested in the working of the Administration Act, and in probate matters. Dealing now with the first amendment suggested by the Council, the clause was inserted to ensure that the amending Bill should not affect the estates of persons who die before its commencement as an Act. The amendment is inserted to ensure that the obligations of the clause will apply only to those persons who have been granted probate or administration. The words "in Western Australia" were inserted out of abundant

caution to make sure the clause could not possibly apply to property owned by a deceased person, which was situate out of Western Australia. There is a general rule of law that the statutes of the colonies and dominions are of territorial operation. The amendment seems to overlook the fact, but it does no harm, and merely fits in with the principle. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 2. Clause 4.—Insert after the word "property," in line 1 of paragraph (a), the words "in Western Australia."

The MINISTER FOR JUSTICE: The remarks I have already made apply also to this amendment. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 3. Clause 5.—Strike out all the words down to and including the word "or," in line 4.

The MINISTER FOR JUSTICE: There was some repetition in the clause and the select committee considered that the words proposed to be struck out were redundant. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 4. Clause 6.—In line 3 of Subclause 1 insert after the word "obtained" the words "or resealed" has not been effected in this State."

The MINISTER FOR JUSTICE: By "resealed" is meant the notation by the Supreme Court here of a grant of administration or probate, which has been made outside Western Australia. In my view the words "probate or letters of administration" in the clause were sufficient to include resealed, but the amendment has been inserted by way of abundant caution. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 5. Clause 7.—In line 3 insert after the word "shall" the words "in accordance with section eight."

The MINISTER FOR JUSTICE: This amendment was proposed by the select committee to make sure that an executor would not be required to pay duty out of his own assets, but out of the estate of the deceased. That was the original intention. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 6.—Clause 8: In line 5 strike out the word "first."

The MINISTER FOR JUSTICE: The clause sets out that duty shall be a first charge on the estate of deceased. In recent years there has been an agitation against the Crown taking priority for its claims against an estate. By striking the words out, nothing at all will be achieved by the select committee, because the fact that there is duty chargeable presupposes that there is a balance in the estate, and if there is a balance in the estate, all other debts will be provided for. As members know, if wills are properly drafted, they state that after payment of fees, the burial expenses and testamentary requirements, the deceased gives and bequeaths his property in the form set out. Only after those requirements are met does probate become a charge on the balance of the estate. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 7.—Clause 8: Strike out the words "this provision" at the end of the clause and insert the words "section forty-three."

The MINISTER FOR JUSTICE: The amendment will draw specific attention to the section of the Act in which provision is made, and I think it will read better than the original draft. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 8.—Clause 9: In line 1 of Subclause 1 insert after "any" the word "deceased."

The MINISTER FOR JUSTICE: The amendment was inserted by the select committee to make it clear that the will or codicil of a living person could be produced and used in evidence. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 9.—Clause 9: In lines 3 and 4 of Subclause 1 insert after the word "administration" the words "or in proceedings relating to the validity of any such will or codicil."

The MINISTER FOR JUSTICE: This amendment was inserted to make it clear that wills that have not been proved, but the production of which is necessary in the event of any dispute regarding the genuineness of a will, can, nevertheless, be so used. That is quite a proper provision. One would ordinarily expect that to apply but the Council desired to make specific provision accordingly. I see no objection to that. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 10.—Clause 10: Insert after the word "executor," in line 1, the words "to whom probate is granted."

The MINISTER FOR JUSTICE: The technical word that should be used in connection with a grant to an executor is "probate," but sometimes the word "administration" is used. In the clause, the term "administration" is used to cover both kinds of grant. A legal member of the committee desired that the term "probate" should be used to designate the grant to the executor; hence the insertion of the words proposed. They make no difference to the meaning of the clause. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 11.—Clause 10: Insert after the word "duty," at the end of the clause, the words "out of the estate of the testator or intestate, which passes to such executor or administrator by virtue of any such grant in his favour."

The MINISTER FOR JUSTICE: The amendment means that an executor shall not be responsible for anything except for charges that arise out of the estate of the testator or intestate that pass to him by virtue of any such grant in his favour. I do not think it was ever considered an executor would be liable personally for payment of duty except out of the assets that

pass to him by the grant. The amendment will make it perfectly clear and specific. I see no objection to the amendment, which merely confirms the existing practice. I move—

That the amendment be not agreed to.

Question put and passed; the Council's amendment agreed to.

No. 12. Clause 12, Subclause 2, paragraph (a).—Strike out "two years" and insert "twelve months."

The MINISTER FOR JUSTICE: I propose to disagree with this amendment, which involves a rather important principle, which was discussed when the Bill was considered in Committee. The existing law takes cognisance of gifts, dispositions, settlements and so forth if made six months prior to the death of the person who made the will. Experience has shown that many people take advantage of the comparatively short time that remains to them on earth to make dispositions of their property, which therefore escape the imposition of estate duties.

Mr. Stubbs: They know they are going to die.

The MINISTER FOR JUSTICE: Yes. A man may suffer from cancer and may be told by his medical adviser that he will die.

Mr. Marshall: I do not suffer from cancer, but I am sure I shall die.

The MINISTER FOR JUSTICE: But not within six months. Often people are aware that they may not have more than eighteen months or less to live and, having sufficient for their own purposes, they dispose of their estate, and thus the State has lost large amounts in probate duty. It is a wrong principle, and should not be accepted. When a disposition is made only in anticipation of early death, it should be taxable. The report of the Royal Commission appointed by the Federal Government dealt with every aspect of the question and recommended that the legislation for the Commonwealth and the States should provide for two years prior to death as a reasonable time to allow for the disposition of property free from taxation. Alternatively, they recommended three years, and that after one year, two-thirds of the value of the gift, and after two years one-third of the value of the gift should be charge-

able. However, their first and definite recommendation was that two years was a reasonable period prior to the death of a person when dispositions of property should be outside probate duty.

Mr. Patrick: What is the existing period for the Commonwealth?

The MINISTER FOR JUSTICE: I am not sure. Among the States, there are varying periods, up to the three years adopted by Queensland. The Federal Royal Commission recommended that a uniform system of this taxation applying to the States and the Commonwealth should be framed, providing for two years before death. This is the only Parliament considering such legislation at present, and the least we should do is to adopt the recommendation of the Royal Commission, and have a limit of two years, so I move—

That the amendment be not agreed to.

Mr. SAMPSON: When previously the Bill was before the Committee, it was held to be too drastic to increase the existing period of six months to two years. It seems to me the compromise recommended by the Council is reasonable, and I hope it will be agreed to. The period of 12 months is quite sufficient. Some malignant diseases will keep a patient in bed for a long time, but generally the progress of such a disease is much faster.

The MINISTER FOR JUSTICE: There was a sharp division of opinion amongst the members of the select committee when they were considering this, and there was a balance of only one vote in favour of the shorter term.

Question put and passed; the Council's amendment not agreed to.

No. 13. Clause 12.—Strike out Subclause 3 and insert the following:—

"(3) This section shall not apply to gifts, which are proved to the satisfaction of the Commissioner not to have exceeded in the aggregate the sum of one hundred pounds in value, or which are proved to the satisfaction of the Commissioner to have been reasonable, having regard to the amount of his income or means at the date of such gift, when except for this subsection paragraph (a), (b), or (c) of subsection (1) would apply."

The MINISTER FOR JUSTICE: This is a peculiar amendment, dealing with certain gifts. A man may have an income of £500 or £600 a year, and may make a disposition of his property to send his son abroad to be educated or for some other reasonable purpose. Such dispositions will be recognised by the Commissioner. But it may be that a man, although possessed of property of great value, has but little income. This amendment deals with gifts made out of income.

Hon. N. Keenan: Presumably you are agreeing to this?

The MINISTER FOR JUSTICE: Yes. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 14. Clause 14.—In paragraph (b) (ii), also in paragraphs (c) and (d), strike out the words "two years" where same respectively appears, and insert "twelve months."

The MINISTER FOR JUSTICE: This is the same as in amendment No. 12. I move—

That the amendment be not agreed to.

Question put and passed; the Council's amendment not agreed to.

No. 15. Clause 16.—Strike out "two years" in line 5 and insert "twelve months."

The MINISTER FOR JUSTICE: I move—

That the amendment be not agreed to.

Question put and passed; the Council's amendment not agreed to.

No. 16. Clause 17.—Insert a proviso after the words "final balance" at the end of the clause:

"Provided that the executor or administrator shall not be responsible for payment of any duty in respect of any property to which sections eleven to sixteen apply, where the executor or administrator has distributed the estate, without notice, of any such property, and without any default or negligence on the part of such executor or administrator."

The MINISTER FOR JUSTICE: This clause was amended because of evidence sub-

mitted to the select committee in another place. An executor may have settled up an estate before he knew that a certain gift had been made. There are not many such cases. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 17. Clause 18.—Insert after the word "Act" in line 4 the following words:—"and subject to the provisions of Section 34."

The MINISTER FOR JUSTICE: This deals with an executor obtaining a reimbursement of duty paid on a gift from the recipient of the gift. If a disposition was made free of duty, the duty itself would come out of the balance of the estate. If a disposition was made in the ordinary course of events, the donee would reimburse the executor for any duty paid. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 18. Clause 18.—Insert after the word "and" in line 29 of the proviso to Subclause 1 the words "Subject to the provisions of Section 70."

The MINISTER FOR JUSTICE: This relates to Clause 70. It is only a cross reference and I see no objection to it. A man may have received a gift and disposed of it. The purchaser, if a bona fide purchaser, should not be called upon to pay any duty, but it is the donee who should be responsible. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 19. Clause 19, Subclause (1)—Strike out "two years" in line 13 and insert "twelve months."

The MINISTER FOR JUSTICE: I move—

That the amendment be not agreed to.

Question put and passed: the Council's amendment not agreed to.

No. 20. Clause 19, Subclause (5)—Insert after the word "section" in line 1, the words "subject to the provisions of Section 70."

The MINISTER FOR JUSTICE: This relates to the protection of bona fide purchasers, somewhat on the lines of Amendment No. 18. In this case, too, it is the donee who should pay the duty. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 21. Clause 21—Insert after the word "Commissioner" in line 4, the words "or the court."

The MINISTER FOR JUSTICE: The clause laid down that a settlement should be made within three months after death. That is the law in Victoria. Apparently another place thinks the court in addition to the commissioner should have a say in the matter. I see no harm in the court having power to grant an extension of time if it thinks fit. I move—

That the amendment be agreed to.

Question put and passed: the Council's amendment agreed to.

No. 22. Clause 26.—Strike out all words down to and including "shall," in lines 1 and 2, and substitute the following:—"When the trusts or dispositions of any settlement within the meaning of this Act have taken effect the settlement shall not."

The MINISTER FOR JUSTICE: I have no objection to this amendment. I move—

That the amendment be agreed to.

Question put and passed: the Council's amendment agreed to.

No. 23. Clause 27, line 5—Insert after the word "settlor" the words "or any other person."

The MINISTER FOR JUSTICE: This is a machinery clause to give the trustee the right to enforce the payment of duty against the beneficiaries. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 24. Clause 27, line 7—Insert after the word "duty" the words "at the appropriate rate and."

The MINISTER FOR JUSTICE: I do not know that this amendment is necessary. It reiterates what is abundantly clear in the clause. I do not, however, see any harm in it. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 25. Clause 28, Subclause (4)—Strike out the word "immediately" in line 8, and insert the words "within three months."

The MINISTER FOR JUSTICE: It was thought that the word "immediately" might be construed somewhat harshly, and the Council has accordingly extended the term to three months for the filing of settlements and accounts. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 26. Clause 29—Insert bracket before "including," in line 1 of paragraph (a), and insert after the word "appointment" in line 4, the following words "exercised by such settlement or other non-testamentary disposition."

The MINISTER FOR JUSTICE: These words appear in the original Act, and I see no objection to them. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 27. Clause 29.—Strike out the proviso, and insert the following:—

"Provided that, with reference to paragraph (b), if the settlement or other non-testamentary disposition includes personal property not in Western Australia, but in some proclaimed reciprocating jurisdiction, and duty has been paid in respect thereof under the laws of that jurisdiction, then the amount of such duty may be deducted from the duty to which the same property is liable under this Act.

"In this section 'proclaimed reciprocating jurisdiction' means any country or place the laws of which contain provisions substantially the same as this proviso, in the case of property situate in this State but dutiable under the laws of such jurisdiction, and which the Governor may from time to time declare by proclamation to be a reciprocating jurisdiction for the purpose of this section. Any such proclamation may from time to time be revoked by the Governor."

The MINISTER FOR JUSTICE: This is an important amendment. It was con-

sidered that the question whether a country was a reciprocating country or not should be left to the commissioner. Another place desires that it should be reserved to the Governor in Council to make the necessary proclamation in the event of its being determined to withdraw from reciprocity arrangements. I have no objection to the amendment. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 28. Clause 34, Subclause (4).—Strike out all words at commencement of the subclause down to and including the word "and," in line 4 of Subclause 4.

The MINISTER FOR JUSTICE: This relates to certain powers given to trustees or executors. It does not concern the Crown or the recovery of duty.

Hon. C. G. Latham: So long as it does not interfere with the administration of an estate.

The MINISTER FOR JUSTICE: It will not do so. It provides an easement of the trustees' powers. The Western Australian Trustee Company saw me on this matter, and the amendment was made at their instigation. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 29. Clause 34.—Strike out the word "also" in the same line.

The MINISTER FOR JUSTICE: This is merely a consequential amendment. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 30. Clause 38, Subclause (4).—Insert at the end of the subclause the words "and shall furnish the executor, administrator, trustee, or any other person liable for the payment of the duty, on payment of the prescribed fee, with a copy of the notes of evidence taken by him on the hearing of such summons."

The MINISTER FOR JUSTICE: This makes provision for an executor obtaining

a copy of the evidence on payment of the fee. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 31. Clause 38, Subclause (5).—Strike out the words "Upon payment of the duty in conformity with the value so determined," in lines 8 and 9.

The MINISTER FOR JUSTICE: Under the Act there is no provision for the payment of duty beforehand when the executor or administrator desires to appear on another matter. This amendment brings the procedure into uniformity with practice. If any appeal is made in regard to valuations or any other matter, the duty shall be paid beforehand. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 32. Clause 39.—Insert after the word "if," in line 1, the words "within two years."

The MINISTER FOR JUSTICE: This point was raised in the Assembly and I promised to agree to the amendment, but the clause was passed before the amendment could be effected in the Assembly. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 33. Clause 39.—Add at the end of Subclause (1) the words: "Provided that there shall be no limit of time wherein the Commissioner may claim such additional duty, where payment of such duty was not made owing to fraud or gross negligence."

The MINISTER FOR JUSTICE: The limitation of the right of the Commissioner to get further duty after an assessment has been made is now limited to two years. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 34. Clause 40.—Insert after the word "years," in line 21, the words "or within such further time as the Commissioner may allow."

The MINISTER FOR JUSTICE: The amendment relates to the Commissioner

having power to extend time for refunds. There is no objection to this. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 35. Clause 40.—Insert at the end of the clause the following:—"together with interest at the rate of four pounds per centum per annum, calculated from the date when such duty was paid to the Commissioner."

The MINISTER FOR JUSTICE: The Council fixed a rate of interest on refunds at four per cent. The rate originally suggested by the select committee was five per cent. It was thought by us that the Treasury should have the right by notice in "The Gazette" to proclaim what interest should be paid in view of the alteration in the value of money and interest. The select committee did not agree with that point of view, but personally I think it will work both ways, and that four per cent. is a reasonable charge, though in a few years' time it may not be. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 36. Clause 41.—Insert the words "or Court" after the word "Commissioner," in line 4.

The MINISTER FOR JUSTICE: The fixing of the period of 28 days or such further time as the Commissioner might allow for appeals seems to have created fear in the minds of some members that executors who reside in the back country might lose their chance of appeal by reason of lapse of time. But the fear is groundless because the regulations stipulate the time as one month. The select committee desires to give the court some discretion in extending the time. I see no objection to the amendment. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 37. Clause 42.—Subclause (3): Strike out the words "fixed pursuant to subsection (4) of this section, which is for the time being current," in lines 1, 2 and 3, and insert the following in lieu thereof:—"of four pounds per centum per annum."

No. 38. Clause 42.—Strike out Subclause (4).

No. 39. Clause 43.—Strike out the words "fixed pursuant to subsection (2) of this section, which is for the time being current," at the beginning of Subsection (1), and insert the following in lieu thereof:—"of four pounds per centum per annum."

No. 40. Clause 43.—Strike out the words "in any case where the amount of duty has not been assessed within three months after the same became chargeable," lines 1 and 2 of the proviso of Subclause 1.

No. 41. Clause 43.—Strike out Subclause (2).

On motions by the Minister for Justice the foregoing amendments were agreed to.

No. 42. Clause 45.—Insert subclauses, as follows:—

"(2) Provided that any legatee, beneficiary, donee, or other person to whom any share or interest in a partnership passes on the death of any other person shall be liable to pay to the person responsible for the payment of the duty on such share or interest under the provisions of this Act any increase in duty which may be necessitated by valuing the share or interest of the deceased partner in accordance with this section.

"(3) The person liable to pay such increase in duty shall have the same right of appeal as if he were the person responsible under this Act for the payment of the whole of the duty, and the provisions of sections thirty-eight, forty-one, and forty-two shall apply accordingly, with the necessary modifications to any such appeal."

The MINISTER FOR JUSTICE: This amendment is a good one. In our Bill as introduced we provided that a certain arbitrary method of assessment should be followed so as to determine the value of an interest in a partnership, and in effect we excluded any contractual method which had been agreed upon between the partners. We took the real value as distinct from the contractual or artificial value, but it was pointed out that by so doing we might be penalising the estate of a deceased partner which got a very much smaller amount than the actual value of the share which was being purchased by the surviving partner. In short,

the surviving partner gets a bargain, and the estate of the deceased partner is left to bear the brunt of the whole of the duty. It is provided that any increase in duty payable by the estate of a deceased partner over and above the duty which would otherwise be payable shall be paid by the surviving partner to the estate of the deceased partner. The surviving partner is also given the right of appeal against the value, which is a very necessary provision. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 43. Clause 49.—Delete this clause and insert the following:—

49. (1) Whenever after the commencement of this section a member domiciled in this State of any foreign company carrying on business in Western Australia dies, the shares or interest of such member in such company shall, for the purpose of assessment of duty under this Act, be considered as locally situated in Western Australia.

(2) (a) Whenever after the commencement of this section a member domiciled out of Western Australia of any foreign company carrying on business in Western Australia dies, there shall be chargeable and payable under and subject to the provisions of this Act, and, except as hereinafter provided, without any deduction or exemption whatever, a duty, at such rate as Parliament may prescribe, on the net present value of the shares or stock in the company held by the member at the time of his death: Provided that—

(i) the duty mentioned in this subsection shall not be payable where the net present value of the shares and stock in the company held by the member at the time of his death does not exceed one thousand pounds as ascertained by the next following paragraph.

(ii) where the company carries on business within and without Western Australia the duty payable by the company under this subsection shall be assessed on that part of the value of the shares of the deceased which bears the same proportion to the full value thereof as the assets of the company situate in Western Australia bear to the total

assets of the company, wherever situate. In this subsection the term "assets" means the gross amount of all the real and personal property of the company of every kind, including things in action, and without making any deduction in respect of any debts or liabilities of the company;

(iii) no duty shall be payable by a foreign company under this subsection where estate duty has been paid under this Act in respect of all shares or other interest in the company held by the deceased at the time of his death:

Provided further, that no duty shall be payable by any foreign company which the Treasurer certifies to be a bona fide railway, timber, mining, insurance or developmental company: provided that the Treasurer may at any time revoke such certificate, if in his opinion any such company ceases to come within any of the categories hereinbefore mentioned.

(b) Duty shall be payable as aforesaid by the company, and may be recovered by the Commissioner at any time after the expiration of six months from the date when the company shall receive notice of the death of the deceased member.

(c) Any payment by the company of any duty imposed in respect of shares or stock in the company held by a member at the time of his death shall be deemed to be a payment on behalf of the estate of such member, and may be deducted by the company from any moneys payable by the company to the personal representative of such member in respect of the shares or stock, or recovered by action from such representative.

(d) On receiving a notification of the death of any member, upon whose death the company would be liable to pay duty hereunder, the company shall cause to be delivered to the Commissioner a return giving the name and address of such member, the number, description, and value of the shares in the company held by such member at the time of his death.

(e) If any such return is not delivered in accordance with the provisions of this subsection, the company making default shall be liable to a penalty not exceeding fifty pounds; provided that it shall be a defence on the part of any such company

if it be proved that it had no notice of the death of any such member.

The MINISTER FOR JUSTICE: Originally the Bill provided for duty on the shares of non-domiciled persons in foreign companies carrying on business in Western Australia. Provision was made for the taking of portion of the value where the company carried on business both within and without Western Australia, and had assets in Western Australia and elsewhere. No provision was made in our Bill as introduced for exempting any class of company. There are certain companies which the Bill was primarily designed to cover. The select committee has provided that duty will be on the full value of the shares of a person domiciled in Western Australia, and which shares are held in a foreign company carrying on business here. I am inclined to think the new clause will give us considerable advantage. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 44. Clause 50.—Add the following words at the end of the Clause:—"but where at such material date the value of the property is greater than—

(a) the value at the time of the giving of the option; and

(b) the amount or value of the option consideration,

then, and in such event the value to be taken shall be the value at the time of the giving of the option, or the amount or value of the option consideration, whichever is the greater:

Provided that, in assessing the value at such material date for the purpose of this paragraph, the value of any improvements to the property, affected at the expense of the option-holder, shall be excluded.

(2) Nothing herein containing shall affect the operation of section 45 of this Act relating to the valuation of any share or interest in a partnership."

The MINISTER FOR JUSTICE: This clause was inserted in the original Bill with a view to preventing fraud. Several witnesses who testified before the select committee raised several points which, in my view, are not likely to occur. It was stated that sometimes an option holder might

effect improvements on land over which he has an option, and that under the clause as introduced the owner of the leasehold would then have to pay on the value of improvements which were never likely to be owned by the owner of the property. Again, property might appreciate in value after the option was given and it would not be fair to saddle the owner with the increased value. Accordingly it has been provided that when property appreciates in value we will take the value at the time of giving of the option, or the amount or value of the option consideration, whichever is the greater, and that no account shall be taken of the improvements effected by the option holder. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 45. Clauses 54 and 55.—Reverse the order of these clauses.

The MINISTER FOR JUSTICE: The alteration of the order will be an improvement. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 46. Clause 55.—Strike out the words "money on current account" in lines 4, 12 and 19 of Subclause 1.

The MINISTER FOR JUSTICE: This deals with the paying out of money belonging to the estate of a deceased person. A bank might pay out money on a cheque previous to becoming acquainted of the death of the person. The amendment will relieve the bank of liability for penalty.

Hon. C. G. Latham: The banks are fairly careful.

The MINISTER FOR JUSTICE: Yes; immediately they learn of the death of a customer, they stop payment. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 47. Clause 55.—Strike out the words "one hundred" in line 7 of Subclause 1, and insert "two hundred."

The MINISTER FOR JUSTICE: This provides for insurance companies paying

policies up to £200. Under Clause 54 provision is made requiring insurance companies to lodge returns of all policies, etc., payable exceeding £100. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 48. Clause 57.—Subclause (1). Insert at the beginning of the subclause the following words:—"except for the purpose of any sale or disposition under sections thirty and thirty-four."

The MINISTER FOR JUSTICE: The clause as printed was designed to prevent dispositions of property until duty was paid. Other clauses provide for the sale of property to enable the duty to be paid. Thus the amendment makes it clear that one may do what other clauses specifically provide may be done. The amendment will achieve nothing, but it will do no harm. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 49. Clause 57.—Insert after the word "Commissioner," in line 4 of Subclause 1, the words "consents thereto or."

The MINISTER FOR JUSTICE: This widens the power of the Commissioner to permit of disposition without the duty being paid. We have a responsible officer in the person of the Commissioner who is not likely to run risks from the standpoint of the Treasury. There have been complaints that people have not received sufficient consideration. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 50. Clause 59.—Subclause (2). Strike out the words "fixed pursuant to section forty-three," in lines 8 and 9, and insert the words "of four pounds per centum per annum" in lieu thereof.

The MINISTER FOR JUSTICE: This will agree with the percentage discussed previously. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 51. Clause 69.—Strike out the whole of the clause, and insert the following:—

69. No duty shall be payable under this Act in respect of any gift, devise, bequest, legacy, or settlement made or given to or in trust for—

- (a) any public hospital within the meaning of the Hospitals Act, 1927;
- (b) any public educational institution in the State which is wholly or in part dependent on any State grant, aid, or subsidy;
- (c) any incorporated public body in the State the main object of which is to dispense or provide voluntary aid to indigent, aged, sick, blind, halt, deaf, dumb, or maimed persons;
- (d) any publicly subscribed medical service or fund in the State, the main object of which is the relief of the sick, or any public medical service or fund in the State which is assisted by any Government grant or subsidy.

The MINISTER FOR JUSTICE: When this clause was under consideration the member for Swan sought to widen the exemption for bequests, etc., to charitable institutions.

Hon. N. Keenan: What is meant by "any publicly subscribed medical service"?

The MINISTER FOR JUSTICE: People of Geraldton subscribe a shilling a week to maintain a nurse to visit the sick, and a number of other towns have a similar arrangement. If anyone left, say, £50 to such a fund administered by a public committee it would be free from the payment of death duty. Many towns have an ambulance controlled by a public committee and supported by public subscriptions. I move—

That the amendment be agreed to.

Hon. C. G. LATHAM: The amendment does not go far enough. Any money left to the Wooroloo Sanatorium would not be exempt from duty; neither would a bequest to an institution like the St. John of God Hospital unless controlled by an incorporated public body.

The Minister for Justice: That hospital is incorporated.

Hon. C. G. LATHAM: It renders free service, and because of that should receive

the same consideration as any other institution.

The Minister for Justice: I think the Wooroloo Sanatorium comes under the Hospitals Act.

Hon. C. G. LATHAM: I was rather anxious about the position of the St. John of God Hospital.

The MINISTER FOR JUSTICE: If any bequest made to a deserving institution should not, in the opinion of the Treasurer, be charged duty, it is exempted. There might be a remission to individuals when circumstances warrant it.

Hon. C. G. Latham: A hospital like the St. John of God might receive a substantial bequest.

The MINISTER FOR JUSTICE: I do not think any Treasurer would deprive such a hospital of money left to it by charging duty.

Hon. C. G. Latham: I do not think the Treasurer could grant a remission unless specific provision were made in the Act.

The MINISTER FOR JUSTICE: I do not think there is any legislation covering the remission of taxation on charitable meetings run by the Trotting Association.

Hon. C. G. Latham: There is provision for that in the Entertainments Tax Act.

The MINISTER FOR JUSTICE: If the Treasurer thought an injustice would be done by charging duty, he could grant a remission.

Hon. C. G. Latham: I do not agree with that. He might take a risk, but I believe any individual could take action against him.

The MINISTER FOR JUSTICE: Remissions of the kind could be included in the Estimates, as grants are included each year and approved by Parliament, so that the Treasurer would be relieved of responsibility. If, as a result of experience, some deserving institution suffers, we can amend the provision.

Hon. N. KEENAN: I do not approve of the amendment as regards public hospitals. According to the definition in the Hospitals Act, "public hospital" does not include any hospital, maternity home or convalescent home carried on for the purpose of private gain, or any philanthropic institution carried on without any Government subsidy. St. John of God Hospital is carried on for private gain.

The Minister for Justice: I do not think so.

Hon. N. KEENAN: I know because I have been there and have paid.

The Minister for Justice: Only to cover expenses. It is not a money-making institution.

Hon. N. KEENAN: Patients pay for the attention they receive.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. N. KEENAN: If we adopt the amendment of another place, duty will be payable on any gift, devise, bequest, legacy or settlement made or given to or for a hospital such as the St. John of God, which makes charges for the purpose of obtaining gain in order that it may maintain itself and also, of course, that it may be able to render those services which it renders to persons who are not able to pay. The Minister says that in such a case the Treasurer would remit the duty. That would be a highly improper proceeding; and in view of such a Bill as this, if passed in its present form, I doubt very much whether the Treasurer could do so. He might do so where there was nothing telling him to the contrary, or if anything telling him to the contrary was very old and therefore possibly out of date. I hope the Minister will ask for an amendment of the Council's clause by striking out the words "within the meaning of the Hospitals Act, 1927."

The Minister for Justice: We shall have to get a definition of a public hospital.

Hon. N. KEENAN: If the definition remains as it stands, it will include a very worthy institution of great public benefit.

The MINISTER FOR JUSTICE: I do not know whether the St. John of God Hospital is an incorporated body. It may be incorporated under the Roman Catholic Church Property Act.

Hon. C. G. Latham: I did not think a hospital could be incorporated if it charged for services.

Hon. N. Keenan: The St. John of God Hospital might come under the Associations Incorporation Act. Perhaps the Minister will inquire into the matter.

The MINISTER FOR JUSTICE: I am prepared to include that particular hospital specifically in the new clause, if the member for Nedlands so desires. I know that people

have received free treatment there, and that people have made gifts to the institution.

Mr. Stubbs: There is a free ward in that hospital.

The MINISTER FOR JUSTICE: I do not think there is actually a free ward described as such, but I know that the hospital treats numbers of cases free. The trouble is that in order to secure the benefit of being within the definition of a public hospital, an institution might give free treatment to somebody once in a year. It might be well to postpone consideration of the new clause. I move—

That the consideration of the amendment be postponed.

Motion put and passed; the amendment postponed.

No. 52. After Clause 2, in Part I. of the Bill: Insert the following as a new clause:—"3. This Act shall apply in the case of any person dying after its commencement, but the provisions of Part VI. of the principal Act as hereby repealed shall apply to any person dying before the commencement of this Act."

The MINISTER FOR JUSTICE: This is another amendment which says an obvious thing that goes without saying. However, I do not feel inclined to oppose it. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 53. After Clause 36: Insert the following new clause:—"37. In the assessment of all duties payable under this Act there shall be deducted from the assessable duty the ad valorem stamp duty paid on any deed, instrument, or settlement in respect of any property becoming liable to duty: Provided that no deduction hereunder shall exceed the amount of the duty assessed or payable in respect of the property liable to such duty, and such deduction shall only be deducted or allowed in cases where the deed, instrument, or settlement relating to such property is produced to the Commissioner, or he is otherwise satisfied as to the payment of the ad valorem stamp duty thereon."

The MINISTER FOR JUSTICE: This new clause is copied from the Queensland Act. It represents merely what is a fair

thing. The State should not insist on two payments. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 54. After Clause 36: Insert the following new clause:—"38. Insofar as beneficial interests pass to persons bona fide residents of and domiciled in Western Australia, and occupying towards a deceased person the relationship set forth in the Third Schedule to the principal Act, duty shall be calculated so as to charge only one half of the percentage or rate upon the property acquired by such first-mentioned persons."

The MINISTER FOR JUSTICE: This new clause should not be in the Bill. Definite lines of procedure are laid down in the Constitution as to what should be an assessment measure and what should be a tax measure. The new clause makes provision for rebate in certain circumstances. That provision has already been made, and quite properly, in the corresponding tax Bill. If it appears here, an alteration in the rate of tax would involve amendment of two Acts. I move—

That the amendment be not agreed to.

Hon. N. KEENAN: It seems to me that the Minister's reasoning is wrong.

The Minister for Justice: I am quoting the Crown Law Department.

Hon. N. KEENAN: It is a question of assessment whether a particular individual is or is not liable to a duty—for instance, whether a person not resident in Western Australia but deriving an income from Western Australian sources is to pay an assessment. It is a question of certain relations existing between the party from whom the property comes and those who receive it, and whether in such circumstances there is to be a reduction. I cannot reconcile myself to the idea that it is a matter for a taxation measure to prescribe who shall not be subject to a tax. That is a matter for the assessment measure. In all assessment measures many exceptions are made. I would not like it to be assumed that logically I am prepared to assent to the proposition that it is a matter not for an assessment Bill but for a tax Bill to prescribe those to whom there will be an abatement granted.

The MINISTER FOR JUSTICE: With the member for Nedlands, it appeared to me that it was a matter for the assessment Bill. I secured advice from the Crown Law Department and they suggest the inclusion of the provision in the taxing Bill.

Hon. N. Keenan: I do not stress the point.

The MINISTER FOR JUSTICE: No, but we want the matter to be placed in the proper measure. I do not want the same provision to appear in two Bills. Should it be necessary to effect an amendment next year, it should require one amending measure, not two. I do not pose as an authority in this matter, so I have followed the advice of the Crown Law authorities.

Hon. C. G. Latham: If you follow the provisions of the Constitution Act, I think the matter should be dealt with in this Bill.

The MINISTER FOR JUSTICE: I am not particularly keen where the amendment is included; I am concerned about the principle.

Hon. N. Keenan: I am not opposing your proposal.

The MINISTER FOR JUSTICE: No, but, in common with the hon. member, the Government want to do the thing properly. I move—

That the amendment be not agreed to.

Question put and passed; the Council's amendment not agreed to.

No. 55. After Clause 70, insert a new clause:—"71. If property in respect of which any duty has been chargeable and duly paid under this Act on any occasion becomes liable on a further occasion to duty hereunder by reason of the death of any person within a period of two years from the date when such first-mentioned duty became chargeable, the duty with which such property would otherwise be chargeable on such further occasion shall not be payable in any case where such property passes to the widow or widower, or any parent or issue of any such person who dies."

The MINISTER FOR JUSTICE: The clause was designed to prevent hardship arising by reason of persons dying in quick succession and duty consequently being payable on more than one occasion. The original proposal was to make property exempt if a further succession occurred within 12

months. Now the proposal is to make the period two years. It will be noticed that it is only when the property passes to near relatives that there will be any concession. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

Progress reported.

BILLS (3)—RETURNED.

1, Licensing Act Amendment.

2, Workers' Compensation Act Amendment.

Without amendment.

3, Mine Workers' Relief Act Amendment.

With an amendment.

BILL—ELECTORAL ACT AMENDMENT (No. 1).

Council's Message.

Message from the Council received and read notifying that it had agreed to Amendment No. 1 made by the Assembly on the amendment made by the Council, but had disagreed to Amendment No. 2 for the reason set forth in the schedule annexed.

BILL—CONSTITUTION ACTS AMENDMENT.

Council's Message.

Message from the Council received and read notifying that it had agreed to Nos. 1 and 3 of the amendments made by the Assembly on the Council's amendments but had disagreed to Amendment No. 2 for the reason set out in the schedule annexed.

BILL—DAIRY PRODUCTS MARKET- ING REGULATION.

Second Reading.

Debate resumed from the 13th December.

MR. McLARTY (Murray-Wellington) [7.56]: I am glad to have the opportunity to support the second reading of the Bill, and I hope it will become law within the next few days. I believe the measure will

the dairying industry, which certainly badly needs assistance at this juncture. Many of those engaged in it have been able to carry on only with the help of their families. Many are dependent upon their children, who assist on their return from school, otherwise those dairymen could not secure the necessary labour and would have to go out of business. A large number of those engaged in the industry are wondering how they can carry on if help is not forthcoming. I agree with the member for Nelson (Mr. J. H. Smith) that butter fat, to be of any use to the dairy producers, should never go below 1s. a lb. A Royal Commission that investigated dairying and group settlement matters in the South-West reported that once the price of butter fat fell below 1s. a lb., group settlements would not be paying propositions. That applied not only to group settlements, but to hundreds of ordinary Agricultural Bank settlers and to many others who are struggling in the industry. The producers are looking forward with a great deal of interest to the passing of the Bill because they anticipate it will secure for them an increase in the price of butter fat, even though the increase may be but small. I do not propose to speak at length because the ground has been fairly well covered. I am particularly pleased the Bill provides that the producers shall have representation on the butter board, which fixes the price of butter fat. That has been a sore point with the producers in the past because they have had no say as to what the price should be. It is surely but just that the producers of an article should have some say at least regarding what they should be paid for their product.

Mr. Marshall: Do you think the manufacturers are entitled to representation?

Mr. McLARTY: Yes, I do.

Mr. Marshall: I do not.

Mr. McLARTY: The Minister in moving the second reading told us we are not producing enough butter at present for our own requirements, and that under proper management our dairymen should have the advantage of our own market. Actually we are not far short of producing our own requirements, and the Bill will give us some control over imports. The advantages of the home market are manifest; indeed it is about twice as good as any other market in the prospect it offers to our own producers.

Serious attempts have been made to procure this market for our producers, but it requires an organisation to obtain this, and it is evident that without parliamentary aid it cannot be achieved. I hope members will realise this. If they do, I am sure they will give us every assistance in the passing of the Bill so as to secure that home market. It is necessary that we should be able to produce a certain percentage of choice butter. Those in a position to know are confident that we can do this. But it does appear that we must have stricter control over our factories and our manufacturers in order that this should be done. The Bill provides for the licensing of factories. One of our difficulties is to-day that we have too many factories. That has led to keen competition for the butter fat, and cream has not been paid for according to its correct grading. A producer might send cream to a factory and have it marked second grade, whereupon he gets the huff and sends it to another factory, which gives him first grade, merely to obtain his cream. That being so, it is not possible to turn out the choice butter so necessary for storage and to obtain our own market.

Mr. Seward: Will the Bill do something to help in that regard?

Mr. McLARTY: Yes.

Mr. Wise: Would additional inspectors help?

Mr. McLARTY: Yes, certainly. The Superintendent of Dairying has not the necessary finance to enforce the Dairy Act. I believe the Bill will give him a better chance to do that, and so aid in the turning out of improved butter. Again, through having too many factories, the costs of manufacturing are much too high. This cannot be allowed to continue. If we are to store the butter for home consumption it must be up to standard, and the cream must be correctly graded. Each factory will have to take its fair share of storage and, for that matter, export if necessary. The Minister stressed the point that every pound of butter we export means a loss of 7d. per pound to the producer, whereas it costs only 1½d. per pound to store it. The dairy industry of Western Australia has been compared to dairying in the Eastern States. But there is no comparison at present, for our dairying industry is in its infancy, and so requires all the help it can get. I am glad the board will control the cheese indus-

try, and I hope every encouragement will be given to that side of dairying. We are turning out the quality, and if the necessary protection and encouragement be given to the cheese factories it will not be very long before we shall be able to produce all the cheese required. I am sorry there is in the Bill no reference to margarine. I know there is not a very great amount of it used in Western Australia, yet there is some used, and it will continue to be used. It should be marked in such a way as not to injure it, and yet let consumers know what they are buying. I cannot understand why it should be necessary to appoint a representative of the dealers to the board. I should like to see another representative of the manufacturers included. There are two sides to the manufacturing, both very important: We have the co-operative side and the proprietary side. The co-operative companies manufacture 66 2/3rds per cent. of the butter produced, while the proprietors manufacture 33 1/3rd per cent. It looks to me as though the representative of the manufacturers will be from the proprietary companies, of which there are seven, as against the three co-operative companies. So if they have ten votes, and we are going to elect a manufacturers' representative, the proprietary companies will easily have a majority, although they produce only half the quantity of butter produced by the co-operative companies.

Hon. P. D. Ferguson: The board will not elect them; the Minister will appoint them.

Mr. McLARTY: Yes, but the manufacturers' representative will be elected eventually. Provision should be made for each side to be represented, and I cannot see that there is any need to have a representative of the dealers on the board.

Mr. Doney: If the manufacturers are to have but one representative, you think he should be from the co-operative companies?

Mr. McLARTY: Yes, I agree to that. Nevertheless I think it would make for the smooth working of the measure if we were to give each side of the manufacturers a representative, and do away with the dealers' representative. If the co-operative companies are truly co-operative, they are not likely to do anything to outvote the producers.

Mr. Brockman: Are you satisfied they are truly co-operative?

Mr. McLARTY: Yes, I think they are approaching nearer to that ideal than ever before. They are encouraging the producers to get together and form themselves into a body with which the co-operative companies can keep in close touch, and, what is more, they are inviting their shareholders to offer helpful suggestions.

Mr. Wise: Which they could always do.

Mr. McLARTY: Yes, that is so. It is difficult to get the dairymen to supply any but a co-operative factory in New South Wales and Queensland. The Bill provides that three shall form a quorum. I should like to increase that to four. Three is but a small number, and the representatives of the manufacturers and the consumers will be practically on the spot, while there is a good chance that the representative of the producers will be at a considerable distance from the city. So, if it becomes necessary to call the board together hurriedly, the producers' representative might not be able to get there for the meeting. Consequently it would be safer if the quorum were increased from three to four. Under Clause 54, I think the name of the manufacturer should be placed on the package, together with the date of packing. The clause provides that the packer's name shall be on the package. Actually the packer has nothing to do with the butter, except pack it, whereas the manufacturer has all to do with it. So if his name were on the package those who purchase it would know to whom to make any complaints if necessary. I hope the Minister will agree to this suggested amendment.

Mr. Wise: But the packer may have reconditioned it after receiving it from the manufacturer.

Mr. McLARTY: At present those selling farm butter must have their names on the wrapper, and the same principle should apply to the manufacturers. Also the date of packing should be on each package, for if the butter is not up to standard it may be because of its having been kept too long. I have but little more to say. The Bill is a move in the right direction. Dairying should no longer be regarded as a lone industry. Those engaged in it, I hope, will endeavour to get into mixed farming. There is also room for better dairying methods, herd testing, better pastures, etc. I listened to the Superintendent of Dairying over the air the other night. He delivered an

interesting address in connection with what herd-testing has done. Herd-testing is not practised nearly widely enough. I know a great deal can be done in that way. The member for Gascoyne pointed out that the Bill may bring about such an increase in the price of butter fat as to enable farmers to meet their interest obligations. That may be so. Any help we can give in that direction, we should give. Butter fat is the basis on which all dairying products are paid for. If we can do anything that will lead to the raising of the price of butter fat, we shall be doing something to help all sides of the industry.

MR. NORTH (Claremont) [8.17]: There are some aspects of this Bill which affect to some extent the consumers of my electorate. All those who have spoken on the measure have declared themselves in favour of the Bill. Their remarks have been mostly from the point of view of those who have to produce and the burdens those people are carrying. In the remarks of the Minister and other speeches which followed there is a veiled suggestion that the manufacturers are, as it were, the big bad wolf, which has to be watched with great care, certain action being taken, and brick buildings put up to prevent his ravages.

Hon. C. G. Latham: There is a great disparity between the price the producer gets and the price the consumer pays.

Mr. NORTH: This question is very much like the questions associated with bread and milk. The measures relating to those subjects constituted an attempt to fix prices, impose restrictions and quotas, to improve the position of those persons connected with the industries concerned. I wonder if we are going to reduce the consumption of all these commodities by these attempts. We all know it is necessary to protect the producer. With prices as they are, these people can barely meet their interest charges. Is this Bill likely to raise the price of butter and restrict its consumption, if not reduce it, for if so that would not be in the best interests of the State or of the industry itself?

Mr. Doney: What is likely to reduce consumption?

Mr. NORTH: I understand the manufacturers are supporting the Bill. Some tightening up in the industry is necessary.

Unrestricted action leads to losses and reduced consumption. We have seen that happen. In the tightening up an attempt is made to restrict the business, to impose a system of quotas for consumption in this State, and the hope is expressed that imports from the other States will be reduced, although we cannot avoid the Constitution. The main issue is that the Bill is based on the assumption that we are suffering from mal-distribution of purchasing power, and that the manufacturers are taking too big a share. Last session, after an 18-hour debate, we urged the Federal Government to hold an inquiry as to whether the industry generally in Australia was slowing down because of mal-distribution of purchasing power, or because there was a general decrease in the purchasing power of the community. Until mal-distribution is proved, are we right in attempting to divert money from one section to another, as is certain to happen under this Bill? Naturally the producers will support the measure because they are in a hopeless position. If we are going to penalise another section of the community, we shall gain nothing. We have gained nothing in that respect with our milk legislation. Before the Bill relating to milk was introduced, the producers were down and out. As soon as it became an Act we heard complaints to the effect that the retailers were in a hole, and so it goes on. Before the Bill goes through I thought it best to stress a few points that I had in mind. The real trouble confronting the industry and others is that the producers are becoming more efficient. The big bad wolf is simply the efficiency of the producers. Fewer people are needed in the industry. More butter can be produced than can be consumed under our existing economic system, and there are more factories than can successfully produce it at high pressure. Efficiency is the trouble. Because of that we are going to penalise someone to divert the purchasing power from one section to another. An attempt has been made to introduce into intra-state consumption the quota system; that is, to limit supplies. If a manufacturer sells more butter in Western Australia than his quota permits, he must pay into the fund the money at which he may sell over and above the export price at the time. That is an

attempt to encourage the big manufacturer to the disadvantage of the smaller man. Surely members do not desire that. It may be argued that the greater good outweighs the smaller harm. That is the definite drawback in the Bill. I understand that many of the proposed restrictive clauses of the Bill are already being carried into effect in the city by voluntary effort, at a cost of £500 a year. One argument against the Bill is that it is proposed to appoint a board which may cost between £8,000 and £10,000 a year, to do work which is now being done for about £500 a year, although I understand that the plans cannot be enforced. Then there is a question of the ability of our butter to stand up to long storage. Is it not likely that when it comes out of storage after six months, it will lose quality on the shelves in the retail shops and drop 2d. a lb. or so in price? Are we certain that our butter, as now being made, will stand up to long storage? Only experience can answer that question.

Mr. Doney: Only that quality will be stored that will stand the storage.

Mr. NORTH: That is referred to in the Bill. Only the experience of several months can show what the result will be. There is another point, which I do not advance as justification for leaving things as they are. I understand that our dairy farmers are already receiving 2d. a lb. more than their confreres in the Eastern States. If that is so, it speaks well for the manufacturers and the Minister who have so arranged things with the Eastern States as to bring that about.

Hon. C. G. Latham: That is not a question of the Eastern States manufacturers.

Mr. NORTH: If our producers are receiving that advantage, it speaks well for the attention that has been paid to their difficulties. I support the remarks of the member for Murray-Wellington about having two manufacturers on the board. There is no reason why the co-operative as well as the proprietary sections should not be represented. There seems to be an objection to the small amount of butter allowed to be produced in the country. Manufacturers generally seem to support the idea that farmers should be allowed to sell up to 20 lbs. of butter per week. There is provision in the Bill to organise the price of carting the cream to the factory. That

may lead to penalising farmers who are a long distance from the factory. It would be better to have something similar to the practice in the railways, where the wheat farmer who has a long distance to transport his wheat gets an advantage compared with the producer who has only a short distance to go. The price for carting should be part of the equalisation charge when the costs are made up. It would be reasonable that the Bill should not be proclaimed until the end of June next. The constitutional aspect cannot be overcome, although by arrangement something may be done in the matter. The Eastern States imports are always a menace to our producers. I hope that the Federal Government, either by pressure from this State or other States, will some day be forced to amend the Constitution and make it more workable, and that the question of interstate freetrade will then receive more attention than it obtained in the original Constitution. That is the big bugbear overhanging this industry. It may break down of its own weight. I hope the Bill will not lead to such an increase in price as to reduce the consumption of butter. There is not an excessive consumption in Western Australia to-day. Many homes could take more butter than they have now. Great Britain is attempting to exclude our butter, but there is definite information to the effect that there is much mal-nutrition in certain districts in England due to the shortage of butter fats which we are trying to export to that country. The same thing will apply in Western Australia. The remedy will be to increase our consumption. That may be a Federal matter. The troubles before the producers are their success in improving their work and improving their supplies, and that the public are unable to purchase and consume the full quantity which would be to their benefit. Purchasing power must be restored whether by a Federal works programme or otherwise.

MR. BROCKMAN (Sussex) [8.30]: I am pleased that the Bill has been introduced, and I give it my support. We in the South-West have been looking forward to its introduction for a long time, and are glad to see that it contains some of the recommendations made by the Royal Commission of which I was a member a few years back. It is necessary to look back a few years, and recall

that in 1921, when group settlements were started, there were only two factories and very few settlers. The advent of the groups, however, was responsible for the establishment of many butter factories. Most of them in the early days were co-operative factories. I have no desire to run down the manufacturer, because he had a hard time in the early stages, and we should have some consideration for him. It is true that the producer is not satisfied with the price he is getting to-day, and, being a producer myself, I can state that cream is produced at below cost. Unfortunately we must continue to produce at this disadvantage, but we cannot help commenting on the fact that there is too big a margin between what is paid to the producer and what is paid by the consumer. Why the manufacturer is getting more than his share is a matter to be determined by the board when appointed to control the industry. The producer asks for merely that which is just. The producer has had to work very hard, and it is imperative now that some protection should be afforded him if he is to continue. There is nothing in the Bill to support the stabilisation of the price at a minimum of 1s., but if we could get that, we would say that we were getting just sufficient to enable us to meet our obligations. It is impossible to do that while the price is 9d. Again, if there are to be three grades, let there be three grades, and let them be sold as first, second and third. There is no doubt about the cost of manufacture being high, but we have also to consider that there is much expense in this State, and that it is greater, in fact, than in any other State, especially regarding transport. As the member for Murray-Wellington pointed out, the industry is still in its infancy, and considerable cost is involved in getting cream to the market. I am pleased to know it is proposed that the board will have control over that aspect of the question. The Minister told us that the producers had lost £70,000 on butter exported. If we are able to get our own markets, it will be a great advantage, and I hope that that will be so. The member for Gascoyne the other evening made an able speech, and touched upon several points that appeal with considerable force to the producers. They were also dealt with by the Royal Commission of a few years ago, particularly in regard to oversea markets. The

Bill, if it becomes law, will not affect our markets for all time, and I hope it will be possible to organise markets in other parts of the world. The board should deal with that phase of the question, when it comes into being. Mr. Wise spoke about what was done in New Zealand, Queensland and New South Wales, but, as has already been pointed out, it is not possible to make comparisons between those countries and Western Australia, for the simple reason that the industry here is in its infancy. In New Zealand, I am told—I have never been there—they can run three or four times as many cows to the acre as it is possible to do in Western Australia. It is a very fertile country, and it will be many years before we reach anything like the stage at which New Zealand has arrived. The same might be said of New South Wales and Queensland, and therefore it must be apparent that comparisons between ourselves and those States are not fair. It will be a long time before we can compete with them. The Bill is a producers' Bill and I hope it will be regarded as such and will receive the support of every member. It is necessary that some such legislation should be passed, because those engaged in the industry are having a very difficult time. If everyone could be made to realise the disadvantages under which the producers are suffering, there would be no hesitation in granting the relief they seek.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Hegney in the Chair; the Minister for Agriculture in charge of the Bill.

Clause 1—Short Title and Commencement:

Mr. DONEY: It is desirable that the Act should not be proclaimed until, say, July, 1935. The Minister will understand that at the present time there is an equalisation scheme in being, and if that scheme is interfered with, there will be caused a great deal of confusion of all interests. The early proclamation of the Bill will cause that confusion. There can be no need for undue hurry, and I put it to the Minister that he might reasonably give heed to the suggestion I have advanced.

The MINISTER FOR AGRICULTURE:
The Bill has been introduced for one purpose, and that is to give an advantage to the producer. Why should not the Bill be proclaimed forthwith? I know that vested interests are anxious that it shall not be proclaimed for ten years, but as against that the producers want it now, and the Bill has been introduced for them. I have no intention of agreeing to the hon. member's suggestion. It is about time that the industry was controlled by the board it is proposed to establish. Others have had their opportunity and missed it. Had they taken advantage of the organisation which was set up through the voluntary board appointed, representative of each branch and phase of the industry, then they could have saved the producers a considerable amount. The fact remains that no attempt was made to store butter, and the organisation the hon. member is so much concerned about was responsible for exporting 2,000,000 lbs. of butter and losing to the producers of this State about £50,000. I do not know why he should be so concerned about those people.

Mr. Doney: Now don't you start guessing at what is in my mind.

The MINISTER FOR AGRICULTURE:
The hon. member can move to proclaim the Bill in two years' time. The impression is that we have not introduced the Bill in time, but the hon. member thinks we are introducing it too soon.

Clause put and passed.

Clauses 2 to 6—agreed to.

Clause 7—Interpretation:

Mr. PIESE: I move an amendment—

That after "resale," in the definition of "dealer," the word "wholesale" be inserted.

On the second reading I said there was considerable opposition to this measure, particularly in my electorate. Much of the opposition, I thought, was due to the measure not being understood. Exception was taken particularly to the definitions of "dealer" and "manufacturer." As a result of an interview, one of the principal objectors has withdrawn his opposition to the interpretation of "dealer." The amendment will clear up any doubt as to the necessity for every retailer of butter becoming licensed as a dealer.

The MINISTER FOR AGRICULTURE:
I have no objection to the amendment.

Amendment put and passed.

Mr. DONEY: Will the Minister explain whether in the definition of "export parity price," the allusion to "selling price" means wholesale or retail?

The MINISTER FOR AGRICULTURE:
It would be the wholesale price received in London for Australian dairy products, less charges, or what the exporter would receive. I move an amendment—

That in the definition of "manufacturer" the proviso be struck out.

I intend to move for the insertion of another proviso that will make the definition clearer.

Amendment put and passed.

The MINISTER FOR AGRICULTURE:
I move an amendment—

That the following proviso be inserted:—
"Provided that the term shall include a producer who manufactures for sale, either wholesale or retail, twenty pounds or more of butter or cheese in any one week."

Hon. P. D. FERGUSON: I move—

That the amendment be amended by striking out "twenty" with a view to inserting the word "fifty."

Many farmers on wheat and sheep areas produce quite a lot of butter which they dispose of to the local storekeepers and others, and it would be distinctly unfair to limit them to 20 lbs. per week. I am not wedded to the quantity of 50 lbs., and if the Minister would agree to 30 lbs. I would be satisfied.

Mr. SEWARD: I support the amendment on the amendment. The Minister's proposal sets far too low a limit. In my district farmers are making more than 20 lbs. and it is highly desirable that they should have an opportunity to add to their income. Farmers have been urged to undertake mixed farming and to develop as many sidelines as possible. If the quantity is not raised to 50 lbs., something more than 20 lbs. should be agreed to.

The MINISTER FOR AGRICULTURE:
I cannot agree to any further exemption. There is an impression that the measure will strike at the farmer who manufactures butter and sells it as a side-line. We have exempted him up to 20 lbs. per week and

he has an advantage to that extent over other producers. He has the advantage of an organisation for which he is not required to pay. We must realise the position of the butter-fat producer who is under the disadvantages of having to sell his butter-fat for what the factory is prepared to give, and of having to pay the cost of manufacturing in a factory, whereas the small farmer producing butter as a side-line has the advantage of the increased price which the organisation establishes. Independently of this measure, there is the benefit of that increased price; and therefore the small farmer has no grievance whatever. The Australian scheme benefits those who do not pay. The measure will not hit the small farmer. What would he get for his butter if there were no equalisation? Probably he would not be able to sell it at all. The Bill is necessary because of over-production in the peak period, during which the market is flooded with farm butter representing at times from 30 to 40 per cent. of the local consumption. Because of this over-production the factories will have to incur the expense of storing and probably of exporting. The small producer, who is largely responsible for the over-production in the peak period, gets good treatment under the Bill. In fact, the measure gives him a better deal than it gives to any other section of the industry.

Mr. SEWARD: The Minister may not appreciate that he is comparing the small producer with the butter farmer in close proximity to a butter factory. Small producers cannot get their cream to the factory in first-class condition. To ask them to send their cream to a factory over long distances is unreasonable. Moreover, the factories do not want second-class cream; probably they are already getting too much of it.

Mr. BROCKMAN: I am inclined to support the clause as it stands. In the southern part of the State dairy farming is the main industry, and many farmers there have to cart their cream 80 or 90 miles. It does not seem right that they should have to pay towards an equalisation scheme while large quantities of farm butter are placed on the market without contributing towards the cost of the scheme. Perhaps 25 lbs. per week would be reasonable.

Mr. COVERLEY: Wheat and sheep farmers making butter should also receive

consideration. The member for Irwin-Moore is right, though perhaps 50 lbs. weekly would be a trifle high. For about three months of the year, when the feed is good, the wheat farmer's wife makes three or four pounds of butter a day, which represents a little extra cash.

Mr. WANSBROUGH: I support the Minister. The previous speaker has let the cat out of the bag. In the months during which the farmer's wife produces butter, the weather is cool; during the other months she sends cream to the factory, and that is second-class cream. The wheat farmer and the mixed farmer will benefit from the Bill by participating in the equalisation scheme.

Mr. BROCKMAN: At a representative conference held in Bunbury a few months ago, a resolution was carried unanimously that the producer of farm butter should pay something towards the cost of the equalisation scheme. That is only just and fair.

Mr. WITHERS: I hope the increase to 50 lbs. will not be carried. The object of the Bill is to assist the dairy producer. Compare the case of those who make 20 lbs. of butter weekly as a sideline during the peak period with that of the dairy farmers in the South-West, who, while sending perhaps 20 lbs. of butter-fat weekly to the factory during the lean period, yet have to contribute towards the cost of the scheme. So far as can be traced, 2,000,000 lbs. of farm butter are made in Western Australia yearly. If the quantity in the clause is increased to 40 or 50 lbs. per week, the man who now supplies butter-fat to the factory will become a farm butter-maker, with a view to avoiding the levy; and he will be able to avoid it. I know of a man who has gone around the South-West buying cream in small quantities and turning himself into a sort of farm manufacturer of butter. He could supply to the factory quantities of butter instead of quantities of cream. Further encouragement given to such a man to make butter would be a detriment to the industry. The Minister's proposal is framed to protect the people who are endeavouring to place first-grade butter on the market.

Amendment on amendment put and negatived.

Mr. PIESSE: I move an amendment on the amendment—

That at the end of the amendment the following words be inserted:—"and for such

period thereafter that he shall manufacture for sale 20 lbs. or more in any one week."

My object is to clear up misapprehension on the part of some dealers and producers and to make quite certain what producers will be covered by the definition of "manufacturer." If the Minister intends to deal with this phase in a later amendment, I shall not persist with my amendment on that which he has suggested. I discussed the matter this morning with Mr. Baron-Hay and I think the bulk of the objections raised by the Katanning Chamber of Commerce and the Katanning Road Board will be met.

The MINISTER FOR AGRICULTURE: It would save time if I informed the hon. member that I have no objection to making the position clearer, but the Crown Law authorities have advised me that the proper place to deal with this phase is in Clause 31 and I propose to move at a later stage an amendment that will provide that "no producers who are manufacturers within the meaning of this legislation shall be required in any one week to make any contribution under Clauses 29 or 30 in respect of dairy products manufactured by him for sale in that week when the total weight of such dairy product is less than 20 lbs."

Mr. PIESSE: If the Minister moves along those lines, it will meet the objections that have been raised and, in the circumstances, I ask leave to withdraw my amendment on the amendment.

Amendment on amendment, by leave, withdrawn.

Amendment put and passed.

The MINISTER FOR AGRICULTURE: I move an amendment—

That at the end of the definition of "milled butter" the following words be added:—"or any other substance permitted under the Health Act, 1911-1933."

Amendment put and passed.

Mr. DONEY: Will the Minister explain whether, in connection with the definition of "producer," it is intended to cover the person who produces milk from not only his own cows but from leased cows?

Mr. WITHERS: I am concerned about the same phase and I move an amendment—

That in line 1 of the definition of "producer" after "cows" the words "or from

leased cows or from other cows on his property" be inserted.

There are many instances of producers milking cows that are run on their properties but owned by other settlers.

Mr. J. H. SMITH: It might simplify matters if the words "his own" were struck out, and a producer would then be a person who, from cows, produces milk intended for use for the manufacture of dairy products for sale.

Mr. Marshall: Are there any camels or buffaloes down there?

The MINISTER FOR AGRICULTURE: I have no objection to amplifying the definition. So long as the Committee do not strike out the word "cows," it will be all right.

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

Clause 8—Dairy products marketing board:

Hon. P. D. FERGUSON: I move an amendment—

That in line 1 of Subclause 2 "six" be struck out and the word "five" inserted in lieu.

Provision is made for the appointment of a board of six, one of whom is to be the Government representative and chairman of the board, one to represent the consumers, one to represent the manufacturers, two to represent the producers, and one the dealers. In my opinion a board of five would be preferable. I fail to see why dealers are entitled to representation. If my information is correct, there is only one dealer or agent in Western Australia, if we exclude shopkeepers who may be licensed as dealers but would not be greatly interested in the constitution of the board. If there is one dealer only, surely it is not necessary for him to have a representative on the board. It has not always been the policy of a Labour Government to give the middleman representation on a board, as the Minister now proposes. During the life of a previous Labour administration, the present Minister for Lands, introducing a Bill for the marketing of agricultural products, provided in that Bill for the whole of the board to be representatives of the producers. In Queensland to-day, all the members of the board are representa-

tives of the producers. The present Minister for Employment, when discussing the Metropolitan Whole Milk Bill, declared that it would be beneficial to have on the board only representatives of the producers and the consumers, with an independent chairman; and the member for Guildford-Midland, on the same measure, said that all that was necessary was to give representation to the producers and the consumers, with an independent chairman appointed by the Government. So all three of those members were against giving representation to the middleman. Again, on the same Bill the member for Murchison said that only producers and consumers should be represented on the board. While I agree that the manufacturers are entitled to representation, I fail to see why the dealers should be given representation.

[Mr. Sleeman took the Chair.]

Mr. J. H. SMITH: I will not support the amendment, although I agree with what the hon. member said about the dealers. I want to see six members on the board, including two representatives of the manufacturers, instead of one representing the manufacturers and one representing the dealers. At the proper time I will move accordingly.

Mr. SAMPSON: It would be a mistake to deprive the dealers of representation, for it is a good principle that all sections should be represented. The allocation provided in the clause seems to me very fair.

The MINISTER FOR AGRICULTURE: There are definite reasons for putting the wholesaler on the board. In negotiating with the producers and the manufacturers, I found they could not handle their product. They explained that they had not the finance nor the organisation to sell butter wholesale, either locally or overseas, and that it had to be done by merchants. We do not propose to upset the existing order of marketing under which the product is handled by the merchants, who have the necessary organisation.

Mr. J. H. Smith: But do not they represent the factories? The factories make their arrangements with the merchants.

The MINISTER FOR AGRICULTURE: The factories sell to them, for they themselves have not the machinery for handling their product.

Mr. McLarty: How many of the merchants are there?

The MINISTER FOR AGRICULTURE: There are not many wholesalers.

Mr. Brockman: Practically all of them are manufacturers.

The MINISTER FOR AGRICULTURE: They may be, but if you cut them out you will find the factories cannot handle their commodity, but must sell it to the merchants, who have an efficient organisation. The board will not attempt to do the selling of butter, nor the importing, but the board will control the importing, and for that reason the dealer will be licensed. We do not want to antagonise the merchants by setting up a new organisation which, probably, would not be as efficient as their own. The section that will be represented on the board does not include the small store-keeper, but only those who do a big business in butter. Later I propose to move an addition to the definition of "dealer" to the effect that he is one who purchases more than a ton of dairy products per week. The merchant has fitted himself into the scheme and, admittedly, the producer and manufacturer are unable to do without him.

Hon. P. D. Ferguson: He could still carry on his business without being a member of the board.

The MINISTER FOR AGRICULTURE: Yes, but you would be doing without the necessary brains on the board.

Hon. P. D. Ferguson: He is not the only man with brains.

The MINISTER FOR AGRICULTURE: But he has the knowledge necessary for the disposal of butter, and admittedly the producer and manufacturer have not been able to do without him. We must not leave off the board the man who knows all about the marketing of butter. What we hope to do is to organise the marketing of butter, and by that means enable the producer to obtain an increased price. If we cannot do that the board will fail. The hon. member proposes to abolish these merchants from the board, but does not suggest who will take their place.

Hon. P. D. Ferguson: They will have representation as manufacturers.

The MINISTER FOR AGRICULTURE: There is no danger of the merchant predominating in the voting. We are not making

a price-fixing board, but one that will organise the marketing of butter.

The Minister for Justice: The wholesale price is already fixed.

The MINISTER FOR AGRICULTURE: And we are trying to take advantage of that price. I would object to striking out the representation of the men we particularly want on the board.

Amendment put and negatived.

Hon. P. D. FERGUSON: I move an amendment—

That in paragraph (d) "two" be struck out and "three" inserted in lieu.

The producers are entitled to greater representation on the board than is provided in the Bill. They have invested from eight to ten million pounds in the industry, and the other sections have probably invested less than a quarter of a million. On the basis of capital invested the producers will have a greater interest in the industry than the other sections. We have probably 2,000 producers, and only a score of manufacturers or dealers. It is not fair to give a section making up a score of people the same representation as a section numbering a hundred times as many people.

The MINISTER FOR AGRICULTURE: The producers would be well represented by two members. There will be an independent chairman, and a representative of the consumers who will lean towards the producers. If it is possible to pay the producers a reasonable price for their butter, the board will see that it is done. As the consumers will have to pay 1s. 3d. a lb. for butter, their representative will certainly see that the producers get as great a price as possible. If we can secure an effective price of 1s. 3d., the producers would inevitably receive 1s. for their butter fat. I cannot agree to the amendment.

Mr. THORN: The Minister may appoint a chairman or a member of the board who is interested in the manufacture of butter. I am not at all sure that the representative of the consumers would lean towards the producers. That would depend largely upon the influence of the chairman.

The Minister for Agriculture: You are very suspicious.

Mr. THORN: I am only dealing with possibilities.

The Minister for Agriculture: The Bill was not brought down in the interests of manufacturers or merchants.

Mr. THORN: I know that. Another member of the board will represent the dealer. The board may not prove so well balanced as the Minister thinks. I agree that no one can distribute butter better than the merchant who covers the whole State from north to south.

Amendment put and negatived.

The MINISTER FOR AGRICULTURE: I move an amendment—

That the following words be added to paragraph (e):—"who purchases more than one ton of the same class of dairy products per week."

I want to make sure that the merchants who are represented on the board are those to whom we look to manage the wholesale business.

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

Clauses 9, 10—agreed to.

Clause 11—Proceedings of Board:

Mr. McLARTY: I move an amendment—

That in line 1 "three" be struck out and "four" inserted in lieu.

My desire is that four instead of three shall form a quorum. There should be a majority to form a quorum, and I am afraid that it will not always be possible for the producers' representatives to be present at all the meetings. They are not likely to live in the city where the meetings of the board will be held.

The MINISTER FOR AGRICULTURE: I do not object to the amendment, but I consider that only the permanent chairman should have the right to a casting vote.

Amendment put and passed.

The MINISTER FOR AGRICULTURE: I move an amendment—

That in line 1 of Subclause 4 between the words "chairman" and "presiding" the words "of the board when" be added.

I have no wish that anyone other than the permanent chairman who may be presiding, shall exercise the casting vote.

Mr. Marshall: But the chairman will be the nominee of the board, and so the position will be quite safe.

Amendment put and passed.

The MINISTER FOR EMPLOYMENT: We really should make provision that when there is an equality of votes the question shall be decided in the negative. In the clause we say that the majority shall prevail, but there will not be any majority.

Clause, as amended, put and passed.

Clauses 12 to 14—agreed to.

Clause 15—Deputy members:

Hon. P. D. FERGUSON: It is provided that the Lieut.-Governor may appoint another person to act as member of the board in the event of illness. What I want to be sure of is that the temporarily appointed member will be one who will represent the same interests. I move an amendment—

That in line 6 after “of” the words “and to represent the same interests as” be added.

The MINISTER FOR AGRICULTURE: I have no objection to the amendment, but really it is unnecessary. There is a definite instruction as to how the board shall be appointed, and the Government in appointing the substitute will have regard for that. Otherwise they would not be carrying out the provision of the Act.

Amendment put and negatived.

Clause put and passed.

Clause 16—agreed to.

Clause 17—Officers of the board:

Mr. NORTH: Retail dealers cannot be controlled, and I should like to know what would happen if butter were imported from the Eastern States.

The MINISTER FOR AGRICULTURE: This clause refers merely to the appointment of officers. The powers of the board would centre in the issue and cancellation of licenses. Licensed persons, whether producers, factories or dealers, would have to conform to the policy of the board, and the board having decided that there was sufficient butter in the State to meet requirements, would not agree to any dealer importing butter. I do not think we could prevent the importation, but if butter were imported, we could exercise control over it. We would not permit other people to buy it.

Mr. Doney: Are you quite sure that that would not be an infringement of the law?

The MINISTER FOR AGRICULTURE: We cannot be sure of anything, but I assure the hon. member that that is what the board would try to do.

Clause put and passed.

Clauses 18, 19—agreed to.

Clause 20—Dealers and manufacturers to be licensed:

Hon. P. D. FERGUSON: I move an amendment—

That Subclause 1 be struck out and the following inserted in lieu:—“(1) No person shall carry on the business of a dealer or of a manufacturer unless he shall have first applied for and obtained a license from the Board under this Act: provided, that any person who is at the commencement of this Act already carrying on the business of a dealer or of a manufacturer may apply to the Board for the requisite license at any time within one month after the commencement of this Act, and may continue to carry on business in the meantime.”

The clause provides that anyone engaged in the business of a dealer or manufacturer shall obtain a license within one month after the commencement of the Act, or within one month from the time of commencing business. I agree that anyone engaged in the business should be entitled to a month's grace, but anyone proposing to start in the business should obtain a license at once. If a man started in business and imported butter from the Eastern States, he might upset the whole of the calculations of the board while operating for a month previous to getting a license.

The MINISTER FOR AGRICULTURE: I have no objection to the amendment.

Amendment put and passed.

Hon. P. D. FERGUSON: The penalty for carrying on business without a license is £100. I move an amendment—

That after “pounds” the following words be added:—“and, in addition, a daily penalty of ten pounds for every day during which the offender carries on business in contravention of this section, after complaint of such offence has been made.”

The MINISTER FOR AGRICULTURE: I consider that £10 as a daily penalty would be too severe. The board would be able to exercise control in the matter of licenses and a penalty of £100 would be fairly severe.

Mr. Seward: It would be the maximum.
The MINISTER FOR AGRICULTURE: Even so, it would prove a deterrent. On top of that a daily penalty of £2 should be sufficient.

Hon. P. D. FERGUSON: I ask that my amendment be altered to make the amount £2.

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

Clause 21—agreed to.

Clause 22—Licenses to be annual:

Hon. P. D. FERGUSON: I move an amendment—

That all the words after "effect" in line 3 be struck out and the following inserted in lieu:—"until the thirtieth day of June next following the granting of the license. Every license shall take effect from the date on which it is granted: provided that, where the applicant has already held a license for the previous year and applies for a fresh license in continuation of that license, his license shall date from the 1st day of July preceding the date of application, if he makes application not later than fifteen days after the date of the expiration of his previous license."

If the clause be passed as printed, it would be possible to apply for a license at any time during the year and it would take effect from the date of application, whereas every license should date from the 1st July.

The MINISTER FOR AGRICULTURE: I have discussed this matter with the Crown Law authorities and with my officers and the opinion expressed is that the clause is clear and sufficient.

Hon. P. D. Ferguson: You must have discussed it with a different officer of the Crown Law Department.

The MINISTER FOR AGRICULTURE: A good reason should be given before we agree to substitute words that are practically the same as those in the Bill.

Amendment put and negatived.

Clause put and passed.

Clauses 23, 24—agreed to.

Clause 25—Power to grant, refuse and cancel licenses:

Mr. PIESSE: I move an amendment—

That in line 6 of the proviso "in Perth" be struck out and the words "of competent jurisdiction" inserted in lieu.

The proviso provides that appeals shall be heard in Perth; the amendment would obviate the unnecessary expense of bringing persons to Perth to defend an appeal. We have had experience of the objection to that practice under the transport Act.

The MINISTER FOR AGRICULTURE: I cannot accept the amendment. Cases would be of a technical nature and uniform decisions are desirable. Experience shows that it is preferable to have cases heard in the same court and before magistrates who are familiar with the legislation. I have heard it argued that it is cheaper to have such appeals heard in Perth. I do not know that any appeals from outlying districts would be likely. In the main the organisation would be in the metropolitan area. The appeal question would apply mainly in the case of licensed importers.

Mr. PIESSE: Should a manufacturer at Denmark or Geraldton who had been delicensed be compelled to come to Perth to appeal? Serious criminal cases are tried at Albany, Bunbury and Geraldton sessions. Perhaps the Minister will look into the amendment further.

Mr. DONEY: I support the amendment. Its acceptance would not conflict with the Minister's object. The matter would be optional. Advantage would be taken of the amendment only where that course would be convenient.

Amendment put and negatived.

Clause put and passed.

Clauses 26, 27, 28—agreed to.

Progress reported.

House adjourned at 10.35 p.m.