LEGISLATIVE COUNCIL.

Tuesday, August 18, 1953.

The PRESIDENT (Hon. Sir Walter Duncan) took the Chair at 2 p.m. and read prayers.

QUESTIONS.

TYPHOID BACTERIA IN DESICCATED COCONUT.

The Hon. F. J. CONDON—I understand that the Advisory Committee on Food and Drugs has submitted regulations regarding the disposal of desiccated coconut stocks. Can the Minister of Health say what those regulations are and what is the position relating to control?

The Hon. A. L. McEWIN—A certain brand of coconut from Papua has been tested and an infection, related to the typhoid germ, causing gastro-enteritis has been discovered. The public has been advised against using that brand of coconut and it is a contravention of section 111 of the Health Act to sell it. That section relates to food which is injurious to health or not fit for human consumption. The committee was asked whether a further regulation was required and a recommendation has been made which will be considered by Executive Council next Thursday. In the meantime the position is covered because the particular brand of coconut cannot be sold without infringing existing legislation.

TEACHERS' DEPUTATION.

The Hon. E. ANTHONEY—Has the attention of the Minister of Education been drawn to a statement in the South Australian Teachers' Journal alleging that he refused to receive a deputation from the South Australian Institute of Teachers? Is there any truth in that statement?

The Hon. R. J. RUDALL—I have never refused to receive a deputation from the executive officers of the South Australian Institute of Teachers. At one such deputation it was asked that, where any matter affecting teachers or certain groups of teachers had been brought forward and I had not agreed to the proposal, I would then receive a further deputation from the teachers immediately concerned. I pointed out to the officers of the Institute that this appeared to me to be rather a vote of no confidence in themselves and that from my previous experience they were quite capable of putting forward everything which could be said in favour of any proposition which they were submitting to me. I said that I felt it was only a waste of my time under these circumstances to hear the same arguments all over again but I said that if the teachers concerned felt that all the arguments might not have been submitted to me they were at perfect liberty to put them in writing and submit them to me. I still think that the officers of the Institute are perfectly capable of putting forward all the arguments in respect of any proposition which affects the teachers and I still feel that the decision I made is in the best interests of everyone.

EXCEPTED PERSONS: LICENSING ACT.

The Hon. F. J. CONDON—I ask leave to make a statement with a view to asking a question.

Leave granted.

The Hon. F. J. CONDON—It has been suggested to me that a number of persons have been wrongly convicted under section 203 of the Licensing Act which reads:—

(1) Any person, other than an excepted person, who during any day or time during which the sale of liquor is prohibited by law is present in any room or other part of any licensed premises, which room or part—

(*a*) adjoins any bar-room on such premises or any place therein where liquor is kept for sale or is stored; and

(*b*) has any door or other entrance or means of any kind by which admission can be gained to such bar-room or any place; or

(*c*) has any aperture or other means of any kind through or by which any liquor can be delivered or obtained from such bar-room or place,

such door, entrance, means, or aperture being at the time open or unlocked, shall be guilty of an offence. . . .

(2) Any person other than an excepted person who is present on any licensed premises during any Sunday or Good Friday, except between the hours of one o'clock in the afternoon and half-past two o'clock in the afternoon and between the hours of six o'clock in the evening and eight o'clock in the evening or during any Christmas Day except between the hours of nine o'clock and eleven o'clock in the morning and between the hours of one o'clock and half-past two o'clock in the afternoon and between the hours of six o'clock in the evening and eight o'clock in the evening, or at any time on any other day except between the hours of five o'clock in the morning and eleven o'clock at night shall be guilty of an offence. . . .

Can the Attorney-General say whether the Crown Law Department has submitted an opinion on this section and if not will he ask for an opinion?

The Hon. R. J. RUDALL—The honourable member notified me that he would ask whether the Crown Law Department had given an opinion that it was not an offence for an excepted person to be found in a bar-room during any hours. I have had the records searched but so far as I can ascertain the Crown Solicitor has not been asked to advise on this question and no instructions have been issued in the manner suggested.

The Hon. F. J. CONDON—Will the Chief Secretary ascertain if police officers have been instructed not to prosecute in such cases?

The Hon. A. L. McEWIN—Yes.

ABOLITION OF PRICE CONTROL.

The Hon. E. ANTHONEY—Is the Chief Secretary aware that the Queensland Cabinet ordered a comprehensive inquiry into the administration of the department controlling prices in that State with a view to completely abolishing price control on non-essential goods? Is that also the intention of this Government?

The Hon. A. L. McEWIN—I thought that if anything was well advertised it was the Government's policy regarding price control, which is to relinquish it wherever possible. Therefore it would not be necessary to institute an inquiry into the working of the department, because, at the first opportunity as ample supplies became available, particularly goods not essentially associated with the "C" series index, the Government will cease to exercise control.

OFFENDERS PROBATION ACT.

The Hon. F. J. CONDON—Has the attention of the Attorney-General been drawn to criticism by a Magistrate of the limitations of the powers under the Offenders Probation Act and, if so, what action does the Government intend to take?

The Hon. R. J. RUDALL—My attention has not been drawn to the matter, but if the honourable member will give me particulars I will be glad to consider the question.

BIRDSVILLE STOCK ROUTE.

The Hon. W. W. ROBINSON—I ask leave to make a short statement with a view to asking a question.

Leave granted.

The Hon. W. W. ROBINSON—I draw the attention of the Council to the competition taking place by the neighbouring State of Queensland for cattle supplies from the Northern Territory. Queensland has built a series of reservoirs or dams to facilitate stock movements to that State and there is also a suggestion to extend the railway line from Townsville to Djarra into the Territory to take cattle north. This competition is having an influence on the number of cattle coming to our abattoirs, and I noticed last week that the numbers were down to about 1,700. This shortage added £5 per animal to the price and this, of course, was reflected in the price of beef to the consumers. Therefore I think it behoves this State to do all in its power to attract cattle here. I know that the Commonwealth Government intends, as soon as possible, to extend the broadening of the line from Leigh Creek to Marree, but certain things should be done in the meantime.

The Hon. C. R. Cudmore—I think we had better have the question.

The Hon. W. W. ROBINSON—It is a serious matter and I think this Council might give it a few minutes thought. When we were at Marree last year a meeting of stock owners was held and, amongst other things, they asked that the artesian bores be examined with a view to their reconditioning. Has the Government received a report from the Engineer-in-Chief with reference to the complaint by the stock owners regarding the unsatisfactory condition of the artesian bores on the Birdsville track and does it intend to make provision in the Estimates for grading of the Birdsville track from the New South Wales border to Marree?

The Hon. A. L. McEWIN—I ask the honourable member to put the question on the Notice Paper.

INFLAMMABLE OILS ACT.

The Hon. S. C. BEVAN (on notice)—Is it the intention of the Government to introduce legislation to amend the Inflammable Oils Act, 1908-1935, to provide for continuous supervision of licensed stores?

The Hon. A. L. McEWIN—The matter is being considered. It is understood that difficulty has been experienced in regard to the employment of part-time watchmen.

DENTAL HOSPITAL EXTENSIONS.

The PRESIDENT laid on the table the report of the Parliamentary Standing Committee on Public Works on the Dental Hospital extensions, together with minutes of evidence.

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT AMENDMENT BILL.

The Hon. A. L. McEWIN (Chief Secretary) having obtained leave, introduced a Bill for an Act to amend the Maintenance Orders (Facilities for Enforcement) Act, 1922-1925. Read a first time.

The Hon. A. L. McEWIN—I move—

That this Bill be now read a second time.

The principal object of this Bill is to extend the application of the Act to United Nations Trust Territories under British rule. The Maintenance Orders (Facilities for Enforcement) Act provides for the reciprocal enforcement of maintenance orders made in England or Ireland or so-called "reciprocating States" and South Australia. A maintenance order made outside the State cannot be enforced here under the Act unless it is made in England or Ireland or in a reciprocating State, neither can a South Australian order be enforced except in England or Ireland or a reciprocating State. Under the Act "reciprocating State" means any part of Her Majesty's Dominions proclaimed by the Government to be a reciprocating State. The attention of the Government has been drawn to the fact that because of the way in which the Act is framed reciprocity is not possible with the Territory of New Guinea. The question arose when the Children's Welfare and Public Relief Board investigated the possibility of taking proceedings against two persons living at Rabaul in the territory of New Guinea. The Crown Solicitor advised that the territory of New Guinea, as a United Nations Trust Territory, although administered by the Commonwealth of Australia, is not part of Her Majesty's Dominions, and therefore does not come within the definition of a State which could be proclaimed a reciprocating State. The Government believes that reciprocity should be possible with territories such as New Guinea and accordingly is introducing this Bill.

Clause 3 amends the long title of the principal Act consequential upon the extension of the Act to United Nations Trust Territories. Clause 4 amends section 2 of the principal Act by inserting a definition of "His Majesty's Dominions." The definition enlarges the meaning of that expression to include United Nations Trust Territories. Members will notice that the expression "His Majesty" has been used in the amendment. This has been done for the sake of consistency with the language of the principal Act. By virtue of the Acts Interpretation Act the expression "His Majesty" is synonymous with "Her Majesty."

Clause 4 makes a consequential amendment to the definition of Governor in section 2 of the principal Act and makes possible the extension of reciprocity to Scotland, should that ever be wanted. Under the principal Act reciprocity is only possible with England or Ireland or a reciprocating State outside the United Kingdom, so that Scotland is completely excluded. The Act appears to have been so framed merely because Scotland was completely excluded from the English Maintenance Orders (Facilities for Enforcement) Act. However, the exclusion of Scotland from the English Act did not, in fact, necessitate the complete exclusion of Scotland from the South Australian Act. Provision could have been made for the proclamation of Scotland as a reciprocating State. Clause 4 makes it possible to proclaim Scotland as a reciprocating State should reciprocity with Scotland ever be desired.

The Bill amends an evidentiary provision in section 6 of the principal Act, which deals with the confirmation by a South Australian Court of a provisional maintenance order made outside the State. Under the section the defences available to the person against whom the order is directed are limited to the defences available in the country where the order was made. The section states that a certificate given by the court which made the order, naming the grounds of defence available, shall be conclusive evidence that the grounds are grounds on which objection may be taken. The certificates are frequently inadequate and sometimes inaccurate, but the word "conclusive" in the Act makes it necessary for the court to accept the certificate as correct, even if it thinks it wrong. Clause 5 therefore amends section 6 by replacing "conclusive" with *prima facie*. This will enable the court to look behind the certificate to ascertain a foreign law. Clause 6 amends section 12 of the principal Act consequential upon the provisions of Clause 4.

The Act requires that maintenance orders shall be transmitted from the court of one State to the court of another through the medium of the Governors of the States concerned. This sometimes leads to what appear to be unnecessary delays. The attention of the Government has been drawn to the cumbersome procedure followed in the exchange of orders between South Africa and Australian States. Every order, whether made in South Africa or an Australian State, has to pass through the hands of the South African Department of

External Affairs. It seems that this is superfluous and that everything necessary could be done by the South African Department of Justice. The Government thinks that every effort should be made to prevent delay in a matter such as this. Clause 7 therefore makes an amendment to the principal Act calculated to shorten the procedure. It inserts a new section at the end of the principal Act enabling the Governor to proclaim a person, in lieu of the Governor of a reciprocating State, to or by whom maintenance orders may be transmitted. This will enable maintenance orders made in South Australia to be addressed to some person other than the Governor-General of South Africa, and orders made in South Africa to be received from some person other than the Governor-General.

The Hon. F. J. CONDON secured the adjournment of the debate.

MENTAL DEFECTIVES ACT AMENDMENT BILL.

The Hon. A. L. McEWIN (Minister of Health), having obtained leave, introduced a Bill for an Act to amend the Mental Defectives Act, 1935-1950. Read a first time.

The Hon. A. L. McEWIN—I move—

That this Bill be now read a second time.

Section 32 of the Act deals with the detention of patients in receiving houses and wards. It provides that where a medical certificate has been given in the form of the second schedule to this Act, namely, that a person is mentally defective and that he is a proper person to be taken charge of and detained under care and treatment, the justice or justices dealing with the matter may, in lieu of ordering the detention of the patient in a mental hospital, direct that he be removed to a receiving house or ward for a period not exceeding seven days. Section 33 provides that, where a patient is received in a receiving house or ward pursuant to section 32, the patient must be medically examined and brought before a justice within seven days of his detention and thereafter at periods not exceeding seven days. The section also provides that the total period of detention must not exceed six months. Thus, the Act contemplates that there should be at least a weekly examination of a patient in a receiving house or ward and a weekly order by a justice for his detention.

The Superintendent of Mental Institutions has pointed out that, when these provisions were first enacted many years ago, it was likely that the Enfield Receiving Home was regarded as a kind of sorting out institution for persons admitted under section 32, and that, within a short time after the reception of a patient, it could be decided whether he should be sent on to a mental hospital or discharged. In fact, treatment is given to advantage at Enfield of persons who are mentally defective to a degree which would warrant their being detained in a mental hospital and many of these acute cases respond to treatment and are able to be discharged as recovered or relieved within a varying period of a few weeks or a few months. In these cases, however, it is rare that appropriate treatment can be given in a week or so and the Superintendent states that it is not in the interests of the patient to have him formally examined and interviewed by a justice each week as is now required by section 33.

Another difficulty inherent in the present requirement of a weekly examination arises when it is considered that a patient is suitable for trial leave. If it is still considered necessary that the patient should be subject to the Act and cannot be discharged, the necessity for a weekly examination must, of necessity, militate against trial leave, particularly if his home or the place where the patient goes for his trial leave is in the country. The Superintendent has therefore suggested that sections 32 and 33 be amended to provide that the period for which an order can be made be extended from seven to 30 days and this is provided for by clauses 2 and 3. The effect of the amendments proposed will be that a person may be ordered into a receiving house or ward for a period of up to 30 days and that he cannot be detained there for any further period exceeding 30 days without the requisite medical examination and order of a justice being made. It should be borne in mind that before section 32 can be applied to any person he must have been certified as mentally defective. No alteration is made to the existing provision of section 33 which limits the total period of detention to six months.

Clause 5 amends the eleventh and thirteenth schedules which are consequential upon the amendments proposed by clauses 2 and 3. Clause 4, which amends section 76 of the Act, is complementary to clauses 2 and 3. Section 76 provides for the granting of trial leave to patients in institutions. Clause 4 provides that this section is to apply to patients detained in receiving houses and wards and similar places under section 32, 34, 35 or 36, and provides that any such patient may be

granted leave for any period not extending beyond the expiration of six months from the time when he was detained, that is, the period under which a patient may be detained under the powers given by those sections.

The Hon. F. J. CONDON secured the adjournment of the debate.

JOINT COMMITTEE ON CONSOLIDATION BILLS.

A message was received from the House of Assembly requesting the concurrence of the Legislative Council in the appointment of a Joint Committee on Consolidation Bills.

The Hon. A. L. McEWIN moved—

That the Assembly's request be agreed to and that the members of the Legislative Council to be members of the Joint Committee be the Chief Secretary, the Hon. C. R. Cudmore, and the Hon. K. E. J. Bardolph, of whom two shall form the quorum of Council members necessary to be present at all sittings of the committee.

Motion carried.

LICENSING ACT AMENDMENT BILL.

The Hon. C. R. CUDMORE (Central No. 2), having obtained leave, introduced a Bill for an Act to amend the Licensing Act, 1932-1949. Read a first time.

ADJOURNMENT.

At 2.43 p.m. the Council adjourned until Wednesday, August 19, at 2 p.m.