all their faults, I consider the trustees have done wonderful work. I am referring more to the permanent trustees—to Mr. Paterson, although he considered that £300 was sufficient to lend to me, and to his successor, Mr. McLarty. Mr. Paterson did wonderful work, and Mr. McLarty has done likewise. I wish to pay this tribute of praise to them.

On motion by Mr. Brockman, debate adjourned.

BILL—SUPREME COURT CRIMINAL SITTINGS AMENDMENT.

Returned from the Council without amendment.

House adjourned at 9.28 p.m.

Legislative Council,

Tuesday, 25th September, 1934.

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

MOTION—ROYAL PREROGATIVE OF PARDON.

To inquire by Select Committee.

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

That a select committee consisting of the Hon. J. J. Holmes, Hon. H. S. W. Parker, and the mover be appointed to inquire into the rights and privileges of this House as affected by the exercise of the Royal prerogative, and that the committee have power to call for persons, papers, and records; the committee to report on Tuesday, the 9th October.

A fortnight ago the House carried the following resolution:—

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.

That resolution was fully debated here, but more in the direction of asserting the rights and privileges of this Chamber to deal with a matter which came within its own jurisdiction, and in that respect it stood on the same plane as the Privilege Bill which is introduced by the Leader of the House at the beginning of each session. The House having adopted that resolution, it is necessary to go a little further in order to carry out the wishes of the Chamber and to protect those rights and privileges which have undoubtedly been encroached upon by the action of the Executive. This House is a part of Parliament, and as such has certain rights reserved to it. A very important right, and one which I think will be recognised as a principle having a material bearing on the present position, existed in the Constitution Act of 1889, Section 30 of which reads—

Whenever any question arises respecting any vacancy in the Legislative Council the same shall be referred by the Governor to the said Council to be by the said Council heard and determined.

We know that that section has been repealed. It was, in fact, repealed when the Constitution of the State was altered to permit of the establishment of a House of Assembly to work in conjunction with the Legislative Council. Although the section has been repealed, it embodies a most important principle, one which I shall endeavour to show still exists; and that is the all-important principle that the House is directly concerned with, and is responsible for dealing with, matters pertaining to itself. We find that the Executive, through the issue of the pardon, have created the following position. A member has been restored to this House in the face of a portion of the Constitution Act, embodied in the Electoral Act, which prohibits him from sitting. By statute the Constitution Act lays down that a man may obtain a seat only by election. In this case

the right of election was taken from the electors by the Government. The practice of Parliament provides that matters affecting the seat of a member are matters of privilege. Now may I read a passage from May's "Parliamentary Practice," page 62—

> Each House, as a constituent part of Parliament, exercises its own privileges independently of the other. They are enjoyed, however, not by any separate right peculiar to each, but solely by virtue of the law and custom of Parliament.

A little further on "May" says—

> The law of Parliament is thus defined by two eminent authorities: "As every court of justice hath laws and customs for its direction, some the civil and canon, some the common law, others their own peculiar laws and customs, so the High Court of Parliament hath also its own peculiar law, called the 'lex et consuetudo Parliamenti.'" This law of Parliament is admitted to be part of the unwritten law of the land, and as such is only to be collected, according to the words of Sir Edward Coke, "out of the rolls of Parliament and other records, and by precedents and continued experience"; to which it is added that "whatever matter arises concerning either House of Parliament ought to be discussed and adjudged in that House to which it relates, and not elsewhere."

I now quote from page 131—

> It has been shown already (see page 59) that each House of Parliament claims to be sole and exclusive judge of its own privileges . . . .

On page 132 it is stated—

> The claim of each House of Parliament to be the sole and exclusive judge of its own privileges has always been asserted, in Parliament, upon the principles, and with the limitations which were stated on page 62, and is the basis of the law of Parliament.

This is undoubtedly a situation which can only be dealt with in the House of Parliament which is concerned; and I contend that by the action of the Executive that right, established by the law of Parliament, has been encroached upon, and that to that extent the rights and privileges of this House have been interfered with. This House should have decided the matter affecting the seat of one of its members. There are certain powers which are retained for the use of the House of Parliament, powers to which we can have recourse in asserting privileges; but on the other hand, while those powers exist and can be made use of, it is not always wise to use them without due and full consideration. For that purpose this motion is being moved to-day, so that the whole question may be calmly and carefully reviewed, and so that after the investigation which I consider necessary has been made, the select committee may make a report to the House and the House may decide what course of action it is desirable for us to embark upon. In these circumstances I move the motion standing in my name.

THE CHIEF SECRETARY (Hon J. M. Drew—Central) [4.44]: I do not propose to offer any objection to the motion.

Question put and passed.

BILL—FORESTS ACT AMENDMENT.

Third Reading.

Read a third time and *passed*.

BILL—REDUCTION OF RENTS ACT CONTINUANCE.

Second Reading.

Debate resumed from the 20th September.

THE HONORARY MINISTER (Hon. W. H. Kitson—West—in reply) [4.48]: From the remarks of some members it appears clear there has been some confusion in their minds as to the particular Bill under discussion. For instance, some members have referred to the contents of other measures associated with our financial emergency legislation, and so I desire to make it perfectly clear that the Act which this Bill seeks to continue deals only with tenancies which were current at the commencement of the Act of 1931, or the renewal thereof, but does not apply where a tenancy is determined by the tenant at less than one month's notice.

Hon. J. Nicholson: It affects all subsequent leases since the commencement of the Act.

The HONORARY MINISTER: Only the renewals of those particular leases. And it has been said that on account of the change in general conditions in this State, the time has arrived when we should amend the Act, if not by repealing it altogether, then by giving some percentage relief to the landlords who may have been prejudicially affected. It will be agreed that in the majority of cases where there is a monthly tenancy the premises are business premises. There are, of course, some private houses

subject to a lease of that kind, but they are very few as compared with the number of business premises which are subject to leases terminable by notice of one month or longer. While there may be some ground for saying the position has improved on the goldfields, I am afraid we cannot claim that there has been any substantial improvement in other parts of the country. For instance, it has been said that the improvement in our mining industry has been reflected in the metropolitan area by increased business which has been done. To a strictly limited extent that is true.

Hon. J. Cornell: Limited?

The HONORARY MINISTER: Yes, to a strictly limited extent when compared with the number of business leases which are affected by this measure, because only a very small percentage of business premises covered by this measure are affected in any shape or form by the improvement in the mining industry.

Hon. J. Cornell: The breweries are affected.

The HONORARY MINISTER: I do not know of any brewery receiving an advantage under the Act. I believe, of course, there are some hotels both on the goldfields and in the metropolitan area where reductions in rentals have been made as the result of the Act, but I also know that on the goldfields, where application has been made to charge a higher rental, two hotels have been affected and the order has been granted. That is a point I wish to make clear. Under the Act there is given the right to apply to the Commissioner for permission to charge a higher rental than that prescribed. I go further and say regarding the majority of the premises affected in the metropolitan area by the Act, instead of there having been any material improvement, the position to-day is no better than it was when the Act first came into operation. We must realise that there is throughout the country a large number of premises which are not subject to a monthly notice or longer, large numbers on the goldfields which are merely weekly tenancies. Those premises are not affected by the Act. Mr. Nicholson referred to a material improvement in the metropolitan area and complained that the Government had not given to the tenants in the new metropolitan markets the reductions to which they were entitled. He suggested that had the Government desired to be fair they would have given to those tenants a 22½ per cent. reduction. I submitted Mr. Nicholson's remarks to the Metropolitan Market Trust and this is the information which they have supplied—

> The leases in the metropolitan markets expired on the 30th June, 1932. Fresh leases for a further term were entered into with various lessees for a period of three years as from the 1st July, 1932. The rentals were revised and various rates fixed according to position in the markets. In the case of shops on the Wellington-street frontage the new rents were 33⅓ per cent. lower than those under the old leases. In the interior of the markets the rentals were re-cast, and with the exception of frontages, which were strongly in demand, all rents were reduced. The aggregate reduction under the new leases was £1,900 per annum, representing a reduction of 13.5 per cent. on the rents under the old leases. In addition to the reductions given above, the trust has granted cash discount to assist its lessees, as shown hereunder. From the 31-8-31 to 30-6-32 under the old leases 12½ per cent., involving £1,782 5s. From 1-7-32 to 30-6-33 under the new leases 10 per cent. discount, involving £824 8s. 11d. From 1-7-33 to 30-6-34 under new leases 10 per cent. discount, involving £1,127 18s. From 1-7-34 to 31-12-34 under new leases, half-year only, 10 per cent., involving £747 14s. 4d. The present rentals, after allowing for existing discount of 10 per cent., approximate a reduction of 22.22 per cent., and must be considered satisfactory. The trust has not received any benefit by way of reduction of interest, which to-day stands at the high rate of 5% per cent., and therefore cannot make any further reductions. The trust, in addition to the markets proper, owns houses and premises on land adjoining, but the majority of those are weekly tenancies, and have been reduced in most cases far more than the 22½ per cent. prescribed in the Reduction of Rents Act.

That is a complete answer to the complaint made by Mr. Nicholson. One would have imagined from his statement that in some cases there have been reductions, but that in general the Metropolitan Markets Trust has not been as generous with its tenants as it might have been in view of this legislation. Again, Mr. Miles criticised certain members of the community for desiring decent houses to live in and suggested that certain houses which have been built by the Workers' Homes Board were too elaborate for the workers, and that he had seen other houses in some parts of the metropolitan area, weatherboard houses, which were quite satisfactory for any workers to live in. I have made a few inquiries on that point and I find that the localities in the metropolitan area where it is permissible to erect weatherboard houses are very limited indeed. Most

of the local authorities in recent years have been creating brick areas, with the result that in many districts where years ago one might have erected weatherboard houses to cost only a few hundred pounds, to-day it is not possible; and as a result the Workers' Homes Board have been building, not only weatherboard houses where possible, but also brick houses at a reasonable cost for the workers in the metropolitan area. I find from inquiries with regard to the houses criticised by the hon. member that those houses were built at what appears to me to be very low cost indeed. There is no doubt that they have a fine appearance, and I for one would not criticise any man for being desirous of having a decent house to live in, whether it be in the metropolitan area, the goldfields or any other part of the State.

Hon. J. J. Holmes: If he can afford it.

The HONORARY MINISTER: I think we can claim with every justification that the workers are just as much entitled to a privilege of that kind—it appears to me to be a privilege—as any other section of the community. The modern idea, particularly in some of our suburbs, is to get away from the usual type of Australian house and to adopt ideas from oversea places where the climate may be similar to ours.

Hon. J. J. Holmes: Irrespective of comfort, they want appearance

The HONORARY MINISTER: That may be so, but it satisfies the owners of the properties. The policy of the Workers' Homes Board is to build weatherboard houses wherever they can, principally on account of the cost and, secondly, because of the lower rentals charged to those who desire them. The houses referred to by Mr. Miles cost from £630 to £720 to build, according to the number of rooms, and the rental is from 22s. 6d. to 25s. per week. The rental includes rates, taxes, fire insurance and ground rent; I may say that the holders have perpetual leases. The occupiers are all working men—strictly in accordance with the Act. They are in receipt of wages or salaries ranging from £4 to £5 per week, and the Workers' Homes Board pointed out that as far as the brick houses are concerned the cost of the maintenance of them is considerably less over a period of years than is the cost of the maintenance of weatherboard houses That, I think, too, is in accordance with our own experience. In view of these facts, I do not think there is room for criticism of the people who occupy them, and who may desire to have comfort and appearance as well. When I introduced the Bill I pointed out that there had been only 21 applications during this year for permission to charge higher rentals; and in view of the remarks of goldfields members, I thought I might be able to secure some information as to what had happened in Kalgoorlie and Boulder. I found that in those two towns there were five applications, two from Boulder in respect of hotels and three from Kalgoorlie covering two shops and a dwelling. In those cases where the landlord had the right to claim a higher rental than he was receiving, owing to the operation of the Act, orders were granted.

Hon. J. Cornell: Were there any applications from tenants to have rents reduced.

The HONORARY MINISTER: The hon. member is referring to another measure that is now before the House. That is where confusion has already arisen between the Bill we are now discussing and the other, the Tenants, Purchasers, and Mortgagors' Relief Act Amendment Bill. It is under that Act that tenants could apply for a reduction of the rents they were paying. The other applications outside those of the goldfields received this year cover quite a number of districts. As I have already informed the House, there have been 21 altogether. Whilst we would like to believe that the time is rapidly approaching when we can get away from the emergency legislation of this kind, we must recognise the fact that there are a great number of people who would be adversely affected if the measure we are now considering were not continued.

Hon. J. Nicholson: Why not cut it down gradually by, say, 10 per cent. this year?

The HONORARY MINISTER: In the first place, giving my own opinion, the position has not materially altered for the better in the great proportion of cases affected by this legislation. The Act has been in operation for a period of three years, and I do not suppose anyone will seriously contend that it was not necessary, and that the need for it no longer exists. One might point to anomalies which have arisen in recent months, particularly on the goldfields, but they would be very few and,

after all, we do not legislate for individuals. It is hard to legislate for the large number of anomalies that may be brought forward. Take our agricultural districts. Will anyone say that there has been material improvement there in the last 12 months? Is not the need for legislation of this kind just as urgent to-day as it was several years ago, particularly in the wheat-growing districts?

Hon. C. H. Wittenoom: And in the wool-growing districts.

The HONORARY MINISTER: Yes, the need for legislation of this kind is still as urgent to-day as it was when the Act was first passed. I hope members will not obstruct the passing of the Bill because such a large number of people will be detrimentally affected, and I am afraid if any interference took place at the present time, it would detrimentally affect the interests of many tradespeople, especially in the metropolitan area. I again submit that the necessity for this legislation is as apparent this year as it was in 1931, and I hope that the figures I have quoted will convince members that where landlords made application to charge higher rentals than they were getting, they were treated fairly by the Commissioner.

Question put and passed.

Bill read a second time.

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

Second Reading.

Debate resumed from the 20th September.

HON. J. NICHOLSON (Metropolitan) [5.12]: This is a very important Bill and the more one peruses it the more one is impressed by the statement of the Chief Secretary that it is highly technical. Hon. members who have had the opportunity of perusing the Bill will agree that that statement is also borne out by what occurred in connection with the passage of the Bill in another place, particularly on the second reading, where one found that it was introduced by the Minister for Justice and that only two other members—both of them members of the legal profession—took part in the debate. That shows how highly technical the Bill really is, and the difficulty other members must have had in following it. The Bill introduces some new and important principles and provisions, and the fact that some of those provisions have been in force in the other States is claimed as a reason for adopting them here. The Minister also quoted certain figures to show that, in comparison with the other States, Western Australia is at a disadvantage, and derives considerably less revenue from the estates of deceased persons than do the other States. This, I am prepared to acknowledge, impresses me as a justification for the introduction of the Bill, but when viewed from another angle, it occurred to me, and I hope the Chief Secretary will consider the matter, that the passing of the Bill in the form in which we have it before us must react to our detriment in some way, and perhaps cause capital, which we need for the development of our vast empty spaces, to be withdrawn from the State. That is a very important phase to bear in mind. We have not reached the same stage of development in Western Australia as the other States have done. We have not the consolidated wealth that there is there. In Western Australia the wealth is more or less in the making, and everything that a man makes in connection with his property is wanted for the development of further areas. That is a view that should be considered when we seek to introduce legislation such as this. It will involve certain hardships upon those who may be left to carry on the work of development after the passing away of those who were partly successful in establishing undertakings. I do not argue that there is no room for amendment in our Administration Act. It has been in force since 1903 and it has been well known to Governments and to others that there was room for alteration. It rested with Governments of the day, from time to time, gradually to amend the legislation, and not to frame a Bill that will press so heavily on individuals as the proposed legislation. The question arises as to how far it is wise to proceed with the amending legislation, in view of the circumstances I have outlined. One is forced to give a great deal of consideration and thought to a Bill of this description. I refer to the circumstances I have outlined because I remember the position of a man whom I met in England some years ago. He had spent the greater part of his life in Ceylon,

where he had been fortunate and had made money. He returned to the Old Land thinking to settle and to pass his remaining years there. He was astounded to find how heavily taxation bore upon people in England not only while they were resident there, but how the payment of death duties would press upon those left behind. He reviewed the position very carefully and, although he had bought a home and settled down in the Motherland, he decided to abandon his domicile and to return to Ceylon, where taxation is so much less than in England. He did so, and continued his work in Ceylon, and died about 18 months ago. That instance shows how taxation affects persons who realise the encumbrances imposed upon them. Such legislation may also have an influence on persons who are invited to settle in Western Australia or to invest their capital here. There are clauses in the Bill that will have a far-reaching effect, particularly those which deals with foreign companies. One clause seeks to impose a burden upon shareholders of companies irrespective of where they may be domiciled, if the company happens to be carrying on business in Western Australia.

Hon. J. J. Holmes: Are the Eastern States regarded as foreign countries?

Hon. J. NICHOLSON: Any place outside Western Australia would be foreign to this State. If a company is incorporated in Victoria, and, although domiciled there, operates in Western Australia, that company will come under the operations of the provisions dealing with foreign companies.

Hon. J. J. Holmes: Then probate duty would be paid in two States.

Hon. J. NICHOLSON: Yes. If this Bill passes, probate or succession duty would be paid in the two States, measured out, of course, as indicated in the Bill. In the course of his introductory speech, the Leader of the House made reference to people evading the payment of succession duties. I understood that he did not mean that such people deliberately evaded the payment of duty, but it is quite possible that some who heard his remarks may have misunderstood the position.

Hon. G. W. Miles: You will admit that the Administration Act requires tightening up.

Hon. J. NICHOLSON: Yes, and that has been recognised for many years past. The question, to which I have drawn attention, is: How far are we justified in going? If the amendments had been effected gradually, the position would be different. We are now asked to swallow the pill holus bolus, and if we do so, it will come as a shock to many people. Reverting to the remarks of the Leader of the House regarding the evasion of duty, it is a matter of common knowledge that people seek to dispose of their properties as gifts or in other ways during their lifetime, reserving an annuity for themselves, creating a joint tenancy, and so forth. Such methods of disposing of property were in vogue many years before the 1903 Act was passed. In our registers can be found any number of joint tenancies in properties. The same applies to banking accounts and in many other directions. A man and his wife, who have lived happily, regard it as right and fair to deal with property in the manner I have indicated. The husband would be desirous of protecting his wife and would do something along these lines so that, if he should happen to die first, his widow would be assured of funds enabling her to live in comfort and preventing her from having to claim the dole or assistance in some other form. Such methods of dealing with property were the outcome of thrift. I mentioned that phase when discussing the Bill relating to rent reduction. Many of the measures we have dealt with have been destructive of that very fine quality in our people. I contend that the more we encourage thrift among the people, the better citizens will they be. It is no evasion of the payment of duty to deal with properties in the manner I have indicated, unless there be some specific provision in the Act setting out that the payment of duties shall be made in certain circumstances. Where the Act does not specify that properties may not be made over as joint tenancies, or dealt with in the other methods I have already outlined, there can be no evasion of payment of duty suggested. Should there be any evasion at all, there is ample provision in Section 106 of the present Act, which provides certain penalties for people who attempt such evasion. If I remember aright, the section imposes a penalty of double duty upon anyone convicted of evasion. Instances that were referred to as furnishing justification for the introduction of the Bill did not constitute evasions at all, but were

merely illustrative of methods that have been in vogue for many years among thrifty people, in dealing with their property. I contend that if Governments since 1903 had found some extra activity on the part of the people in the disposal of their property in various directions, they had the remedy in their own hands. It will be recognised that it was not until a glaring case came before us some years ago in connection with shares in a certain company carrying on business here but incorporated in Victoria, that the desire was aroused to protect the interests of Western Australia —the desire was quite justifiable—to ensure that we derived some share in the payment of duties, instead of Victoria being able to claim the lot. At the same time, we should not be asked to agree to legislation that will impose an extra or undue burden upon the people and prevent the free intercourse that we desire to see between the States of the Commonwealth. There is one way only of dealing with the matter adequately, and that is by means of a conference with other States.

Hon. G. W. Miles: That is right.

Hon. J. NICHOLSON: We could seek to solve this question by an arrangement on the basis of an equitable distribution of death duties in such instances. There is no other method. If other States by their legislation have done what one might call extravagant things—I refer chiefly to New South Wales and Queensland —I do not think it would be wise for us to follow in their wake, as we shall be doing by passing this Bill seeking to impose duties simply because they have done so. Let us get into friendly conference and see whether the matter cannot be arranged. If a conference could be arranged, I think that the whole difficulty would be overcome, and that such an alteration in our law as might then be necessary could more easily be made than by passing this Bill.

The Honorary Minister: Give us the Bill and it will be quite easy.

Hon. G. W. Miles: Would it simplify matters if the Commonwealth took over the whole of the probate duties and allowed us to have one income tax for each State?

Hon. J. NICHOLSON: A Commonwealth Royal Commission has been dealing with the incidence of taxation and death duties, not only as between the Commonwealth and the States but as between the States themselves.

Hon. J. J. Holmes: I think they have reported.

Hon. J. NICHOLSON: I do not think the report has been published, but I believe it is due.

Hon. J. J. Holmes: I think it has been completed.

Hon. J. NICHOLSON: That is another reason why we should give thought to the Bill. If the report of the Commission is about to be presented, would it not be wise to await its receipt and endeavour to adjust matters with the Eastern States on the lines I have indicated?

The Honorary Minister: Suppose we got secession, what would become of your argument then?

Hon. J. NICHOLSON: When we get secession, it will be time enough to consider that point. I should not like to offer a forecast of the action that ought to be taken then. In the early part of the Bill, provision is made to repeal Part VI. of the Act and the second schedule. Embodied in Part VI. is a provision—I think it is Section 85—for a rebate of duty to widows and children and certain near relatives of the deceased person. In certain circumstances those relatives can obtain a rebate to the extent of one half. If we repeal the whole of Part VI. we shall also repeal the exemption, but I assume the Minister will be able to assure us that the exemption will be included in the tax Bill.

The Chief Secretary: It would be in the tax Bill.

Hon. J. NICHOLSON: The repeal of Part VI. will also create the position that the estate of every person who may die before the passing of the Act will become liable as though he had died after the passing of the Act. I think it should be made abundantly clear that the measure shall only apply to the estates of persons who die after the passing of the measure, and that those who die up to the time of the passing of the measure shall have their estates administered and duties imposed on the same basis as for a man who died last year. Why should the estate of a man who dies up to the time of the passing of the measure be dealt with differently from the estate of a man who died a year or more ago? There is no justification for it, and a slight amendment to certain clauses would overcome that objection. Such an adjustment would make the measure more equitable.

The Chief Secretary: Where would you draw the line?

Hon. J. NICHOLSON: I maintain that anyone who dies previous to the passing of the measure should have his estate administered under the existing law.

Hon. J. J. Holmes: He should be entitled to the benefit of the law existing at the time he died.

Hon. J. NICHOLSON: Yes.

Hon. J. J. Holmes: I know of a property that paid probate twice in one year owing to two deaths in the family.

Hon. J. NICHOLSON: In order to elucidate some of the provisions of the Bill I shall have to refer in detail to some of the clauses. Clause 12 deals with gifts that operate during the life of the people concerned, as distinguished from property, the subject matter of a donatio mortis causa, which would take effect only after the death of the person executing the deed. Under the present Act an exception is made that the provisions shall not apply to property disposed of by way of marriage settlement, because marriage was regarded by the law as a good and valuable consideration. Where that formed the basis of the contract it was on much the same basis as when property was purchased for cash. Some words should be imported into the clause making provision for such contracts to be exempt.

Hon. G. W. Miles: Would you agree to a period of two years?

Hon. J. NICHOLSON: No, I would not. Under the existing Act all gifts made within two years of the death of the person would become subject to duty. A two-year period, to my mind, is unreasonable, and it is going beyond even what the Commonwealth regarded as adequate. The Commonwealth provided for a period of only one year. I admit the period in Queensland is two years, in New South Wales three years, and in other States, one year. We certainly occupy the most favourable position from that standpoint, because we have not altered the period from that which was originally provided, namely six months. Another matter dealing with gifts is the obligation that a man might owe to a sick member of his family. He may find it necessary to contribute certain sums for maintenance or other purposes, and those moneys would not even be exempt. There is a later subclause that if the amount does not exceed in the aggregate £100 in value, the provision shall not apply, but that limitation is not sufficient. There should be a distinct exemption. Indeed one State provides that the duty shall not apply where a gift is made by way of support to a member of a family or a near relative. The clause requires further consideration in respect to charitable gifts. It contains no reference to charities, except in one clause towards the end of the Bill. If a man, out of feelings of charity, desires to assist one of those institutions we all like to see maintained, and makes a gift within the two years, say of some substantial sum, and dies within the period mentioned, then according to the Bill as I read it, the amount would be chargeable with duty. The Tasmanian Act distinctly states that no duty shall be payable under it in such a case, or in respect of any moneys payable by a friendly society registered under the Friendly Societies Act, upon the death of any member of such society, or upon the death of the wife or child of such member. The Tasmanian Act goes on to deal with any property or estate the subject matter of a devise, bequest, legacy, etc., in favour of any charitable object within the meaning of the section. It also defines charitable objects. It sets out free public libraries or museums, public institutions for the promotion of science and art, hospitals or convalescent homes, or any public university. The Bill does contain provision with regard to the University, but I think it allows only a very limited deduction. People may want to assist a hospital, but such bequests would be chargeable.

Hon. J. J. Holmes: Bequests have been made recently.

Hon. J. NICHOLSON: Exemptions should be granted in such cases. The section in the Tasmanian Act is worthy of consideration. Some express provision should be imported into the Bill that will exempt benefactions that people may like to make. Mr. Miles referred to the two-year period. Our Act sets that out as six months. The period in Queensland is two years, in New South Wales three years, in South Australia and Victoria one year, and the Commonwealth one year. For the sake of uniformity the Honorary Minister should consider amending the provision in the Bill before us to one year.

Hon. J. J. Holmes: Why alter it from six months?

Hon. J. NICHOLSON: We must look at the matter from an equitable basis, and from the basis of what has been done in the other States.

The Honorary Minister: A little while ago you said we should not take any notice of the other States.

Hon. J. NICHOLSON: We should not follow them in anything of an exorbitant character. I am looking at this from a moderate point of view, and think that two years is too long a time.

The Honorary Minister: Do you think we should say that what is done in the other States is exorbitant?

Hon. J. NICHOLSON: In certain respects it is unreasonable. It is a good thing to be guided by what is reasonable. Clause 14 deals with joint ownership, including the question of policies. The Honorary Minister might well consider it from the point of view of partnership properties. If we were to follow out the provisions of the Bill the result might be that if one of a partnership died he would be assessed on the basis of duty in respect to his share of the joint partnership property in a way that might work out very unfairly. The clause requires further consideration. Clause 19 makes provision for non-testamentary dispositions with intent to evade duty. That is an enlargement of Section 106 of the Act. It is one of the tightening up processes. Under Section 106 it is necessary to show intent on the part of the person to evade duty by doing something. That should not apply in cases where, whatever may have been done, has taken place say a year prior to the person's death. If an act has been committed which might be interpreted as tantamount to an evasion of duty—it is very difficult to say what amounts to an evasion—a limited time should be provided. If I made a conveyance of property 10 or 15 years ago, one would hardly say that it was done with intent to evade duty.

Hon. G. W. Miles: That should not apply.

Hon. J. NICHOLSON: No.

Hon. H. Seddon: But it could apply under the Bill.

Hon. J. NICHOLSON: Yes, because there is no limit as to time. Some time limit should be imposed to make the position clear. We do not want to make criminals of everyone.

Hon. G. W. Miles: Does not the Bill later on refer to this being done within two years?

Hon. J. NICHOLSON: It does not say so at the beginning, where it ought to. It only speaks there of the donor dying within two years. If that is the intention, as it obviously is, it should be made clear at the commencement of the clause, and a time imposed there. The clause should say, "If any person within a specified time (say one year) after his death has made, etc."

The Honorary Minister: That would be a matter of drafting.

Hon. J. NICHOLSON: Yes. The next important matter is that dealing with settlements. Where a settlement is made it becomes liable for that duty which would be prescribed by another measure. It has to be registered within a specified time, otherwise it will not be valid. There may be a settlement in which certain life interests are pending. The clause as drafted states "and no such trust or disposition shall be valid unless the settlement is so registered." The settlement must be registered within three months after the death of the person. There may be a settlement involving a life interest. A person may leave a certain property under a settlement in trust for himself for life, and another absolutely, and after the death of the life tenant it vests in the beneficiary. In order that such property might be vested in the person for whom it is intended, such settlement would have to be registered within three months after the death of the person settling it. It would be wise to make it clear that the trust or disposition contained in the settlement was protected until the death of the individual concerned, so that no question could be raised as to the validity of the deed should it become necessary to produce it in court. The clause reads—

> No such trust or disposition shall be valid unless the settlement is so registered.

I take it that the settlement will not be registered until after the death of the particular person who will succeed, or the settlor.

Hon. H. S. W. Parker: The provision might work great hardship in settlements that exist in England of land here. Unfortunate infants might be deprived of their rights.

Hon. J. NICHOLSON: Precisely. The wording of Clause 21 needs to be reconsidered. I also ask the Minister to consider

whether three months is a sufficient time. The period might well be enlarged to six months. Our State, more than some others, has invited people to come here and take an interest in our country. A good many people here have helped others to come to Western Australia and settle. It might be impossible to effect registration within the three months. If it is not effected within three months of the death of the settler, when the trust shall take effect——

The Honorary Minister: Does not the clause give the Commissioner of Taxation a certain power in that respect?

Hon. J. NICHOLSON: That is what I am about to refer to. If, for example, registration should not be effected within the three months, then one is dependent entirely upon the grace—if I may so term it—of the Commissioner to extend that time, and one may have to make many explanations. Having regard to the fact that there are many such settlers as I have mentioned, it is impossible in many cases to give effect to these things within three months; and I consider that six months would be a much fairer period in the case of our State. Next, as regards Clause 39—and I may mention that I am taking a few clauses haphazard—

Hon. G. W. Miles: Are you going to mention Clause 29?

Hon. J. NICHOLSON: I do not consider it necessary to do so at this stage. Clause 39 provides that where too little duty has been assessed, it shall be competent for the Commissioner to come along at any time—there is no limit—and claim payment of the higher duty that he may assess. If he has made a mistake in his assessment, he should abide by it.

Hon. H. Seddon: The executor may have distributed the assets.

Hon. J. NICHOLSON: Yes; but Subclause 3 provides that if the executor has distributed the estate, he shall be liable only for the amount of the estate remaining in his hands; that is, where he has had the approval of the Commissioner to the assessment. Of course the executor would not distribute the estate until he had the Commissioner's approval to the assessment.

Hon. H. Seddon: But that might go on indefinitely.

Hon. J. NICHOLSON: The clause rather arrested my attention, because under it the Commissioner could come in at any time—perhaps five or 10 years later—and say, "I have assessed at too small an amount, and I am going to claim a higher amount." If an executor has paid too much duty, then, under Clause 40, he can only claim a refund within two years. That seems unfair. Why not put both the Commissioner and the executor on the same basis? If the Commissioner is only liable to make repayment of excess duty up to two years, he should only be entitled to claim for a deficiency within two years.

Hon. J. J. Holmes: Would that hold up distribution of the estate for two years?

Hon. J. NICHOLSON: Not necessarily.

Hon. H. S. W. Parker: Why not limit the provision to cases of fraud—not as regards the estate, but as regards the individual? In those circumstances the estate would fall in, and one legatee might lose his legacy while all the others got theirs.

Hon. J. NICHOLSON: Precisely. Now I turn to the most important clause of the Bill, No. 49, dealing with foreign companies. For this clause we are probably indebted to legislation that is in vogue in Queensland and New South Wales. I for one feel great hesitancy in supporting a clause such as this, because it purports to render liable to duty the shares which a shareholder who dies domiciled out of Western Australia might have held in a company incorporated we will say, in England or Victoria, or in any other Australian State except Western Australia, and carrying on business here. Certain grave questions arise with regard to the right of any State to exercise an influence or charge a duty on the property of companies outside the boundaries of the State. Whilst it is plain that a great deal of care has been exercised in the drafting of the clause so as to try to overcome the constitutionality question which is bound to arise, we have to look at what the result of passing it will be. In my opinion there is only one inevitable result, a result which will affect the investment of the capital of which we are so much in need here, and such a clause will probably divert the flow of capital from this State to some other country, because once investors in mining or other companies realise that their shares are going to be affected in some way or other with death duties in our State, they will turn round and say, "We are not going to invest our money in any company that carries on business in Western Australia."

The Honorary Minister: It does not say much for an investor if he takes up that attitude.

Hon. J. NICHOLSON: I think it is a right attitude. Take the case of a company incorporated in England, and what I say regarding a company incorporated in England applies with equal force to a company incorporated in South Australia, Victoria, New South Wales, Queensland or Tasmania. All companies incorporated outside Western Australia are foreign companies so far as Western Australia is concerned, as I have explained previously. If a man has his shares registered in the share register of a company in London or Victoria, or wherever the company may be incorporated, that is where the company is domiciled and that is where the duty is exacted. But we are attempting to bring such a man's estate within our boundaries. We are alleging that his property is actually within our State, whereas in point of fact it is not.

Hon. L. Craig: The money was earned here.

Hon. J. NICHOLSON: Money may have been earned here, but the shareholder invested his capital in a company domiciled outside of our State.

Hon. L. Craig: Surely this State should get some of it.

Hon. J. NICHOLSON: I am anxious to protect the interests of the State in a fair, proper, and legitimate way.

The Honorary Minister: That is what the Bill seeks to do.

Hon. G. W. Miles: How would you meet the case quoted by the Chief Secretary, where a man's estate paid £10,000 probate duty to Victoria on money earned in Western Australia?

Hon. J. NICHOLSON: My reply is that if other States do what is an obvious wrong or injustice——

Hon. G. W. Miles: You said just now that probate was paid where the company was registered.

Hon. J. NICHOLSON: That is the legitimate way of dealing with the matter; but having regard to the intercourse which takes place between the States of the Commonwealth, and not being desirous of seeing that intercourse interfered with or destroyed, I contend that there is only one way of dealing with this matter as between the States—by all the States coming together in conference, thrashing the question out, and arriving at a basis of an equitable distribution of probate duty.

Hon. L. Craig: In the meantime how are we to protect ourselves against the other States?

Hon. J. NICHOLSON: Are we to do it by keeping their money out?

Hon. L. Craig: By getting some of the money paid here that is paid there.

Hon. J. NICHOLSON: We may cut off our nose to spite our face. We could urge local shareholders to register in a branch register here. Registration is a matter that comes under the Companies Act. Our Companies Act of 1893 was amended in 1898 and 1899 as to the keeping of branch registers. As regards a man locally resident, holding shares in such companies as I have referred to, that man could claim that his shares should be transferred from, say, the Melbourne register to a branch register which every company referred to in the Act must keep here according to the law of Western Australia. Then, when he died, the shares having been transferred to Western Australia, the result would be that the duty would be payable on his estate here.

Hon. G. W. Miles: How are we going to compel a man to transfer to this State his shares that are registered elsewhere?

Hon. J. NICHOLSON: It is a duty that the man owes to his State. Every company is compelled to keep a branch register here.

Hon. H. S. W. Parker: Only certain types of companies. I think the provision applies only to mining, timber and a few other kinds of companies.

Hon. J. NICHOLSON: Every foreign company dealing with mining and some other things specified. I think there are three varieties.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. J. NICHOLSON: Before tea I was dealing with the establishment of branch registers. Meanwhile I have taken opportunity to refresh my memory on those amendments to the Companies Act in 1898 and 1899 for the establishment of branch registers. They applied to three classes of companies, namely those carrying on the business of mining, or acquiring cutting or selling of indigenous timber, or in the buying and selling of land in Western Australia. Under those amendments, all foreign companies

engaged in such businesses in Western Australia must keep a local register. If they do not do so, they are subject to certain penalties. Also any person holding shares in such a company, whether in London, in South Australia or Victoria or elsewhere, may apply on the prescribed form to have their shares transferred to the local register. That would mean benefits accruing both to the shareholder and to the State. In the first place the State would gain a benefit because, if the shareholder were to die here, the State and not an outsider would get all the duty payable. The shareholder himself would gain several advantages. Under Sections 5 and 6 of the amending Act passed in 1899, provision is made that if a foreign company carrying on business is reconstructed on the basis of a sale by the liquidator, he shall reserve for the benefit of the shareholder registered on the colonial register part of the benefits of the reconstruction passing to the reconstructed company proportioned to the interests of the colonial members.

Hon. G. W. Miles: Could not we amend the Companies Act to compel all companies trading here to transfer shares to a local register?

Hon. J. NICHOLSON: It would not be advisable to do that, for it would be treading on dangerous ground. Another benefit that would accrue to the shareholder is provided for in Section 6 of the Act of 1899, in that a company when issuing further shares must make special reservations for the benefit of its colonial members. I have seen disappointments suffered several times: A shareholder is registered on, say, the London register. The company decides in London to issue a fresh parcel of shares. It is necessary that that shareholder give his answer within a certain time. Usually a resolution is passed that opportunity shall be given to all shareholders of the company to subscribe for the new shares within a limited time, so a notice is posted to every shareholder, wherever he may be resident, and the time given in the case of a shareholder resident here is usually too short to enable him to avail himself of the right to take up new shares. If people here in Western Australia realised that it was of certain advantage to them to be on the colonial register here, they would immediately take steps, in their own interests, to remove their shares from the register in London to the register in Western Australia, and thereby preserve for themselves the rights granted under those amendments of the Companies Act. Thus, if there were any new issue of shares, the company would be burdened with the necessity of reserving for every shareholder on the branch register a certain portion of the new issue. Many of the investing public here, if they understood the position, probably would be prepared to see the advantage to themselves and to the State of transferring their shares from the principal register, wherever it may be, to the colonial register here in Western Australia. Something was said about the compelling of everybody holding shares in a foreign company to transfer those shares to the colonial register.

Hon. G. W. Miles: Every local shareholder.

Hon. J. NICHOLSON: Every local shareholder is a citizen of our State, and so we can control him.

Hon. G. W. Miles: But could not we compel all companies to transfer shares to a local register?

Hon. J. NICHOLSON: It would not be wise. Suppose a man who is domiciled and resident in London chooses to invest his money in a company which is incorporated there. He is entitled to exercise his rights, and we are not entitled to pass a law to compel him to transfer his shares to a register he has no wish to be on. He is entitled to go on the register where the company is incorporated. If we were to attempt to compel every shareholder of a company carrying on business in Western Australia to register on the local register, we would immediately stop the flow of capital.

Hon. G. W. Miles: But what about the local shareholder being compelled to register here?

Hon. J. NICHOLSON: That, I think, is good. On every man domiciled in Western Australia and holding shares here, there should be compulsion to register here.

Hon. G. W. Miles: What is your objection to every company being compelled to register here: for instance, brewery companies?

Hon. J. NICHOLSON: I do not see why the limitation was inserted in the Act at all. Probably it was put in because at that time these were the three main industries in which companies were engaged; probably it was inserted to meet the then existing position. But I can see no objection whatever to striking out that section of the 1898 Act and making it apply to every foreign company. That would get over a large part

of the difficulty and there could, I think, be compulsion on every shareholder resident in Western Australia to transfer his shares to the local register. We should do everything reasonable to secure the payment of duty to our Treasury and not let it go to outside Treasuries. Now that deals with the question of branch registers. Clause 49 provides—

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

I do not think that is fair. There is a proviso to the section, the second paragraph of which reads as follows:—

Where the company carries on business within and without Western Australia, the duty payable by the company under this section shall be assessed on that part of the value of the shares of the deceased which bears the same proportion to the full value thereof as the assets of the company situate in Western Australia bear to the total assets of the company wherever situate. In this section the term "assets" means the gross amount of all the real and personal property of the company of every kind, including things in action, and without making any deduction in respect of any debts or liabilities of the company.

That is unfair in the extreme. It is a piece of legislation which, I trust, will not become law, for it is most inequitable and unreasonable. When once the deductions are allowed in various other matters, then we realise how inequitable this provision is, because a person holding shares in a foreign company is to be taxed on this basis without taking into account the liabilities of the company.

Hon. H. S. W. Parker: If you read that carefully, I think you will find it is all right.

Hon. J. NICHOLSON: The first part is all right, but when we get to the definition of "assets"——

The Honorary Minister: That is all right too.

Hon. J. NICHOLSON: The term "assets" means the gross amount of all the real and personal property of the company without making any deductions in respect of any debts or liabilities. In the balance sheet, liabilities are taken into account. Debts and liabilities should be taken into account in arriving at the assets so as to fix the proportion.

Hon. H. S. W. Parker: Only the proportion of the assets here and in the various States.

Hon. J. NICHOLSON: I must confess that at the present moment it appears to me to be an unreasonable provision to make. Take for example Clause 45 and compare the two. "'Total capital' means value of the assets of the partnership less the liabilities of the partnership." If we read the two clauses together we cannot but realise that it is a disadvantage to the man who happens to be a shareholder in a foreign company.

Hon. H. S. W. Parker: In Clause 49 the assets only refer to the proportion in Western Australia and outside. They have nothing to do with the value of the shares.

Hon. J. NICHOLSON: A company like a mining company may have gone through adverse times. We have had experience of companies that have had periods of great hardships and have ceased to work. Those companies might still have assets, but the liabilities they have might swamp the assets, or say be equal to the value of the assets.

Hon. H. S. W. Parker: The shares would be of no value so that it would not matter.

Hon. J. NICHOLSON: Then it would react to the detriment of the holder of the shares and a value, it seems to me, would be placed on those shares which they could not bear. We should take into account the assets and liabilities and see what proportion of assets existed. In South Australia they have followed a somewhat different course. In Section 40 of their Act of 1929 it is set out—

Where a company carries on business outside South Australia the duty payable by the company under this section shall bear the same proportion of the duty mentioned in the fourth schedule as the net profits derived by any business carried on by the company in South Australia, and from the sale at any place of the products of any such business bear to the aggregate net profits of the company derived from the whole of its business wheresoever carried on.

That seems to be a more equitable method of dealing with the matter of the values.

The Honorary Minister: You might look a little further into that.

Hon. J. NICHOLSON: I should be only pleased to do so. It is important that we should do so where the position is very grave.

Hon. G. W. Miles: Read Subclause (2) of Clause 49.

Hon. J. NICHOLSON: I am glad the hon. member has drawn my attention to it. That subclause is also important. It provides—

> The duty under this section shall be payable by the said company, and not by the individual.

This subclause makes the company liable for the duty, but under Clause 8 of the Bill it is provided—

> The duty payable shall be deemed, for the recovery thereof, to be a debt of the testator or intestate to His Majesty (but not a debt of the deceased to which paragraph (d) of subsection (1) of Section 4 applies), and shall be a first charge upon the property derived from the deceased, and shall be paid by any executor or administrator out of the estate of the testator or intestate . . . . .

The effect of Subclause (2) is to transfer the liability to a company which at present is not concerned with the deceased person's estate at all beyond simply entering up on the State register a record of the appointment of the executors or administrators who may be acting. It is a new form of liability altogether, and it is opposed to the spirit that should prevail in the imposition of duties of this nature. One may again refer to the position of a man, say, domiciled in the Old Country. Primarily the duties payable in connection with any deceased person's estate are payable in the country where the man was domiciled. If he had property outside then he must pay there. But it is a well known fact that where a man has his shares registered that is the domicile, and that is where the duty is paid. We are trying to exact from a company which is investing capital in our country payment of the money for one of the members of the company who happens to die. That is more than unjust. What has the company to do with a shareholder who dies? The case of Millar versus the Commissioner of Stamps in New South Wales was referred to in another place. It was quite an interesting case. It was provided under Section 103 of the Stamp Duties Act in that State that the estate of a deceased person domiciled at the time of his death in or out of New South Wales should be deemed to include every share and all stock held by such person at the time of his death in any company, corporation or society, whether registered or incorporated within or out of New South Wales, and carrying on the business of mining for gold or other minerals as defined in the Mining Act of New South Wales, 1906, or of treating any such mineral or the business of pastoral or agricultural production or timber getting in New South Wales. The judges of the High Court by a majority held that the provisions of Section 103 purported to authorise the inclusion in the dutiable estate of a person dying resident and domiciled out of New South Wales, of shares held by him in the company incorporated out of and having no share register within that State, but which carried on the business of mining within the State were in excess of the powers of the legislature of New South Wales. They called attention that under Section 5 of the Constitution Act, 1902, in force in New South Wales it was provided that the legislature subject to the provisions of the Commonwealth of Australia Constitution Act had power to make laws for the peace, welfare, and good government of New South Wales in all cases whatsoever. The power and jurisdiction was thus limited to the borders of New South Wales. Our powers, and our jurisdiction in the matter of legislation with regard to property cannot go outside our borders. We have no right to legislate with regard to land in South Australia or in any of the other States, or in London. Similarly it may be contended that we have no power to legislate with regard to shares on a register in one of the other States in Australia or shares on a register in London, because that property comes within the jurisdiction where the company is domiciled, and where the shares are registered. That being the case, we are attempting to do something which is hardly constitutional, and I doubt whether it is competent for us to legislate in this way and seek to make a company responsible. It is quite true that whilst the company is here, and its capital is invested here, we may have redress in our courts, but there is an old saying that once bitten twice shy, and the result of any Government seeking to exact duties under provisions such as are contained in the Bill may react in a very serious way

against the introduction of further capital from outside sources. It is not a fair way to deal with companies. One of the finest things any Government can do is to display fairness in their dealings with outside people, particularly when they have received from such people the benefit of their capital, which has helped to restore prosperity and to secure the development of the State. They should encourage that money to come into the State, and should refrain from anything calculated to drive it out.

Hon. G. W. Miles: That is what we must do.

Hon. J. NICHOLSON: That is the danger I see in such legislation, irrespective of whether it has been passed in Queensland or in New South Wales. The mere fact that it has been passed in those States does not appeal to me, for I regard it as a totally wrong method of legislating. I do not see that we should follow States that have already enacted such measures. Let us consider the position that would arise if a company were compelled to pay duty under the clause I have been referring to. Take the position that would arise with an English company, in regard to which the Bill requires payment by the company on the death of a shareholder.

The Honorary Minister: But the company would have the right of recovery.

Hon. J. NICHOLSON: I intend to show that they cannot have that right.

Hon. G. W. Miles: Why should a company be placed in that position?

Hon. J. NICHOLSON: If that position were to hold, it would place the individual in a situation antagonistic to the company in which his capital was invested. It would make it difficult for the company to carry out its work and less inclined to invest capital in the State.

Hon. H. Seddon: It would be an impossible situation for any company to face.

Hon. J. NICHOLSON: Absolutely. But let us assume that the company actually paid the amount of the duty. I am referring to the English company that I cited. Let us presume that the shareholder had no other assets in Western Australia apart from his shares in a company domiciled in London, where the shares were registered. His executor or administrator could not possibly be reached by any judgment of the court in this State in connection with the duty to be imposed under the Bill, with respect to those shares. Any duty payable on the shares would be imposed at the place where the company was domiciled and where the shares were registered. If the company made an attempt to sue the executor or administrator in England, the latter would simply defy the company and tell them to get the money—if they could. I feel certain the English Courts would never give judgment in favour of the company in such an application, and the result would be that the company, which had brought its capital to this State would be the sufferer.

Hon. G. W. Miles: How would they arrive at the basis for the payment of duty, if the shareholder had other interests? The probate rate would be higher if he had £20,000 invested in other assets than it would be on the shares he held in the company.

Hon. J. NICHOLSON: That is so. I admit there are many features of the Bill that I could dwell upon at considerable length, but I feel I have imposed upon the patience of members too long already. I have given serious consideration to the suggestion advanced by Mr. Miles the other night, that the Bill should be referred to a select committee. The more I read the measure and consider it, the more I am convinced that that is the only proper way by which the Bill can be dealt with. There are so many important clauses in the Bill, and so much grave consideration required for the principles introduced, that a proper review of the measure can be carried out only by a select committee. By that means, we can have a thorough and exhaustive investigation into the effects and results of some of the proposed amendments. It may be said that we can thrash that out in Committee, but it could not possibly be done at that stage. We must probe to the bottom many of the phases introduced, and understand exactly what the effect will be if we pass the legislation. Therefore, I feel that the only proper method by which the Bill can be dealt with is to refer it to a select committee. At the proper stage I shall be quite prepared to move in that direction and I hope the Minister will see his way clear to agree. I would welcome the reference of the Bill to a joint select committee of both Houses. Both branches of the Legislature are concerned in this very important measure. If we had the benefit of the as-

sistance of representatives from the Legislative Assembly, we could act with accord and unanimity that otherwise would be impossible to attain. If the rules of the House will permit the reference of the measure to a joint select committee, I shall welcome the adoption of that course.

Hon. G. W. Miles: We had better stick to our own select committee.

Hon. J. NICHOLSON: If considered necessary we can do so, but I think it would be of advantage to refer the Bill to a joint select committee. Members of another place should have an opportunity thoroughly to investigate the Bill, which is admittedly of such a technical character that it demands very close investigation. I referred previously to a Royal Commission appointed by the Commonwealth, and we should have their report any time now. I do not know if the Minister has heard whether the report has been furnished to the Federal Government.

The Chief Secretary: I have not heard.

Hon. J. NICHOLSON: The report of the Royal Commission would be helpful to us. Irrespective of what legislation may be agreed to, I hope a conference will take place at an early date between the various States to arrive at some understanding for the equitable adjustment of duties, so as to remove the difficulties that we are asked to combat by means of the Bill.

The Honorary Minister: You referred to charitable bequests. Have you read Clause 69?

Hon. J. NICHOLSON: I said some small provision had been made in a clause near the end of the Bill and that was the clause I referred to.

The Honorary Minister: Do you not think the clause covers the position.

Hon. J. NICHOLSON: I do not think it is wide enough.

Hon. H. S. W. Parker: The clause refers not merely to charitable bequests, but educational matters as well.

The Honorary Minister: I do not think Mr. Parker can have read the whole of the clause.

Hon. J. NICHOLSON: I do not believe in leaving things to be prescribed by any Government. Everything required should be set out in black and white. The Tasmanian Act sets out in detail the list of charitable, educational, religious and other institutions exempted.

Hon. H. S. W. Parker: As the Honorary Minister has pointed out to me, the clause is broader in our Bill.

Hon. J. NICHOLSON: No, it is not as broad as the Tasmanian Act. There is also a clause in the South Australian Act.

The Honorary Minister: It is a matter of opinion as to whether our clause is the broader.

Hon. J. NICHOLSON: Quite.

The Honorary Minister: I merely wanted to make it clear that our Bill takes into consideration charitable bequests.

Hon. J. NICHOLSON: Yes; some provision is made, but I do not think the provision is as wide as that contained in the Tasmanian Act. Subject to what I have said regarding the reference of the Bill to a select committee, I support the second reading.

On motion by Hon. H. V. Piesse, debate adjourned.

BILL—ELECTORAL ACT AMENDMENT.

Second Reading.

Debate resumed from the 18th September.

HON. J. CORNELL (South) [8.13]: In discussing the Bill we cannot dissociate ourselves from the consideration of the proposed amendment of the Constitution Acts, as affecting this Chamber. Both Bills are interwoven. It would be illogical to grant the relief sought under the Bill to amend the Electoral Act, unless the relief were also included in the Constitution Acts. One proposal in the Bill, which is to grant the franchise to British Indians, is not new. Quite a few years ago, at the instance of Mr. Nicholson, it was the subject of a definite vote in this House and was defeated. Generally speaking there is not much objection to extending the franchise to British Indians domiciled in Australia. The provisions of the Electoral Act which confer the franchise on electors for the Assembly and for this House do not square. The Electoral Act contains the words "the islands of the Pacific," whereas the part of the Constitution applying to this House does not contain in the disqualification the words "the islands of the Pacific." The Federal Electoral Act contains the words "the islands

of the Pacific, except natives of New Zealand," which, in effect, gives the vote to Maoris. The Maori has a vote under the Federal Act, but he would not have a vote under our Act. Another proposal of these Bills is to give the vote to Lebanese. Officers of this House have been trying for the last 10 days definitely to locate the Lebanese. Lebanon is the territory comprised in the mandate of Lebanon, and I understand that Syria and part of Arabia comprise Lebanon, which is held under mandate by the French Government. I consider that this House should make definite inquiries into the exact position of the Lebanese. I know that the motive behind the idea of giving the vote to Lebanese is that there are three or four domiciled in Western Australia, but that does not alter the important fact that we should be very careful, when amending the Electoral Act or the Constitution as it applies to this House, not to venture into realms about which we know little. On the information at my disposal I intend to oppose the provisions to include the Lebanese. The utmost we know about Lebanon is that Noah's ark landed on Mt. Ararat, and that Mt. Ararat is in Lebanon.

Hon. H. S. W. Parker: There were no Lebanese there at the time, surely.

Hon. J. CORNELL: I think some of them must have been there.

Hon. H. S. W. Parker: Could any have been there when it was covered with water?

Hon. J. CORNELL: If they were, they would have been on the top of Mt. Ararat where the ark landed. In dealing with franchise amendments we, as Australians, should endeavour to aim at uniformity. I suggest that we go no further than the provision made in the Federal law. Then we shall be consistent. A half-caste has a vote under the Commonwealth law but is barred under the State law. I suggest that we content ourselves with amending the Act to square with the Commonwealth Act, except as regards persons of the half-blood.

The Honorary Minister: Do not you think we should be guided by the decision of another place?

Hon. J. CORNELL: The truer guide to follow should be the major and not the minor authority. It is ludicrous to say that a person should have a vote for the Commonwealth but not for part of the Commonwealth. It is certainly a ridiculous provision as applied to the general franchise and is not tenable for a moment.

The Honorary Minister: Would not your argument hold good in respect to the half-caste?

Hon. J. CORNELL: Personally I should say it would. I would not disfranchise half-castes.

Hon. R. G. Moore: Give them half a vote, anyhow.

Hon. J. CORNELL: It opens up a controversy when a half-caste is entitled to vote for the Commonwealth but not for the State. I would not alter that part of our law, because it comes within the province of another place to fix its own franchise, but we could aim at uniformity in the direction I have indicated. I hope the Minister will not rush this Bill into Committee to-morrow. Another part of the Constitution requiring alteration specifically affects this House. While the Bill is under discussion, I hope provision will be made to delete the following words from the Constitution:—"except in respect of a freehold qualification." There is a glaring anomaly in the proviso which reads—

> No aboriginal native of Australia, Asia, or Africa, or a person of the half-blood shall be entitled to be registered, except in respect of a freehold qualification.

Such a person would not have a vote for the Assembly, but if he were naturalised and registered as a freeholder, he would have a vote for this House. That anomaly has been unwittingly handed down in our Constitution since the Act was amended and consolidated in 1907. Whatever franchise we agree upon under the Electoral Act, it should apply to this House provided the necessary qualification for enrolment for this House is held. As one who holds democratic views——

The Honorary Minister: Yet you want to take away the franchise from people who already have it.

Hon. J. CORNELL: No, I do not.

The Honorary Minister: If that is so, I do not understand your argument.

Hon. J. CORNELL: Theoretically, it would take away, not the franchise, but the right of the franchise. The provision I have quoted has been in the Act for 22 years to my knowledge, and I have yet to find that such a person has been registered as a voter

for this House. If we take away that right, we shall not be depriving anybody of a privilege that has been exercised.

The Honorary Minister: Then why is it in the Act?

Hon. G. W. Miles interjected.

Hon. J. CORNELL: If a naturalised Chinaman has a right to vote for this House because he is a freeholder, why should not a naturalised Chinaman, who conforms to the laws of the country and pays rates, have a vote for another place?

Hon. G. W. Miles: Do not ask me.

Hon. J. CORNELL: If we are going to give the franchise to a naturalised Asiatic as a freeholder, it should be given to him as a householder or as a ratepayer. We should not deny the vote to one section of the race and give it to another section. Personally, I would rather see the disqualification adopted in its entirety without the little relief that it is now proposed to give. In Committee I propose to test the feeling of members on the question of the removal of these words from the Constitution. It is essentially a Committee Bill. We know that British Indians are British subjects without their being naturalised. I understand that the Bill in another place only provided for British Indians, but that it was amended to apply to two or three Lebanese. I also understand that the Federal Constitution has been so construed as to give these people a vote under the Federal Electoral Act. If that is so, why not word our Act to square with the Federal Act?

The Honorary Minister: Then why not pass the Bill as it is?

Hon. J. CORNELL: I hope the Honorary Minister will carry my simile a little further and locate under what sovereignty a Lebanese comes. If a Lebanese arrived in this State to-morrow, could he at once exercise the franchise? That at the moment is obscure. If a man arrived from Lebanon to-morrow and became naturalised, he would be qualified to vote. Why could not an Assyrian come here to-morrow and, after being naturalised, have the same right to vote? The proposal to enfranchise Lebanese extends a lot further than to the few who are domiciled in this country. There is one great bar to either British Indians or Lebanese increasing in number, and that is the Commonwealth Immigration Restriction Act. I am satisfied that the Bill is not framed as it ought to be, though I will support the second reading.

On motion by the Honorary Minister, debate adjourned.

BILL—CONSTITUTION ACTS AMENDMENT.

Second Reading.

Debate resumed from the 18th September.

HON. J. CORNELL (South) [8.34]: This Bill and the other we have just dealt with are so closely interwoven that my remarks on the former will apply to this one.

On motion by Honorary Minister, debate adjourned.

BILL—MORTGAGEES' RIGHTS RESTRICTION ACT CONTINUANCE.

Second Reading.

Debate resumed from the 19th September.

HON. H. SEDDON (North-East) [8.35]: Last session many continuance Bills of this kind were brought before us. Apart from the Financial Emergency Act, I have yet to see any attempt on the part of the Government to modify these Bills in accordance with the improvement which they say exists so far as the Financial Emergency Act is concerned, but which they say does not exist in regard to these other restrictive Acts. This Bill provides for the continuance of the restrictions upon the rights of mortgagees. There is more than an indication that the provisions of that Act are being abused by certain people who could well afford to stand up to their obligations. The Government could have indicated that they recognised the position and should have done something to meet it, rather than perpetuate legislation that was introduced when the State was suffering great stress. The time has arrived when all this restrictive legislation should be reviewed. Unfortunately, it seems that the only method by which this can be done is to refer these Bills to a select committee. If that were done, I am inclined to think the business of the House would be considerably delayed. There has been a material change in Australia's finances. We are told by financial institutions, and

we can see it by perusing the figures of the banks, that there is a large sum of money for which investments are being sought but for which investments are not available. Any person who has a mortgage at present might well be able to obtain relief by transferring his mortgage to someone else, and taking advantage of the funds available at a rate of interest very much lower than that which prevailed at the time of the introduction of this legislation. In many country districts for instance, values have materially declined compared with what they were when the mortgages were first protected, and some hardship may be suffered by certain people in their endeavour to secure new mortgages in that they might not be able to raise the sum that was formerly advanced on their property, the sums they are now enjoying the use of.

Hon. H. V. Piesse: That is one of the main difficulties.

Hon. H. SEDDON: It looks as if there is room for an investigation to ascertain exactly what the position is. There is also the question of what effect the lifting of this legislation would have. If it were likely to precipitate an epidemic of foreclosures, a good case might be made out for its continuance. In regard to city properties, the time has surely arrived for some modification. It would have been better if the Government had, before bringing down this Bill, taken that aspect of the matter into consideration, with a view to seeing if some discrimination could not be made between city and country properties. It appears to me that money is available for loan on mortgage on city properties, and that no great hardship would be inflicted by reason of a removal of the restrictions concerning them, whereas some hardship might be inflicted in the case of country property.

The Honorary Minister: Can you suggest any modification that would be workable?

Hon. H. SEDDON: Not on the spur of the moment, but it would be worth while investigating the matter, and obtaining the views of those who are handling money and others who are responsible for the investment of funds, as well as the opinions of those who have mortgages and seeing whether out of all the evidence submitted something could not be advanced that would enable us to make the necessary amendments and yet carry on all the required safeguards for those who need them.

The Honorary Minister: This Bill has nothing to do with rates of interest.

Hon. H. SEDDON: Those are affected by the amount of money available for investment. One of the restrictions imposed by the Bill is that a mortgagee cannot call up his mortgage. He must allow it to remain until the client can lift it, although he can obtain relief in the event of the security diminishing in value.

Hon. H. V. Piesse: The Bill will protect a man on account of the mortgage he already has.

Hon. J. M. Macfarlane: It should be possible to obtain cheaper money now.

Hon. H. V. Piesse: But the securities are not forthcoming.

Hon. H. SEDDON: Any number of sources are available whereby these people might get relief without the protection of the Act which, in many cases, has been abused. People who might well be able to meet their obligations are sheltering under the Act. The worst of this kind of legislation is seen not so much in the direct as in the indirect effect of it. It has been passed without regard for repercussions. People are hesitating to-day to make investments when they remember that there is on the statute book restrictive legislation of this kind.

Hon. G. Fraser: It will not affect new mortgages.

Hon. H. SEDDON: It may. If a man invests £1,000 in a new mortgage, what guarantee has he that the Government will not try to extend the provisions of this legislation to cover that investment? Why was an attempt made last session to extend the scope of one of these Acts to cover a new situation which had arisen? While the uncertainty exists, one cannot wonder at people refusing to invest their money in such securities as these. One cannot wonder that money has accumulated in view of the continued existence of protective legislation of this kind.

The Honorary Minister: Is it not the value of the security that constitutes the basis?

Hon. H. SEDDON: Not altogether. The personal element, in my opinion, is the chief consideration. The best method of dealing with the Bill, to my mind, would be to refer it to a select committee, in order to obtain

more up-to-date information with regard to the subject. No harm could result from the adoption of that course, and light might be thrown upon a position which at present is extremely obscure. On the one hand, the Government when dealing with emergency legislation assert that there has been sufficient improvement to enable them to grant certain relief. On the other hand, this Bill attempts to perpetuate the existing state of affairs without giving any relief whatever. In the circumstances I support the suggestion to refer the measure to a select committee.

On motion by the Honorary Minister, debate adjourned.

House adjourned at 8.17 p.m.

Legislative Assembly,

Tuesday, 25th September, 1934.

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

QUESTION—WORKERS' COMPENSATION, FACTORY REGISTRATIONS.

Mr. SAMPSON asked the Minister for Works: 1, When a factory is registered, are steps taken to ensure that a workers' compensation policy is taken out and that its provisions provide for the full protection of workers? 2, Where the factory is not registered, what steps are taken to ensure that employees are protected by workers' compensation insurance?

The MINISTER FOR WORKS replied: 1 and 2, The question of workers' compensation does not come within the jurisdiction of the branch dealing with the registration of factories.

QUESTION—POLICE, TREATMENT OF PRISONER.

Mr. WANSBROUGH asked the Minister for Police: 1, Is it a fact that one John Henderson, while serving a term of imprisonment at Albany Gaol, was refused medical attention by the Police Department? 2, Is it also a fact that the said John Henderson was compelled to walk from the Albany Gaol to the Albany Government Hospital while in a state of collapse? 3, Is it correct that no effort was made by the department to locate his relatives who are said to be residents of the metropolitan area? 4, Is it also correct that the officiating priest at the grave-side expressed strong disapproval of the inhuman treatment meted out to the said John Henderson by the department? 5, If correct, will he have investigations made with a view to preventing a repetition of such treatment?

The MINISTER FOR POLICE replied: 1, 2, 3, 4, No. 5, Answered by the foregoing.

QUESTIONS (2)—RAILWAYS.

Rivervale Crossing.

Mr. HEGNEY asked the Minister for Railways: 1, Is he aware that since he received a deputation some months ago urging the construction of a subway at the Rivervale crossing, a number of fatal accidents have occurred there? 2, Can he state what progress has been made with negotiations between the Railway Department, the Main Roads Department, and the City Council to construct this subway? 3, If no progress can be reported, will he revive the proposal to construct this safeguard to life on the national highway?

The MINISTER FOR AGRICULTURE (for the Minister for Railways) replied: 1, One, viz., Mr. S. C. Rhodes, fatally injured on 22/6/1934. 2, Negotiations are still in progress with the Perth City Council, but there has been difficulty in reaching finality regarding the design, which is again under consideration by the council. 3, Answered by No. 2.