there. However, money is now being introduced to work promising shows and big things are expected from the Murchison. I hope that the price of gold will continue to be high. The previous speaker said that the price of gold was likely to fall as the prices of other commodities increased. That does not necessarily follow. If gold is in demand, there is no reason why it should not command a higher price than it did in former years. Anyhow, I trust that the price will not recede to its old level for many years. As the years go on there is likely to be an even greater demand for gold, and I am hopeful that the price will increase. Gold should always have commanded a higher price, because its production cost more than was ever obtained for it. The industry, unfortunately, has been the means of rendering unfit many of the men engaging in it, and I hope that in these times of good prices the mining companies will bear that fact in mind. In many of the mines ventilation and other conditions are good, and we should be careful to see that they are maintained, so that we shall not have so many miners as we have had in the past finishing their lives at Wooroloo.

On the motion by Hon. G. W. Miles, debate adjourned.

House adjourned at 5.55 p.m.

Legislative Assembly.

Thursday, 23rd August, 1934.

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

QUESTION—FREMANTLE HARBOUR TRUST.

Handling Charges.

Mr. NEEDHAM asked the Minister for Agriculture: 1, Why are the Fremantle Harbour Trust charges for handling cargo considerably higher than charges for similar service at Eastern States main ports? 2, What advantages, if any, are given to owners of cargo at Fremantle as against Eastern States main ports right to point of delivery to owners' lorries, and, if any advantages are given, what do the Trust estimate them to cost?

The MINISTER FOR AGRICULTURE replied: 1 and 2, The Fremantle Harbour Trust is the only port authority in Australia which undertakes the handling of cargo upon the wharves and publishes a schedule of rates for such services. Similar services, of course, have to be performed at the other ports, but the interests concerned in the various operations undertake these on their own account, and we have no knowledge of the separate costs to enable us to make a comparison with the Trust's scheduled charges at Fremantle. For instance, the Melbourne Harbour Trust, although it does not undertake the handling of cargo, does publish a list of charges which may be made by contractors in respect of services in connection with the handling of cargo upon the wharves. A comparison of the Fremantle Harbour Trust handling charges with these without a thorough knowledge of the ser-

vices included in the charge might easily give the impression that Fremantle charges are higher than Melbourne. This conclusion would be erroneous for the reason that a charge for a service published on the Melbourne schedule would only provide for a service equal to about half of what is performed at Fremantle, while both are described in such general terms as not to disclose clearly the difference in their extent.

BILLS (4)—FIRST READING.

1, Perth Dental Hospital Land.

Introduced by the Minister for Lands.

2, Dentists' Act Further Amendment.

3, Road Districts Act Amendment.

4, Municipal Corporations Act Amendment.

Introduced by Mr. Lambert.

BILL—ELECTORAL ACT AMENDMENT.

Second Reading.

THE PREMIER (Hon. P. Collier—Boulder) [4.39] in moving the second reading said: Section 18 of the Electoral Act provides, inter alia, that every person shall be disqualified from being enrolled as an elector or, if enrolled, from voting at an election who is an aboriginal native of Asia. This provision prevents the enfranchising of British Indians. For many years representations have been made to successive Governments—as the Leader of the Opposition will remember—for the abolition of the restriction. Though the request has always been sympathetically received, no action has been taken. The Imperial Conference of 1921 expressed the view that there was an incongruity between the various Dominions in this respect. Western Australia is now the only Australian State which has not rectified the position. The Bill, if agreed to, will bring us into line with every other Australian State and the Commonwealth so far as the enfranchisement of British Indians is concerned. The Government of this State have for many years been continually approached by representatives of the Indian Government direct, and by the Commonwealth on behalf of the Indian Government. The present Government have given an undertaking that they will submit the question to Parliament, in an endeavour to remove the disability. The latest available figures show that there are only 163 British Indians in this State.

Mr. Latham: Only 163 in Western Australia?

The PREMIER: Yes; and it is unlikely that the number will increase, in view of the Commonwealth immigration laws. In a recent debate in the Indian Parliament resentment was expressed at the discrimination still existing in Western Australia against British Indians, particularly in this respect. We consider that the position should be rectified, and therefore the Bill proposes to exempt British Indians from the existing electoral disqualification which is placed upon Asiatics generally. A small amendment of the Constitution Act will be necessary also in order to give effect to the proposal, and the next Bill on the Notice Paper is a corollary to this measure. I see no reason why the State should refuse to accept the view expressed by those who, in India and also in other Dominions, are much concerned. There cannot possibly be any effect from an electoral point of view in this State, and a similar proposal has been supported by all Governments, of whatever political complexion, in the Eastern States. What this Bill proposes has been the law for many years in all the other States of Australia; and there is no reason, in the Government's opinion, why the request made not only by the Government of India but also by that of the Commonwealth should not be acceded to. It is a recognition of the fact that they are not classified in the same way as other Asiatics. As a matter of fact, one of the anomalies of our Acts is that an Asiatic, coming from any part of the world not belonging to the British Empire, may vote for another place if he possesses a certain property qualification; whether Japanese, Chinese or anybody else, no matter what country he comes from, if he has a certain property qualification, he is entitled to be enrolled as an elector for the Legislative Council. He need not even be naturalised. Yet at the same time we deny the franchise to those who, at any rate, are part of the British Empire. As I say, 163 persons are so few that they cannot possibly affect any political situation, and so I think we are entitled to remedy this, which is regarded by the Government of India as a disability.

Mr. Doney: What about Afghans? You are not making any provision for them, are you? They are not British Indians.

The PREMIER: We are providing only for those that come within the compass of the British Empire, described in the Bill as British Indians. If Afghans are outside of that definition, they do not come within the Bill. I move—

That the Bill be now read a second time.

On motion by Mr. Latham, debate adjourned.

BILL—CONSTITUTION ACTS AMENDMENT.

Second Reading.

THE PREMIER (Hon. P. Collier—Boulder) [4.47] in moving the second reading said: This Bill is just a corollary of the previous measure. It is to give effect to the amendment embodied in the Bill I have just presented. It is necessary that we amend two Acts, the Electoral Act and the Constitution Act. As I have said, it has been pointed out to us that we are the only State which has not done this, and impressed upon us that we ought to fall into line with the other States. The Bill merely seeks to amend the Constitution Act in order to give effect to the matter I have just been expounding, so there is no need for me to cover the same ground again.

I move—

That the Bill be now read a second time.

On motion by Mr. Latham, debate adjourned.

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

Second Reading.

THE MINISTER FOR JUSTICE (Hon. J. C. Willcock—Geraldton) [4.48] in moving the second reading said: Members will see by the Title of the Bill what are its main provisions; particularly will these be clear to those members who have had a look at Part VI. of the Administration Act as it stands at present. Recently we had some criticism by the Federal Grants Commission to the effect that this State was not imposing taxation on a scale which, in the present circumstances, could be described as reasonable. The Commission pointed out that this State in some circumstances received less taxation per capita than did the rest of the States and the Commonwealth. While this criticism was not justified, particularly after the remarks made by the Premier this day week, when he pointed out that the Commonwealth had not taken into consideration the Financial Emergency Act and the amount of taxation collected thereunder, yet this charge which has been made against the State is undoubtedly true in relation to death duties and the taxation collected under probate. As a matter of fact the taxation received under this part of the Administration Act is ever so much lower than that received by any other State of the Commonwealth. During the past 30 years several methods have been evolved for the evasion of probate duty. Some people discover such a method by accident, but in other cases deliberate advantage is taken of conditions which were not present when the original Act was passed. So, as the years go by, people become experienced and enlarge the scope of tax-dodging. Thus we find that, in many instances, when people die their estates do not come within the law as it is at present, and so do not pay probate duty. In fact, it has been said that only fools pay probate duty in Western Australia, so many are the various methods of dodging payment of the duties contemplated by the original Act. That is so, except when the best laid schemes go agley, and someone dies who was not expected to die, while somebody else who was expected to die remains alive, and so the steps taken to evade the payment of probate duty prove of no avail. It is an accepted principle practically the world over that, when people die, the country in which they have lived is entitled to collect taxation under probate, to receive some portion of the estate which necessarily passes to some other person. While we should like to do without imposing taxation of any kind, still taxation is necessary to carry on our social and other services. As I say, probate duty is an accepted principle practically everywhere. That principle was definitely laid down in our original Administration Act, but owing to the passing of time, and to the experience that people have had in evading this taxation, it has been ascertained that very many methods can be re-

sorted to in order to evade payment of the duty. Thus, a considerable proportion of our people who are nearing the end of life make some arrangement whereby the State is deprived of probate duty as contemplated in the original Act. An outstanding feature of the operations of the existing Act is that too much scope is given for evading payment altogether. So the purpose of the Bill is to bring our Act up to date, and thus obtain payment from everyone who should pay under the Act. There are not above half the people who pay the tax, the remainder dodging the responsibility altogether. The layman as well as the lawyer has become familiar with many methods of evasion which this Bill seeks to prevent. Even insurance canvassers, in going their rounds, point out to prospective clients the advantage of insuring in certain ways so as to avoid the payment of duty under the Administration Act. The Bill merely deals with assessment provisions, and does not touch the rate of tax at all. Under our Constitution and Standing Orders, when a taxation measure is introduced, it must be introduced separately from the assessment measure, as in the case of our income tax legislation. So this Bill, when passed, will not come into operation until it is proclaimed, and in the interim it will be necessary to introduce another Bill for the purpose of imposing the tax to be collected under this amendment of the Act. How much we are likely to obtain by the amendments proposed in this Bill, it is scarcely competent for one reliably to estimate, but it is safe to say there will be a considerably larger amount accruing to the State as the result of the passing of this new legislation. The original Act, which is 31 years old, was modelled on the lines of the Victorian and South Australian Acts. Both those States have found it necessary to amend their Acts, bringing the provisions up to date. The intention of the Bill now before the House is to repeal Part VI. of the Administration Act, which makes the estates of deceased persons liable to death dues, and to re-enact new parts. When the Act was passed in 1903, it was sufficient for the then prevailing conditions. There has been only one amendment since then, and that did not affect the principles of assessment for taxation. Therefore we have an Act which has been on the statute book for all that length of time and has become obsolete. Western Australia shows up badly in comparison with other States in point of collection of probate duty. The duty collected in Western Australia for the six years ended the 30th June, 1933, was £466,000. In Tasmania, which has a considerably smaller population, the duties over a similar period totalled £522,869; in South Australia, with a population about 50 per cent. greater than ours £1,930,044; Queensland £2,978,006; Victoria £6,640,898, and New South Wales, £9,662,053. I suppose members will accept the figures as correct, but they can be checked by reference to the Commonwealth Year Book, page 413, and Commonwealth Bulletin No. 135, page 57. It may be said that the other States are wealthier.

Mr. Latham: So they are.

The MINISTER FOR JUSTICE: That might account for some of the disparities in the amounts collected, but a better illustration would be to compare the amounts paid per head of population per annum in the several States. The figures are—

	s.	d.
Western Australia	3	7
Tasmania	7	8
South Australia	11	1
Queensland	10	6
Victoria	12	1
New South Wales	12	4

The average is about 10s., so our collections per head per annum represent about one-third of the average for all the States. The people of Western Australia as a class are not so wealthy as are the citizens of other States. Population here has been augmented greatly during the last 30 years. Thirty-five years ago it was about one-sixth of the present total. Further there have not been the generations of people here who have had wealth handed down to them. That to some extent accounts for the higher collections per head in the Eastern States, but it does not nearly account for the fact that we collect only about one-third of the average for the whole of the States. It has been estimated that the loss per head per annum is due to the fact that people here have not been paying the duty which rightly they should pay, and which it was intended they should pay when the law was enacted in 1903. All the provisions of the Bill are to be found in one or other of the Acts of the Eastern States, and it is proposed to embody the pro-

visions in our law with a view to remedying serious shortcomings and preventing loss of revenue. The scheme of the Act of 1903 was to impose duty as follows—

(a) All property which passed on the death of a person to his executor or administrator was made liable to a duty called probate duty.

(b) Deeds of gift which had been made in the lifetime of a person who subsequently died within six months of making the gift. Duty would be collected on such deed of gift.

(c) Settlements, being the disposition of property by settlements containing trusts or dispositions, to take effect after the death of the settlor or some other person.

A man may, by a deed of gift or a settlement, practically achieve the same result as he can with a will. In the case of the former, he disposes of the property or ties it up in his lifetime, so that if some provision were not made to deal with this aspect, wills would soon become unpopular, or a person would see to it that he did not leave much when he died. The Act of 1903 attempted to deal with this position, but fell short of requirements. The refinements of conveyancing are responsible for the fact that the Act does not now cover a large number of cases that it was originally intended should be charged death duty. Many and varied ways have been adopted whereby, on the death of a person, no duty is paid, or if any is paid, the amount is considerably reduced. The Act simply invites the adoption of these simple methods of evading payment. During late years such methods have considerably increased, and the practice has now reached such proportions that many large estates of deceased persons are not paying any duty at all. I suppose members could cite instances of this. I intend to mention a few of the methods by which payment of duty is being evaded.

Mr. Latham: If we do not pass the Bill, we shall then know how to do it.

The MINISTER FOR JUSTICE: If the hon. member regards himself as one of the unsophisticated individuals unacquainted with tax-dodging methods, he may receive some education from the information I am giving the House. If the methods of evading payment that have been discovered were practised generally, the Government would receive practically no probate duty, except small amounts from intestate estates. The average annual payment of probate duty has been in the vicinity of £80,000 and if every member of the community became sophisticated and no one paid probate duty, the Treasurer would have to find another avenue of taxation to compensate for the loss. One of the easiest and most popular methods of dodging payment of probate duty is under the system known as joint tenancy. By joint tenancy the property is held by two or more persons, the law regarding them for the purpose of ownership as one. Therefore, on the death of one, the property automatically passes to the survivor, and no death duty whatever is paid to the State.

Mr. Latham: That has been in existence for a long time.

The MINISTER FOR JUSTICE: It is provided for in the Act.

Mr. Latham: We encourage it under the Land Act.

The MINISTER FOR JUSTICE: We may encourage people to take joint tenancies, but we do not encourage the non-payment of probate duty. Otherwise ten generations might have an interest in a property worth £100,000, and so long as a representative of a later generation were taken into the joint tenancy, no duty from that property would accrue to the Crown. That might suit the individual, but it is not good for the State. Probate duty is a generally accepted method of obtaining revenue, and failing it, the Government would have to collect the money in other ways. I do not think there is any objection to the principle of raising revenue by means of probate. If a person, on the death of another, receives considerable accretion of wealth, some proportion of the benefit should accrue to the State. That principle has never been objected to. What we desire to do, however, is to put every citizen on an equal footing. If some people adopt methods whereby the payment of probate may be dodged, it is not fair that others should pay. Joint tenancy is one of the methods whereby probate duty need not be paid, and that method is being availed of by people at present. Some people are under the impression that joint tenancy applies only to land. As a matter of fact, it may be made to apply to almost anything. Property usually held in joint tenancy consists of real estate, leaseholds, bank deposits, including fixed and current accounts, shares in companies and life assurance policies. Those items would cover practically five-sixths of the wealth in the State. A man might have a bank account of £50,000 and so long as he put it in his own name and in that of some other

individual, no matter who he might be, the other would on his death, obtain the whole of the money and make no probate payment to the Government. I have had a search made to ascertain whether similar evasion is possible in other countries and have been informed that the provision regarding joint tenancies relating to probate does not exist in any other State in the British Empire. Only in Western Australia are people enabled by this method to escape the payment of probate. Let me quote some instances to give an idea of what has actually occurred in the last few years. One man died leaving assets worth approximately £20,000, held in joint account with his wife and another. It all belonged to the man originally, but owing to the joint tenancy, not a penny of probate duty was paid. Another possessed considerable property in shares in companies held jointly in the names of himself and his wife. He died and no probate duty was paid. Another possessed fixed deposits in a bank in joint tenancy and on his death the whole of the money passed to the survivor. One man held approximately 100,000 shares in a Perth company jointly with his wife and family, the value being £90,000. Immediately after his death the widow and children split up the estate so that each received his or her share. Had the estate been split up under the will, probate duty would have been payable. The joint tenancy need extend to only a few days after death. The illustrations I have given will convey somewhat vividly to members what the Bill sets out to do. We desire to prevent the evasion of the payment of duty in the circumstances I have mentioned. Another method adopted is known as the deed of gift. Although by the original Act it was intended to limit a deed of gift to within six months of death, with regard to liability for payment of duty, such is not the case. A bank account, cash, debentures, goods, livestock or anything of the kind, may be handed over to someone else without a deed of gift. This may be done two or three days before the death of the owner of the cash or property, and no duty is payable. A man may have £20,000 in the bank. He might feel his end approaching, and might send someone around to obtain currency for the full amount. He could then hand that money over to the person who collected it, and because it was not made over by deed of gift, not one penny of the amount would be liable for duty under the Act.

Mr. Latham: It would be difficult to trace what had become of a sum of money like that.

The MINISTER FOR JUSTICE: Yes. We do not expect to bring in everything of the kind, but we do expect to effect a considerable improvement in the amount of probate duties that come to the Treasury after this Bill is passed. This legislation would bring a transaction of that kind within the purview of the Act. In the Eastern States such a transaction, whether by deed of gift or by any other means, is liable to duty. It is proposed to follow the same principle in this Bill. I will give some instances of the application of that provision. A man, just before his death, handed over to his relatives shares to the value of approximately £27,000. There was no deed of gift, the shares being just handed over. The State was, therefore, unable to collect any death duties, which would have amounted to £2,690. In the other States the legislation provides for payment of duty in cases of that kind.

Mr. Latham: Is there no limit to the time when a person can make a deed of gift?

The MINISTER FOR JUSTICE: Under the Act it is six months. We are seeking to bring that more into line with the other States, where the average is two years. If under this Bill a man makes a deed of settlement prior to within two years of his death, all he has to do is to pay the ordinary stamp duty, equal to, I think one per cent. Another individual made a payment in cash just before his death of £2,800. As no deed of gift was executed, no duty was paid on the amount. Another man made a gift of the whole of his business to his wife. No deed was executed. This man actually gave the business away without any document passing. It was an extraordinary case. The man had a rather big drapery shop. He went into the shop one day accompanied by his wife. He said to his wife, "My dear, I will give you this fur coat." He gave her the coat, in the presence of witnesses. He said afterwards, "I will not only give you the fur coat, but I will give you all the stock in the shop. It is all yours." She had witnesses to prove this was so. He died a few months later.

Mr. Latham: It would be very risky to hand your business over to your wife.

The MINISTER FOR JUSTICE: This man had every confidence in his wife.

Mr. Latham: It would be a different proposition to have the same confidence after she had got the business.

The MINISTER FOR JUSTICE: When a man is close to death, he probably does not lose interest in defrauding the State of its just dues. If he thinks his relatives can benefit by the transaction, and the act is a legal one, the morality of the transaction probably does not appeal to him. It would not occur to most people to consider the morality of the business. So long as this sort of thing can be done within the terms of the law, it is done.

The Premier: It was lucky for the wife she happened to be with him when he was in that mood.

The MINISTER FOR JUSTICE: He did not change his mind before he died. When the assessor came along to assess the value of the property, witnesses were able to prove to him that it belonged to the widow. Because there was no deed of gift and the property was handed over in the manner described, no probate duty was paid on the estate. Another man made a gift, not by deed, of £3,000 or £4,000 and no duty was payable on the estate. Similar cases are occurring almost weekly. Some time ago the Treasurer of one of the Eastern States was attending a meeting of the Loan Council. He was asked how he came to expect that he would receive a certain sum of money from probate duty. He replied, "We have our eyes on a lot of people who are becoming tottery, and we fully expect to realise a probate duty amounting to £300,000 or £400,000 this year." Tax-dodging cannot be done in Victoria, with the result that the expectation of that Treasurer was realised to the extent of half a million pounds.

Mr. Latham: The trouble here is that a man would get foot-sore looking for people with accumulated wealth.

The Premier: If they have not got it they will not pay.

The MINISTER FOR JUSTICE: There are many people who are well endowed with this world's goods. The principle of payment of duty by the beneficiaries is generally adopted. Duty must be paid when the persons concerned are beneficiaries under the will. What we are endeavouring to do is to carry out the intention of the Act when it was framed.

The Premier: The joke of the Loan Council incident was that the son of the man concerned was present as a member of the Council.

The MINISTER FOR JUSTICE: The Leader of the Opposition referred to the time that should elapse when a deed of gift would no longer be operative, and the State would not be liable to probate. Hitherto if more than six months had elapsed between the making of the deed and the death of the person, no probate duty was payable. We are seeking to come into line with the usual practice elsewhere. Provision is made in the Bill for transactions of that kind to come within the incidence of probate duty. In Queensland the time laid down is two years, in South Australia 12 months, in Tasmania three years, in New South Wales three years, in Victoria 12 months, and for the Commonwealth it is 12 months. The average time for the six States and the Commonwealth is about two years. We propose to amend the law in that regard by means of this Bill, and extend the period from six months to two years.

Mr. Sampson: Why not split the difference and make it 12 months?

The MINISTER FOR JUSTICE: Surely the hon. member is not concerned in this?

Mr. Sampson: You will be.

The MINISTER FOR JUSTICE: The hon. member agrees with the principle of paying probate duty?

Mr. Sampson: Yes.

The MINISTER FOR JUSTICE: If a man dies and a settlement has been made one day prior to within six months of his death, that should not make any difference to the payment of duty provided the time is a reasonable one, and one so far back that a person would not be expected to make a deed of gift for any other reason than to evade the payment of duty. People may have been in possession of property for 40 years, and during that time would not on any account have let it out of their hands. Because they have seen the signs of approaching death, or may have been warned that their end was near, they give away property that in no other circumstances would they dream of parting with, solely with the object of evading the payment of probate.

Mr. Sampson: Twelve months is a long time.

The MINISTER FOR JUSTICE: The incidence of taxation is a different matter, and will be dealt with in a different way. I think the taxation on an estate here is five per cent. or six per cent. In England and other countries the death duties are as high as 33 per cent. It has been said and demonstrated that because three or four generations have died within a comparatively short period, an estate worth £1,000,000 has practically dwindled down to only a nominal figure. It is very embarrassing to people when an estate is called upon to pay so much in cash. Mortgages have to be arranged in order to find the cash, and a heavy load is put upon the estate. A little while after another beneficiary may die, and more cash has to be found, and so it is that the estate may dwindle down to one of very small value. Our rates are not nearly as high as those in England. There is another method of evading the tax. I refer to the transfer of leaseholds or real estate for consideration by way of annuities. This method of evading duty is being resorted to very frequently. An annuity payment is held to be a consideration. A man must get value for something he has given, when the something he gives no longer becomes a gift. If a man transfers a leasehold or a block of land for a sum of money, an annuity, and so on, it is not deemed to be a gift. In this way the payment of death duties can be evaded. A man may transfer a valuable estate to his children for an annuity of £300 a year. The man may then die and the property passes to the children. The State collects nothing by way of probate duty, though in other circumstances it would have been worth £1,500 to the Treasury. There is yet another method of evading duty. The parent may have reached old age, and being possessed of a considerable estate, legally transfers it to the children. In consideration of such transfer, the children execute a document relinquishing all right and title to the income from the property during the life of the parent. The estate may be worth £50,000. The parent is practically in the same position as he was before, because the whole of the income still passes to him. The children who have the estate in their names have by means of the second document relinquished all their rights to the income from it. Because, however, the deceased legally transferred the estate to his children no duty is payable. Under the Act as it stands at present, no duty could be collected. That sort of thing is not permitted in any other State. The Bill provides that that class of transaction shall be liable to the payment of duty as the benefits do not accrue to the children until the parent's death. That is the whole scheme of probate duty. If someone benefits through the death of the owner of the estate, then the former should pay duty. These are some types of transaction complained of, and I trust members have learnt something as a result of this explanation.

Mr. Latham: Does that exhaust the list?

The MINISTER FOR JUSTICE: No, not by any means. With regard to settlements, the term in the original Act covers only trust or dispositions to take effect on the death of the settler or some other person. Many types of transaction fail to fall under this description, and therefore escape the payment of probate duty. For instance, a person I will refer to as "A" may enter into a contract with an assurance company that, on his death, an annuity shall be paid to "B" for a named period of time, such as 20 years. Obviously such a transaction should be subject to the payment of probate duty because all the money involved is part of the estate of a man who is living and has paid the premiums, and the benefit does not accrue to the other individual during that period but only after "A's" death. Consequently that really should come within the purview of the Act and probate duty should be payable. That is the instance I mentioned when I began my remarks. In these days, assurance and insurance agents have been going round inviting people to take policies, and have advised them that if they do so, the beneficiaries will evade the payment of probate duty. The Bill contains provisions that will overcome that phase. At this stage I will give the House details of some transactions that have actually taken place. A man desired, during his lifetime, to transfer to his children all his rights and title in his property. In this instance, a sum of nearly £40,000 was involved. He executed a document transferring the estate but, by means of a separate document, retained control over his property and received all rents and profits during his life-

time. On his death, no probate duty was payable as it was held that as the law stood, the property had passed out of his possession when the first transfer was executed. In that instance, the State lost probate duty amounting to over £2,000.

Mr. Latham: In that instance, would probate duty have been payable to the Commonwealth?

The MINISTER FOR JUSTICE: The estate would have had to pay probate duty to the Commonwealth and to the Governments in practically all the other States, but escaped in Western Australia because of the obsolescence of our present Act. Because of the faulty nature of our legislation, we were not able to collect probate duty that was rightfully due to us.

Mr. Latham: The estate would be subject to Federal probate duty, as it would be to State duty in the East.

The MINISTER FOR JUSTICE: The provisions of the Commonwealth Act are such that people cannot evade the payment of probate duty under such conditions. The same applies in New South Wales and Victoria. We did not foresee such possibilities, and made no such provision in our legislation. By means of conveyancing, people are able to evade their responsibility in this State. In another instance, a man gave over £10,000 to his children, but he retained the use of the money, which was in his business. It was part of the assets of that business, and on his death the executors claimed that the gifts to his children represented liabilities against the estate. The department was forced to regard the gift of that £10,000 as a liability, and probate duty was lost to the extent of about £1,000. It was said that the children did not get any benefit from the transfer at the time, and, in the final balancing of the estate, the money had to be regarded as a liability. Had the law been different, the estate might, in that instance, have paid probate duty on £12,000, which would have included the £10,000 I have referred to, instead of on £2,000 only. The Bill contains provisions that will overcome that difficulty. Then again, there is the question of assessing the value of estates for probate purposes according to locality. In this instance it is not tax dodging, but the State has lost a lot of revenue that should have been retained. Generally speaking, the probate duty laws apply to the beneficiaries of an estate situated in the State, at the time of the death of the owner. While that rule is accepted generally, the State has lost large amounts, due to the fact that although a business may be carried on in Western Australia, it may be registered outside the State. A notable example was in connection with the Swan Brewery. The owner of the estate was a Western Australian.

Mr. Latham: And he earned his profits here.

The MINISTER FOR JUSTICE: Practically all the assets and the business itself are in Western Australia. The man concerned made his money in Western Australia. He made well over £100,000 out of mining, and he wished to invest his money in something less hazardous. He invested a large proportion of his money in Swan Brewery shares, which were regarded as a solid investment.

The Premier: Not a solid, but a liquid asset.

The MINISTER FOR JUSTICE: In this instance, the asset is both solid and liquid. It is possible to sell Swan Brewery shares any time, because they are always quoted and there are always buyers available. The locality of the shares is, generally speaking, deemed to be the place where the company is incorporated and where the share register is kept. With the Swan Brewery, the share register is kept in Melbourne, but the bulk of the assets exist, and the profits are made, in Western Australia. When it is a matter of assessing probate duty, the shares, being registered outside the State, represent so much foreign capital —anything outside the State is regarded as foreign, although, of course, a company registered in Melbourne is not a foreign company in the ordinary acceptance of the term—and the value of the shares cannot be taken into consideration for the purposes of probate duty. Western Australia, therefore, loses probate duty in respect of shares held in the Swan Brewery. As the assets exist here and the profits are made in the State, there is no reason why duty should not be collected to the extent that the shares of the person who has died, are represented by the assets in Western Australia. The Bill makes provision whereby the locality of the assets or property and of the individual himself, will determine what duty is payable. It may be that a company is operating with half its capital in Western Australia

and half in another State. We do not contend that duty should be paid on the total assets of such a company but only upon that portion of the assets that is located in Western Australia. For instance, if the Swan Brewery were to amalgamate with the Carlton Brewery, which is operating in Melbourne, and the assets of each concern were valued at £1,000,000, while the total shares would represent a value of £2,000,000, only £1,000,000, represented by the value of the assets in Western Australia, would be taxable in this State. Of course, in arriving at the net assets, it is only reasonable that the liabilities shall be taken into consideration first before assessing duty. The reason for excluding the liabilities is that the value of the share is arrived at after taking the liabilities into consideration. With regard to the Swan Brewery, for instance, the position is that the shares are valued at about 95s. at the moment. At the outset, a certain amount of capital was provided and since then reserves have been built up equalling the amount of the original capital invested. The reserves, together with the original capital, amount to over £1,000,000 now. The result is that the shares are worth 95s. each, notwithstanding the liabilities.

Mr. Latham: The value is really the market value of the shares.

The MINISTER FOR JUSTICE: Yes. When a company is located within the State wholly, the amount of duty is comparatively speaking, easy to determine, but the difficulty arises when a company has foreign interests. There is the Midland Railway Company, for instance. I do not know what the market value of the company's shares would be. Consideration would have to be given to the full assets possessed by the company, and then to what proportion of the assets was properly taxable within the State. There is another important feature relating to the formation of private companies. This has become a popular method by which the amount chargeable with duty may be considerably reduced. Very often three or four people, who are conducting a business in partnership, decide to convert the business into a limited company. In order to keep the business strictly to the original vendors or, as far as possible, to the families of the original vendors, restrictions are placed on the transfer of the shares. In many instances provision is made that no transfers are to take place unless the original shareholders are first given an opportunity to buy the shares proposed to be transferred. The shares are not listed on the Stock Exchange; they could not be, because of the restriction I have referred to. Then it is found that when one of the shareholders die, his executors raise the contention that, inasmuch as the transfer of the shares is restricted, their value is not so great. We have found in practice that, in many instances, we have had to make some concession on this account, as it is difficult to prove that the shares have not lost in value by reason of the restriction. In many instances, of course, it is the value of the shares that leads the shareholders to impose the restrictions on them. I might quote an instance. A small private company held a block of shares in a pastoral property and the trustees who were keeping those shares in the family were asked to assess the value of them. They said that the shares were worth only a fourth of the purchase value of the estate. No one could say they were worth any more, and no one would buy them. The trustees said that that was all that could be got for them, the one-fourth, which made them worth £3,000 and so a considerable reduction had to be made in the amount claimed as duty. We are seeking to amend the law in that regard so that the value of the estate shall be amended according to the proportionate value of the part of the estate represented by the shares held by the individuals in the company. As members are aware, many companies have their registered offices outside the State, and are therefore known as "foreign" companies, and because of that all the money which should accrue to this State in probate duties, goes to the State in which the companies are registered. The Swan Brewery Company is registered in Victoria.

Hon. N. Keenan: How do you propose to take it away from Victoria?

The MINISTER FOR JUSTICE: Whatever proportion is paid in Victoria will be allowed.

Mr. Latham: Could you not compel them to have a registered office here?

The MINISTER FOR JUSTICE: We can compel people holding assets here to pay duty in regard to those assets. The matter has been gone into fully and efforts are to be made to overcome the difficulty by an alteration of the law. We want to see that

when the asset is in Western Australia, payment is made in Western Australia. A man invests capital in a company that is registered outside Western Australia, but is carrying on operations here with the whole of its assets here and its profits made here. Because that company is registered, say, in Victoria, all the money that should come to this State by way of probate duty is denied to this State.

Hon. N. Keenan: Suppose Western Australian capital were invested in Victoria, and the company were registered here, and somebody died owning shares in that company, would you get your probate then?

The MINISTER FOR JUSTICE: If, say, such a company had £20,000 invested in Western Australia and £80,000 in Victoria, and the £20,000 was in tangible assets, we would collect the duty, and but for the £80,000 invested in Victoria, the amount paid in that State would be not paid in Western Australia. We could give a rebate equal to the amount paid in probate in the other State.

Mr. Latham: Nearly all the mining companies have their head offices outside the State.

The MINISTER FOR JUSTICE: Mining companies are very different. The shares in a mine may be valuable to-day and worth nothing to-morrow. Take the Sons of Gwalia mine, the shares in which, in 1931, were quoted at 7s., while to-day the value is 62s. The North Kalgurli shares at the same time were worth about 6s. and to-day are worth about 22s. Mining assets fluctuate from day to day. I have a few shares in a gold mine and if I had died about a fortnight ago when the market price was higher than it is to-day, probate would have had to be paid on their value at the time. To-day, however, they are worth much less.

Mr. Patrick: The registered offices of most of the mining companies are in Adelaide.

The MINISTER FOR JUSTICE: Some mining companies have assets elsewhere; the Great Boulder, for instance. Mining shares are totally different because one blow from the pick might produce an entirely different set of circumstances. Provision is made in the Bill to deal with people's interests in this class of companies and limited liability companies. These companies have become very popular for various reasons. When private companies were originally formed, there was not much idea of the effect of probate duty. The reason why people formed companies was because of the limited liability. A man might have a considerable asset, for instance in the North-West, worth perhaps £40,000 or £50,000, and also have a property in Perth worth £30,000, as well as cash. To minimise his loss in the pastoral property, he forms it into a company and his liability then is limited. Then his private assets cannot be touched in connection with the company's affairs. Sometimes a person holding pastoral shares in a company is appointed managing director at a salary, and in that way claims that he is deriving his income from personal exertion instead of from the property. That, however, does not make any difference in this State, though it does in connection with Commonwealth income taxation. Other improvements of a minor nature embodied in the Bill, are necessary to bring our Act up to date and make for smooth and efficient working. They provide for appeals and procedure in connection with appeals, interest on duty, valuation of partnership interests, valuation of shares in public companies, payment of duty on life assurance policy, where there is a deficiency in an estate, and the valuation of interest of tenant in common. If a man owes money to someone else, and does not liquidate the liability within a reasonable time, interest becomes payable.

Hon. N. Keenan: In what circumstances? If I owe you money, you cannot charge interest on it unless that is agreed upon by contract.

The MINISTER FOR JUSTICE: No one does lend money without making a contract for the interest. An estate may be subject to the payment of interest by the lessee, or someone else who is leasing the property from the lessee. It may be subject to interest for five years. The interest may not be paid, but is then recoverable.

Mr. Sampson: That would not apply unless there was an income.

The MINISTER FOR JUSTICE: If people have no property they are not troubled by probate.

Mr. Sampson: But if there was no income?

The MINISTER FOR JUSTICE: It is only when probate is due within a certain time, and is not paid, that the position is affected in the way I have stated. Clause 45 deals with the method of valuation of partnership interests. The valuation of

shares in public companies is dealt with in Clause 48. The payment of duty on life insurance policies, where there is a deficiency, comes in under Clause 52. The valuation of the interest of a tenant in common is dealt with in another clause. The machinery whereby a check is kept on payments made by life insurance companies, safe deposit companies and so on is dealt with in Clauses 54 and 55. Increased facilities for inspecting records, books, etc., and taxation returns are also provided. There are several minor amendments which will make for the smoother working of the statute, and enable the State more easily to obtain the money due to it under this section of the Act. Members may want to know what difference this measure will make from the revenue point of view. It is hard to determine what difference it will make in the collection of probate duty. I do feel, however, that it will lead to an increase in the amount received by the Treasury from deceased estates. Instead of there being all these evasions, the estates will be properly brought under the incidence of the tax. The Bill is a highly technical one, and is really one for the Committee stage. When it is in Committee each clause can be debated, and all the information available can be given to members. It is rather important from the standpoint of the Government that the Bill should be proclaimed an Act as early as possible, so that the money which rightfully belongs to the State shall accrue to the Treasury. This is not a party measure. I think the previous Government had brought under their notice by the Commissioner of Stamps and officers dealing with the administration of estates the necessity for an amendment to the Act. I think it was agreed that amendments should be made. No one is anxious to bring a technical Bill like this before the House, because so many explanations are required concerning it. It will not do harm to anyone; it will only carry out what was the original intention of the Act, and prevent many evasions in the payment of duty.

Mr. Latham: I think you should be able to tell us that the incidence of the tax will not be affected.

The MINISTER FOR JUSTICE: I have not consulted the Treasurer on the subject, but I understand he does not propose to alter the incidence of the tax in any way.

Mr. Latham: You are only bringing more people under the Act.

The Premier: There will be no increase.

The MINISTER FOR JUSTICE: That will not prevent the State from receiving an increased amount of probate duty. I hope that during the next four or five days members will be able to get the strength of the Bill. I have endeavoured within my power to give a lucid explanation of it, and have given a number of illustrations of what has occurred so that members may more easily understand what we are trying to avoid. With these illustrations members should have a fairly good understanding of what the Bill proposes to do, namely, to bring all these estates under the purview of the Act. I move—

That the Bill be now read a second time.

On motion by Mr. McDonald, debate adjourned.

BILL—FORESTS ACT AMENDMENT.

Second Reading.

THE MINISTER FOR FORESTS (Hon. P. Collier—Boulder) [6.5] in moving the second reading said: This is one of the hardy annuals with which members are well acquainted. It is, therefore, unnecessary for me to dwell upon its contents. It is known that Section 41 of the Forests Act of 1918 provides that three-fifths of the revenue of the Forests Department should go to the reforestation fund. In 1924 the revenue from sandalwood was excluded from that fund, and provision was made that ten per cent. of the revenue from sandalwood, or £5,000, whichever was the greater, should go into a special sandalwood reforestation fund. That was continued until 1930. The money that was available in that fund, that is the 10 per cent. or £5,000, whichever was the greater, was not required for sandalwood purposes. In 1930, therefore, a Bill was introduced and carried, under which the whole of the revenue from sandalwood went into Consolidated Revenue. That practice has been maintained since 1930. It is proposed by this Bill to continue that for another year. The balance now in the fund is a little over £1,200, whereas last year it was £2,800. It has not been necessary to expend the money because it could not usefully be expended

in the direction it was thought desirable in regard to the reforestation of sandalwood. No new planting has been carried out. Members are familiar with the intricacies associated with the reforestation of sandalwood. Rabbits are very destructive of the small plants. In order that any scheme might be effective, it would be necessary to fence in the plants, not only from rabbits but also from stock which trample them down and eat them. No scheme of reforestation of sandalwood is workable at present so far as we know, and there is no need, therefore, to pay money into the fund when it cannot be utilised for the purpose for which it was provided or set aside. It is proposed to take that money for another year into Consolidated Revenue, as has been done for the last four years. Prior to that all except ten per cent., and since 1930 all of it, has been paid to Consolidated Revenue. It is proposed by the Bill to continue that practice for another year. I move—

That the Bill be now read a second time.

On the motion by Mr. Latham, debate adjourned.

BILL—MORTGAGEES' RIGHTS RESTRICTION ACT CONTINUANCE.

Second Reading.

THE MINISTER FOR LANDS (Hon. M. F. Troy—Mt. Magnet) [6.11] in moving the second reading said: This is a continuance Bill. Its principles are well known to members. The Act has been in force since the 19th August, 1931. It has undoubtedly been one of the steadying and protective influences during the depressed period through which the State has passed and is still passing. Its influence, whilst of value in the past, will be even more potent if there is an increase in the value of commodities, and a return to more prosperous conditions. It may not be worth the while of a mortgagee to foreclose when a property is of no value, but if we work out of the depression and values increase, there will be an encouragement for the mortgagee to foreclose. It will constitute a temptation to some people to take advantage of the conditions, unless a measure of this kind is retained on the statute book for at least another 12 months. If a mortgagor has done his best to maintain the security, it is only just that he should be permitted to defend his assets, or his equity in any property, particularly if values are likely to increase. The rise in the price of wool last year wrought a wonderful change over the whole face of the wool industry. I hope prices for wheat this year will effect a similar result in that industry. If this does occur land values will be certain to increase, and under protective legislation mortgagors should be in a position to improve their financial standing. Legislation of this kind will be more than ever necessary. Members are familiar with this Bill, for it has been explained in the House every year since 1931. Its principles are well known, and its value to the community has been proved. I move—

That the Bill be now read a second time.

On motion by Mr. Latham, debate adjourned.

Sitting suspended from 6.15 to 7.30 p.m.

BILL—REDUCTION OF RENTS ACT CONTINUANCE.

Second Reading.

THE MINISTER FOR JUSTICE (Hon. J. C. Willcock—Geraldton) [7.32] in moving the second reading said: I feel that there is no need to explain at any length this continuance Bill, arising out of financial emergency legislation. More particularly is it not necessary to explain it to those members who sat in the last Parliament and who thoroughly understand the provisions of the principal Act and its incidence. The Act has not been used greatly, but the fact of its being on the statute book has operated in the nature of what might be termed a policeman. It makes a reduction of 22½ per cent. in rents of tenancies determinable at not less than a month's notice, the reduction being similar to that imposed at the same time on wages and salaries of public servants and on incomes from property in the form of bonds and the like. The duration of the original Act was 18 months, and it has since been continued for periods of 12 months. The Act, and therefore this Bill, apply only to tenancies which were current at the commencement of the Act, the 19th April, 1931, or renewals thereof, and do not apply where

a tenancy is determinable by the tenant at less than a month's notice. The existing continuance Act expires on the 31st December next. The Bill merely proposes to continue the operation for the ensuing 12 months, and the matter will have to be reconsidered during the next session of Parliament. We are all hopeful that the incidence of emergency legislation will prove unnecessary at some future date; but it does seem necessary to keep the position secure during next year, as it has been during the past three years. Under the Act, 21 applications for alterations have been received by the Chief Justice. Of these 18 have been granted, and three are still pending.

Mr. Latham: Is that the whole number since the passing of the original Act?

The MINISTER FOR JUSTICE: Yes. It is not a question of the number of applications made under the Act, but a certain set of conditions has operated and most people are satisfied that those conditions should continue. In exceptional cases, however, applications are made for variation of conditions existing on the 19th April, 1931. I do not think the Bill is likely to cause controversy. I move—

That the Bill be now read a second time.

On motion by Mr. Latham, debate adjourned.

BILL—SUPREME COURT CRIMINAL SITTINGS AMENDMENT.

Second Reading.

THE MINISTER FOR JUSTICE (Hon. J. C. Willcock—Geraldton) [7.36] in moving the second reading said: This short Bill will, I think, commend itself to every member of the House. It regulates the criminal sittings of the Supreme Court at Perth, and provides that such sittings shall be held monthly except in January. At present there are monthly sittings of the Criminal Court except in January and February. It is thought that—although the Supreme Court vacation extends over a couple of months—there being always a Judge in Chambers available, criminal sessions should continue in February. Numerous people are charged with serious offences; and apart altogether from the cost incurred by the Government through the congestion which results by reason of criminal sessions not being held for about three months, there is the aspect of the worry and anxiety of mind that persons charged with serious offences have to undergo during the period of waiting for trial. If a man is committed for trial during, say, the first week of December, it might be, under existing conditions, that the case would not be heard in the Supreme Court until possibly towards the end of March. This involves serious congestion of criminal cases in the March sittings. This year the March sittings were not finished until well towards the middle of April, and the cases listed for April were not finished until the middle of May. It took until June to get up to date with current criminal cases. Though one does not like to refer to a case that is past, hon. members may recollect that last year a person was charged with an offence involving the death penalty, if the prisoner were found guilty. It is hardly fair that a person charged with a crime punishable by death should be kept for three months on end waiting and waiting. Possibly the anxiety and stress of mind suffered in those circumstances would be worse than the penalty. In this particular case the defendant was deemed by the jury to be innocent. Yet he was compelled to wait through that lengthy period for a determination. There should not be these long delays, particularly in grave cases. Moreover, the administration of justice should be as speedy as circumstances will allow. Occasionally it happens that a person committed for trial at the March sittings of the Criminal Court is unable to get people to go bail for him and remains incarcerated for perhaps three months while awaiting trial. Even if that person is found guilty, the judge may consider a penalty of three months or perhaps less to be adequate, with the result that the prisoner is liberated at the rising of the court. Whatever disorganisation is caused in the lives of people as the result of being charged with a criminal offence, should be reduced to the lowest possible limits by expediting the hearing. Elsewhere the position with regard to criminal sessions is as follows: New South Wales, four criminal sessions a year, and circuit; Victoria, criminal sessions monthly except in January, and the position is similar in Queensland and South Australia. The Commonwealth, of course, has no criminal sessions. In New Zealand there are criminal

sessions every month except January. Thus the Bill proposes to bring our procedure into line with that obtaining in the majority of Australian States. I regard it as highly desirable that sessions should be held as frequently as practicable. I have discussed the matter with His Honour the Chief Justice, who considers that there will be no difficulty in arranging the additional sittings. I commend the measure to the House, and move—

That the Bill be now read a second time.

On motion by Mr. Latham, debate adjourned.

House adjourned at 7.42 p.m.

Legislative Council,

Tuesday, 28th August, 1934.

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

QUESTION—LOTTERIES COMMISSION, APPLICATIONS.

Hon. H. SEDDON asked the Chief Secretary: 1, How many industrial unions or organisations have applied for permission to hold sweeps since the Lotteries Commission has been instituted? 2, What are the names of those unions or organisations—(a) which have been granted permission; (b) which have been refused permission?

The CHIEF SECRETARY replied: 1 and 2—

4,000 at 1s.—W.A. Midland Railway Employees' Industrial Union of Workers, 18th March, 1933—Granted.

10,000 at 1s.—Coolgardie Federated Miners' Union (Destitute Members), 28th April, 1933—Granted.

S/Raffles—Eight-Hour Sports Meeting, Gwalia (Public Charities), 29th April, 1933—Granted.

500 at 1s.—A.L.P., Collie (Ladies' Auxiliary) (Unemployed and Destitute Mothers), 12th June, 1933—Granted.

2,500 at 1d.—A.L.P., Bassendean, 13th July, 1933—Granted.

1,500 at 1s.—Australian Postal Electricians' Union (in aid of Perth Hospital), 14th July, 1933—Granted.

5,000 at 6d.—Kalgoorlie and Boulder Greengrocers' Association (Association Members), 6th July, 1933—Granted.

3,000 at 6d.—A.L.P., Claremont, 14th September, 1933—Granted.

20,000 at 6d.—Fremantle Lumpers' Union (Liquidate Funeral Expenses and Relieve Distress of Families), 23rd October, 1933—Refused.

10,000 at 1s.—A.L.P., Kalgoorlie (Distress Fund), 7th August, 1933—Granted.

3,000 at 1s.—Kalgoorlie and Boulder Greengrocers' Association (Distressed Member), 30th November, 1933—Granted.

3,000 at 6d.—A.L.P., Mount Hawthorn (Goose Club), 12th October, 1933—Granted.

Tickets 1s.—Wheatgrowers' Union, Nungarin (Goose Club), 29th November, 1933—Granted.

3,000 at 3d.—Albany Lumpers' Union (Children's Picnic), 4th December, 1933—Granted.

200 at 1s.—W.A. Amalgamated Society of Railway Employees, Kalgoorlie, 12th March, 1934—Refused.

2,500 at 1s.—Australian Postal Electricians' Union (in aid of Lemnos Hospital), 1st May, 1934—Granted.

Sweep—Metropolitan Council of Unemployment Relief Committees, 7th June, 1934—Refused.

10,000 at 1s.—Coolgardie Federated Miners' Union (Distressed Members), 7th June, 1934—Refused.

5,000 at 1s.—Kalgoorlie and Boulder Greengrocers' Association, 30th July, 1934—Refused.