

1940-41-42.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA,
CANBERRA.

VOTES AND PROCEEDINGS
OF THE
HOUSE OF REPRESENTATIVES.

No. 81.

WEDNESDAY, 20TH MAY, 1942.

1. The House met, at half-past two o'clock p.m., pursuant to adjournment.—Mr. Speaker (the Honorable W. M. Nairn) took the Chair, and read Prayers.
2. ALTERATION OF HOUR OF NEXT MEETING.—Mr. Curtin (Prime Minister) moved, That the House, at its rising, adjourn until half-past ten o'clock a.m. to-morrow.
Question—put and passed.
3. PAPERS.—The following Papers were presented, pursuant to Statute—
Lands Acquisition Act—Land acquired—
For Defence purposes—
Amberley, Queensland.
Sale, Victoria.
Tatura, Victoria.
For Postal purposes—Moggill, Queensland.
War Service Homes Act—Regulations—Statutory Rules 1942, No. 226.
4. GIFT DUTY ASSESSMENT BILL 1942.—The Order of the Day having been read for the resumption of the debate on the question, That the Bill be now read a second time—
Debate resumed.
Question—put and passed.—Bill read a second time.
Mr. Speaker left the Chair, and the House resolved itself into a Committee of the Whole.

(In the Committee.)

Clauses 1 to 4 agreed to.
Clause 5 debated and agreed to.
Clause 6 agreed to.
Clause 7 debated and agreed to.
Clause 8—

On the motion of Mr. Chifley (Treasurer), the following amendment was made :—

Pages 2 and 3, omit paragraphs (a) and (b), insert—

- “(a) by inserting at the end of paragraph (b) the word ‘ and ’ ;
(b) by omitting from paragraph (c) the word ‘ and ’ (last occurring) ;
(c) by omitting paragraph (d) ; and
(d) by adding at the end thereof the following sub-sections :—

‘ (2.) Where the Commissioner is of the opinion that it is necessary that the following provisions should apply for the purpose of computing the value of a gift for the purposes of this Act, the following provisions shall apply :—

(a) The value of shares or stock in any company, whether incorporated in Australia or elsewhere, shall be determined upon the assumption that, on the date when the gift was made, the memorandum and articles of association or rules of the company satisfied the requirements prescribed by the Committee or governing authority of the Stock Exchange at the place where the share or stock register is situate, for the purpose of enabling that company to be placed on the current official list of that Stock Exchange ;

(b) No regard shall, in determining the value of any such shares or stock, be had to any provision in the memorandum or articles of association or rules of the company whereby or whereunder the value of the shares or stock of a deceased or other member is to be determined ; and

(c) Where a gift includes any shares or stock in any company the shares or stock of which are not or is not quoted in the official list of any Stock Exchange, the Commissioner may, in his discretion, notwithstanding anything contained in the last two preceding paragraphs, adopt as the value of any such shares or stock such sum as the holder thereof would receive in the event of the company being voluntarily wound up on the date when the gift was made.

‘ (3.) Any Board or Court having jurisdiction to determine, for the purposes of this Act, the value of any shares or stock to which the last preceding sub-section applies, may substitute its own opinion for, or use its own discretion in lieu of, any opinion or discretion of the Commissioner under that sub-section.’ ”

Clause, as amended, agreed to.

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Clause 9 debated and agreed to.
Title agreed to.
Bill to be reported with an amendment.

The House resumed; Mr. Guy reported accordingly.
On the motion of Mr. Chifley, by leave, the House adopted the Report, and, by leave, the Bill was read a third time.

5. ESTATE DUTY ASSESSMENT BILL 1942.—The Order of the Day having been read for the resumption of the debate on the question, That the Bill be now read a second time—

Debate resumed.

Question—put and passed.—Bill read a second time.

Mr. Speaker left the Chair, and the House resolved itself into a Committee of the Whole.

(*In the Committee.*)

Clauses 1 and 2 agreed to.

Clause 3—

On the motion of Mr. Chifley (Treasurer), the following amendments were made, after debate :—

Page 2, line 7, omit "any person", insert "or to any person in trust for, the widow, widower, children, grand-children, parents, brothers, sisters, nephews or nieces of the deceased".

Page 2, line 18, omit "and".

Page 2, after line 18 insert—

"(ba) by inserting after sub-section (4.) the following sub-section :—

(4A.) Where a policy of assurance on the life of the deceased was in existence at the commencement of paragraph (f) of the last preceding sub-section, in ascertaining the money payable under that policy for the purposes of that paragraph there shall be deducted from the money actually payable an amount equal to the amount which, if invested at the date of that commencement and accumulated at three per centum per annum compound interest with yearly rests, would have produced, as at the date of death, an amount equal to the money actually payable."

Clause, as amended, agreed to.

Clause 4—

On the motion of Mr. Chifley, the following amendments were made :—

Page 2, line 23, omit "For the purpose of determining the value for duty", insert "From the value".

Page 2, line 27, omit "one year", insert "three years".

Mr. Duncan-Hughes moved, as a further amendment, That the following sub-clause be inserted in proposed new section 9 :—

"(1A.) From the duty payable on any estate from which a deduction is made in accordance with sub-section (1.) of this section there shall be deducted so much of the duties leviable in respect of the remainder of the estate as exceeds the sum which, if accumulated at compound interest at the rate of three per centum per annum from the date of death with half-yearly rests would, at the expiration of the period of the normal expectation of life of a person of the age of the deceased at the time of death (calculated in accordance with the Australian Life Tables published by the Commonwealth Statistician) amount to the whole of the duties so leviable."

Debate ensued.

Question—That the sub-clause proposed to be inserted be so inserted—put.

The Committee divided (The Chairman, Mr. Prowse, in the Chair)—

Ayes, 19.

Noes, 30.

Mr. Badman	Mr. Paterson
Mr. Beck	Mr. Perkins
Mr. Cameron	Mr. Price
Mr. Duncan-Hughes	Mr. Rankin
Mr. Francis	Mr. Ryan
Mr. Harrison	Mr. Stacey
Mr. Holt	
Mr. Jolly	
Mr. Marwick	<i>Tellers:</i>
Mr. McDonald	Mr. Corser
Mr. McEwen	Mr. Guy

Mr. Baker	Mr. Johnson
Mr. Barnard	Mr. Langtry
Mr. Beasley	Mr. Lawson
Mr. Blackburn	Mr. Lazzarini
Mr. Breen	Mr. Makin
Mr. Brennan	Mr. Mulcahy
Mr. Calwell	Mr. Pollard
Mr. Chifley	Mr. Riordan
Mr. Clark	Mr. Rosevear
Mr. Curtin	Mr. Scully
Mr. Drakeford	Mr. Sheehan
Mr. Falstein	Mr. Ward
Mr. Forde	
Mr. Frost	<i>Tellers:</i>
Mr. Holloway	Mr. Conelan
Mr. James	Mr. Martens

And so it was negatived.

On the motion of Mr. Chifley, the following further amendment was made :—

Page 2, after line 39 insert—

"(3.) Where the question as to whether such a member has or has not died as a result of injuries received or disease contracted on active service has been finally determined for the purposes of the *Australian Soldiers' Repatriation Act 1920-1941* by an authority constituted under that Act, the certificate by that authority that that member has or has not so died shall, for the purposes of this Act, be conclusive evidence that the member has or has not so died, as the case may be."

Clause, as amended, agreed to.

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Clause 5—

On the motion of Mr. Chifley, the following amendments were made :—

Page 2, lines 42 and 43, omit " For the purpose of assessing the value for duty of an estate for the purposes of this Act—", insert " Where the Commissioner is of the opinion that it is necessary that the following provisions should apply for the purpose of assessing the value for duty of an estate for the purposes of this Act, the following provisions shall apply :— ".

Page 3, lines 17 and 18, omit " , in the opinion of the Commissioner,".

Page 3, after line 20 insert—

" (2.) Any Board or Court having jurisdiction to determine, for the purposes of this Act, the value of any shares or stock to which the last preceding sub-section applies, may substitute its own opinion for, or use its own discretion in lieu of, any opinion or discretion of the Commissioner under that sub-section.' "

Clause, as amended, agreed to.

Clause 6—

On the motion of Mr. Chifley, the following amendments were made :—

Page 3, line 24, after " passes " insert " by will, intestacy, gift *inter vivos*, settlement or right of survivorship ".

Page 3, line 37, after " estate " insert " so ".

Page 4, lines 4 and 5, omit all words after " paragraph (c) ", insert " of sub-section (1.) the words ' or settlement ' and inserting in their stead the words ' settlement or right of survivorship ' ".

Clause, as amended, agreed to.

Clause 7 agreed to.

Clause 8—

On the motion of Mr. Chifley, the following amendment was made :—

Page 5, lines 35-42, omit the clause, insert—

" 8. Part V. of the Principal Act is repealed and the following Part inserted in its stead :—

' PART V.—OBJECTIONS AND APPEALS.

' 24.—(1.) An Administrator who is dissatisfied with the assessment of the Commissioner may, within thirty days after the service of notice of assessment, post or lodge with the Commissioner an objection in writing against the assessment, stating fully and in detail the grounds on which he relies : Objection and appeal.

Provided that, where the assessment is an amended assessment, an Administrator shall have no further right of objection than he would have had if the amendment had not been made, except to the extent to which, by reason of the amendment, a fresh liability in respect of any particular is imposed on him or an existing liability in respect of any particular is increased.

' (2.) The Commissioner shall consider the objection and may either disallow it or allow it either wholly or in part.

' (3.) The Commissioner shall give to the objector written notice of his decision on the objection.

' (4.) If the objector is dissatisfied with the decision of the Commissioner he may, within thirty days after the service by post of notice of that decision—

(a) in writing, request the Commissioner—

(i) to refer so much of the decision as relates to the value assigned to any property included in the estate to a Valuation Board for review of that value ; or

(ii) to refer so much of the decision as does not relate to the value assigned to any property included in the estate to a Board of Review for a review of that decision ; or

(b) in writing, request the Commissioner to treat his objection as an appeal and to forward it to the High Court, or to the Supreme Court of a State or Territory of the Commonwealth.

' (5.) Notwithstanding anything contained in this section, where the assessment made by the Commissioner is based upon assessments made under the law of a State, a reference or an appeal shall not lie from such assessment unless an appeal has been made from the State assessment upon which the assessment under this Act is based.

' 25.—(1.) Where the objector has, in accordance with the last preceding section, requested the Commissioner to refer a decision to a Valuation Board, the Commissioner shall, if the objector's request is accompanied by a deposit of One pound, refer the decision to the Valuation Board not later than sixty days after the receipt of the request. Reference to Valuation Board.

' (2.) The objector shall be limited on the review to the grounds which he has stated in his objection as being those upon which he objects to the value assigned to the property.

' (3.) If the value assigned to the property included in the assessment has been reduced by the Commissioner after considering the objection, the reduced value shall be the value dealt with by the Valuation Board under the next succeeding sub-section.

' (4.) Subject to the next succeeding sub-section, the Valuation Board shall give a decision and may either confirm the value assigned to the property in the assessment or reduce or increase that value.

' (5.) In default of the appearance of the objector before the Valuation Board for the purpose of the review, the Valuation Board shall confirm the value assigned to the property in the assessment :

Provided that upon good cause shown, the Valuation Board may, within the prescribed time, re-open the matter and review the value assigned to the property in the assessment.

' (6.) The objector may, within thirty days after the Valuation Board's decision, request the Commissioner, in writing, to refer his objection, so far as it relates to grounds not dealt with by the Valuation Board, to a Board of Review or to the High Court or the Supreme Court of a State or Territory of the Commonwealth.

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'(7.) The Commissioner or the objector may, within thirty days after the date of the Valuation Board's decision, appeal to the High Court from any decision of the Valuation Board in this connexion, which, in the opinion of the High Court, involves a question of law, and the Valuation Board shall refer to the High Court any question of law arising before the Valuation Board, and the decision of the High Court shall be final and conclusive.

'26.—(1.) Where the objector has, in accordance with section twenty-four of ^{Reference to Board of Review.} this Act, requested the Commissioner to refer a decision to a Board of Review, the Commissioner shall, if the objector's request is accompanied by a deposit of One pound, refer the decision to a Board of Review not later than sixty days after the receipt of the request.

'(2.) The objector shall be limited on the review to the grounds which he has stated in his objection.

'(3.) If the assessment has been reduced by the Commissioner after considering the objection, the reduced assessment shall be the assessment dealt with by the Board of Review under the next succeeding sub-section.

'(4.) Subject to the next succeeding sub-section, the Board of Review shall give a decision and may confirm, reduce, increase or vary the assessment.

'(5.) In default of the appearance of the objector before the Board of Review, for the purpose of review, the Board of Review shall confirm the assessment :

Provided that upon good cause shown, the Board of Review may, within the prescribed time, re-open the matter and review the assessment.

'(6.) For the purpose of reviewing the assessment, a Board of Review shall have all the powers and functions of the Commissioner in making assessments, determinations and decisions under this Act, and such assessments, determinations and decisions of a Board of Review and its decisions upon review, shall for all purposes (except for the purpose of objections thereto and review thereof and appeals therefrom) be deemed to be assessments, determinations or decisions of the Commissioner :

Provided that a Board of Review shall not reduce or increase any value assigned in the assessment to any property, but shall accept as final the value assigned to the property by the Commissioner, or, where the value has been reduced or increased by a Valuation Board, by the Valuation Board.

'(7.) The objector may, within thirty days after the decision of the Board of Review, request the Commissioner, in writing, to refer his objection, so far as it relates to the value assigned to any property in the assessment, to a Valuation Board.

'(8.) Where a Board of Review has reviewed any assessment and given any decision thereon and the value assigned to any property in that assessment is subsequently reduced or increased by a Valuation Board, the Commissioner shall vary the assessment to give effect to the decision of the Valuation Board.

'(9.) The Commissioner or the objector may, within thirty days after the decision of a Board of Review, appeal to the High Court from any decision of the Board of Review in this connexion which, in the opinion of the High Court, involves a question of law, and the Board shall refer to the High Court any question of law arising before the Board of Review, and the decision of the High Court shall be final and conclusive.

'27.—(1.) Where an objector has, in accordance with the provisions of this ^{Appeals to Court.} Part, requested the Commissioner to treat his objection as an appeal and to forward it to the High Court or a Supreme Court, the Commissioner shall forward it accordingly.

'(2.) The appeal shall be heard by a single Justice or Judge of the Court.

'(3.) The objector shall be limited, on the hearing of the appeal, to the grounds stated in his objection.

'(4.) If the assessment has been reduced by the Commissioner after considering the objection, the reduced assessment shall be the assessment to be dealt with on the appeal.

'(5.) On the hearing of the appeal, the Court may make such order as it thinks fit, and may by such order confirm, reduce, increase or vary the assessment.

'(6.) The order of the Court shall be final and conclusive except as hereinafter provided.

'(7.) The costs of the appeal shall be in the discretion of the Court.

'28.—(1.) The Court may, if it thinks fit, state a case in writing for the opinion ^{Case stated to High Court.} of the Full Court of the High Court upon any question of law arising on the appeal.

'(2.) The High Court shall hear and determine the question, and remit the case, with its opinion, to the Court below and may make such order as to the costs of the case stated as it thinks fit.

'28A. The Commissioner or the objector may appeal to the High Court in its ^{Appeal to High Court.} appellate jurisdiction from any order made under sub-section (5.) of section twenty-seven of this Act.

'28B. The fact that an appeal or reference is pending shall not in the meantime interfere with or affect the assessment the subject of the appeal or reference, and estate duty may be recovered on the assessment as if no appeal or reference were pending. ^{Pending appeal or reference not to affect assessment.}

'28c. If the assessment is altered on the appeal or reference a due adjustment shall be made, for which purpose amounts paid in excess shall be refunded, and amounts short paid shall be recoverable as arrears. ^{Adjustment of duty after appeal.}

Clause, as amended, agreed to.

Clause 9—

On the motion of Mr. Chifley, the following amendments were made :—

Page 6, line 3, after " thirty-nine " insert " , and any assessment made prior to the commencement of this Act may, in order to give effect to that amendment, be amended notwithstanding anything contained in section twenty of the Principal Act as amended by this Act."

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Page 6, line 4, omit " amendment effected by section seven ", insert " amendments effected by sections seven and eight ".

Page 6, lines 7-9, omit sub-clause (4.).

Clause, as amended, agreed to.

New clauses—

On the motion of Mr. Chifley, the following new clauses were inserted in the Bill :—

" 2A. Section three of the Principal Act is amended—

Definitions.

(a) by inserting after the definition of ' Assistant Commissioner ' the following definition :—

' Board of Review ' means a Board of Review constituted under the *Income Tax Assessment Act 1936* or under that Act as amended ; ' ; and

(b) by adding at the end thereof the following definition :—

' Valuation Board ' means a Valuation Board constituted under the *Land Tax Assessment Act 1910-1927* or under that Act as amended. '.

" 8A. Section thirty-five of the Principal Act is amended by omitting the words ' devised or bequeathed or passes by gift *inter vivos* or settlement for religious scientific charitable or public educational purposes ' and inserting in their stead the words ' exempt from estate duty by sub-section (5.) of section eight of this Act ' " .

Apportionment of duty among beneficiaries.

Title agreed to.

Bill to be reported with amendments.

The House resumed ; Mr. Prowse reported accordingly.

On the motion of Mr. Chifley, by leave, the House adopted the Report, and, by leave, the Bill was read a third time.

6. POSTPONEMENT OF BUSINESS.—Ordered—That the intervening business be postponed until after Notice of Motion No. 1, General Business.

7. REGULATIONS—MOTION FOR DISALLOWANCE.—Mr. Menzies moved, pursuant to notice, That the National Security (Employment of Women) Regulations under the National Security Act, made by Statutory Rules 1942, No. 146, be disallowed.

Debate ensued.

Mr. Ward (Minister for Labour and National Service) addressing the House—

Point of Order.—A Point of Order was raised by Mr. Holt that a Minister should not be permitted to quote from a submission to Cabinet by a previous Minister—

Speaker's Ruling.—Mr. Speaker said that it was not a question covered by the Standing Orders but that in his opinion submissions to Cabinet were confidential, and a Minister should not produce or quote a confidential document placed before Cabinet by a previous Minister.

Debate continued.

Ordered—That Mr. Harrison be granted an extension of time.

Mr. Rosevear moved, That the debate be now adjourned.

Question—That the debate be now adjourned—put and passed.

Ordered—That the resumption of the debate be made an Order of the Day for the next sitting.

8. ADJOURNMENT.—Mr. Curtin (Prime Minister) moved, That the House do now adjourn.

Debate ensued.

Question—put and passed.

And then the House, at ten minutes to twelve o'clock midnight, adjourned until to-morrow at half-past ten o'clock a.m.

MEMBERS PRESENT.—All Members were present (at some time during the sitting) except Mr. Anthony, Sir George Bell, Mr. Blain*, Mr. Coles, Mr. Dedman, Mr. Evatt*, Mr. McCall, Mr. McLeod, Sir Earle Page*, and Mr. White*.

* On leave.

F. C. GREEN,
Clerk of the House of Representatives.