

should do as I have suggested, that is, take this and the other Bills up to the third reading stage. Having fixed up everybody, landlords, mortgagees and others, if the Government come along at the eleventh hour with a Bill to increase the remuneration of some person, we shall be put in a very difficult position. For that reason I suggest that we should take this and other similar Bills up to the third reading stage only.

On motion by Hon. J. Nicholson, debate adjourned.

### ADJOURNMENT—SPECIAL

**THE CHIEF SECRETARY** (Hon. J. M. Drew—Central) [5.9]: I move—

That the House at its rising adjourn until Tuesday, the 18th September.

Question put and passed.

*House adjourned at 5.10 p.m.*

## Legislative Assembly,

*Thursday, 6th September, 1934.*

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

### QUESTION—GEOPHYSICAL SURVEY COY. (W.A.) LTD.

Mr. F. C. L. SMITH asked the Premier: 1, Are the Government aware that an investigation is being made in the Eastern States and New Zealand into the bona fides of questionable company promotions? 2, Will the Government take steps to protect investors in Western Australia from being made the victims of similar concerns? 3, Will the

Government review and inquire into the objects of a company known as the Geophysical Survey Company (W.A.), Ltd., having a registered office in this State? 4, Will the Government inquire as to whether this company has a bona fide option over an instrument called "The Electric Theodolite"? 5, Will the Government inquire as to whether there is such an instrument in existence? 6, Will the Government institute an inquiry into allegations that are being made that an agent of this company induced investors to take shares in the company by misrepresentation, such alleged misrepresentation being—(a) that the company had a contract with the Lady Gladys Mining Co. to prospect its leases with the "Electric Theodolite"; (b) that the Great Boulder Perseverance G.M. Co., Ltd., leases were to be similarly prospected by arrangement between the two companies; (c) that the Western Mining Corporation were also interesting themselves in the "Electric Theodolite" to have their leases prospected? 7, Can steps be taken to protect shareholders against being called upon to make further payments on liabilities incurred under contracts to take shares in the Geophysical Survey Company (W.A.), Ltd., until the above inquiries are made?

The **MINISTER FOR WORKS** (for the Premier) replied: 1, Newspaper references to this subject have been noticed. 2, 3, 4, 5, 6, 7, These matters will receive consideration.

### QUESTION—CREMATORIUM PROJECT.

Mr. FERGUSON asked the Minister for Health: Is it the intention of the Government to take any steps towards the establishment of a crematorium under the provisions of the Cremation Act, 1929?

The **MINISTER FOR WORKS** (for the Minister for Health) replied: Not at present. The Minister for Health will receive representations from the Cremation Society on this matter in the near future.

### QUESTION—AGRICULTURAL BANK TRUSTEES.

*Reply to Royal Commission.*

Mr. LATHAM (without notice) asked the Minister for Lands: Does he intend to have printed the reply of the Agricultural Bank

Trustees to the Royal Commission's report on the Agricultural Bank, which has just been tabled, and, if so, will copies be distributed amongst members?

The MINISTER FOR LANDS replied: I cannot give an answer to that just now. I do not wish to go to the expense of printing the Trustees' reply.

Mr. Latham: But not all members can secure the use of that single copy.

The MINISTER FOR LANDS: At all events, I will consider it.

### ADDRESS-IN-REPLY.

#### *Presentation.*

Mr. SPEAKER: I desire to report that accompanied by the mover, Mr. Wise, I, to-day, presented to His Excellency the Lieut.-Governor the Address-in-reply agreed to by the House, and that His Excellency was pleased to make the following reply:—

I thank you for the expression of loyalty to His Most Gracious Majesty the King, and for your Address-in-reply to the Speech with which I opened Parliament. (Sgd.) James Mitchell, Lieut.-Governor.

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

#### *In Committee.*

Resumed from the 4th September. Mr. Sleeman in the Chair; the Minister for Justice in charge of the Bill.

Clause 49—Duty on shares in foreign company on death of shareholders (partly considered):

Mr. McDONALD: When progress was reported I was dealing with this clause regarding shares in foreign companies. Shares in such a company are deemed by law to be property in the locality in which the share register is situated. Take, for instance, the Swan Brewery, Ltd., with its share register in Victoria. The shares are deemed to be property situated in Victoria. So, although a shareholder in the Swan Brewery may live in Western Australia, and although nearly all the assets of the company are in Western Australia, the shares are considered to be property in Victoria, and so the Victorian Government are entitled to claim estate duty on the whole value of the shares

held. That, of course, is unfair to Western Australia. This clause proposes that in a similar case duty shall be paid in this State on such a proportion of shares as is equivalent to the proportion of assets in this State, as compared with the total assets of the company. A similar provision as this exists in Queensland. The result would be in the case of a company which had its register in Victoria and its assets in various States, that a shareholder, wherever he lived, would pay full duty to Victoria on the total value of his shares. If this company had, say, 20 per cent. of its assets in Queensland, he would pay in addition, to the Queensland Government, 20 per cent. of the value of his shares. If the same company had, say, 15 per cent. of its assets in this State, that shareholder would pay estate duty on 15 per cent. of the value of his shares to this State. The result would be that shareholders in banks, pastoral companies and other companies having assets in various States, would not only pay full estate duty in the State in which the shares are deemed to be located through the register being in that State, but would also pay proportionate duty to the other States. And if the rest of the States followed Queensland and Western Australia in the making of a provision similar to this, it would mean that people who have shares in companies operating in the various States would pay twice the estate duty that a person would pay whose assets were simply in one State. That is giving me some concern, because it is a principle of taxation that it should be fair and equitable between taxpayers, and under this arrangement taxpayers who have money invested in shares in companies with assets in various States, are going to pay an additional amount of taxation just because the various taxing authorities cannot agree upon a divisional basis. The obvious thing to do would be for the various States to agree upon a basis of division of estate duties. That has been attempted, but so far has not been found possible. I should prefer to see a further attempt made at, say, a Premiers' Conference, because it seems reasonable that the various States would realise the unfairness of penalising people who have assets in the way of shares in these companies, and would consequently agree upon a fair basis. In the meantime I should like to see the Minister abandon this clause for the time being and introduce it by way of

amendment at a later stage, after an attempt has been made to arrive at some arrangement between the various States. I agree that it is unfair that one State, simply by reason of a rule of law, that the shares are properly in the locality where the register is situated, should collect estate duty on the whole value of the shares, when the value of the shares is set by assets which exist in various States, and is made up of profits earned in various States. If we pass the clause in its present form we shall impose upon certain classes of property owners liability to death duties over and above the ordinary rate which is payable by other people simply because they have their savings in some other class of property.

**THE MINISTER FOR JUSTICE:** Like the hon. member, I find myself in a somewhat awkward position, in that we agree with the principle of the clause. If we agree with the principle, the right way to enforce it is, not to have the clause deleted, because having agreed with the principle we want to get it into the Bill. While Victoria is getting a material advantage out of the working of the existing law, there is not much possibility of the pressure of public opinion forcing the Government of that State to adopt a reciprocal agreement. I think there is more capital available for investment in the Melbourne market than in any other Australian centre. A number of people who invest capital all over Australia are concentrated in Melbourne, and if they have to submit to double taxation they will seek to influence the Victorian Government to agree to a reciprocal arrangement which will afford them justice. If the present position continues, and Victoria becomes one of the centres for the investment of capital, and citizens of that State do not invest their money in this or another State, no steps will be taken to ensure that the Victorian Government protects their interests here. We have established the principle that foreign companies who are making money in this State shall be subject to taxation. Probate duties represent a tax on capital, and it may be that the property is owned by an individual who is domiciled in another State. If citizens in another State are adversely affected by this legislation, they will see that the Government of their own State listens to reason in the event of a reciprocal arrangement

being suggested between that State and Western Australia. I admit that this clause will cause people, who have shares in local companies that are registered in another State, to suffer some disability.

**MR. LATHAM:** Will not our own citizens suffer?

**THE MINISTER FOR JUSTICE:** It will affect people who hold shares in companies that are doing business in this State. Whilst it would be advisable, if it were possible, to make a reciprocal arrangement beforehand, I see very little possibility of bringing that about. We do not want to deter people in the other States from investing in Western Australian enterprises. This matter has given the Government a lot of thought. We could see the effect of not having a provision of this kind if the State is not rightly receiving its due. We would suffer a disability without the clause, and some people may suffer one if we retain the clause. It might pay one State to offer lower duties than the other States in order to induce people to register all their companies there. If we pass this clause, we will have a better opportunity of forcing the basis for a reciprocal agreement between the States, because only after this Bill is passed will the disabilities become apparent and people seek redress.

**HON. N. KEENAN:** In our desire to protect the revenue of the State we may do considerable harm. That is all the more enhanced by the fact that apparently the Minister has not considered this position except from the point of view of companies incorporated in the other States. Only a small fraction of the capital invested in this State consists of capital invested by companies incorporated in the other States. Most of it is English capital.

**THE MINISTER FOR JUSTICE:** There is a lot of Eastern States capital.

**HON. N. KEENAN:** All I know of from the Eastern States is invested in a few industrial concerns on the coast. The Australian mining investments are almost valueless to us because they are nearly all no-liability companies. On the other hand, every English mining company is a limited liability concern, and the shareholders are registered. That represents by far the largest capital invested in the mining industry. Mining is the one bright spot in Western Australia. If we do not develop

it, we have no way out left to us. Everything should be sacrificed, if we have anything to sacrifice, to promote that industry. We must consider whether this clause will not seriously damage the furnishing of capital for the development of mining. A great deal of money is required in the early stages for the development of a mine of any considerable size. The mine must first be tested, and after that working capital up to at least £30,000 or £40,000 is required. Under this clause, if the owner of some of that capital were to die, the estate would be called upon to pay duty upon it.

The Minister for Justice: That would only be a mere fleabite.

Hon. N. KEENAN: If the Minister reckons it up, he can see whether it will be a mere fleabite. We must look to England to furnish the necessary capital for the mining industry, and England is furnishing it. There has been a fortunate development of English confidence in Western Australian mining. The other day £500,000 was subscribed for one company for the development of the industry in this State.

The Minister for Justice: It is said that at least thirty millions is available in London for investment in Western Australian mining.

Hon. N. KEENAN: That, I should think, is gossip pure and simple.

The Minister for Justice: No.

Hon. N. KEENAN: I do know of a single company with a capital of £500,000. Let us encourage the investment of capital in the Western Australian gold mining industry. This clause will not encourage it. It is an easy matter to discourage investment. I regret the absence of the Minister for Mines.

Clause put and passed.

Clauses 50 to 53—agreed to.

Clause 54—Returns to be furnished by life assurance companies:

The MINISTER FOR JUSTICE: While the Bill was at the second reading stage, I expressed the Government's willingness to listen to representations from any interests which might consider themselves jeopardized by the clause. I have interviewed a fair number of people with regard to it, and the member for West Perth,

I believe, gave me to understand that the life assurance companies had approached him.

Mr. McDonald: I am not the member referred to, but I believe there is something in contemplation.

The MINISTER FOR JUSTICE: The Government are anxious to consider any representations made in regard to new legislation which affects persons adversely, irrespective of whether those persons approach a member of Parliament or not. If necessary, the Government are prepared to amend this clause. It has been pointed out to us that numerous small industrial policies are issued by various companies. The officials dealing with probate are not desirous to take, in a grasping spirit, a small amount of money from an industrial or life assurance policy of less than £100. The companies settle those policies without a certificate from the Commissioner of Taxation. When there was a State Savings Bank, the manager of that institution was empowered, subject to the Minister's signature, to pay over an estate of less than £100. Even in the commercial sense it would not pay the Commissioner of Taxation to do £4 or £5 worth of work in order to secure a tax of 4s. or 5s. I am prepared to agree to the suggestion which has been made by the companies. In respect of these small policies the companies do not even ask the beneficiary to call at the head office, but settle such matters through the agent or canvasser. Unless the clause is modified, beneficiaries will have to visit the head office of the company and incur considerable trouble and inconvenience. I move an amendment—

That after the word "policy," line 6, there be inserted "or policies exceeding in value in the aggregate together with any bonuses or benefits payable thereunder the sum of £100."

Amendment put and passed.

The MINISTER FOR JUSTICE: I move an amendment—

That the words "Without limiting the generality of this section it shall extend to—(a) every industrial policy of the sum of £100 or upwards and (b) moneys paid over to the survivor under a joint policy" be struck out, and the following inserted in lieu:—"In this section the word 'policy' shall, without limiting the generality of this section, include an industrial policy and any policy held jointly by the deceased and any other person."

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

Clause 55—Holding of assets by custodians, etc., pending payment of security for duty:

The MINISTER FOR JUSTICE: Following the first amendment in the preceding clause, I now move an amendment—

That after the words "life assurance," line 4, there be inserted "or policies of life assurance exceeding in value in the aggregate together with any bonuses or benefits payable thereunder the sum of £100."

Amendment put and passed.

Mr. McDONALD: I move an amendment—

That in line 16 of Subclause 1, after "writing," the words "in the prescribed form" be inserted.

The necessity for the amendment is that the certificate that the Commissioner will give to the effect that duty has been paid, will include a list of assets in the company or corporation concerned, and that company or corporation will be able to peruse the list to be satisfied that duty has been paid upon the particular assets mentioned.

Amendment put and passed.

Mr. McDONALD: That amendment will necessitate a consequential amendment in Subclause 2. I move an amendment—

That in line 15 of Subclause 2, after "writing" the words "in the prescribed form" be inserted.

Amendment put and passed.

Mr. McDONALD: The clause deals with deceased persons who own shares in companies, or have property or money on fixed deposit, or have bank accounts or policies of life assurance. Subclause 4 provides that an executor or administrator shall give notice of the death of the deceased to the company or society in which the deceased had a policy or shares or a bank account, within three months after he gets a grant of administration. If the executor or administrator fails to give notice within three months, he is liable to a penalty not exceeding £20. It may happen that an executor or administrator obtains administration but does not know within three months that the deceased owned shares, or a policy, or a bank account, as the case may be. I know of a case where a man died and his widow took out administration,

and where not till eight years afterwards was it discovered that he had an account in the Commonwealth Savings Bank. I move an amendment—

That the following proviso be added to Subclause 4:—"Provided that it shall be a defence to any charge under this subsection if such executor or administrator shows that he gave such notice within three months of the time when he first had knowledge of the interest of the deceased in any asset by reason of which he was required to give such notice."

It is a reasonable protection for an executor in the circumstances I have indicated.

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

Clauses 56 to 65—agreed to.

Clause 66—Penalty for failing or omitting to file statements or accounts:

Mr. McDONALD: The penalty provided is one not exceeding £500. As the clause stands, if any person fails or neglects to register any settlement or deed of gift requiring registration, he is liable to incur that penalty. We have agreed to Clause 61 under which any person who obstructs or hinders an officer in the discharge of his duty, shall be liable to a penalty of £50. I am well aware that a magistrate may exercise his discretion in the penalty to be imposed, but I think it somewhat misleading to include such a large penalty as £500. I move—

That in the last line of the clause "five" be struck out and the word "one" inserted in lieu.

That will leave the maximum penalty at £100. Later on, if it is found that there are many breaches of this particular provision, we can amend it and make the penalty more severe.

The MINISTER FOR JUSTICE: The clause is word for word the same as the section in the Act, and it has been the law for many years without anyone suffering hardship. A magistrate may impose a fine of £2 or any amount not exceeding the comparatively large fine of £500. I agree that the imposition of a maximum penalty would be excessive, unless it were in connection with a large estate in which a considerable sum was involved.

Mr. McDONALD: In view of the Minister's explanation, I confess I overlooked the fact that the provision is embodied in

the original Act. As it has not worked to the detriment of any individual over so long a period of years, I ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Clause put and passed.

Clauses 67, 68—agreed to.

Clause 69—Legacies to certain public bodies:

Hon. N. KEENAN: Will the Minister explain the reason for restricting legacies of the specific type set out in the clause to universities or Government institutions?

The MINISTER FOR JUSTICE: There is not much object in it, unless it be in respect of coins of the realm.

Hon. N. Keenan: I was referring more particularly to the restriction to Government institutions.

Mr. Latham: The provision appears in the original Act.

Hon. N. Keenan: Why should not charitable institutions derive a similar benefit?

The MINISTER FOR JUSTICE: I frankly confess I was not very keen regarding the clause, and in view of its restrictiveness in incidence, thought it might be amended. We set out to amend the existing Act only where we could do so in order to improve the administration of the law. I think the clause is rather ridiculous. There was no university in Western Australia when the Act was passed, and as the clause stands, it means that a tinpot university in Arizona might derive the benefits set out, whereas charitable institutions within Western Australia that everyone would desire to assist in every possible way, could not enjoy similar benefits. I did think seriously of amending the provision, but I did not want to depart from the original provisions of the Act, bearing in mind the standpoint from which we were overhauling the Act. It is difficult to say just what institutions should benefit from such a provision.

Mr. Latham: I intend to deal with the portion of the clause dealing with legacies, but I do not mind the reference to books and so on.

The MINISTER FOR JUSTICE: As the clause stands, it means that any university could secure the benefit.

Mr. Latham: We should restrict it to the University of Western Australia. We do not want money sent away from this State.

The MINISTER FOR JUSTICE: From what I can gather, the intention of the section in the Act was that, in those days, students had to leave Western Australia to go to a University in one or other of the States to complete their education. Later on they might desire to endow the university they had attended, hence the provision in the Act. Now that there is a university in this State, we might reasonably confine the benefit to that institution.

Hon. N. Keenan. I hope not.

The MINISTER FOR JUSTICE: That raises another issue. There are many points that I turned over in my mind when considering the Bill, and I thought it best to leave this provision as it stands.

Mr. LATHAM: I move an amendment—

That after "University" in line 11, "in Western Australia" be added. Only legacies for the benefit of a university in this State should be free from death duties.

Hon. N. KEENAN: I hope the amendment will not even be pressed. It is a very parochial spirit to restrict the exemption from duty to gifts to our own University. The reason for exemption of legacies for this purpose is because it is a very worthy purpose, to assist the education of mankind; and to restrict the exemption to gifts to our own University will not lead to a penny more being given to that University. Why should not a man be permitted to leave money to the Melbourne University without that money being charged with probate duty? Why should we take away the exemption because the university benefited does not happen to be situated in Western Australia? Certainly it is a spirit we do not want to put into print, even if we practice it without saying anything about it.

The MINISTER FOR JUSTICE: Even at the risk of offending some of our friends who think that as the result of secession this State presently will be on its own, we might at least restrict this exemption to Australia. We have not yet been able to establish a medical school in Western Australia, and someone in the State may be contemplating the leaving of a bequest to a medical school in Australia for some special research work, such a work as could not well be carried out within the State. I agree with the Leader of the Opposition that we do not want to confer any benefit

on a university in Arizona, and so I think we could well limit the exemption to Australia.

Hon. N. Keenan: What is the risk of a man dying here and leaving money to the University of Arizona?

The MINISTER FOR JUSTICE: There may be Americans in this State with kindly recollections of Arizona.

Mr. LAMBERT: It is a shocking thing and a blot on British history that get-rich-quick Americans can go to England and buy up valuable works of art and literature, some of the finest associations with the earlier history of England. If the British Government had any conception of their duty, they would not permit such a sacrilege as the loss to the British nation of gems of British art and literature, merely because some soap merchant from America has sufficient money to buy them. It is quite right that we should take an Australian-wide view, and allow a citizen of Western Australia to leave a money legacy to any university in Australia, but as far as possible we should seek to penalise those who wish to leave anything of an historic nature to bodies or institutions outside Western Australia. In fact, in my view only the Government of the State should have the right to acquire such historic associations. Recently I had the pleasure of purchasing at a cost of £5 the first copy of the old "Inquirer" newspaper, which I acquired through the courtesy of the "Daily News." I presented it to the Parliamentary Library.

Mr. LATHAM: Presumably the word "Government" would include the Government in any part of the world, and being a secessionist I cannot agree with the Minister. I hope that Western Australia will become a dominion with dominion status, and I wish to see people encouraged to help our university. A medical school should be established there as soon as possible. We should confine relief from probate duty to those who assist our own university.

The MINISTER FOR JUSTICE: Perhaps the Technical School or the School of Mines might benefit from such a legacy, and I suggest that instead of stipulating in the second paragraph "for any university," we provide for any educational institution prescribed by the Governor.

Amendment put and passed.

Hon. N. KEENAN: We should include any charitable or educational institution in Western Australia not conducted for profit.

The Minister for Justice: If you say "prescribed by the Governor" that will be sufficient.

Hon. N. KEENAN: I will accept the Minister's suggestion. I move an amendment—

That after "Western Australia" the words "or any charitable or educational institution in Western Australia prescribed by the Governor," be inserted.

Mr. SAMPSON: I suggest the inclusion of the words "or any charitable organisation in receipt of financial assistance from the Government." I desire to include such institutions as Seaforth Home, Werribee Home, and Kildare.

The Minister for Justice: That proposal is too wide.

Mr. Lambert: For goodness sake get out of your own district.

Mr. SAMPSON: Kildare is not in my district. I would also include the Home of Peace. However, I will support the amendment.

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

Clause 70—Protection of bona fide purchasers:

Mr. LAMBERT: Anything of historic value to the State, if it is to be removed from the State, should be charged 100 per cent. probate duty. I should like to hear the Minister's views on the point.

The MINISTER FOR JUSTICE: I do not think the proposal comes within the province of this measure, but I will look into the question raised by the hon. member.

Clause put and passed.

Clauses 71 to 73—agreed to.

Postponed Clause 12 put and passed.

Postponed Clause 45—Valuation of partnership interests:

Mr. McDONALD: I raised a question the other night regarding the words "total capital." It is not easy to construe the word "capital." I therefore move an amendment—

That the following words be added:—"In this section 'total capital' means the value of the assets of the partnership less the liabilities of the partnership."

The word "capital" in a partnership has been interpreted to mean the amount put in by the members of the partnership without regard for what the total assets may be.

Mr. LAMBERT: It may be that two persons have drawn up a deed of partnership whereby the surviving partner may take over the assets of the partnership at the last valuation that was made. This may lead to the State not getting the full amount of probate duty.

The Minister for Justice: That would not affect the payment of probate duty.

Mr. LAMBERT: If the Minister says this is already provided for, I have nothing further to say.

Mr. Sampson: The hon. member is altogether away from the subject, in any case.

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

Title—agreed to.

Bill reported with amendments.

### ADJOURNMENT—SPECIAL.

**THE MINISTER FOR WORKS** (Hon. A. McCallum—South Fremantle) [6.5]: I move—

That the House at its rising adjourn until Tuesday, the 18th September.

Question put and passed.

*House adjourned at 6.6 p.m.*

## Legislative Council,

*Tuesday, 18th September, 1934.*

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

### QUESTION—LICENSING ACT.

#### *Enforcement on Goldfields.*

Hon. H. SEDDON asked the Chief Secretary: 1, Has his attention been drawn to a paragraph appearing in the "West Australian" of 21st August, 1934, which reads as follows:—"Charges withdrawn—Alleged Licensing Breaches—Kalgoorlie. August 20. —Brought before the court on June 22, and twice adjourned for a month, 15 charges of breaches of the Licensing Act were finally withdrawn this morning in the Kalgoorlie Police Court, before Mr. E. McGinn, R.M. Sergeant Clements stated that he had been instructed to withdraw charges against Thomas Percy, Leslie Bennett, and James Riley, respectively proprietors of the Federal, Inland City, and Commercial Hotels, Kalgoorlie, of trading during prohibited hours, and charges against 12 men of being on these premises during prohibited hours"? 2, Will he inform the House whether the statement of the sergeant, as quoted, is correct? 3, If so, by whose authority was such instruction given? 4, What were the reasons for the withdrawal? 5, Is it the intention of the Minister in charge of Police affairs to see that the Licensing Act is enforced on the goldfields?

The CHIEF SECRETARY replied: 1, Yes. 2, Yes. 3, The Acting Commissioner of Police. 4, In arriving at the decision, the whole of the circumstances were taken