

MR. DAGLISH: They were not within half a mile of any part of the busiest centre of a suburb, though there was one isolated shop in Subiaco within a quarter of a mile of the city boundary. Even so, the suburban shops did not obtain city trade, and could not hope to do so; while the city shops not only obtained city trade but also suburban trade. The competition was all on one side. There were a number of members who wished to build up the central shops, but members would be acting wrongly if they did so in the third session of a Parliament, having refused to do so in the two previous sessions. He felt keenly on the matter, because since this question was previously before the Assembly the municipality he represented had established a municipal lighting plant, and the municipality would be affected considerably by the carrying of the amendment. He was willing, as he had always been, to see the limitation of the hours of shop assistants independent of the hours of closing. That limitation had been applied in New Zealand, and was an effective way of settling the question aimed at by the clumsy fashion of an early closing measure. There was no reason why shops should not be kept open for longer than eight hours, although there was good reason why shop assistants should not work for longer than eight hours. He would like to see the Assembly take into consideration legislation in the direction indicated instead of legislation which would interfere with trade when it could not successfully achieve the object aimed at. It would be urged against him that he was speaking in the interests of a particular district; but it was his business in the House to represent amongst other things the district which returned him, but not by advocating a principle that would be bad if adopted generally. He was prepared to assert that the principle he advocated would not only be good for one locality but be good if the principle was applied generally. He asked the Committee to give the matter some consideration before accepting the amendment.

Question passed, and the clause added to the Bill.

Schedule, Title—agreed to.

Bill reported with amendments, and the report adopted.

ADJOURNMENT.

The House adjourned at 10:35 o'clock, until the next day.

Legislative Council,
Thursday, 5th November, 1903.

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| | PAGE |
| Bills: Redistribution of Seats, Constitution Act Amendment, and Electoral, Amendments recommended | 1899 |
| First readings: Factories, Municipal Institutions Act Amendment, Water Supply | 1900 |
| Companies Duty Act Continuance, second reading | 1900 |
| Administration (probate), Assembly's Amendments | 1902 |

THE PRESIDENT took the Chair at 4:30 o'clock, p.m.

PRAYERS.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: 1, Aborigines Department—Report for the year ending 30th June, 1903. 2, By-laws of the Municipality of South Perth. 3, Public Works Department.—Roads Act 1902. Return showing names of Roads Boards that have rated themselves under the provisions of the Act, etc. 4, Report on the working of the Government Railways and the Roebourne-Cossack Tramway for the year ended 30th June, 1903.

Ordered, to lie on the table.

BILLS—REDISTRIBUTION OF SEATS, CONSTITUTIONAL ACT AMENDMENT, AND ELECTORAL, AMENDMENTS RECOMMENDED.

HON. J. W. HACKETT brought up the report of the select committee appointed to inquire into these Bills.

Report received, and ordered to be printed.

THE COLONIAL SECRETARY moved that the consideration of the Bills in Committee of the whole House be made an order for Tuesday next.

HON. J. W. HACKETT: What course did the Colonial Secretary intend to take? Would the report be discussed?

THE COLONIAL SECRETARY: The most common-sense way to deal with the Bills was for the chairman or some member of the committee to move the adoption of the amendments as the clauses were called on. This simple way would put into one discussion what might otherwise mean two discussions.

THE PRESIDENT: The procedure suggested by the Colonial Secretary would facilitate business. This course had been adopted by the House on several previous occasions when Bills had been referred to select committees. The date for the Order of the Day was fixed, and the member in charge of the Bill moved the amendments as the clauses came on. It saved considerable time.

HON. T. F. O. BRIMAGE: When were members likely to get the report of the select committee?

THE PRESIDENT: The report was being handed round now.

Question put and passed.

FACTORIES BILL.

Received from the Legislative Assembly, and read a first time.

MUNICIPAL INSTITUTIONS ACT AMENDMENT BILL.

Received from the Legislative Assembly, and read a first time.

WATER SUPPLY BILL.

Received from the Legislative Assembly, and read a first time.

COMPANIES DUTY ACT CONTINUANCE BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. W. Kingsmill), in moving the second reading, said: This extremely short Bill, which has come to us from another place, was introduced for the purpose of strengthening the position of the Government in relation to the recovery of certain dividend duties and penalties for the omission to pay certain dividend duties, and for no other purpose. It has nothing to do with any other part of the Companies Duty Act or of the Dividend Duty Act. Members

will recollect that in 1899 the Companies Duty Act was passed, and that it was given a tenure of life until the 31st December, 1902. In the session of 1902, the Government having in mind the fact that the Companies Duty Act would cease to operate after the 31st December, brought in a Bill which is now the Dividend Duty Act of 1902; and by that Act the operation of the Companies Duty Act was in some particulars extended for another year. Members will find in the Dividend Duty Act of 1902, Section 31, in what respect the provisions of the former Act are extended. Section 31 reads:—

The Companies Duty Act, one thousand eight hundred and ninety-nine, is continued until the 31st day of December, one thousand nine hundred and three; but only (a) for the recovery of duties accrued due thereunder at the commencement of this Act, and (b) in relation to dividends declared before the commencement of this Act and for the recovery of duties thereon, and (c) for the recovery of penalties in connection therewith.

Now it so happens that certain cases are pending for the recovery of duties which have become due under the Companies Duty Act. These cases are not yet heard; and it is for the purpose of continuing the right of the Government in relation to them, and of giving the Government power to recover those duties and any penalties which may accrue for the nonpayment of the same, that this Bill is introduced. I do not think it necessary for me, seeing what a short measure this is, to give any farther information. The Bill is self-explanatory; its object is set out therein; and the reason for its introduction is, as I have stated, because certain cases are pending for the recovery of duties, and of penalties for the nonpayment of duties which have been incurred under the Companies Duty Act of 1899. I therefore move that the Bill be read a second time.

HON. J. W. HACKETT: Will "one thousand nine hundred and two" be sufficient?

THE COLONIAL SECRETARY: Quite sufficient. After that, the hon. member will recollect, the Dividend Duty Act is in force, that Act having a general life, with no stated term of existence.

HON. F. M. STONE (North): I move that the debate be adjourned till Tuesday next.

Motion put, and a division taken with the following result:—

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|------|-----|-----|-----|----|
| Ayes | ... | ... | ... | 9 |
| Noes | ... | ... | ... | 12 |

| | | |
|------------------|-----|---|
| Majority against | ... | 3 |
|------------------|-----|---|

AYES.
 Hon. G. Bellingham
 Hon. E. M. Clarke
 Hon. A. G. Jenkins
 Hon. Z. Lane
 Hon. C. Sommers
 Hon. F. M. Stone
 Hon. J. A. Thomson
 Hon. J. W. Wright
 Hon. C. E. Dempster
 (Teller).

NOES.
 Hon. H. Briggs
 Hon. T. F. O. Brimage
 Hon. J. D. Connolly
 Hon. J. M. Drew
 Hon. J. W. Hackett
 Hon. W. Kingsmill
 Hon. E. Laurie
 Hon. W. T. Loton
 Hon. E. C. O'Brien
 Hon. G. Randell
 Hon. Sir Edward Witte-
 noom
 Hon. J. T. Glowrey
 (Teller).

Motion thus negatived.

HON. F. M. STONE: I regret that the House has not seen fit to adjourn this debate; for an adjournment would have given me an opportunity of referring to the Bill, and I should have been better able to explain my reasons for moving the adjournment and for speaking on the second reading. Now I can speak from memory only; and speaking from memory, what I remember of the Act which this Bill proposes to extend is that the first Companies Duty Act contained two sections, one imposing duties on dividends and the other imposing duties on profits. If a company did business in this State and not elsewhere, it was taxed on its dividends; if it did business elsewhere as well as in this State, it was taxed on its profits. It has been held in England that if a company has its head office say in London, where the directors sit and conduct the business of the company, although such business is done exclusively in another country, the company is held to do business in both countries. This point was, I think, referred to by Mr. Jenkins when he moved a clause in the Bill of last year; and in these circumstances all companies, although they do their business entirely in this State and have merely a head office in London, are taxed on their profits and not on dividends. When a Bill was before the Assembly last year (I believe an amendment was before the Assembly), the Premier gave as his opinion that, although a company had its head office in London, if that company did business exclusively in Western Australia the company was to be held to be carrying on business in both

places; therefore the company would be taxed on its dividends and not on its profits. There are cases pending and cases cropping up from day to day, and the Crown law officers are of opinion, I believe rightly so, that (to put it in plain language) the Premier is wrong. A company, although it only has its head office in London and transacts the whole of its business here, will have to pay a duty on profits and not on dividends. I felt it necessary to ask for an adjournment of the debate, so that I might place the Acts before the House and refer to *Hansard* to bear out what I have said in reference to the statement by the Premier. I am not opposed to the Bill; but, before we pass the measure, it will be right for the House to have a small amendment inserted in it dealing with what I have referred to, or to have an assurance from the Government that, under the circumstances to which I have referred, duties will not be charged on profits, but on dividends. If the contention of the Crown law officers is right, as I have already stated I think it is, every mining company, and every company which has its head office in London or outside this State, will be chargeable with duties payable on profits and not on dividends. It was the wish of both Houses that this should not be so. I think it was stated so in this House, on a motion by Mr. Jenkins. Dr. Jameson, who was then leading the House, stated that duties would not be charged on profits but on dividends. It is for that reason I want some assurance, and if I do not get the assurance I shall propose an amendment carrying out the wishes of both Houses of Parliament.

SIR E. H. WITTENOOM (North): It seems to me this hardly affects the question at present. The Act which we are asked to extend has been in force some little time, and many people have paid dividend duty under that Act. According to what I can gather, Mr. Stone wishes that this Act shall not be extended except under certain conditions; therefore those who have defeated the law and declined to pay what is legal are to escape, while those who have obeyed the law of the country are to pay their taxes and lose their money. It seems to me that if this view of the matter is carried out, it will encourage persons

who have defeated the law and are trying to escape its consequences to do so. I may be wrong, but it seems that all the Government ask in this case is that the law should be carried on to such an extent as will enable the Treasurer to recover moneys due from people who hitherto have declined to pay.

THE COLONIAL SECRETARY: That is just what it is.

SIR E. H. WITTENOOM: Mr. Stone has had a few days to consider this matter, and though he may have been busy, like most of us, still if he regarded this as an important point he should have been prepared with the information he wished to give to the House. On this question, and speaking subject to explanation, I hardly see there is any necessity for postponement. The Bill simply places the Treasurer in a position to recover dividends from people who have defeated the law, or who have been unwilling to pay under conditions which other people have had to pay under.

HON. A. G. JENKINS (South): I intend to support the second reading. I agree with the remarks of Sir Edward Wittenoom, that the Bill is designed for purely one purpose, and a very proper purpose. With regard to the remarks of Mr. Stone, I am sure, and my memory is distinct on the point, we had a promise from the then leader of the Government (Mr. Moss) that it was not the intention of the Government to charge mining companies on their profits. That being so, I cannot see how the Government can honestly seek to get over that assurance.

HON. J. W. HACKETT: Are you sure? Was it not an allusion to a commercial company?

HON. A. G. JENKINS: The question was raised on behalf of the mining companies. I fought the question very strongly, and it was on the assurance of Mr. Moss that the matter was allowed to go.

THE COLONIAL SECRETARY (in reply): The case for this Bill has already been put clearly by Sir Edward Wittenoom and Mr. Jenkins; therefore little is left for me to say. I explained fully and clearly the objects of the Bill, and I maintain that any amendment introduced with the object put forward by Mr. Stone would be absolutely foreign to the Bill. For my part, I must say at

once that I shall be prepared to resist such amendment. I think I have a right to expect that such amendment will not be inserted in this measure. I do not wish to burk discussion or to defeat the wishes of the hon. member, but the Act has been on its trial, and as soon as the second reading of the Bill is passed I intend to move that the consideration in Committee be taken next Tuesday. If the hon. member wishes to take any farther action he can do so; but I must reiterate the statement that any amendment of the kind indicated by Mr. Stone will be absolutely foreign to the Bill as introduced.

Question put and passed.

Bill read a second time.

ADMINISTRATION BILL (PROBATE).

ASSEMBLY'S AMENDMENTS.

The Assembly having disagreed to certain amendments made by the Council, and having amended the Council's new clause, reasons for the same were now considered in Committee.

No. 1—Clause 14, strike out paragraph (a) in Subclause (1), and insert "(a) Where there is no issue surviving, to the whole":

THE COLONIAL SECRETARY moved that the amendment be not insisted on. In many cases the effect of the proposed amendment would act extremely harshly on the blood relations of a person who died intestate. Under the amendment it was proposed to exclude all blood relations to the benefit of the widow. That was an unheard of proposition, as would be seen from the reasons sent by the Assembly; it did not exist anywhere else in Australia, and would have a very harsh effect if put into operation here. It was to be hoped the Committee would not endanger the Bill by insisting on the amendment. This was a new departure in legislation. The division which was proposed in the Bill as brought down to the Chamber had been tried and had proved satisfactory in other parts of the world. The other portions of the Bill were extremely valuable, and for the sake of introducing an experiment it was not wise to risk the loss of the measure.

HON. F. M. STONE: It was to be hoped the Committee would insist on

this amendment, and for the reasons given by another place, which were:—

The surviving husband or wife should not take everything to the exclusion of close blood relations. In many cases it would be found that the deceased's parents, brothers, and sisters, and other near relatives were helped by if not dependent upon the deceased while living. The proposed amendment is, it is believed, without precedent in Australia.

Take the case of a husband and wife who had secured some property by their joint exertions, and had not been assisted by relations at all. If the husband or wife died, the relations came in and took a two-thirds share. In the case of an estate worth £3,000 which had been earned by the husband and the wife conjointly, and the husband died, if the £3,000 was invested at five per cent. it would produce £150 per year on which the wife could live; but the relations could come in and take two-thirds of the £3,000, leaving the wife with £50 a year. Even nephews and nieces were to participate. If a man made a successful speculation in his wife's name, the profit was his; and if the wife died, it came the relatives for two-thirds, while the husband got one-third.

HON. J. W. HACKETT: Speculations in a "wife's name" should be discouraged.

HON. F. M. STONE: Then repeal the Married Women's Property Act. If the husband speculated successfully with the wife's money and died, two-thirds of the original sum and proceeds must go to relatives, and only one-third to the wife, who would perhaps not get back even her own money. The reasons given by another place helped his argument; and he hoped the Committee would insist on the amendment.

SIR E. H. WITTENOOM: The hon. member's remarks showed that even a lawyer was sometimes disinterested. All these difficulties could be overcome by either husband or wife making a will; for the clause applied to intestates only. The amendment was therefore not worth bothering about, as most people had sufficient intelligence to make dispositions of their property before they died.

HON. F. M. STONE: Two-thirds died intestate.

SIR E. H. WITTENOOM: Then educate them up to making wills.

Question (that the amendment be not insisted on) put, and a division taken with the following result:—

| | | | | |
|------|-----|-----|-----|----|
| Ayes | ... | ... | ... | 13 |
| Noes | ... | ... | ... | 5 |

Majority for 8

AYES.
 Hon. G. Bellingham
 Hon. E. M. Clarke
 Hon. J. D. Connolly
 Hon. C. E. Dempster
 Hon. J. M. Drew
 Hon. J. W. Hackett
 Hon. W. Kingsmill
 Hon. B. Laurie
 Hon. B. C. O'Brien
 Hon. G. Raudell
 Hon. J. A. Thomson
 Hon. Sir E. H. Wittenoom
 Hon. A. G. Jenkins

NOES.
 Hon. Z. Lane
 Hon. W. T. Loton
 Hon. C. Sommers
 Hon. F. M. Stone
 Hon. J. W. Wright
 (Teller).

(Teller).

Question thus passed, and the amendment not insisted on.

Nos. 2 to 5—not insisted on.

Council's New Clause, as amended by Assembly:

No. 1—Strike out the words "executor or," in lines 1, 3, and 4:

THE COLONIAL SECRETARY moved that the Assembly's amendment be agreed to. The clause, which allowed a commission to an executor, had been fatal to this Bill in two previous sessions; and he hoped that at this third time of asking the Committee would not inflict on the Bill the fate which had overtaken its predecessors. It was competent for the mover of the new clause (Mr. Jenkins) to introduce it in a concrete and isolated form in a Bill to amend this Bill after it became law; but to imperil this measure, which all agreed would be beneficial to the community, by again trying to introduce what was new legislation in this country, disagreed to by an apparent majority in another place and a substantial minority in this, would be prejudicial to the interests of the State.

HON. A. G. JENKINS: Again he would divide the Committee on the question. The new clause had been in force in some Australian States for 20 years; in force in every other State except this; and it should be acceptable to the majority in this State. On the last occasion the Assembly had not really considered the new clause, none speaking on it save the Attorney General. If the Bill were lost by its insertion, the responsibility would not rest on this House; for an Administration Bill was a proper place for such a clause.

Trustees under the Settled Lands Act received commission; administrators received commission, and everybody else received commission except executors; and in every other State of the Commonwealth except Western Australia an executor received commission. If the Committee did not insist on the clause being inserted, the administrator who now received commission would not have been able to obtain it, for the schedule repealed the Act allowing an administrator to receive commission. That repeal had found a place in the Bill during the last two sessions. It was not the proper way to introduce an important proposal. Attention should have been called to the matter when the Bill was before the Committee.

HON. J. W. HACKETT: Although he was convinced by the hon. member's arguments and had voted for the amendment, he was not prepared to press his view on this matter to the extent of causing the destruction of the Bill, nor did he think the Committee had the right to do so when a principle was insisted on by another place, and there was a considerable minority in the Council in favour of it. To insert the clause in the Bill was obnoxious to another place, and might wreck the measure. Members of the Council objected to this kind of thing which amounted to attack, and although he was with Mr. Jenkins on the merits of the case and trusted that member would bring in a Bill containing this provision next session, he (Dr. Hackett) could not go the length of assisting to wreck the measure.

HON. J. W. WRIGHT: There was no reason why an executor should not be paid, and if members had had the bother which he and others had recently had in a certain estate, it would have been admitted that 10 per cent. was not sufficient remuneration. If the amount of commission proposed by the amendment had been doubled, he would have voted for it. He would vote for a similar proposal to this on a future occasion.

SIR E. H. WITTENOOM: While in accord with what had been stated by Mr. Jenkins and Mr. Wright, and considering that an executor should be paid, for it was unfair that a person should leave a request after death that a friend should do a lot of work which the person would

not ask the friend to do when living, therefore every executor and every administrator should be paid; still it would be a pity to imperil the Bill, especially as it was a consolidating measure, and would be useful. He was prepared to support any Bill that might be introduced containing the provision now sought to be introduced into the measure. After this Bill had been passed three times members were not justified in insisting on an amendment which might have the effect of throwing out the measure. If the Council received an amendment which was obnoxious to members it would be treated in the same way as the Assembly was treating the amendment now before the Committee.

HON. C. SOMMERS: Stress was laid on the point that the wrecking of the Bill was being effected by the Council. But the wrecking was being done by the Assembly. This was not an innovation because it was the law in the other States of Australia, and now that Federation was accomplished we should endeavour to make our laws uniform. On every occasion this amendment had been sent to another place it had received scant courtesy, the influence of the Premier being sufficient to defeat the proposal.

THE CHAIRMAN: The Standing Orders stated that no members should allude to the debates in another branch of the Legislature.

HON. C. SOMMERS: If any wrecking was to be done, let the other House do it.

THE COLONIAL SECRETARY: With regard to the question of wrecking, any member who moved such an amendment as the one before the Committee, being aware that such an amendment had been rejected on two previous occasions, knew what the effect would be. The moving of such an amendment was a start towards the wrecking of the Bill. He hoped Mr. Jenkins would take the course which had been suggested, and introduce the amendment in a separate Bill. There were 136 clauses in the Bill which neither House disagreed with, and why should these provisions be lost for the sake of one clause?

Question put, and a division taken with the following result:—

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|--------------|-----|-----|-----|----|
| Ayes | ... | ... | ... | 10 |
| Noes | ... | ... | ... | 9 |
| | | | | — |
| Majority for | ... | ... | ... | 1 |

| AYES. | NOES. |
|----------------------------------|------------------------|
| Hon. E. M. Clarke | Hon. G. Bellingham |
| Hon. J. M. Drew | Hon. J. D. Connolly |
| Hon. J. W. Hackett | Hon. A. G. Jenkins |
| Hon. W. Kingsmill | Hon. R. Laurie |
| Hon. W. T. Loton | Hon. B. C. O'Brien |
| Hon. G. Randell | Hon. C. Sommers |
| Hon. Sir G. Shenton | Hon. J. A. Thomson |
| Hon. F. M. Stone | Hon. J. W. Wright |
| Hon. Sir E. H. Wittenoom | Hon. Z. Lane (Teller). |
| Hon. C. E. Dempster (Teller). | |

Question thus passed, and the Assembly's amendment adopted.

Nos. 2 and 3 (consequential)—agreed to.

Resolutions reported, and the report adopted.

ADJOURNMENT.

The House adjourned at 5.46 o'clock, until the next Tuesday.

Legislative Assembly.

Thursday, 5th November, 1903.

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THE SPEAKER took the Chair at 2.30 o'clock, p.m.

PRAYERS.

PAPERS PRESENTED.

By the PREMIER: Aborigines Department, Report for 1902-3.

By the TREASURER: Inspection of liquor and licensed houses, Report containing portion of the information moved for by Mr. Foulkes.

Ordered, to lie on the table.

QUESTION—MINIMUM WAGE, WATER PIPES.

Mr. DAGLISH, without notice, asked the Minister for Works: What is the minimum wage specified in the contract of Messrs. Hoskins and Co., Ltd., with the Goldfields Water Supply Department for the supply of pipes.

THE MINISTER FOR WORKS replied: I know that this contract does not specify any definite rate of wages. It states simply that the employees engaged on the contract shall be paid the ruling rate of wages current in the trade.

QUESTIONS—NOTICE INSUFFICIENT.

THE MINISTER FOR WORKS made a general request to members, supported by the SPEAKER, that more than one day's notice should be given when the House met at 2.30 o'clock.

QUESTION—CRIMINAL INFLUX.

Mr. HASTIE asked the Premier: Whether it is his intention, during this session, to introduce a measure for the prevention of the influx of criminals, similar to the Act now in force in New South Wales.

THE PREMIER replied: The matter is being considered; but I am not quite clear as to the constitutionality of the measure.

ELECTION OF SENATORS BILL.

Introduced by the PREMIER, and read a first time.

SUPREME COURT ACT AMENDMENT BILL.

Introduced by the PREMIER, and read a first time.

RETURN—LIQUOR LICENSES IN MUNICIPALITIES.

On motion by Mr. DAGLISH, ordered: That a return be laid upon the table, showing—1, The number of licenses of each description issued under the Wines, Beer, and Spirit Sales Act in each municipality. 2, The number of licenses of each description issued under the Wines, Beer, and Spirit Sales Act in each roads board district. 3, The estimated population in each municipality or roads board district.