HOUSE OF ASSEMBLY.

Thursday, September 24, 1953.

The SPEAKER (Hon. Sir Robert Nicholls) took the Chair at 2 p.m. and read prayers.

QUESTIONS.

MAIN ROADS SCHEDULE.

Mr. FRANK WALSH—Can the Minister of Works indicate how soon the main roads schedule will be completed and which roads will be included?

The Hon. M. McINTOSH—From time to time over a considerable period I have consulted the Commissioner of Highways in that regard. Obviously time and circumstances alter cases and some roads which were previously on the schedule have, because of the exigencies of the case, ceased to be of importance, and other roads of greater importance have come in. It is not easy to complete the schedule. The roads on it today cover thousands of miles. When roads are included it automatically becomes the duty of the Highways Fund to maintain them. It is not a matter to be taken lightly. I will go further into the matter with the Commissioner of Highways and see if it is possible to issue the schedule in the near future. The House should bear in mind that it is claimed some roads should be off the schedule and others on it, and it is difficult to say which should be off and which should be on. Subject to this reservation I shall endeavour to meet the requirements of the case and put on the schedule the roads which should remain on, and give priority to some not on it previously.

ABATTOIRS CAPACITY.

Mr. HEASLIP—I noticed in the press stock reports of yesterday that the number of sheep and lambs coming in to the Abattoirs was up by 5,000. It would now appear that we have reached the stage where sheep and lambs will arrive in increasing numbers. Can the Minister of Agriculture give any reasonable assurance that when the stock comes forward it will be dealt with expeditiously and thus overcome the troubles we have had in past years?

The Hon. Sir GEORGE JENKINS—The management of the Abattoirs Board assures me that there will be sufficient men this year to work full chains and that they will be able to handle without difficulty all the sheep and lambs likely to come forward. Assurances have been given by them that they will work overtime when required, and the Board is satisfied it can deal with the matter without difficulty. I might add that over 10,000 lambs and 2,000 sheep were purchased yesterday for export.

FORESHORE DAMAGE.

Mr. DAVIS—On August 27 last, in answer to a question by Mr. Pattinson, the Minister of Works, amongst other things, said:—

Some country authorities have expressed fear that the Committee will overlook their claims. You can feel assured that every country claim will be dealt with and a report made to you, and to safeguard this position the total amount of country claims has been set aside for country work until such time as recommendations are made, notwithstanding that some of the claims are obviously not in connection with the purpose for which the grant was approved by the Government. This may help to clear up some misapprehensions on this subject.

Has the Minister received that report, and if so, has the committee given any thought to the claim by the Port Pirie Council for £5,000?

The Hon. M. McINTOSH—I have not received that report, but immediately I do so I will give a decision on it. I will ask that the report be expedited.

ADOPTION OF CHILDREN ACT.

Mr. PATTINSON—My question relates to the much publicized adoption case recently decided in New South Wales concerning the child Wayne Murray, Miss Murray who is the mother of the child and the adopting parents Mr. and Mrs. Mace. The matter is now subject to appeal in the High Court. In yesterday's issue of the *Sydney Morning Herald* appeared a report that the President of the Feminist Club has asked other women's organizations to join her club in a deputation to the Minister of Justice requesting an amendment of the adoption law to avoid a repetition of the tragic circumstances in this case. It is some time since I have examined the South Australian Act, the regulations made thereunder and the procedure adopted by the Children's Welfare Board and the courts here, but I can remember a case in which I was professionally interested some time ago when a somewhat similar set of circumstances arose, although the dispute was happily resolved on almost the day of the hearing. Will the Minister obtain a report from the Attorney-General as to whether he considers it necessary or desirable to amend the Adoption of Children Act in this State to prevent similar circumstances arising?

The Hon. M. McINTOSH—I will be glad to do that. In the case mentioned the mother

gave consent to the adoption, then withdrew it, and the very human problem then arose as to who should have the prior right to the child, the persons who wanted to adopt it or the mother who withdrew her consent. I do not know whether there is any possibility that the law could cover all those contingencies, but in view of the honourable member's explanation, I shall be glad to confer with my colleague, the Attorney-General, and bring down a considered reply.

X-RAY TUBERCULOSIS SURVEYS.

Mr. HUTCHENS—In the subdivisions of Hindmarsh and Allenby Gardens in the Hindmarsh electorate X-ray examinations are being conducted to ascertain whether people are suffering from tuberculosis. I congratulate the department and express complete satisfaction on the manner in which it has publicized these examinations through press advertisements, pamphlets and correspondence addressed to each home, but a number of people in the district, failing to appreciate the necessity and compulsory nature of such examinations, have not submitted themselves for examination. They claim that, after being X-rayed, no provision is made for treatment of suspect cases. Can the Minister of Lands, representing the Minister of Health, indicate the percentage of the people in the Hindmarsh district who have applied for X-ray examinations, whether that percentage is considered satisfactory, and whether satisfactory facilities for treatment of those found to be suffering from the effects of tuberculosis are available?

The Hon. C. S. HINCKS—Generally speaking, X-ray surveys throughout the State have so far been very satisfactory. A liberal sum of money has been made available to advertise the fact that the survey is taking place in the Hindmarsh district. Although I do not suggest that in the Hindmarsh district the local councils are not assisting the department, it has been found that where councils have given the greatest assistance the surveys have been the most successful. I have not the details of the numbers who have reported for examination in the Hindmarsh district.

IRRIGATION WATER RATES.

Mr. MACGILLIVRAY—In 1949 the Government set up a committee under the chairmanship of Mr. F. C. Drew to investigate the question of an increase in water rates in irrigation areas, and on the recommendation of that committee the rates were increased by 25 per cent. Again in 1951, with the concurrence of the Prices Commissioner, water rates were increased by a further 20 per cent, and this year those rates have again been increased, although I am not sure by what percentage. These increases have been made in spite of the fact that returns to growers have dropped materially. The prices for citrus fruits have dropped to a fraction of what they were formerly, the prices of wine grapes dropped by as much as 50 per cent, and dried fruits are a problematical proposition at present. I understand that the committee's report, which the department worked on, contained a resolution to the effect that, in the event of the settlers' incomes dropping to any appreciable extent, the whole question of increased water rates would be reviewed. I cannot find a copy of that report in any Parliamentary institution, probably because it has not been made a Parliamentary Paper. Has the Minister of Irrigation a copy in his department and, if so, will he make it available so that I may check the findings?

The Hon. C. S. HINCKS—I should say there would be a copy available, and I would be prepared to supply it to the honourable member. Very careful consideration was given to a further increase in water rates. I believe the honourable member knows as well as anyone of the terrific losses resulting from the rates charged compared with the revenue derived.

CEMENT AT SOUTH PARA RESERVOIR.

Mr. JOHN CLARK—It has been reported to me by several of my constituents living near the proposed South Para Reservoir that large quantities of cement held there have deteriorated and been entirely spoilt, owing, it is stated, to defective storing pending full-scale work recommencing on this important project. Has the Minister of Works knowledge of this, or will he make inquiries to prove or disprove the current rumours?

The Hon. M. McINTOSH—Obviously, I would not have any knowledge of it, especially if the complaint is justified. On the face of it I would say that to ensure continuity of work at least the amount required would be ordered, otherwise the work might be held up and thus spoil the ship for a ha'porth of tar. It could easily be cement belonging to a contractor. However, I will have the fullest inquiries made.

COMSTOCK IRON ORE DEPOSIT.

Mr. RICHES—While attending "Back to Quorn" celebrations last week a publication was handed to me which stated that before Iron Monarch had been used as a source of supply iron ore had been drawn from Comstock in the vicinity of Quorn. Will the Minister representing the Premier request the Minister of Mines to have a geological survey conducted of the Quorn district and the Comstock ore deposits to determine the extent of the iron ore?

The Hon. C. S. HINCKS—I shall be pleased to pass on the honourable member's request to my colleague, the Minister of Mines, to see if he can get a report for the honourable member.

SUPERPHOSPHATE PRICES.

Mr. PEARSON—Has the Minister of Lands, in the absence of the Premier, a reply to the question I asked the Premier on September 17 relating to the price of superphosphate?

The Hon. C. S. HINCKS—I have received the following report from the Prices Commissioner:—

(*a*) With the exception of 4s. per ton in respect of superphosphate supplied in paper bags, the price reductions announced this season are due entirely to factors other than lower costs of containers.

(*b*) Superphosphate prices were reduced 10s. 6d. per ton in January, 1953, following reductions in prices of once used cornsacks. A further reduction of 19s. per ton was made where new cornsacks were used in April, 1953.

(*c*) All superphosphate mixtures are subject to price control.

(*d*) The reductions on "straight" superphosphate will also apply to mixtures in proportion to the superphosphate content of each mixture.

ROYAL TOUR CELEBRATIONS.

Mr. DUNKS—In reply to a question recently relating to the Royal tour the Premier said that it was expected that a fireworks display similar to that held on the Victoria Park racecourse to celebrate the Coronation would be staged. I attended the Coronation fireworks display, during which five or six bands marched down the racing track. If that is repeated during the Royal visit will consideration be given to illuminating the track so that the persons assembled can clearly see what the bands are doing?

The Hon. C. S. HINCKS—I agree with the honourable member that that is most necessary and I will take the matter up with the Premier on his return.

AUDITOR-GENERAL'S REPORT.

The SPEAKER laid on the table the report of the Auditor-General for the financial year ended June 30, 1953.

Ordered to be printed.

BARLEY MARKETING ACT AMENDMENT BILL.

The Hon. Sir GEORGE JENKINS (Minister of Agriculture), having obtained leave, introduced a Bill for an Act to amend the Barley Marketing Act, 1947-1952. Read a first time.

AGENT-GENERAL ACT AMENDMENT BILL.

Second reading.

The Hon. C. S. Hincks, for the Hon. T. PLAYFORD (Treasurer)—I move—

That this Bill be now read a second time.

Its object is to increase the salary of the Agent-General. The rate of this salary is at present fixed by Statute at £1,600 a year, and has not been altered since 1931. In 1927, just before the depression, Parliament prescribed a salary of £2,000 for the Agent-General, which figure was arrived at by combining the previous salary of £1,200 with an expense allowance of £800. During the depression the amount fixed in 1927 was reduced first to £1,800, and then to £1,600. The cuts have not been expressly restored, but the remuneration of the Agent-General in recent years has been improved from time to time by the payment of further allowances and exchange, in accordance with votes passed by Parliament. Before Mr. Greenham was appointed the question of his salary was investigated by the Public Service Commissioner in the light of today's requirements and with regard to the amounts received by the Agents-General of other States. The commissioner's recommendation is that the office should now carry a total remuneration of £3,000 sterling, of which £2,000 is to be regarded as salary, and £1,000 as a representational allowance, *i.e.*, an allowance for the expenses incurred by the Agent-General in connection with his official duties as London representative of the State. Upon Mr. Greenham's appointment he was informed that a Bill would be introduced into Parliament to authorize payment of the new rates as from the day when the appointment took effect, namely, August 6. Up to the present, however, he is still being paid at the old rate. The Government has carefully considered the Public Service Commissioner's report on this matter and is satisfied that the proposed

remuneration is completely justified. The Bill is therefore confidently submitted to members for their approval.

Mr. FRANK WALSH secured the adjournment of the debate.

PRISONS ACT AMENDMENT BILL.

Second reading.

The Hon. C. S. Hincks, for the Hon. T. PLAYFORD (Premier and Treasurer)—I move—

That this Bill be now read a second time.

The Bill has been introduced to deal with a legal difficulty in connection with prisoners from the Northern Territory who serve their sentence in South Australian State prisons. By the Commonwealth Act known as the Removal of Prisoners (Territories) Act, 1923-1950, it is provided that the Governor-General of the Commonwealth, with the concurrence of the Government of a State, may order a prisoner to be removed from a Commonwealth territory to a State for the purpose of serving his sentence in that State. Such an order can be made where there is no prison in the territory in which the prisoner can properly undergo his sentence, or where the removal of the prisoner to a State prison is expedient for his safer custody or for more efficiently carrying his sentence into effect. The Commonwealth pays the cost of maintaining any transferred prisoners. Under this Act a number of prisoners have been removed to Yatala, sometimes in their own interests, and sometimes for disciplinary or administrative reasons.

Last year the Commonwealth requested the State to carry out sentence of death imposed by the Supreme Court of the Northern Territory on two persons convicted of murder. The seriousness of this request led to a careful examination of the constitutional validity of the scheme for transferring prisoners. The then State Crown Solicitor (Mr. Hannan, Q.C.) and the Commonwealth Solicitor-General investigated the question whether the Commonwealth Removal of Prisoners Act was valid, and whether, if it was valid, it was binding on State authorities or only on Commonwealth authorities. The legal officers did not reach complete agreement on all the legal questions involved, but as a result of their discussion it was agreed that in order to remove any doubt as to the validity of the scheme, the State Parliament should be asked to pass legislation complementary to the Commonwealth Act. The Commonwealth Act is based on the assumption that the State Government has power to concur in the removal of prisoners to State gaols; and maybe the Commonwealth Act gives such a power. But no State Act confers such a power. The legal position is doubtful and, in a matter of this kind, it is essential that there should be no doubts. It is therefore proposed in this Bill to empower the State Governor to concur with the making of any orders by the Commonwealth Governor-General for the removal of a prisoner from a Territory to the State. The Bill also declares that a warrant for the removal and detention of such a prisoner shall be binding in the State upon all persons to whom it is directed and that the detention and punishment of a Territory prisoner in the State in accordance with the Commonwealth Act shall be valid. These provisions will enable the present arrangements, which have been beneficial from several points of view, to continue on a sound legal basis.

Mr. DUNSTAN secured the adjournment of the debate.

POLICE OFFENCES BILL.

Second reading.

The Hon. M. McINTOSH (Minister of Works)—I move—

That this Bill be now read a second time.

As its long title indicates, the main purpose of this Bill is to consolidate and amend some enactments relating to what are commonly called "police offences" and to the powers of the Police Force. The Bill was prepared as a result of suggestions made to the Government by the magistrate of the Port Adelaide Police Court, Mr. L. F. Johnston. He drew the attention of the Government to the anomalies and inadequacies in the penalties prescribed for offences under the Police Act, and also to the fact that the substance of some of the offences and the language in which they were expressed were not appropriate to present day conditions. The criticisms of Mr. Johnston were supported by other legal authorities and the Government decided to appoint a committee to review the Police Act with the object of producing a new code for submission to Parliament. The Law Society was requested to nominate a legal practitioner to act on the committee and it submitted the name of Mr. Travers, who is now a member of this Parliament, and has had wide experience as a barrister in all courts. Mr. Travers and Mr. J. D. O'Sullivan, who sometimes deputized for Mr. Travers on the committee, gave a good deal of their private time to the work of the committee in a most commendable manner. The other members of the committee were Mr. Johnston,

S.M., Police Inspector T. O'Sullivan and the Parliamentary Draftsman. Both Mr. Johnston and Inspector O'Sullivan have had long experience in cases under the Police Act and were particularly well qualified to advise on desirable amendments. The committee held numerous meetings over a period of 2½ years and this Bill is almost entirely the result of its work.

The Bill contains two main groups of pro visions. The first group contains the clauses prescribing the various offences punishable under the Bill, together with the penalties. The second group of provisions deals with the powers of the police as to arrest and allied matters. The offences are set out in clauses 6 to 58 inclusive. Most of the offences mentioned in these clauses already exist in the law, but there are several new clauses with which I will deal later on. The work of the committee as regards the old offences has not been to alter the nature of the offences but rather to deal with the mode in which they are expressed, and the penalties.

The sections in the Police Act which create offences are for the most part taken from English legislation of the first half of the nineteenth century. Many of them were taken from the Vagrancy Act of 1824. This Act sets out a large number of offences, almost all of which were punishable by imprisonment without the option of a fine, and declared that a person who committed any such offence should be convicted as an "idle and disorderly person," or a "rogue and vagabond," or "an incorrigible rogue," according to the seriousness of the offence. A number of these offences were reproduced in legislation passed in this State many years ago and still appear in the Police Act in language very much like that of the English Act of 1824. An unsatisfactory feature of this legislation is that numerous classes of offences of varying degrees of seriousness are all punishable by the same penalty. In addition, the language in which the offences are described and, in particular, the references to "idle and disorderly persons," "rogues and vagabonds," etc., are inappropriate in a community such as South Australia is today.

Another source from which provisions of the Police Act were derived is the English Town Police Clauses Act, 1847, which created a large number of offences aimed at the maintenance of order in streets and public places and prescribed for each of these offences a fine not exceeding 40s. This penalty is still retained in a number of sections in the Police Act, 1936, notwithstanding the great alteration which has taken place in the value of money. A special difficulty which arises under the Police Act of 1936 is that by reason of overlapping provisions the same conduct is sometimes punishable under two or more sections carrying different penalties, and it is not always easy to determine what is the appropriate charge to lay against the accused person. All these factors justified a general review of the offences and penalties.

In preparing the clauses dealing with these matters the committee has done five things:—

1. It has combined overlapping and duplicated provisions.
2. It has endeavoured to simplify the expression of the law taking into account the judicial interpretation of the existing provisions.
3. It has made minor amendments in the substance of the offences where modern conditions appear to demand such changes.
4. It has reviewed all penalties and endeavoured to fix penalties which are at the same time reasonable and consistent with each other. A good many penalties have been increased, but some have been reduced, and a large number of offences for which the Act previously prescribed imprisonment only, have been made punishable by a fine, with or without imprisonment. Every penalty mentioned in the Bill is the maximum for the particular offence; and in no case is there any restriction on the power of the court to mitigate the penalties under the various Statutes providing for mitigation.
5. The committee has proposed about six clauses setting out offences which are not in the present Act.

It is not necessary for me at this stage to mention in detail all the minor amendments which have been made. These are indicated in a schedule which has been placed on members' files, and is designed to give members notice of the alterations which have been in the law so that they may have an opportunity to discuss them in committee or seek further information. With regard to the new provisions creating offences I draw members' attention to the following clauses, namely:—

(*a*) Clause 11, which penalizes the refusal to pay for meals or accommodation:

(*b*) Clause 24, which deals with certain unseemly conduct in public places:

(*c*) Clause 44, which deals with the use of other peoples' land for training or exercising horses:

(*d*) Clause 48, which extends the existing offence of defacing walls with writings or placards so that it will apply to roads and footpaths:

(*e*) Clause 57, which deals with the unlawful deposit of rubbish on other peoples' land; and

(*f*) Clause 63, which deals with self-inflicted injuries caused for the purpose of obtaining hospital treatment.

I will be glad to supply any further information on these clauses in Committee. Clause 64 contains an amendment of the provisions under which municipal and district councils are empowered to accept small payments from persons guilty of minor offences, by way of expiation of such offences. The maximum amounts which can be demanded by a council are fixed by regulations and under the present law no sum in excess of 10s. per offence can be prescribed. The amendment proposed in clause 64 will raise this maximum to £1. The amendment merely means that the Governor may make regulations fixing an expiatory payment up to £1 for any specified offence, and the regulations will, of course, be laid before Parliament and be subject to disallowance. The amendment is asked for by the Adelaide City Council. The Government understands that the power to fix a higher amount is required mainly in order that a special rate of payment may be prescribed for the offence of parking in prohibited areas and prohibited streets. These prohibited areas and streets are, as a general rule, created for the purpose of facilitating commerce and industry, and it is a somewhat more serious offence for a private vehicle to be parked in these areas and streets than it is to park them in other places. The problem of private motor vehicles occupying space for long periods in areas reserved for the loading and unloading of vehicles was considered some time ago by the State Traffic Committee; and the committee passed a resolution in favour of increasing the maximum payment which could be demanded from offenders for this class of offence.

Clauses 67 to 82 deal with the powers of the police as to arrest and allied matters. These clauses are not intended to give additional powers to the police. They make some amendments of the law, but are mainly consolidation. Provisions which are merely repetition of others are omitted and in some clauses the language is simplified. The amendments proposed in these provisions are in the interests of accused persons. For example, clause 80 provides that if a person arrested without a warrant—that is, on suspicion of having committed an offence—is taken to a police station and the police officer in charge is not willing to release him on bail the officer must, if requested by the arrested person, immediately bring him before any justice who may be present in order that an application for bail may be made to and dealt with by the justice.

Clause 81 contains another new provision in the interests of arrested persons. It deals with the medical examination of a person who is in lawful custody on a charge of an offence. By subclause (3) it is provided that before an arrested person is medically examined at the request of a police officer, the officer must inform him of the proposed examination, and ask him whether he desires to be examined by his own medical practitioner, and if he does so desire, endeavour to secure the attendance of that practitioner.

Another clause in which alterations of the law in favour of the general public are proposed is clause 85. Under the present law any proceedings against a police officer for allegedly wrongful act or omission must be commenced within two months after the act or omission, and ten days' notice of the intended action must be given. In line with alterations of the law made in England in recent years it is proposed to extend the time for commencing such actions to six months, and abolish the necessity for a notice of action. In fact, a notice of action given ten days before the writ is issued has no particular value. From what I have said it will be seen that there is nothing drastic in this Bill. Its main effects may be summed up by saying that it is an attempt to state the law more clearly, to prescribe moderate and consistent penalties commensurate with the present value of money, to introduce a small number of new offences for the maintenance of public order and the protection of the public and in general, to produce a statute which it is hoped will simplify the work of those concerned with the administration of the Police Act.

Finally, in preparing the Bill the Committee has taken note of the difficulties of interpretation pointed out by the Judges of the Supreme Court from time to time; and although one cannot hope there will never be such difficulties in future an attempt has been made to deal with the difficulties which are now known.

I will now deal seriatim with the various clauses. The title is similar to that of Victorian and New South Wales Acts on the same subject. Clause 2 provides for the commencement of the operation of the Act upon proclamation. By clause 3 it is proposed to repeal all sections of the Police Act, 1936-1952, now in force, except sections 1-4 and 135-138. Sections 135-138, which deal with certain building requirements, will later on be included in the Building Act or Local Government Act, and then repealed. Clause 4 (1) contains definitions substantially the same as section 4 of the Police Act, 1936. Subsection (2) provides that in cases where the court trying an offence has power to award compensation, the compensation may be payable in addition to any fine imposed. This was separately provided for in several sections of the Police Act, 1936, but is now made a general rule. Clause 5 places on the defendant the onus of proving lawful authority, reasonable cause, reasonable excuse, etc., in cases where is is an offence to do an act without lawful authority, reasonable cause or reasonable excuse. Section 56 of the Justices Act contains a similar provision, but has been held not to apply in every case. Clause 5 removes doubts about the application of section 56 to offences under the Bill. It provides that in charges for being on premises without lawful excuse the onus of proving absence of lawful excuse will remain on the prosecutor (as has previously been decided by the Supreme Court), but in other cases it will be on the defendant to prove his excuse.

Clause 6 deals with assaulting and hindering police. It reproduces section 21 of the Police Act with amendments. The penalty for assaulting or resisting the police is increased from £20 or six months to £100 or 12 months, or both. The penalty for hindering is raised from £10 or three months, to £50 or six months, or both. These offences are extended so as to protect special constables in the execution of their duty. Also if a person uses offensive or abusive language to or concerning a police officer engaged in execution of duties he will be deemed to have hindered him. Clause 7 relates to disorderly—including riotous—and offensive behaviour, fighting, offensive language (including threatening and insulting language), and disturbing public peace. The clause is a combination of sections 75, 76 and 83 (*c*) of the Police Act, 1936. The substance of these offences is not changed, but a uniform penalty of £50 or three months' gaol is prescribed for all offences in lieu of various lower penalties at present in force. Clause 8 deals with challenges to fight and prize fights. This is substantially the same as section 84 of the Police Act, 1936, but—

(*a*) A fight or challenge to fight in accordance with commonly accepted rules of boxing is declared not to be an offence:

(*b*) The fine is increased from £20 to £50.

Clause 9 refers to drunkenness in a public place and is the same as present law. Clause 10 has reference to insufficient or no lawful means of support and is based on section 85 (1) (*a*) but onus of proof on defendant is altered. Under present law the defendant must "satisfy" the court as to his means of support—*i.e.*, prove beyond reasonable doubt that he had lawful means of support. Under clause 10 it would be sufficient if the defendant proved on balance of probabilities that he had lawful means of support. The alteration is in accordance with general principles governing the onus on the defendant in criminal cases. The penalty is raised from three months to 12 months. Reference to offenders being deemed idle and disorderly is omitted.

Clause 11 deals with refusal to pay for meals or accommodation. This clause is the same in principle as section 138 (3) of the Licensing Act, but is extended so as to protect proprietors of restaurants and lodging houses, as well as licensees, against persons who refuse to pay for meals, beds, etc. The penalty is reduced from six months to three months or £50. Clause 12 is the same in substance as sections 85 (1) (*c*) and 86 (1) (*b*) of Police Act, but the penalty is reduced. At present the penalty for begging alms, etc., in section 85 (1) (*c*) is three months' gaol, and under section 86 (1) (*b*) six months. Clause 12 prescribes £25 or one month. Clause 13 deals with habitually consorting with thieves, etc. It is the same as section 85 (1) (*j*) of Police Act but the penalty is raised from three months gaol to six months or £100. Clause 14 is taken from section 85 (1) (*b*) of Police Act with alterations. The present law forbids lodging or wandering in company with aboriginals unless defendant has lawful fixed abode and wandering is for temporary and lawful occasion. The new clause simplifies this by making it an offence to habitually consort with aborigines without lawful excuse, and provides for punishment by fine (up to £100) or imprisonment (up to six months) instead of imprisonment only (up to three months) as in existing law.

Clause 15 relates to carrying offensive weapons, drugs, etc., without lawful excuse and

is based on section 85 (1) (*d*) and (*e*) and section 86 (1) (*e*) of the Police Act. The offences are substantially the same but a uniform penalty of three months or £50 is prescribed in lieu of the penalties of three months and six months under sections 85 and 86 of the Police Act. Under present law it must be proved that the person carrying offensive weapons or other implements failed to give a good account of his means of support and a valid and satisfactory reason for having them. Under the Bill the only onus on the defendant is to give a lawful reason for having the weapon or implement. Clause 16 refers to possession of instruments of gaming or cheating without lawful excuse. It is the same in general principle as section 86 (1) (*k*) and section 86 (2) of the Police Act but under the present law this offence can only be committed by known or reputed cheats loitering in public places or near licensed premises. Under the Bill the offence can be committed by anyone. Clause 17 provides for being unlawfully on premises and is similar in principle to section 86 (1) (*n*) of Police Act. The penalties in the Bill are £50, or six months. At present the only penalty is six months. Clause 18 relates to lying and loitering in public place and is the same in substance as present Act, section 89, but the amount of fine imposable is increased from £10 to £25. Three months' gaol is not altered. Clause 19 refers to being in a public place with intent to commit offence and is the same in substance as present law but the provision that an offender against this clause is deemed to be a rogue and vagabond is omitted.

Clause 20 dealing with permitting disorderly conduct, etc., in shops and restaurants is substantially the same as section 117 (1) (*a*) of Police Act. The penalty is increased from £5 to £20. Clause 21 is taken from section 85 (1) (*g*) and section 117 (1) (*d*) of the Police Act, but the penalties are altered. Under section 85 (1) (*g*) the penalty is three months, and under section 117 (1) (*d*), £5. The penalties proposed in clause 21 are £50 or three months. An evidentiary provision is inserted requiring defendant to disprove knowledge of the character of persons frequenting premises. Clause 22 combines section 75 (*a*) and 83 (*a*) of the Police Act so far as they deal with indecent words. The maximum fine for this offence is raised from £5 to £50; but the maximum term of imprisonment—two months—is not altered.

Clause 23 is a combination of section 79, which deals with indecent exposure and section 86 (1) (*g*) which deals with gross indecency. At present the Police Act only covers these offences when committed in a street or public place or in premises visible from any other occupied premises. It is proposed in clause 23 to extend the provisions so as to cover indecent behaviour in any private place if the behaviour offends or insults any person. A general penalty of six months' imprisonment or a fine of £100 is prescribed. At present indecent exposure is punishable with a fine of £10 or one month's imprisonment, and gross indecency with six months' imprisonment. Clause 24 is a new clause making it an offence to relieve oneself in a public place in a municipality or town. The penalty is £25. Clause 25 is substantially the same as section 83 (*h*) of the Police Act. At present the offence of soliciting for prostitution can only be committed by a "common prostitute." Under clause 25 it is proposed that any woman will be liable for the offence. The fine is increased from £5 to £20. The penalty of two months' imprisonment is not altered. Clause 26 deals with male persons living on prostitution or soliciting for immoral purpose and is the same in effect as section 86 (1) (*h*) of the Police Act, except that the word "persistently" is omitted before "solicits." The reference to the offender being deemed a rogue and vagabond is omitted. Clause 27 defines "brothel" and "premises" and is the same in effect as section 101 of the Police Act.

Clause 28 is the same in substance as section 102 (1) (*a*) of the Police Act. The penalties are simplified as follows:—Old (1st) £20 or 3 months; new (1st) £50 or 3 months; (2nd) £40 or 4 months; (subsequent) £100 or 6 months; (subsequent) £40 bond, 6 months. Subclause (2) provides that a person who acts or behaves as master, mistress, or manager of a brothel shall be deemed to keep it. This is taken from English Act 25 Geo. II., c.36, s.8, and is in the Victorian Police Offences Act. Clause 29 deals with permitting premises to be used as brothels. This is the same in substance as sections 102 (1) (*b*) and (*c*) of the Police Act, but the language is simplified and the penalties altered. The fines are increased from £20 and £40 to £100, but gaol is not prescribed for first offence. Clause 30 is to the same effect as section 102 (2) of the Police Act; but an evidentiary provision is included to facilitate proof of the consent of the Commissioner of Police to a prosecution.

Clause 31 provides for the determination of tenancy of brothels. This clause is taken from United Kingdom Criminal Law Amendment

Act, 1912, section 5, and inserted as a substitute for sections 104 and 105 of the Police Act. The existing provisions of sections 104 and 105 of the Police Act automatically annulling leases of premises used as brothels are unworkable. The new clause empowers and obliges lessors to require leases to be assigned when the lessee is convicted of permitting the premises to be used as a brothel. Clause 32 deals with entry to suspected brothels and is substantially the same as section 106 of the Police Act.

Clause 33 is a combination of section 86 (1) (*f*) and section 108 of the Police Act. A new provision enacts that matter may be held to be indecent, obscene, etc., if it tends to corrupt any limited class of persons to whom it is likely to be sold—*e.g.*, children—although other classes of persons may not be so affected. Clause 34 referring to reports of judicial proceedings is the same as section 109 of the Police Act. Clause 35 relates to reports of immorality, etc., and is the same as section 110 of the Police Act. Clause 36 has reference to exemptions and is the same as section 111 of the Police Act. Clause 37 deals with frauds on charitable institutions and is the same in effect as section 86 (1) (*c*) of the Police Act. The penalty (at present six months) is altered to £100 or 12 months.

Clause 38 concerns fraud other than false pretences and is the same as section 91 of Police Act, but extended to cover cases where any "benefit or advantage" is obtained. The penalty (at present 12 months) is altered to £100 or 12 months. Clause 39 referring to valueless cheques is substantially the same as section 90 of Police Act, but the words "credit, benefit or advantage" are inserted. The penalty (at present 12 months) is altered to £100 or 12 months. Clause 40 deals with fortune telling, palmistry, etc., for personal gain. This is the same as section 86 (1) (*d*) of the Police Act, but the penalty is reduced from six months to one month or £20. Clause 41 relates to unlawful possession and is the same in substance as section 93 of Police Act, but the language has been altered to conform to interpretation placed on section 93 by the courts. The onus on defendant of proving that his possession was innocent will be satisfied if he proves that fact on the balance of probabilities, instead of beyond reasonable doubt.

Clause 42 has reference to larceny of things attached to land and is the same in substance as section 98 (1) (*a*) and (*b*) of the Police Act, but the penalty is increased from £5 or one month (first offence), £10 or two months (subsequent offence), to £50 or six months in any case. Clause 43 concerns wilful damage to property and is based on section 97 of Police Act and substantially the same, but the penalty is increased from £5 or two months to £50 or three months. The defence that the damage was done in hunting, fishing, or the pursuit of game is abolished. Clause 44 referring to the use of land for training horse is new and inserted at the suggestion of public authorities holding land for public purposes. Clause 45 relates to using animals and vehicles without consent. This is the same in effect as section 78 of Police Act but the penalty is increased from £20 to £50. Clause 46 deals with damage to boats, and is substantially the same as section 45 of Police Act. The penalty is not altered. Clause 47 relates to interference with homing pigeons, and is the same as sections 99 and 100 of Police Act. The penalty is increased from £5 to £20. Clause 48 refers to posting of bills, etc., on walls, and is based on section 122 (1) (*f*) of Police Act, but is extended to cover defacing of roads and footpaths by paint, etc. The court is empowered to order the removal of matter unlawfully affixed or marked on buildings, footpaths, etc. The penalty is increased from £2 to £25. Clause 49, relating to the extinguishing of street lamps, is taken from section 82 (part) and section 122 (*h*) of Police Act. The penalties £5 (section 82) and £2 (section 122) are increased to £25. The evidentiary provision to facilitate proof that a lamp was a street lamp as defined in the Bill is new. The unlawful ringing of house bells is dealt with in clause 50, and this clause is the same in substance as section 80 of the Police Act, but the penalty is increased from £2 to £10. Clause 51 relates to the use of firearms to injure, annoy, or frighten. This contains the substance of section 122 (1) (*g*) and 122 (2) (*a*) of the Police Act, but the provisions are extended so as to cover the use of firearms anywhere without reasonable cause. At present they are limited to the use of firearms in a public place, or places near a public place. The penalty is increased from £2 to £25.

Clause 52 deals with the throwing of fireworks so as to injure, annoy, or frighten. It is the same as section 122 (2) (*b*) of the Police Act. The penalty is increased from £2 to £25. The provision in section 122 (1) (*g*) of the Act requiring the consent of a council to light bonfires and fireworks is omitted. Bonfires are now controlled under section 669 of the Local

Government Act. Clause 53 has reference to the playing of games to the annoyance of the public. It is based on section 122 (1) (*i*) of Police Act, but is extended to cover games "likely to injure persons in a public place." The penalty is increased from £2 to £10, and exemption is provided for games played on a proper oval. Clause 54 relates to street musicians. In substance it is the same as section 124 of the Police Act. The penalty is raised from £2 to £5. Clause 55 concerns unmuzzled, ferocious dogs. It is the same in substance as section 122 (1) (*b*) (part) of the Police Act. The penalty is raised from £2 to £25. Clause 56 deals with the throwing of dead animals in streets, etc. This comprises section 132 of Police Act with amendments. Reference to throwing carcasses in rivers has been omitted as being covered by Local Government Act, Part XXXV. The penalty is raised from £1 to £25. It is provided that the offence of leaving a carcass in a road (as opposed to depositing it there) can be committed only by the owner of the animal. Clause 57, relating to the depositing of rubbish on land is a new section, prescribing a penalty of £25 for depositing rubbish on other people's land without their consent or other authority. Clause 58 refers to the obstruction of highways. It is a general provision inserted in lieu of enumerated specific causes of obstruction set out in section 122 (1) (*a*) of the Police Act. The penalty is raised from £2 to £25.

Clause 59 concerns regulation of traffic in certain cases and is taken from section 121 of the Police Act without any alteration of substance. Clause 60 is the same as section 73 of Police Act and relates to the power to close roads. Clause 61, which concerns the bribery of the police is taken from section 19(a) of the Police Act without alteration in substance or in penalty. Clause 62 deals with false reports to the police and is the same as section 118 of Police Act. Clause 63—deals with self-inflicted injuries—is new and prescribes a penalty of £50 or three months' gaol for self-inflicted injuries caused wilfully with intent to procure admission to hospital, or needing hospital treatment. Clause 64 concerns procedure on certain offences. It is the same as section 149a of the Police Act which deals with expiatory payments to councils by persons guilty of certain offences; but the maximum payment which can be fixed in respect of any offence is raised from 10s. to £1. Clause 65 relates to the payment of certain fines to the Treasurer and is taken from section 149b of Police Act, without alteration. Clause 66—compounding informations and complaints—is the same in substance as section 119 of Police Act, but the penalty is increased from £10 to £50.

Clause 67 concerns general search warrants and is taken from section 56 of the Police Act with minor verbal changes only. No alteration in the powers of the police is proposed. Clause 68 refers to the power to search suspected vehicles and persons. It is the same in substance as section 58 of the Police Act, but the expression "stolen goods" is extended to cover goods obtained by any felony or misdemeanour, *e.g.*, goods obtained by fraud, misappropriation and other dishonest means not amounting to larceny. Clause 69 relates to power to board vessels and reproduces section 60 of Police Act with verbal drafting alterations only. Clause 70 deals with the power to stop and search vessels. It is the same as section 61 (1) of Police Act, but the power to enter is extended to cases where the police officer has reasonable cause to suspect that any offence (not merely a felony as at present) has been or is about to be committed on the vessel. Subsection (2) of section 61 of the Police Act, dealing with resisting the police, is omitted, being dealt with in clause 6 of the Bill. Clause 71 concerns power to apprehend persons committing offences on ships. It is taken from section 61 of Police Act, but the power of arrest is extended to offences generally, instead of the limited class of offences mentioned in the Police Act.

The meaning of "vessel" is dealt with in clause 72 and is taken from section 59 of Police Act with drafting amendments only. Clause 73 has reference to the power to visit places of public entertainment and is taken from section 63 of the Police Act. This section empowers the police (*inter alia*) to remove prostitutes, thieves and disorderly persons from places of public entertainment. A new provision in the Bill makes it an offence for any person so removed to return to them on the same day. Clause 74 deals with the power to enter licensed premises and reproduces section 64 of the Police Act with only drafting amendments. Clause 75 refers to the power of arrest and is taken from section 65 of the Police Act, but is abbreviated in order to remove repetition and overlapping. No additional powers of arrest are given. The power of the police to arrest a person on suspicion of having "evil designs" (as opposed to an intent to commit an offence) is removed. The fine for failing to give one's name and address

or giving a false name and address to a police officer is increased from £10 to £20. Clause 76 relates to arrest by owners of property. This is taken from section 68b of the Police Act. At present the power only applies where the offence committed is punishable as a misdemeanour upon summary conviction. It is proposed in the Bill to extend this power to any offence with respect to property. Clause 77 deals with the arrest of persons pawning or selling stolen goods and is the same in substance as section 69 of the Police Act.

Clause 78 refers to proceedings on arrest without warrant. This is the same as section 70 of the Police Act with the exception that the provisions requiring officers to keep a record of bail bonds are altered so as to harmonize with the actual practice which has been followed for a long time. Clause 79 concerns the arrest without warrant where a warrant has been issued. It reproduces section 71 (1) (*a*) and section 71 (2) of the Police Act. Section 71 (1) (*b*) is omitted, being covered by clause 75 of the Bill. Clause 80 relates to the right of an arrested person to appear before a justice to apply for bail. This is a new clause. It provides that when a person is arrested without warrant upon suspicion of an offence, and delivered into the custody of the police at a police station, and the officer in charge does not admit him to bail, that officer must, if the arrested person so requests, bring him before a justice if there is one present in order to give him an opportunity to apply for bail. Clause 81 provides power to examine and take particulars of persons in custody. This is the same as section 72 of the Police Act and contains no additional powers for the police. A new subclause has, however, been inserted by way of safeguard for arrested persons. This provides that before a person in custody is medically examined at the request of a member of the police force, the member must inform him of the intention to examine him, inquire whether he desires to be examined by his own private medical practitioner, and endeavour by telephone to secure the attendance of the private practitioner.

Clause 82 relates to general powers, privileges, etc., and is to the same effect as section 8 (2) of the Police Act. It makes it clear that all members of the police force (whether called constables or not) have the powers given by the common law or statute to constables. Clause 83 deals with escapes from custody and is the same in substance as section 72a of the Police Act. Clause 84 is to the same effect as section 146 of the Police Act.

Clause 85 refers to proceedings against persons acting under the Bill. This is on the lines of section 150 of the principal Act but some alterations are made which are in favour of the general public. At present any action against the police for an alleged wrongful act must be brought within two months after the act complained of, and ten days' notice of the intention to bring the action must be given. In lieu of these provisions the Bill provides that the action must be commenced within six months. This alteration is in accord with recent amendments of the law in England where the tendency is to remove the special privileges of public authorities. I have further information relating to the Bill, but as I have explained the clauses in detail I do not think it necessary to further elaborate the matter.

Mr. DUNSTAN secured the adjournment of the debate.

WEIGHTS AND MEASURES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 25. Page 491.)

Mr. TAPPING (Semaphore)—I support this measure which has been brought about by the introduction of electric fuel pumps. The present legislation relates only to petrol pumps, but as electric pumps are being used for kerosene, dieselene and other fuels it is necessary to amend the legislation to cover those uses. The old hand pump is outmoded. Many persons were not satisfied that they were getting their full measure of petrol from hand pumps, although they did not blame the person selling the petrol. It was due to the set-up of the pump and evaporation and a certain amount was lost because of the dripping that occurred when a purchase was made. I welcome the innovation of electric pumps because it obviates any loss and is to the advantage of the garage proprietor and the motorist. The cost of installation is high, but is warranted.

Section 57 of the principal Act is to be amended to enable the Governor to make regulations relating to the annual licence fee. In 1939 the annual fee was not to exceed 10s. 6d., but I can quite imagine that with the change in monetary values that amount would be equal to £2 or £3 today. No limitation is now proposed for the fee to be charged. Inspectors periodically conduct tests to see that pumps comply with the regulations. Clause 4 amends section 68 and relates to goods sold in packages. In future it will be mandatory for the net weight to be marked on the container.

If goods going interstate are not of fair weight there could be serious trade repercussions. This provides a protection and will reveal to other States the necessity of introducing similar legislation and ultimately there may be uniformity throughout the Commonwealth.

During the war it was my experience that some goods were being sold under-weight, but with the competition of the post-war era that practice has been discouraged. Any legislation that has for its purpose the protection of manufacturers and consumers should receive our support. Drinking glasses have some relation to the Weights and Measures Act. When I was in New South Wales recently I noticed that the law provided that all drinking glasses there were to be stamped with the number of ounces they contained. They have five, 10, 15, and 20-ounce glasses and the person ordering a glass of beer or aerated water is assured that he will get fair measure. The New South Wales system is worthy of emulation here because it safeguards the consumer.

Mr. Brookman—Is it worth all the trouble of stamping glasses?

Mr. TAPPING—Any legislation which protects consumers is worthy of serious consideration. This is progressive legislation and I support the second reading.

Bill read a second time and taken through Committee without amendment; Committee's report adopted.

EMPLOYEES REGISTRY OFFICES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continuel from August 27. Page 547.)

Mr. O'HALLORAN (Leader of the Opposition)—This is not a particularly contentious Bill. I think I can express fairly the opinion of this side of the House when I remark that we have no violent opposition to it. Perhaps there are one or two points that may have to be examined in Committee, but the principles sought to be established are entitled to the sympathetic consideration of Parliament. If the Bill demonstrates anything, it is that it is unwise to fix hard and fast monetary terms in any legislation. The section relating to fees was last considered in 1915. They are set out in the fifth schedule, where there is an elaborate list of charges, ranging from 1s. 6d. to be paid by the employee and 2s. by the employer where the wage does not exceed 5s. a week, up to 7s. and 9s., respectively, where the wage exceeds 35s. a week. The registry offices, therefore, receive a minimum fee of 3s. 6d. and a maximum of 16s., but those fees are out of all proportion to present money values. The schedule in the Bill is not nearly as lengthy as that in the Act. It is proposed that where the engagement is for less than one week there shall be a payment of 10 per cent of the total remuneration by the employee and 12½ per cent by the employer to the registry office. Where the engagement is for more than one week the same percentages apply, but they are to be calculated on the gross weekly wage to be received by the employee. Where the engagement is for a longer period a payment of £1 by both employer and employee is proposed. That is an improvement on the present system, though I do not know why a percentage was not used in regard to the third class of engagement.

Of course, it is a moot point whether registry offices should be permitted to continue. Not many years ago, when we had a perfect system of Commonwealth offices for the registration of persons for employment, a great service was rendered to people seeking employment and to employers seeking labour. That system was established by a Commonwealth Labor Government as part of the rehabilitation programme after the war. Unfortunately, the present Government has considerably curtailed the activities of those offices in country districts, because many of them have been closed during the last two or three years. For instance, there was one at Peterborough, which is the centre of a large district where there is a considerable amount of itinerant employment associated with special railway work and the pastoral industry. Peterborough was an ideal place for a Commonwealth employment office. In addition to dealing with employment matters, these offices dealt with social service schemes and could offer assistance in regard to pensions and many other services maintained by the Commonwealth Government. A great disservice has been done to the community by closing those employment bureaux. The first step at Peterborough was to reduce the period when the office was open from the whole of the week to a day and a half. When it was closed an agent was appointed. He is an excellent gentleman, but he has his own work to do and consequently has not sufficient time to devote to the activities of the department. The office at Clare, and I understand one or two others in various parts of the State were closed. Be that as it may, the Commonwealth Employment Office operates in the metropolitan area,

Port Pirie, Gawler, and one or two other towns. For that reason it has been put to me that there is no need for private employment agencies to operate, but I do not agree. Provided they are properly regulated and conducted they offer a service. There are certain types of employment in which they can please people better than the office which looks at employment in the mass. Certain employers like to know that the employees they are getting from an agency will be suitable for the work offering, and if they apply to a general agency where there is a large number of unemployed persons registered they will get a rule of thumb selection, whereas from the private agency they will get persons recommended for the work. People who desire to patronize private agencies can do so and pay a fee for the service rendered, or if they do not like the private agency can get a free service from the Commonwealth Employment Office, and I see no reason why the two types of employment agency should not work side by side, and for that reason I support the second reading. The matter of increasing fees because of the change in money values might be looked at by the Government in other directions. For instance, in the Local Courts Act there is a protection to workers in industry when their property is subject to distraint. Certain items are specifically mentioned as not subject to distraint. The amount of the protection is £20, but at some appropriate time the Minister might consider whether the amount should be increased to £100. Mr. Hawker has given notice of an amendment, which I have examined hurriedly, and which seeks to put our basis of fees on the same level as the Western Australian basis. I shall be pleased to hear the honourable member explain his amendment more fully, and when this Bill reaches the Committee stage the Minister might report progress so that members generally might have the opportunity to see if the Western Australian system is worthy of adoption here. With that reservation I support the second reading.

Mr. HAWKER (Burra).—I support the second reading and in Committee will move an amendment dealing with the scale of fees. The present scale was fixed in 1915. In his second reading speech the Premier pointed out that in those days the fees were about 20 per cent for the employees and 25 per cent for the employer of the highest weekly wage mentioned, namely 35s. The Bill fixes 10 per cent for the employee and 12½ per cent for the employer. The Premier also said, and I agree, that on the present fees it is impossible for the private agency to operate. These private agencies have a place in the community and are of particular use to country people who like to have someone they know interviewing prospective employees for them. It also cuts the other way. If the proprietor of a private agency knows the employer he can tell the man being engaged what he will be expected to do. Because of this we avoid having a man moving his family and furniture to a place and then finding that the job is not to his liking. This is associated with the matter I raised in connection with the landlord and tenant legislation. At the present fees no proper investigation can be made and the result is that we have few private agencies in this State. They have been gradually squeezed out and the country people find the position difficult. When the legislation was passed in 1915 the Parliamentary draftsman of that time said it was necessary for three reasons—to prevent exploitation especially of employees, to prevent the use of registry offices for unlawful and undesirable purposes, and to see that the proprietors were of good character and that their premises were properly kept.

Regarding the first, I think we should accept the Western Australian system. At present in South Australia there is no chance of exploitation of people because we have a Commonwealth Employment Office, which has functioned for some time, but its activities have been curtailed slightly. They were always more widespread than those of any private agency, which operated in the city only. The Commonwealth Employment Office has branches at Port Adelaide, Gawler, Mount Gambier, Port Augusta and Port Pirie, and agents at Barmera, Clare, Peterborough and Port Lincoln. The Western Australian Act has been in existence since 1909, long before we had a Commonwealth Employment Office. In that State the registry office must deposit with the Minister its scale of fees, and it must be displayed in the office in a prominent position. The employee cannot be charged more than the employer. There is no regulation fixing fees. In Western Australia the private agency usually charges the equivalent of one week's wages, divided between employer and employee. Not all the agencies make this charge. The Pastoral Labor Bureau charges the employer £3; the Commonwealth Employment Office makes no charge for its service. There are 15 private agencies operating in the

metropolitan area. They engage between 4,000 and 5,000 persons a year. The Commonwealth Employment Office engages about 30,000 a year. It has 11 branches or agents and advertises in *Elders Weekly*, the equivalent of our *Stock and Station Journal*, that no fees are charged to employer or employee. In spite of the free service available in Western Australia there are 15 private employment agencies there which charge up to one week's wages for their services. There cannot be any exploitation so long as the Commonwealth Employment Service is in existence in this State. In addition, there also exists here the Stockowners' Association, the Stockowners' Shearing Company and various stock firms with agencies or branches scattered throughout the country, and these organizations provide free service to their clients. Any private agency has to fix fees that will attract business, and must give service for the fee or its clients will avail themselves of the services I have mentioned, including the Commonwealth service; they may also use the medium of advertising in the daily press. I propose moving an amendment to this Bill to bring it in line with the Western Australian Act, that is, to allow private employment agencies to fix their own fees. They would have to submit them to the Minister and display them in a conspicuous place, and also they could not charge any employee more than any employer. If their fees are higher than their services are worth, nobody need go to them. These private agencies are an excellent thing, particularly for country people who perhaps cannot come to the city to interview prospective employees, and they will keep the Commonwealth service on its toes, as is evidently the case in Western Australia where that service was forced to advertise and point out that it was free. With the reservations I have mentioned I support the second reading of the Bill.

Mr. BROOKMAN (Alexandra)—In supporting the Bill I commend Mr. Hawker for adding his point of view to the debate. It is all too easy to fall into the belief that private employment agencies should be just tolerated and that they have no particular value to the community, but in fact they are performing a very worth while service to the community and should be greatly encouraged. They render a valuable service because they know the requirements of their clients through dealings with them in the past, and they also provide competition for the Commonwealth Employment Service, and although small, it is nevertheless a valuable factor in keeping that department up to the mark. I do not wish to deride the Commonwealth service, which has done a sound job and is to be commended, but the private agencies provide a service which is appreciated by their regular clients. The charges set out in the Bill are very reasonable, but at the same time Mr. Hawker's proposals are interesting and if moved today I would be inclined to support them. It seems that no harm can result, because the charges are submitted to the authorities.

Mr. O'Halloran—What control has the department over the charges?

Mr. BROOKMAN—If they are displayed properly in the registry office it is impossible to exploit anyone, particularly when the Commonwealth Employment Service is just around the corner from these private agencies. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Progress reported; Committee to sit again.

OFFENDERS PROBATION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 27. Page 551.)

Mr. DUNSTAN (Norwood)—I oppose this Bill. The Act gives to courts of summary jurisdiction the power to release offenders on probation without proceeding to a conviction. It followed the provisions of the Minor Offences Bill, an enactment which had been in force prior to the passing of the Offenders Probation Act in 1913. This Act was brought into force as a result of a very comprehensive report submitted to Parliament by the then president of the Howard Reform League, and the purpose of the Act was very clear, namely, to provide for remedial treatment of offenders by the courts. That is, it provided that if the courts considered fit a man should be released upon a bond in order that he might be rehabilitated in the community, but that nevertheless within the period of his rehabilitation the community should have the power held over his head of being able to sentence him if he showed that he was not prepared to take the opportunity for rehabilitation. The basic provision was for remedial rather than punitive treatment of offenders. There was a differentiation between major offences, triable by

indictment, and minor offences, triable summarily, because it was felt that major offences were such that it was obvious for the protection of the community that a conviction should be recorded. In the case of minor offences it was obvious to the Parliament of the time that if a man were to be rehabilitated in the community it would be better not to have any conviction attaching to his name for the reason that a conviction would make his rehabilitation much more difficult. The proposal now before the House seeks to take away that limitation and to give to the courts of summary jurisdiction power to convict prior to releasing upon a bond.

When a man comes before a court of summary jurisdiction and seeks release on a bond the court does not convict, but releases him on a condition that for a certain period he shall be of good behaviour, and it may attach other conditions to the bond. If he breaks the condition relating to good behaviour or any other condition he may be called up for conviction and sentence on that same offence. It is wise that members should remember that this may happen if he does not take the opportunity of rehabilitation. What would happen in regard to these minor offences if a man were released after conviction? In the vast majority of cases a conviction by the court entails far greater penalties for summarily triable offences than the legislation has contemplated. Those members who have practised before the court know of cases in which men have appeared and pleaded guilty and have been released upon a bond without conviction, but had they been convicted, in addition to the penalty of a bond being imposed, they would have lost their jobs. Only recently I had a case where a man was released upon a bond, and the only thing that kept him in his job was that he had not been convicted by the court. Had he been convicted, not only would he have been turned out on to the street to look for another job, but he would have lost his long service leave as well.

The Hon. M. McIntosh—Not necessarily, for that would be at the discretion of the Executive.

Mr. DUNSTAN—This man was not a public servant. The reasons given for this Bill are three-fold. The first is that it is desirable in some cases that the stigma of a conviction should attach to an accused person, but, if the aim of the legislation is the rehabilitation of the individual in society, how can the stigma of a conviction assist in that rehabilitation?

Mr. O'Halloran—It will have the reverse effect.

Mr. DUNSTAN—Yes, and the man will not be rehabilitated in the community to nearly the same extent. He will not be one jot better off for over his head is the provision of the bond that, if he does not comply with its provisoes, he will be convicted and sentenced and his bond estreated. The second reason given for the introduction of this Bill is that in some cases the heavier penalties provided for second offences would not apply because a man had not been convicted on his first offence. Let us examine that proposition. In the first place, if he committed a second offence during the period of bond the argument would not apply, for he would be brought up, his bond estreated, and he would be convicted and sentenced on the first offence, and the heavier penalties for a second offence would apply on his second offence. However, if he committed a second offence after the termination of the period of the bond, what would happen? In hardly any cases of first offence is the maximum penalty for the first offence imposed. He would come before the court and on being convicted of the second offence details of his first offence would be placed before the court, even though he had not been convicted on it. Not only must convictions be disclosed by the police on the question of a penalty, but the whole of the accused's record known to the police is material and, consequently, the accused would get the maximum penalty provided for a first offence.

The third reason given for the introduction of this Bill is that a magistrate who wished to release a defendant on a bond on condition that he went to a mental asylum felt that it would have been advisable to have convicted him. It is difficult to see what benefit there could have been either to the defendant or society in such a conviction. There would have been none whatsoever. The man was released on a bond and stringent conditions imposed on him that he must obtain mental treatment. In the case of his failure to comply with the provisions of the bond, he would come up before the court and his bond would be estreated.

The Hon. M. McIntosh—What benefit will result from the defeat of this Bill?

Mr. DUNSTAN—It will mean the maintenance of the *status quo*.

The Hon. M. McIntosh—Won't that make things worse?

Mr. DUNSTAN—I can see neither the purpose of the Bill nor how it will make things

better by giving this power to Courts of Summary Jurisdiction. We are faced with the fact that Courts of Summary Jurisdiction are likely, in most cases, to release a defendant after conviction rather than without conviction. Those members who have had experience in Courts of Summary Jurisdiction are aware that many magistrates, although not all by any means, unfortunately have a tendency to write down such provisions as deal with trivial offences or convictions without penalties. It is only human to err, and it would be extraordinary if all magistrates who deal continually with minor criminal matters did not, in fact, adopt that attitude, which is evidenced in their interpretation of the trivial sections of the Justices Act, which are written down so far that they are almost never used. A dismissal for triviality is a far greater rarity in our courts than was the original intention, so in many cases, if this Bill is passed, a man will be released on a bond after conviction and the conviction will, to a large extent, take away the very benefits which the legislature sought to give to that individual by the provision for a bond, for it will make his rehabilitation in society much more difficult and will mean that in many cases the penalty attaching to the individual will be far greater than the legislature envisaged by the enactment of the penalties in the Act under which he has been charged. I enjoin members to pay close attention to this matter, for I feel it is something which has been brought forward as a result of a remark by a magistrate in the Adelaide Police Court, and I submit that on an examination of the case in which the learned magistrate made that observation there is no support for his contention that it is desirable to have the power to convict. In fact, I am aware that many magistrates do not agree with him on this matter, for they feel that the present provisions of the Act are adequate.

The Hon. M. McIntosh—You are referring to the magistrate's power to release on a bond after conviction?

Mr. DUNSTAN—Yes. This provision will give no benefit to anybody and may do serious harm to the purpose of the existing legislation. It takes away the remedial effect of the legislation and substitutes a punitive measure which would seriously detract from the original purpose of the Act which is to give the individual a chance to reform with the safeguard that, if he does not reform, he will have his bond estreated. Society is adequately protected by the existing provision and the Bill will make it more difficult for a person to be rehabilitated. No good will come of this to society and much harm may accrue to the individual who is dealt with under the proposed provisions; therefore I oppose the Bill.

Mr. MICHAEL secured the adjournment of the debate.

ADJOURNMENT.

At 4.12 p.m. the House adjourned until Tuesday, September 29, at 2 p.m.