LEGISLATIVE COUNCIL

Wednesday, November 5, 1975

The PRESIDENT (Hon. F. J. Potter) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

MARGARINE ACT

The Hon. C. M. HILL: I seek leave to make a short explanation before asking the Minister of Agriculture a question.

Leave granted.

The Hon. C. M. HILL: I understand that during the conference on the Margarine Act Amendment Bill in 1974 an undertaking was given by the then Minister of Agriculture that the Margarine Act would be amended in due course, and that a proper definition of "poly-unsaturated margarine" would be written into the Act. Does the present Minister of Agriculture intend to honour that arrangement to amend the Act accordingly?

The Hon. B. A. CHATTERTON: The question regarding what undertaking the former Minister of Agriculture made or did not make should be directed to him. As far as I am concerned, it is not intended to amend the Act. Admittedly, some problems regarding the definition of "margarine" will exist when the amendments, which were passed previously, come into force on January 1. However, those problems can easily be handled by regulation, as happens now. Regulations and definitions relating to margarine are in the process of being discussed and drafted.

The Hon. C. M. HILL: Are they regulations under the Margarine Act or under another Act?

The Hon. B. A. CHATTERTON: There are both. Although some regulations are under the Margarine Act, others are the responsibility of the Minister of Health. It is therefore a matter of our having joint consultations.

The Hon. C. M. HILL: I accept the Minister's point that it would have been more correct if my question regarding the undertaking previously given was directed to the former Minister of Agriculture. Accordingly, I now direct that question to the Minister of Lands, who was formerly Minister of Agriculture. Will he say whether it is true that, when he was Minister of Agriculture, an undertaking was given during the conference on the Margarine Act Amendment Bill that the Act would be amended to include a proper definition of "poly-unsaturated margarine"?

The Hon. T. M. CASEY: To the best of my recollection (and I hope the honourable member will take this as my recollection of the matters discussed during the conference on the Margarine Act Amendment Bill), this matter was raised during the debate in the Council by a former member of the Council, who suggested that the margarine matter should be put under one separate Act. During the course of that debate, I told that honourable member, who, unfortunately (or fortunately, depending on how one looks at it), is no longer a member of the Council, that this matter could be tidied up within the existing Act and that I had no intention of introducing a Bill for a new Act. The matter was raised briefly, to my recollection, during the conference, but no undertaking was given by me at that conference that this matter would be dealt with under a separate Act.

PROSPECTS OF RURAL INDUSTRY

The Hon. J. R. CORNWALL: I seek leave to make a brief statement prior to directing a question to the Minister of Agriculture.

Leave granted.

The Hon. J. R. CORNWALL: This morning the Chairman of Elder Smith Goldsbrough Mort, Sir Norman Giles, made a statement that throughout 1976 our rural industry is likely to remain seriously depressed. The Minister recently released revised estimates for this year's cereal harvest indicating that producers could expect their third successive year of near-record prices. I have also noticed that prices for cattle at Gepps Cross have reached a new high in the last two weeks, particularly for quality yearlings. As there appears to be a conflict between Sir Norman's statement and the situation in South Australia, can the Minister say what he considers the prospects are, particularly for beef producers in this State?

The Hon. B. A. CHATTERTON: It concerns me that so many of these stories are appearing in the city press. They all predict gloomy prospects as far as rural industries are concerned. I do not think this is a balanced viewpoint. It gives the wrong impression and I think makes the situation very difficult for farmers themselves. It deters them from making investments and so forth which are very often justified. I think the case the honourable member has raised is a very good one, and it is true that South Australia is now having a good cereal harvest. In the past two years there have been very good cereal harvests and this year there will be another. These harvests will certainly have been at record prices. I do not think the cereal situation justifies these gloomy predictions. Obviously, the beef producers have a different situation and the beef market, as we all know, is very depressed. There are signs that things to some degree are improving and, as the honourable member mentioned, prices have risen to some extent on the local market.

The Hon. M. B. Cameron: There's a bit of a backlag there.

The Hon. B. A. CHATTERTON: There is a great deal of backlag as far as beef producers are concerned. I do not want to give the impression that they are in a prosperous position or anything like that.

The Hon. M. B. Cameron: And their costs have risen.

The Hon. B. A. CHATTERTON: Costs certainly have risen. I think the other point Sir Norman Giles raised in that press report, which I again say was a little bit unwarranted, was the question of the very high livestock numbers and the effect on the arid regions in this State. In fact, most of the livestock is carried in high rainfall areas of this State, which areas have received very good rainfall in the past few months. I think it is very unfortunate that these sorts of report are continually appearing.

TEAR GAS

The Hon. N. K. FOSTER: I seek leave to make a short statement prior to directing a question to the Minister of Health.

Leave granted.

The Hon. N. K. FOSTER: The use of tear gas and other types of gas, particularly against marchers and demonstrators, has been evident in this country and even in this State, though not so much as in other States and certainly not as much as in America. For that reason I direct the following question to the Minister—is he aware of a report that appeared in yesterday's edition of the Adelaide *News* that there is a link with the gases known as tear gas (used by the police in Washington and other parts of America) directly with cancer? Will the Minister make every endeavour to have reports made available to him regarding this matter, and will he also undertake an inquiry to ascertain whether the South Australian Police Force has available for its use the types

of gas referred to in the newspaper report? If the Police Force has these types of gas, is there any way in which their use can be withheld until a report is available showing whether their use involves any danger to the Police Force or the public?

The Hon. D. H. L. BANFIELD: I did not see the article in yesterday's press. I will bring down a report for the honourable member.

BUSH FIRES

The Hon. J. R. CORNWALL: Earlier today the Minister of Agriculture successfully launched this season's bush fire prevention campaign. Although I am sure the Minister's remarks will receive wide publicity, will he provide the Council with a resume of the current situation?

The Hon. B. A. CHATTERTON: The main point I made at the launching of Fire Prevention Week was that the bush fire situation in South Australia is perhaps more serious than was thought earlier. We were earlier considering a fairly low-key campaign, because the autumn rains were late and the winter rains were few and far between. Since then, however, we have had very good rains in September and October, resulting in many areas of the State having large quantities of combustible fodder. The bush fire situation in South Australia is therefore very much more serious than was thought earlier. I made this point strongly this morning, and I stress it here, too.

PRAWN FISHING

The Hon. J. A. CARNIE: I seek leave to make a brief explanation before asking a question of the Minister of Fisheries.

Leave granted.

The Hon. J. A. CARNIE: My question relates to Mr. Vinko Longin, whose vessel, the *Allen*, was boarded by Fisheries Branch inspectors, an act that was the subject of questions in this Council. I believe that Mr. Longin has since continued to fish for prawns, but he has been doing this outside South Australian waters, as he does not have a South Australian prawn permit. I understand that any prawns brought in by this vessel have been confiscated. However, I have been told this morning that fish buyers have now been informed by the Fisheries Branch or by the Minister that they may buy prawns caught by this man. I have also been informed that another vessel, without a permit, intends to fish for prawns outside South Australian waters and sell them in Portland, Victoria. Has the Minister or the Fisheries Branch informed buyers that they may purchase prawns from Mr. Longin and, if the buyers have been so informed, why? If prawns caught just outside South Australian waters can be sold in South Australia or just over the border, what protection is there for prawn fishermen who have permits and who are operating within the law?

The Hon. B. A. CHATTERTON: The honourable member's last point is of great concern to us: that fishermen can take prawns outside the three-mile limit and sell them in another State. This makes it difficult to enforce any type of management policy in relation to prawn fishing. The points made by the honourable member are complex, judicial matters that are at present being discussed in connection with constitutional law. I will obtain a report for the honourable member. As far as I am aware, no indication has been given to fish buyers that they may buy the prawns referred to, but I will check up and ascertain the situation.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

The Hon. J. C. BURDETT obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act, 1935-1975. Read a first time.

The Hon. J. C. BURDETT: I move:

That this Bill be now read a second time.

Its purpose is to make it an offence to advocate or encourage any unnatural sexual practice in a school. Many citizens, whether they agreed or disagreed with the recent so-called decriminalisation of homosexual practices, feel that there is a real need to ensure (and by legislation) that no-one shall be permitted to encourage or advocate such practices in schools. The existing legislation makes it an offence actually to attempt to indulge in homosexual practices with juveniles but it does not prevent persons from, within the precincts of a school, advocating or encouraging the practice in general and as a matter of principle. Many people regard homosexual acts as unnatural but, whether or not they do, I am sure there is strong public support for preventing people from, in schools, encouraging the practice.

It has been suggested that the Criminal Law Consolidation Act is not the place for this provision. To those who agree with the principle of this Bill but think that the principal Act is not the right place for the provision, I say that the main thing surely is to get the legislation on the Statute Book rather than haggle about what is the right place to put it. However, in my view, the principal Act is the right place. This provision became necessary only because of the passing of the recent amendment to the Criminal Law Consolidation Act, and that Act is the right place to put this safeguard.

Clause 1 is formal. Clause 2 is the operative clause and creates the offence of, within the precincts of a school, advocating or encouraging any unnatural sexual practice. The terms "school" and "unnatural sexual practice" are defined. I will add that I have, since writing this explanation, become aware that the Minister of Education has issued a direction about homosexuals coming into schools. The fact that I had given notice of my intention to introduce this Bill was one of the factors that led him to move in this direction. I am told it was a major factor that induced him—

The Hon. D. H. L. Banfield: Who told you that?

The Hon. J. C. BURDETT: The Minister will find out. I am not going to answer that interjection. I am told that it was the major factor that induced the Minister to give this direction. However, Ministers can die or changes can be made and, as I said in the explanation I have just given, there is strong support from the public for a prohibition on homosexuals going into schools and advocating their practices. I believe that a large section of the public thinks this matter should be covered by legislation, and not left to Ministerial direction.

The Hon. ANNE LEVY secured the adjournment of the debate.

PRISONS ACT AMENDMENT BILL

The Hon. D. H. L. BANFIELD (Chief Secretary) obtained leave and introduced a Bill for an Act to amend the Prisons Act, 1936-1974. Read a first time.

The Hon. D. H. L. BANFIELD: I move:

That this Bill be now read a second time.

It is designed to bring the Prisons Act into line with a proclamation made under the Public Service Act, 1967-1974, and published in the *Gazette* on April 11, 1974, whereby the title of the Permanent Head of the Prisons

Department was changed from Comptroller of Prisons to Director of Correctional Services and a direction was made that every reference in the Prisons Act, 1936-1974, to the Comptroller of Prisons should read as a reference to the Director of Correctional Services. That proclamation, however, did not affect or apply to references to the Comptroller of Prisons in other Acts.

Although a number of Acts are being amended by the substitution of references to the Director of Correctional Services for references to the Comptroller of Prisons, there could well be similar references to the Comptroller of Prisons in other Acts, the examination of all of which would not be possible in the time available, and there would not be sufficient Parliamentary time to deal with all the corrective legislation before the end of this year.

To meet this situation, the Bill proposes to insert into section 6 of the principal Act a new subsection (1a) which will provide in effect that, where in any Act, regulation, rule or by-law or in any document or instrument a reference, direct or indirect, is made to the Comptroller of Prisons, that reference should, where such a construction is applicable, be construed and read as a reference to the Director of Correctional Services. Such a provision would enable any references to the Comptroller of Prisons which could not be dealt with by corrective legislation because of lack of time this year to be read as references to the Director of Correctional Services.

The Hon. R. C. DeGARIS secured the adjournment of the debate.

PRICES ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

That this Bill be now read a second time.

It extends the "price fixing" provisions of the principal Act, the Prices Act, 1948, as amended, for a further 12 months, that is, until December 31, 1976; slightly extends the "investigation powers" of authorised officers; and increases the penalties under the principal Act in recognition of the decline in value of money. Clause 1 is formal. Clause 2 repeals and re-enacts section 8 of the principal Act. This section sets out the powers of an authorised officer (as to which see the definition of "authorised officer"). The main change, apart from formal drafting amendments, wrought by the new provision is to deal with the fortunately rare, deliberately obstructive person. Many matters arising under the Act can be dealt with expeditiously and without resort to formal legal proceedings if the parties in dispute can be brought together.

However, this laudable and proper administrative approach can be frustrated where one party to the dispute deliberately avoids communication with the authorised officer, for example, by not attending prearranged meetings. It is not intended that the powers conferred by this new section will be frequently involved but in appropriate circumstances they will clearly aid the prices officers in their work. Clause 3 amends section 50 of the principal Act and increases the general penalty prescribed for by that section appropriately. The penalties provided for there, are, of course, maximum penalties. Clause 4 extends the price-fixing powers under the principal Act until December 31, 1976.

The Hon. J. C. BURDETT secured the adjournment to the debate.

PUBLIC FINANCE (SPECIAL PROVISIONS) BILL

Received from the House of Assembly and read a first time.

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

That this Bill be now read a second time.

It is intended to ensure that, should there be a reduction in flow of Commonwealth Government funds as a consequence of the present financial impasse, State Government activity and employment that is dependent upon or related to the availability of those funds will, within the limits of available resources, not be adversely affected. The measure proposes that the Treasurer will be authorised to (*a*) make good from available resources any short fall in Commonwealth funds; and (*b*) borrow moneys for this purpose. The powers proposed to be granted to the Treasurer are, by this Bill, only available until February 29 next. If the present situation still obtains on that day, Parliament may be asked to review the situation during the February sitting.

Clauses 1 and 2 are formal. Clause 3 inserts a definition of "prescribed day", that is, February 29, 1976. This is the last day on which the powers conferred by this measure may be exercised. Clause 4 authorises the Treasurer to make good from the Treasurer's advance to the extent possible any short fall in Commonwealth funds that are properly payable. The moneys issued from the Treasurer's advance will be credited to the appropriate trust account and then expended in the ordinary way. When, in due course, the funds are received from the Commonwealth they will be applied to reimburse the Treasurer's advance.

Clause 5 authorises the Treasurer to borrow moneys in the manner set out in subclause (1) of this clause for the purpose of providing sufficient funds to meet the payments referred to above. Subclause (2) makes clear that the borrowing powers conferred by this provision are in addition to any other borrowing power. Clause 6 provides for the expiry of the Act presaged by this Bill to occur on a day to be fixed by proclamation, since the measure is essentially a temporary one. This form has been adopted since, although the transfer and borrowing powers are limited in time, the measure should continue in operation to enable the reimbursement and repayment provisions to have full effect.

The Hon. R. C. DeGARIS secured the adjournment of the debate.

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL (MORATORIUM)

Adjourned debate on second reading.

Continued from November 4. Page 1597.)

The Hon. J. C. BURDETT: I support the Bill, which was adequately explained by the Minister in his second reading explanation. As was stated in detail therein, the Bill extends what is, in effect, a moratorium, contained in section 133 of the Act, until suitable amendments can be sorted out and approved by all appropriate people.

The case of *Moore* v. *Doyle* cast doubts, on constitutional grounds, on the validity of actions by industrial organisations where the State association in question was also registered as an organisation pursuant to the Commonwealth Conciliation and Arbitration Act or was a branch of such organisation. This applied also in cases where members of the State association were also members of a Commonwealth organisation so registered, in cases where such associations kept no sufficient books apart from those required under Commonwealth legislation, and in cases where officers of an association were also officers of the Commonwealth organisation.

The constitutional challenge to the validity of Acts, in these circumstances, was based on the industrial power of the Commonwealth. South Australia passed a similar Act last year, extending the period until January 4, 1976. This Bill is simply designed further to extend the period. I support the second reading.

The Hon. J. E. DUNFORD: I, too, support the Bill. Briefly, it refers to an inquiry conducted by His Honour Mr. Justice Sweeney, who was asked by the Commonwealth Government to bring down a report so that unions could be properly registered as Federal bodies. I gave evidence before Mr. Justice Sweeney about 2½ years ago, on behalf of the South Australian branch of my union. I believe that the Government has drafted a Bill, and that lawyers and Industrial Court judges (including Mr. Justice Sweeney), having examined the preliminary draft, consider that it needs modification.

The Hon. R. C. DeGaris: Would the honourable member agree with what the lawyers have said?

The Hon. J. E. DUNFORD: Some of the lawyers to whom I have spoken agree that it is complex, and all lawyers, without exception, on the employer and trade union sides, have said it is a complex matter. I do not intend to go into the history of the *Moore* v. *Doyle* case, with which I was associated to some extent. However, most responsible trade union officials realise that it is the aim of most unions to amalgamate. This is known generally throughout the trade union movement, and it is common, under the present registration system, for some Federal unions to have State branches in South Australia and New South Wales. It is difficult for amalgamations to occur in such circumstances if their constitutions are not in order, or if a union has State and Commonwealth constitutions that can, and do, differ. This applies to several unions, including the Australian Workers Union. These things must be tidied up before amalgamations can occur.

The problem of the constitutional coverage of industries and the problem of property (whether it is owned by the Federal or State body) also exist. These are just some of the complex problems involved. Generally, the main problems involve finance, property and constitutional coverage of certain industries.

The Hon. C. M. HILL: Will the honourable member give way?

The Hon. J. E. DUNFORD: Not today.

The Hon. J. C. Burdett: Yesterday, you said you would give way today.

The Hon. J. E. DUNFORD: If I said yesterday that I would give way today, I will do so, although reluctantly.

The Hon. C. M. HILL: Regarding the amalgamation of unions, I ask the honourable member, as an expert in the union movement, what would be his estimate of the best number of trade unions that he would like to see throughout Australia after amalgamations occurred.

The Hon. J. E. DUNFORD: I am not an expert on trade unions. However, I will admit to having been a successful trade union secretary. This matter is not for me to decide, although some members in another place would like to decide what trade unions should do. I believe it is in the best interests of workers to have the least possible number of unions. The *Moore* v. *Doyle* case proved that a problem existed when a union, such as the Transport Workers Union, had State and Federal branches. It was shown in that case, which was heard some years ago now, that the State union was a separate entity.

In New South Wales, right up until the present time, there is competition between unions and, when this happens, all sorts of problems arise, including demarcation problems and problems involving canvassing for members by both State and Federal branches.

Usually, the average worker will join the union from which he gets the best results or the leadership of which he believes suits his requirements. That may be fair competition in a certain area of business, but it is certainly not fair competition in the trade union movement, because of the demarcation problems that occur.

We all recall that one of the biggest disputes in South Australia recently involved the handling of steel. That dispute arose not because workers were striking for increased wages, shorter working hours or increased annual leave: it was solely and basically a demarcation dispute.

The Hon. R. C. DeGaris: Do most disputes involve demarcation?

The Hon. J. E. DUNFORD: Not so much now, because the union movement is more united and, I think, because of the moratorium the Government brought in about 12 months ago (I believe this finishes on January 4), all unions have more or less gone quiet, most unions having the same problems. When demarcation issues arise today the law comes into it, and this has the effect of unions avoiding demarcation disputes, because, otherwise, it is only putting money in lawyers' pockets. Demarcation problems and resultant loss of work have, overall, cost some unions hundreds of thousands of dollars.

I know the difficulties associated with amalgamation. I spoke with a lawyer in Sydney who handled the Amalgamated Metal Workers Union amalgamation with the Sheet Metal Workers and Boilermakers Unions. The exercise took six years and much expense. This moratorium means that in the next three years unions will be able to go to their respective lawyers and deal with other unions in round-table conferences, where they can investigate demarcation problems. In South Australia, the Australian Workers Union has two constitutions (State and Federal), the State constitution being much wider than the Federal constitution. If the Federal union took over the South Australian branch and its constitution, we would lose members; we would lose industries we now cover.

What would happen then, of course, would be that half a dozen unions, which I can think of now, would be looking for those that we could not constitutionally cover, and there would be a fight for membership. This could turn into a very vicious struggle and create all sorts of problem. All union secretaries to whom I have spoken, since I gave evidence before Mr. Justice Sweeney and his assistant, have had the same problems as those facing us. Most union secretaries concerned agreed that there ought to be a moratorium. Unions should solve their demarcation problems before going to court; they should reach agreement. When a union goes straight into court and says it wants to amend its constitution, immediately there are 20 or 30 unions objecting.

The trend now is to meet the objecting unions and give them guarantees that, because a union is changing its constitution, it is not trying to extend coverage into their areas. We reach agreement that way. We are more united now (whether or not people believe it) as a result of the moratorium. I support the Bill.

The Hon. R. C. DeGARIS (Leader of the Opposition): Very briefly, I support the Bill. I would also like to congratulate the Hon. Jim Dunford on his contribution. The *Moore* v. *Doyle* case was a very important case not only concerning the trade union movement and its attitude but

also concerning the ramifications of the Commonwealth Constitution. I rise to support the Bill and extend my congratulations on a very interesting contribution by the Hon. Jim Dunford.

Bill read a second time and taken through its remaining stages.

PUBLIC FINANCE ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. D. H. L. BANFIELD (Minister of Health): I move:

That this Bill be now read a second time.

This Bill, which amends the Public Finance Act, 1936-1970, proposes to give the Treasurer power to invest Government funds with authorised dealers on the short-term money market. Cash holdings at Treasury fluctuate on a daily basis, reflecting the timing of receipts and payments, particularly in relation to Australian Government advances for specific purpose grants, period taxes and licence fees (such as tobacco) and period payments such as sinking fund contributions. During last financial year, these daily cash holdings varied between $70 000 000 and $140 000 000.

Honourable members may be aware that the Public Finance Act presently restricts the investment of those funds by the Treasurer to banking institutions where the minimum investment period is one month. Nevertheless, despite that restriction, the Government earned $8 000 000 from its investment programme last year, which went to meet interest liabilities on certain trust funds held at Treasury, as well as making a significant contribution towards meeting the State's interest bill. However, the absence of shorter-term lending facilities, particularly "on call" facilities, necessitates Treasury's maintaining a substantial amount (about $16 000 000 on average last year) in its current account at the Reserve Bank in order to meet its daily commitments, That account currently attracts an interest rate of 1 per cent.

The investment of some of those funds with authorised dealers in the short-term money market would provide a significant revenue return to the Government. Whilst many factors can affect the interest rate at any given time, it would not be unreasonable to expect an annual investment return of $500 000 if $8 000 000 was diverted from the current account to the authorised dealers, and this could be done without—

(*a*) jeopardising the Government's ability to meet its day-to-day commitments as they fall due; and

(*b*) jeopardising the security on the moneys invested. Like the banking institutions, the authorised dealers also have lender of last resort facilities with the Reserve Bank.

In recommending this measure, I am conscious that the release of liquid funds to money market dealers may, in certain circumstances, run contrary to national economic policy. However, I do not believe that a State should have to take its support for those policies to the extent of by-passing opportunities to earn revenue. This view is shared by the Reserve Bank, which has indicated that it is its responsibility to control the money supply in the financial sector through the various devices presently available to it, including variation of the Government's current account interest rate if it considered that to be an expedient measure at any time. Clause 2 of the Bill, the only operative clause, authorises the Treasurer to make deposits with dealers on the short-term money market. I commend the Bill to honourable members.

The Hon. C. M. HILL secured the adjournment of the debate.

SUCCESSION DUTIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from November 4. Page 1615.)

The Hon. R. C. DeGARIS (Leader of the Opposition): Having begun yesterday what I wanted to say on this Bill, I had reached the point where I said there was a dying case for death duties.

The Hon. N. K. Foster: Dying case for death duties!

The Hon. M. B. Cameron: That's a very morbid approach.

The Hon. R. C. DeGARIS: It may be a morbid approach but it is very true. I should like to read to the Council an article by Norman Thomson, a lecturer in economics at the Adelaide University, who has done considerable research into this whole question of death duties. The article is as follows:

Historical Background. Beginning with the Victorian Probate Act of 1870, the various Australian colonies introduced death duty legislation designed to reduce the accumulation of wealth by a few relatively rich families. The move was politically significant as it saw the adoption of Australia's first progressive taxation. Not only did the amount of duty increase with the value of the estate, as with the formerly proportional schedule of death duties, but the rate of duty increased as well. Thus, a doubling of the value of an estate might imply a trebling, or even a quadrupling of the duties payable.

Then, as now, taxation served as a weapon of Government policy. Not only does it act as a means of collecting revenue to reallocate resources between the private and the public sector, but also it can serve to influence the distribution of society's resources, whether on social, strategic, or so-called economic grounds. Thus, progressive death duties were introduced as one of the many measures intended to break the power of the established squatter class in mid-nineteenth century Australia. The general antipathy to the wealthy squatters and the backlash of the post-gold rush era combined to put pressure upon the colonial legislators of the 1880's and 1890's to attempt to redistribute some of Australia's land. . .

The Justification for Death Duties. There is essentially only one justification for the modern form of death duty: to redistribute unearned wealth. This is not to say that this justification is not a major one. However, many textbooks have tended to fragment this justification under a number of lesser headings including the "ability-to-pay" theory and the "recoup" theory.

The "ability-to-pay" theory, for example, sees inheritance as an increase in economic well-being which is quite unrelated to effort. Taken to its logical conclusion, such a theory sees any residual after death duties as an increase in economic well-being. The "recoup" theory, on the other hand, sees death duties as a means of recovering much of the income tax foregone by way of tax-free accumulation of wealth, such as with life assurance, or farm development work. Both theories essentially return to a value judgment as to the right of heirs to share in the wealth they may or may not have helped to accumulate and to the cost in economic efficiency of reducing the capital held by each family. It will be shown below that the death duties are largely collected from the real assets of family firms and it is here that the economic repercussions are the greatest.

Who Pays Death Duties? It is certainly not the man on superannuation who pays the $220 000 000 collected annually in death duties, nor is it the professional man who establishes a trust for the benefit of his family. Even life assurance officers are growing more expert in advising clients on how best to control their policies without legally owning them. The most vulnerable people in our community are the members of an unincorporated firm (or farm) who are either unwise enough or young enough to hold their "wealth" in business assets at the time of death.

Senator Sydney A. Negus in his "probate war" seems to imply that we are all caught by this tax. However, the cold statistics of the Commissioner of Taxation show us that less than 13 per cent of all male deaths in recent years, for example, have had net estates of sufficient value to even enter the estate duty statistics. Further, a closer examination of the duties paid by industry groups clearly

indicates that the greatest amounts of death duties are collected in those industries where the unincorporated firm predominates such as in farming and retailing. For example, on its own, the farm sector consistently paid between 30 and 40 per cent of all estate duty collected during the 1950's. By contrast, this group made up only 6 per cent of the income tax population and paid 6 per cent of the tax.

Economic Contradictions. The Commonwealth Government hopes that by providing special concessions for certain types of investment they will encourage the use of labour-saving capital and consequently the rapid introduction of the most recent technical innovations. In this way they hope to increase the productivity of the labour employed. With the general increased productivity of labour in Australia the family firm has had to match its labour productivity with that of the large corporation or face extinction. Retailing is the commonly cited example, with the "corner store" facing the threat of cost-cutting by the giant supermarket. However, the problem is no less critical for others such as the farmer who has been restructuring the size and capital value of his farm upwards since the horse gave way to the tractor.

In the light of such adjustment and with the prospect of their continuation, it seems absurd to be attempting to apply a lump-sum tax like death duties which has its major incidence on capital. Even a family firm which anticipates death duties and provides for their payment must accumulate the necessary funds in a very liquid form. One must expect that the return to society on funds in such a liquid form cannot equal that on funds invested in less liquid, but more productive assets.

But there is no reason to suppose that any provision will be adequate to cover death duties. Quite apart from unexpected changes in the legislation and the valuation placed on the assets in the firm, an owner may rationally decide that it is for his heirs to find the funds for the business he is bequeathing them. Not all the cyclical run-down of family businesses can be attributed to heirs less motivated towards the business than their forefathers

In a survey conducted amongst a sample of 58 South Australian woolgrower estates it was learnt that only a third of the estates were adequately covered to meet the costs of the death from non-farm assets. Most were just simply unaware of their vulnerability while a few refused even to contemplate death. Certainly the most significant fact was that the burden of death duties was more closely related to death duty avoidance than anything else. Those families who had avoided death duties the most were interrupted the least in the development and operation of their business.

It was not possible from the survey to confirm or refute claims that death duties reduce the incentive to save. Similarly, there seemed little evidence to suggest that the majority of families increased their savings in contemplation of death duties. In all, most families held about 15 per cent of their net wealth in a form other than farm assets and the anticipation of death duties manifested itself most clearly in the degree of avoidance achieved.

Equity Contradictions: But death duties are essentially a redistributing tax and perhaps all these economic inefficiencies are acceptable if the political goals are successfully achieved. However, even here, death duties are a miserable failure. From the very inception of progressive death duties, lawyers and accountants have devised methods to avoid this tax. One legal textbook today, for example, tells us that death duties are ". . . a 'voluntary' system of taxation, which only taxes highly those who are uninterested in their heirs, or too conscientious to use the loopholes . . ."

Few heirs to a family business feel the inheritance of title to that which they helped build is "unearned". Less still do they see the loss of goodwill and ability consequent upon the death of a foundation member of the firm as an improvement in economic well-being. Consequently, the combination of the increasing capital-intensity and the inflation in money values of the assets in the family firm is prompting more and more family firms to hire professional advice to make use of the loopholes available in the death duty laws.

It is only the widow of a husband who has died young or the heirs of the financially unwise who face the full impact of death duties on the family assets. Only a Government afraid to face the consequences of an outdated tax would continue to take the emu-like stance that there continues to be a close correlation between estate value and family wealth. In the case of the South Australian farmers, for example, the pattern of incidence proved to be *regressive*, rather than progressive. Few of the really wealthy and established families were so financially imprudent as to fail continuously to transfer title to the young.

Certainly the avoidance of death duties may involve some gift duty and stamp duty on transfers. But who can deny that even a crude transfer of five lots of $20 000 at about 8 per cent is a lower tax on transfers than one bequest of $100 000 subject to a total State and Federal death duty of about 27 per cent.

I repeat that that article was by Norman J. Thomson, and it was published in the March, 1972, edition of the *Australian Quarterly*. Mr. Thomson has made many other contributions to this whole question; one such contribution was to the Select Committee of this Council on capital taxation. I agree with the view of Norman Thomson that in this modern day, when we have an equalitarian society, there is a dying case for death duties. They hit at those people who, as he points out, are usually the least able to find a method of avoidance of that tax. They hit at the small firm, the small business, and the small family business where there may be a heavy capital investment for a low economic return.

Following the passage of the 1970 Bill, after some lengthy negotiations at the conference, the Legislative Council prepared a document setting out the changes, and circulated that document to all interested organisations and people. To try to explain the present Bill, the Government has circulated a limited number of examples to honourable members. The information sheet issued by the Government as an assistance to honourable members must be viewed with some suspicion, as it compares similar estates under existing provisions to the provisions in the Bill, but compares estates mainly passing to spouses. To gauge correctly the benefit in the Bill, one must compare the same estate with valuations of that estate as at 1970 and 1975, and must compare estates passing to inheritors other than spouses.

The following example in the Government explanation illustrates the application of the rebate provisions of the Act:

(1) Assuming a widow derives the following property from her deceased husband.

	$
(*a*) One-half interest in a matrimonial home by survivorship	15 000
(*b*) The proceeds of an assurance policy	3 000
(*c*) The residue of the estate passing by will	14 000
Total property derived	$32 000
(2) Duty on $32 000 as per second schedule of Act	$5 100
(3) Rebate: The general statutory amounts applicable would be:	
Special allowance to widow	12 000
Assurance policy	3 000
Dwellinghouse (the lesser of $6 000 or ($15 000-$3 000))	6 000
	$21 000
(4) Calculation of rebate: $\frac{21\,000 \times 5\,100}{32\,000}$ =	$3 346·87
(5) Calculation of duty payable:	
On total property derived	5 100
Less rebate	3 346·87
Duty actually payable	$1 753·13

Then it gives the illustration of what happens to that estate under the provisions of this Bill as follows:

Rebate: The general statutory amounts applicable would be:	$
Special allowance to widow	17 000
Dwellinghouse (the lesser of $17 000 or $15 000)	15 000
General Statutory Amount	$32 000
Calculation of rebate: 32 000 x 5 100 / 32 000 =	5 100
Calculation of duty payable:	
On property derived	5 100
Less rebate	5 100
Duty payable	NIL

Therefore, there is no duty payable on that estate. The actual estate comprising those assets as at 1970 (when the last amendment was made to the Succession Duties Act) has a much higher value in 1975, and what we should be comparing is the duty payable on those assets as at 1970 with the duty payable on those assets under this present Bill.

The Hon. Anne Levy: Nonsense! It is a most improper comparison.

The Hon. R. C. DeGARIS: The honourable member may say that it is a most improper comparison, but I am saying that the last Bill that went through was in 1970. There were some assets at that stage and I am looking at the payment on exactly the same assets in 1970, under the amendment then, as will be paid on exactly the same assets at present; and that is not an improper comparison.

The Hon. Anne Levy: It is.

The Hon. R. C. DeGARIS: It is not, because what I am looking at is the ultimate effect on the revenue to the Government. That is my point that should be borne in mind. Allowing for an 80 per cent increase in the value of the house, increasing the assurance policy to $5 000 and, say, a 50 per cent increase in the value of other assets, the valuation of exactly the same estate becomes:

	$
(*a*) half interest in matrimonial home by survivorship	27 000
(*b*) assurance policy	5 000
(*c*) residue passing by will	21 000
	$53 000
Duty on $53 000 as per second schedule =	$9 100

The rebate under the Bill is $4 464, making the duty payable on exactly the same assets held by the deceased in 1970 and transferred in 1975 $4 636. So, while the examples given tend to show a magnificent benefit, in actual effect the benefit is not as great as it may seem.

I now make the comparison with that particular estate passing to a widow under the existing legislation: in other words, what the situation would be if this Bill had not been introduced. On that estate, under the existing Bill, the duty would be $6 184. So, the actual benefit, on present-day values, is about $1 500 on that estate. Let us look at the lifting of this estate, when passing from a deceased to the widow, to $81 000: using the corrected figures back to 1970, we find that, if we take the 1975 values, we have a home that would be worth $30 000 in 1975, and $17 000 in 1970; assurance was $5 000 in 1975 and $3 000 in 1970. Other assets were $46 000 in 1975 and $35 000 in 1970.

In other words, with exactly the same assets of an estate, the value is now $81 000 and the value in 1970 would have been $55 000. The duty payable on that estate, under this Bill, is $12 740; the duty payable on $55 000 (on exactly the same assets) under the existing Act in 1970 would have been $6 910. So, on the actual estate assets almost double the tax is collected, as far as the widow is concerned, between the situation in 1970 and the situation under this Bill. I think it is an important point to remember when considering this Bill that, with exactly the same assets, if the assets today are valued in the metropolitan area of Adelaide at $81 000, the duty payable on them will be exactly double under the provisions of the Government Bill.

Remember, we are still examining cases where assets pass between husband and wife, or vice versa, upon which a strong case can be made for total abolition. It is a case not of looking for benefits but of looking at the total abolition of the duty when an estate passes between husband and wife, or vice versa; and that has already happened in Queensland.

Looking at this question, one may ask why, on an estate of $81 000 which would have had a value of $55 000 five years ago, the duty on the estate's passing between the husband and his wife should have doubled. The reason is that, under the Government Bill, there is a rapid escalation of the rate of duty when the estate passed from the deceased husband to the widow exceeds $69 000 and there is a matrimonial home involved. The escalation in duty from $69 000 to $81 000 is quite dramatic, because two factors are involved: the increase in the rate of duty and the declining benefit, the declining proportionate rebate of duty as far as the widow is concerned.

In estates passing to widows, the break-even point between this Bill and the existing Act is $71 000. In estates of more than $71 000 passing to a widow the duty remains the same or is more, depending on the factor of assigned assurance. As a matter of comparison, I think the relevant figures are those comparing the actual money to be paid on the same estates in 1970 and those estates under this Bill. In a random selection of estates on which probate was granted in 1969, using the same values, the fall in duty collected by the application of the provisions of this Bill is about $200 000, less $26 000; in other words, a fall from $200 000 to about $174 000.

If one adds an inflation factor of 30 per cent, which I think most honourable members would agree is an extremely conservative figure, the duty collected on exactly the same assets under this Bill is of the order of $40 000. Following that examination, I have taken a more recent random selection of estates and made a similar comparison. I worked on this document over the weekend, and I have placed copies in the boxes of most honourable members. There may be mistakes in the workings I have done; if so, I am quite willing to correct them. As the Minister would know, when one is working on figures for estates between the existing legislation and this Bill it is quite possible that mistakes can be made. However, I believe that the picture overall is reasonably accurate.

The Hon. Anne Levy: How did you select the 48 estates?

The Hon. R. C. DeGARIS: They were selected at random.

The Hon. Anne Levy: What random procedure?

The Hon. R. C. DeGARIS: They were just taken out of the files. There was no selection of estates. It was a random selection.

The Hon. Anne Levy: But you have to follow a random procedure to get a random sample.

The Hon. R. C. DeGARIS: I do not know how one follows a random procedure.

The Hon. Anne Levy: Using a table of random numbers, or something of that sort.

The Hon. R. C. DeGARIS: It was a random selection of estates. Rather strangely, this is the only possible way in which one can make any reasonable judgment. It is not possible to get information on these matters in any other way. For example, if one rings the Succession Duties Office, their information is almost nil. What other way is there to make comparisons?

The Hon. N. K. Foster: He doesn't know what the Hon. Miss Levy means.

The Hon. R. C. DeGARIS: I know exactly what the Hon. Miss Levy means. Perhaps I could go through the attachment to the example. One finds that in the 48 estates, under the existing law, the duty collected was $189 681. The duty collected on the same estates under the new provisions would be $163 486. The benefit on existing values is $26 195 on the 48 estates, while the percentage benefit is 13·8. The Government claimed in its statement that the loss of revenue in one year would be 11·4 per cent, indicating that the random sample I have made is reasonably accurate. The collection of duty on the same estates, allowing a 30 per cent increase in value from 1970 to 1975, is $229 466 under this Bill, an increase of $39 785 or 21 per cent. On examination, one will find that the Government claims that it will lose about 11 per cent of revenue over a full 12-month period. On the random selection I have made, the loss of revenue is 13·8 per cent. I have extracted from the *South Australian Year Book* and from the random selection I have mentioned the following figures:

	Per cent *Year Book*	Per cent Random Selection (71 estates 1973)
Under $2 000	21	nil
$2 000 to $4 000	14	nil
$4 000 to $6 000	10	nil
$6 000 to $8 000	8	nil
$8 000 to 10 000	7	nil
$10 000 to $20 000	20	31
$20 000 to $30 000	7	35
$30 000 to $40 000	3	8
$40 000 to $50 000	2	8
Over $50 000	8	18

The Hon. C. J. Sumner: What is that document?

The Hon. R. C. DeGARIS: That is the 1974 *Year Book*.

The Hon. C. J. Sumner: But what is the document?

The Hon. R. C. DeGARIS: It is a copy of the figures from the *Year Book*, my notes.

The Hon. Anne Levy: Is that a selection of the 48 or of the 150?

The Hon. R. C. DeGARIS: Of the 48. The random selection I have made shows a decline in Government revenue because of the Bill of 13 per cent. The Government, in its own figures, claims 11·4 per cent.

The Hon. Anne Levy: They are not statistically different.

The Hon. R. C. DeGARIS: Not a great deal.

The Hon. Anne Levy: They are not significantly different figures. I have just checked.

The Hon. R. C. DeGARIS: Would the honourable member like me to give way so that she can say what she means?

The Hon. ANNE LEVY: Yes. Would the honourable member give way?

The PRESIDENT: He has indicated that he will.

The Hon. ANNE LEVY: I was just agreeing the calculated benefit of 13·8 per cent, as compared with the 11·4 per cent estimate. The difference is not a statistical difference. The figures can be taken as being about the same.

The Hon. R. C. DeGARIS: I agree with that entirely. My point is that I do not believe that on the figures I have obtained the 11·5 per cent is a conservative estimate by Treasury. I believe that on this whole Bill there will be practically no loss of revenue to the State Treasury over 12 months, because the inflation of values will take care of the small amount it will loose. Following that examination—

The Hon. Anne Levy: It is indexed.

The Hon. R. C. DeGARIS: I will look at indexing shortly: it is not as valuable as one thinks. I have taken a further random sampling of 150 estates to obtain the percentage of each group of inheritors of ancestors who have inherited those estates. I point out that 53 per cent of the inheritors were ancestors and descendants. Widows comprised 23·3 per cent, widowers comprised 3·4 per cent, brothers, sisters, nephews and nieces comprised 13 per cent, charities comprised 2·4 per cent, strangers in blood comprised 3·8 per cent, and children under 18 years of age comprised 1 per cent. I tried to obtain these figures accurately from statistics, but I was unable to do so. The only way I could obtain figures in this area was to undertake a survey of the number of estates on a random selection.

It is interesting to note that the Bill provides for a significant improvement in the position of widowers, although only 3·4 per cent of inheritors of the random selection I undertook are widowers. For widows, there is a significant improvement on estates up to $35 000, if a matrimonial house is involved. There is an improvement to the break-even point of $71 000 if the estate contains assigned assurances. After $71 000 the position remains the same for a widow or it becomes more difficult.

I point out that children over the age of 18 are adversely affected by the Bill's provisions and this accounts for 53 per cent of the inheritors on my random survey. Concerning the rural sector, there is an improvement with the rebate applying to joint tenancies and tenancies in common, but there is generally no improvement up to $50 000, though there is an increase in benefit as the inheritance increases above $50 000. I believe that honourable members should examine estates Nos. 13, 24 and 36 in the chart I have drawn up. They will find that widows have a limited benefit when an estate reaches about $60 000. Adding the inflation factor one sees a large decline in the position of widows in relation to duty. Estates 13, 24 and 36 illustrate that point.

The Bill contains no benefit for succession to children of the deceased, except through increases in the rural rebate. In referring to children, I refer to children over the age of 18 years. Two groups are assisted by the Bill—spouses and the rural sector. All other groups receive less benefit than presently exists. From my survey, widowers comprise only 3·4 per cent of inheritors in South Australia. I do not know the number of children under the age of 18 years in South Australia who are inheritors, but I believe that they comprise a low number of the total inheritors. For widowers there is a significant improvement. For widows there is a small improvement in smaller estates, but when estates exceed about $70 000 there is actually a decline in the position of widows.

For children under the age of 18 years there is a small improvement. For children over the age of 18 years there is a significant disadvantage, and the rural sector has a slight disadvantage in the case of a small rural holding with the exception of joint tenancies and tenancies in common, yet for a large holding there is a significant improvement. This is an odd situation to be created by a Labor Government, as it actually increases the benefits as the size of the estate increases. I cannot understand this, but this is what the Bill provides.

Regarding indexing and whether the point raised by the Hon. Anne Levy by way of interjection is correct, there is some attempt in the Bill at indexation, but it achieves virtually nothing, as I will illustrate with the following example. An estate passes to a widow and could be comprised as follows:

	$		Duty payable $
Matrimonial home	25 000		
Other assets (inc. real estate)	20 000		
	45 000	=	2 500

Rise in market value = 6 per cent
$B becomes $18 000
$C becomes $72 000
Rise in C.P.I.—6 per cent
$D becomes $19 000

New duty payable =	$		
Matrimonial home	26 500		
Other assets	20 600		
	47 100	=	2 632

Increase 5·3 per cent (about 6 per cent)
Supposing other assets were cash in bank:

	$		
Matrimonial home	26 500		
	20 000		
	46 500	=	2 475

Rise in C.P.I. = 6 per cent
Duty payable = $2 475 ($25 difference)

There is an actual decline of only $25 in duty payable. There is no benefit for an inheritor who is a child through the provisions of this Bill. There is a benefit for widows, a small benefit in small estates, but no benefit for a child of the deceased. The proportionate rebate of duty for a child is cut in half, as the following figures show:

Real estate—$40 000 = $5 525 duty.
Same increases as in previous case
6 per cent buildings and 6 per cent C.P.I.
Real estate increased to $42 400 = $5 993 duty.
8·5 per cent rise.

So much for indexation. With an increase of 6 per cent in the value of buildings in the metropolitan area and an increase of 6 per cent in the consumer price index the increased duty paid by a child inheritor is 8·5 per cent. The trap here is that we are dealing with a proportionate rebate of duty. We are not dealing with an exemption and, as the estate inflates, the proportionate rebate of duty does not take into account that fact.

If we want to index, we must index the rate of duty and not the proportionate rebate. Therefore, the point made that this Bill contains indexation cannot be justified, because it does not. With a 6 per cent increase in the C.P.I. a child inheritor will be paying 8·5 per cent more in tax on an estate of about $40 000. The Government estimated that receipts from succession duties in this financial year would be about $17 500 000. The Government estimates that, if this Bill is proclaimed, say, in December, it will lose about 5 per cent of revenue in this financial year. Then it has said it will lose about 11 per cent over 12 months. On the research I have undertaken on the Bill, I do not believe that claim can be justified. I do not believe there will be any reduction over a full year in the return to the Government from this Bill.

I turn now to another important point, on which I would receive sympathy from most honourable members. I refer to the benefits available under the existing Act from what is called a quick succession relief. Under the Act as it provides at present, if a husband dies and leaves the estate to his widow, and within a year she dies and passes the estate on to her children, there is a quick succession relief of 50 per cent. This declines at the rate of 10 per cent a year until there is no rebate after five years. I do not believe it is justified, in an estate passing from a husband to a wife and from a wife to her children, that two bites can be taken out of the estate in five years. This point has been debated fully in other States, and Western Australia has already taken the step of extending the quick succession relief to 10 years. If any honourable member examines this matter, I am sure he will sympathise with what I am saying. The quick succession relief should be extended to 10 years.

It seems to me to be a logical extension of the philosophy of the Bill to extend this relief to 10 years, as has been done in Western Australia, particularly as the philosophy of the Bill gives a benefit to widows and widowers up to $71 000, although above that there is no benefit or increase in duty. The children have no benefit at all under this Bill: the position regarding them remains the same, or they are charged more. With these changes, it seems reasonable to extend the quick succession benefit to a period of 10 years, and I will be seeking an instruction from the Council to extend it to that extent.

Perhaps I can give an illustration of what I mean. I take the example of the sum of $100 000 being left by a husband to his widow. Under this Bill, the duty payable would be $17 600, and the Commonwealth duty almost $3 000, making a total of about $20 500. If, six years later, the widow died and passed the estate to her child, the duty under this Bill would be almost $14 000 and the Commonwealth duty about $2 000, making a total of nearly $16 000. So, over a period of six years, almost $36 000 and, with other expenses, $40 000 or $45 000 would have been taken from the value of that estate. With this advantage being given to widows and widowers up to $71 000, and with the removal of benefits to children, I believe that the case for an extension of time of the quick succession provision from five years to 10 years cannot be argued against.

My next point relates to assigned assurance benefits. On the question of allowing a provision to assist those people who, during their lifetime, make sacrifices to ensure that their children have a means by which they can meet the impact of death duties, I have addressed the Council many times. Although the provision of $5 000 for an assigned policy being taken into the calculation of the proportionate rebate of duty did not go as far as we would have liked when the succession duty Bill was before the Council in 1970, it was nevertheless some compensation for the removal of the joint tenancy benefit.

I should like to deal at length with this matter, because it is important. Under this Bill, there is a benefit for a widow of $18 000 on an estate valued up to $69 000. Then, the benefit declines to $12 000 on an estate valued up to

$81 000. Before the 1970 Bill was passed, an $18 000 benefit was available to a widow as an exemption and not as a proportion of rebate of duty. So, we have made no progress, really, in the benefits available to a widow when we consider that, with a joint tenancy home, the figure as far back as 1954 was $18 000, whereas on an estate valued at $69 000 the maximum benefit available to a widow is $12 000.

One of the important provisions that was removed from the Act was that which allowed a widow to take possession of her house as a separate succession. In this way, a widow could go to the Succession Duties Office, pay her duty on the house, and take possession of it immediately. That was a humane approach that the Government said was a loophole for the wealthy. However, it was not: it was a humane approach to the problem of death duty and succession duties. That provision was removed from the Act in 1970, although this Council fought strongly for its preservation.

The proportionate rebate of duty available to a widow on an estate valued at more than $69 000 is less than that which was available to a widow in 1964. That is a point worth stressing. In this category of allowing a proportionate rebate of duty on an assigned assurance policy it can be argued, regarding the widow, that the aggregation concept adopted in 1970 removed considerable benefit in the cases quoted. Regarding this matter of an assigned assurance benefit, I think that when, during his lifetime, a prudent person says, "When I die, my wife and family will have a problem meeting the impact of death duties, so I will take steps to help them meet that impact," he should not be penalised. However, this Bill does that: it penalises a prudent person who says to his children, "During your lifetime I will make provision for you to meet the impact of duty. In doing that, and assigning a policy to you, you will still pay duty on the policy, but it will come into your estate. However, there will be a compensating proportionate rebate of duty."

Although the widow and widower enjoy some benefits in most estates under the Bill, it is still difficult for the Government to substantiate an argument to remove the assigned assurance as an addition to the proportionate rebate of duty. It is impossible, when it comes to children, for the Government to say that the removal of this benefit takes away the incentive for the prudent person to help his children meet the impact of death duties. Again, I should like to give an example. If $30 000 is left to a child over 18 years of age, that sum being made up of $25 000 plus $5 000 from an assigned policy, the duty under the Bill will be $6 800. Under the existing legislation, it is $5 383. Under this Bill, the increase of duty on that child's estate is 26 per cent, or $1 417, with the loss of this benefit. I say to the Government that the removal of the assigned assurance benefit is not justified in any way in relation to children over 18 years of age.

Since the 1970 adoption of allowing a proportionate rebate of duty for an assigned policy, many people have reorganised their assurance policies to cater for this change. Now, only five years later, a whole new process of reorganisation must be gone through, which I think is an unjustified burden. In my opinion, this change will force people into a position in which they will transfer their existing policies to superannuation policies, with discretion, which raises problems. Many people receive lump sum superannuation benefits: others receive superannuation benefits in the form of life pensions, for both husband and wife.

Where the superannuation benefit is paid in the form of a life pension, it is not necessarily caught for duty purposes, but where it is a lump sum payment it will be caught. And, of course, being caught, it adds considerably to the impact upon the estate. Let me examine this from the point of view of the trade union secretary (and I have written and talked to a few of them on this particular aspect) or of a person in business on his own account who has taken out assurance to cover himself for a lump sum payment on retirement. I think honourable members would agree this happens with a lot of trade union secretaries.

The Hon. J. E. Dunford: They don't take out assurance. They have superannuation schemes.

The Hon. R. C. DeGARIS: I know it is in the form of assurance where a lump sum is paid. There are two cases—the case of the trade union secretary where a policy is taken out for him by the union (or some form of assurance or payment) and also the self-employed person who takes out assurance to cover himself for a lump sum payment on retirement. They are both the same as far as death duties are concerned. If death occurs two years after retirement the estate passing to a widow (if there is a house involved, maybe furniture and a car) could be of the order of $90 000. Duty payable on that estate, because of the superannuation, is over $15 000. If, on the other hand, the superannuation is in the form of a pension, with discretions, instead of a lump sum payment, the duty is $1 219. Whilst the proportionate rebate of duty for an assigned policy does not assist a great deal, it is some recognition of the problem.

Now I come to the rural rebate. Probably the most important change the Legislative Council fought for in 1970, and fought very strongly for, was where land was held in joint tenancy or tenancy in common. The rural rebate did not apply to that land. Because the joint tenancy provision existed as a special benefit in the Succession Duties Act, until aggregation in 1970, it was just that two benefits could not be achieved. But, with the acceptance of the aggregation provisions, it cannot be justified that no benefit flows to land held this way.

The changes in the rural rebate are a strange change for a Labor Government, in that the benefit under the Bill, as compared with the benefit under the existing Act, increases with the size of the inheritance. I agree that the rural rebate should be increased but I would suggest to the Government that the rebate should be on the existing basis; that is, that the rebate should be 60 per cent up to, say, $80 000, then declining to a flat rate of 40 per cent at $200 000—or some other system increasing the benefit for the smaller estates, with a declining benefit as the estate increases in value. I think that would be a more realistic approach to the rural rebate problem. All other benefits—widows, widowers, children, ancestors, they benefit because of the proportionate application—decline as the estate increases in size, but the rural rebate is a flat concession of 50 per cent.

I support the second reading. In doing so I predict that because of increasing values there will be little loss of Government revenue in the Bill's impact. It is not indexed as claimed, because as the value increases and as the consumer price index increases the increase in the proportionate rebate on duty still allows a much higher increase than that of the C.P.I. or the rise in cost. In other words, it is not indexed. If you want to index it, this must be on the rate of duty applicable. I make the point that there is no rural loss of revenue to the Government under this Bill. The immediate impact this financial year I believe

will be a loss of about 5 per cent on revenue but next financial year the Government's revenue under this Bill should be around $18 000 000 from death duties.

In summary, I say that the removal of the assigned assurance in favour of children reduces the proportionate rebate on duty available to children from $11 000 to $6 000. In other words, what the Government is doing under this Bill is cutting the rebate available to children almost in half. Therefore, the Bill adversely affects the position of children. I will be seeking an amendment (and I hope to get the support of the Government) to maintain the existing proportionate rebate of duty to children at $11 000. The rates and other rebates available to children are the same as those applying since 1970 so, adding the inflation factor, even if one keeps the rebate of $11 000, children are significantly worse off under the Bill's provision. I will be seeking to change quick succession relief from five to 10 years. On the rural rebate, I make the suggestion of increases above 50 per cent for small estates, and declining below that for larger estates.

In some ways I commend the Government for introducing the Bill, but I do not believe it goes far enough. It does not take into account factors which should have been taken into account. I believe that the main benefit is going to the small number (numerically) of the inheritors, that is, the widowers. When one considers widows and widowers are on the same basis under the Bill, as far as their rebate is concerned, but that there are eight times more inheritors as widows than widowers, one could say that that is not satisfactorily viewing the widow's position. I hope the Government examines the suggestions and comments I have made. I hope it examines the areas I have mentioned regarding quick succession, assigned assurance policies, and a declining rural rebate, increasing the rebate in the lower areas of rural succession. I support the Bill.

The Hon. J. C. BURDETT: I support the second reading of this Bill. It gives some relief to taxpayers as compared with the present Act and particularly regarding rural rebate. I agree with the Hon. Mr. DeGaris that this Bill does not offset the burden imposed on taxpayers because of inflation. The same property will be taxed at a much higher rate than formerly because it will fall into a higher bracket and higher rate of duty. The only cure is to reduce the actual rate of duty.

The Hon. Mr. DeGaris has gone into great detail on this aspect of the Bill. I think honourable members are indebted to the Hon. Mr. DeGaris for the great amount of work he has done in working out the application of the Bill to estates. It was necessary, in order to assess the effect of the Bill, to have this sampling of the effects of the Bill in actual cases. While the Bill does not tackle, despite its indexation provisions, the adverse effects of inflation on taxpayers to any extent, it does give substantial relief as against the present position. The relief granted is in line with the Treasurer's election promise and with the second reading explanation. I intend to comment on some portions of the Bill that seem to call for comment more from the viewpoint of their content in connection with legal principles than from the viewpoint of their effect in actual cases. So, I am not covering the same ground as that covered by the Hon. Mr. DeGaris.

During the debate on the Statutes Amendment (Gift Duty and Stamp Duties) Bill, I and other honourable members pointed out that the benefits granted therein were in many cases rendered illusory by section 8 (1) (*o*) of the Succession Duties Act. In replying to the Hon. Mr. Hill's question as to whether this was so, the Minister of Health gave an assurance that this would be attended to in the proposed Succession Duties Act Amendment Bill; that assurance has been honoured. Clause 4 takes care of this position and ensures that, where taxpayers take advantage of the amnesty provided in the Statutes Amendment (Gift Duty and Stamp Duties) Bill, they are not caught by the provisions of section 8 (1) (*o*) of the Succession Duties Act. I turn now to new section 9 (*a*). In, admittedly, a fairly limited number of cases, an existing deduction for succession duties purposes is taken away from taxpayers. I believe that this is accidental. New section 9 provides:

> In calculating the net present value of property derived by any person for the purpose of assessing the duty payable thereon, no allowance shall be made—
>
> (*a*) by reason of the payment of, or the liability to pay, and duty under the law of this State, of the Commonwealth, or of any other place.

It often happens (not very often, but it has happened in a number of estates with which I have been associated) that at the time of death there is a gift duty liability. This happens rather more frequently than one may think, because unfortunately it is often only when people are in ill health that they think about the need to divest themselves of some of their property. Unfortunately, it often happens that they die while there is still a gift duty liability. At present, under the existing law, one half of any gift duty liability that is due by the deceased at the time of death is deductible as a debt due by the estate. The reason why the figure is one half is that the liability for gift duty is joint and several, in relation to the donor and the donee. It is therefore taken that only one half should be regarded as a debt due against the deceased and due against the estate. The original section 9 in the principal Act was designed to provide that the death duty itself due in respect of the estate should not be a deduction; this was quite proper. The original section 9 of the principal Act provides:

> In calculating the net present value of property derived by any person from a deceased person for the purpose of assessing the duty payable thereon, no deduction shall in any case (except as provided in subsection (2) of section 8) be made be reason of the payment of, or the liability to pay, any duty imposed on the said property, or on the estate of the said deceased person, or on any part of the said property or estate, by any legislative enactment of the Commonwealth or of any other State, dominion, or country whatever.

This allows the deduction of any gift duty that is due at the time of death, because the thing excluded is the liability to pay duty imposed on the property, and gift duty is not imposed on the property: it is imposed on the person. Further, reference is made to duty imposed on the estate, but gift duty is not imposed on the estate: it is imposed on the person. However, the new wording is as follows:

> . . . by reason of the payment of, or the liability to pay, any duty under the law of this State, of the Commonwealth, or of any other place.

The provision does not refer only to duty imposed on the property or only to duty imposed on the estate. It therefore seems to me that it would apply to any duty and, as a result, the deduction under the existing law is taken away. I therefore believe that the provision ought to be amended, and I shall examine the matter further from this viewpoint during the Committee stage. New section 9 provides:

> In calculating the net present value of property derived by any person for the purpose of assessing the duty payable thereon, no allowance shall be made— . . .
>
> (*c*) by reason of any actual or prospective delay in obtaining administration of the property and in administering that property.

This provision was inserted because of the recent judgment by Mr. Justice Zelling in which he said that such factors should be taken into account, and they are therefore at present taken into account. I believe that that position should stand. If, because of a delay, property cannot be taken possession of immediately, it is worth a smaller amount; that position ought to be acknowledged. So, paragraph (*c*) ought to be opposed.

Clause 11 amends section 55e of the principal Act by striking out the definition of "dwellinghouse" and inserting in lieu thereof a shorter definition. It has been suggested that the comprehensive definition of "dwellinghouse" ought to remain, but I do not agree with that suggestion. The Bill is beyond reproach in this respect. We should not expect a Bill to define every term: we should be willing to rely on the natural meaning of words when they do not need any further amplification or definition.

Clause 14 results in the legislation extending to son-housekeepers as well as daughter-housekeepers. This is in accordance with the Sex Discrimination Bill that we recently passed. I am not sure how much benefit this provision will give, because I do not imagine that there are many cases of son-housekeepers. The benefit to a daughter-housekeeper or a son-housekeeper is confined to those persons who, for the prescribed period, have been wholly engaged in the care of the deceased. In some cases of which I am aware, this has been very harshly construed. Where the child has really in all conscience been virtually wholly engaged in the care of the deceased but has engaged in some income-earning activities, however limited they may be, the rebate has not been granted. I ask whether the Government would consider defining the degree of dependency that there must be. It has seemed to me in some cases that the degree of dependency or of total engagement in the care of the deceased has been stressed too much and that in some cases, where the most minor of other activities have been undertaken by the daughter, and soon by the son, the rebate has been withheld in circumstances where, I suggest, there has been some measure of hardship.

The Hon. Jessie Cooper: Where the daughter earns a little extra money.

The Hon. J. C. BURDETT: Yes. I knew of one case where a daughter was engaged almost wholly in looking after a parent and took in some dressmaking work to the extent of about $1 a week; in that case the rebate was withheld because she was not wholly engaged, under the terms of the Act, in the care of the parent. That is a measure of relief that the Government should look at.

I refer to clause 15 with some pleasure, although there is one matter I wish to raise on it. I say "with some pleasure" because it is a clause to which the Hon. Mr. DeGaris referred. It provides:

(2) Where rural property was held by the deceased person jointly or in common with any other person or persons . . .

Ever since I have been in this Council, when I have had the opportunity to do so (in Address in Reply speeches, and so on) I have raised this matter of the injustice in the existing Act whereby estates are deprived of the rural rebate where land is held in joint tenancy or tenancy in common. In regard also to other rural property, rebate has been available only where some land has been held by the deceased as a sole owner. I have never been able to understand why land held by tenants in common, in particular, has always been excluded from the rural rebate, from 1959 when it was first introduced by the Playford Government. The Hon. Mr. DeGaris pointed out earlier that prior to 1970 there was a special position in regard to joint tenancy. Joint tenancy land was separately assessed on a separate form, called form U. Therefore, I suppose there is some argument today that, because land was held in joint tenancy, there was no rural rebate. This never applied to tenancy in common. Land that was held by a tenant in common was included in the estate of the deceased person in the same way as any other asset was. It was not subject to any special concession, but I have not been able to see why land held by tenants in common was excluded from the rural rebate.

I am pleased to find that land held by both joint tenants and tenants in common is now included in the rural rebate. I raise one matter on this; it is rather complex but it may be important, and it should be examined. In many cases where land used for production is owned by joint tenants or tenants in common there is a partnership. In most cases, it may be between husband and wife, but sometimes children, too, are involved. The question arises whether the land is or is not a partnership asset. Sometimes it may not be (it may be outside the partnership assets) but in other cases the land held by, say, tenants in common (husband and wife) who are partners in a rural business will be regarded as an asset of the partnership.

When accountants prepare tax returns for such partnerships from year to year, they are required to prepare a statement of assets and liabilities, or a balance-sheet, each year; they sometimes include the land and other rural property as partnership property, and sometimes they do not. I suspect that sometimes they do not realise the significance of whether or not these assets are partnership property and do not make a proper inquiry whether those assets should be included in a statement of assets and liabilities; but certainly in many cases the land will be an asset of the partnership. It cannot be registered in the name of the partnership, of course, because a partnership is not a separate legal entity; it is usually registered in the name of the partners or other people entrusted with it.

Let us take the simple case of a husband and wife carrying on a business as partners and owning farm land as tenants in common. Some of it may be partnership property. This clearly would be the case where the land had been purchased out of the partnership money; that commonly occurs. Will this rebate extend to land held by, say, husband and wife as tenants in common where that land is a partnership asset? I rather suspect it will not. At any rate, this is a matter that should be carefully examined by the Government. Certainly, the traditional legal view in regard to partnerships and partners is that partners do not have an interest in any specific asset of the partnership. What they have is a right, on conversion, to the excess of assets over liabilities. This has clearly been stated on many occasions in the authorities, and it is certainly the traditional legal view that, if a person is a partner with his wife in a rural business and they are tenants in common of the land used in that business and the land can be established as a partnership asset, that person cannot say he owns that land or has any interest in it beneficially. The Succession Duties Act is concerned with beneficial interests and not legal interests. It does not matter necessarily how it is registered: the question that the Commissioner of Succession Duties, under the Act, looks at, and is required to look at, is the beneficial interest.

The argument is that it can be said that the husband did not own any beneficial interest in the land at all and that what he had was a right, on conversion, to the excess of assets over liabilities of the whole estate. This position is stated in *Halsbury's Laws of England*, Third Edition, Volume 28, at page 532:

The estate of a deceased partner is entitled, not specifically, but in value, to a share of the articles used for the purposes of the business and, on his death, the value of his share is regarded as the price to be paid by the continuing firm . . . Land which is partnership property is deemed to be converted into personal estate as between the partners (including the representatives of a deceased partner), unless a contrary intention is expressed.

That view is strengthened by section 22 of our State Partnership Act, which reads:

Where land or any interest therein has become partnership property, it shall, unless the contrary intention appears, be treated as between the partners (including the representatives of a deceased partner) as personal and not real estate.

Therefore, there would be a strong argument for the Commissioner of Succession Duties to say that no rural property is held by the deceased person, that no land or asset is used for the purposes of primary production held by the deceased person. He does not hold the land; what he holds, as set out in the quotations I have given, is the right to the value on conversion of the excess of assets over liabilities of the partnership.

It would be a great shame, and doubtless is not what the Government intended, if in such circumstances beneficiaries were deprived of the benefit of the rural rebate. I ask the Minister to examine this question carefully and to refer to it when he replies. At the very least, some sort of undertaking should be given that, in such circumstances, it will be considered for the purposes of succession duties that the deceased had an actual interest in the land or other rural areas. Possibly it would be wiser to go further and define the matter in the Bill by way of amendment.

I turn now to the matter referred to by the Hon. Mr. DeGaris, namely, clause 16, which takes away, in effect, the rebate in respect of assigned life asssurance policies. I suppose, in support of this clause and in support of taking away the rebate, it could be said that there is no reason why any one asset should be singled out. It could be said, perhaps, that at present there is this rebate up to $5 000 in respect of assigned policies of assurance, and it could be asked why they should be singled out as against money in a savings bank, or various other things.

The extent of the rebate at present has encouraged people to assist their children in making provision for the payment of duty by means of this asset of an assigned policy of life assurance, which does attract a rebate. It seems to me that this is a proper way of taking care of one's dependants, and that taxpayers should be encouraged (rather than the reverse) to make some provision in this way for the duty which will be payable by their dependants. Finally, I acknowledge that the Bill gives some relief to taxpayers; to that extent I applaud it. However, I say it is no substitute for a complete re-evaluation of the principal Act, and that that should be undertaken. Because the Bill does give some benefits, I support the second reading.

The Hon. C. M. HILL secured the adjournment of the debate.

MONARTO DEVELOPMENT COMMISSION (ADDITIONAL POWERS) BILL

In Committee.

(Continued from November 4. Page 1614.)

New clause 5—"Expiry of Act."

The Hon. M. B. CAMERON: I oppose this new clause. I believe it extends the time too far into the future, taking it almost to the end of this Parliament, and I do not believe that is what the Bill should have set out to do. If the Government wants the Committee to be properly informed, it should tell us exactly what the future of Monarto is to be, what future spending on the project is likely to be, and whether it is necessary to extend the term of the commission because of lack of financial support on the part of both Governments. It would not be proper for me to agree to support an amendment to extend this period for such a length of time.

The Hon. B. A. CHATTERTON (Minister of Agriculture): The Government does not consider this clause necessary, especially in view of the amendments, moved by the Hon. Mr. Laidlaw and accepted by the Government, restricting the extra powers within the Bill. I made the point previously in Committee that the Government strongly opposed this amendment as it was then, with the cut-off date at December 31, 1976. Although we do not consider it necessary, in a spirit of compromise the Government is prepared to accept the date of December 31, 1978.

The Hon. J. A. CARNIE: I opposed the second reading, because I was opposed to the whole concept of Monarto. Nevertheless, the Bill has reached the Committee stage, and I say now that I intend to oppose the third reading. However, in case the Council is foolish enough to pass the third reading, I wish to see the Bill in the best possible form. For that reason, I supported the amendments moved by the Hon. Mr. Laidlaw. I also supported the original amendment of the Hon. Mr. Burdett, because the Government is not telling us one important point. The Government says it is committed to Monarto and intends to continue with it, but gives no indication as to how long before that will happen, whether it will be one year, two years, or five years. As a Parliament, we have a right to know when the Government intends to continue with the project. I supported the idea of the Bill's cutting out in December, 1976, because this Parliament would have to re-examine the situation in a year's time.

The Hon. M. B. Cameron: After the next Budget.

The Hon. J. A. CARNIE: Yes, indeed. The Government may then tell us its plans. If we are to change this to December, 1978, a period of three years, I believe we might as well have no limit at all. I see no purpose in the amendment, and I oppose it.

New clause inserted.

Title passed.

Bill reported with amendments; Committee's report adopted.

The Hon. B. A. CHATTERTON (Minister of Agriculture) moved:

That this Bill be now read a third time.

The Hon. C. M. HILL: I reiterate my opposition to this measure. Although it is now in a better form than when it was first introduced, in my view it is still a Bill that should be defeated. It is a bad Bill. The Government has found itself in a predicament in relation to Monarto. It established a planning commission based on the Monarto plan. I am not arguing about why this happened, but those predictions have not come to fruition, and the Government now has the problem of the commission on its hands. The Government should put its own house in order in this matter and it should not unleash the personnel of the commission in such a way as to affect private enterprise.

Even though the Bill in its new form restricts the commission to work for Government departments and Government instrumentalities, I point out that consultants in the private sector in South Australia have been doing work for those departments and instrumentalities up to this time. Their work will be affected when the commission's staff is

sent by the Government to work elsewhere than on the Monarto project and begins work in new fields. Private enterprise consultants are suffering from lack of work now. They do not enjoy the long service leave, superannuation and similar benefits enjoyed by senior public servants.

The Hon. M. B. Cameron: They do not have the same security of job tenure.

The Hon. C. M. HILL: True, and private consultants are taking their chance in the private sector. They will suffer more because this socialist Government, rather than facing the challenge of putting its house in order in respect of Monarto, will allow the commission to work elsewhere, thereby affecting the livelihood of private sector consultants, who are already suffering in the present economic climate and who will suffer even more. I am not going to support a measure that will allow this to happen. It is completely contrary to the philosophy in which I believe and, therefore, I oppose the Bill.

The Hon. M. B. CAMERON: I, too, indicate my opposition to the Bill at this stage. I am not sure that it is in a better form now, but amendments have been made to it. It is completely wrong for a commission to be established for a specific purpose, that no indication was given that there might be a variation of its purpose, or that there could be a future lack of support for the Government's policy. In fact, we were assured only weeks before the Commonwealth Budget (even the day before the Budget) and hints were given that Monarto would be allocated plenty of money.

Suddenly the axe fell on that project, and now Parliament is expected to support a change in the commission's operations. I do not believe that is proper. Does that mean at any future time when we specifically establish such a body that we can have its purpose varied when the Government chickens out in the face of its original intention to create the instrumentality? That is what has happened in this case.

It might be better if we sent the commission's staff through the Government's retraining programme to be trained as farmers, because that is what the land at Monarto will finally be used for, probably in conjunction with a zoo (we might have an open-area zoo). It is a shame that we must see in this way the lack of support for this project. I urge the Council to reject the Bill.

The Hon. N. K. FOSTER: I should like to say a few more words about this Bill. I do so, because it appears that the only case the Opposition has to hang its hat on is that, when the original Bill establishing the commission was dealt with, this situation was not envisaged. I have not had the opportunity to go through each speech made in this Council and in another place regarding this matter, but the main objection that has been raised is that provision was not made for this situation in the original Bill or for a departure from the clear intention of the legislation, which was the development of a city at Monarto.

However, all Governments of all political persuasions operating under the Westminster system are faced with this problem. Parliamentary Counsel, being what they are, and in light of their responsibility, foresee this situation. The Hon. Mr. Burdett can smile, but I refer to the tasks undertaken by Parliamentary Counsel on behalf of Parliament. Parliamentary Counsel ensure that, in the framing of new legislation, the Government is not caught, and they provide new legislation in terms overcoming objections that have been raised in previous Bills.

The Hon. M. B. Cameron: Like hell!

The Hon. N. K. FOSTER: They do. I refer the honourable member to the phraseology, terminology and drafting of legislation. He will find that many of the changes contained in legislation result from objections raised to previous Bills. Is that not the role of people drawing up contracts in the profession of which you, Mr. President, are probably still a member and of which the Hon. Mr. Burdett and the Hon. Mr. Sumner are members? I am sorry that I cannot include the Hon. Mr. DeGaris in the membership of that profession. However, that is what happens. Members opposite have objections and have said, "Look, we have found something; those rotten, lousy, miserable, mean socialists have been hiding behind a bush and we have discovered a trap."

The Hon. Mr. Hill says, "This socialist Government has been trying to socialise the whole of the housing system." What utter rot. The Housing Trust, as the honourable member knows, is not socialist. The Hon. Mr. Hill can point his finger, but he knows the trust is not a socialist undertaking in the true sense of the word (if he knows what "socialist" really means), because the trust is a semi-government organisation.

The Hon. C. J. Sumner: Who established the trust?

The Hon. N. K. FOSTER: A Liberal and Country League Government.

The Hon. C. M. HILL: Will the honourable member yield?

The Hon. N. K. FOSTER: No, but if the honourable member wants to yell and interject, he will earn my respect. He was once a Minister of Transport, but he should not believe that he has absolute right of way. The answer is "No". Having discovered this evil socialist plot, the honourable member says that he will oppose the measure now being considered by the Council. However, I should like to tell the honourable member the truth: he has not discovered any socialist plot; because there is none. More is the pity, but the Constitution will not permit it. I am on record as saying that, and I have said it previously.

The Hon. Mr. Hill says, "I will be seen as protecting the people of my profession. I have an interest outside of this Council in land broking and as a land agent. I will stick up for my mates in that profession." That is what this matter is all about today. I point out to members opposite that there is often a change of circumstances in the life of a Government; indeed, such changes occur in the life of all Governments. Does not the Hon. Mr. Hill, as a member now in Opposition, remember that as a Minister in a previous Government he was confronted with having to reverse decisions he took, with having to change his mind because of changed circumstances resulting from a changed economic climate? I refer to the situation concerning Chowilla dam.

Members opposite might say that that is a different set of circumstances but, basically, the economic factor meant that the Hon. Mr. Hill and the Hon. Mr. DeGaris, when they were Ministers in a former Government, had to change direction, as did the Hon. Mr. Cameron. Is there anything new in that?

The Hon. C. J. Sumner: What did they say before 1968?

The Hon. N. K. FOSTER: The matter became a political football; I must be fair and say that. However, that project was dealt with in the Commonwealth Parliament, and the matter of change was introduced in that Parliament in a most disgraceful way. I refer to the legislation dealing with Chowilla dam itself. That situation was created because of changed economic circumstances, on the one hand, and technological and political differences on the other.

The Hon. M. B. Cameron: I was not a member of Parliament at that time.

The Hon. N. K. FOSTER: I thought the honourable member was in the Australian Senate, but as he has corrected me, I withdraw that comment. However, the honourable member certainly adhered to that policy afterwards. That reminds me of yet another point. Much criticism has been made by the Opposition, adopting a hide-bound hard-line attitude regarding the terms of reference on previous matters considered by this Council. It says that the direction of the original terms of reference should be maintained, that organisations should not stray from their original purpose, and that organisations should not stray into any other field before fulfilling their original purpose.

Honourable members will recall that last week I referred to the Snowy Mountains Authority and whether it undertook work outside its original charter, which was created by a Liberal Country Party Government, before the completion of one of the largest projects in the Snowy Mountains hydro-electric scheme in New South Wales. I am referring to the Talbingo project in that particular area. That should put paid to that argument. The Chowilla scheme was to be confined to an area within this State. If that attitude of the Opposition had been adopted, with our heads in the sand, we would not have seen the mock-up tanks erected, at great expense, at Cooma, in New South Wales. Who undertook to do that on behalf of the South Australian Government? The Snowy Mountains Authority. It was a long tank erected to achieve a system of simulated conditions, taking into account factors including salinity, the types of soil and rock involved, and various other technical matters. This was absolutely necessary.

I remind honourable members that their attitude on this matter is short-sighted. They know as well as I do that it is their right to play politics on this and every other issue. As I said today in a casual conversation regarding all new members, or any member, when first entering Parliament (be it the Upper House or the Lower House, State or Federal), the best possible position to be in to assert himself or herself in politics is initially to go in as a member of the Opposition. The ball is at their feet. They can do all the criticising and accept no responsibility.

That is a fact of political life. May I make this point, that whilst there is this criticism about the present Federal Government for what it has done (and it has not been in Government for 23 years) it is equally true to say that the Federal Opposition has made all sorts of bungles because it has not been in Opposition for 23 years? It cuts both ways. Coming back to this Bill, I say let us hear some valid criticism as to why you should not allow its passage. The only other aspect (and I will conclude on this) is that you are hell bent on tearing this organisation to pieces. You think you can make some cheap political propaganda out of it.

I put it to the Hon. Mr. Cameron, regarding afforestation areas around Mount Gambier, when there was little or no afforestation going on, did the then Government put aside all of that organisation? It was necessary to retain the organisation to achieve continuity when moneys became available for replanting and further development of the State forests. Of course you didn't scrap the organisation and you know you didn't do it. Why single Monarto out in that regard? It is a cost to the community, you say. There are costs to the community in almost every aspect of expenditure, be it private or public.

The Hon. F. T. Blevins: It's an investment.

The Hon. N. K. FOSTER: You go to any airport in Australia and that is a cost to the community. It is a cost to the community and you can only measure that as an unproductive cost to the community, but it is a necessary cost. You can't turn it off and turn it on overnight. You have to achieve continuity of service and a facility.

The Hon. R. C. DeGaris: I don't think it quite applies to the honourable member.

The Hon. N. K. FOSTER: I will pay that one. Your only defence was your jocularity, but you must admit the substance of what I say is true and you can apply that any way. You can go down and find the same thing applies in John Martins or Bagots, Shakes & Lewis, or any other firm. The community picks up the cost in the private sector for everyone stealing an article in any of the stores, and the members of the Adelaide Club do not appear to be much concerned.

The Hon. R. C. DeGaris: There is a cost factor, though.

The Hon. N. K. FOSTER: There might be a bigger cost factor involved in restructuring or recreating the organisation if you pulled it apart. Furthermore, people of the professions you want to attract may not be available in the future. I hear that gentlemen opposite in this year, 1975, have discovered a new virtue. They claim to be the protectors of people seeking employment in the community. What absolute rot. You do not give a damn about them. If you had your way you would sack public servants. Members opposite have said in previous speeches, or people of the same political ilk, have said so and have been responsible for such actions. Menzies, in the mid 1950's, is a classical example.

You say on the one hand you will not touch a public servant in the city area but you do not apply that principle to the employment of people in this scheme. You seek cheap political publicity and advantage, but you do not get any advantage, as you mistakenly think you do by applying those sorts of principles. I draw your attention to the document that I let some of you look at earlier.

The Hon. C. M. Hill: Who wrote it?

The Hon. N. K. FOSTER: It was written by the Prime Minister.

The Hon. C. M. Hill: It was written by you.

The Hon. N. K. FOSTER: I quote, and we are dealing with the location of Australian Government employees—

The Hon. J. C. Burdett: Has this got anything to do with the Bill.

The Hon. N. K. FOSTER: You fellows have stood up as an Opposition and described the acts of this Government as kidnapping public servants and putting them out at Monarto. Martin Cameron had something to say about that last week. I put it to you that in the mid 1950's Canberra was still running sheep where Lake Burley Griffin is at the moment. There were only a few people in Canberra. The Hon. Mr. Whyte may laugh, but development in Canberra was not to the extent we see today until Menzies made his announcement.

The Hon. C. J. Sumner: No—Mr. Anthony.

The Hon. N. K. FOSTER: He got a house for nothing in Canberra.

The Hon. J. E. Dunford: Didn't he go to the C.I.A.?

The PRESIDENT: Order! We should get back to the Bill.

The Hon. N. K. FOSTER: I quote:

The recent agitation over the Australian Government decision to transfer elements of the public service to growth centres has an ironic and nostalgic ring. It is only a few years ago that proposals to transfer public servants from Melbourne to Canberra met with the same resistance and hostility.

Canberra has now grown into a highly desirable place to live and work. This has not been a spontaneous process; it has resulted from the policies of successive Australian Governments deliberately designed to generate growth. If Sir Robert Menzies had not made a strong commitment to develop the national capital in 1957-58 and if his Government had not backed it with a major programme of Public Service transfers, then Canberra would not be the attractive congenial city that it is today.

Honourable members opposite will ask, "How can you compare Monarto with the then proposed city of Canberra?" I reply, "If you have nothing to think with, you have nothing to listen with." The opposition of honourable members opposite is shallow, without merit, without justification, without consideration of the facts, and without common sense.

The Hon. J. C. BURDETT: I opposed the second reading of this Bill on a matter of principle: that this Bill provided for using the Monarto Development Commission for purposes other than its original purpose. When the Bill passed the second reading stage, I moved an amendment and I also supported the Hon. Mr. Laidlaw's amendments, with a view to making the Bill a little better than it was. Because amendments have been carried, that aim has been achieved, but I still oppose the Bill as a matter of principle, because I do not think the commission should be used extensively for other than its original purpose. For those reasons, although I supported amendments in Committee, I will oppose the third reading.

The Council divided on the third reading:

Ayes (11)—The Hons. D. H. L. Banfield, F. T. Blevins, B. A. Chatterton (teller), J. R. Cornwall, C. W. Creedon, R. C. DeGaris, J. E. Dunford, N. K. Foster, D. H. Laidlaw, Anne Levy, and C. J. Sumner.

Noes (7)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, Jessie Cooper, R. A. Geddes, C. M. Hill (teller), and A. M. Whyte.

Pair—Aye—Hon. T. M. Casey. No—Hon. M. B. Dawkins.

Majority of 4 for the Ayes.

Third reading thus carried.

Bill passed.

CONSTITUTION ACT AMENDMENT BILL (ELECTIONS)

Adjourned debate on second reading.

(Continued from November 4. Page 1606.)

The Hon. M. B. CAMERON: I do not support this Bill in its present form. I believe that perhaps there is a need to curb the tendency toward the extension of terms of members beyond six years. The enlightening figures brought forward by the Hon. Mr. Blevins indicate the need for some correction of a situation that has existed for a number of years. I believe there is a need for a maximum term of six years as well as a minimum term of six years. I am a little confused by the inconsistency of the Government in this matter. For some time, along with everyone else in the community, I have followed the situation in Canberra, where serious concern is expressed by the Government there at the tendency of the Senate to want to dictate to the House of Representatives on the length of term that the Lower House should have and when an election for that House should be held. The Commonwealth Government believes that it is wrong for the Senate to indicate that the Lower House should go to the people and that its term should be limited. I have indicated support for the Commonwealth Government's view in this respect but, to be consistent, surely it is wrong for the Government here to ask for power to say to the Legislative Council, "You have had enough time."

By taking out the House of Assembly, the Government would automatically take out half of the members of this Council. I cannot support that inconsistent attitude. I believe that it is proper for the term of office of Legislative Council members to remain at six years. If the Government wants to take out the House of Assembly earlier than the scheduled time, it can do that; that is the House of Assembly's business.

The Hon. R. A. Geddes: What is the policy of your Party in connection with the term of office of members of this Council?

The Hon. M. B. CAMERON: We have clearly indicated that it should be a six-year term—a six-year maximum and a six-year minimum. It is not proper for the House of Assembly to be able to dictate to the Upper House; in the same way, the Upper House should not be able to dictate to the Lower House about its term. If the House of Assembly goes to the people earlier than the scheduled time, the elections get out of phase, and that is the Government's responsibility. I am being consistent in this matter. It is a reprehensible move by the Government to introduce this Bill. It is a falsification of democracy to try to interfere with the term of office of Upper House members. For that reason, I do not support the Bill and ask the Council to reject it, because it will lead, of course, to dictation to the Upper House. It could be at any time, whenever the Government takes it into its head to go to the people; it could be as a result of a Gallup poll. It could rush off at the first indication of support for it, with the result that the members of this Council would be restricted in their term of office. We are elected here for a six-year term of office, and I would support a move to keep it to that, but not to the period decided upon by the Government in another place. That would be improper. I urge the Council not to accept the Bill.

The Hon. R. A. GEDDES secured the adjournment of the debate.

COMMUNITY CENTRES

Adjourned debate on the resolution of the House of Assembly:

That this House resolves that the providing of community centres by the Government of this State shall be a public purpose within the meaning of the Lands for Public Purposes Acquisition Act, 1914-1972.

(Continued from November 4. Page 1607.)

The Hon. C. M. HILL: I support the resolution involving the principle that there are times in the public interest when it is necessary for a Government or Government department to have the power and the right to acquire property by compulsory means. It is fair to say that no-one likes compulsory acquisition; nevertheless, there are times when it is necessary. It is my personal view that resorting to this kind of power should be avoided where possible and the relevant department should negotiate privately with landowners to see whether it can come to terms with them before resorting to a compulsory power. Nevertheless, for public purposes, or where property is needed in the public interest, the department must have this right.

It appears that this power of a department to acquire for the purposes of community centres has come under

question, possibly because community centres, in this sense, are new, not only to this State but also to the whole of Australia. So the Government is resorting to the Lands for Public Purposes Acquisition Act to obtain a resolution of both Houses to the effect that community centres will fall within the category of development that will carry the necessary powers of acquisition.

The Hon. B. A. Chatterton: But these are rather special powers; it is not a normal case.

The Hon. C. M. HILL: I appreciate the point made by the Minister, that these community centres are of a special kind. I acknowledge that the expression "community centre" may well be taken to be a community centre of a different kind. For example, there may be a community centre where there are shopping facilities and some community welfare establishment; there may be one rather similar to the terminal being built at Christie Downs, which could ultimately involve some Government department offices; but the expression in the resolution deals with a special type of community centre that includes secondary school facilities, although those facilities may not be the dominant feature of the centre.

I believe that this machinery, to resort to this method prior to compulsory acquisition, is not put in train very often and it would be of some advantage if I were to read the whole of the relevant section of the Lands for Public Purposes Acquisition Act, because it explains fully the machinery the Government is using on this occasion. Section 4 of the Act provides:

The Governor may by proclamation declare any of the following purposes to be a public purpose, namely—

i. the providing of offices and other buildings and premises for carrying on the government of the said State or any department or departments of the Government of the said State:

ii. any work or undertaking which the Government of the said State are by any Act or law empowered to carry out, but for which there is no power (except this Act) to acquire land:

iii. any purposes which both Houses of Parliament, during the same or different sessions of any Parliament, resolve shall be a public purpose within the meaning of this Act;

and thereupon such purpose shall be deemed to be an undertaking within the meaning of the Compulsory Acquisition of Land Act, 1925, and the Acts amending that Act, as if it were an undertaking authorised by Act of Parliament.

I think that explains the Government's approach in this resolution. The concept of community centres, as envisaged in this resolution, is exciting and challenging. The whole wide community involvement, including recreational and social activities, community welfare, health, and education can be assisted by community centres of this kind.

Indeed, the position is such that I wonder whether some other administrative machinery (or Government machinery, for that matter) is really modern enough to be able to cope with these plans. For example, I believe there is a need for the Government to keep in close liaison with local government in regard to establishing these community centres. I wonder whether the Government has done that in regard to Angle Park, or whether it intends to do it. I also wonder whether local government is in such a stage of advancement as to be able to join in partnership with State and Commonwealth Governments in developments of this kind; but that is something the Government itself must look at closely.

I wonder, too, whether the Public Service structure in this State at present is geared to keep pace with development of this kind. Who will be the Minister really in charge of community centres of this kind? Would it be the Minister of Education, the Minister of Community Welfare, or, perhaps more importantly, the Minister of Tourism, Recreation and Sport? After all, the overall concept of these community centres is that the total leisure time of the community will be catered for and facilities will be provided for the use of that total leisure time, for the complete fulfilment of the individual.

The Minister of Tourism, Recreation and Sport will loom large in this work when such community centres come to fruition. I am pleased to know that, in connection with the Thebarton proposal, there is close co-operation with the local government authorities of the area. I am most interested in what I consider to be the experimental side of the education facet of these community centres. The experiment is that, in contrast to previous practice, children are to be educated within a community centre and will have much closer involvement with the community through the educational process.

It may well be (and no doubt this is the aim of the planners involved) that the children will grow up with a better appreciation and a better knowledge of community affairs than they normally acquire in their formative years under the existing system of education in schools which do not have particularly close contact with community groups, such as pre-school kindergartens, age pensioners, and other members of the community who want to spend some time within one of these proposed centres.

Another creditable feature is that I believe the centres will provide an opportunity for secondary school facilities to be used much more by the community than has been the case in the past. I am strong in my view that, in the general area of conservation of resources, the educational facilities in this State are not used sufficiently; they should be used more by the community than is the case at present. I know there are trends towards this in parts of the State other than in these proposed community centres, and I commend the educationists who are not objecting to co-operation with local government, sporting bodies, community groups, and so on, which want to use the assembly halls at night.

The huge resources being poured into the material facilities for education in this State would be put to their best use if more community involvement occurred in relation to school buildings. However, in this case that issue will be resolved because the public will have ample opportunity to use classrooms and assembly halls when the students are not using them. That advantage is a good point in this proposal.

It is apparent that the two sites concerned are not sufficiently large in the view of the planners. I notice, incidentally, that the planners are consultants, presumably outside consultants. It is rather ironic that the point should arise following the Bill just before the Council. For the planning of the second centre at Thebarton, consultants of the Monarto commission might be doing the planning, for no doubt community centres of this kind would be established at Monarto. If that were to happen, and if a Monarto man did the job, an independent consultant in the private sector would have to go without. I make that point merely as an aside.

Apparently the area available and capable of development is not sufficiently large, and the Government requires the right compulsorily to acquire adjoining property. These centres come within the category of public projects and it is in the public interest, in my view, that the Government does have this power to acquire land compulsorily. Accordingly, I support the motion.

The Hon. JESSIE COOPER secured the adjournment of the debate.

ROAD MAINTENANCE (CONTRIBUTION) ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. T. M. CASEY (Minister of Agriculture): I move:

That this Bill be now read a second time.

It is a short Bill amending the Road Maintenance (Contribution) Act. The principal Act was amended by an Act which was passed by Parliament earlier this year and which has not yet come into operation. Unfortunately, the formula for calculating the amount of road maintenance charges payable by owners of commercial goods vehicles is stated incorrectly in the amending Act. This Bill will correct the mistake.

The Hon. C. M. Hill: Whose mistake was it?

The Hon. T. M. CASEY: I would say it was a typographical error. The rate is intended to be 0·17 cents per tonne kilometre, which is the rate agreed upon by the Australian Transport Advisory Council, but the formula set out in the amending Act would give a figure of ·017 cents per tonne kilometre. Clause 1 is formal. Clause 2 provides that the Act shall come into operation immediately after the earlier amending Act. Clause 3 effects the correction to the formula in the third schedule.

The Hon. C. M. HILL secured the adjournment of the debate.

ADJOURNMENT

At 5.24 p.m. the Council adjourned until Thursday, November 6, at 2.15 p.m.