

only one view—the people as a whole are very indignant at the action of the Government. The amendment is prefaced by the words “In the opinion of this House.” Evidently there is one prerogative left to us and that is to express an opinion. Whether it be right or wrong does not matter.

Hon. J. Nicholson: That is a privilege.

Hon. R. G. MOORE: If we make mistakes, we shall not be the only people to err. Mr. Gray made a mistake. The amendment submits that in the opinion of the House it is contrary to the spirit of justice and an improper interference with the administration of the law for a free pardon to have been granted to Mr. Gray. In my opinion that is the best reason that has been advanced during the debate for passing the motion so ably moved by Mr. Seddon. In the fewest words possible Mr. Nicholson has given the best reason for passing the motion. Mr. Nicholson seems to have gone to a lot of trouble and he certainly has done well to condense the reason into so few words—it is contrary to the spirit of justice and an improper interference with the administration of the law. That is why the motion was framed, and that is why I intend to support the motion.

Amendment put and negatived.

#### *Personal Explanations.*

Hon. H. Seddon: I wish to make a personal explanation. Mr. Gray has asked that an opportunity be given him to make a considered statement to the House and requested that the debate be adjourned until Thursday next. I consider that we should give Mr. Gray an opportunity to make any statement he desires, but I should like to have the debate concluded to-morrow. Therefore I move—

That the debate be adjourned until to-morrow.

Hon. E. H. Gray: As I am vitally concerned, it is my wish to make a considered statement to the House and explain my rights in the unfortunate happenings of the last month or two. I consider that my request is a reasonable one because I believe I can throw a different light on the debate.

Hon. J. Cornell: You are making a personal explanation?

Hon. E. H. Gray: Yes. This is the first occasion on which I have been in the House

since the debate started and the discussion has taken a different turn. To-morrow a public engagement will prevent my making the necessary preparations, and I should like until Thursday afternoon to prepare my statement.

Hon. J. Cornell: Put the engagement aside.

Hon. E. H. Gray: It is impossible to do so.

Motion (adjournment) put and passed.

#### **BILLS (4)—FIRST READING.**

1, Tenants, Purchasers, and Mortgagors' Relief Act Amendment.

2, Electoral Act Amendment.

3, Constitution Acts Amendment.

4, Roman Catholic Church Property Act Amendment.

Received from the Assembly.

*House adjourned at 9 p.m.*

### **Legislative Assembly.**

*Tuesday, 4th September, 1934.*

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

#### **LEAVE OF ABSENCE.**

On motion by Mr. Wilson, leave of absence for two weeks granted to Mr. Marshall (Murchison) on the ground of urgent private business.

## BILL—CONSTITUTION ACTS AMENDMENT.

Read a third time and transmitted to the Council.

## BILL—SOLDIER LAND SETTLEMENT.

### *Second Reading.*

Debate resumed from the 30th August.

**MR. LATHAM** (York) [4.35]: There is in the Bill very little that one can discuss. It ratifies an agreement entered into between all the States and the Commonwealth. But it has probably greater application to Western Australia than to the Eastern States, inasmuch as in this State considerably more money per capita was advanced than in most of the other States. In New South Wales the total was £9,000,000, in Victoria it was £11,000,000 and in Western Australia £5,000,000. This was money advanced to settle ex-soldiers on the land, together with those who came under the definition of ex-soldiers. In 1926 this House passed an Act ratifying an agreement which, of course, was subject to ratification by the Commonwealth Parliament. I understand it has not been so ratified. There is very little difference in the agreement before us now, except that it provides for an adjustment of the interest. In the Schedule on the last page of the Bill there are set out the rates of interest the State is paying for the loans floated, and from the final clause of the agreement dealing with interest it looks as if the rate is to be 4 per cent. Again, the various sums advanced by the Commonwealth to the State represented different loans, and of course were subject to redemption on fixed dates. By the agreement before the House it is proposed to consolidate all those loans and bring them under the Financial Agreement passed by this House in 1927. In addition to those two points, provision is made in the final portion of the First Schedule that the Prime Minister or any State Premier may advise a substitute member of the Loan Council in his absence. As for the agreement itself, I can see very little in it differing from that of 1926 except, of course, that it is more up to date. One important point was made by the Minister when moving the second reading, namely whether we have received from the Federal Government a fair recognition of the work which was done by the State for the soldiers. This State has suffered con-

siderable loss over the placing of soldiers on the land, and I am not sure that we have received the full financial benefit that we should have received. It is not much use talking about it now, but it seems to me that the right party to have accepted this responsibility were the Commonwealth. They should have accepted the full responsibility.

The Minister for Lands: I said that in the beginning.

**MR. LATHAM:** However, they did not, and, things being prosperous at the time, we were able readily to get the money for them, and so, unfortunately, we have had to pay. Many properties were purchased in this State at prices far above what the properties would carry, and there must have been considerable losses. Whether we have had fair recompense or not, I cannot say. In the Eastern States, reference was made to the home maintenance areas. This State did not make that mistake, whereas the Eastern States did. In most instances, the properties here were sufficiently large, but when Mr. Justice Pike made his investigation of soldier settlement throughout Australia with a view to a satisfactory adjustment between the Commonwealth and the States, he found that in many instances the Eastern States had put soldiers on to unduly small areas. In order to enable them to increase those areas, considerable financial benefit was given to the Eastern States, but since we did not make that mistake here, we got no compensation at all from it. I remember that when I was Minister for Lands it looked as if we had been overpaid by the Commonwealth Government in that adjustment under Mr. Justice Pike's award. This agreement before us is practically giving effect to the award made by Mr. Justice Pike.

The Minister for Lands: We had cheaper land and larger areas.

**MR. LATHAM:** Yes, we gave them the land at half price, together with many other concessions, but the Commonwealth have refused to acknowledge that. I hope this is not the final word. The Commonwealth Government should accept some further financial responsibility in the adjustment that will be necessary to put the soldiers on a financial basis in this State. I can assure the Minister that any assistance we on this side can render him in the interests of the farmer-soldiers on the land will be given. I repeat that I believe the Commonwealth

Government did not accept the responsibility they should have accepted. It was they who made the promises to the people as to what was to be done, and in consequence they have got all the credit. When the Bill is in Committee I want the Minister to discuss one or two little questions about which I am not quite clear. As I said before, the agreement has been signed and is subject to ratification. I believe this is the only State that ratified the previous agreement. I can find no record in the statutes of the Commonwealth Government to show that that Government ratified it.

The Minister for Lands: It has all been held up because the agreement was not ratified.

Mr. LATHAM: Only recently there was a change of Government in Tasmania, and amongst the signatories from that State is the new Treasurer.

The Minister for Lands: The agreement is being ratified now.

Mr. LATHAM: The Commonwealth Government cannot ratify this agreement until they meet again. I have no objection to the second reading but, as I say, there are one or two points I will ask the Minister to discuss in Committee. The Minister has said he will do all he can to see that further relief is given to the State on account of the losses due to soldier settlement.

HON. W. D. JOHNSON (Guildford-Midland) [4.42]: The Bill is the result of clever organisation on the part of the Federal Government to transfer a very big financial obligation, which is really their own liability, on to the shoulders of the State. I was present as Minister for Lands and Agriculture at the conference that was called to discuss this important matter. I went across with the utmost enthusiasm, because I conceived that it was an opportunity for the State to arrange for the Commonwealth to take over portion of our lands for the purpose of settling returned soldiers. At that time it was becoming abundantly clear that we had made a huge blunder in our land settlement: we had thrown open areas and only partially settled those areas before throwing open other areas, and for each of those partially settled areas as it was thrown open we were called upon to build a railway. That

applies to an extent to this day. About the time the conference took place on the settlement of returned soldiers, the position was developing and causing concern to those in the then State Administration. The idea I had was that the Commonwealth had called the States together to inquire what land was available, so that the Commonwealth might accept the responsibility of providing for returned soldiers. When I arrived at the conference I was startled by the attitude adopted there, the idea being to get the States to accept the responsibility and liability of placing returned soldiers on the land. I fought that strenuously, but did not get a great deal of help. For a period Mr. Theodore, who represented Queensland, supported me in pointing out what the Leader of the Opposition has correctly pointed out this afternoon, that the settlement of returned soldiers was a liability associated with defence, and that the Defence Department should accept the responsibility, particularly of the finance, in the making of provision for returned soldiers. Speaking on behalf of Western Australia I pointed out that we had the largest area of land that could be made available in the Commonwealth, and that we were prepared to make it available to the Federal Government for settlement. I was defeated, after hanging the matter up as long as I could and practically stonewalling it. I then concentrated on the question of the interest to be paid by the States to the Commonwealth for the capital involved. As a result of arguments I was able to get the rate of interest reduced to, I think 3½ per cent. This is something like the Financial Agreement of 1928. The people of the State endorsed the Commonwealth's proposal by which the States accepted all the liability for the settlement of returned soldiers. It has cost this State a considerable amount of money up to date, and will cost it much more. It is distinctly unfair. We have no means of raising funds for defence purposes, or for anything to do with defence. We have a liability, of course, and a responsibility towards those who returned from the war. There is no better way to look after them than to make them producers settled on their own land. It was a laudable desire to place them on the land, but it was wrong for the Commonwealth to saddle the States with the burden. When people voted for the Financial Agreement of 1928, they

voted themselves into a difficulty. They are now complaining of it. The Leader of the Opposition to-day complains of this burden, but the party he represents did not protest, so far as I know, when the point came up. If there had been a show of public opinion against this, and the Commonwealth Government had been made to stand up to their liabilities and responsibilities at the time, we might have saved the State a lot of money. Those who complain to-day were silent then, so far as my memory goes. It is interesting to note that at one stage, for the purpose of political propaganda, my attitude in trying to protect the States against this imposition was referred to as one of opposition towards assisting returned soldiers. In other words, efforts were made to injure me politically. Extracts were made from my speeches when I was fighting this issue, and made to serve as an indication of my callousness with regard to the help that was rightly required by returned soldiers. This shows that when one tries to protect the State, at times one gets very little assistance and is frequently grossly misrepresented. It is well we should put it on record every time we speak, that the Commonwealth in this regard did impose upon the State. They had no right to do it. When the matter was discussed in conference the States, by a majority, willingly went into the liability and accepted it, and permitted the burden to be transferred from the rightful shoulders of the Commonwealth to the shoulders of the States. We have been groaning under it ever since. It is one of those burdens we have no chance of meeting. We should not be called upon to meet the interest liability by taxation; that should be met from Federal surpluses. It is no wonder the Commonwealth have huge surpluses. All these great burdens, for which they should be directly liable, have been transferred to the States, and we are struggling to do things we cannot finance. They have the money with which to flog us, simply because we were foolish in this matter as well as in others. During the early stages of our history just after the war, public opinion was disorganised. People were not thinking seriously of what posterity would have to pay, because of their scant thought of the economic consequences of what was happening at the time.

**THE MINISTER FOR LANDS** (Hon. M. F. Troy—Mt. Magnet—in reply) [4.53]: I understand this agreement would have been ratified by the other States except for its being held up by Western Australia. This State was not satisfied with the position, nor that the Commonwealth had borne a fair share of the burden with regard to repatriation of soldiers. I also understand that the recent Premiers' Conference agreed that all States should ratify the agreement. I should like to see some means adopted whereby the Commonwealth Government could be reasoned with concerning the making good of some of the losses incurred by this State on the settlement of soldiers on the land. When Mr. Justice Pike gave his decision, he gave nothing to this State. He held that the Commonwealth Government had made concessions to the extent of £1,477,000, and that it was reasonable for both parties to share equally in any concessions that were made. There was a further concession in respect to rentals amounting to £700,000. Unhappily, as a result of Mr. Justice Pike's award, the other States scored fairly handsomely. New South Wales obtained £890,000, Victoria £529,000, Queensland £190,000, South Australia £104,000, Tasmania £113,000, and this State nothing. This was entirely due to the fact that the cost of repatriation in the other States was very much higher than it was here. Our land was cheap land. We did not buy repurchased estates at a high cost, as was done in the other States. Repatriation there became very costly and many soldiers were not satisfactorily settled. As has been said, several soldiers were not provided even with a home maintenance area. In this State we had plenty of Crown land available, and even the repurchased estates were not dear. Some of our returned soldiers say their land was dear, but it only cost £3 or £4 an acre. Some of the poorer places may have been dear, but that was not the rule. Our people were placed upon more satisfactory settlements than was the case in the Eastern States. When Mr. Justice Pike delivered his award, times were prosperous and we got nothing out of it. The position has now changed, and soldier settlers, in common with others in this State, are in a bad way. I do not know how we can induce the Commonwealth Government to recognise their responsibilities except by coaxing them or persuading them to do so.

Mr. Latham: It would be very foolish to attempt to coax them.

The MINISTER FOR LANDS: We have no power to force them to do it. We have taken on the obligation. The member for Midland-Guildford (Hon. W. D. Johnson) has just pointed out that he was able to show at the time that this was wrong, but that he was not heeded. I remember at the time I pointed out that the responsibility was one entirely for the Commonwealth, and that we ought to give them the land and let them take the responsibility. So keen were the then Government about encouraging the development of the wheat industry that they were prepared to accept any liability because of a temporary advantage. The temporary advantage has gone, and we are left with what appears to be a permanent disadvantage. Many of the properties are over-capitalised, and it does not appear with the present price of primary products as if these settlers will make good. We took over the responsibility from the Commonwealth Government. I fear them when they come along with gifts. There is always something attached to them. The Prime Minister has enunciated a policy of help to the farmers.

Mr. Wilson: God help them!

The MINISTER FOR LANDS: What strikes me about it is that the people concerned are not making much inquiry into it. They are taking it for granted that the Commonwealth Government are going to raise and give them £20,000,000. I hope that is so. Even though it may be done at the expense of the community, I hope the farmers will get some of it. What the elector ought to know is what the scheme means, whether the Commonwealth are going to lend the money to the States, and the States are to pass it on to the settlers and take the responsibility.

Mr. SPEAKER: The Minister is hardly replying to the subject matter of the debate.

The MINISTER FOR LANDS: I accept your ruling, Mr. Speaker. I am very keen to know what the Commonwealth Government propose to do in this matter. A scheme like this cannot be of much use to the country. At any rate, we have to ratify this agreement. It has been held up for years by this State, and we have had no advantage from it. The other States want to ratify

it and apparently that was agreed to at the last Premiers' Conference.

Question put and passed.

Bill read a second time.

#### *In Committee.*

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

Clauses 1, 2—agreed to.

Clause 3—This Act to be read with other Acts:

Mr. LATHAM: The Soldier Land Settlement Act, 1926, provides that the agreement referred to in that Act shall be subject to ratification by the Parliaments of the Commonwealth and the State, and shall come into effect when so ratified. My contention is that the Act in question should have been repealed, since it can have no effect, not having been ratified by the Commonwealth Parliament. The substance of the 1926 agreement being contained in the present Bill, no reference to that Act is necessary.

The MINISTER FOR LANDS: Before the third reading I shall reply to the Leader of the Opposition on that point.

#### *First Schedule:*

Mr. LATHAM: In two or three respects the schedule is not clear. The definition of "Dependant" seems wrong. First it speaks of "a deceased member of the forces," and then it refers to "members of the forces." It is as though the widow ought to have had more than one husband.

The Minister for Lands: These clauses are drawn by lawyers.

Mr. LATHAM: I would like to know what the lawyers mean.

The Minister for Lands: It means a member of the forces.

Mr. LATHAM: Again, the words "or upon" should not be in the definition. The original agreement is much clearer. This definition seems to mean that the widow must have been married within 12 months prior to the man's joining the forces, and seems to exclude the case of a wife married after the man became a member of the forces.

The Minister for Lands: I do not think so.

Mr. McDONALD: In my opinion the words "or upon" should remain in the section. Some dependant might be supported by the earnings of a member of the forces, and in another case the member might have no earnings but might be in receipt of a small income or some other means of livelihood. The distinction is fine, but possibly it has been put in for some purpose. I do think, however, that the word "members" referred to by the Leader of the Opposition should be "member."

Mr. Doney: What about the case of a mother depending on two soldiers?

Mr. McDONALD: I agree with the Leader of the Opposition that the definition seems to limit "dependants" to those who have become dependants during the period of one year prior to the man becoming a member of the forces, and to exclude any dependants who became such after he joined the forces.

Mr. Latham: I hope the Minister will look into the matter.

The Minister for Lands: I will.

Mr. LATHAM: Paragraph 7 of the schedule provides that each State shall complete as far as practicable the satisfactory settlement of settlers as defined in the agreement who are now on the land in that State, particularly with respect to provision of home maintenance areas. That does not necessarily refer to cases where the areas are too small. We are binding ourselves satisfactorily to settle those persons who are on the land now. I believe this paragraph was not in the original agreement. The question has arisen since Mr. Justice Pike made his investigation. I hope that by this paragraph we shall not commit the State to something that is impossible.

The MINISTER FOR LANDS: Mr. Justice Pike was satisfied that this State had supplied home maintenance areas. He found that in Western Australia the soldiers were satisfactorily settled, and that the requirements of the case had been met. For that reason we got no award from him. I do not think that question can arise again.

Mr. LATHAM: I am not sure that it cannot. Paragraph 10, sub-paragraph (d), presumably means that in future these loans will carry interest at only four per cent.

The Minister for Lands: Or any lesser rate.

Mr. LATHAM: I cannot find that in the agreement. The half per cent. additional chargeable to the settler means, I presume, that the rate charged to him can be only  $4\frac{1}{2}$  per cent.

The MINISTER FOR LANDS: I agree with the hon. member. This State's debt was not reduced by Mr. Justice Pike's determination in the same way as the debts of the other States were reduced. The Commonwealth conversion loan was completed on the 1st August, 1931, providing for a reduction of  $22\frac{1}{2}$  per cent. As a result, the interest payable on the loans here in question was reduced to 4 per cent. From that date 4 per cent. has been charged to this State on the amount now owing.

Mr. Latham: These loans have now lost their identity, being absorbed in the Financial Agreement?

The MINISTER FOR LANDS: They are now absorbed in Commonwealth consolidated stock, but they carry only 4 per cent. interest.

Schedule put and passed.

Second Schedule, Title—agreed to.

Bill reported without amendment, and the report adopted.

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

*In Committee.*

Resumed from the 30th August; Mr. Sleeman in the Chair, the Minister for Justice in charge of the Bill.

Clause 28—Other non-testamentary dispositions (partly considered):

Clause put and passed.

Clauses 29 to 32—agreed to.

Clause 33—Duty to be deducted from beneficial interests:

Mr. McDONALD: I have no doubt the Government intend to continue the principle that operates regarding deductions from beneficial interests. Under the present law, widows and children, for instance, obtain a rebate of half the amount of probate duty payable. As Subclause 2 stands, there is at least a doubt as to whether they will

receive that rebate in the computation of duty. The same remarks apply to Sub-clause 3, which refers to non-testamentary disposition of property. I hope the Minister will see that widows and children are not deprived of the concessions they have enjoyed for so long.

The MINISTER FOR JUSTICE: Under our Standing Orders at present, Bills of this description have to be introduced in a different form. The present Bill is in the nature of an assessment measure, and later on provision will be made in a taxing Bill to cover the point raised by the member for West Perth. The present Bill will not be proclaimed until the taxing measure also is proclaimed. When the taxing Bill is before the Committee, if the hon. member thinks the position is not safeguarded, he can take the necessary action then.

Clause put and passed.

Clauses 34, 35—agreed to.

Clause 36—When limited action taken, duty thereon payable out of corpus:

Mr. McDONALD: Under the existing legislation a ruling was laid down by the High Court that will be affected by the clause. I think the position under the clause will be more workable in computing duty, as compared with the procedure under the ruling laid down by the High Court.

The Minister for Justice: The clause will give power to make adjustments.

Mr. McDONALD: Yes.

Clause put and passed.

Clauses, 37, 38—agreed to.

Clause 39—Where too little duty assessed:

Mr. McDONALD: With the permission of the Minister, I had a conversation with the Assistant Crown Solicitor regarding the clause, and mentioned that it seemed to me some limit of time might reasonably be imposed on the assessment of duties by the Commissioner. At present that officer can go back any length of time and re-assess duty on a deceased person's estate. There is provision that the executors shall not be liable beyond the assets that remain in their hands, but even so it seems to me undesirable that there should be no time limit fixed. Under the Federal taxing Act, the Federal Commissioner can go back for three years in the assessment of duties and no longer, unless he is of the opinion that the taxpayer con-

cerned has acted fraudulently or has attempted evasion of the tax. In such circumstances, the Commissioner can go back any length of time. I hope the Minister will consider the advisability of imposing some limitation on the time for the re-assessment of duty.

The MINISTER FOR JUSTICE: I agree with the principle enunciated by the member for West Perth, but I do not know where an amendment providing the limitation could be properly inserted. It might be as well to provide for a period of two years, but I will look into the matter and see where some satisfactory amendment could be inserted. At the same time such an amendment should not prevent the Commissioner going back any length of time should the element of fraud enter into the matter.

Clause put and passed.

Clause 40—Where too much duty paid:

Mr. SAMPSON: The clause provides that if at any time within two years after duty has been paid it is found that too much was exacted, the Commissioner shall order the amount overpaid to be returned to the person concerned. Two years is too brief a period, and six years would be more satisfactory. I move an amendment—

That in line 1 "two" be struck out and the word "six" inserted in lieu.

The MINISTER FOR JUSTICE: It would not be desirable to make the alteration. The payment of duty should be finalised as soon as possible. If a substantial amount were involved, I do not think any Government would disapprove of an application to have the matter reviewed. If a man has a rightful claim against the Government, he is usually given all possible consideration. Even if the discovery were made five or ten years later, I think the Government would give consideration.

Mr. Ferguson: Would the Commissioner have power to make a refund after two years?

The MINISTER FOR JUSTICE: A recommendation could be put through Executive Council or a reimbursement made in some other way. Governments do not seek to victimise the people.

Hon. N. Keenan: It is very pleasant to hear that.

The MINISTER FOR JUSTICE: The hon. member has had experience as a Minister.

Mr. Sampson: He seems to be a little doubtful.

The MINISTER FOR JUSTICE: Governments generally endeavour to do what is fair and just in all circumstances. Sometimes they have acted more than justly in order to obtain a settlement.

Hon. N. KEENAN: If it were correct to say that Government departments always did the right thing, we would require very few provisions to govern their conduct. Of course, that is not so. Government officials, through an excess of zeal, often do things that are to the disadvantage of citizens, and of no department can that be said more than of the Taxation Department. Probably the Minister at times has not been credited with the full measure of deductions to which he considered himself entitled.

The Minister for Justice: No, I take the word of the department.

Hon. N. KEENAN: Then the Minister is a happy man.

Mr. Ferguson: It is very difficult to get refunds from the department.

Hon. N. KEENAN: The Minister should provide the same term for excess payments as for short payments.

The Minister for Justice: I agreed to the insertion of two years in the previous clause.

Hon. N. KEENAN: I did not understand that. If the same term is fixed in both instances, no exception can be taken.

Mr. SAMPSON: From the statement now made by the Minister, I understand that a definite period of two years will be prescribed in Clause 39 as well as Clause 40.

The Minister for Justice: Yes.

Mr. SAMPSON: I am glad to have that assurance, and ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr. McDONALD: Greater elasticity is required in Clause 40. Departmental officers invariably adopt the attitude, that when there is a time limit, they cannot go beyond it. While it might be possible to invoke the aid of the Governor-in-Council and secure a special concession, to do so would be an operation of some magnitude. The Minister might retain the term of two years but provide that the Commissioner may, in proper cases, make a refund of duty, even though the period of two years had elapsed. An instance came under my notice to-day. An estate had paid duty on

some thousands of pounds, and about two years later the executors discovered that the deceased person had given a guarantee, and they were now being required to pay £2,000 under the guarantee.

The MINISTER FOR JUSTICE: To give equitable treatment in cases such as that mentioned by the member for West Perth, I think a suitable proviso could be drafted.

Mr. Latham: A guarantee of that kind might escape the attention of the executors.

The MINISTER FOR JUSTICE: Quite so. I had personal experience of a guarantee, having been landed six years after it was given. Of course, a guarantee might or might not be exercised, and where doubt existed it would be difficult to determine the amount of duty payable.

Clause put and passed.

Clause 41—Appeal from Commissioner:

Mr. McDONALD: This is another clause about which I had a discussion with the Assistant Crown Solicitor. It provides that any executor, administrator or trustee who is dissatisfied with any assessment of the Commissioner may, after 14 days of service of the notice of assessment, or such further time not exceeding 14 days, as the Commissioner may allow, lodge an objection in writing with the Commissioner against the assessment, setting out fully the grounds of objection. I think the time allowed is too short and perhaps the Minister will agree to extend it. Within the fourteen days it might not be possible to become in possession of all the facts. I consider that 28 days might be the time allowed. In a State of the magnitude of Western Australia, we should not be too definite about the restriction of time.

The MINISTER FOR JUSTICE: I have no objection to an amendment to provide for an extension of the time. Previously there was no provision for supplying the Commissioner with any information he might require, and under the law as it stands to-day an appellant must immediately go to the court, and the court has to grant the time. In the latter part of the Bill it is provided that if duty is not paid within a certain time, a rate of interest may be imposed, the object being to prevent people unduly delaying the finalisation of an estate. I will not oppose an extension of the time to 28 days. Such an



amendment would be reasonable in a State like ours where the distances are so great.

Mr. McDONALD: I move an amendment—

That in line 3 "fourteen" be struck out and "twenty-eight" inserted in lieu.

Amendment put and passed.

Mr. McDONALD: I move an amendment—

That in line 4 the words "not exceeding 14 days" be struck out.

The MINISTER FOR JUSTICE: I have no objection to the amendment, though it will put it in the power of the Commissioner to say whether he will or will not grant further time. So we are really taking away some rights, and I do not know whether the hon. member would like to do that. We do have some over-zealous public servants who will not grant any consideration at all. The amendment will take away a limit and leave it to the discretion of the Commissioner whether he will or will not grant further time.

Mr. McDonald: But the executors will have 28 days to begin with.

The MINISTER FOR JUSTICE: I offer no opposition to the amendment.

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

Clauses 42, 43—agreed to.

Clause 44—Duty a debt to the Crown.

Hon. N. KEENAN: Is there any necessity for this clause? Clause 8 already provides that the duty shall be a first charge on the estate.

The MINISTER FOR JUSTICE: Although Clauses 8, 27 and 44 may be similar, the first deals with probate, the second with settlements, and the third with dispositions of property. This clause may be considered redundant, but it was inserted because it was thought to be necessary, though whether that is so or not I am not in a position to say. I am, however, assured by the draftsman that by its inclusion the position is made more clear than otherwise it would be.

Hon. N. KEENAN: The amount due may be only a small sum and could be recovered in a local court. Why should it be necessary under Subclause 2 to adopt the procedure which involves a Supreme Court action?

The MINISTER FOR JUSTICE: Subclause 2 gives general power. I am advised that it is possible to sue in the local court under the Crown Suits Act.

Hon. N. KEENAN: Why should it be necessary to apply the Crown Suits Act in proceeding for the recovery of a small debt due to His Majesty? Why not proceed in the ordinary way? The Crown Suits Act, if necessary, can be brought in without this special provision.

The MINISTER FOR JUSTICE: It will be of advantage to sue under the Crown Suits Act whenever necessary. Of course that Act would not be utilised for a small ordinary action where recovery can be achieved without it.

Clause put and passed.

Clause 45—Valuation of Partnership interests.

Mr. McDONALD: This clause provides for the valuation of shareholders' partnerships. It provides that in the valuation of the share or interest of any person in the partnership the share or interest of the partner concerned shall be that sum which bears the same proportion to the total capital of the partnership as his fractional share bears to the whole number of shares in the partnership. So to value the share we have to find out what is the total capital of the partnership. In this connection I think the word "capital" is vague. For instance, does it include goodwill?

Mr. Latham: That is a questionable thing for a start.

Mr. McDONALD: I am a little hazy as to what "capital" means. Does it mean the capital put in by the partners or does it mean the difference between assets and liabilities? I suggest the Minister might well postpone this clause for further consideration.

The Minister for Justice: Very well.

Clause postponed.

Clause 46—Non-domiciled persons with partnership interests in W.A.:

Mr. McDONALD: I have had the advantage of discussing this matter with the Assistant Crown Solicitor, and I think an amendment is necessary to the clause. I move an amendment—

That in line 3 the words "and/or elsewhere" be struck out and "or in Western Australia and elsewhere" be inserted in lieu.

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

Clauses 47 and 48—agreed to.

Clause 49—Duty on shares in foreign company on death of shareholders:

Mr. McDONALD: This is perhaps the most important clause in the Bill. It provides that where a foreign company carries on business here the estate of a shareholder who dies is liable to the payment of duty on such a proportion of the value of his shares as the assets of the company in this State bear to the total assets of the company. The existing position is unsatisfactory from the Government's point of view, because the shares of a man in a foreign company are supposed to be domiciled where the company has its headquarters and registered. Unless reciprocal provisions are made with other countries, a shareholder will still pay duty on the whole of his shares in say, Victoria, and will also pay a certain amount of duty in Western Australia. Queensland has legislation similar to this, and in the case of some large pastoral company doing business in Queensland and all the other States with its head office in Adelaide, a shareholder would pay duty on the whole value of his shares in South Australia, but would also pay duty on the assets in Queensland, in Western Australia and in any other State which adopted such legislation. And in the case of mining companies, where all the assets are held in this State and the shares are domiciled in England, then apparently duty would be payable on the shares in England according to the English death duty, and duty would again be payable on all the assets of the company in Western Australia because the assets are in this State. So, certain classes of people would have to pay, if not double duty, at all events much more duty than is paid by other people. I wish to deal at some length with this section because it is so very important.

Progress reported.

*House adjourned at 6.13 p.m.*

## Legislative Council,

Wednesday, 5th September, 1931.

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

### PAPERS—FIRE BRIGADES BOARD.

*Dismissal and Reinstatement of H. P. Phillips.*

HON. H. SEDDON (North-East) [4.35]: I move—

That all papers dealing with the dismissal and re-instatement of H. P. Phillips, of the Victoria Park Fire Brigade Station, by the Fire Brigades Board, be laid on the Table of the House.

On motion by the Honorary Minister, debate adjourned.

### MOTION—ROYAL PREROGATIVE OF PARDON.

*Disqualification of Hon. E. H. Gray, M.L.C.*

Debate resumed from the previous day on motion by Hon. H. Seddon—

That, in the opinion of this House, the free pardon granted to the Hon. Edmund Harry Gray, insofar as it professes to remove the disqualification incurred by him under Section 184 of the Electoral Act, is of no force or effect, inasmuch as it is not a proper exercise of the Royal prerogative of pardon.

HON. E. H. GRAY (West) [4.37]: It is a very painful duty I have to perform today. First of all I thought that, from the point of view of good taste, it would be better for me to leave the Chamber whilst the debate was proceeding, and allow it to go on in my absence. I therefore sat in the gallery. When I saw how the debate was unfolding, and as Mr. Seddon outlined his remarks, I felt I would be a coward to go on sitting in the gallery, and that my place was in my seat where I could defend my honour. I am here not only to defend my honour; there are other things to think of besides that.