LEGISLATIVE COUNCIL

Wednesday, March 1, 1978

The PRESIDENT (Hon. A. M. Whyte) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

RURAL ASSISTANCE COMMITTEE

The Hon. R. A. GEDDES: I desire to direct a question to the Minister of Agriculture, dealing with the Rural Assistance Committee, and I ask leave to make a short statement prior to asking the question.

Leave granted.

The Hon. R. A. GEDDES: Primary producers already have expressed some concern that the Minister of Agriculture has terminated the services of the Rural Assistance Committee. The members of the committee are Mr. J. J. Messenger, an accountant, Mr. F. S. Heaslip, a primary producer, and Mr. C. A. G. Hunt, an economist. The press report states that the new committee that has been appointed will shift its emphasis for granting rural assistance from "accounting procedures to the viability of farm management criteria". I ask the Minister whether the old Rural Assistance Committee failed to take into account the farm management criteria when granting loans, whether it was incompetent in carrying out its responsibilities, and whether the new criteria guidelines are so difficult to implement that the old committee would not be capable of handling them.

The Hon. B. A. CHATTERTON: I think the first thing that ought to be said is that the headline in the report in the *Advertiser* today was quite misleading, because it seemed to imply that the committee had been dismissed. In fact, that is not the case.

The Hon. R. A. Geddes: I did not use those words, either. I used the word "terminated".

The Hon. B. A. CHATTERTON: Yes, but I think it important to put the record straight, because the committee's official term of office expired on August 25 last year. At that time, the whole administration of this area was in the process of being transferred from the Lands Department to the Agriculture and Fisheries Department, so the committee's term was extended from August 25 to December 1 last year. Since that time it has ben operating on virtually a month-to-month basis. I think it should be stated clearly that it is not a question of dismissal of the committee or of terminating its services. In fact, the committee's term of office expired last year. The other point I should like to make is that the emphasis has changed. It has changed, in both the drought assistance area and the area of rural adjustment, from a strict adherence to equity and the type of security the farmer has to an approach based more on his viability and ability to repay.

This has been one of the reasons why more farmers are applying for drought relief loans, and we hope that more people will apply for other forms of assistance provided under other schemes, because they can see that the approach is based on their farm management ability, the way they operate their farms, and their ability to repay those loans, rather than the former strict adherence to the percentage equity they hold in their properties, and whether the security cover is second, third or fourth mortgage and the like. Certainly this has been successful in the drought relief area, and we hope that it will be equally successful in the rural adjustment area.

The old committee was not incompetent, and I made that plain in the statement I put out. I appreciate the work that it did but, with changes in policy and changes of direction it is almost inevitable that there are changes in the people involved as well. Certainly, I do not want it to be interpreted as any implication that the old committee was not up to its job, but there are occasions when change is necessary.

The Hon. J. C. BURDETT: Can the Minister of Agriculture say whether, under the rural industry assistance legislation, as amended in 1977, he or his predecessor have ever used their personal powers under section 23 (3) to grant rural assistance to individuals without the approval of the rural industry assistance committee? If that is so, how often has this power been exercised, who were the persons involved, how much money was involved on each occasion, and how did the Minister grant such assistance without the recommendation of the committee?

The Hon. B. A. CHATTERTON: I will obtain a reply for the honourable member. I think he referred to the previous administration under the Lands Department. I can say that it has not been under my administration, but I will check out the matter and bring down a reply.

APHIDS

The Hon. M. B. CAMERON: I seek leave to make a short statement prior to directing a question to the Minister of Agriculture regarding aphids.

Leave granted.

The Hon. M. B. CAMERON: I refer to last week's *Stock Journal* and the report headed "S.E. farmers want Government aid to spray aphid". The report states:

> The meeting asked for State and Federal funds to jointly cover the total cost of insecticide programmes until June 30 next year.

The report details certain requirements that should be laid down. The Minister is reported as saying that he was considering the proposal and would put a submission on the aphid situation to State Cabinet. Has the Minister now put any submission to State Cabinet? If he has, what assistance is to be given to farmers?

The Hon. B. A. CHATTERTON: Unfortunately, the honourable member seems only to read the city edition of the *Advertiser.* If he read today's country edition of the *Advertiser* he would have seen the press statement I put out on that question. To cover the points made, I indicate that a submission was put to Cabinet on Monday concerning subsidising the cost of insecticide for aphid control, and Cabinet reviewed the position sympathetically but was unable to meet those costs, because of the Budget deficit now facing this State and because of the continued uncertainty surrounding the Commonwealth's assistance to the aphid control programme. The Commonwealth had promised last year $185 000 to assist us in the biological control programme that is being undertaken, and there is still continued uncertainty about the funds that will be available from that source.

In the light of those two factors, Cabinet decided not to assist the industry in that way, as regards providing the free insecticide that the honourable member mentioned.

DUTCH COMMUNITY

The Hon. C. M. HILL: I recently asked whether the Ethnic Affairs Section of the Premier's Department and the newly appointed senior officer in that section had

taken any action to settle the differences in the Dutch community in South Australia. Has the Minister of Health a reply from the Premier?

The Hon. D. H. L. BANFIELD: The position was closely watched by the Ethnic Affairs Adviser of the Premier's Department but, as this matter was *sub judice,* no action was taken.

APPROPRIATION BILL (No. 1)

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 provides for expenditure totalling $26 000 000. When introducing the Bill in another place, the Treasurer made a statement in relation to the financial position of the State and prospects for the future. Since that statement is available to honourable members, I do not propose to repeat it here. However, I seek leave of the Council to have the statement (which includes a detailed explanation of the Bill) incorporated in *Hansard* without my reading it.

Leave granted.

Treasurer's Statement

In moving the second reading of this Bill, I propose to make a few comments about the State's general financial situation and about some of the uncertainties facing us before I explain the items in the Supplementary Estimates. In presenting the Revenue and Loan Budgets to the House in October last, I said that the forecast for the year's operations on the combined accounts was for a deficit of about $18 400 000 and that this deficit would be met by using all of the Government's available reserves held on those combined accounts at June 30, 1977.

Recent reviews indicate that it will not be possible now to contain the final deficit on the combined operations for 1977-78 within the planned level. The present estimate of the position on the two accounts combined is for an overall deficit of $26 000 000. This represents an increase of some $8 000 000 over that expected at the time the budgets were brought down in October last. The increased deficit is accounted for by a $6 000 000 shortfall in receipts and a $5 000 000 increase in expenditures, partly offset by an increased rate of loan repayments and recoveries to the extent of $3 000 000.

Like the private sector and the community generally, the Government is feeling the adverse effects of a depressed economy in which business activity is reduced and unemployment is at a record level. The fall in business activity is being felt everywhere but particulary in regard to employment, real estate and motor vehicles. Members would no doubt have seen the most recent grave national unemployment figures which indicate that the depression is by no means confined to South Australia. Indeed, South Australia has retained its rather unusual position in these difficult times of having slightly less unemployment than the national average.

The continued slump in activity has had an effect on this State's Budget position in a manner broadly similar to that which is now occurring in the Commonwealth Budget. Revenues are down because employment-based taxes, like pay-roll tax in this State's case and income tax in the Commonwealth's case, obviously yield less with higher unemployment. Moreover, expenditure-based taxes like stamp duties are also affected by the adverse conditions. On the other side of the coin, expenditures have had to be boosted in order to try to contain and to cope with the mounting unemployment. As I have said, that applies equally to the Commonwealth Budget position as to that of the State. Members opposite should bear in mind that the Commonwealth's own Budget deficit for this year is now estimated to be many hundreds of millions of dollars higher than that originally projected.

With respect to Revenue Account for 1977-78, recent reviews indicate that stamp duties are now likely to be down on the original budget forecast by about $5 000 000, pay-roll tax by about $5 000 000 and succession duties by about $2 000 000. For all other receipts there is likely to be a net increase of about $6 000 000 made up of some movements above and below estimate. Thus, the shortfall in overall revenue receipts is likely to be about $6 000 000.

Although the Government has kept a tight rein on all expenditures and, indeed, is seeking a virtual moratorium on all new expenditures in the health area, there will be a net over-expenditure as compared with the original Budget provisions of some $5 000 000. Broadly, this is made up of a net over-expenditure of $7 000 000 on Revenue Account, together with a saving of $2 000 000 on Loan Account expenditures. The particular items that members should note include new additional requirements for health services (up $5 000 000), further education (up $1 200 000), water and sewerage services (up $2 400 000), State Transport Authority (up $1 200 000) and Special Acts in respect of debt services (up $3 000 000). These increases have been offset somewhat by the recent moderation in the rate of salary and price increases, which give rise to an expected saving this year of about $10 000 000 on the allowances estimated.

Before giving brief details in respect of the individual areas of the Supplementary Estimates, I should like to bring to the attention of members one matter which, if not resolved, would have a significant impact on this State's finances. Members may recall that in 1975 the States and the Commonwealth Government entered into an agreement to share net hospital operating costs for certain approved hospitals. Members may recall also that, despite that specific and binding agreement, the Commonwealth Government provided in its 1977-78 budget $5 000 000 less than its obligatory half share of the estimated minimum level of costs, which was regarded by the South Australian hospital authorities as unavoidable to maintain effective hospital services in this State.

When presenting the Budget last October, I told the House that I had objected strongly to the Prime Minister at the arbitrary decision that his Government had taken in isolation and without reference to those qualified and responsible for the delivery of hospital services in this State. I asked the Prime Minister for his assurance that his Government was not contemplating any change in the agreed arrangements for cost sharing, and that his Government would meet its half share of net operating costs in 1977-78. Whilst his reply gave an assurance in respect to the first matter, it left me rather uneasy in respect to the second.

Recent events have done nothing to ease my concern. Although the Commonwealth seems prepared to agree to some small increases in its Budget allocation for net operating costs, it has so far failed to acknowledge that rising wages and prices have added greatly to hospital costs and that the Commonwealth level of support is well below that required to meet minimum standards of patient care and safety. There has been a reluctance even to accept a retrospective salary increase for medical officers, which

was quite outside the power of the Hospitals Department to control. The Commonwealth seems to have the mistaken impression that it is interested in reducing hospital operating costs. The State has just as great a desire to do so and is making every reasonable effort to do so.

This matter will be taken up at the next meeting of the Commonwealth-State Standing Committee in May and I expect it to be resolved then. In the meantime, these Supplementary Estimates seek a sum of $8 000 000 in order to provide appropriation for a temporary advance, late in the year, to cover any delay which might occur in the receipt of the full Commonwealth share. I now turn to the Supplementary Estimates in detail.

Appropriation

Turning now to the question of appropriation, members will be aware that early in each financial year Parliament grants the Government of the day appropriation by means of the principal Appropriation Act supported by the Estimates of Expenditure. If these allocations prove insufficient, there are three other sources of authority that provide for supplementary expenditure, namely, a special section of the same Appropriation Act, the Governor's Appropriation Fund and a further Appropriation Bill supported by Supplementary Estimates.

Appropriation Act—Special section 3 (2) and (3): The main Appropriation Act contains a provision which gives additional authority to meet increased costs resulting from wage awards. This special authority is being called upon this year to cover most of the cost to the Revenue Budget of a number of salary and wage determinations with a small amount being met from within the original appropriations. However, it is available only to cover salaries and wages increases formally handed down by a recognised wage fixing authority in the current financial year.

The main Appropriation Act also contains a provision which gives additional authority to meet increased electricity charges for pumping water. The consumption of water this financial year has exceeded the quantity collected naturally in catchment areas by a greater amount than is usual, and it has been necessary to supplement natural collections by increasing the quantity pumped from the Murray River. The Government has tried to reduce this imbalance by appealing to the people of South Australia to avoid wasting water but, nevertheless, there will be some call on the special appropriation.

Governor's Appropriation Fund: Another source of appropriation authority is the Governor's Appropriation Fund, which, in terms of the Public Finance Act, may be used to cover additional expenditure. I have explained the operation of this fund to the House several times previously. The appropriation available in the Governor's Appropriation Fund is being used this year to cover a number of individual excesses above departmental allocations and this is the reason why some of the smaller departments do not appear on Supplementary Estimates, even though their expenditure levels may be affected by the same factors as those departments which do appear.

Supplementary Estimates

Where payments additional to the Budget estimates cannot be met from the special section of the Appropriation Act or excesses are too large to be met from the Governor's Appropriation Fund, Supplementary Estimates must be presented. Further, although two block figures were included in the October Budget as general allowances for salary and wage rate and price increases, they were not included in the schedule to the main Appropriation Act. To cover the costs of higher prices or of wage increases not falling within the special section 3 (2) of the Appropriation Act, the House is being asked now to make specific appropriation for some part of these general allowances.

I point out to members that, whilst these sums represent the best estimates of needs presently available, nevertheless, in most instances they cannot be regarded as accurate to the last dollar. In authorising the funds which may be actually needed, I propose to treat departmental requests as if they were requests for excess warrants on the Governor's Appropriation Fund. Excesses from that fund are permitted only with my specific approval after examination by the Treasury and I propose that, although the procedures will not be quite so formal, the additional appropriations now sought will not be released without continuing examination of changing departmental needs.

Details of the Supplementary Estimates: The details of the Supplementary Estimates are as follows:

Services and Supply: An additional $130 000 is sought to cover salary increases for this department. This amount is needed to provide for the transfer of the office of the Chief Secretary to this department, and for additional terminal leave and other salary payments in the Government Printing Division.

Additional contingency costs in the Government Printing Division have resulted from increased production and higher Public Buildings charges. Further, the initial provisions for workmen's compensation insurance premiums, repairs and renewals of plant and machinery, and automatic data processing charges have proved to be insufficient.

The amount required to cover the increased contingency charges is $270 000 and this, together with the $130 000 required for salaries, makes up the $400 000 in total sought for Services and Supply.

Corporate Affairs: Following discussions between the States and the Commonwealth about uniform legislation on companies and securities and, in view of the administrative efficiencies to be gained, the Government decided to create the Department for Corporate Affairs. The department is charged with the administration of legislation relating to companies and securities and the conduct of special investigations. It is expected that the department will form the basis of the Corporate Affairs Commission which will assume these functions later.

Previously these activities were performed by the Law Department and the Companies Branch of the Department of Public and Consumer Affairs. Co-ordination, efficiency and effectiveness are expected to improve as a result of the revised organisation. Therefore, while funds are sought for this new department, savings will occur in these other departments. I have implemented procedures to ensure that these savings are not used for other purposes without my specific approval but, of course, where justifiable increases in expenditure occur which offset the savings, those increases will be allowed. This is the case, in fact, in the Law Department.

The amounts sought provide for the operation of the department for the whole of this financial year. Indentifiable costs incurred in discharging these functions before the new department was established will be transferred accordingly. Whilst this is not strictly necessary, I am conscious of the need to provide meaningful information in the published accounts at the end of the year. The procedure adopted here will facilitate this.

The total provision for the Department for Corporate Affairs in the Supplementary Estimates is $533 000 of which $413 000 is for salaries and payments of a like nature and $120 000 represents other costs of administering the department.

Law: The amount provided in the Estimates presented to the House last October has proved to be insufficient to cover the activities of this department. It was estimated that staff vacancies, which normally occur when staff resign or are promoted, would reduce the department's costs but these have not occurred to the extent expected. Insufficient provision was made in October for trainee court and Parliamentary reporters who commenced course this year.

Since the costs of printing and publishing *Hansard* are above estimated costs, the provision for contingencies also needs to be increased. After making allowances for savings resulting from activities transferred to the Department for Corporate Affairs, the further provision sought for this department is $400 000. If it were not for those savings, it would have been necessary to seek an additional $90 000 in the Supplementary Estimates to cover the remaining cost of these activities this year.

Treasury: Late last financial year, as part of a $35 000 000 programme designed to assist the flagging building industry, the Government granted a remission of stamp duty on the purchase of new houses. This measure was scheduled to terminate on December 23, and it was difficult to estimate the amount needed. Further, many home purchasers found it difficult to complete settlement in this period and, therefore, the Government has decided that conveyances accepted before December 23, which are settled before March 31 this year, may qualify for the concession. A further $200 000 is estimated to be required for this programme and that amount is included in Supplementary Estimates.

Lands: Increased salary costs, expected to amount to $150 000 by the end of the financial year, have resulted from additional terminal leave payments, a reduction in staff wastage and a greater incidence of overtime than is usual. The additional overtime was needed to clear accumulated accounting work. Owing to the very dry conditions early this year, more water pumping than estimated has been undertaken and, as a result, power consumption and maintenance increased, causing an estimated over-expenditure of $200 000 on irrigation area operating expenses. In total, an additional provision of $350 000 is sought for the Department of Lands.

Engineering and Water Supply: This department requires a further $2 017 000 to provide for additional salary costs, additional costs resulting from the reallocation of staff from other activities, costs associated with the treatment of dirty water, and extraordinary maintenance. Of this amount, $550 000 is needed to cover salaries and wages increases which do not qualify automatically for additional provisions under the special clause of the main Appropriation Act I mentioned earlier. A further amount of $450 000 is needed to cover the cost of design staff now engaged on Revenue programmes due to a reduction of activity on major design projects under the Loan works programme.

The decline in the amount of subdivisional activity has made it necessary to transfer staff usually engaged on reimbursement works to work involving dragging of sewers, maintenance of pumping stations, house connections and clearing choked sewer connections. The additional cost to be met from Revenue Account is $350 000. As a result of dirty water problems which became more severe in the metropolitan area earlier this financial year, it became necessary to alum dose the Millbrook and Mount Bold reservoirs. Provision was not made for this expenditure in the original Estimates and the cost is estimated at $500 000.

Dry weather conditions have led to additional pumping costs and extraordinary maintenance charges have been incurred to cart water to tanks in the Ceduna-Penong area, to maintain the water supply at Coober Pedy, to replace a burst gullet at Lock, and in connection with the Gawler, Kapunda and Murray Bridge water supply. An additional amount of $167 000 is sought to provide for this work.

Public Buildings: During recent inflationary periods, it has been standard practice to use existing rates when calculating the amount to be included in the Budget for rents due under leases. If increases occur when expiring leases are renegotiated during the year and the department is unable to effect offsetting savings elsewhere in its budget, additional appropriation has been provided. This year an additional $600 000 is needed to cover increased rental charges.

Education: The Supplementary Estimates provide for an additional sum of $3 250 000 for salaries for the Education Department. $1 350 000 of this is to cover salaries and wages increases which do not qualify for automatic increases to appropriation. The remaining $1 900 000 is attributable to incremental steps in teachers' salaries.

Further Education: An additional provision of $1 200 000 is sought for Further Education. $470 000 of this is needed to cover salaries and wages increases which do not qualify for additional statutory appropriations. The remainder is to cover additional staff costs, and the costs of Pre-Apprenticeship Training courses, Migrant Education and enrichment courses. A large part of the increase will be offset by receipts associated with these costs. Expenditures incurred on the Pre-Apprenticeship Training Scheme and on Migrant Education will be reimbursed by the Commonwealth Government and it is anticipated that most of the costs involved in conducting enrichment courses will be covered by increased course fees.

Agriculture and Fisheries: Spotted alfalfa aphid and blue alfalfa aphid have done severe damage to grazing legumes in the Eastern States and some destruction has occurred already in South Australia. As soon as it was realised that spotted alfalfa aphid had entered South Australia and that our lucerne and medic pastures were threatened, an emergency programme was initiated to deal with this menace. A comprehensive three year programme for integrated control of both aphids on a State-wide basis is underway, and financial resources have been applied from other areas of the department and from the State Unemployment Relief Scheme to support the control programme. The Commonwealth Government has been asked to contribute $185 000 which was recommended by the Agricultural Council as the Commonwealth contribution to the South Australian campaign. In addition, the department has found it necessary to engage additional casual workers to combat the higher incidence of fruit fly this year. To meet these additional costs of the department, a further allocation of $600 000 is sought.

Marine and Harbors: The State has had an increased number of shipping movements relative to last year and this has caused additional expenditure, particularly outside of normal hours. While salaries and wages and related costs have increased, all overtime work is recoverable and some offset to these increased costs can be expected. Other increases are associated with a higher level of terminal leave payments, additional stores operating costs and the initial cost of establishing a commercial division of the department. The total amount sought to provide for these expenditures is $280 000.

Minister of Marine, Miscellaneous: Under the terms of the Mobil Lubricating Oil Refinery (Indenture) Act, 1976, the State is obliged to make refunds to Mobil Oil Australia Limited of wharfage payments made in excess of the guaranteed amount. It was not possible to estimate the amount of these refunds accurately when the Estimates were presented last October, but it is apparent now that an additional $350 000 will be required. The Supplementary Estimates include provision for this purpose.

Highways: This department has met with a general increased level of costs in a number of areas, including its contribution to the National Association of Australian State Road Authorities, maintenance of the Walkerville administration building, hire of computer time, printing and stationery and the State's contribution to the Co-ordinated State Road Authorities Data Bank System. The additional provision sought is $320 000.

Minister of Transport and Minister of Local Government, Miscellaneous: An additional appropriation of $1 500 000 is required to cover payments to the State Transport Authority and the Mitcham Dogs Home Incorporated. The additional amount of $1 200 000 required by the State Transport Authority is related to excesses in each of its operating divisions. Net contributions on behalf of the Rail Division are increased by $500 000 because receipts are running at levels lower than estimated, while payments are exceeding estimate. Similarly, net contributions for the Bus and Tram Division are greater than estimated due to an increase in retiring and death gratuity scheme payments following unscheduled early retirements ($300 000), a carryover of the operating loss from 1976-77 ($250 000) and other sundry cost increases ($150 000).

The Dogs Rescue Home Incorporated was established at its present location at Belair Road, Mitcham, in 1928. Since then, urban growth has caused it to be surrounded by private dwellings and the Mitcham City Council receives numerous complaints about the dogs kept at the home. The land occupied by the home is under contract for sale and must be vacated shortly. The home's management wishes to relocate at Lonsdale and the Government proposes to assist this move with a grant of $100 000 and a loan of $200 000.

Community Welfare: The Government has been obliged to increase its financial assistance payments in two main areas.

The first of the increases which is in the general financial assistance area is a direct result of the decision by the Commonwealth Government to change the timing of amounts paid as unemployment benefits. Whereas previously applicants for unemployment benefits could expect a cheque for a two week benefit to be available days after applying, now they must wait 18 to 19 days for a one week benefit. Further delays occur while the applicant is waiting for the second cheque—this time a two week benefit. Only when the third cheque is due can applicants expect to receive cheques spaced regularly at fortnightly intervals. The South Australian Government does not accept that people should have to suffer the hardship caused by this Commonwealth policy and we have taken action to ensure that payments are made to eligible applicants as early as possible. Effectively this has shifted the responsibility for initial payments to the State. An amount of $300 000 has been included in the Supplementary Estimates for this purpose.

Secondly, the amount provided in October for payments to sole supporting parents will not be sufficient because there has been a marked increase in the number of sole supporting parents applying for assistance and an increase in rates in line with similar increases in Commonwealth payments. This had led to a further requirement of $700 000 on this line. In all a further $1 000 000 is required for Community Welfare.

South Australian Health Commission and Hospitals Department: An additional amount of $3 650 000 is being sought on the Supplementary Estimates to cover the net cost to South Australia of the hospitals and health programme. The amount sought is to provide for increased charges for medical and surgical supplies, drugs, laundry and domestic charges, repairs and maintenance, rent and administration expenses and pathology services. A further $8 000 000 is required to provide an advance to the South Australian Health Commission to ensure continuity of operations should delays occur in the approval of programmes and receipt of moneys under the Medibank agreement. Whilst I expect these problems to be ironed out before the end of the year, our recent experience suggests that it would be unwise to leave the possibility of a shortfall in receipts from the Commonwealth uncovered. Naturally, I will not approve an advance unless it is necessary.

Minister of Health, Miscellaneous: The non-government recognised hospitals have faced increases similar to those encountered by Government hospitals and, therefore, it will be necessary to increase the amount available for distribution as grants towards current maintenance for recognised and eligible hospitals. The increase sought is $1 350 000.

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

PARLIAMENTARY SUPERANNUATION ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

APPRENTICES ACT AMENDMENT BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendments.

POLICE REGULATION ACT AMENDMENT BILL

The Hon. C. M. HILL moved:

That this Order of the Day be made an Order of the Day for Wednesday, March 15, 1978.

The Hon. C. J. SUMNER: On a point of order, Mr. President, I understand this matter is now the subject of the terms of reference in the Royal Commission that has been appointed by the Government into the dismissal of the former Commissioner of Police, Mr. Salisbury. There would seem to be little point in adjourning this matter to a date in the future, when it seems to me that any discussion on it would be prohibited because the matter is before the Royal Commission and is, therefore, *sub judice.*

The PRESIDENT: I do not believe the honourable member has a point of order. This Police Regulation Act Amendment Bill has no relevance to the matter before the Royal Commission. I do not think that is a point of order and I ask whether the motion is seconded.

The Hon. J. C. BURDETT: I second the motion.

The Hon. N. K. FOSTER: I rise on a point of order. Last week, I directed a question to our former President regarding the matter of the *sub judice* rule on fringe matters relating to matters before the Royal Commission and matters which were perhaps not directly involved in

the Commission itself or strictly within the terms of reference. I sought the late President's guidance in this in regard to these matters. May I suggest, with all respect, that you Mr. President, make yourself acquainted with the remarks, if not the rulings, of the late President before any ruling is made on this matter? An adjournment of this matter would enable you to do that.

The PRESIDENT: The point is that this a Bill for an Act to amend the Police Regulation Act, but honourable members have not this Bill before them yet; they do not know its contents and I cannot see how any honourable member can argue against the motion, as this Bill has nothing to do with the terms of reference of the Royal Commission.

The Hon. C. J. SUMNER: I rise on a point of order. Although I do not wish to pursue the matter at this stage, I think it is fair to give notice that when this matter is raised by the Hon. Mr. Hill on the date to which it has been adjourned I will be maintaining that the contents of the Bill, if it follows what Mr. Hill has stated publicly it contained when he gave notice to the press that he would move a motion dealing with the dismissal of the Police Commissioner, whether or whereby he could be dismissed, and whether there should be a power of suspension or appeal, are public knowledge to Council members and are covered by the Royal Commission's terms of reference. I refer particularly to the third term of reference. I do not wish, as I said, to pursue a point of order at this stage because you, Sir, may like time to consider the matter. However, it seems to me that, if the contents of the Bill are as the Hon. Mr. Hill previously said they were, the matter would be *sub judice,* as it would be covered by the Royal Commission's third term of reference.

The PRESIDENT: I am sure that we will be interested in hearing the points that the Hon. Mr. Sumner makes on the Bill when it has been introduced.

Motion carried.

MINING ACT REGULATIONS

Order of the Day, Private Business, No. 2:

The Hon. C. J. Sumner to move:

That the regulations made on November 10, 1977, under the Mining Act, 1971-1976, relating to the mining of precious stones and declared equipment, etc., and laid on the table of this Council on November 15, 1977, be disallowed.

The Hon. C. J. SUMNER moved:

That this Order of the Day be discharged.

Order of the Day discharged.

GIFT AND SUCCESSION DUTIES

Adjourned debate on motion of the Hon. R. C. DeGaris:

That in the opinion of this Council, the Government should, within the life of the present Parliament, abolish gift and succession duties and give consideration to reducing the incidence of capital taxation in other areas of State taxes.

(Continued from February 22. Page 1700.)

The Hon. C. M. HILL: I support the motion moved by the Hon. Mr. DeGaris. Honourable members will realise that the motion states that the Government should, within the life of the present Parliament, abolish gift and succession duties and consider reducing the incidence of capital taxation in other areas of State taxes. I emphasise the point that a three-yearly plan was in mind when this motion was moved. I say that because one can reasonably assume that the life of this Parliament will be three years. That point should be stressed, because it means that those who move and support the motion cannot be charged with irresponsibility from a financial viewpoint.

If people demanded that a source of income of about $20 000 000 should be abolished within, say, one year without producing alternative proposals regarding the source from which other revenue might come, or regarding how certain expenditure up to that same sum should be reduced, it would be irresponsible. The motion states, in effect, that the Government should plan within the next three years to abolish succession and gift duties. This part of the motion is more important and should have greater emphasis placed on it than the second part thereof, which is something that would naturally flow from the first part.

Once the principle is established that this capital tax should be abolished, consideration ought to be given to other forms. The *News* of Wednesday, February 22, featured an article on this subject, summarising briefly the position throughout Australia on the question. For the purpose of clarity and as a base for this Council to further consider the matter, this summary should be recorded in *Hansard* as part of this general debate. Therefore, I will read the summary, as follows:

> Here is what you pay—or don't pay—to die across Australia.
>
> South Australia: Since July 1, 1976, no duty is payable on property passing between spouses. Children must pay duties on their combined income. Gift duty is payable on amounts over $4 000.
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> Federal: Since November 21, 1977, estate duty is not payable on property passing to a surviving spouse. Duty is not payable on gifts from that date to spouse, child or parents. The Government has announced it will abolish all gift and estate duties on people dying from July 1, 1979.
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> Victoria: Surviving spouses exempt from October 1, 1976. From January 1 this year the exemption has been extended to include any part of the estate passing to children. Gift duty is payable over amounts of $10 000.
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> Queensland: Abolished death and gift duty from January 1 last year.
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> Western Australia: Surviving spouses exempt from July 1, 1977. Children pay combined death duties. No gift duty on cash gifts though stamp duty is levied on the documents. The Government intends to abolish all duties by January 1, 1980.
>
> Tasmania: Surviving spouses exempt since November 30, 1977. Children pay combined death duty and gift duty as in Western Australia.
>
> New South Wales: Surviving spouses exempt since December 1, 1976. Children pay combined death duty and gift duty as Western Australia and Tasmania.

In addition to that summary, in the body of the full-page article are the words, "South Australia is currently the most expensive place to die in the nation." It highlights the seriousness of this question, and I think that the changes in the Federal sphere and in the other States, and the changes announced for the other States and which will apply from the dates that I have mentioned, show that surely now is the time for the Government of this State to give serious consideration to this question.

Obviously, we are behind on this matter and we must consider the consequences of the present situation to the people of this State and to the State as a whole community. If it can be justified that these consequences are serious or that they will be so in the next three years, the present Government has a clear duty to announce some action by way of further plans to alleviate this form of taxation.

Whenever the subject arises in Parliament (and this has been my experience from listening to the matter being

debated from time to time over the past seven years or so), the emphasis has been on the serious effects on people on the land. I thoroughly concur in that view, but the matter does not end with the person who has his captial invested on the land. It seriously affects people in townships, urban communities, and metropolitan Adelaide who have invested money in small businesses and commercial enterprises. They also suffer when severity of succession duties strikes a family.

I do not want to leave the point of the rural person entirely to my colleagues, because an important aspect that I have noticed recently has not been emphasised very much. That is that, even in these times of rural depression, the capital value of farm land has not decreased very much. It is a unique feature in the general country scene, and those who have studied the matter know that there are particular reasons for this.

There are reasons why people are paying more than the economic worth of particular farms. In many cases, people buy property for their sons and families and, to these persons, the farms have special value. They tend to overlook economic factors. The land is often adjoining land which they know very well and which can be made into one total parcel for the family. The other question is that farm land is purchased simply as a hedge against inflation. In times of inflation, people tend to put money into land.

I have not any query in this respect, but, when considered with the question of succession duties, it becomes a serious matter. That is because the valuations fixed by the Valuer-General are based on current and comparable sales, and the Valuer-General does not, in broad terms, consider the special circumstances relating to the sale. Therefore, when a death occurs and farm land is in the estate, the valuations fixed for succession duty purposes are high. In many ways, they are quite unreal, yet the Valuer-General and the public servants involved in the matter justify their valuations and assessments of the value of the land of the deceased on the basis of comparable sales.

In today's world, the matter is serious from the point of view of the country man. Further, I repeat that it is serious from the point of view of people who have businesses and commercial enterprises in towns and in metropolitan Adelaide. I submit that there are many small family businesses, small factories, and businesses of other kinds, where, in the form of real property—

The Hon. J. E. Dunford: You have been saying this for 100 years, yet people like yourself get richer and richer.

The Hon. C. M. HILL: I will deal with the interesting point raised by the Hon. Mr. Dunford. I will point out effectively to the Hon. Mr. Dunford, if I can, that, when he talks about history, he is quite right, in that in the historical context the arguments for introducing a tax like this to break up the great and vast estates were real and, at that time, were quite justified.

The Hon. J. E. Dunford: They were not very successful.

The Hon. C. M. HILL: They were. Now the wheel has turned and, instead of a similar position applying, the direct reverse position exists.

There is now a need to unite holdings and to consolidate capital, because we have reached the stage in our economic life that we can maintain employment only (and this is the area in which the Hon. Mr. Dunford is interested) if we keep capital together and not break it up. An entirely different situation applies in today's world than applied in the era to which the honourable member just referred.

The Hon. J. E. Dunford: Have you any facts on that?

The Hon. C. M. HILL: I doubt that one has to produce statistics and facts to understand this point. My own experience convinces me that there is an urgent need in South Australia for existing capital to be maintained not only so that business viability can be maintained but also so that profitability and employment can be maintained.

If such estates are further broken up, as occurs when the money to pay succession duties has to be found by beneficiaries who find that they cannot borrow on their inheritance, property (whether it be rural or metropolitan) has to be sold to meet these outgoings. As a result of that inroad into the capital of such families, we will ultimately become an economic backwater. The Government should seriously consider preventing the trend of breaking up capital and encourage people to invest their capital in South Australia. People who wish to keep capital together and further expand it should be encouraged to do so, not only for their own benefit but also for the great benefit of the total population in this State, especially those people who are involved with unemployment.

I was making the point that, understandably, much stress has been placed previously on the effect of succession duties upon country people, but it is also a serious matter for the many people who have businesses of their own, with capital invested in those businesses in Adelaide and urban areas.

My second point (and I make no apology for being unable to produce statistics, because I have so far been unable to find statistics, or even to discover a statistical approach to this point; it is probably not possible to do that until some years have passed) is that I am convinced from my own observations and discussions with people in South Australia and with people in Queensland that capital is being transferred out of South Australia to Queensland.

The Hon. J. E. Dunford: Out of the country, through the Fraser Government.

The Hon. C. M. HILL: That is absolute rubbish. The honourable member has some intimate knowledge of Queensland. He knows the scene there and he drives there occasionally in that car of his. Certainly, I know that he is interested in union affairs in Queensland, and he would have heard in Queensland of the movement into that State of both people and capital from South Australia. True, there is mainly the movement of capital from the other Eastern States, but there is also the movement of people and capital from South Australia into Queensland for the sole reason of the exemption from succession duties that applies in that State.

I have talked with solicitors in this State who have told me that many of their clients have instructed them to act for them in the transfer of property and capital to Queensland. It is evident to those professional people that former South Australian residents will reside permanently in Queensland. That is not a good situation from South Australia's point of view, no matter from which direction one examines it.

I believe the only way that the movement of capital and people away from South Australia can be stopped is by this State's announcing plans to assist in this matter. The movement of capital from South Australia involves not only the principals in question: it involves many other people as well, including employees who benefit through the employment opportunities provided from the investment of such capital. As capital moves out, further unemployment will result in South Australia, and doubtless there will be a movement of unemployed people to Queensland where, ultimately, if this trend continues, employment opportunities will be better than they are here.

The Hon. R. C. DeGaris: Skilled tradesmen will go, too, yet they are the ones we want to keep.

The Hon. C. M. HILL: Exactly.

The Hon. D. H. L. Banfield: Where will they go?

The Hon. C. M. HILL: They will go to places such as Acacia Ridge, where General Motors-Holden's has a big plant that was not even established 10 years ago. There are many big operations in Queensland, as the Minister well knows. Surely the Minister is not taking the view that he does not care if such skilled tradesmen leave this State.

The Hon. D. H. L. Banfield: I'm not saying that I do not care: I'm saying that you are not telling the truth. Name one tradesman who has gone to Queensland.

The Hon. C. M. HILL: They can be named in due course. If they are named, will the Minister agree that this question is serious, and he should do something—

The Hon. D. H. L. Banfield: Name them first, but you cannot.

The Hon. C. M. HILL: It is easy for the Minister to point his finger and interject, but if these names are given what is he going to do in return?

The Hon. D. H. L. Banfield: You produce the names first, and we will see what—

The Hon. C. M. HILL: From the way the Minister is getting excited, he will do nothing. What will happen then? Further unemployment will result in South Australia, and there will be no encouragement for us to hold our present economic position. We are stressing the need to hold that position and to stop this drift away, and we also stress the need for the Government in South Australia to encourage growth in this State. That is what we want in South Australia.

However, far from encouraging growth in secondary industry, the retention of succession duties has exactly the opposite effect. I bring to the Minister's notice the need to have, as a final target, further growth in South Australia and to permit the consolidation of people's estates in the interests of not only the families concerned but also the State as a whole. As I have said, that is quite opposite to the question of division and the breaking up of capital that is occurring presently.

I turn now to the aspect of migration. If a migrant intends to settle in Australia and bring capital here, thereby advancing the general economic climate of this country, that migrant will make a survey to decide where he will settle, and this question of succession duties will be paramount in his mind. Would such a migrant come to South Australia after reading the summary which I have had recorded in *Hansard* today, showing South Australia coming last in this race? Surely that is bad for this State. We want to encourage migrants to come to South Australia. That was always the aim which Governments bent over backwards to try to achieve. However, it seems that that is all past. By keeping succession duties in their present form we have Buckley's chance of having capital brought into this State, as compared with other States.

Sir Mark Oliphant has stressed another point, as have members of my Party and industrialists. Only the other day a meeting of business directors brought to the notice of their guests this vital aspect of South Australia losing its cost advantage, compared with the two major Eastern States, and also the aspect of the great difficulties confronting commerce and industry today compared with the situation 10 years ago. Of course, transport costs have to be added to our other costs when goods are transported to the main markets in the Eastern States.

So, South Australia, in competing with the Eastern States, is facing a bleak future, and this question of succession duties represents another nail in the coffin. It is yet another problem of people who have invested in South Australian industry and are now fighting an uphill battle in connection with costs of manufacture and marketing. If these people are further confronted with the real problem of their capital being split up and of having to borrow funds for succession duties in the current economic climate with high interest rates, it is a bleak future indeed. So, South Australia is not in a strong position in respect of competing with manufacturers in the Eastern States. It would greatly assist the people to whom I have referred if help could be given in connection with succession duties.

To avoid some degree of the incidence of these high succession duties, in South Australia many complex trust arrangements and other agreements have been fashioned by skilled professional people acting for their clients. In some respects, those who can afford to pay for the best advice have some advantage over those who find the expense burdensome. It is an unsatisfactory situation in many respects. If succession duties were abolished here and if the position here was comparable to that in Queensland, the need for much of that work (not all of it, because some of it involves other kinds of family arrangements) would be abolished, too. A change in the Government's policy would be very welcome from the viewpoint of those who do not really want to get involved in such complexities but who are forced to do so. Others are worried about the immediate expense involved in preparing such agreements.

To be fair and positive in this matter, I say that I am fully aware that, if the Government abolishes one form of taxation, it has to readjust its policies, because Government revenue does not come from a bottomless well. I suggest that the Government has to tighten its reins somewhat and cut down on expenditure associated with its everyday outgoings. In this morning's press the people of South Australia learnt with surprise of the considerable increase in the size of our Public Service, compared with the situation in other States.

The Hon. C. J. Sumner: Did you compare it with the situation in other States?

The Hon. C. M. HILL: I did that a few months ago, and I was shocked to see that, apart from Queensland, we were way out in front of any other State in regard to the percentage increase in the Public Service over three or five years. I have not had time today to refer back to that information, but I intend to do so. I ascertained that, because of the great need for decentralisation in Queensland, as a result of the size of that State and the large provincial cities there, which are a great distance from Brisbane, an increase in the Queensland Public Service was unavoidable. The situation in that State is unique.

The Hon. D. H. L. Banfield: Earlier, you wanted us to emulate Queensland, but now you say that Queensland is way ahead of us in regard to the size of the Public Service.

The Hon. C. M. HILL: That is a weak rebuttal. We should follow Queensland as regards abolishing succession duties. I do not know what that has to do with the growth of the Public Service. The South Australian Public Service has been increasing at a very high rate, compared with the situation in other States. The article in this morning's press was not greeted with any favour by the public. The increase in the size of the Public Service involves considerable expenditure. Those concerned with businesses know that overhead costs of labour are a very big item in the total expenditure of any organisation, and this would apply to the Public Service. If the size of the Public Service is increased by 3.5 per cent, the increase in expenditure over a year becomes enormous.

So I suggest that the Government should consider this matter of succession duties. To match that reduction in

income, I believe the Government could reduce its outgoings to the Public Service; that would be some compensation for that which this motion seeks to achieve.

The Hon. B. A. Chatterton: Which officers do you think we should sack?

The Hon. C. M. HILL: I can go into that when I have looked at the figures. As a result not of any public announcement but of the probing by Her Majesty's Opposition in another place the Public Service expansion became known.

Members interjecting:

The Hon. C. M. HILL: It is obvious from the Minister in charge of this Council and his interjections that he is not concerned one iota about succession duties, the people of this State and their future, or the unemployment situation because, if he was—

The Hon. D. H. L. Banfield: This Government has done more for the unemployed than any Federal Liberal Government has.

The Hon. C. M. HILL: If succession duties remain for members of families other than spouses, it will further break up the capital of families and persons in this State, and there will be further reductions in their business operations and therefore in employment; it is as simple as that. Yet the Government does not seem to see or accept that fact. That it will not accept it and that it immediately rejects it without any serious consideration is, in my view, disgraceful. I support the motion. I also support the second part of it regarding the general approach to taxation. I appeal to the Government to consider this matter within the next three years and at least make some further adjustment in the best interests of South Australia.

The Hon. J. R. CORNWALL: I oppose the motion. Three speakers have been put up from the other side—the Hon. Mr. DeGaris, the Hon. Mr. Geddes and the Hon. Mr. Hill—and I do not think there is very much doubt that each of those three gentlemen would be in the fortunate position of being in the top 1 per cent of people in this State with regard to their assets.

The Hon. M. B. Cameron: Come on!

The Hon. J. R. CORNWALL: Do you want to be included? The Hon. Mr. Cameron has interjected vigorously but he will have a chance to speak in this debate, if he wants us to think he is in the top 1 per cent as well. What distresses me is the very light-weight contribution from all three speakers.

Members interjecting:

The Hon. J. R. CORNWALL: For example, the Hon. Mr. Geddes told us last week that rural land was more expensive in South Australia than in the Eastern States, because there is less of it.

The Hon. R. A. Geddes: Of comparable land.

The Hon. J. R. CORNWALL: I suggest that the market forces prevail and I should think that would be understood. The Hon. Mr. Hill contributed very little to the debate; he read from the *News* last week but produced no statistics, facts or figures. If he has invested in rural property, as he probably has, and if it is used for primary production, it will attract much lower succession duty than his urban property would. I have no doubt that his estate planning is such that he has little to fear from succession duties generally. He is one of those people who can afford experts to help him. He has no doubt diversified his capital considerably because, on his own admission, he has diversified it through something like 20 or 30 different companies.

The Hon. Mr. Hill says that to abolish succession duties at the stroke of a pen would cost us upwards of $20 000 000; we can do this by slashing public expenditure, bashing the Public Service, and lowering expectations generally. That is pretty well par for the course for the Hon. Mr. Hill. As for the mover of the motion, the Hon. Mr. DeGaris, he pointed out last week that this motion is in two parts, the first being that "the Government should, within the life of the present Parliament, abolish gift and succession duties". I oppose this on the grounds of all my concepts of social justice and equity. Many of the reforms which have occurred in succession duties legislation have taken place since I entered this Parliament in July, 1975. I am proud to have been associated with them although I do not claim any direct involvement; I have supported them wholeheartedly.

They have been very wide ranging but at the same time somewhat technical and sometimes not grasped by either the public or the media. I suspect that people like the Hon. Mr. DeGaris do not really want people to understand what has been done. To refresh honourable members minds and to give a simple reference point for members of the public and the media, the reforms may be simply summarised as follows: (1) the succession duties between spouses has been abolished; (2) the duty on all other successions is based on what a beneficiary receives, not on the dutiable value of the entire estate; (3) special reductions are available to ancestors or descendants; (4) special reductions are available to brothers and sisters or descendants of such brothers and sisters and, as the Act puts it, to "a person in any other degree of consanguinity to the deceased"; (5) generous additional rebates are allowed on successions to beneficiaries who the Commissioner is satisfied intend to use the rural property for primary production; (6) quick succession relief is available from 10 per cent to 50 per cent where the successor dies within five years of the predecessor; and (7) the general statutory exemptions are now indexed to take continuing account of inflation, which is very important.

The details of the amounts and the formulae used in these assessments are contained in the Taxpayers Association's 1977 *Annual Taxation Summary* at pages 151, 152 and 153. No doubt, the Hon. Mr. Hill is conversant with that. Some of the formulae are quite complex, technical and detailed. So as not to take up too much time of the Council, I seek leave to have the details inserted in *Hansard* without my reading them. They amount to two pages and one paragraph.

Leave granted.

SOUTH AUSTRALIAN SUCCESSION DUTY

Where the death occurred on or after 1st July, 1976, there is no duty on assets passing to a surviving spouse; the General Statutory Exemptions are now indexed. There were no changes made in the 1977 Budget.

Exemptions—There are three basic exemptions, the most important of which is that for assets passing to a surviving spouse.

Assets to a surviving spouse—Note: Under the terms of the Family Relations Act the normal definition of a legal spouse is extended to include a "putative spouse"—i.e., one with whom the deceased cohabitated for the last five years of life, or for five of the last six years. Such a relationship may be deemed to exist where a child is born of the relationship although the period is less than five years. If either party terminates the cohabitation, the "putative spouse" relationship is terminated. It seems that in some circumstances it is necessary to obtain a declaration of a Court that such a "putative spouse" relationship exists.

Assets to a surviving spouse (or to a "putative spouse") are exempt for duty if death occurred on/after 1st July, 1976.

Legacies to certain institutions—Amendments apply to

estates of persons who died on/after 1st July, 1976, to remove certain restrictions and/or limits which applied earlier.

No duty is payable on any property which is devised, bequeathed or which passes under any non-testamentary disposition:

1. for the sole or predominant purpose of the advancement of religion, science or education in South Australia.
2. to a hospital in South Australia which the Treasurer is satisfied is not carried on for the purpose of profit to individuals.
3. to a benevolent institution or benevolent society in South Australia.

Estates of deceased member of the Forces—Where death results from active service, the exemption allowed against the present net value of each individual's succession (limited to that value) is $20 000.

If the property for which remission is granted exceeds $20 000, the remission is 1. all the duty in excess of what would have been payable if the duty were reduced by $20 000, plus 2. an amount which, at a time immediately prior to death, would have given the deceased an annuity equal to 4 per cent of the duty payable (after taking into account the duty under 1).

Rates/Amounts of Duty—This is a duty on successions (what a beneficiary receives) and not a duty based on the dutiable value of the estate.

Note:—The duty is calculated on the total of the present net values of all amounts derived (or deemed to be derived,) by a particular beneficiary; this removes a benefit formerly available of having duty separately based on each separate entitlement of a person though in the same estate.

Calculation of duty—If two or more schedules apply, find the duty for each as if all beneficiaries were of that class. Then make a pro-rata calculation on the part to each category.

(a) Received by ancestor or descendant—Note:—There is a fairly complex system of rebates available in respect of successions derived by these persons, and these depend not only on the value of the interest that passes, but also on the type of asset (be it the dwelling house or a rural property).

Duty is based on the total of amounts derived by such a beneficiary:—

Up to $20 000, 15 per cent
Over $20 000 to $40 000
$3 000 plus 17½ per cent of excess over $20 000
Over $40 000 to $60 000
$6 500 plus 20 per cent of excess over $40 000
Over $60 000 to $80 000
$10 500 plus 22½ per cent of excess over $60 000
Over $80 000 to $100 000
$15 000 plus 25 per cent of excess over $80 000
Over $100 000 to $120 000
$20 000 plus 27½ per cent of excess over $100 000
Over $120 000 to $140 000
$25 500 plus 30 per cent of excess over $120 000
Over $140 000 to $160 000
$31 500 plus 32½ per cent of excess over $140 000
Over $160 000 to $180 000
$38 000 plus 35 per cent of excess over $160 000
Over $180 000 to $200 000
$45 000 plus 37½ per cent of excess over $180 000
Over $200 000 to $220 000
$52 500 plus 40 per cent of excess over $200 000
Over $220 000, Flat 27½ per cent

(b) Received by brother, sister etc.—Where the person deriving or taking the property is a brother/sister of deceased, (or a descendant of such brother/sister), or a person in any other degree of collateral consanguinity to the deceased, the duty (based on the total of amounts derived by such a beneficiary) is:—

Up to $1 000, 5 per cent
Over $1 000 to $2 000
$50 plus 10 per cent of the excess over $1 000
Over $2 000 to $20 000
$150 plus 17½ per cent of the excess over $2 000
Over $20 000 to $40 000
$3 300 plus 20 per cent of excess over $20 000
Over $40 000 to $60 000
$7 300 plus 22½ per cent of excess over $40 000
Over $60 000 to $80 000
$11 800 plus 25 per cent of excess over $60 000
Over $80 000 to $100 000
$16 800 plus 27½ per cent of excess over $80 000
Over $100 000 to $120 000
$22 300 plus 30 per cent of excess over $100 000
Over $120 000 to $140 000
$28 300 plus 32½ per cent of excess over $120 000
Over $140 000 to $160 000
$34 800 plus 35 per cent of excess over $140 000
Over $160 000 to $180 000
$41 800 plus 37½ per cent of excess over $160 000
Over $180 000 to $200 000
$49 300 plus 40 per cent of excess over $180 000
Over $200 000 to $221 600
$57 300 plus 42½ per cent of excess over $200 000
Over $221 600, Flat 30 per cent

(c) Received by a stranger in blood—Where the person deriving or taking the property is a stranger in blood to the deceased, the duty (based on the total of amounts derived by such a beneficiary) is:—

Up to $1 000, 10 per cent
Over $1 000 to $2 000
$100 plus 20 per cent of the excess over $1 000
Over $2 000 to $20 000
$300 plus 25 per cent of the excess over $2 000
Over $20 000 to $40 000
$4 800 plus 27½ per cent of excess over $20 000
Over $40 000 to $60 000
$10 300 plus 30 per cent of excess over $40 000
Over $60 000 to $80 000
$16 300 plus 32½ per cent of excess over $60 000
Over $80 000 to $100 000
$22 800 plus 35 per cent of excess over $80 000
Over $100 000 to $120 000
$29 800 plus 37½ per cent of excess over $100 000
Over $120 000 to $140 000
$37 300 plus 40 per cent of excess over $120 000
Over $140 000 to $160 000
$45 300 plus 42½ per cent of excess over $140 000
Over $160 000 to $180 000
$53 800 plus 45 per cent of excess over $160 000
Over $180 000 to $200 000
$62 800 plus 47½ per cent of excess over $180 000
Over $200 000 to $221 600
$72 300 plus 50 per cent of excess over $200 000
Over $221 600, Flat 37½ per cent

Duty Rebates Available—Rebates are calculated separately and allowed separately against the duty on the succession to certain beneficiaries.

Executor decides which rebate to claim—The rebate in respect of rural property, dwelling house or moneys received under a policy of assurance shall be allowable only upon application by the administrator.

Description of terms used here—Note:—Spouse includes a de facto spouse who has been adjudged by the Court as a "putative spouse" of the deceased.

PNV means: the "present net value" (discounted if a future benefit, i.e. less than fact value).

GSA means: the "General Statutory Amount" as to be calculated in respect of each eligible beneficiary.

SSA means: the "Special Statutory Amount" based on that part of a beneficiary's succession relating to "rural

property" (as defined).

Symbols used instead of money amounts—As the exemption levels depend on the date of death, these factors are used to build the available exemptions.

Death occurred	Before 1/1/1977	After 31/12/1976
	$	$
$A	35 000	41 000
$B	17 000	20 000
$C	69 000	81 000
$D	18 000	21 000
$E	6 000	9 000
$F	6 000	7 000

GSA FOR FIRST CATEGORY OF BENEFICIARY—These are defined as being:—

1/ an unmarried brother/sister of the deceased who shares a common home with the deceased throughout the 5 years immediately preceding the date of death.

2/ a child who became an orphan by reason of the death of the deceased and who was under 18 years of age at that date of death.

3/ a child of the deceased person who was (in the opinion of the Commissioner) wholly engaged throughout the 12 months immediately preceding the deceased person's death in keeping house for that deceased person.

GSA for first category—Where an interest in a dwelling house (which was the principal home of the deceased and of the beneficiary at the time of death) is derived, where the aggregate value of property derived by that beneficiary from the deceased.

(A) does not exceed $A (see above), the GSA is the lesser of 1/ $B and 2/ the value of that interest in the house—but see the note(**) below.

(B) exceeds $A but does not exceed $C, the GSA is the lesser of 1/ the value that interest and 2/ ($C less the aggregate value of property derived by that beneficiary) divided by 2.

Note(**): If the beneficiary is a brother or sister and the aggregate value of property derived in the house exceeds $5 000, then instead of the above the GSA is not to exceed $B less 4-times that surplus over $5 000.

GSA FOR SECOND CATEGORY OF BENEFICIARY—This is a child of deceased who was under the age of 18 years at the date of death.

GSA for second category—The GSA is the greater of 1/ $D less half of (aggregate value of property derived minus $D), and 2/ $D less $E.

GSA FOR THIRD CATEGORY OF BENEFICIARY—These are defined as being:—

1/ a descendant of the deceased person who is not covered by the Second Category,

2/ an ancestor of the deceased person.

GSA for third category

The GSA is $F.

SSA IF SUCCESSION (to ancestor or descendant) INCLUDES "RURAL LAND".

If rural property was wholly owned by deceased: the SSA is one half of the beneficial interest of the deceased in the rural property.

If the rural property was owned jointly (or in common) by the deceased with any other person: the SSA is found this way:

$$\frac{\text{SSA as if rural property was wholly owned by the deceased}}{\text{Total value of the property}} \times \text{Deceased's beneficial interest in the property}$$

Rebate to certain beneficiaries based on the General Statutory Amount (GSA)

$$\frac{\text{GSA for beneficiary}}{\text{PNV for beneficiary}} \times \text{Gross duty on the beneficiary's total succession}$$

Conditional rebate on some rural property based on Special Statutory Amount (SSA).

Note: Allowable if the Commissioner is satisfied the beneficiaries intend to use the rural property for primary production (as defined). Rural land caught for duty by S.8(1)(d) to (p) is not eligible for rebate.

The "net duty" is the gross duty less any GSA rebate above. The SSA rebate is:

$$\frac{\text{SSA for beneficiary}}{\text{PNV to beneficiary}} \times \text{Net duty on the individual's total succession}$$

Executor decides which rebate to claim—The executor may choose which rebate is to apply in respect of each beneficiary.

QUICK SUCCESSION RELIEF—Every such rebate is an amount equal to a percentage of the duty paid on the property (other than limited interests) passing to the successor from his predecessor.

Where the successor dies within the following period after the death of the predecessor the rebate is:—

In the 1st year	Rebate is 50%
In the 2nd year	Rebate is 40%
In the 3rd year	Rebate is 30%
In the 4th year	Rebate is 20%
In the 5th year	Rebate is 10%
After 5 years	No Rebate

WESTERN AUSTRALIAN PROBATE DUTY

Assets passing to a surviving spouse are exempt if death occurred on or after July 1, 1977. The 1977 Budget forecast a 50 per cent reduction in duty from January 1, 1979 as a prelude to the abolition of the duty a year later.

Members of Defence forces dying while on active service—On portion passing to dependants who are listed in:

1/ rate scales (a) and (b), Rebate is 75 per cent

2/ rate scale (c), Rebate is 50 per cent

3/ not listed in those scales, No rebate

SPECIAL EXEMPTIONS—These apply only where the deceased was domiciled in Western Australia at the time of death.

Family exemption—Where the death occurred after October 6, 1976 but before July 1, 1977, the exemption (which was formerly $20 000) the assets passing to a surviving spouse, i.e. husband or wife, are exempt up to a maximum of $50 000.

That deduction is increased (formerly $10 000 each) if death occurred after October 6, 1976 in respect of each dependent child (*) by $20 000.

Where the children are orphans, then the exemption in respect of each of them is instead $35 000.

Note (*): 'Child' includes an adopted child, a step-child or an illegitimate child of that person.

'Dependent child' means a 'child' of a deceased person 1/ who is under 16 years of age, 2/ is under 25 and receiving full-time education at a school, college or university, 3/ is under 25 and is employed as an apprentice 4/ for whom an Invalid pension is paid, or 5/ of any age who has been wholly engaged in keeping house for the deceased person for at least two (of the three) years immediately preceding the date of death.

Furniture and personal effects—A deduction of up to $1 500 (limited to their value) if they pass to beneficiaries listed in rate scales (a) or (b).

Certain gifts disregarded—Gifts made within three years of the date of death and not exceeding $2 000 in the aggregate are ignored if made to those beneficiaries listed for rate scale (a).

Funeral expenses, fully deductible.

Effect of these deductions—The amount due to the beneficiary (or the exempted value of the personal effects, etc.), is diminished by the appropriate deduction. The dutiable value then consists only of the remainder, and of the appropriate net assets—this effects the duty rates.

Rates of Duty—Residents—If moneys go to beneficiaries

covered by more than one schedule, see note below.

Note: The following rates apply to the estates of persons dying on/after July 1, then assets passing to the spouse attract duty according to *(b)* as though passing to children, etc.

(a) Passing to Widow or Widower—In some circumstances part of assets to a spouse are included in the dutiable balance to find the rate of duty on assets to others. Regard the rate of duty on assets passing to a surviving spouse as subject to a rate of nil.

Note: From October 6, 1976, subject to certain conditions, a *de facto* wife was regarded as being a wife for these purposes.

(b) Passing to children, grandchildren, other issue, or to the dependent parents of the deceased.

Note: 'Child' includes an adopted child, a step-child or an illegitimate child.

Where the dutiable balance (after deducting an up to $50 000 allowance in respect of assets passing to a surviving spouse) is:—

Up to $15 000, Nil
$15 000 to $20 000
9 per cent of the excess over $15 000
$20 000 to $30 000
$450 plus 11 per cent of excess over $20 000
$30 000 to $50 000
$1 550 plus 13 per cent of excess over $30 000
$50 000 to $70 000
$4 150 plus 16 per cent of excess over $50 000
$70 000 to $90 000
$7 350 plus 20 per cent of excess over $70 000
$90 000 to $110 000
$11 350 plus 24 per cent of excess over $90 000
$110 000 to $130 000
$16 150 plus 28 per cent of excess over $110 000
$130 000 to $150 000
$21 750 plus 32 per cent of excess over $130 000
$150 000 to $170 000
$28 150 plus 38 per cent of excess over $150 000
$170 000 to $203 750
$35 750 plus 45 per cent of excess over $170 000
$203 750 and over, Flat 25 per cent

(c) Passing to brother or sisters (including brothers or sisters of the half-blood, or by step or adoptive relationship) or parents (not dependent parents).

Where the dutiable balance (without deducting the up-to-$50 000 allowance in respect of assets passing to a surviving spouse) is:—

Up to $1 500, Nil
$1 500 to $3 000
6 per cent of the excess over $1 500
$3 000 to $5 000
$90 plus 8 per cent of excess over $3 000
$5 000 to $10 000
$250 plus 10 per cent of excess over $5 000
$10 000 to $20 000
$750 plus 12 per cent of excess over $10 000
$20 000 to $30 000
$1 950 plus 14 per cent of excess over $20 000
$30 000 to $50 000
$3 350 plus 17 per cent of excess over $30 000
$50 000 to $70 000
$6 750 plus 20 per cent of excess over $50 000

The Hon. J. R. CORNWALL: There is no doubt that the incidence of succession duties has created considerable problems for medium sized family businesses and rural estates in the past, particularly in other States, because in other States they have always been higher than in South Australia. However, given the measures of relief which I have outlined and with prudent estate planning, they need no longer fear for their survival in South Australia because of succession duties. The unconscionably large number of building firms, motor vehicle dealerships and primary producers, to name but three problem areas, that are going to the wall every week throughout Australia is due to the disastrous fiscal and monetary policies of the Fraser Government.

Members interjecting:

The Hon. J. R. CORNWALL: I suggest to honourable members that there must be little comfort for the hundreds of beef producers who are walking off their properties every week in Queensland to know that Mr. Bjelke-Petersen has abolished succession duties, because they will not be any problem for them! They are going off every day. I should like to examine now what the Hon. Mr. DeGaris had to say in moving his motion. Over the years, he has made some claim to be an expert in this field. I had expected a reasonably lucid, if ideologically biased, exposition from him.

However, his speech was an extraordinary mixture of emotional clap trap and economic nonsense, statistical errors, misrepresentations, and, I regret, plain untruths. The Hon. Mr. DeGaris referred to the 1977 *South Australian Year Book,* saying:

> Although I do not want to quote many figures that are given in the book—

for reasons I will make clear as I go along, I am not surprised that he did not want to—

> I point out that, in 1975, the last year for which I have pocket book statistics, of the 6 153 estates of deceased persons in South Australia, 5 915 were valued at less than $100 000. More than 96 per cent of the total estates processed in South Australia were below $100 000.

At that point, if the Hon. Mr. DeGaris had been honest, he would have pointed out the further breakdown of these estates under $100 000. However, I will do that for him. Instead, he proceeded on a course of deliberate misrepresentation and obfuscation to try to shore up a case that did not exist. He continued (and this is where it becomes extremely difficult to understand), as follows:

> Of the estates below $100 000, the total net value was more than $100 000 000, while the total of the 6 153 estates was $140 000 000. Therefore, of the total net value of estates processed, about seven-eighths (about 71 per cent) were under $100 000.

I cannot imagine for the life of me how seven-eighths can be 71 per cent. I read the *Hansard* proofs after this came out, and went to *Hansard.* It is either a clear error or bad arithmetic, because clearly 71 per cent is not seven-eighths. However, now comes the blatant lie:

> The real impact of death duties falls in that area, and it is that area with which this Council should be most concerned at this stage.

I take it that the Hon. Mr. DeGaris does not deny saying that.

The Hon. R. C. DeGaris: Not at all.

The Hon. J. R. CORNWALL: Good, we have got that clear. Let me now examine the figures on page 712 of the 1977 *South Australian Year Book,* from which the Hon. Mr. DeGaris took his figures. In 1975-76, 944 estates of deceased persons, or 15·3 per cent, were below $2 000; 2 881 estates, or 45 per cent, were below $10 000; 4 089 estates, or 66·5 per cent, were under $20 000; and 4 928 estates, or 80 per cent, were under $30 000. Even on the Hon. Mr. DeGaris's quoted figures, 96 per cent of all estates were under $100 000.

The Hon. R. C. DeGaris: That's correct.

The Hon. J. R. CORNWALL: However, the honourable member did not tell us that 15 per cent of estates were under $2 000, 45 per cent were below $10 000, and over 66 per cent were under $20 000. He could and should have done that, but his argument would have been in tatters if he had done so.

The Hon. R. C. DeGaris: I gave you the reference, so you could look it up.

The Hon. J. R. CORNWALL: That is exactly what I did. A total of 45 estates, or ·73 per cent, were over $200 000 and seven estates, out of 6 153 estates, were over $400 000. I am amazed that the Hon. Mr. DeGaris should use these figures to try to bolster his argument. In fact, they destroy it completely.

Members interjecting:

The PRESIDENT: Order! It would be a good idea if honourable members gave the Hon. Mr. Cornwall a chance to continue with his speech without too many interruptions.

The Hon. J. R. CORNWALL: I thank you, Sir, for your protection. I always find great difficulty restraining myself when I look at the Hon. Mr. Dawkins across the Chamber. These figures show with devastating clarity that succession duties in South Australia are very much a progressive tax in the amended form in which they now stand.

The Hon. R. C. DeGaris: Can we quote you on that?

The Hon. J. R. CORNWALL: Certainly. I know that I have the unqualified support of my colleagues in saying that some of the wealth of that very wealthy section of the community comprising less than 1 per cent should be redistributed to provide health, education, welfare and transport facilities to improve the quality of life of that 45 per cent of the community whose total worldly wealth may never exceed $10 000 and especially that 15 per cent who may virtually never leave the poverty line, based on the 1976 figures.

I see no reason at all why the Frasers, Bjelke-Petersens, Charles Courts and Doug Anthonys of this world who give ordinary men and women nothing in their lifetime should not at least make a contribution on leaving it. My only concern is that too many of them by family trusts, sharp accountants and company lawyers, slip through the net.

Let us look now at the overall collection of succession and gift duties in South Australia between 1971-72 and 1975-76. Both the actual amounts in real terms and the amounts as a proportion of total taxation have fallen steadily over these years, as the Hon. Mr. DeGaris knows. Again, I seek leave to have the table showing the proportion of succession and gift duties as a percentage of Consolidated Revenue Account, shown on page 649 of the 1977 *South Australian Year Book*, inserted in *Hansard* without my reading it.

Leave granted.

Proportion of Total Taxation

			Per cent		
Land tax	9·98	8·48	6·88	5·78	7·17
Succession duty	10·93	9·72	8·03	7·13	6·99
Gift duty	0·86	0·67	0·75	0·55	0·53
Racing tax	1·33	1·20	1·05	0·97	1·00
Motor tax	20·10	17·29	14·30	13·47	11·81
Stamp duties *(b)*	22·55	25·33	26·71	20·76	23·63
Payroll tax	23·40	28·24	33·64	39·58	36·85
ETSA levy	2·14	1·86	2·39	2·22	2·13
Business franchises	—	—	—	4·07	4·27
Licences:					
Liquor	3·68	3·03	2·65	2·44	2·72
Other	1·09	1·08	1·14	1·02	0·93
Court fees and fines	3·73	2·93	2·30	1·89	1·81
Other	0·21	0·17	0·16	0·12	0·16
Total	100·00	100·00	100·00	100·00	100·00

(b) Excludes stamp duty on third party insurance.

The Hon. J. R. CORNWALL: Those figures show clearly that the proportion of succession duties has fallen from 10·93 per cent in 1971-72 to 6·99 per cent in 1975-76. For gift duty, the percentage has fallen from ·86 per cent to ·53 per cent. These figures become even more impressive if we examine the table shown in *Hansard*, in the speech made by the Hon. Mr. DeGaris last week. Incidentally, that honourable member neglected to mention that the amounts shown in his table incorporated gift duty as well as succession duty.

The Hon. R. C. DeGaris: What table was that?

The Hon. J. R. CORNWALL: It was the document that the honourable member presented in tabular form last week. I presume that his 1977-78 figures came from the Treasurer's explanation of the Appropriation Bill. The table submitted by the Hon. Mr. DeGaris shows a figure for 1975-76 of $21 800 000 and, for 1977-78, an estimate of $20 000 000. This represents a decrease of $1 800 000 in money terms. If we assume that the figures for the increase in inflation in 1976-77 and 1977-78 are 13 per cent and 10 per cent respectively, the fall in the collection of succession and gift duties in real terms over the two-year period is 25 per cent. It is little wonder that when I interjected and said, "What about in real terms?" the honourable member replied, "I am not talking about real terms but about actual collections." The honourable member did not want to admit that in real terms the collection of succession and gift duties decreased by 25 per cent over that period.

The Hon. R. C. DeGaris: You are trying to tell me that property values and share prices have increased by 25 per cent in the past two years.

The Hon. J. R. CORNWALL: No. I am merely saying that, in real terms, the collections from gift and succession duties fell by 25 per cent. That was because of the various rebates and allowances that we brought in over the period. In the same speech last week the honourable member claimed that, if South Australia retained succession duties, it would seriously affect the financial base of this State. He repeated his claim in the Adelaide *News* on the same day. Yet, in the same speech, he said:

> It must be recognised that death duties are payable to other States' Treasuries where company shares held by the deceased are in an interstate company.

Does he not think that any educated money used for capital formation to operate a company based in South Australia could not be registered in the Australian Capital Territory? Succession duties would be the last consideration. If conditions can be made attractive enough for any company, it will set up here and it will do so for one consideration alone, namely, the fact that it can make a profit.

The Leader also referred to the so-called flight of capital to Queensland. The Hon. Mr. Hill has also referred to that matter and seemed to think that what Queensland was doing was good. There is no doubt that many people have retired to Queensland since the abolition of death duty in that State. I suggest that, if 90 per cent of them had planned their estates carefully, there would have been little need for them to go there. Meteorologically, although certainly not politically, Queensland has a very pleasant climate, and I can understand that people want to go there in those circumstances.

However, the tragedy of these moves is twofold. The first point is immediately obvious to anyone who visits the place, as I did only six weeks ago. Queensland, of course, like the Hon. Mr. DeGaris and the Hon. Mr. Hill, still lives in the 1950's, the era of "develop and profit at any cost and forget the environment". The environmental ravages going on at places like the Sunshine Coast, the Blackall Ranges, and Noosa Heads, are appalling.

Doubtless, the Hon. Mr. Hill—

The Hon. C. M. Hill: I have never been to Noosa Heads.

The Hon. J. R. CORNWALL: I suggest that the honourable member go there. When I was a student in Queensland during the 1950's, it was possibly the most delightful beach in Queensland. Now the developers have gone in over the sand dunes. Because they wanted to make a fast buck, there is no beach at all now. It is "develop, develop, develop". Naturally, honourable members opposite applaud that philosophy. The Hon. Mr. Hill stated today that it was a matter of great joy to see these things going on in Queensland, and he said that we should encourage people to come here and do the same.

The Hon. C. M. Hill: I did not say anything of the sort.

The Hon. J. R. CORNWALL: The honourable member said that we must maintain development, but I say that there is a limit to what we can do. We cannot go on developing for ever. Has the honourable member not learnt the lessons of the past two decades? If he has not, there is not much that I can do to help him. The second great problem that is now becoming painfully obvious in Queensland is that the elderly population at places like the Gold Coast and the Sunshine Coast has increased enormously. These people are separated by hundreds or even thousands of kilometers from their families whom they need to support and assist them in their declining years.

These elderly people are living in areas where very few support schemes have been developed for the frail aged, and the problem will be enormous in years to come. It is delightful when they go there at 65 years, join the bowling club, go community singing, and are led about by Bruce Small. However, in their 70's, they become frail and aged, and there are no facilities for them. The type of thing we are talking about may have made many dollars for the developers. Doubtless, the Hon. Mr. Hill would support that.

However, Queensland has the highest unemployment figure of any State on the mainland. It is nonsense to suggest that the sort of dribs and drabs capital going in is good for Queensland. In 95 per cent of cases, or more, the money invested belongs to someone from Victoria, New South Wales or South Australia who is investing it on the Gold Coast. It is nice to suggest that that creates employment, but it is not doing that.

I refer now to the second part of the motion, which deals with reducing the incidence of capital taxation in other areas of State taxes. The Hon. Mr. DeGaris seems to have conveniently forgotten that, in the life of the Parliament before the present one, rural land tax was completely abolished. I agree that some existing forms of capital taxation are undesirable, but surely it would be more appropriate to take this matter up with his Federal colleagues.

Any major relief for councils, the third tier and the perpetual poor relation of Governments, must come from Canberra. It seems strange that the Hon. Mr. DeGaris should advocate relief being made available from the State Government. After all, he has toured extensively through the South-East, advising non-government hospitals not to incorporate or have anything to do with "tainted socialist money" from the Health Commission.

Finally, I cannot leave this motion without referring briefly to a comment made last week by the Hon. Mr. Geddes, who normally is a very reasonable man by the standards of the Party to which he belongs. During the debate on this motion, he referred to "the Government's ridiculous aim to provide free library books to every man, woman and child in the State." I suggest that the Hon. Mr. Geddes read the Horton report. I oppose the motion.

The Hon. D. H. L. BANFIELD (Minister of Health): I also oppose the Leader's motion, which calls for the abolition of gift duty and succession duties, as well as seeking a reduction of what the Leader calls capital taxation, which might better be described as a wealth tax. Therefore, the import of the Leader's motion is that the Government should drastically reduce the extent to which it imposes taxation on those in our community who have the greatest accumulation of wealth. How have certain people accumulated such wealth? They did not all get it by entirely fair means. Perhaps they worked their employees for nothing, giving them little to eat or giving only a little pocket money, yet these people have been able to build up their assets because little people are subsidising them through the supply of water, the construction and maintenance of roads, the provision of electricity, free education and health benefits.

It has been through the provision of such services that some people have been able to build up their wealth, and it is obvious that they should want to put something back into the community as a result of the advantage gained from the implementation and provision of such facilities which has been paid for by the average person. Additionally, they have been able to accumulate their wealth through the protection given them through the Arbitration Court. Yesterday's decision by the court in relation to increased wages again clearly lowered the standard of living for the worker and yet again gave greater protection to people who accumulate wealth at the expense of the worker.

It is for this sort of reason that the Leader pleads that we should give great priority and benefits to one group in the community through the abolition of capital taxation and gift duty. The Leader referred to the *Pocket Year Book of South Australia* for 1977, but those figures demonstrate that over 28·5 per cent of the total net value of all estates in South Australia is held by merely 4 per cent of the community.

Further, when allowance is made for the extent to which people in this category have transferred wealth to other members of their families before death (these are the only people who can afford expert advice from lawyers about how they can best manage their affairs), it is probably erring on the conservative side to suggest that 4 per cent of the community hold over 30 per cent of the total net value of estates in this State.

There is a concentration of wealth in the hands of comparatively few people. Generally, wealth is accepted as one of the indications of capacity to pay taxation, so the Government does not consider it appropriate to abolish wealth taxation. The Hon. Mr. Hill was unwilling to give one example and continually referred to hypothetical cases. He was asked to give examples, he said that he could do that at some other time, and not while the debate was in progress. Would an example have upset his argument, or did he not have one case to present to this Council? The honourable member knows he did not have one example.

The Hon. Mr. Hill could not tell of one tradesman who had moved to Queensland, yet he tried to paint a picture showing that many tradesmen leave South Australia for Queensland. The Hon. Mr. Cornwall referred to figures showing that Queensland has the highest unemployment in Australia, yet the honourable member suggested that tradesmen were going to Queensland.

If tradesmen are going to Queensland, obviously they are going to the Gold Coast to collect the dole, and that is why the Hon. Mr. Hill suggested they went there. The Hon. Mr. Hill suggests that we should imitate

Queensland, that we should have the highest unemployment rate. The Hon. Mr. Hill has prepared his case for over a week, yet he did not come up with one specific example of a person who has gone to Queensland.

The Hon. M. B. Cameron: I've got one leaving—

The Hon. D. H. L. BANFIELD: Of course, honourable members opposite fall within the 4 per cent but, if they believe they can do better in Queensland, why have they not taken off? The seat is too comfortable for them here! Obviously, it is too easy in this State for them to accumulate wealth, and not one of them is heading for Queensland. Members opposite are in the top 4 per cent of the community who hold about 30 per cent of the assets of this State, and the Hon. Mr. Laidlaw is doing well from his businesses in South Australia. We thank him for having those businesses here, but he is not heading for Queensland. The Hon. Mr. Hill recently indicated that he had some spare cash and could pay his company fees well in advance, which other people could not, and he is doing very well. Obviously, Queensland cannot be as good a State as the Hon. Mr. Hill suggests.

Much of the Leader's argument rests upon his assertion that succession duties and gift duty do not fall upon the wealthy but upon the average citizen and that these taxes, therefore, do not perform the task of redistributing wealth. There is not evidence available relating to gift duty, but it is difficult to accept that the average citizen is in the habit of making gifts above $4 000 every 18 months.

It is ridiculous for members opposite to suggest that the average citizen is in that category, and honourable members know that. The tables inserted in *Hansard* today by the Hon. Mr. Cornwall show who has the wealth and who is able to distribute $4 000 every 18 months. It is most likely that the greater burden of this tax falls upon the wealthy. In reality, gift duty was introduced to help prevent the practice to which the Leader has drawn attention: the practice of people divesting themselves of assets before death in order to avoid the payment of succession duties.

The Hon. Mr. Hill referred to the growth of the Public Service, to unemployment and tradesmen leaving for Queensland. I have already dealt with the position of the tradesman, and the Hon. Mr. Hill could not give one actual example. Also, he did not tell us that unemployment in Queensland was greater than in any other State, nor did he tell us that South Australia was doing more for the unemployed on a State basis than was any other State. Does the honourable member not want us to assist the unemployed? Obviously, he does not care about the little man, or about the people who are unemployed.

The honourable member does not want the Government to be able to assist the unemployed; he does not even understand their position, nor does he even comprehend their plight. He has not seen the position from the Government's point of view, that it must assist the unemployed, because everyone knows that the present Federal Government's actions have resulted in our seeing the greatest number of unemployed people since the Second World War.

The honourable member's own Government has brought about the worst unemployment in Australia, not only in South Australia and Queensland, and now the Hon. Mr. Hill suggests that we should not have capital taxation, that we should not obtain money from the wealthy so that we can help the unemployed, because he does not care for the unemployed or the little man. The honourable member complains that the Public Service has increased in size, yet members opposite repeatedly cry out for the Government to improve services and build more roads so that it can assist the wealthy to continue to accumulate wealth, but at the same time they call on us not to increase the size of the Public Service. The call is, "Give us more services, but do not increase the size of the Public Service". What do members opposite want of us? The Hon. Mr. Hill suggests that we should continue with capital expenditure, but frowns upon people being put in any building that is constructed. He is going crook about Flinders Medical Centre. He encourages capital expenditure but not the use of facilities once they are constructed.

The Hon. C. M. Hill: All your funds have been frozen.

The Hon. D. H. L. BANFIELD: I have got the honourable member going now, and I know it. We have got under his skin. He suggests that we should not increase the size of the Public Service, yet he calls for the provision of more services. Next week the Hon. Mr. Hill will say, "We care for the little man", but his little man comprises only the top 4 per cent of the community. That is the little man to whom the Liberals refer.

For his argument that succession duty does not fall on the wealthy, the Leader relies on the work of Mr. N. J. Thomson of the University of Adelaide, but the Leader has twisted it. In order that the Leader's argument may be placed in proper perspective, I think it advisable that the precise nature of Mr. Thomson's study be made known to the Council. In the first place, the estates examined resulted from deaths which occurred in the period 1962-63 to 1968-69. There have been very substantial changes to succession duties legislation since then, involving particularly the surviving spouse and the rural rebate and, of course, gift duty has been introduced. Quite apart from that, it is drawing rather a long bow to suggest that conclusions reached on the basis of events which occurred 10 to 15 years ago are still valid.

In the second place, Mr. Thomson's study is confined to woolgrowers who, by the nature of their activities, fall overwhelmingly at the upper end of the range of estates. Even if the study's findings are valid within this select group, it is, to say the least, questionable to extend the argument, as the Leader has done, not just from woolgrowers to all farmers but from woolgrowers to all occupations.

In the third place, Mr. Thomson is careful to point out that he is dealing only with death duty and not with gift duty or stamp duty. The Leader did not make that clear. Thus, although he includes in his comparison assets which have been given away to other members of the family he does not, through lack of information, include the stamp duty and gift duty which was paid at the time the gifts were made. As a result, his study must understate the overall rate of duty paid by the wealthier families in which such practices are common.

These points are made, not with the intention of discrediting Mr. Thomson's work, but rather to illustrate how his very restricted study has been used to support a much broader argument. One interesting point which emerges from his work is the extent to which woolgrowers were able to reduce the size of their estates by giving property away prior to death. This is an admirable illustration of the need which the Government sees to retain the gift duty legislation introduced in 1968, but the point does not suit the Opposition.

Finally, it is intriguing that the Leader makes no mention of Mr. Thomson's suggestion for a substantial land tax to replace succession duties. The Hon. Mr. DeGaris says, "Take taxes away from the rich and sock the poor." Given that the Government must raise revenue in one way or another, the Leader might care to indicate

his attitude towards Mr. Thomson's proposal. Where will we get our money from? We did not get any suggestion from the Opposition, nor did we get any suggestion from the Liberals between 1968 and 1970. Of course, it is different now, because they are not in Government. When they were in Government they did not do a blessed thing about it.

The Hon. R. A. Geddes: Do you intend to do anything about it?

The Hon. D. H. L. BANFIELD: The Liberals have been going out to the people for years and saying that it is Liberal Party policy to abolish death duties.

The Hon. R. A. Geddes: We balanced the Budget.

The Hon. D. H. L. BANFIELD: The Liberals never got around to doing anything about capital taxation.

The Hon. J. C. Burdett: It was a different situation then.

The Hon. D. H. L. BANFIELD: I agree. The Liberals were in Government then, and they are no longer in Government now. During the course of his speech, the Leader endeavoured to convince the Council that State revenues from succession duties had increased rapidly in recent years. The figures he quoted, however, were for assessments issued rather than actual collections and he took no account of refunds of duty. The correct comparison is derived by relating actual collections of just over $9 000 000 in 1970-71 to the latest estimate for collections in 1977-78, which is $18 000 000. That is to say, in seven years, collections have increased by almost 100 per cent.

In that same period the consumer price index has increased by 114 per cent (from 112·5 to 241·0) and average weekly earnings have increased by 154 per cent (from $77·20 to $195·90). In terms of the costs which the Government must meet, therefore, it is fair to say that the real value of succession duty collections has declined over the period referred to by the Leader, who gave us no credit for that.

It will be apparent from my remarks that the Government takes a rather different attitude towards succession duties from the Leader of the Opposition. All taxation systems rely on a variety of taxes, both for practical reasons and for reasons associated with notions of equity and the minimising of the disincentive effects of taxation. The purpose of succession duty, apart from its obvious revenue-raising function, is to support the progressive nature of the tax structure by means of a levy on wealth and to limit the growth of large inherited fortunes and the concentration of power to which such fortunes can give rise.

It must be conceded, however, that succession duty is likely to have some effect in discouraging people from working and investing. The question to be resolved, therefore, is the extent to which such disincentive effects outweigh the contribution which succession duty makes towards an equitable tax structure and towards the public purse. Particularly now that the Commonwealth Government has decided to abolish estate duties, the South Australian Government does not accept that the remaining death duties are likely to have such a powerful disincentive effect on the average person's desire to work and to invest that all attempt to use them to raise revenue and to bring about a more equitable distribution of wealth should be abandoned. The Government has no intention at present of supporting any moves to abolish gift and succession duty in South Australia. I ask honourable members to oppose the motion.

The Hon. M. B. DAWKINS secured the adjournment of the debate.

MINING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from February 23. Page 1766.)

The Hon. D. H. LAIDLAW: I support the second reading of this Bill, and I commend the Minister of Mines and Energy for introducing this concept of retention leases into the Mining Act. Under existing legislation, when the holder of a registered mineral claim is granted a mining lease, he is expected to use the area covered by that lease, from the outset. The time involved in planning and setting up a new mining venture, especially one of the magnitude of Roxby Downs, often makes this impracticable. Furthermore, the price of base metals fluctuates dramatically and at the time of obtaining a mining lease the project may be uneconomical.

The Australian Mining Industry Council has advocated for some time that the States should introduce a form of retention lease which will enable the Minister to grant to the holder of a registered mineral claim a retention lease of lands comprised in the claim. South Australia is the first State to introduce such legislation, and I understand it is unique in the Western world. Although I have criticised the Government on many occasions for being a pacesetter with legislation to advance consumer protection and industrial democracy, in this field of mining I commend it.

Under clause 10 of the Bill, the Minister can grant a retention lease where, for economic or other reasons, the applicant is justified in not proceeding immediately, or where sufficient investigation has not yet been carried out to enable him to determine whether to grant such a lease, or where the applicant wants to mine to recover a radio-active material. Furthermore, under clause 6 no person shall mine for radio-active minerals unless he is authorised to do so by the Minister. After obtaining a permit, he must stockpile the radio-active mineral, which will remain the property of the Crown. The Hon. Mr. Geddes and the Hon. Mr. DeGaris have suggested that the stockpiled ore should be held by the Crown in trust for the operator, and I support their views.

A prospective operator would hesitate to start a mining venture unless he had a firm belief that at some stage either he could sell his product or it would be sold and he would be recompensed. As the legislation is presently drafted, an operator could spend millions of dollars in extracting and concentrating a radio-active mineral only to find that a future Government, because of some misguided policy, decided to hold on to the stockpile indefinitely, without recompense to the operator.

South Australia is a State with few prospects for development other than mining because nearly all the viable land has been developed and its manufacturing industry is stagnant. In order to revive the South Australian economy, it is imperative that the Government does not impede new mining prospects like the copper and uranium deposits at Roxby Downs.

The study by the Department of Economic Development on uranium enrichment suggests that the build-up of new direct employment possibilities could conservatively amount to 20 000 persons—that is, about 5 per cent of the South Australian work force. The further economic benefits and effects of an industry of this scale are discussed and the report gives the conclusion:

> Employment opportunities on the statistical data for the already established North American uranium industry would be such that a fully developed uranium industry in Australia directly and indirectly could involve about 500 000 persons, starting with a mining force of about 5 000.

If this statement of the South Australian Government advisers is correct, then this one new industry would need

considerably more persons than are currently unemployed in Australia today.

Some of my colleagues during the debate in another place opposed the creation of retention leases because of the restrictions on the sale of uranium. I think these are two quite separate issues. The idea of retention leases is sound but the ban on selling radio-active minerals is acting to the economic detriment of the State, suffering as it is from high unemployment.

Only a very rich country with full employment can afford the luxury of some of the legislation that this Government introduces, and I stress that South Australia has neither of these advantages. We are in the same position as the countries without indigenous oil supplies which have been forced to use nuclear energy to supplement their power supplies and to take whatever safeguards are available to prevent accidents.

I share the hope of the Hon. Ren DeGaris that, soon after the Federal Government has passed legislation setting guidelines for the mining and treatment of uranium, our Government will follow suit. I hope our Government will not only encourage the mining and treatment of uranium but also revive its efforts to attract a uranium enrichment industry.

There is much talk about the use of solar energy and wind and tidal power as alternative sources of power generation but, in view of the increasing requirements for power in the world, these will not bridge the gap between supply and demand in the time available. The member for Kavel in another place pointed out that total energy consumption has been expanding at 5 per cent a year since 1960. The world population is increasing at a rate of about 2 per cent a year whilst the known recoverable oil and gas reserves are expected to run out early in the next century. There are still huge deposits of black coal available but scientists warn that too great a burning of coal fossil fuels may produce such a profusion of carbon dioxide in the atmosphere that the polar icecaps will melt and, as a result, flood much of the arable low-lying coast lands.

South Australia is a trading community which exports outside of State boundaries almost 80 per cent of its production. We must meet the demands of other States and countries to revive our prosperity. This includes uranium concentrates or yellowcake. At the present time, there are 184 nuclear power stations operating in 20 overseas countries, with an annual capacity of 88 000 megawatts—that is, equal to four times Australia's electricity generating capacity; 214 additional nuclear power stations are under construction in 27 countries, whilst a further 102 units are on firm order.

This means that 500 nuclear power stations, with a generating capacity 20 times that of Australia, are in operation, under construction, or on firm order in 34 countries. An additional 300 nuclear power stations are in the planning stage. The world wants South Australian uranium just as it needs its wool, wheat, barley, and meat. I share the views of Mr. Keating, the former Federal Labor Minister for Energy, when he said in 1975:

> We are prepared to give the Japanese any amount of fuel that they need, enriched if we can do so . . . The only thing is we would like to do the enriching. Instead of sending just yellowcake at bargain basement prices, we want to get the profit that comes from enrichment.

I commend the Government for introducing this Bill to amend the Mining Act, the salient point of which deals with retention leases. I recognise the need to stockpile radio-active minerals in the short term but hope that this ban will soon be removed. I support the second reading.

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

MOTOR FUEL RATIONING BILL

Adjourned debate on second reading.

(Continued from February 28. Page 1796.)

The Hon. J. A. CARNIE: I intend to speak briefly on this Bill, which, in principle, I support, although I do not like the necessity for the Government's having to introduce such a blanket Bill. However, I can see the necessity for some sort of emergency control measure such as this Bill. A red herring was, to some extent, drawn across the trail in the Minister's second reading explanation when he talked about world energy sources, the need to conserve energy, and so on.

True, there is a shortage of fuel and energy, but the real reason for introducing this Bill is the constant threat of industrial action that this State faces, and this is virtually an admission by the Government that the arbitration system is not working. South Australia is a large, sparsely-populated State that is vitally dependent on fuel for the movement of people and goods. It is therefore important that, in the event of a shortage, for whatever reason (whether it involves problems overseas, industrial or shipping problems, or the threat of industrial action by people in this State), the Government should have power to limit the sale, and control the movement, of fuel.

The two points that I wish to raise in supporting this Bill have been raised by other honourable members. They also cause me some concern. I refer, first, to the question of bulk fuel supplies. I cannot understand why the Government has settled on the figure of 180 litres and classified anything above that as bulk fuel. As all members would realise, the 44-gallon drum is a standard container that is used throughout the State, particularly in rural areas, and it is not classed by people in those areas as a form of bulk supply.

Therefore, I should like to see on file an amendment increasing that figure from 180 litres to 200 litres. This will allow 44-gallon drums to be used for the storage of fuel without their being classified as a means of bulk storage. I have just been told that such an amendment is on file. It will certainly have my support.

I agree with the Hon. Mr. Hill, who, when speaking yesterday, said that on occasions, although ample supplies of fuel were in storage, they could be tied up because of industrial action. The Government should have power to take action in such an event so that essential services could be maintained. The Hon. Mr. Foster, by interjection yesterday, said that unions would be responsible in this matter and would ensure that essential services were maintained. However, with due respect to the honourable member, I am afraid that I would need more assurance than his interjection across the Chamber regarding this matter, because it is on record that not all union members agree, particularly in the heat of industrial action, on a certain course of action being taken. The Government should have power in such a case to step in and free the supplies of fuel to ensure that essential services are maintained. With those two reservations, regarding which I should like to see amendments on file, I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 14 passed.

Clause 15—"Definition of bulk fuel."

The Hon. R. A. GEDDES: Before moving my amendment, I congratulate you, Sir, on your appointment as President of the Council and Chairman of Committees. This is the first opportunity that I have had to do so. I wish you well in carrying out the responsibilities of your new

office. I move:

Page 5, line 13—Leave out "180" and insert "220".

If my amendment is carried, a 44-gallon drum will not be classified as a container of bulk fuel. It is common practice, when debating a matter such as this, to think of rationing petrol used by motor cars. However, this Bill, when proclaimed, will be on the Statute Book for all time, and it could mean that diesel fuel, petrol, kerosene, or even lubricating oil, all of which come in a variety of bulk fuel containers, could be covered. As other honourable members and I said during the second reading debate, in the industrial, mining, and more remote areas of the State the 44-gallon drum, or 220-litre container, is the most accepted, practical and economical type of container for these fuels. Such containers are used by the Royal Flying Doctor Service, industry, the mail man going from Hawker north towards Oodnadatta, and many others who depend not on bulk supplies with which we in the metropolitan area are familiar but on those supplies that are easily delivered in the 44-gallon type of drum.

I understand that the Government has argued that the size of the bulk container has been reduced to 180 litres in order to prevent the transfer of motor fuel of any kind between States. I understand that the Government is not keen to allow the transfer of motor spirit in Victoria and the South-East of this State if conditions obtained in which difficulties could be created.

If the Minister reads the Bill, he will notice that, even if fuel is brought across the border in terms of section 92 of the Commonwealth Constitution, it is still an offence for anyone to buy that fuel, because of the terms of the Bill, if the person does not have a permit or licence. Although fuel could be brought across the border, the person who tried to sell it to someone without a permit would be breaking the law. The Government has provided heavy penalties for anyone who contravenes this provision.

Although the South-East may create embarrassment in times of a fuel crisis, a huge area of the State still needs delivery of fuel in bulk supply, such as the 44-gallon drum. The Government may say, "Let us grant a permit", but it would be a big job for everyone who needs to transport fuel in large containers to have to apply for a permit in times of difficulty. Farmers move fuel from one area to another. Station owners move fuel from the homestead to the bore so that water can be pumped. Air strips that the Flying Doctor aircraft and other light aircraft use in the Northern areas have fuel stored on them in the same type of container.

We must look past the problem of interstate trade and to the fact that there is a huge area where there is a need for a sensible approach to the movement of fuel. There is an argument that people could bring 44-gallon drums to the metropolitan area if they knew a crisis was about to occur. However, there are many regulations and restrictions regarding the storage of bulk fuel of that quantity, so, if a person tried to store fuel in that way, he would be liable to a severe penalty because of the danger of fire or explosion.

The Hon. D. H. L. BANFIELD (Minister of Health): As I should like to consider the argument, I ask that progress be reported.

Progress reported; Committee to sit again.

UNIVERSITY OF ADELAIDE ACT AMENDMENT BILL

(Second reading debate adjourned on February 28. Page 1799.)

Bill read a second time.

In Committee.

Clauses 1 to 13 passed.

Clause 14—"The Adelaide University Union."

The Hon. R. C. DeGARIS (Leader of the Opposition): As I have amendments being drafted which probably will not be on the file until tomorrow, I ask that progress be reported.

Progress reported; Committee to sit again.

CONTRACTS REVIEW BILL

Adjourned debate on the question:

That this Bill be now read a second time,

which the Hon. J. C. Burdett had moved to amend by leaving out all words after "That" with a view to inserting the following:

the Bill be withdrawn with a view to the Government referring it to the South Australian Law Reform Committee for its report and recommendations regarding the implementation of the objects of the Bill and that the Bill be redrafted to allow for its inter-relationship with other Acts.

(Continued from February 28. Page 1801.)

The Hon. R. C. DeGARIS (Leader of the Opposition): The law governing contracts has been under review in several countries during the past few years and, because of that, it is reasonable to expect that we in this State also should be undertaking some changes in that law. The Hon. Mr. Burdett has moved an amendment to the motion. In my opinion, in this course, the honourable member is expressing much caution that is justified, because of the possible effects that the Bill will have on other State laws.

I have read with interest the report of the House of Assembly Select Committee, and I have examined the changes which the committee recommended and which the House of Assembly adopted. There is no question but that the Select Committee improved the Bill. I do not want what I will say to be taken as a reflection on the work of that committee: I believe that it did an excellent job. However, this Council must be sure that a Bill that affects so much of our existing law should not have effects that at this stage the Parliament may not understand fully. I understand that the Law Society has made submissions to the effect that the Bill affects many existing laws in a way that could be detrimental to our accepted laws in certain areas.

Therefore, I support strongly the amendment moved by the Hon. Mr. Burdett seeking the Bill's referral to the Law Reform Committee for examination of its effect on the other laws of this State. Even if that course is undertaken and we are provided with the necessary legal information required to amend the Bill so that it applies only to contracts to which it purports to apply, we will have to re-examine it in the light of those changes which would be recommended by the Law Reform Committee.

Also, I support the Hon. Mr. Burdett's statement that it is unfortunate that we do not have a Law Reform Commission in South Australia. While the Law Reform Committee does an excellent job, it is under the control of the Attorney-General, and only he can make a reference to that committee, and that is too restrictive a position for such a committee to work under. Therefore, I believe that we should establish in this State, as is the case in other States, a Law Reform Commission.

Certainly, I am casting no reflection on the work of another place or on the work of the Select Committee from another place. I am merely saying that we are getting before this Council Bills on an intensely legal style dealing

with legal aspects that are not fully understood by the Council, and both Houses should have the assistance of such a commission in making their recommendations on such matters.

I do not want to deal with the Bill at great length, because I am supporting the Hon. Mr. Burdett's amendment, but I should like to touch on one or two matters and point out that, even if the Bill overflows into other areas of the law, there are still matters in the actual Bill to which we should turn our attention. The crux of the Bill revolves around the word "unjust", which is defined as follows:

(a) harsh or unconscionable;
(b) oppressive; or
(c) otherwise unjust,

That is the first real definition about which we should be concerned. I have doubts about the word "injustice" and its defined meaning being the criteria to be used for the review of a contract. The terms "unjust" and "unfair" are synonymous, and I raise doubts about the use of the word "unjust".

I agree that the Bill should deal with contracts that are harsh and unconscionable, and I agree that it should deal with contracts that are oppressive but, when it comes to "unjust" or "unfair", that is taking it too far. Reports have been made on this question not only in South Australia but overseas, and one must remember that the Bill covers a whole range of contracts, including commercial contracts.

In referring to commercial contracts I mean contracts between business organisations, for example, between two large corporations. It deals with more than contracts between, say, a supplier and an actual consumer. The only two reports I can find which have been made in Australia on this matter and which are available to us have both been critical of permitting a review of contracts between businesses, as distinct from contracts between a business organisation or a person and a consumer. The working party in the Australian Capital Territory in 1976 made the following comment:

> Generally speaking in the purely commercial sphere it may be positively undesirable to interfere with the freedom of contracts.

As I have said, there have been two reports in Australia on this matter, both of which take the same line about contracts between organisations. On examining reports and investigations from overseas, especially Great Britain, one finds similar views expressed. We are dealing with a wide phrase, we are dealing with the word "unjust", and we are doing more than examining the words "harsh or unconscionable"; and, as I have said, "unjust" is regarded as synonymous with the word "unfair". That takes the position further than anywhere else, so far as I can determine.

It also affects contracts between business organisations. I am concerned about these points just as the working parties that have examined the position in Australia are concerned, believing that commercial contracts should not be included in the Bill. The fundamental principle of commercial law is freedom of contract, and I believe there is no compelling evidence to justify a change in this area. Indeed, that is not only my opinion: it is also the opinion of the working parties. In the United Kingdom I believe that only goods and services are affected by such legislation.

I now refer to an area of concern to the Hon. Mr. Burdett, that is, transactions regarding realty. In the United Kingdom and in the recommendations of the working parties, these contracts have been excluded specifically from legislation regarding harsh and unconscionable contracts. Many reasons are given, and I do not want to touch on them all, but one is that, when a person takes out a contract regarding real property, the contract is prepared by a person skilled in conveyancing, either a licensed land broker, who is under the control of the State registration system, or a lawyer.

In the United Kingdom and elsewhere these sorts of contract have been excluded specifically from contract review legislation. Many other reasons have been advanced, but I do not wish to canvass them all at this stage. I believe that the correct approach with this Bill is to refer it to the Law Reform Committee, if the Attorney-General will do so, so that we can get the committee to examine closely the effects of the Bill on the other laws of this State that we do not want affected. We can then come back and look at the other matters that I have referred to in this speech.

There is a wide range of matters in the Bill of concern to me and all honourable members. I do not want to canvass those matters in depth now, except to indicate that, even if a legal committee looks at the Bill and makes certain recommendations for change, so that the existing laws in certain areas are not affected by this Bill, we will still need to examine the other provisions in the Bill, particularly beginning with the definition of "unjust", which takes the whole thing too far and which could cause much upset in the South Australian business world. I indicate my support for the Hon. Mr. Burdett's amendment.

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

RESIDENTIAL TENANCIES BILL

Adjourned debate on second reading.
(Continued from February 28. Page 1802.)

The Hon. J. C. BURDETT: I support the second reading. Legislation was necessary in relation to residential tenancies in two areas; one was the area of security of tenure, and the other was in relation to security bonds. The Liberal Party's policy was to legislate in these two areas. The first area, security of tenure, is necessary because many people who enter into residential tenancy agreements as tenants have nowhere else to go if their tenancy is suddenly terminated; they need to have some reasonable security in respect of the roof over their heads. Secondly, there have been some unconscionable transactions in regard to bonds, and some hardship has been caused for some tenants in this regard.

The Hon. Mr. DeGaris said that the amendments to the Bill made in another place as a result of a Select Committee's findings greatly improved the Bill. However, the Bill needs further amending, although it now goes a long way toward what is required. I commend the Select Committee and its Chairman for the good work they did. This is now a Committee Bill, and a few further amendments ought to be made. It became apparent during the Select Committee's sittings, according to its report and according to the submissions made, that many witnesses misunderstood the present position.

Apart from the matters I have mentioned and the setting up of a tribunal (a fairly important portion of the Bill), this Bill does not really represent a very dramatic departure from the present position. Indeed, Bradbrook, whose report to the Poverty Commission is acknowledged by the Minister as being largely the inspiration behind this Bill, acknowledges that the existing South Australian law more closely accords with his views as to what is necessary to protect landlords and tenants than does the law in any other State. In particular, he mentions the Excessive

Rents Act in South Australia, which we have had for many years, as providing many of the legislative requirements and regulations to be attached to a tenancy that he thinks are necessary. The existing protections, particularly those provided in the Excessive Rents Act, for tenants in particular have been little used in the past. Possibly, if they had been more known and used, much of this Bill might not have been necessary. Clause 5 defines "residential tenancy agreement" as follows:

> "residential tenancy agreement" means any agreement, whether express or implied, under which any person for valuable consideration grants to any other person a right to occupy, whether exclusively or otherwise, any residential premises for the purpose of residence:

This is a very wide definition and, but for the subsequent escape provisions in clause 6, it would catch boarders, lodgers, and other similar people. The escape provisions now seem to be adequate. The definition includes licences; this is necessary, because licences have often been a means of evading tenancy provisions. In the Bill as it was presented to the other place, it was not quite clear what the position was in regard to aged or disabled persons homes. I am therefore pleased to see that, as a result of the Select Committee's deliberations, this matter has now been put beyond doubt.

At this stage probably the most contentious portion of the Bill is that relating to the Residential Tenancies Tribunal. Clause 13, in Part III, provides for members of the tribunal, and each particular tribunal is comprised of one member. This is rather alarming, because the members need not be qualified, legally or otherwise. The member may be the office boy. The powers are very wide. Indeed, there are powers to make orders in circumstances not otherwise possible. Further, there is no right of appeal; that is alarming. We are dealing with a very important matter. From the tenant's viewpoint, it is the roof over his head and, from the landlord's viewpoint, it is may be one of his main sources of income. Bradbrook suggested that each tribunal should comprise one legal practitioner. It has been said that the Bill has been largely based on Bradbrook, but here is a significant departure. This is a complex jurisdiction. There is a need for expediency and for a summary remedy but, on the other hand, these are complex matters. For example, clause 21 (2) provides:

> The tribunal may make an order under paragraph *(a)* of subsection (1) of this section notwithstanding that it provides a remedy in the nature of an injunction or order for specific performance in circumstances in which such remedy would not otherwise be available.

At present an injunction or order for specific performance can be made only by the Supreme Court or the Local Court of full jurisdiction; it cannot at present even be made by a magistrate in the Local Court. Here, we are giving power to an unqualified person to make those two orders. This has always been regarded as a jurisdiction in equity and as being a complex and important matter. It is therefore alarming that this provision enables unqualified people to make orders of this kind. I do not see how they will be able to carry out this task properly and justly. One of two things ought to be done in connection with Part III: either the jurisdiction ought to be given to the Local Court or members of the tribunal should be qualified legal practitioners.

The argument that has been used against giving a jurisdiction to the Local Court is that in Local Court proceedings there can always be delays. That is true, although I do not see why there should not be a present jurisdiction in the Local Court with adequate staff. That could take care of and prevent delays, as in the case of hearings before a tribunal. Let me go through Part III in some detail. Clause 13 (3) provides:

> A person appointed to be a member of the tribunal shall be appointed for such term of office and upon such conditions as the Governor may determine and specify in the instrument of his appointment and, upon the expiration of his term of office, shall be eligible for reappointment.

So the term of office may be any period at all—three months, six months, two years, or any other period. There is no adequate guarantee of independence. Other judicial offices have some guarantee of independence, but here there is none. To me, this is most important.

In the Bill as it stands, there is no right of appeal; I think that there should be. Much will depend on the operations of the tribunal. If it operates efficiently and justly, the result will be good; but, if this does not happen, the result will be bad. In particular, it is desirable that the operations of the tribunal should be independent of the Government. If the Government is, in effect, in a position to tell the tribunal what to do, it will, in effect, be the tribunal; it will be able to control the deliberations of the tribunal from day to day, in regard to its proceedings, and that to me is improper. The apparent intention of the Bill is to set up a quasi-judicial tribunal, which should obviously be quite separate from and independent of the Government. With clause 13 (3) there is no guarantee of that at all, and it could easily be that members of the tribunal would be people indebted to the Government, in the first place; it could be a "jobs for the boys" exercise. They could be inadequate and totally dependent on the Government and liable to do whatever the Government wanted them to do.

I refer now to clause 21 (2), which provides for remedies. It states:

> The tribunal may make an order under paragraph *(a)* of subsection (1) of this section notwithstanding that it provides a remedy in the nature of an injunction or order for specific performance in circumstances in which such remedy would not otherwise be available.

This clause has been improved because, when the Bill was first introduced, it provided that the tribunal could make any order whether or not previously enforceable in law or equity, and that was wrong. This power to make orders has been properly limited, but we still have the alarming situation that unqualified persons can make orders in the nature of an injunction or for specific performance. This power should be in the hands of qualified persons.

It is pleasing to see that prerogative writs have now been written back into the Bill. They were removed from the Bill as first presented, but there is still no right of appeal, which is important to both landlord and tenant. This is no substitute; it is no substitute for a lack of right of appeal that there is the right to use prerogative writs. The right of appeal is a remedy that is applied in all other jurisdictions—the simple right of appeal to the local court, and that is what should prevail. As I have already said, this matter may be of vital importance to the tenant to know whether or not he has a roof over his head; and it may be of vital importance to the landlord, in that it may be his main source of income.

I refer now to clause 35, which sets out the criteria on the basis of which the tribunal is to determine the rent payable when this is brought before the trubunal. This clause again has been considerably improved as a result of the deliberations of the Select Committee, because previously the capital value of the premises was left out altogether; that was a most dramatic exclusion. That appeared in the Excessive Rents Act second reading explanation in another place. The Minister explained that this clause was almost identical with the clause in the Excessive Rents Act. It referred to the capital value of the

premises, which was to be taken into account in fixing rent.

In this same clause, the interest rate is not included as one of the criteria. This was included in the Excessive Rents Act, but many landlords who try to provide for their old age by building flats have to borrow money, and the interest payable is one of their main expenses. This should be taken into account. I have still quite a distance to go but, having regard to the state of the day, I seek leave to conclude my remarks.

Leave granted; debate adjourned.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

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

ADJOURNMENT

At 5 p.m. the Council adjourned until Thursday, March 2, at 2.15 p.m.