entails a tremendous risk. I know many people who are to receive an estate on the death of the mother or the wife, to whom the estate has been left for life. If one of those persons, say a son, died first, his estate would be liable for duty on the full amount, which he had not received, and to which, had he lived, he might not have become entitled for 20 years.

Hon. J. M. Macfarlane: He would have received nothing from it.

Hon. L. CRAIG: That is so. That provision should be carefully considered. Mr. Nicholson dealt with paragraph (ii.) of the proviso to Clause 49 stating "In this section the term 'assets' means the gross amount of all the real and personal property of the company of every kind," etc. On my first reading of it I considered it grossly unjust, but on reflection it does not appear to be objectionable.

Hon. J. Nicholson: It is capable of a second construction.

Hon. L. CRAIG: The reference to the assets in Western Australia, in proportion to the total assets of the company, I take it, is a distinction without a difference. If the word "capital" were used, it would amount to the same thing. At first I was rather perturbed about the provision.

Hon. J. Nicholson: It is a formula for arriving at the proportion.

Hon. G. W. Miles: Is it all right as it stands?

Hon. L. CRAIG: I think it is. I shall strongly support the Bill, but think that it should be considered by a select committee, so that evidence could be obtained on many of the provisions. Apparently, members of the legal fraternity are perturbed about the far-reaching effects of the measure, and for that reason it is necessary for us to obtain the fullest possible information before we commit ourselves to legislation on the subject.

On motion by Hon. H. J. Yelland, debate adjourned.

BILL—ELECTORAL ACT AMENDMENT.

Second Reading.

Order of the Day read for the resumption from the previous day of the debate on the second reading.

Question put and passed.

Bill read a second time.

BILL—CONSTITUTION ACTS AMENDMENT.

Second Reading.

Order of the Day read for the resumption from the previous day of the debate on the second reading.

Question put and passed.

Bill read a second time.

House adjourned at 5.25 p.m.

Legislative Council,

Tuesday, 2nd October, 1934.

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

QUESTION—UNION WHEAT POOL.

Hon. V. HAMERSLEY (for Hon. C. F. Baxter) asked the Chief Secretary: 1, Are the Government aware that it is the intention of the Union Wheat Pool of Western Australia to give a bill of sale to W. H. Pim, Junior, & Co., Ltd., covering motor cars, plants, machinery, furniture, chattels, fixtures, all grain business, agency, book debts, documents, contracts, leases, licenses etc.? 2, Will the reference to "all grain" cover wheat stored on behalf of clients? 3, What quantity of wheat is held by the Union

Wheat Pool of Western Australia under storage on behalf of clients of the Agricultural Bank?

The CHIEF SECRETARY replied: 1, Yes. 2, This is being looked into. 3, The quantity of wheat under charge to the Agricultural Bank stored with the Union Pool is 10,096 bushels, of which 3,967 bushels are subject to prior liens.

LEAVE OF ABSENCE.

On motion by Hon. H. S. W. Parker, leave of absence granted for six consecutive sittings to Hon. A. M. Clydesdale (Metropolitan-Suburban) on the ground of ill-health.

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

Second Reading.

Debate resumed from the 27th September.

HON. A. THOMSON (South-East) [4.35]: Whilst I do not oppose the Bill, I consider it should be referred to a select committee, so that evidence might be collected as to the effect the clauses may have upon the dependants of a man who may be called away from this earth. We must make sure that this measure will not do any person an injustice. It almost seems to be a crime for a man to endeavour to provide as much as possible for those he leaves behind. A man is taxed as soon as he enters the world. Following upon his birth a registration fee has to be paid, and from then on the tax-gatherer collects from him until the closing hours of his life. If he has been frugal and thrifty, the tax-gatherer gets his annual income tax payments out of him, and at the end of his existence takes a portion of his estate. I do not say that this Bill is any different from legislation that has been passed elsewhere, and I am not casting any reflection upon the Government for having brought it down. I should like to see the measure so liberalised as to provide that the first £1,000 of an estate, whether by will or intestacy, becoming the property of the widow or issue, or either, be exempt from probate duty. The estate may consist only of a house and furniture, and a few pounds in the bank. It is a hardship that people may have to borrow money in order to pay the probate duty on such a small estate. That principle is recognised in cases of income tax, because the amount of £250 is exempt and an allowance is made for children. I hope the select committee will give consideration to that point and see whether it is not possible to increase the exemption. The Bill offers a very fruitful scope for an inquiry as to the effect the various clauses will have. In paragraph (a) of Clause 12, Subclause 1, will be found the following—

> Except where any such disposition is made otherwise than for an adequate consideration in money or money's worth, when the disposition shall be deemed to be a gift to the extent of such inadequacy.

I interpret that in this way: If I sell a house for £1,500, and am satisfied that I am getting its value, the Commissioner is empowered to say that the house was sold for too little, and should have brought on the market at least £2,500. Although the transaction is finalised so far as my estate is affected, the Commissioner can, if my interpretation is correct, compel my estate to pay duty on the additional £1,000 that he considers should have been obtained for the house. There is another clause which gives extraordinary powers to the Commissioner. A man may owe me £1,000. I may be satisfied that he cannot possibly repay that amount, and I accept £500 in full settlement and satisfaction for the amount owing. That sort of thing is done every day. The Commissioner can say I had no right to accept £500 for a debt of £1,000, and my estate may be compelled to pay duty on the extra £500 that I have never received. No doubt it is intended to tighten up the law, but it seems to me unless we are very careful we shall do a grave injustice to someone who, acting in good faith, has accepted a smaller amount than he is entitled to. Paragraph (b) of Subclause 2 of Clause 12 is a contradiction. It says—

> If made at any time, if such gift relates to property of which possession and enjoyment has not been bona fide assumed by the person taking under such gift forthwith thereafter, and thenceforward retained to the entire exclusion of the person making the same, and without any reservation to that person of any benefit to him by contract or otherwise.

The paragraph may legally be interpreted in this way: Assume that a man transfers his house to his wife, as is frequently done;

if he continues to live with her in the house it can be said that the gift has not been made to his wife to the entire exclusion of the person making such gift.

Hon. J. J. Holmes: She may lock him out.

Hon. A. THOMSON: Yes. According to the legal interpretation of the paragraph, the man would not be in possession and enjoyment of the house.

Hon. H. Seddon: Supposed she charged him rent.

Hon. A. THOMSON: The point requires careful investigation. It is very necessary that these clauses should be further considered, and expert evidence submitted before a select committee, so that the House may give considered judgment on the many involved portions of the Bill. I always hesitate, in my position in public life, to impose any additional burden upon the people. It would seem that task usually falls to the lot of Parliaments. We have to increase taxation and ascertain how we can extract a little more from the pockets of the people by means that may be somewhat devious. While it is admitted a certain tightening up of the Act is necessary, it behoves us to be careful not to act, in undertaking that task, to the detriment of the estates of those who, having been careful and frugal in life, have made provision for those left behind. Although the interpretation I suggest could be placed on the clause, I know that is not the intention of the framers of the Bill. When the measure becomes law, it is interpreted by the courts in accordance with the wording and not in accordance with the intention of Parliament. I have read Clause 13 carefully, but it seems exceedingly involved and somewhat dangerous. I candidly confess I do not know just how far the effects of the clause, which deals with joint transfers and investments, will go. I hope the Bill will be submitted to a select committee for consideration, and I will leave that particular clause to be interpreted by that body. If the Minister proposes to reply to the debate, I trust he will give us some further explanation of the meaning of the clause. Clause 18, which deals with the reimbursement of duty paid by an executor or administrator in respect of non-testamentary dispositions of property, also requires careful examination. I shall deal with it when the Bill is in Committee. In my opinion, the clause means that it will be quite possible for the Commissioner, in dealing with an estate that was not solvent when a person died, to go back two years and claim that the estate was solvent and was worth so much, in consequence of which the estate would have to pay probate duty although, as I have indicated, the estate might not be solvent at the later date. I hope the select committee will give close attention to that portion of the Bill. None of us would like to think that legislation could be passed that would enable the Commissioner, in the exercise of this particular power, to compel an estate to pay probate duty in such circumstances. The same objection applies to Clause 19, which relates to the non-testamentary dispositions with intent to evade duty. It seems to me that the clause will open up a fruitful avenue for litigation, with profit to the legal fraternity. It provides that double duty may be imposed in respect of dispositions that the Commissioner regards as attempts to evade the provisions of the Act. The disposition may have been made in all good faith, but the Commissioner might interpret the act as a deliberate attempt to evade the payment of duty. The deceased person, having passed away, will not be there to defend his estate, and it will be futile for his relatives to urge that there was no intention to evade the payment of duty. Members will see how far-reaching the effects of the clause may be. Mr. Piesse dealt with the position of annuities as affected by Clause 28, and I certainly think that portion of the Bill requires further explanation. It is possible, on an actuarial basis, for an annuity on the life of a husband or a wife to last from 20 to 30 years; yet the actual duty will be imposed on the estate.

Hon. H. V. Piesse: And on the annuity as well.

Hon. A. THOMSON: That is the position. I have drawn attention to these various clauses to emphasise the necessity for the reference of the Bill to a select committee for careful scrutiny. I shall not deal with the position as it will affect foreign shares, because that phase was handled efficiently by Mr. Nicholson and Mr. Parker. The clause concerned can be dealt with at a later period. Clause 51 relates to the valuation of shares in unadministered estates and trust estates. Under that clause, it would be quite possible for an estate as a whole

to be absolutely insolvent and yet, because the assets held in Western Australia showed a substantial margin over the liabilities here, probate duty would have to be paid, although the estate would not be in a position to do so. I do not know how that difficulty can be overcome, but it would be unfair and unjust to impose the duty on an estate in such a position. There are a number of other minor amendments that I may suggest at a later stage, but I shall not deal with them at present. I will leave the shaping of the Bill in the hands of the select committee, which I hope will be appointed, feeling confident that great good can be accomplished if more careful consideration is given to the measure before it becomes law.

HON. J. CORNELL (South) [4.55]: The Bill is essentially one for the consideration of individuals who have dealings that will be affected. Only on the points of commonsense, justice and equity will I interest myself in the measure. I know nothing whatever about the finer points and intricacies of this type of legislation, but I have been given to understand on the best authority that at the latest Premiers' Conference, owing to the contradictory nature of, and anomalous conditions imposed under, the various Administration Acts in the several States, and probably in the Commonwealth sphere itself, it was agreed that there was necessity for more uniformity. In order to arrive at some common basis with that object in view, the Premiers' Conference appointed a committee consisting of a Supreme Court judge and a highly qualified accountant to investigate the position. I am also given to understand that the committee have not reported yet, although they are expected to do so at an early date. On the authority of a Minister of the Crown in Victoria, I understand that the Government in that State have drafted a Bill, but its introduction has been held up pending the receipt of the report from the body set up by the latest Premiers' Conference.

Hon. J. Nicholson: I believe the Governments of New South Wales and Victoria are endeavouring to arrive at some equitable basis.

Hon. J. CORNELL: In this State we have been given to understand that it is a matter almost of life and death that the Bill be passed. Some portions of the Bill have remained on the statute-book in the original Act for 30 years. In the circumstances, I can see no necessity for hurry in the passing of the Bill. There is one reason only that can be advanced, and probably that is for the collection of taxation that, in some instances, may not rightly be due to the State. The Bill is eminently one for consideration by a select committee and I shall not discuss its provisions further. I hope the select committee will make inquiries as to what the Commonwealth body have done towards bringing about uniformity. In my opinion, the time for the review of administration and company laws with a view to securing greater uniformity is long overdue. The Bill is one with which a private member cannot deal and, in the circumstances, rather than hurry, we should make haste slowly and secure the best information available on such an important question.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central—in reply) [5.0]: Although Mr. Nicholson admitted that the provisions of the Act of 1903 needed tightening up, he gave no indication as to what amendments should be made in order to bring that about. Indeed, he made severe onslaughts on the main principles of the Bill, and he gave me the impression that he was opposed to the measure, lock, stock and barrel. He seems to be afraid that legislation such as is proposed in the Bill will cause capital to be withdrawn from the State. In support of that view, the hon. member related an interesting anecdote of an Englishman who had made money in Ceylon and who had returned to the Old Land thinking to settle and pass his remaining days there. The gentleman, we are told, was astonished to find how heavily taxation bore upon the people in England, not only while they were resident there, but also how severely the payment of death duties would press upon those whom they had left behind. So the wealthy patriot left his native country and went back to Ceylon, where he could escape high taxation in life, and die peacefully in the end free from all fears as to what the probate officers would collect from his estate when he had reached the Great Beyond. The anecdote, however, has no bearing on this Bill. The Bill does not propose to increase taxation. It proposes to block up loopholes which have enabled ingenious people to escape obligations which have been

met by many others in the community. The Bill goes a bit further and ropes in persons who make their money in Western Australia but who do not reside here and whose property, after they pass away, contributes nothing to the State in the form of probate duty, on the basis of the wealth they had accumulated here during their lives.

It is doubtful whether there would be any appreciable percentage among those outside the State who invest money in profitable business or industry in Western Australia who would be likely to take the very long view of the gentleman from Ceylon and withdraw their capital because of their alarm at the amount of probate duties their heirs and successors would have to pay. Mr. Nicholson says: "In Western Australia the wealth is in the making, and everything that a man makes in connection with his property is wanted for the development of further areas." Hardships, he tells us, may be involved 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. This is an argument in favour of the total repeal of all forms of taxation and especially of the Administration Act. But the Administration Act is here. It is operating, but a fair percentage of those who should come under it adopt various devices which enable their legatees to laugh at the probate officers. Does the hon. member approve of that condition of things being allowed to continue in the face of the facts which I have placed before the House?

Mr. Nicholson thinks that, if anything is done, it should be done gradually, that we should not be asked to swallow the pill holus bolus, and that if we are obliged to do so, it will come as a shock to many people. That is an extraordinary argument. Surely, if we are satisfied that an evil exists and requires to be tackled, we should not deal with it piecemeal, but sweep it away in bulk without hesitation. To do so, can cause no shock to people who are prepared to meet their dues to the State, and those who are ready to scheme in order to avoid their responsibilities are not, in my opinion, entitled to a moment's consideration. There has already been a shock—a shock to the Government and I am sure a shock to every hon. member—at the disclosures made by the probate officers as to what has been going on in this State in recent years by way of evasion of the Administration Act. Mr. Nicholson points out that the clause dealing with foreign companies may mean double taxation—here and in the Eastern States for instance. The hon. member suggests that instead of passing this Bill a friendly conference on the question should be arranged between the different States as a result of which he feels confident the whole difficulty would be overcome. Mr. Nicholson must have very great faith in the pliability and magnanimity of those Governments if he thinks that we could get them to give way simply by the asking. It would be a different matter if we already had legislation authorising us to collect the tax. We could then speak to them on equal terms. Otherwise they would laugh at us.

The hon. member says a Royal Commission has been appointed by the Commonwealth to go into the incidence of taxation and death duties, and he asks, "Is it not wise to await its report?" The principal features of this Bill demand attention no matter what the Commonwealth report may be. We have been tolerating things here, under the Administration Act, that are tolerated nowhere else, except as Mr. Nicholson says in the Isle of Man, and we should take speedy action to end the existing state of affairs, which is nothing short of scandalous. Before long, everyone will be evading probate duty, unless the present Act is amended.

Hon. L. B. Bolton: It is a wonder the Governments of the States have not awakened to this matter before.

The CHIEF SECRETARY: It is. I was not aware of it and the present Ministry were not aware of it, but a fair percentage of people knew exactly what to do to evade taxation. Further legislation can, if necessary, be introduced later to incorporate in the Administration Act any wise recommendations of the Commonwealth Royal Commission. But, if past experience be any criterion, we may expect that the report will be pigeon-holed and never see the light of day again. The Commonwealth are not likely to favour any report which suggests advantages to the States. Mr. Nicholson says that, if there is evasion, double duties can be imposed. That is so. It is the case now. But it is by no means easy—in most cases it is impossible—to prove evasion. Mr. Thomson also said that all the Commissioner had to do, in the

event of evasion, was to impose double duty straightaway I was not able to follow the hon. member closely; he made a running commentary on a number of the clauses and consequently I am not able to reply to him at the moment. But it is quite easy for the hon. member to say that all the Commissioner has to do is to impose double duties. He, however, forgets that the Commissioner in charge of probate must act according to the law. If a case were taken to court he would have to justify his action. Prevention is better than cure, and this Bill will leave little opportunity for evasion. It is because of the difficulty of sheeting home evasion that this measure has become necessary.

In dealing with Clause 49—"Duty on shares of foreign companies on death of shareholders"—Mr. Nicholson became quite heated. He alleged that, in estimating the values of shares, liabilities were not taken into account. I would point out that the actual market value of the shares is ascertained. Then there is a formula in Paragraph (II.) of the proviso to Clause 49, for arriving at a determination as to what proportion of the value of the shares should be charged with probate duties. That proportion is arrived at by taking into account the amount of the company's assets here as against the amount of the assets outside Western Australia. I may say here that the Government have decided to exclude all foreign mining companies from the operation of the Bill. It has been pointed out to them that unless such exclusion were made there was a possibility of investors outside Australia misunderstanding the position, and concluding that the Government were not in full sympathy with the investment of outside capital for the development of our mining resources. Hence, it has been decided that the shareholders in foreign mining companies will not be affected by the Bill after the necessary amendment has been made.

Hon. J. J. Holmes: Why should not those companies pay taxation as well as any others?

The CHIEF SECRETARY: There seems to be a general impression that anything in the direction of undue taxation—and this might be pointed to as unfair taxation of mining compaines—would have the effect of frightening capital away.

Hon. J. J. Holmes: If you can frighten mining capital way, you can also frighten other capital away.

The CHIEF SECRETARY: It will be for the House in Committee to decide whether the amendment to that effect which I propose to move shall be carried or not. Of course there are other companies which will not be excluded from the operation of the measure; for instance, companies operating here and with their headquarters outside the State and, I am given to understand, making large profits and having wealthy shareholders. The estates of such shareholders are not to escape probate duty on the value of the shares, if the Bill is enacted as desired by the Government.

Hon. J. Nicholson: What about pastoral companies in the North-West?

The CHIEF SECRETARY: The estates of people who are developing the North-West to-day have to pay probate duty.

Hon. J. Nicholson: They will have to pay under the Bill?

The CHIEF SECRETARY: Yes.

Hon. J. Nicholson: Why not exclude them as well? You want to develop the North.

The CHIEF SECRETARY: We do not propose to exclude those estates. Mr. Nicholson tells us that if investors in foreign companies realise that their shares are going to be affected by 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." In reply, I would say that all we propose to do is to make a deceased member of a company, which accumulated wealth here, pay probate duty on his share of that wealth just as though he were a resident of the State. The company has to collect the duty. There is no risk, because, if the shares are of small value, there is little duty to pay. Whatever the duty is, it is well covered by the value of the shares. The principle has worked all right in New South Wales for 33 years. It has operated without friction in Queensland for nearly 30 years. The same principle is applied in the Dividend Duties Act of this State. In that Act we tax a company in respect of dividends declared, or deemed to be declared, irrespective of where a shareholder resides or is domiciled. Capital has not been frightened away because of a dread of probate duty that someone else has to pay when the investor is dead. Anyone who contemplates investing capital in a country where he sees every prospect of

making good is hardly likely to be frightened away by the thought that those who survive him will have to pay probate duty on his estate. Some hon. members seem to think that because a life assurance company is obliged to furnish returns of policies paid, and also to withhold payment until duty has been paid, unnecessary hardship will be caused. The position to-day is that in the case of the ordinary death policy, no company will make the payment until probate has been granted and duty paid. As the Bill is worded, it will be easier to get payment of policy moneys than it is under the existing law. Under the existing law it is provided, by Section 92 of the Administration Act, that "if, after the grant and before the issue of probate or administration, the duty in respect thereof is secured to the satisfaction of the Commissioner, or is in part paid and in part so secured, the Master shall cause the probate to be produced at his office and before any court, at the expense of the executor or administrator." Now, it is provided in this Bill, by Clause 9, that subject to duty being prepaid, or security being furnished to the satisfaction of the Commissioner, the probate may actually issue. In practice, it is quite easy to obtain payment of a life policy before the duty is actually paid. It would be sufficient, under this Bill, for the life assurance company to give a letter to the Commissioner informing him that it would protect the revenue to the extent of any duty, and the Commissioner could then release payment of the life policy. This can be achieved quite simply and expeditiously.

Hon. H. S. W. Parker: One has to wait 14 days before applying for probate. Under the present system of joint tenancy, the money can be obtained straightaway.

The CHIEF SECRETARY: Clause 21, dealing with registration of settlements, was discussed by the Parliamentary Draftsman with one of the legal members in another place, and an amendment was framed which suited that member. At another stage I shall be moving an amendment which may be accepted as satisfactory. The gist of it will be that where a settlement has not been registered, through ignorance or inadvertence, then, notwithstanding any lapse of time, the court may, if it considers it just and equitable, order that the settlement be registered. This should get over the objections of some members. Clause 40, dealing with refund of duty where too much duty has been paid, certainly prescribes the limit of two years, and it is proposed to put in a similar limit in Clause 39, which precedes it, and which deals with the Crown's right to recover duty when too little duty has been assessed. At a later stage, I shall be moving an amendment in this regard. Mr. Piesse cited the case of a guarantee thought to involve no liability at date of death, but which subsequently matured into a very large liability. I think his point rather overlooks the principle on which duty is assessed in all death duty enactments. It is absolutely necessary to take a date at which the value of all assets and liabilities is definitely fixed. For instance, a property may be worth £20,000 at date of death, and, through some circumstance, purely fortuitous, it may rise, and become worth £40,000 one month after death. The Commissioner can claim no further duty on this account. Similarly, liabilities are fixed as at date of death, and if some contingent liability of the estate happens, by reason of some fortuitous circumstance, to mature into an actual liability at a distinct date, the same principle applies. I do not see how a remedy can be provided for such a case. But, of course, if the contingent liability is a potential obligation at the date of death, it should be estimated, and set up as a liability immediately.

In regard to Clause 49—taxation of shares in foreign companies—from the tenor of Mr. Nicholson's remarks it would appear that he is under the impression that local share registers have to be kept by foreign companies operating in this State and engaged in the business of mining, timber getting or selling land. This is not so. Whilst the amending Companies Act provides for the keeping of a colonial share register by foreign companies, a company is not bound to do anything more than to keep a mere register, and unless a shareholder requests that his name be entered into a colonial register, there is no need for the company to enter his name as a local shareholder.

Hon. J. Nicholson: That is what I said, that a shareholder had to make a request.

The CHIEF SECRETARY: Shareholders, of course, have realised the position, and naturally do not wish to take advantage of the provision relating to local registers; because immediately they did so the position would arise that the State would seek to impose duty in respect of shares which passed to beneficiaries on the death of a shareholder. The provision in

the Companies Act relating to colonial registers has become a dead letter in this State.

Hon. J. Nicholson: Because the people have not been aware of it.

The CHIEF SECRETARY: Mr. Nicholson is under the impression that in every case the criterion in regard to taxability of shares is the place where the share register is kept. This is not a universal rule. The general rule is the place where the company is domiciled, where it has its main office. Generally, the share register will be found in that place, but not invariably so.

Hon. J. Nicholson: As a rule it is.

The CHIEF SECRETARY: Touching again on the suggestion that there was something wrong with the provision for excluding liabilities and assessing portion of the share based on its market value: This is the fairest method of determining the proportionate value in this State, as any market value must take into account the assets and liabilities of the company here and elsewhere. If, as has been suggested, shares were valued on an assets and liabilities basis, this might easily give a fictitious value far above the actual market value. Many companies have valuable assets and show quite a large balance over liabilities, but do not earn satisfactory dividends, and consequently their shares are quoted at a low value on the market. It is much fairer to the shareholder to take the actual market value than to take the value which is based on a paper balance of assets over liabilities. I gathered from remarks made by certain members that they thought the peculiar position which has arisen here could be obviated by enacting a special provision in the Companies Act, obliging all foreign companies to keep a colonial register and enter up in it all the names of shareholders in the company. This would be placing a very onerous duty on those companies, and would react very unfairly against the shareholders. It might have the tendency to localise, for the purpose of probate duty, the full value of the shares in the State, whereas by Clause 49 of the Bill, all that we seek to tax is that portion of the value of the share which is attributable to assets situate within our borders.

Hon. H. S. W. Parker: Why not get the full value?

The CHIEF SECRETARY: We are not so greedy. Mr. Parker said the Bill has the effect of taxing the company. This does not give the full significance of the provision. The Bill taxes the member of the company, through the company, by obliging the company here to pay the tax which is due by the shareholder. The company is operating in Western Australia on behalf of all its members or shareholders, and it is taxed in a representative capacity. The company has recourse against the shareholder for the payment of the tax, and its best protection is the fact that it has control of the shares of the member.

Hon. J. Nicholson: They could not do that if the shareholder were domiciled here.

The CHIEF SECRETARY: In connection with the collection of the tax, no international complications are likely to arise. Every foreign company operating in Western Australia is obliged to register here, to have an office here, and to appoint an attorney, who must be empowered to sue on behalf of the company or to be sued. I would draw the attention of members to Part VIII. of the Companies Act, 1893. The local attorney has control of the local assets, and so he has the power to pay the duty out of those assets. A company which trades here is subject to our laws, and shareholders who are members of such a company must be deemed to be bound by those laws, insofar as the assets of the company are situate in the State.

Hon. H. S. W. Parker: The company has no control over the shares here.

The CHIEF SECRETARY: Not if the Bill becomes an Act? At all events, that is what I am advised. Is that right or wrong?

Hon. J. Nicholson: The company is a separate entity from the shareholders.

The CHIEF SECRETARY: Well, this is the law, as supplied to me, and two legal members here say it is unsound law.

The PRESIDENT: The point cannot be settled by means of interjections.

The CHIEF SECRETARY: Replying to Mr. Parker's argument that the shares might fall in value—the hon. member is quoting what perhaps might be termed extreme cases, but in order to meet his fears, provision could be made—I am prepared to make it—limiting the liability of this company in the event of such a contingency arising. Mr. Parker's argument that the clause might lead to attempted evasions is hardly an argument against the principle of the clause. If, in the course of time,

we find that the clause can be evaded, it will be our duty to tighten it up by amending it.

Hon. H. Seddon: The select committee might investigate that.

The CHIEF SECRETARY: On the other hand, I would point out that similar provisions have been operating in the States of New South Wales and Queensland, and, so far as I have been able to ascertain, they have given fair satisfaction. It has been suggested that the clause will lead to the flight of capital from this State, and prevent capital being invested from outside. In answer to that argument, one has only to instance the case of Queensland, where there are so many companies operating.

Hon. J. Nicholson: Have they come to this State?

The CHIEF SECRETARY: No. I am told that capital has been invested there on a big scale, and that a large number of foreign companies are operating in Queensland.

Hon. G. W. Miles: Mining companies in that State?

The CHIEF SECRETARY: No. Mr. Parker, while not disputing the accuracy of the figures I supplied in reference to the amount of probate duty received per capita in the different States of Australia, contended that erroneous conclusions were likely to be drawn therefrom. No doubt a comparison of W.A. with Victoria and New South Wales would be unfair by reason of the outstanding wealth of the two big States. But Queensland, which is not so fortunately circumstanced, pays 10s. 6d. a head, as against 3s. 7d. in Western Australia.

Hon. H. S. W. Parker: Where does the Colonial Sugar Refining Company register?

The CHIEF SECRETARY: That is only one company. As I say, Queensland pays 10s. 6d. per head against 3s. 7d. in Western Australia. Then there is little Tasmania, which raises 7s. 8d. per head, or more than double the amount per capita that we receive. So something is wrong with our Act. It has been suggested by several members, in speaking to the second reading of this Bill, that it should be referred to a select committee, rather than be considered by the Committee of the whole House. The main arguments used by members in support of their contention seem to relate principally to the provisions dealing with the taxation of life policies and shares of deceased members in foreign companies operating in this State. It is somewhat difficult to see why a select committee should be needed, and why these features of the Bill cannot be effectively dealt with by a Committee of the whole House. I have agreed to exclude foreign mining companies from the operations of the Bill, and so I see no necessity for sending the Bill to a select committee. All members who have spoken admitted the necessity for the measure; it has been severely criticised and I have replied to most of the criticism, and, in view of these circumstances, there cannot be any real necessity for the Bill going to a select committee. It is a matter for the House to decide. Many other minor points were raised during the discussion, but they can be dealt with in Committee. Mr. Thomson said he disliked the Bill because of the effect it would have on dependants. The original Act has a similar effect. The object is to collect probate duty and that must affect dependants. Mr. Cornell would rely on the report of the Commonwealth Royal Commission. I dare say that report will be valuable, if it is not pigeon-holed, and will be worthy of consideration by the Government and perhaps subsequently by Parliament, but the urgency of this measure cannot be denied. No doubt it would have been introduced years ago had the Governments during the last 15 or 16 years been aware of the considerable amount of evasion that was being practised. I hope that the Bill will not be referred to a select committee, but if it is, I am confident that members will give it serious attention and do their best to preserve the principles of the measure.

Question put and passed.

Bill read a second time.

Referred to Select Committee.

HON. J. NICHOLSON (Metropolitan) [5.47]: I move—

That the Bill be referred to a select committee of five members, consisting of the Hons. G. W. Miles, H. Seddon, H. S. W. Parker, H. V. Piesse, and the mover, that the committee have power to call for persons, papers and records, that three members form a quorum and that the committee report on Tuesday, the 30th October.

Question put and passed.

BILL—ELECTORAL ACT AMENDMENT.

Second Reading Annulled.

THE HONORARY MINISTER (Hon. H. W. Kitson—West) [5.49]: To pass this Bill, a constitutional majority is required, and I regret to find that when the second reading was put, no division was taken, and consequently there is no certainty that the second reading was passed by a constitutional majority. Therefore, I move—

That the provisions of Standing Order 243 having been overlooked in connection with the second reading of the Electoral Act Amendment Bill, the proceedings subsequent to the first reading of the Bill be annulled, and the second reading of the Bill be made an order of the day for the next sitting of the House.

HON. J. CORNELL (South) [5.50]: I second the motion. Only yesterday, when I came to draft an amendment, did it dawn on me that the House should have been divided in accordance with Standing Order 243.

Question put and passed.

BILL—CONSTITUTION ACTS AMENDMENT.

Second Reading Annulled.

On motion by the Honorary Minister, resolved—

That the provisions of Standing Order 243 having been overlooked in connection with the second reading of the Constitution Acts Amendment Bill, the proceedings subsequent to the first reading of the Bill be annulled, and the second reading of the Bill be made an order of the day for the next sitting of the House.

ADJOURNMENT—ROYAL SHOW.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central) [5.52]: I move—

That the House at its rising adjourn till Wednesday, 10th October.

Question put and passed.

House adjourned at 5.53 p.m.

Legislative Assembly,

Tuesday, 2nd October, 1934.

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

BILL—LAND TAX AND INCOME TAX.

Introduced by the Minister for Works (for the Treasurer), and read a first time.

LEAVE OF ABSENCE.

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

ANNUAL ESTIMATES.

Message from the Lieut.-Governor received and read transmitting the Annual Estimates of Revenue and Expenditure for the financial year 1934-35, and recommending appropriation.

FINANCIAL STATEMENT FOR 1934-35.

In Committee of Supply.

The House resolved into Committee of Supply to consider the Estimates of Revenue and Expenditure for the year ending 30th June, 1935; Mr. Sleeman in the Chair.

THE MINISTER FOR WORKS (Hon. A. McCallum—South Fremantle) [4.38]: There is no member of this Chamber who wishes more sincerely than I do that the Premier was in good health and present to deliver this Budget to-day. I feel sure that I merely echo the wish of all hon. members when I express the hope that it will not be long before the Premier is amongst us again in his old, vigorous health. However, the work of the country must go on, and it falls to my lot to deliver the Financial State-