LEGISLATIVE COUNCIL.

Tuesday, August 20, 1963.

The PRESIDENT (Hon. L. H. Densley) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS.

MEDICAL BENEFITS.

The Hon. K. E. J. BARDOLPH: In view of the recent intimation by the Commonwealth Minister for Health (Senator Wade) that the Commonwealth medical benefits scheme will not be revised until the Australian Medical Association has stabilized its fees, can the Minister of Health say whether the Commonwealth Government is using this as a pretext to avoid paying increased medical benefits to the community?

The Hon. Sir LYELL McEWIN: I think a matter dealing with the policy of another Government is one best referred to someone representing the honourable member's interests in that Parliament and I suggest that he ask the question through one of his colleagues in the Commonwealth Parliament.

MINISTER'S ANSWERS TO QUESTIONS.

The Hon. C. R. STORY: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. C. R. STORY: I noticed in a column in the *Advertiser* of Saturday last that certain references were made to the Minister of Local Government being evasive in certain action he had taken in this Council. I do not believe that to be so. Has the Minister seen the reference, has he any information to give the Council on the matter and does he believe that he was evasive? I refer particularly to the column in the *Advertiser* subscribed to by the Australian Labor Party.

The Hon. N. L. JUDE: I am not aware of the actual reference that was made but another was brought to my notice in one of the editions of the *News* of Saturday last. I have no hesitation in this place in leaving it to the judgment of honourable members whether I gave an evasive answer or not. When I give answers in this place they are straightforward and I take the strongest exception to an honourable member going outside the Council and saying that I gave evasive replies. The reply I gave to the honourable member concerned was:

> I have no further information to hand, but, as I promised the honourable member, I will let him have it as soon as possible.

Even with the honourable member's limited knowledge of architecture and that sort of thing, I would imagine that with a plan envisaging an expenditure of more than £1,000,000 he could not reasonably expect an answer within a few days. That is my explanation.

EDITHBURGH FISHING FACILITIES.

The Hon. L. R. HART: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. L. R. HART: Some time ago a plan for a breakwater to serve fishermen at Edithburgh was referred back to the Harbors Board with suggested modifications. Undue delay seems to be occurring in the production of a revised plan for the project, which is a comparatively small one, involving an expenditure of about £13,000. The fishermen at Edithburgh have battled on for many years with obsolete facilities. Can the Minister representing the Minister of Agriculture say when a plan for the work will be available and when it is expected that a start will be made on the project?

The Hon. Sir LYELL McEWIN: The honourable member says that this matter that has been referred to the Harbors Board is not very big as it involves only £13,000, but I imagine it represents something in view of the nature of the work proposed and the surrounding circumstances. I will refer the honourable member's question to my colleague, the Minister of Agriculture, to ascertain the true position.

CAR PARKING.

The Hon. K. E. J. BARDOLPH: I ask this question of the Minister of Railways, with his limited knowledge of the running and management of the railways.

The Hon. G. O'H. GILES: Mr. President, I object to that remark against a colleague. I think it is totally untrue and that the honourable member should withdraw it.

The PRESIDENT: Does the Minister of Railways require the withdrawal of that statement?

The Hon. N. L. JUDE: No, Mr. President.

The Hon. K. E. J. BARDOLPH: I was going to ask the Minister to withdraw his earlier remark about my limited knowledge of architecture. However, has the Minister any reply to the questions that I have asked about parking over the Adelaide railway station?

The Hon. N. L. JUDE: The answer is that I have certain information that has been forwarded to me in conjunction with this matter, but no official report has been formulated yet, and cannot be for a considerable time. I think that other honourable members will appreciate that, even if the honourable member does not.

PORT WAKEFIELD ROAD.

The Hon. M. B. DAWKINS: Has the Minister of Roads an answer to my question on August 13 about the Port Wakefield Road and the speed limit restriction up to a point north of Dry Creek?

The Hon. N. L. JUDE: I have received the following report from the Commissioner of Highways:

Speed zone studies have been undertaken on a priority basis by the Road Traffic Board, each road being treated on its merits with respect to accidents, prevailing speeds and the existing traffic conditions.

A comparison has been made in the question with a section of the Main North Road and a section of the Yorke Peninsula Main Road. The section of the Main North Road is a dual pavement, whereas that of the Yorke Peninsula Main Road is a single pavement.

It is proposed to commence duplication of the Yorke Peninsula Main Road north of Gepps Cross during the present financial year, when the Road Traffic Board will consider speed zoning.

MILE POSTS.

The Hon. C. R. STORY: Has the Minister of Roads a reply to my questions of August 13 about the placing of mile posts at distances apart greater than one mile, the cost of each mile post and how many miles of highway had already been mile-posted?

The Hon. N. L. JUDE: I have obtained the following report from the Commissioner of Highways:

Approximately 2,000 miles of highways have been mile-posted to date. All national routes have been completed with the exception of a section on the West Coast which is under reconstruction; 300 miles of major highways such as Main Roads No. 6 and No. 22 have also been completed. The average cost per mile-post erected is £7, of which £3 5s. 6d. is the cost of the actual post and figurations.

From the motorists' point of view, perhaps mile-posts placed at five-mile intervals might suffice, but the prime function of the posts is their value to the department for departmental inventories, statistical information and maintenance requirements, and to define the position of road furniture, structures, stockpiles, etc.

I remind the honourable member that telephone posts on main roads, too, are numbered for similar purposes. The report continues:

It is also proposed that accident records be related to mile-posts in order that proper accident studies can be made of particular lengths of roads. The posts will also be used as reference points for locating inferior lengths of roads, accidents and breakdowns in isolated areas such as occur on the Nullarbor Plain where there are no other ready means of identification.

The Hon. C. R. STORY: In view of the fact that on the figures supplied by the Minister it costs £7 for each mile post, will the Minister ascertain whether a saving of £28 in every five miles would not be significant in erecting these mile posts?

The Hon. N. L. JUDE: I will ascertain whether that is so. I think the honourable member has made a mistake; the total cost of each post is £7, including haulage, freight and so forth, together with the gadgets. We have been asked many times, particularly with regard to long-distance roads, to sign-post them every mile. I, too, thought it was not cheap but I assure the honourable member that having done this on the main highways it is possible that district councils with comparatively few posts will be able to undertake the work themselves on roads within those council areas. I think the cost on the main highways, of which we are all proud, is reasonably justified.

WILLUNGA HILL.

The Hon. G. O'H. GILES: Has the Minister of Roads a reply to my question of August 14 about accidents at the top of Willunga Hill?

The Hon. N. L. JUDE: I have received the following report from the Commissioner of Highways:

Because of the small length of reconstruction from the intersection towards Mount Compass, motorists passing through the intersection towards Willunga Hill are inclined to increase their speed and get into difficulties. Existing signs have been altered, but it is realized that more positive protection should be given. An inspection will be made during this week to determine the most satisfactory method of overcoming the problem.

EDUCATION FEES.

The Hon. A. F. KNEEBONE: Has the Minister representing the Minister of Education a reply to a question I asked on July 31 concerning education fees?

The Hon. C. D. ROWE: I regret that I have not a reply here, but I have a note in my bag that the Minister of Education has the reply and I undertake to obtain it for the honourable member tomorrow.

FREE RAIL PASSES FOR STUDENTS.

The Hon. A. F. KNEEBONE: Has the Minister representing the Minister of Education a reply to my question of August 1 regarding free rail passes for students?

The Hon. C. D. ROWE: I regret that I have not a reply here, but the Minister of Education has the reply and I will get it for the honourable member tomorrow.

RAILWAYS COMMISSIONER'S POWERS.

The Hon. K. E. J. BARDOLPH (on notice): In view of the absolute power vested in the Railways Commissioner in connection with railways and railway property, will the Government consider the advisability of amending the South Australian Railways Commissioner's Act to restore to Parliament and the Minister some of the powers now enjoyed by the Commissioner?

The Hon. N. L. JUDE: No such legislation is proposed.

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. Sir LYELL McEWIN (Chief Secretary) 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. Sir Frank Perry, 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.

The Hon. K. E. J. BARDOLPH: Following on the appointment of that committee—and I have been on that committee since I have been in Parliament—I ask the Attorney-General whether it is likely to sit or just remain in perpetuity as a committee?

The Hon. C. D. ROWE: I am not able to say whether the committee will be required to sit or not; it will depend on requirements as they come forward. I think it is an important committee as far as this Chamber is concerned and I think we shall have to wait and see what business transpires before we can determine whether it will have to sit or not. I hope that answer is not evasive.

ELDER SMITH & COMPANY LIMITED PROVIDENT FUNDS BILL.

The Hon. C. D. ROWE (Attorney-General) obtained leave and introduced a Bill for an Act to amend the regulations governing the provident fund and the conditions and rules governing the women's provident fund of Elder Smith & Company Limited and to extend the powers of the trustees thereof respectively and for other purposes. Read a first time.

BALHANNAH AND MOUNT PLEASANT RAILWAY (DISCONTINUANCE) BILL.

Read a third time and passed.

POLICE REGULATION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 14. Page 469.)

The Hon. A. J. SHARD (Leader of the Opposition): I rise to support this Bill, which is introduced as the result of a decision of the Police Commissioner's Conference held in Adelaide recently. The contents of the Bill apply to the Police Regulation Act of South Australia, but only in so far as it concerns misrepresentation of the South Australian Police Force within this State. The amending Bill makes it an offence for any person to hold himself out within South Australia as a policeman or officer of any police force in Australia, or any other country. It simply extends the existing regulations of the Police Regulation Act of South Australia to apply to the whole of the police forces in Australia, including the Commonwealth. Protection is provided in paragraph 3, which exempts any one from committing a breach under the Act if that person wears a police uniform at an entertainment or at a mock jury. This is a simple amendment and therefore I support the second reading.

The Hon. C. R. STORY (Midland): I do not wish to delay the passage of the Bill in any way because the Chief Secretary and the Hon. Mr. Shard have pointed out that it is a simple measure. However, it has important implications regarding the image that the public has of the Police Force and I believe it is necessary. One never wants to see people masquerading as something they are not. Government members are wholeheartedly in agreement with this legislation.

The Hon. S. C. BEVAN (Central No. 1): I, too, do not wish to delay the passage of the Bill and I appreciate the circumstances in which it has been brought forward. It amends the Act to make it an offence in South Australia for a person to represent himself as a member of any Australian Police Force. The Act has been operating in this State for many years and at present it is only an offence if a person so represents himself as a member of the South Australian force. If detected, he is

liable to a penalty. This Bill will extend the Act so that a person representing himself as a police officer of any other State or of the Commonwealth will be committing an offence. From the Chief Secretary's report it appears that this legislation is necessary. I have no recollection of any action being taken against a person representing himself in this State as a member of another police force. Naturally, this would not be an offence because it would not be a breach of any South Australian Act.

I am wondering how far we will go in other instances for the sake of uniform legislation. This session a number of Bills have been introduced for the purpose of uniform legislation; this also occurred last session. I understand that other legislation operating in this State has had particular sections suspended pending inquiry in other States for the purpose of uniform legislation. I wonder whether, by these means, we are not handing over to the Commonwealth sovereign rights we have always enjoyed.

The Hon. C. D. Rowe: The purpose of uniform legislation is to avoid handing anything to the Commonwealth.

The Hon. S. C. BEVAN: I do not follow that point. If handing over rights to the Commonwealth is to be avoided, I would understand that to mean that in the event of a State not agreeing to this legislation the Commonwealth would enact legislation on these matters. If my contention is correct, I question how much power the Commonwealth has under the Constitution to usurp the sovereign rights of the States. I am a little dubious about the intentions of the Commonwealth Government under the guise of uniform legislation. I wonder whether we are not reaching the point where the Commonwealth is gradually stepping into State legislation so that it can eventually filch the rights of the States and have still greater power under its legislation and thus make the States subservient to it, so that it will become the principal factor governmentally. Then the States would be relegated to the position of watchdogs in relation to the Commonwealth. Much legislation has been brought before the Chamber, principally for the purposes of uniformity. Imagine what could happen in this State, for instance, under the Food and Drugs Act. In similar circumstances the same thing could happen in other States. Therefore, uniform legislation is not required.

I do not know whether there have been instances in South Australia of a person representing himself as a police officer of another State. We would not be aware if that had transpired because no action could have been taken against the offender under the present legislation. I do not know at this stage whether uniform legislation in these circumstances is really necessary, or whether per medium of this legislation the Commonwealth will eventually usurp the sovereign rights of the States and our rights will be relegated to a second-rate position. I am not opposing this Bill, but I make these observations in relation to other uniform legislation coming before the Chamber.

The Hon. Sir LYELL McEWIN (Chief Secretary): I thank honourable members for their attention to the Bill. I shall reply mainly to the remarks of the Hon. Mr. Bevan. The point he has taken is very pertinent in relation to State legislation. It is known that certain results have been brought about under the influence of such suggestions and that some interference has been caused to the State's administration in certain spheres. It has not always been for the best. Sometimes when these uniform proposals are brought forward it is as a result of a compromise and the sacrifice of something. This Bill is somewhat different, as our own legislation provides for the protection of the South Australian Police Force, but does not affect those who may impersonate the police force of another State.

It is a matter that has originated from the States rather than because of Commonwealth influence. The Commonwealth would be interested only because it has a police force. This matter does not fall into the category of unification. Federation to any greater extent would mean more powers taken from the States until they would be left with nothing to administer in the local sphere in respect of local conditions. I appreciate the importance of Mr. Bevan's point and it is necessary that we should be alive to these things. We should endeavour to keep government as near as possible to the people.

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

LOTTERY AND GAMING ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 14. Page 469.)

The Hon. C. R. STORY (Midland): I support the Bill. The Chief Secretary explained clearly what is proposed, and I am

pleased that country districts are to be protected in the same way as the metropolitan area. I know from past experience that this Government looks after country areas, and I am pleased that this policy has been continued in this Bill. This year, because of inclement weather, it was necessary to change the venue of some race meetings in the metropolitan area. The Police Commissioner, not being sure of his powers, rightly referred the matter of totalizator licences and this Bill clearly defines who has the responsibility when a race meeting cannot be held on a course for which a licence has been issued. The transfer is to be made on the recommendation of the Police Commissioner and if the Chief Secretary is satisfied that a reasonable cause exists for doing so he may direct that the number of days on which the totalizator may be used in any year on any racecourse shall be increased. A condition is set out, and I think the proposal is a fair one. Surely there should be a provision in the law to enable a totalizator licence to be transferred. I think the Bill tightens up existing legislation. These matters should be written into the law rather than dealt with by means of registrations and licences that may be not strictly in accordance with the law.

The Hon. K. E. J. Bardolph: Do you imply that these activities by the Government are against the law?

The Hon. C. R. STORY: The honourable member is trying to put words into my mouth, which I will not accept. I did not say that and I did not imply it.

The Hon. K. E. J. Bardolph: I am going on your reasoning.

The Hon. C. R. STORY: There is not too much wrong with my reasoning, warped as it may be in the opinion of the honourable member. I believe that we should write these matters into the law rather than use haphazard methods which may be open to practices not becoming to the State. We have carried out these matters very well in this State because we have had no scandal of any description since the present Government took office in 1938. It is the result of good legislation, and this Bill is another instance of the Government's tightening up a matter that could be overlooked. I have pleasure in supporting the Bill.

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

HECTORVILLE CHILDREN'S HOME.

Adjourned debate on the motion of the Chief Secretary:

(For wording of motion, see page 434.)

(Continued from August 14. Page 470.)

The Hon. JESSIE COOPER (Central No. 2): I support the motion. The Chief Secretary told members the reason for it, which is to enable the Government to obtain land, considered necessary for a specific use, at a reasonable valuation. Under the present circumstances I believe there can be no quibble about it. This section of land is, apparently, not part of any individual's private project. Presumably, it is an isolated parcel of land and its acquisition will not bring hardship on anyone.

I hope that the matter will be accomplished successfully, as the necessity is great. It is essential that we realize that the major requirement when considering homes for children under the care of the State is that arrangements shall be made for the separate grouping of children of different types—(1) those who are remanded by the courts; (2) those who are not criminally inclined but come under the category of "uncontrollable"; and (3) those who are simply good children but have been neglected. These three groups should not be forced to live together. The technique for handling these children is completely different in each case. Again, it is desirable to choose sites for these homes very carefully, as regards both quantity and quality of land, in order that the institutions built thereon shall be suitable.

I am not speaking generally. I want to point out that the children under the State's care have, with rare exceptions, had a very poor deal in life because of their circumstances. Their parents have been ill, weak, feckless or sometimes just plain bad. Whatever their background, their parents have been unable to train them, but (with very rare exceptions again) these children can be turned into good citizens. When we are spending so much money on bringing in migrants and establishing them, surely it is just and reasonable to spend a handsome sum on the training and development of our own young Australians who are badly in need of help? They, too, will make good citizens.

I am saying these things because I visualize the necessity for a standard in equipping and establishing the proposed home or homes, a standard comparable with the lavish supply of space, buildings, air-conditioning, furnishings and equipment that has become accepted as

standard practice in our new State technical high schools. Such schools are catering for the more fortunate section of our young people. I know that it has not in the past been looked upon as glamorous for an architect to spend much time and thought in designing institutions for the destitute and needy. These places are rarely put on display for visitors but I consider that a new approach should be made to this problem if we are to be successful in helping the young children under the care of the State to develop confidence and the happy point of view that they are acceptable in the community and just as important as any other children. I am happy to support the Chief Secretary in his laudable aims in this matter.

Motion carried.

OFFENDERS PROBATION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 13. Page 437.)

The Hon. A. F. KNEEBONE (Central No. 1): I support this Bill because, in my opinion, the amendments proposed to the principal Act are designed to improve it. When it was introduced in 1913, it supplanted an earlier Act with a similar title which had been in force since 1887 but which, however, was fairly limited in its application. For one thing, its powers were limited to first offenders: only first offenders could be placed on probation. The original Act was limited in other respects, too.

The Bill introduced in 1913 has, as an Act, been amended from time to time, and it is still the principal Act. It followed closely an earlier Act passed in England. The English Act had been so successful that it was thought that a similar Bill should be introduced here. It had been so successful that it was described at that time as the greatest step forward up to that time in the administration of criminal jurisprudence. It was out of the old English Common Law practice of "recognizance" that the probation system had been developed in England. Under that old practice persons who had committed misdemeanours could be placed under a promise or "recognition" to be of good behaviour and to keep the peace either as an addition or as an alternative to other punishments.

All Offenders Probation Acts in existence in the various countries of the world, and similar Acts, have been attempts to solve the problem of the proper way in which to reform men with criminal instincts or men without criminal instincts who have fallen into criminality through the accident of the occasion. The probation system is based on the principle that it is possible to rehabilitate an offender while he remains in the community at his normal work or at school. As against this, the institutional forms of penal treatment are based on the principle that to rehabilitate the offender it is first necessary to isolate him from the normal community.

A report on the probation service in England, edited by Joan F. S. King and published in 1958, said that by the end of the first decade of the twentieth century it might be said that the State had accepted the responsibility for providing the means of reformation as an essential part of the penal system and also, to some extent, the idea that reformation could best be brought about by the minimum amount of severance of the offender from normal life, and in many instances by non-penal methods such as probation.

Many young people came before a court, in the first instance, through their association with bad companions. If an offender got into trouble through bad companionship, it meant, under the institutional forms of penal treatment, merely sending him to the company of still worse companions when he was sent to some institution. This latter treatment, unfortunately, has often resulted in the confirming of a young offender into a life of wrong-doing instead of reforming him. On the other hand, the probation system has definitely proved a success in the reform and rehabilitation of offenders, whether they be first offenders or offenders that have been brought before the courts on more than one occasion.

The chief aim of any penal system should, of course, be to deter the potential law-breaker and to reform the convicted offender. The Bill goes a long way in my opinion towards achieving these aims. The probation system has developed considerably over the past 50 or 60 years all over the world and the South Australian Act has been amended on several occasions since 1913 to keep pace with these developments. In an endeavour to gauge the extent to which the provisions of the principal Act have operated in this State I made some inquiries and found that the Act was availed of fairly extensively, although not to the extent I imagined.

For the year ended December 31, 1962, 637 persons charged with indictable misdemeanours

were dealt with by courts of summary jurisdiction under the provisions of the Offenders Probation Act. Of this number 450 were juveniles, approximately 90 per cent of whom were placed on probation without having convictions recorded against them. The principal Act, by the amendment of 1953, made provision that the system of probation could be extended to an offender either with or without a conviction. I found that nearly all juveniles were placed on probation without having convictions recorded against them. The 450 probationers constituted about 20 per cent of the total number of juveniles charged with offences.

The 187 adults placed on probation by this type of court in nearly every case had convictions recorded against them and were then placed on probation. The number of adults placed on probation constituted only about three-quarters of one per cent of all persons charged in courts of summary jurisdiction. In comparison with these figures it is interesting to read of what happens in England in this regard. In a publication issued by the United Kingdom Information Services in 1960, under the title of *The Treatment of Offenders in Britain,* reference is made to the probation service in that country. It deals with the subject at least up to and including 1958. It is stated in the publication that at that time approximately four out of every 10 offenders below the age of 17—or 40 per cent—and one out of every six adult delinquents—or approximately 16 per cent—were being dealt with by probation orders.

Apparently more use is being made of the probationary system there than in this State. The publication goes on to say:

The Results of Probation. The success of the probation method, which depends so much on intangibles such as a re-awakened social conscience in the probationer, is almost impossible to gauge. Statistics do show, however, that the short-term value of probation is strikingly high; since the Second World War an average of some 80 per cent of probationers have completed the period of their order without getting into any further trouble bringing them into court.

Research is proceeding into more exact methods of testing the success of probation, as of other methods of treating offenders. As a pilot project, special records were kept, for the three years following termination of probation, of the progress of persons in the counties of London and Middlesex whose orders came to an end in the years 1948, 1949, and 1950. These records were then analysed by the Cambridge University Department of Criminal Science. The analysis showed that two-thirds of the men and over half the boys completed their probation and the ensuing three years without re-appearing in court at all. Another group wavered during probation, but not sufficiently to have their orders revoked, and therefore kept out of trouble. Including this group the "success rate" amounted to seven men and six boys in every 10, with higher rates for the first offenders and also for women and girls.

Our own experience in South Australia with regard to breaches of bond is that of the 450 juveniles placed on a bond 60 were subsequently charged with a breach of that bond. The recognizance was estreated in 38 cases and in 22 cases the charges were withdrawn. The number of cases in which the recognizance was estreated constituted 8½ per cent of the total number of juveniles placed on a bond. This figure could increase before the terms of those bonds expired. Of the adults placed on bonds 14 were subsequently charged with a breach of bond. This constituted 7½ per cent of the total number placed on bonds. The small percentage of breaches in regard to both juveniles and adults compares well with the figure that I have quoted from the English report. It also indicates the efficacy of the probation system in the rehabilitation of the offender and justifies an extension of this system.

The principal Act provides that probation officers may be appointed and, for the purposes of the Act, be under the control of the Minister. In the case of each juvenile released by a juvenile court on probation, if supervision is ordered it is carried out under the direction of the Children's Welfare and Public Relief Board. All probation officers supervising juveniles are officers of that department. It is difficult to obtain any accurate figure regarding the number of offenders in this State who, after having been given the benefit of the provisions of the Offenders Probation Act, do not appear before the courts again. However, because our figures in South Australia in regard to the observance of the conditions of bonds are as good as those that I have quoted from the English report, I do not think it would be presumptuous to believe that the results are as good.

One of the greatest difficulties experienced in the rehabilitation of an offender, whether a probationer or one who has been released after serving a term of imprisonment, is the retention of his employment, or the problem of his re-employment. This difficulty is, of course, accentuated in times of general unemployment (such as we have been experiencing in Australia in the past few years) when employers are more selective and these people have to start

behind scratch. Therefore, I think the results are gratifying, considering the amount of unemployment we have had.

Clauses 3 and 4 of the Bill amend sections 2 and 4 (1) to facilitate the administration of the Act. Apparently it has become the general opinion that unless the justices of the peace or magistrates who constituted the trial court are available to constitute the probative court the courts are without power to deal with a probationer who fails to observe the conditions of his recognizance. The amendment clarifies this point. Clause 4 (*b*) appears to be a grammatical amendment and does not alter the meaning of the relevant section. Clause 4 (*c*) raises the maximum sum that could be awarded by courts of summary jurisdiction as compensation from £25 to £200. At first this may appear to be a fairly substantial increase, but when one realizes that the amount of £25 was included in the principal Act in 1913 it can be seen that £200 is not excessive.

Clauses 5 and 6 introduce a new feature into the principal Act, and I believe it is something with which we all agree. It confers the right upon a probationer to apply for a variation of the conditions or discharge of a recognizance. This right is in addition to that already possessed by the Minister or any person authorized by him, and I believe it is one of the worthwhile improvements proposed by the Bill. Clause 7 proposes to amend section 9 of the principal Act to overcome a difficulty that has been observed with regard to a probationer who was under the age of 18 years when tried for an offence by a court of summary jurisdiction, but over that age when brought before a probative court. I believe that amendment is reasonable. It clears up the position that existed previously and caused difficulties. As a layman, I may have been a little presumptuous in endeavouring to comment at such length on a legal Bill. However, I believe the proposed amendments improve the Act and I therefore have pleasure in supporting the Bill.

The Hon. G. O'H. GILES secured the adjournment of the debate.

BUSINESS NAMES BILL.

Adjourned debate on second reading.

(Continued from August 14. Page 475.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): This Bill relates to the carrying on of any business by individuals and by partnerships as compared with the carrying on of business by limited liability companies. In his speech on the second reading the Attorney-General said that it was associated with the amendments to the Companies Act and, to some extent, that is true. Businesses of the nature mentioned by this Bill can well be compared with companies, because companies arose out of businesses of this nature. The limited liability company was developed from partnerships because, as honourable members know, every partner is liable for the debts of a partnership even if contracted by a partner without his authority.

Limited companies arose out of the fact that partners desired to protect themselves by limiting their liability It is interesting to note that the first general Companies Act of England was, from memory, as recent as 1844, and the first general Companies Act of this State is in the 1855-1856 Statute Book—not much more than 100 years ago. Companies today are commonplace, and one is apt to think of them as having existed in the manner they do for much longer than a little more than a century. Of course, there were joint stock companies before the passing of these Companies Acts but they had to be established then by a special Act of Parliament in each case. The Companies Act passed last session regulates the conduct of a company because of the limited liability to which I have referred and is for the protection of individuals dealing with those companies. This Bill is really aimed at something a little different, because partnerships and individuals carrying on business under business names are totally liable for all their debts and there is no limited liability.

The object of this Bill, as indeed was the object of its predecessor, is to enable the public to know with whom they are dealing, who is liable to them, and whom they should sue if that becomes necessary. The first legislation of this nature commenced in South Australia with the Registration of Firms Act 1899, which had 23 sections and comprised about 4½ pages. It became the Registration of Business Names Act in 1928 and by 1932 it had increased to 28 sections and, I think, about 10½ pages.

This legislation, by 1963, has increased to only 35 sections, as compared with the original 23, but instead of containing 4½ pages it now covers 23 pages. That, of course, is normal procedure and arises because many people no doubt tried to find flaws in the Act and thus made it necessary for the legislature to cover requirements more than was done in the past. I thank the Attorney-General for recirculating the very helpful notes that he gave us last

session on this Bill. We are told that the most important thing members must contemplate in assessing the merits of this Bill is in the note on clause 3, which is as follows:

It is important to note that under the existing Act it is every firm, individual and corporation having a place of business and carrying on business under a business name in the State that has to be registered, whereas under this Bill it is the business name . . . that has to be registered.

Of course, it follows that the component persons or corporations of that business name have to be notified to the Registrar. I think that distinction is theoretical rather than practical, because, to all intents and purposes, the tenor of the Act remains the same.

I wish to refer to some of the clauses. "Business name" means a name, style, title or designation under which a business is carried on; and "firm" means an incorporated body of persons, or individuals, or both, carrying on a business. Clause 5 states that a person shall not either alone or jointly with anyone else carry on a business under a business name unless the business name is registered or that the person carrying on the business carries it on under his own name; and subclause (2) of that clause states what he has to say if he is carrying it on under his own name and does not wish to register under this Act. Under clause 9 the Minister is entitled to restrict the registration of business names that are undesirable and in that event he shall give notice of this to the Attorney-General of the Commonwealth and other States. This provides for one of the aims of the Act, namely, uniformity throughout Australia of these types of businesses that can be or may be carried on throughout the country.

Clause 11 relates to the registration or the renewal of the registration of a business name being in force for three years. In that relationship it is interesting to note what was recorded in *Hansard* of 1899 about a debate on the Bill that was the predecessor of the present Bill. The measure was introduced in the Council and in moving the second reading the Chief Secretary said it followed the Bill of Victoria. When it went to another place the Treasurer said that it came from Western Australia. That is not of much importance about half a century later, but it must have caused some comment at the time. An interjector in this place asked whether the fees had to be paid every year and the Chief Secretary replied that it would be a matter for regulation. Then the interjector said "That is too much like taxation. It should be in the Bill." Times have changed but the purpose of the Bill has not changed, because when introducing it in this place in 1899 the Chief Secretary said:

The Bill provided that firms trading in the colony should be known and registered and should file certain particulars regarding the persons constituting them, so that it should be more difficult for bogus firms to be established and for persons to trade under assumed names without having any genuine people behind them.

In another place it was said:

The measure had been brought in by the Government at the instance of the Chamber of Commerce, who deemed it desirable in the interests of sound business and honest dealing that those doing business with firms trading under trade names should know with whom they were dealing. It sometimes happened that the persons whose names were traded under had no connection with the firm, and others quite unknown to some who had transactions with the firm were members.

They remain the general ideas in this matter today. Clause 16 contains a new matter. It says that the Registrar may, if he thinks fit, require a statutory declaration of the facts set out in a statement to be lodged with him. This is to ensure that the statement is correct. Clause 20 (*b*) says that the business name shall be at all times displayed in a conspicuous position on the outside of every place where business is carried on under that name. I remember raising a query last year in this matter in connection with the Companies Act. I asked whether "outside" meant the external walls of the premises or outside the front door of the office inside the premises where the business carried on was not the business of the whole premises. The Attorney-General said that "outside" meant merely the outside wall of the office inside the building. Apparently it is a matter that should again be looked at.

My remaining query is in respect of clause 25, which contains a new, but desirable provision. It says that the Registrar may destroy papers after 12 years in the case of a firm having become defunct for that period, or may dispose of them in some other way. Under the Limitation of Actions Act in this State some causes of action survive for 15 years. It used to be 20 years, but in 1948 the period was altered to 15 years. There is an instance where a cause of action can survive for 35 years, but it is not associated with the matter we are considering. Several sorts of actions in relation to mortgages and trusts can survive for 15 years. I suggest to the Attorney-General that he review the matter to see if a period of 12 years is satisfactory, or whether 15 years might be more appropriate.

Under clause 29 a person, and a corporation is included as a person under the Acts Interpretation Act, can be guilty of an offence, but any director, manager or secretary or other officer, who was knowingly a party to the offence, shall be also guilty of the offence. That is a new matter and something not included in the previous legislation. It follows the customary practice in these days of making directors responsible for practically everything. The clause refers to "knowingly", which I think is sufficient to provide protection where necessary, and I do not challenge it at this stage. In my estimation, after having examined the Bill carefully, most of it is a re-enactment of existing legislation. It contains a few new provisions, but they are not of great importance. I feel that members can confidently support the Bill in its totality, with the possible exception of the few matters I have mentioned. I have pleasure in supporting the second reading.

The Hon. G. O'H. GILES secured the adjournment of the debate.

POLICE OFFENCES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 14. Page 468.)

The Hon. A. J. SHARD (Leader of the Opposition): I speak on this Bill with mixed feelings. It includes a new matter and makes it unlawful for a person to have in his possession gunpowder or explosive substance unless it is to be used for a lawful purpose. The main purpose of the Bill is to assist the police in preventing the safe breaking that is unfortunately now taking place in our community. It is the duty of members to assist the police in maintaining law and order, but no matter how I examine the measure I cannot get away from the fact that in the final analysis the onus of proof is on the defendant, and not on the Crown to prove the defendant guilty. I cannot support such a provision, and unless an amendment is inserted placing the onus of proof on the Crown, in accordance with British justice, I will oppose the Bill. Last session when a similar Bill was debated here I supported it because I thought it was a good Bill and would assist the police, but thanks to members of my Party and other people it was pointed out that the onus of proof was on the defendant. For that reason the Bill lapsed. To the honourable members of this Chamber who raised that question I am indebted. I have changed my mind. I have read all the speeches delivered on this matter last year, and I have examined the Bill to the best of my ability and discussed it with some people. When I discuss matters like this with lawyers or solicitors I sometimes become confused. At the moment I cannot support the Bill. I notice that the Chief Secretary said in his speech on the second reading:

> The Explosives Act provides by section 23 (2) that it is an offence to possess gunpowder or any explosive exceeding certain weights; but this was not designed to provide protection against the use of explosives in connection with serious offences, and the Commissioner of Police has reported his concern with this matter.

I looked at that section and wondered (I want to be clear on this) about the size of the commodities. I have never used explosives and do not know what "large quantities" may be or of what they may consist, but it seemed to me that possibly what the Commissioner of Police and the Government were trying to achieve could be achieved by an amendment to section 23 (2) of the Explosives Act. Section 23 (1) deals mainly with where explosives may be kept. Subsection (2) reads:

> This section shall not apply to explosives kept by any person for his own use, the weight of which in the case of gunpowder does not exceed twenty-five pounds, or in the case of any other explosive, five pounds.

To me they seem large amounts of explosives and gunpowder. If we want to make it difficult for those people from whom we are trying to protect the State, considerably smaller amounts might achieve the end sought by this amendment. I do not know whether I am right in that, but it seems to me that that is a possible way of doing it. The Bill aims at prohibiting people from keeping explosives or gunpowder other than for a lawful purpose but, because of those excessive amounts, the people we are trying to prevent from keeping them have an escape clause because they can have smaller amounts with which to do their work—as I read the Bill.

Farmers and other people in the country are concerned in this. Nobody wants to place a hardship on an innocent party for the benefit of a guilty party. If these amounts of gunpowder or other explosives were smaller, it could do no harm to the people in the country and would assist the Commissioner of Police and his officers in doing exactly what they are trying to do—prohibit people from keeping explosives for an unlawful purpose and make their task more difficult.

The Hon. G. O'H. Giles: I do not think any primary producer really wants to keep gunpowder.

The Hon. A. J. SHARD: The Chief Secretary's speech on the second reading showed that that was one of the reasons why this amendment was necessary, because section 23 (2) of the Explosives Act was not designed to achieve what this amendment would do. I am putting this forward only as a suggestion of a possible way in which to correct the wrong that has been done by not having this amendment till now. No matter how one finds it in the final analysis, the present position places the onus of proof on the defendant, which my Party and I and many other people do not like.

Another point from the Chief Secretary's speech that I could not understand was this:

The new section is designed to protect the community from people who make explosive substances or have them in their possession or control for unlawful purposes.

We can all agree with that, but this is the part that I cannot understand from my reading of it in the Bill:

Before any offence can be made out against anyone, the section requires the prosecution to prove two things: (*a*) that a person made explosives or had them in his possession or control; and (*b*) that he did so in circumstances that give rise to a reasonable suspicion that his purpose in making them or having them was unlawful.

Will the Minister tell me this: when do those two things have to be proved? Are they proved before a summons has been issued or, a summons having been issued, do the people concerned have to prove it to the magistrate before the case proceeds?

The Hon. C. D. Rowe: They will have to prove it to the magistrate after the summons has been issued.

The Hon. A. J. SHARD: That is what I am afraid of. If the police and the prosecution were satisfied that their case was strong enough to issue a summons, in the vast majority of cases it would be the exception to the rule that the case would not be proceeded with, and then, according to the Act, the onus would be placed upon the accused or the defendant to prove his innocence. That is the very part I do not like and to which I take exception.

I turn now to the Police Offences Act. I take it that section 15a is to be introduced into this Act after section 15 because of what that section says:

(1) Any person who, without lawful excuse (*a*) carries any offensive weapon; or (*b*) has in his custody or possession any implement of housebreaking; or (*c*) carries any deleterious drug or article of disguise, shall be guilty of an offence.

That is all in connection with housebreaking and factory-breaking. New section 15a follows, because that is the type of offence that the police are trying to restrict and they say they need this section 15a to assist them in their duties. If honourable members will read this carefully, they will appreciate my point. New section 15a reads:

Any person who makes or manufactures or knowingly has in his possession or under his control any gunpowder or other explosive substance whatsoever under such circumstances as to give rise to a reasonable suspicion that he did not make or manufacture the same or does not have it in his possession or under his control for a lawful purpose shall—

and here is the kernel of it—

unless he can show that he made it or had it in his possession or under his control for a lawful purpose, be guilty of an offence and liable to be imprisoned for any term not exceeding two years and the gunpowder or explosive substance shall be forfeited to Her Majesty.

I cannot support that last provision. I examined this Bill carefully and, having found that the onus is placed on the defendant, I cannot support it. I examined it because the Minister in his second reading speech referred to the Explosives Act and, whilst he admitted that that Act was not designed to provide protection against the use of explosives in connection with serious offences, I believe it will make the road much harder for those people to possess explosives or gunpowder for an unlawful purpose. I am anxious to hear the Minister's point of view on this matter. However, at the moment I can only oppose the second reading of this Bill.

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

ADJOURNMENT.

At 3.48 p.m. the Council adjourned until Wednesday, August 21, at 2.15 p.m.