LEGISLATIVE COUNCIL

Thursday, October 23, 1969.

The PRESIDENT (Hon. Sir Lyell McEwin) took the Chair at 2.15 p.m. and read prayers.

APPROPRIATION BILL (No. 2)

His Excellency the Governor, by message, intimated his assent to the Bill.

QUESTIONS

QUARRYING

The Hon. H. K. KEMP: I ask leave to make a short statement prior to asking a question of the Minister of Local Government.

Leave granted.

The Hon. H. K. KEMP: I have been told that White Rock Quarries Proprietary Limited proposed to establish a stockpiling area and probably a ready-mixed concrete plant in Horsnell Gully. However, the East Torrens District Council refused permission on the following grounds: first, it would spoil a very pleasant gully leading to the national park in Horsnell Gully; secondly, it would spoil the pleasant outlook from a subdivision that had been approved on the western face of the valley and, consequently, would annoy the local residents; thirdly, there is really no need for the company's proposal because there is plenty of space in the quarry itself; and, fourthly, much of the land delineated in the application is not owned by the company and the owner does not wish to sell. Are the Director of Planning and the Extractive Industries Committee, to which this matter has now been referred, likely to go against the wishes of the council and the residents and the owner of the land?

The Hon. C. M. HILL: I realize that this matter is controversial in the area in question. I have some notes to which I should like to refer and, if this answer does not satisfy the honourable member, I shall be only too pleased to obtain any other information for him that he thinks is necessary.

The application in question was considered by the State Planning Authority at a meeting held on October 14, 1969, and the authority agreed to grant approval for the stockpiling of quarried material on part sections 1109 and 1110, hundred of Adelaide, subject to the following conditions: (*a*) the location, extent and height of stockpiles to be to the satisfaction of the State Planning Authority; (*b*) the location and width of access or other roads to be to the satisfaction of the State Planning Authority; (*c*) the retention or provision of screens of trees or shrubs to stockpiles to be to the satisfaction of the State Planning Authority; and (*d*) the accommodation in pipes of the flow along the watercourse lying approximately parallel to Horsnell Gully Road to be to the satisfaction of the State Planning Authority.

The honourable member referred to the Extractive Industries Committee. This committee is chaired by Mr. Speechley, Deputy Director of Planning; it is comprised of Dr. Miles and Mr. Armstrong from the Mines Department, Mr. Lewin, Chairman of the District Council of Willunga, and Mr. Bowey from the Salisbury council (both representing local government generally), and Mr. Symons, the Right-of-Way Engineer in the Highways Department, and is a subcommittee of the State Planning Authority.

The East Torrens council has no power to place a ban on White Rock Quarries. The real situation is that, when White Rock Quarries made its application to the State Planning Authority under section 41 of the Planning and Development Act, White Rock Quarries, by courtesy, sent a copy of its submission to the East Torrens council. The council approached the State Planning Authority, indicating that in its opinion the State Planning Authority should reject the application.

When the Extractive Industries Committee met, and later when it inspected the area, it was accompanied by a representative of the East Torrens council. It is, therefore, apparent that at each stage the views of the council were known and considered by the State Planning Authority when it made its decision. Presumably, this is one of the reasons for the four conditions imposed by the State Planning Authority, which must be satisfied before the application can be approved.

FIRE PREVENTION WEEK

The Hon. D. H. L. BANFIELD: I seek leave to make a brief explanation before asking a question of the Minister of Agriculture.

Leave granted.

The Hon. D. H. L. BANFIELD: I have received correspondence from the National Safety Council (S.A.) Inc. about Fire Prevention Week. It points out that during Fire Prevention Week last year—

A pall of smoke, observed by citizens in Adelaide, appeared to emit from B.P. House, Flinders Street, Adelaide. According to press

statements hundreds of "callers" 'phoned to report the "fire", to be told that the "fire" was an exercise for Fire Prevention Week.

Apparently, the President of the National Safety Council had received a telephone call from a member of the public about a fire that had taken place during Fire Prevention Week last year, and that person said he had been asked to telephone the Fire Brigade. The person he was with said, "No, don't do that; it is only a climax to Fire Prevention Week, similar to the fire at B.P. Building." The National Safety Council believes that more damage was done to the building of News Ltd. than was necessary. The letter goes on to point out that it is not in the best interests of the community that these mock fires should take place. The council asks that the Minister give an undertaking that in the future these mock fires be not repeated; it also suggests that radio and television media should refrain from "news flashes" that only result in hampering operations. What are the Minister's views about not having any more mock fires, such as took place last year? Also, can he say whether he will request the radio and television media to refrain from giving those "news flashes", which only encourage people to rush in to see the fire?

The Hon. C. R. STORY: I make no apology whatsoever for the demonstration that was given in Victoria Square last year as part of Fire Prevention Week. It was an extremely well-controlled demonstration that was carried out under the auspices of the South Australian Fire Brigade, with Chief Officer Meaney in charge. The Bush Fire Research Committee co-operated in the demonstration, and much publicity was given to it before it was held.

The brigades gave demonstrations of persons jumping from high Government buildings, and a portion of the exhibition included a person in an asbestos suit walking through fire. I cannot quite grasp what the Chairman of the National Safety Council is driving at, although, having received some time ago a similar letter as that received by the honourable member, I have written a letter to him. I should have thought that my reply would be sufficient to settle this matter, but apparently it was not.

If one took this matter to a logical conclusion, one could say that the St. John Ambulance Brigade should be barred from having drill with assimilated accidents, which could in turn mean that when one hears an ambulance screaming down a road one should not pull over to the left because it might be only a demonstration. To my way of thinking, what was done to alert the South Australian public regarding what was a dangerous situation last year, and what is again a dangerous situation this year, was done remarkably well. Indeed, I pay the highest compliment to those in the Emergency Fire Services, to the Fire Brigade Board, and to the firemen themselves. I am sorry that the matter has been raised in Parliament.

In relation to the media, every word that we can have broadcast over the television or the radio or have included in the press is extremely valuable if it alerts the public to the terrific danger of bush fires that exists in this country, as this could help in saving hundreds of lives. What was done for Fire Prevention Week had my full support. Last Tuesday I declared this year's Fire Prevention Week officially open. Some useful demonstrations will be given during the week, and I cannot and will not guarantee that we will not in the future assimilate fires in the metropolitan area.

EUDUNDA-MORGAN RAILWAY

The Hon. M. B. DAWKINS: I seek leave to make a short statement prior to asking a question of the Minister of Roads and Transport.

Leave granted.

The Hon. M. B. DAWKINS: My question relates to the probable closure of the Eudunda-Morgan railway line and of provision being made for the continuation of certain industries in that area. Is the Minister able to inform the Council when this line is to be closed, and in what way the Government hopes to protect the industries affected by this closure? Also, will he inform the Council whether the Railways Department is investigating ways and means of providing a co-ordinated road and rail freight service through Eudunda, Mount Mary and Morgan to Cadell and to the Cadell prison farm?

The Hon. C. M. HILL: To answer the honourable member it is necessary to go back into the history of this question in some detail. The Eudunda-Morgan railway line is to be closed, and the Transport Control Board on October 9, 1969, issued an order closing the line from November 3, 1969. This date was agreed between the T.C.B. and the Railways Commissioner.

In November, 1968, the T.C.B. gave notice of its intention to issue an order for the closing of the line. In its report, one of the recommendations was:

All assistance possible is to be given to aid the retention of the firewood industry in the Morgan and Mount Mary areas.

In February, 1969, the Public Works Committee made the following recommendation:

The committee adopts the recommendation of the T.C.B. that the Eudunda-Morgan railway line be closed but subject to the provision by the South Australian Railways of an alternative means of freighting firewood from the existing communities between Eudunda and Morgan at standard firewood rates.

Because this recommendation was qualified by the Public Works Committee to the extent that it would agree to the closing of the line only if the firewood industry was able to transport firewood to Adelaide at the same rate as had been available by rail, the Chairman of the T.C.B. sought, through the Minister of Works, the opinion of the Solicitor-General on the powers of the Public Works Committee to make such a recommendation. In March, the Solicitor-General reported to the Attorney-General that the Public Works Committee could not, in his opinion, give a conditional agreement. The T.C.B. set about trying to find some other means of assisting the firewood industry.

There was considerable discussion between the board and the Railways Commissioner and finally the board, in June, asked me as Minister of Roads and Transport to ask the Auditor-General if he would make an officer available to assist in further investigations, for the purpose of assisting the firewood industry as much as possible. At the end of September the Auditor-General completed his report.

After considering very carefully the whole situation, the T.C.B. authorized the Chairman to sign an order closing the line from November 3, 1969, but before doing so the Chairman called to see the Chairman of the Public Works Committee, informing him of the board's views and the action that was being taken. The Chairman of the board also spoke to the Railways Commissioner and sought from him an assurance that an end-loading ramp at Eudunda would be in working order on or before November 3 to assist road transport from Morgan. Also, the T.C.B. felt that if the Railways Department could make satisfactory arrangements with carriers in the area it may accomplish two things: first, allowing the railways to offer a through co-ordinated service to Morgan using rail and private carriers and, secondly, helping to retain some of the outwards traffic and indirectly assisting the carriers. I understand that the railways officers have already been discussing these possibilities with people in the towns concerned.

On October 17, 1969, the Railways Commissioner advised the T.C.B. in writing: "The last goods trains for the carriage of goods over this line will depart Mile End on October 30, and Morgan on October 31, and to provide the firewood merchants at Morgan and Mount Mary with a means of despatching firewood by rail a ramp will be constructed at Eudunda and be ready for use by November 3, 1969."

The Hon. M. B. DAWKINS: Has the Railways Department made any progress in arranging a rail-road co-ordinated freight service from Eudunda to Morgan and Cadell? If it has not, will the Minister ask it to continue its efforts?

The Hon. C. M. HILL: I will ask the department to continue its efforts. I have been informed, indirectly, by the Chairman of the Morgan District Council that officers of the Railways Department were in Morgan on October 16. I know that the department is most anxious to co-operate with the firewood interests there. The department wants to do everything possible to help them so that no-one in that area or the Mount Mary area will be adversely affected as a result of this change. I do not have any information that definite arrangements have been arrived at with local carriers, but I shall obtain a report from the Commissioner early next week and bring it down for the honourable member.

BUSH FIRES

The Hon. R. A. GEDDES: I seek leave to make a short statement prior to asking a question of the Minister of Agriculture.

Leave granted.

The Hon. R. A. GEDDES: A stop press report in Wednesday's *Advertiser* stated that a pilot of the Department of Civil Aviation had observed smoke near the Mount Remarkable area north of Port Pirie and in consequence radioed to the city that there was a fire in that area. In view of the fact that the fire season is only just starting and that there are grim prospects regarding fires in the coming months, will the Minister convey to the appropriate authority his appreciation of such observance by the pilot concerned?

The Hon. C. R. STORY: This is an unsolicited testimonial and not a Dorothy Dixer in any way, and I thank the honourable member for raising the matter. As I said in reply to a question by the Hon. Mr. Banfield, I am extremely grateful to anyone who assists us in

any way in regard to fire prevention. The fire in question was started by the Woods and Forests Department in response to an earlier request by the Hon. Mr. Geddes that the department should do some burning off before the main part of the bush fire season commenced. Consequently, I think it is appropriate that he should have raised the question.

WESTERN ROAD

The Hon. A. M. WHYTE: I ask leave to make a short statement before asking a question of the Minister of Roads and Transport.

Leave granted.

The Hon. A. M. WHYTE: I understand that the Highways Department has made certain funds available for upgrading the road from Cook to the Eyre Highway. However, although negotiations were completed some time ago, no upgrading of this road has yet been done. Consequently, will the Minister ascertain when this work will be commenced?

The Hon. C. M. HILL: I shall get all the relevant details for the honourable member.

RAILWAY CLOSURES

The Hon. D. H. L. BANFIELD: I ask leave to make a short statement before asking a question of the Minister of Roads and Transport.

Leave granted.

The Hon. D. H. L. BANFIELD: When it is considered that it is no longer economic for a railway line to remain open, the Transport Control Board investigates the matter thoroughly. Its investigation takes some time. Then, before the line can be closed the matter must be referred to the Public Works Committee which, under the present Act, has only 28 days in which to make a recommendation—an insufficient period. Does the Minister intend to introduce a Bill this session to extend this period?

The Hon. C. M. HILL: I had not intended to introduce such a Bill but, since the matter has been raised by the honourable member, I am prepared to consider whether the period is unreasonably short. I can recall one occasion when the 28-day period was insufficient for the Public Works Committee; it occurred during the Christmas break or near a busy time. At that time the Chairman asked whether the matter could be deferred, and I immediately agreed to his request. Consequently, I think it will be agreed that I displayed every possible co-operation on that occasion.

PETROLEUM (SUBMERGED LANDS) ACT AMENDMENT BILL

Second reading.

The Hon. R. C. DeGARIS (Minister of Mines): I move:

That this Bill be now read a second time.

Its purpose is to make certain amendments to the Petroleum (Submerged Lands) Act, 1967, dealing principally with those provisions of that Act that relate to the application of the laws of the State in the offshore area. As honourable members are no doubt aware, a Select Committee of the Commonwealth Parliament has been set up to consider the terms of this uniform legislation. Certain difficulties of interpretation have arisen in relation to section 14 of the Act, which purports to extend the application of some of the relevant laws of the State (such as those dealing with workmen's compensation and criminal offences) to the adjacent area. This proposed uniform amendment is thought to be in a more satisfactory form. The opportunity is taken to remove the restrictions upon the classes of person to whom the designated authority may give directions under section 101 of the Act, relating to petroleum exploration and production.

Clause 1 is formal. Clause 2 repeals section 14 of the principal Act and substitutes for it a new provision. This new provision provides that the laws of the State shall apply in the adjacent area as if it were part of the State. New subsections (3), (4) and (5) define and delimit the applicability of those laws within the adjacent area. New subsection (6) provides that the provisions of the new section do not limit the operation that any law or instrument has apart from the new section. New subsections (7), (8) and (9) provide that regulations may be made modifying the laws of the State, applied to the adjacent area under this section, in so far as they relate to the adjacent area.

New section 14a provides that Parts III and IV of the principal Act are to be given their full effect notwithstanding anything in Part II of the Act or any other law of the State. Clause 3 makes a consequential amendment to section 15 of the principal Act. Clause 4 removes the restrictions upon the categories of person to whom directions may be given under section 101.

The Hon. S. C. BEVAN secured the adjournment of the debate.

LEGAL PRACTITIONERS ACT AMENDMENT BILL

Second reading.

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a second time.

It is designed to make two very important provisions in respect of the practice of the legal profession in South Australia. One is to provide some recourse for members of the public who may suffer by reason of defalcation or negligence. The other is to provide financial support for the increasing burden on the legal profession of the Legal Assistance Scheme—a scheme which has been voluntarily conducted by the legal profession in this State since 1933 for persons who cannot afford to pay for legal assistance in the normal way.

In New South Wales, Victoria, Queensland and Western Australia legislation has been passed over the last few years whereby, as a measure of protection for the public and to provide legal assistance for those otherwise unable to afford it, interest on part of the trust accounts of solicitors has been allocated for this purpose.

Whilst South Australia has been comparatively free of trust account defalcations the possibility exists, as the profession increases in size in this State, that the risk of defalcations could increase in spite of the rigid precautions taken to obviate this.

Therefore, after some years of extensive and careful consideration of the position the South Australian Law Society has proposed that a scheme along somewhat similar lines to the schemes operating in the other States should be introduced into South Australia to provide security for members of the public.

The South Australian Law Society, after examination of the position in the other States, has proposed a number of worthwhile improvements to the form of the fidelity guarantee funds established in other States. Whereas the other funds only cover actual defalcations in trust accounts, it was thought desirable to provide protection to the members of the public also against losses sustained by negligent legal practitioners who may not be able to meet claims for compensation, which could be very substantial.

Although most legal practitioners maintain expensive indemnity insurance, there are some who do not and others who can afford only very small covers. It is intended not that the proposal be in substitution of such indemnity insurance but rather that it be available in a limited manner as a "back up" protection to the public. The solicitor concerned would still remain personally liable to the fund.

The second improvement proposed is that the South Australian Guarantee Fund shall be permitted to build up to a size larger than the funds in other States. It is also proposed that the size of the Guarantee Fund shall from time to time be directly related to the number of practising legal practitioners, whereas in the other States an arbitrary figure (ranging from $100,000 to $1,000,000) is fixed. To achieve this, a formula is to be used.

The maximum amount of the fund is to be the sum of $2,500 multiplied by the number of practising legal practitioners. At the present time the limit would be about $1,100,000. It is further provided that there should be some limit on the size of claims in respect of any particular practitioner who makes a defalcation. This is inserted so that the fund is not rapidly reduced by one huge claim to the detriment of others who may have claims in respect of another practitioner.

Basically, the South Australian fund is designed to protect the smaller claimant. To ensure the attaining of these objectives, it is provided that the total amount of claims in respect of the defalcations of any particular practitioner is limited to 5 per cent of the fund at that time. At present, if the fund was at its limit this would provide something in excess of $50,000 in respect of such claims. Also, provision is made for claims of under $500 to be paid in full before apportioning the excess among the larger claimants.

The society is directed, nevertheless, to take into account the relative degrees of hardship suffered by respective claimants. This is, of course, desirable because any automatic distribution could create hardship. So that all claimants are treated uniformly, any claims not paid within 12 months will carry interest.

It is stressed that it could take from between five to 10 years before the Guarantee Fund builds up to the desired limits but, of course, such estimate of time must depend on the size of any claims made in the meantime. This is one reason why a limit on the total size of claims in each case is required. When the fund has reached its desired size, it will be possible at a later stage to review the limit on claims.

Reference is now made to the provisions in this Bill relative to the Legal Assistance Scheme. Since 1933 the legal profession has

voluntarily administered and serviced a Legal Assistance Scheme that is the oldest established and of the widest application of any in Australia. In some States limited legal assistance schemes have only recently been introduced, but in each case, they cover only certain limited types of legal work or they apply only to the very poorest citizen.

I should like to refer to the Summary and Report of the existing Legal Assistance Scheme sent by the President of the South Australian Law Society (Mr. R. N. Irwin) to members of Parliament with his letter dated September 1, 1969. In 1934, the average number of assignments for each legal practitioner was about 1.8, but in 1969 the average number had increased to 5.9. These figures are based on the total number of practitioners irrespective of whether they were in private practice or in Government or university employment (notwithstanding that those in the latter two categories are not available for such work). In 1969, 48 out of a total of 448 legal practitioners were in Government and other employment and did not participate in the Legal Assistance Scheme and, if these practitioners are excluded, the average number of assignments was 6.5 a practitioner for the year.

It must be realized, of course, that in addition to the actual assignments a vast amount of voluntary administrative work is involved. Last year, for instance, over 800 man-hours were contributed free by various practitioners in merely running the scheme (apart from the actual legal services rendered). Although for many years the work was done without any Government assistance (except for annual grants towards certain of the administration expenses) the Government since 1960 has made special grants to provide a small measure of recompense to solicitors and counsel acting in assigned cases. The annual grant was $9,000 for each of the years from 1960 to 1967 inclusive, and since 1968 the grant has been $17,000 a year. Despite the increase in the special grants, distributions to practitioners have been very small. All out-of-pocket expenses are paid in full, but, of the full professional costs involved, the proportions paid by distribution have been as follows:—

	Criminal matters Cents in the $	Other matters Cents in the $
1966	25	18
1967	25	16
1968	26.25	19

When it is realized that a legal practitioner still has to bear his full overhead expenses amounting to an average of 50c a dollar of gross income, the legal practitioner is virtually paying out of his own pocket for all those assignments that are handled by him and are payable out of the special Government grant.

The burden imposed by the scheme in the context of present-day levels of overhead expenses has produced in the legal profession grave concern about the future of the existing scheme. Most people in the community are completely unaware of this position and of the fact (as mentioned earlier) that the South Australian Legal Assistance Scheme is by far the oldest established and most comprehensive scheme in Australia.

The Government has been conscious for some time that it will be necessary to give greater assistance to the profession because it believes that the ordinary citizen in our community who cannot afford the services of a lawyer in the normal way should, nevertheless, be able to obtain such professional assistance at the time of need.

Accordingly, it is proposed to allocate at least one-half of the income from the Combined Trust Account into the Legal Assistance Fund as a contribution towards the costs of administration of the scheme and for the reimbursement of legal costs and out-of-pocket expenses. The Government grant for the last financial year to cover the cost of administration, which includes two full-time legal practitioners (the Secretary and Assistant Secretary of the society) and six other staff members (the majority of whose time is devoted to the Legal Assistance Scheme), amounted to $25,750 while the special grant for reimbursement of out-of-pocket expenses and some contribution towards legal costs of practitioners amounted to $17,000.

The further contribution from the income of the Combined Trust Account will provide by degrees a more reasonable return to legal practitioners for the services provided under the Legal Assistance Scheme and will thereby ensure the continuance of legal assistance on the present comprehensive scale. It is proposed that the Legal Assistance Scheme be conducted on the same successful lines as heretofore, and this Bill sets out in legislative form the necessary statutory provisions deemed necessary to permit the scheme to continue in a manner that 35 years of practical experience supports.

Although the Poor Persons Legal Assistance Act, 1936, is to be repealed by this legislation, the relevant provisions have been written into

this Bill. In addition, as the scheme has expanded over the years to assist many persons who are not really "poor persons" as those words are usually understood, it is now proposed to call the scheme simply, "the Legal Assistance Scheme".

As the President of the Law Society has pointed out, the legal profession have been assisting many who may be heavily committed paying off instalments of houses, cars and household or electrical appliances. In fact, a large part of the scheme could be regarded as legal assistance on an interest-free time-payment basis. Nevertheless, it is considered that the ordinary citizen should receive (and, in fact, does receive) legal assistance at the time that he requires it.

It is also highly desirable that the ordinary citizen can obtain independent legal advice in criminal matters, matrimonial and estate matters, claims resulting from road accidents, house-purchase and money-lending transactions, and in the many other matters in which the legal practitioner is especially qualified to assist him.

To enable the guarantee fund and the legal assistance fund to be established, it is proposed that about one-half of each solicitor's general trust account be pooled and transferred into a combined trust account and be invested through the banks. The interest earned by the combined trust account will be paid or credited to a statutory interest account. After payment of certain expenses, one-half of the statutory interest account will be paid into the legal assistance fund, and the remainder will, in the first instance, be paid into the guarantee fund.

When the guarantee fund has reached its maximum limit (as outlined earlier) the balance will be paid or applied to the assistance fund or for any purpose approved by the Attorney-General and the society. It is contemplated that, if the amount available for legal assistance is adequate, then surplus moneys at some future time may be used for such purposes as legal education and research, law libraries, law reform, and the like. It should be stressed that normally solicitors' trust accounts comprise two components.

First, there is what can be described as a general trust account representing sums of money held for clients for a variety of reasons, such as land settlements and settlement moneys for court actions and the like. In the normal circumstances, this money is only temporarily held by the solicitors pending date of settlement or pending receipt of instructions. There is, however, normally a substantial balance of the general trust account at any one time. This general trust account, being held in a current banking account, does not bear interest. Even if it were possible, as a matter of banking practice (which it is not) for it to bear interest, the interest could not be allocated between the various clients because of the continual movement of moneys in or out of the account. It is this general trust account which, it is proposed, will be subject to the provisions for one-half to be transferred into a combined trust account to enable the amount so transferred to bear interest.

The second component of solicitors' trust accounts consists of moneys held specifically for clients in interest-bearing bank accounts or deposits. In these cases the interest is specifically accounted for to the client. This latter component of solicitors' trust accounts is unaffected by the proposals, nor is it brought into calculation to ascertain the amount to be transferred to the combined trust account.

It is difficult to estimate what amounts will become available for payment from the statutory interest account to the guarantee and legal assistance funds, as it is not practicable to obtain full up-to-date statistics. There has been no requirement in the annual audit report to be filed by legal practitioners in the Supreme Court for the disclosure of the necessary information, although some legal practitioners or firms of legal practitioners have done so, but even here there has been no dissection between the two components.

It is, however, quite reasonable to expect, upon current information, that the amount will probably be about $40,000 a year, but any amount would, of course, be subject to variation from year to year.

Based on experience in other States, it is expected that, once a legal practitioner has transferred to the combined trust account about one-half of the balance of his general trust account, he will not very often require to draw moneys out of the combined trust account; but if he is required to do so by his client and he has then an insufficient balance in the remaining part of his trust account, the moneys will be repayable immediately from the combined trust account to the extent required.

The proposals are designed to enable each legal practitioner to nominate the branch in South Australia of the bank in which he desires to have deposited by the Law Society his portion of the combined trust account. In fact, the combined trust account will consist

of the series of deposits by legal practitioners in the various banks nominated by all legal practitioners. This arrangement will assist materially in reducing administrative costs to a minimum and, at the same time, will preserve the solicitor's proper right to have a bank of his own choosing.

To ensure safety, all moneys held in the statutory interest account, the guarantee fund and the legal assistance fund when invested must only be invested in trustee securities. In addition, regular audits are to be made and reports are to be sent to the Attorney-General each year. A considerable amount of work has been done by the committee appointed by the Council of the Law Society in the examination of similar schemes in other States to develop this legislation, which contains, as I said earlier, quite a number of improvements on such other schemes.

In April, 1967, a very broad outline of the proposals was circulated to the members of the profession. From the 278 replies received, 272 stated that they were in favour of the proposals. A detailed draft was then prepared by the special committee, approved of by the Council of the Law Society, and then submitted to the Attorney-General. Following intimation that the Government approved of the proposals, in principle, a special meeting of the members of the profession was held on May 15 last at which an overwhelming majority approved of the detailed draft.

Since that date the special committee has had numerous conferences with the Parliamentary Draftsman to prepare the present Bill based closely on the special committee's detailed draft. The Bill in its present form was unanimously approved of by the Council of the Law Society at a special meeting held on September 15.

The provisions of the Bill are as follows: Clause 1 is formal. Clause 2 provides that the amending Act is to commence on a day to be fixed by proclamation. Clause 3 repeals the Poor Persons Legal Assistance Act, 1936. The provisions of this Act are now to be incorporated with the new provisions introduced by the Bill.

Clause 4 amends the provision dealing with the formal arrangement of the principal Act. Clause 5 amends the interpretation section of the principal Act. Definitions are inserted for the purposes of the new provisions to be inserted in the Act.

Clause 6 amends the heading to Part IV of the principal Act, repeals section 22 and enacts new sections 22 and 22a. New section 22 has substantially the same effect as the old provision but it attempts to overcome certain legal difficulties that arose from the form of the old section. The new section requires a legal practitioner to pay trust moneys that he receives in the course of his practice into a trust account.

New section 22a provides some protection to a bank. Under its provisions a bank is deemed not to be affected with notice of any specific trust to which moneys deposited in a trust account are subject, but the bank is not relieved of any common law or statutory liability.

Clause 7 makes a drafting amendment to section 24 of the principal Act. Clause 8 enacts the bulk of the new provisions to be inserted in Part IV of the Act. New section 24a provides that a legal practitioner is to deposit a certain proportion of the lowest balance of the moneys held in his trust account during the preceding year with the society. The society is to pay these moneys into a banking account or banking accounts entitled, or collectively entitled, the "Legal Practitioners Combined Trust Account".

The new subsection contains various other provisions designed to deal with various subsidiary matters and to ensure the effective operation of the section. New section 24b requires the society to invest the moneys deposited with it in an interest-bearing account specified by the legal practitioner.

New section 24c establishes an account entitled the statutory interest account into which the income and accretions realized from investment will be paid. After making provision for administrative expenses, the moneys in this account are to be applied as to one-half to the assistance fund and as to one-half to the guarantee fund until the amount of that fund reaches an amount arrived at by multiplying the sum of $2,500 by the number of practising legal practitioners. When the guarantee fund reaches this amount, any further income that would normally be payable to that fund may be paid to this assistance fund or towards any other object approved by the Attorney-General and the society.

New section 24d exempts a legal practitioner from any liability in respect of any action done in compliance with Part IV and provides

that a person beneficially entitled to trust moneys may effectively enforce his interest as effectively as if Part IV had not been enacted. New section 24e provides for the establishment of the legal assistance fund.

This fund is to consist of moneys derived from the statutory interest account, moneys provided by the State or Commonwealth Governments, moneys recovered by the society under Division III of Part IV, any other moneys that the society thinks fit to include in the fund and the income and accretions realized from the investment of its moneys.

New section 24f provides for the delegation of the powers of the society under Division III. New section 24g provides that the society may itself provide legal assistance by means of practitioners employed by it. Their assistance is, however, to be confined to legal advice. This section thus reflects the existing practice under which the secretary and the assistant secretary of the society provide certain advice where the assignment of applicants to outside practitioners is not justified.

New section 24h provides for the society to prepare and maintain panels of the legal practitioners prepared to participate in the legal assistance scheme. New section 24i provides for the assignment of legal practitioners to assisted persons and the payment to a legal practitioner so assigned of a proportion of his costs. New section 24j provides that a court, in making an order for costs, is not to take into account the fact that a party is an assisted person. The legal practitioner is to be subrogated to the right of an assisted person to recover costs in respect of legal assistance.

New section 24k provides that a legal practitioner may and, if required, shall disclose to the society facts pertinent to the provision of legal assistance for that person but that the privileges between a legal practitioner and his client are otherwise unaffected. New section 24l protects confidential information obtained by the society in the course of administering the scheme from disclosure.

New section 24m makes it an offence for an applicant for legal assistance to mislead or attempt to mislead the society. New section 24n provides that the Attorney-General may remit fees and charges payable to the Crown where those fees are payable in respect of an assisted person. New section 24o exempts from stamp duty any statutory declaration made in connection with an application for legal assistance.

New section 24p provides for the establishment of the guarantee fund. This fund is to consist of moneys paid from the statutory interest account, moneys recovered by the society under Division IV of Part IV, any moneys that the society thinks fit to include in the fund, the income and accretions derived from investment of the fund, and any moneys received in pursuance of a contract of insurance. New section 24q enables the society to delegate its powers under Division IV.

New section 24r enables the society to ensure against claims under Division IV. New section 24s provides that the guarantee fund is to be held and applied to compensate persons suffering loss from the dishonesty or negligence of any legal practitioner, his clerks or servants. New section 24t enables the society to advertise in order to ascertain all claims in relation to a legal practitioner. New section 24u provides that, if the society rejects the claim of an applicant in whole or in part, he may take action in the Supreme Court to establish the validity of his claim. New section 24v enables the society to require the production of documents relevant to the determination of a claim.

New section 24w deals with the amount of a claim and provides that the amount available to satisfy all claims in respect of a legal practitioner shall not exceed 5 per cent of the last audited balance of the fund. Where all claims cannot be fully satisfied, the amount available is to be apportioned in accordance with the section. New section 24x enables the society to recover the amount of any payment under Division IV from the person legally liable for the default.

New section 24y provides that proper accounts are to be kept and duly audited. New section 24z provides that payments between the various funds established under Part IV and payments between the trust account of a practitioner and the society are to be exempt from stamp duty. New section 24za provides for the society to employ officers and servants for the purposes of the Part and to pay their salaries from the various funds. New section 24zb makes it an offence for a person to contravene or fail to comply with a provision of Part IV. New section 24zc gives the society certain administrative powers. New section 24zd empowers the Governor to make regulations.

Clause 9 deals with a rather different matter. The society has requested that the principal Act be amended to enable it to appoint more than one vice-president. The Government

readily acceded to this request, and consequently section 28 of the principal Act is amended to enable the society to appoint more than one vice-president. Clause 10 makes an amendment consequential upon clause 9. Clause 11 amends section 35 of the principal Act. This amendment is consequential upon the enactment of provisions for the delegation of certain powers of the society in Part IV. Clauses 12, 13 and 14 make further amendments consequential upon clause 9.

The Hon. A. J. SHARD secured the adjournment of the debate.

JUSTICES ACT AMENDMENT BILL (GENERAL)

Second reading.

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a second time.

It deals with a number of unconnected matters upon which the Government has received submissions, proposing desirable amendments, from those responsible for the day-to-day administration of the principal Act.

The most significant change proposed is the insertion of a provision relating to the service of summons, for certain classes of offence, by post. The problems that arise in this connection are those of ensuring that a practical system can be devised which at the same time will not admit of the possibility that the rights of the defendant will be prejudiced, and in this regard the Government acknowledges the assistance of the Law Society of South Australia, which has expressed its agreement with the proposed amendments.

Clauses 1 to 3 are formal, and clause 4 inserts appropriate provisions (new sections 27a, 27b, 27c and 27d) in the principal Act to provide for the service of certain summonses by post. New section 27a at subsection (1) defines the class of offences to which the provisions will apply and excludes offences punishable by imprisonment and offences in respect of which a suspension of a driving licence is mandatory.

Subsection (2) provides that the address of the defendant appearing on the summons will, in the absence of circumstances making it appear to the court that the defendant resides or carries on business elsewhere, be deemed to be his address. Without a provision such as this, it would be necessary to prove strictly the address of the defendant and as a result the proposed procedure would lose its point.

Subsection (3) provides that, where the summons was posted not more than three months after the day on which it was alleged that the affence was committed and not less than 28 days before the defendant is summoned to appear, the defendant will be deemed to have been duly served with the summons on the day the summons would have arrived at his address in the normal course of the post.

The first of these time limits is intended to minimize the risk that the defendant will have changed his place of residence between the time of the alleged commission of the offence and the service of the summons, and the second time limit is intended to ensure that the defendant will not be prejudiced by some short temporary absence from his home or place of business.

New section 27b deals with the case of the postal service of a summons in a form to which the defendant can plead guilty in writing. Where such a defendant pleads guilty in writing, that is, there is no doubt that he has notice of the matter, this section provides that the court can proceed as if he were personally served and had so pleaded guilty in writing.

New section 27c at subsection (1) deals with the case of postal service where the defendant does not appear or give any other indication that he has received notice of the summons; here the court may proceed forthwith to hear the matter in his absence or adjourn the matter to some future day. Subsection (2) provides for the court hearing the adjourned matter to be differently constituted from the court which adjourned the matter, and the necessity for the provision will be discussed in relation to a similar provision proposed by clause 7 of this Bill.

At subsection (3) the court's powers to impose a penalty are limited to the imposition of a fine or the ordering of the payment of a sum of money (with imprisonment or distress in default of its payment) unless the court arranges for the personal service of a notice on the defendant informing him of the particulars of his conviction and of his rights to a re-hearing of the matter.

Subsection (4) provides that, where a person has been fined, notice of that fine or notice ordering him to pay a sum of money shall be posted to him and it shall also apprise him of his rights of a re-hearing. Subsection (5) provides for the notification by post of the penalty imposed on a person who has been personally served with a notice as required

by subsection (3), such a person having already been apprised of his rights to a re-hearing by that personal service.

Subsection (6) is an overriding provision and its purpose is to ensure that, before a warrant of execution or distress can be executed against a defendant who has not at some stage of the proceedings been personally served with a notice apprising him of his rights to a re-hearing, such a notice must be served on the defendant in sufficient time for him to apply for such a re-hearing if he so desires.

New section 27d sets out the provisions relating to an application for a re-hearing. So soon as such an application is made, all proceedings in relation to the original matter are stayed until the application is decided. If the court is satisfied that the summons served by post did not come to the notice of the defendant a reasonable time before the day on which the original matter was to be heard, the court must grant the application for re-hearing but, if the court is not so satisfied, all orders made in the original matter stand of full force and effect. At the re-hearing the matter is considered entirely afresh.

Clause 5 amends section 33 of the principal Act and arises from a submission of the Commissioner of Police. As the law now stands, the person in charge of an institution in which juveniles are detained cannot take recognizance of bail where a court has certified that a person may be admitted to bail, although a keeper of a gaol may, in similar circumstances, take such recognizances. As this anomaly has resulted in some unnecessary inconvenience to the parties concerned, the opportunity has been taken here to remove it by giving persons in charge of such institutions the power to take recognizances of bail.

Clause 6 enacts a new section 33c of the principal Act which permits a recognizance of bail to provide that a person released thereon will comply with certain conditions as to residence and persons with whom he may or may not associate and other appropriate conditions; and, as a consequence, provides for the apprehension of any person subject to those conditions who breaches or who appears likely to breach the conditions. On occasions justices are obliged to refuse bail on the ground that until the trial is completed it is undesirable that the defendant should live with or associate with certain persons, and a provision of this nature should enable bail to be granted where it would otherwise have to be refused.

Clause 7 in substance enacts a provision similar to that contained in new section 27c (2). It sometimes happens that where a matter can be heard *ex parte*, that is, in the absence of the defendant, the court is unable to proceed with the hearing because of the unavoidable absence of some prosecution witness and the matter must be adjourned before evidence is taken. There is some doubt whether the court that continues the adjourned hearing should be constituted by the same persons who constituted the court that adjourned the matter. In the event, such hearings have been continued by courts constituted by the same justices who constituted the court that adjourned the matter and this has, on occasions, caused some delay and inconvenience to the parties. Accordingly, this clause sets out to make it clear that adjourned hearings can, in appropriate circumstances, be continued by a differently constituted court.

Clauses 8 and 9 both deal with the same matter, and in sections 62b and 62c of the principal Act the court is enjoined from suspending driving licences as provided by the Road Traffic Act, 1934. However, this Act has, to some extent, since been re-enacted as the Motor Vehicles Act, 1959, and the Road Traffic Act, 1961, and both Acts contain provisions for disqualification. While it may be argued that the provisions of the Acts Interpretation Act may be sufficient to extend the protection afforded the defendant against disqualification under either of those Acts, it would appear desirable to put the matter beyond doubt by extending the protection to any disqualification from holding or obtaining a driver's licence, and at the same time a redundant subsection has been struck out from section 62b.

Clause 10 arises from submissions from members of the special magistracy over a number of years. At the moment the law relating to summary jurisdiction contains no provision whereby a bond may be imposed in addition to any punishment that may be awarded. Many special magistrates see the salutary and continuing effect of a bond as being useful in the prevention of further offences, and point to section 313 of the Criminal Law Consolidation Act which covers this matter in the Supreme Court jurisdiction and which has been effective in practice. Accordingly, the amendment proposed by this clause is an adaptation of that provision.

However, at proposed subsection (2) it is provided that where for some reason the defendant refuses or is unable to enter into a

bond the maximum penalty that can be imposed both for the refusal and for the original offence of which he has been convicted shall not exceed the maximum penalty that could have been imposed for the original offence. This provision is intended to ensure that the amendment proposed by this clause will not, in effect, raise the general level of penalties for offences.

Clauses 11 and 12 again both deal with the same matter. Where a justice decides that bail is appropriate he may either admit the defendant to bail where the sureties are present or fix the bail and certify for the defendant's admission thereto. This course is often followed when the sureties are not present, and it is then open to the defendant and his sureties to appear before another justice or authorized person and enter into the appropriate recognizances. These clauses merely make it clear that admission to bail in these circumstances includes certification for the defendant's admission to bail.

Concerning clauses 13 and 14, in proceedings in relation to indictable offences the justice is given a discretion whether he admits a defendant to bail where offences are of the class set out in section 143 of the principal Act. However, pursuant to section 144 of the principal Act, the committing justice has no discretion and must grant bail where the offence is an indictable misdemeanour referred to in that section. On occasions this section has placed justices in something of a dilemma, as they have been compelled to grant bail in cases where they have a well grounded fear that the defendant will abscond and, in fact, the defendants have in some cases actually done so. It is, of course, true that once the defendant has been released on bail and he indicates an intention to abscond he may be arrested, but it may then be too late.

Sections 143 and 144 of the principal Act appear to have been based on an equivalent provision of the Indictable Offences Act, 1848, of England, but for somewhat complex reasons a discretion in the grant of bail upon committal for trial or sentence for the majority of offences has in England existed since 1908, and a discretion in relation to all offences, except treason, has existed since 1952. Accordingly, these clauses together provide for bail on committal to be in the discretion of the committing justice. The discretion vested in the justice is, of course, not a discretion that may be exercised arbitrarily or capriciously but is a judicial discretion which must be exercised according to law.

Clause 15 enacts, in relation to bail granted in consequence of a committal for trial or sentence, a power to impose conditions, and is similar in effect to the provision proposed in relation to bail generally by clause 6. Clause 16 arises from a submission by the Master of the Supreme Court, who points out that under the law at present payments of witness fees in respect of witnesses at committal proceedings cannot be made until the matter has been finally disposed of by the Supreme Court, thus involving a delay of some weeks. The proposed amendment will enable such payment to be made at the conclusion of the committal proceedings.

Clause 17 is intended to resolve a difficulty that has arisen in relation to the precise meaning of the expression "any condition precedent to the right of appeal" in section 165 of the principal Act. In *Walsh* v. *Griffen* it was held that on a proper interpretation of the meaning, an appellant, who under a genuine misapprehension failed to pay the correct fee for lodging an appeal, could not have his failure excused by the powers of dispensation contained in this section since his failure was not, in the strict sense of the term, a failure to comply with a condition precedent to the right of appeal. While in a later case, *Giles* v. *Durack*, this view was not entirely supported, it seems desirable that the matter should be put beyond doubt and it is proposed that the section will now speak of "any condition relating to an appeal".

Clause 18 also deals with appeals. Section 171 of the principal Act provides, amongst other things, that an appeal shall be commenced by serving on the respondent a notice of appeal within one month of the making of the order appealed against. Where the respondent is the Crown or some public officer this provision operates effectively, since service can usually be effected without difficulty. However, where the respondent is a private citizen it is sometimes difficult to effect service within the period of one month—the more so if the respondent realizes that by avoiding such service he can frustrate the appeal. Accordingly, provision is made by this clause for the Supreme Court to extend the time within which an appeal may be made where the appellant can show some special circumstances not arising from his own fault which would make such an extension desirable.

The Hon. A. J. SHARD secured the adjournment of the debate.

OATHS ACT AMENDMENT BILL

Second reading.

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a second time.

It gives effect to the recommendation contained in a report from the Law Reform Committee of South Australia. Clause 1 is formal. Clause 2 proposes two amendments to section 27 of the principal Act. First, it strikes out from the expression "wilfully and corruptly", which is used in relation to the making of a false declaration, the passage "and corruptly".

There is some doubt as to the precise meaning of the word "corruptly" when it is used in conjunction with the word "wilfully". On one view, there seems to be an implication that the declarant not only knowingly made a false declaration but that he intended that false declaration to have an unlawful effect. If, in a prosecution for the offence as it stands at present, the courts adopted this view, and there is some authority for it, a defendant might escape conviction if it could not be shown that he intended his false declaration to have an unlawful effect even though it could be proved that he knowingly made a false declaration.

Such a situation arose recently where it could be proved that the defendant knew the declaration was false but that it was unlikely, in the nature of the case, that he knew the precise unlawful purpose to which it was to be put. Accordingly the committee has recommended, and the Government has accepted the recommendation, that the words "and corruptly" be removed so that knowingly making a false declaration will constitute the offence.

Secondly, in the case that I referred to previously a question arose as to the effect of a false declaration which in some respects did not comply with the precise form or was not made in the precise manner provided for. Again, the committee has recommended that, so long as the court is satisfied that the defendant knew that he was required to declare his belief in the truth of the matters in the declaration, the defendant cannot rely on some departure from the form or manner of making the declaration as a defence. Accordingly, proposed new subsection (2) is intended to give effect to this recommendation.

The Hon. A. F. KNEEBONE secured the adjournment of the debate.

PRICES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 21. Page 2282.)

The Hon. D. H. L. BANFIELD (Central No. 1): I support the Bill, which extends price control for another 12 months. The Prices Act undoubtedly deters people from charging excessive prices for their goods. Yesterday the Hon. Mr. Dawkins put a very good case for the continuance of this legislation when he drew attention to the difference between the prices paid to producers for lambs and pigs and the prices that consumers have to pay. His point applies not only to the prices of primary products but also to others. It is regrettable that the Government has seen fit to decontrol the prices of many items, which have since been increased to the detriment of people on lower incomes.

We have been told that competition will keep prices in check. However, I point out there was no shortage of lambs and pigs but their prices were nevertheless not reduced in any way. The Government's action in decontrolling prices of certain building materials has caused significant increases in the cost of building houses in the last 12 months. Its action is deplored by young people who are attempting to build their own houses. The Chief Secretary has pointed out a number of advantages that will accrue through the continuance of the Prices Branch. The Prices Commissioner has given valuable service to the public by investigating specific cases of overcharging. The Chief Secretary has told us that the Commissioner investigated more than 700 complaints in the year ended June 30.

The Hon. R. C. DeGaris: That is equivalent to two complaints a day.

The Hon. D. H. L. BANFIELD: Yes, it is a large number, and I suggest that many other complaints could have been justifiably lodged.

The Hon. L. R. Hart: How many of the complaints made were upheld?

The Hon. D. H. L. BANFIELD: I do not think the Chief Secretary gave that information. The people have confidence in the Prices Branch and they know that they can lodge a complaint with it—this is the significant point. The very fact that an average of two complaints a day were investigated warrants the continuance of this legislation, and it also shows that the Government's action in decontrolling the prices of many items was not in the best interests of the public.

The Hon. R. C. DeGaris: How many complaints were lodged before those prices were decontrolled?

The Hon. D. H. L. BANFIELD: The Chief Secretary is in a better position to obtain that information than I am; he could have given it in his second reading explanation. I understand that an application has been made to the Prices Commissioner to increase the price of petrol. The Chief Secretary knows very well that the Prices Commissioner has been instructed not to bring down a decision until after October 25—a very significant day! Through introducing this Bill, the Government is trying to give the impression that it is keen to control prices but, by its action in decontrolling the prices of many items, it has weakened the legislation and forced people to pay excessive prices for certain commodities. However, it is interesting to note that the Government recognizes that the Prices Commissioner is performing an important function in fixing the minimum prices for wine grapes, which the Government says is of considerable benefit to the wine grapegrowers. Although the Prices Act has been in operation since 1948, during which time there have been many disputes between the wine grapegrower and the winemaker about the price that the wine grapegrower was to receive, the Liberal Government was not prepared to do anything about it. It was not prepared to refer the matter to the Prices Commissioner, and it was not until the advent—

The Hon. H. K. Kemp: The Premier always did it himself.

The Hon. D. H. L. BANFIELD: Yes, he did, because we had an L.C.L. Premier, and the dispute was never settled. Today, the present Government is saying what a good job the Prices Branch has done for the wine grapegrowers. A Liberal Government could have done it back in 1948 by bringing this under price control; it could have given satisfaction to the grapegrowers 17 years before they got satisfaction. Their satisfaction came 17 years late—and that is what they are complaining about. The fact remains that this dispute went on every year prior to the delivery of the wine grapes, and the Hon. Mr. Kemp knows that that is so. He knows that year in and year out there was this argument between the wine grapegrower and the winemaker, and the winemaker held the grower over the wine barrel. The Hon. Mr. Kemp knows that. The Government was not prepared to put the matter on a proper basis. It is true that Sir Thomas Playford intervened on many occasions and that some agreement was reached, although there was nothing binding.

The Hon. H. K. Kemp: It was effective.

The Hon. D. H. L. BANFIELD: No. If it had been effective, the dispute would not have gone on for years. The honourable member knows that. Now that grape prices are under the control of the Prices Commissioner, both parties are satisfied and there has been no argument about it since this happened. However, it did not happen in 1948: we had to wait until 1965, when a Labor Government was prepared to intervene and give justice to the grower, just as the Hon. Mr. Dawkins now wants justice for the primary producer producing lambs and pigs. He is suggesting that at present the primary producers are getting a raw deal. If they come under price control, as the Hon. Mr. Dawkins is suggesting, they will be just as satisfied as are the wine grapegrowers. The Hon. Mr. Kemp and the Hon. Mr. Dawkins well know that. The Hon. Mr. Dawkins put up a case for it yesterday.

The Hon. H. K. Kemp: Telling untruths doesn't get you anywhere.

The Hon. D. H. L. BANFIELD: The Hon. Mr. Kemp cannot get up and say that the wine grapegrowers and winemakers were under price control before the Labor Government brought it about.

The Hon. L. R. Hart: The grapegrowers would get more at present if grapes were not under price control.

The PRESIDENT: Order!

The Hon. D. H. L. BANFIELD: The grapegrowers still want to be under price control, and the Hon. Mr. Hart knows it. If they had not wanted to be, they would have been taken out of it by now, because of a Government that claims to represent the primary producer; but the L.C.L. Government did nothing for 17 years in that direction, and the winemakers were putting money into the L.C.L. campaign funds. The Hon. Mr. Hart does not appreciate the truth when he is told it. The Liberal members are trying to conceal the omissions that lasted for 17 years. The principle of the Prices Act is good, but I am not happy about the way in which the Government observes that principle. However, we have to accept half a loaf at present. Therefore, I support the second reading.

The Hon. L. R. HART secured the adjournment of the debate.

CHIROPODISTS ACT AMENDMENT BILL

Second reading.

The Hon. R. C. DeGARIS (Chief Secretary): I move:

That this Bill be now read a second time.

It makes several amendments, of miscellaneous character, to the Chiropody Act, 1950. That Act was enacted in 1950 and has not been amended since. Under the Act, the Chiropody Board of South Australia, consisting of six professional members, was constituted. The board was charged with the duty of regulating the registration of chiropodists and the licensing of chiropody clinics. The Act has, in general, operated very well and effectively, but experience by the board with the administration of its provisions has led to the proposal of the amendments contained in the present Bill. The Bill somewhat expands the powers of the board in that it enables it to employ officers and servants to assist it in the performance of its powers and functions.

It provides for the inspection of chiropody clinics and enables the board to require a chiropodist to take steps to ensure that the premises and equipment of a registered chiropodist are of proper standard. In view of the serious consequences that may follow when unskilled persons attempt to treat pathological conditions of the feet, the provisions of the Act restricting the practice of chiropody are made more strict. In particular, the practice of chiropody for fee or reward by unskilled persons is prohibited. The Governor is invested with greater powers to make regulations. He has certain further powers to regulate the practice of chiropody and may prescribe a code of ethics to be observed and obeyed by all registered chiropodists.

The provisions of the Bill are as follows. Clauses 1 and 2 are formal. Clause 3 inserts a definition of "diploma or certificate in chiropody". The definition is inserted for the purposes of section 30 of the principal Act, which sets out the qualifications necessary for a person to be registered as a chiropodist. Clause 4 amends section 7 of the principal Act, which deals with the composition of the board. An obsolete reference to the School of Mines and Industries is brought up to date, and subsection (2), which has now served its purpose, is struck out. Clause 5 strikes out an obsolete proviso from section 8 (1) of the principal Act. This proviso dealt with the first members of the board and has now served its purpose. Clause 6, similarly, strikes out obsolete matter from section 10.

Clause 7 makes a decimal currency amendment. Clause 8 expands the powers of the board. It is empowered to employ and remunerate officers and servants. Clause 9 strikes out a reference to the Companies Act, 1934-1939, and substitutes a reference to the present Companies Act. Clause 10 enacts new section 21a in the principal Act. This new section empowers a servant of the board acting with the written authority of the board to enter and inspect premises used for the practice of chiropody. The board is also empowered to direct a registered chiropodist to carry out written directions issued to ensure that the premises and equipment of the chiropodist are adequate for the proper practice of chiropody.

Clause 11 makes a decimal currency amendment to section 24 of the principal Act. Clause 12 confines the degrees, qualifications and diplomas that may be entered in the register to those that are prescribed by the Governor. Clause 13 repeals and re-enacts section 27 of the principal Act. New section 27 prevents unregistered persons from practising chiropody for fee or reward. New subsection (2) prevents an unregistered person from holding himself out as a chiropodist. New subsection (3) makes it an offence for an unregistered person to make or permit any pretence or representations that he is qualified or authorized to practise chiropody. New subsection (5) provides, however, that the section does not affect a legally qualified medical practitioner or a registered physiotherapist.

Clause 14 provides for the application fee and annual subscription of a registered chiropodist to be prescribed. Clause 15 strikes out obsolete references to the school of mines and industries and substitutes the present title. Clause 16 makes a decimal currency amendment. Clauses 17 and 18 provide that the application fee and the annual fee to be paid in respect of a chiropody clinic are to be prescribed. Clause 19 amends section 39 of the principal Act so that it will provide that no person shall be employed to practise chiropody in a chiropody clinic unless he is registered.

Clause 20 provides for the annual subscription of a registered chiropodist to be prescribed. Clauses 21 and 22 make decimal currency amendments. Clause 23 empowers the Governor to make regulations prescribing the degrees, diplomas and qualifications that may be entered in a register under section 26; to prescribe a code of professional ethics to be observed and obeyed by all registered chiropodists; to prescribe the equipment and facilities to be provided by a registered person

at the premises in which he practises chiropody, and to provide for the inspection of clinics and other premises in which chiropody is practised.

The Hon. A. J. SHARD secured the adjournment of the debate.

LICENSING ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 2 to 10, and 12, 13 and 15 without amendment, that it agreed to amendment No. 11 with the amendment indicated in the schedule, that it disagreed to amendments Nos. 1 and 14 reconsideration of which it desired, and that it desired the concurrence of the Legislative Council in its amendment to amendment No. 11.

TEXTILE PRODUCTS DESCRIPTION ACT

Adjourned debate on second reading.

(Continued from October 21. Page 2284.)

The Hon. R. A. GEDDES (Northern): It is obvious from reading the original Act and listening to the Hon. Mr. Kneebone's excellent speech yesterday that a need exists to assist a large variety of people in South Australia. The woolgrowing industry is one of the principle reasons why the Act exists: so that the image of wool is not unnecessarily abused by the use of false name tags on garments.

The housewife is protected to a certain degree because of the insistence that a description of the material in a garment be placed on the label of that garment. This in turn assists the dry-cleaning industry because modern technological changes in fabrics have made it important for the industry to be careful with the clothes given to it to be cleaned.

With the modern technological inventiveness of man, many fabrics are now made by artificial means. Indeed, the most ridiculous articles are made that seduce fashion conscious people to buy articles as a result of their ever-changing whims and fancies. Fabrics that will not allow the body to breathe properly while they are being worn in many instances are grave fire risks.

The Hon. A. F. Kneebone: Of course, there is not much material in many garments.

The Hon. R. A. GEDDES: That is true. It is interesting to note in this morning's press that there is a world-wide revolution against mini-skirts. Whether this will have any effect on the manufacturers, only time will tell. Many synthetic fabrics have a limited life, and they are manufactured by giant chemical combines that have no regard for the end product so long as the profit margin is sufficient to keep the shareholders contented.

The major natural fibres, wool and cotton, still provide high-quality fabric which also offers many of the modern drip-dry, preshrunk or shrink-proof characteristics. The washability of many of these fibres means that they are keeping abreast of the times in relation to their saleability.

My wife and I found it interesting to observe when we were in Hawaii last year what materials, particularly in the form of dresses and men's shirts and shorts, were being bought there. It was difficult to find a cotton fabric, the demand for which was so great that such articles were snapped up in the shops as soon as they appeared, resulting in thousands of frocks, shirts and shorts made of synthetic material remaining in the shops. The people did not want to purchase these articles, particularly in that humid climate. The manufacturers or wholesalers were sending out a host of synthetic articles which were not wanted or liked but which, because of the price charged for them, were able to be sold.

My chief criticism of the Bill is that it leads to more legislation by regulation. As the Minister said in his second reading explanation, the State Ministers of Labour have agreed that artificial fibres should be described by one of 12 generic terms (which terms are used in the Brussels Tariff Nomenclature), but if any synthetic fibre does not fall within any of those generic terms the words "artificial fibre" or "man-made fibre" will have to be placed on the label.

The Minister said that there are 12 generic terms, but he does not list them; no such terms are mentioned in the Bill or the Act. He mentioned the Brussels Tariff Nomenclature, but what does that mean? The Parliamentary Library has been unable to help me in this respect. It also is not referred to in the Bill or the Act, only in the second reading explanation. If this Council passes the Bill, the name and description that will be placed on labels of fabrics will be in the hands of the Joint Committee on Subordinate Legislation, and the regulations will be tabled in Parliament. That will be the only time members can query anything or ascertain what is happening.

The Hon. C. M. Hill: You can disallow the regulations if you are not satisfied.

The Hon. R. A. GEDDES: I thank the Minister for informing me of that. However, I am aware of that fact. I still consider that legislation by an Act of Parliament is far better than legislation by regulation. I cannot be swayed from that thinking regardless of what other small safeguards we might have. It is not the way that I like legislation to be framed, particularly when we have this type of legislation which, according to the second reading explanation, is to be Australia-wide in its concept. The Minister said:

There is similar legislation in all other States and a similar provision in the Commonwealth Commerce (Imports) Regulations.

However, I see no reason why this should now become a regulatory type of legislation. If it was good enough in the past to come before Parliament, particularly in the case of wool, why can it not still be maintained in the same way? Before the Bill is passed, I should like to have a list of the 12 basic names of these synthetic materials, and I should also like to be told by the Minister what the Brussels Tariff Nomenclature really means and what it implies, so that at least I can have the satisfaction of finding out the basic meaning of this legislation. With those few remarks, I support the second reading.

The Hon. G. J. GILFILLAN secured the adjournment of the debate.

MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 21. Page 2296.)

The Hon. C. D. ROWE (Midland): Whenever an amendment of this Act comes before this Council there are many people who appear to have some knowledge of the manner in which a motor vehicle should be driven and we find that there is much debate about it. I do not propose to traverse all the matters that have been raised by other speakers, but I do want to mention one or two points.

Clause 3 amends section 12 of the principal Act by striking out from subsection (5) the passage "and a grain elevator" and inserting in lieu thereof the passage "a field bin constructed for the purpose of receiving or storing grain in or close to the field in which it is harvested, a grain elevator and a bale elevator". This is something which has caused considerable criticism amongst the farming community in the past, and this additional exemption with regard to these other items will be very helpful indeed.

I notice that other speakers have had much to say with regard to clause 10, which amends section 38 of the principal Act by striking out subsection (3) and inserting in lieu thereof a new subsection (3) as follows:

If the registered owner of a motor vehicle that has been registered at a reduced fee in accordance with this section dies . . . the registration shall . . . continue in force for a period of 14 days after his death.

It seems to me that the period of 14 days is quite unrealistic, and I support the amendment foreshadowed by the Hon. Mr. Geddes that "fourteen days" be deleted and "three months" be inserted. The loss of revenue will be quite negligible, and I think this new provision will ensure that the law will be enforced.

The Hon. S. C. Bevan: Are you going to prohibit the use of the car by someone else during that period?

The Hon. C. D. ROWE: No.

The Hon. S. C. Bevan: Why shouldn't its use be prohibited; if the original owner has died, why should someone have the use of the car at a reduced fee?

The Hon. C. D. ROWE: I have never understood that just because the registered owner has died other people are prohibited from using the vehicle.

The Hon. S. C. Bevan: But the owner had it at a reduced registration fee.

The Hon. C. D. ROWE: Yes, but if a returned soldier has had it at a reduced fee because of a disability, I do not see why on his death we should be so hard on his widow as to prevent her using it. I do not think that three months is an undue period.

The Hon. D. H. L. Banfield: It is not necessarily his widow who would be involved.

The Hon. C. D. ROWE: I am indebted to the Labor Party for the interjections; I always appreciate them. The points demerit system is the most important portion of the Bill. In general terms, I support the principle of a points demerit system, for there is considerable carnage on our roads and the kind of expense with which insurance companies and other people are involved because of careless driving of vehicles is something that every right-thinking person must try to do something to combat. It seems to me that this points demerit system is one which may make a practical attack on this problem. I note that under Part IIIB of the Bill, new section 98b provides:

The Governor may make regulations providing—

(*a*) that a prescribed number of demerit points shall be recorded against a person convicted of a prescribed offence; and

(*b*) that upon the demerit points recorded against a person amounting to a prescribed aggregate, the driver's licence of that person shall be suspended and he shall be disqualified from holding or obtaining a driver's licence for a prescribed period, not exceeding three months.

This gives the Governor the right to prescribe demerit points by way of making regulations. I do not agree with this approach to the matter. I think that the demerits scheme itself should be part of the Bill. I say this for two reasons. First, there are numerous regulations and not everyone has copies of regulations, nor is everyone able to get copies easily and, therefore, find out what the regulations are. Secondly, this is so important to so many people and can have such an adverse effect on their lives that I believe the demerits system should be incorporated in a schedule to the Bill so that everyone who has a copy of the Act can know what penalty he is liable to suffer if he accumulates the prescribed number of demerit points. Furthermore, I think this Council should have a say in the number of demerit points that should attach to each particular offence.

Those of us who have read the book *The New Despotism,* which deals with the impositions foisted on the public by regulations which never see Parliament in the sense that they are given individual attention by Parliamentarians, know the danger of legislation by regulation. This is a matter which I think should be dealt with in this Bill, and it is our responsibility as Parliamentarians to give the necessary time to enable adequate consideration to be given to it.

I know the Minister's view is that it may turn out that the demerits system is too severe and that an amendment should be made to it and that if Parliament is not sitting some injustice could be caused in the meantime. However, this argument does not impress me at all. Parliament sits reasonably frequently and the matter can be attended to by Parliament if it is found that the demerits scheme is building up too quickly.

I was sorry that the Minister released details of the demerits system to the press and did not release them to this Council. There was a Bill before the Council at the particular time, and I think the appropriate place for this information to be released was this Council. I do not say that the Minister did this in any sense discourteously, because that is not his approach to matters: he is always courteous to us in this Council in every way. However, I think it is a matter that I should mention. When a Bill is before the Council the place for information to be given is the Council itself. I hope that before the Bill is passed this matter will be considered and that the points demerit scheme will be written into the Bill, so that the details will become public property and will be incorporated in our Statutes. I think in this way it is likely to be more successful than if the details are contained in regulations that can be altered frequently.

I am aware that the points do not accumulate until a person has been convicted, so that it was a misunderstanding if certain people believed that a person could be stopped by a policeman and have demerit points recorded against him without there being a conviction. I agree to the suggestion that, while a certain offence may carry a number of demerit points, the magistrate who hears the offence should have the right not necessarily to award the maximum number of points but a number consistent with the seriousness of the offence.

The offence of dangerous driving, for instance, can involve a borderline case that only verges on dangerous driving, or it can involve a particularly dangerous offence. It is quite clear in my mind that the person involved only in a borderline case should not suffer the same number of demerit points as is suffered by the person who blatantly offends by dangerous driving. I would be in favour of allowing the court a discretion in this regard.

The Hon. S. C. Bevan: The court may not consider it necessary to award any points.

The Hon. C. D. ROWE: That may be so. Personally, I would give a discretion to the court in this particular matter. I think we would find that magistrates would exercise that discretion as they exercise discretion in respect of other cases. One of the important things regarding the law is that (*a*) it should be clear, and (*b*) people should know what is the law in question. I do not think we can blame a person who offends against a law of which he is unaware. However, there will be difficulty in making the details of this law known if they are set out only in regulations. Therefore, I am in favour of any move that is made to ensure that the points demerit system is included in the Bill, not only for the reasons I have stated but also because this scheme is a departure from the normal understanding

of the law relating to motor vehicles and places a fresh imposition on the motoring public. It therefore behoves us to give maximum publicity to the scheme. I suggest that, if the Bill is passed and if there is, in fact, a points demerit system, adequate publicity regarding it should be given through the appropriate channels before the system becomes law.

The Hon. C. M. Hill: We are going to send a schedule of offences and points to every motorist with his licence renewal.

The Hon. C. D. ROWE: I appreciate what the Minister has said; I am not aware of this information having been given in the Chamber previously, although it may have been. I am pleased to have that information, for I think that that procedure is indeed necessary. However, I think we should go further, for there should be some press publicity regarding the matter.

The Hon. A. J. Shard: It should be in the Bill.

The Hon. C. D. ROWE: I have said it should be in the Bill, but I am saying more than that: I am saying that before the scheme assumes the force of law there should be some press publicity regarding it. Most of us do not drive a motor vehicle just for pleasure; there is a business component in our driving, and we are seriously inconvenienced if deprived of the use of a motor vehicle. When we are considering imposing a new kind of penalty, I think we, as members of Parliament, have an obligation to see that the public know what is involved in connection with these offences. The liberty of the subject is an important thing, and I think that one of the responsibilities of a second Chamber is to see that the rights of the subject are protected and that he does not find himself in a position where his livelihood is interfered with by a law of which he has not a full understanding.

Although I believe that some time ago a statement was made regarding what was proposed in the demerit scheme, I do not think there was any actual publicity until last weekend in the press regarding the number of points that a person would lose for a particular offence. Having looked at the schedule that appeared (it was released to the press but not in this place), I still believe it should provide that the magistrate who hears the particular case has some discretion and is able to ensure that the fine imposed is tempered to the seriousness of the offence. It is logical to assume that a serious offence attracts the maximum number of points but that something less is awarded in the case of a minor offence.

The Hon. S. C. Bevan: The court uses its discretion at present concerning whether it will cancel a person's licence.

The Hon. C. D. ROWE: In some cases it is mandatory that a licence be cancelled, but I think this concerns mostly second offences. Regarding many first offences, the court has a discretion whether or not it imposes a cancellation and, as far as I know, the court uses that discretion sensibly. As this points demerit scheme is new, I think it is incumbent on us to see that it receives adequate publicity and that we consider carefully the method by which it is introduced. I support the Bill.

The Hon. R. C. DeGARIS (Chief Secretary): I rise mainly to refer to the actual recommendation regarding points lost for various offences. It seems that members have some doubts about exactly what the penalties will be and whether the scheme should be introduced by way of regulation or be included in the Bill. I believe that the matter should be brought forward by way of regulation, although I agree that members should have some information in regard to the basis on which the relevant regulation will be introduced. Perhaps first I should deal with the recommendations made by the committee set up to investigate and make recommendations regarding the points demerit scheme. The committee comprises the Registrar of Motor Vehicles, the General Manager of the Royal Automobile Association, and the Commissioner of Police. The recommendations of the committee, some of which have been included in the Bill, are these:

1. Points be recorded only after a driver pleads or is found guilty before a court.
2. If a driver's total points reaches 12 or more in any three-year period after the commencement of the scheme, the Registrar suspend the driver's licence for a period of three months. The three-year period to be calculated between the dates of offences, not the dates of conviction or payment of fines.
3. The points score of a driver will revert to nil when his licence is suspended by the Registrar under this points demerit scheme. The driver then makes a fresh start from zero.
4. Where multiple charges are laid, based on the same set of circumstances, penalty points be imposed in respect of one conviction only, that is, for the most serious offence.
5. Individual warning be restricted to an advisory letter following the accumulation of 6 points.

The proposed regulation containing the schedule of the substantive offences and recommended points is as follows:

Criminal Law Consolidation Act

Section 14	Cause death by negligent driving	6
Section 38	Cause injury by culpable negligence	6

Road Traffic Act

Section 47 (1) (*a*) and (*b*)	Drive, or attempt to put a vehicle in motion, whilst under influence of liquor or drug	6
Section 43 (3) (*a*)	Failure to stop after an accident involving death or injury	5
Section 46 (1)	Reckless or dangerous driving	5
Section 47b (1) (*a*) and (*b*)	Drive, or attempt to put a vehicle in motion, with prescribed concentration of alcohol in blood	5
Section 47e (3) (*a*) and (*b*)	Refuse or fail to comply with a reasonable police direction in connection with breath analysis or exhale into breath analyzing instrument as directed	5
Section 63 (1)	Fail to give way	4
Section 65	Fail to give way at crossover	4
Section 66	Fail to give way when entering road from private land	4
Section 67 (1)	Fail to give way to pedestrian on pedestrian crossing	4
Section 67 (2)	Pass "stop" line or enter pedestrian crossing while "stop" sign is being exhibited	4
Section 67 (3)	Pass vehicle stopped at pedestrian crossing to give way to pedestrian	4
Section 72 (1)	Fail to stand	4
Section 43 (3) (*a*)	Failure to stop after non-casualty accident	3
Section 45	Careless driving	3
Section 48	Exceed general speed limit	3
Section 49 (1) (*a*)	Exceed 35 miles an hour	3
Section 49 (1) (*b*)	Exceed speed past school bus	3
Section 49 (1) (*c*)	Exceed speed past school or playground	3
Section 49 (1) (*d*)	Exceed 15 miles an hour approaching and within 100ft. of school crossing	3
Section 49 (1) (*e*)	Exceed 15 miles an hour between signs at road works, etc.	3
Section 50 (1)	Exceed speed fixed in speed zone	3
Section 51 (1) (*b*)	Exceed speed with pillion passenger	3
Section 53 (1) and (2)	Exceed speed with commercial vehicle	3
Section 53a (1)	Exceed speed—passenger vehicle with seating for more than eight passengers	3
Section 56 (*b*)	Change lanes to danger	3
Section 57 (1)	Cross barrier lines	3
Section 58 (1)	Overtake, or attempt to overtake, before road clear	3
Section 58 (4)	Fail to overtake on left of vehicle signalling right turn	3
Section 64	Fail to comply with "give way" sign	3
Section 68	Fail to give way to pedestrian when turning at intersection or junction	3
Section 69	Fail to give way when driving from stationary position at edge of carriageway	3
Section 75 (1)	Driver disobeys traffic lights	3
Section 76	Disobey sign—no turns, no right turn, no left turn	3
Section 77	Disobey "keep left" or "keep right" sign	3
Section 78 (1) (2) and (3)	Disobey "stop" sign	3
Section 78a	Disobey road sign or mark regulating traffic movement, or route to be taken	3
Section 80 (*c*)	Disobey railway level crossing signal, gate or barrier	3
Section 54 (1)	Fail to keep left	2
Section 56 (*a*)	Fail to keep vehicle entirely within traffic lane	2
Section 70 (1)	Improper right hand turn	2
Section 74 (1) and (1a)	Fail to signal diverge to, or turn, right or left, stop or slow down	2
Section 74a	Permit signalling device to operate after completed turn or divergence	2
Section 81 (1)	Certain vehicles not stopping at railway crossings	2
Section 83 (1) (*a*)	Obstruct traffic to danger	2
Section 122	Fail to dip headlamps	2
Section 111 (1)	Drive vehicle without prescribed headlamps (*vide* section 112 (1) (2) and (3))	1
Section 111 (1)	Drive vehicle without prescribed clearance lamps (*vide* section 117 (2) (3) (4) and (5))	1

This is the basis upon which the regulations will be prepared. Parliament will have the opportunity to look at the regulations after they are brought into force.

The Hon. D. H. L. Banfield: Can they be amended?

The Hon. A. J. Shard: No; regulations cannot be amended. If Parliament does not approve them, it must disallow the lot. The Bill will get done.

The Hon. R. C. DeGARIS: Parliament has the power to disallow the regulations. So, honourable members will have an opportunity both now and later to make their suggestions in this regard.

The Hon. S. C. Bevan: All except about two honourable members have spoken in this debate. Why couldn't the details of the scheme have been given in the first place?

The Hon. R. C. DeGARIS: The Government rightly believes that this matter is better handled by regulation. The Leader of the Opposition has said that the Bill will get done —that may be so.

The Hon. C. M. Hill: I wonder whether the Leader saw the editorial in the *News* the other night.

The Hon. A. J. Shard: We will take the responsibility.

The Hon. C. M. Hill: The people want the scheme.

The Hon. A. J. Shard: Of course they do, and they want to know all about the scheme.

The PRESIDENT: Order! The Chief Secretary.

The Hon. R. C. DeGARIS: The Government closely considered the whole question before deciding that the points demerit scheme was the best way of reducing the appalling road toll. The whole argument seems to boil down to whether the details of the scheme should be included as a schedule in the Bill or should be handled by regulation. This appears to be the only point on which we are disagreeing, yet the Leader says that the Bill will get done.

The Hon. A. J. Shard: If the details of the scheme are not in the Bill it will get done.

The Hon. R. C. DeGARIS: Are we to assume that a measure of such vital importance—

The Hon. C. M. Hill: To the public.

The Hon. R. C. DeGARIS: —will be tossed out on the ground that a schedule has not been included in the Bill? Parliament has just as much control over the matter if it is handled by regulation. Parliament can closely consider the regulations when they are brought into force.

The Hon. Sir Norman Jude: What is your objection to a schedule in the Bill?

The Hon. R. C. DeGARIS: I firmly believe that this sort of information is better handled by regulation than in a schedule.

The Hon. A. F. Kneebone: What do you base that on?

The Hon R. C. DeGARIS: It is quite obvious that other States have had to change their schemes because they have not been working satisfactorily. These changes can be effected very quickly by regulation.

The Hon. C. M. Hill: Is such a schedule in a Bill in any other State?

The Hon. D. H. L. Banfield: That doesn't matter. Other States have not raised their hospital charges by 50 per cent.

The Hon. R. C. DeGARIS: Other States charge more than we do. Perhaps the honourable member wants to raise succession duties to prevent hospital charges increasing. I believe that those other States that have a points demerit scheme have implemented it by regulation.

The Hon. Sir Norman Jude: If you leave it to the court you will not have this trouble.

The Hon. R. C. DeGARIS: Leaving it to the court does not meet the situation. Before a person comes before a court he must be picked up by the police, who must decide whether he should be prosecuted. If he goes before the court I do not believe it is reasonable to expect the court to allot a sliding scale of points for offences.

The Hon. A. J. Shard: They are not a sliding scale of penalties ranging from $200 down to $10.

The Hon. R. C. DeGARIS: Yes, but the offences must be specified and the points allotted for them.

The Hon. A. J. Shard: That is why they should be in the Act.

The Hon. R. C. DeGARIS: It is the only sane way in which this points demerit system can be operated, as it is operated elsewhere in the world where such a system is in operation.

The Hon. S. C. Bevan: That is not right, and you know it.

The Hon. C. M. Hill: Well, where is it in an Act in another State?

The Hon. S. C. Bevan: It is in a schedule in New South Wales.

The Hon. C. M. Hill: It is not in the Act.

The PRESIDENT: Order!

The Hon. R. C. DeGARIS: I am getting into arguments here that are perhaps best left to the Minister in charge of the Bill, but I thought the Council should be informed of the Government's present proposals that will be the basis of the regulations that will be introduced on this matter.

The Hon. A. J. SHARD (Leader of the Opposition): My name was not down as a speaker in this debate and I probably would not have spoken had this situation not arisen. The point I want to make has been made more ably by the Hon. Mr. Rowe than I can probably make it. As a member of Parliament, I have never shirked my responsibility on social questions or to the public. The public wants to know what these penalties will be. I am often being asked what they will be and whether they will appear in the Bill. When a responsible Minister gets up and says that this will be better done by regulation than in the Bill, either he is not telling the whole truth or he does not know what goes on, because not one person in 100 would know the Adelaide City Council by-laws or regulations.

We all know that, if we ask for any particular regulation, it takes a month to get it. Regulations are important for the public to know. If this matter is in the Act and somebody wants a copy of it, we can safely go to the people and say that the demerit points are listed in the Motor Vehicles Act, a copy of which they can procure at the Government Printing Office; but, if we tell the people that the demerit points are dealt with by regulation, a copy of which they can obtain at the Government Printing Office, of the hundreds of people who go there for a copy only one or two will get one, because regulations are rarely in print.

The Hon. A. M. Whyte: You can get them from the *Advertiser*.

The Hon. A. J. SHARD: I heard the Hon. Mr. Rowe say today that he was disappointed sometimes because he had to get information from the *Advertiser*. Most of my information that should come from the Government I get from the *Advertiser* before it is announced in Parliament. I tell the Minister and the Chief Secretary that, if the points demerit system does not appear in a schedule to the Bill, I shall move that that clause be deleted, and I am prepared to take the responsibility of going out and telling the people why I voted in that way.

The Hon. S. C. Bevan: I shall be with you.

The Hon. A. J. SHARD: Everyone is entitled to know about this. It is all right for the Minister to say, "You will be given this and that, and I will take the responsibility for it"; I have never run away from my responsibilities.

The Hon. S. C. Bevan: The Minister must face up to his responsibilities.

The Hon. A. J. SHARD: Yes; we are not prepared to accept the dictatorial attitude of this Government in this matter.

The Hon. L. R. Hart: Whom are you trying to protect?

The Hon. A. J. SHARD: The public, so that it knows what it is up for.

The Hon. C. M. Hill: The public will be informed by the Registrar.

The Hon. A. J. SHARD: I am not concerned about that. It is for Parliament to tell the public; it is not what the Registrar tells the public or what is done by regulation. Yesterday, the Government passed the buck and placed the responsibility on a board, in another Bill. Any Minister who says that we can amend the regulations by going to the Subordinate Legislation Committee does not know what he is talking about.

The Hon. C. M. Hill: The committee can disallow them if it wants to.

The Hon. A. J. SHARD: In that case, it has to disallow the lot.

The Hon. C. M. Hill: Then the Registrar will bring in new regulations.

The Hon. A. J. SHARD: It will take 12 months to do that.

The Hon. C. M. Hill: No.

The Hon. A. J. SHARD: If regulations go before the Subordinate Legislation Committee and they are disallowed, it is rarely rectified inside 12 months. If the Minister does not know that, he ought to.

The Hon. C. M. Hill: It will be done very quickly.

The Hon. A. J. SHARD: Many members of the Subordinate Legislation Committee have had this experience and know this. Any council will tell you that, when its regulations have been disallowed, it takes 12 months before anything is done.

The Hon. C. M. Hill: No; it takes only two or three months.

The Hon. A. J. SHARD: No; the Minister has a lot to learn. I know how the committee works. I do not want to delay the matter but I want everybody to know where I stand. I think my colleagues are with me on this.

The Hon. C. M. Hill: If you want to wreck the points demerit system, say so.

The Hon. A. J. SHARD: We do not want to wreck it, but we want to be reasonable.

The Hon C. M. Hill: You are going the right way about it to wreck it.

The Hon. A. J. SHARD: We do not want to be told we passed a Bill that did not include the schedule. The list given to the newspaper was a proposed list.

The Hon. C. M. Hill: We always bend in these things.

The Hon. A. J. SHARD: Let me finish. It is a proposed list and, while it is given in good faith and I accept it in good faith, there is nothing to prevent the Government after this Bill passes from changing the points that have been suggested.

The Hon. R. C. DeGaris: You can always move an amendment to include the points in the Bill.

The Hon. A. J. SHARD: I cannot.

The Hon. R. C. DeGaris: Yes, you can.

The Hon. A. J. SHARD: But I do not want to move an amendment. You are the responsible Government. I do not want it on my head that the points are apportioned in a certain way. You can put your head on the block and, if it is chopped off, it is too bad.

The Hon. C. M. Hill: You will get yours chopped off in this matter; the people want the points demerit scheme.

The Hon. A. J. SHARD: Don't you believe that!

The Hon. C. M. Hill: You heard it today; it was in the newspaper last week.

The Hon. A. J. SHARD: We take no notice of what is in the newspaper. It can be altered within six months and then we would not know what the position was. I make it quite clear that, if we do not get an assurance from the Minister before this clause is dealt with, I shall vote for it to be deleted from the Bill, and I will take what is coming to me.

The Hon. Sir ARTHUR RYMILL secured the adjournment of the debate.

PRISONS ACT AMENDMENT BILL

Second reading.

The Hon. R. C. DeGARIS (Chief Secretary): I move:

That this Bill be now read a second time.

Its purpose is to constitute a parole board and to define its powers and functions in relation to the release of prisoners on parole. There is a tendency in some sections of the community to think of the criminal court as the principal authority in the administration of the criminal law, and of all other authorities as subsidiary. Over the last decade, the whole purpose and function of law enforcement machinery has come under a close and exhaustive scrutiny to an extent that would never have been regarded as necessary in the pre-Second World War days. That scrutiny has clearly revealed that criminal justice connotes a much wider responsibility than the provision of means for investigation, trial and (where there is a conviction) sentence. It has been convincingly demonstrated that the interests of the community are as closely linked to the future of a prisoner after sentence as they are to the pre-trial and trial procedures in consequence of which he became a prisoner.

Under present law and administrative practice, a prisoner may, by good behaviour, ensure that he serves no more than two-thirds of his actual sentence, and, if successful as a petitioner under section 42 of the Prisons Act (as recently amended), he may, on the recommendation of the Comptroller, be released on probation after serving no more than one-third of his actual sentence. If he is serving a sentence of life imprisonment a prisoner may, on the recommendation of the Comptroller, be released on licence pursuant to section 42a of the same Act. Those two possibilities of early release notwithstanding the terms of a judicial sentence pose difficult problems of immediate concern to the community.

Where release on probation or licence is in view, the two essential steps in the relevant procedures are: (1) the recommendation of the Comptroller, and (2) the exercise by the Executive Council of the discretion whether or not to advise the Governor to release.

The recommendation of the Comptroller is made largely on the basis of reports from prison and probation officers. There can be no doubt of the value of the work of those dedicated and hard-working officers, but to some extent the particular task given them by the Act places them in a position analagous to

a magistrate required to be judge in his own cause. For what is their task? It is at one and the same time to assemble facts (if any) tending to show the merit of the prisoner's petition, to assemble other facts (if any) tending to show the opposite, and then, objectively and impartially, to weigh all facts and, bearing in mind the interests of the prisoner and of the community, to agree in what is, in effect, a joint recommendation for the consideration of Cabinet, knowing that, except in very special circumstances, Cabinet will act on the recommendation. It is, perhaps, a task that an administrator would be prepared to accept if he was called on to perform it only rarely and for special reasons, but the recent explosion (as one may properly term it) of applications for release demonstrates that the task will never be so limited. It follows, therefore, that it is not really fair to continue to place a burden of that kind on probation officers and the Comptroller.

The task of deciding whether a prisoner should be released is a particularly exacting one. It requires, in this age, the discernment of a psychiatrist, the training of a sociologist, the background of a police officer, the knowledge of a prisons officer and the patience and objectivity of a judge. To bring all those faculties to bear on the problem of each individual prisoner requires time and more time—time for hearing, time for discussion and exchange of views, and time for deliberation. The demands of the task are too great to be performed by Cabinet, in the time available, as part of the ordinary business of Government. Moreover, Honourable Ministers cannot expect, in every case, to be free of the embarrassment of political pressures. In contrast, the work of a parole board is not dissimilar to that of a court.

Indeed, a typical parole board may function rather as a judge does when sitting with the assistance of assessors. The Government has decided that the present system is unsatisfactory and the time has now come for all petitions for release (whether on licence or probation) to be heard and determined by an independent parole board. The parole board is to be presided over by a judge and include other members who have qualifications and experience of the kind referred to above.

The Hon. A. J. Shard: Is that a Supreme Court judge, as I read it in the newspaper?

The Hon. R. C. DeGARIS: Yes.

The Hon. A. J. Shard: Then I think you should specify that.

The Hon. R. C. DeGARIS: I give an undertaking to the honourable member that it is a Supreme Court judge. They would be appointed by the Governor for a definite term, on the expiration of which they would be eligible for re-election. The parole board is to have a most important responsibility in the administration of the criminal law. Judges without exception have stated publicly and privately that sentencing is probably the most difficult task that falls to their lot. So much has to be examined and considered; so much depends on the consequence of their deliberation; the law is able to provide so little by way of principles to guide the exercise of their discretion. The task of the parole board is essentially the same as that of the sentencing judge: it differs only in that the board has greater time to explore the situation, a later picture of the prisoner's response to the machinery of the penal system, and, perhaps because it considers that later picture, a more direct concern with rehabilitation.

The four great objects of the criminal law will, however, still be in the forefront of the members' minds: retribution, prevention, deterrence and reform. The board will be virtually a standing Royal Commission with a Royal Commission's powers, charged with the responsibility of applying the primary sentence with greater flexibility, further and later information and greater power to meet the current needs of the community. Where the sentencing judge has to have resort to foresight, imagination and trust, the parole board, in relation to the same prisoner and the same crime, can rest its decision on up-to-date evidence and the proven progress (or the reverse) of the pisoner. It will be freed from the suspicion of politics, the conflict of interests, and the possibility of public service introversion.

The provisions of the Bill are as follows: Clauses 1, 2 and 3 are formal. Clause 4 amends the definition of "prisoner" to include a person under sentence of imprisonment but released on parole pursuant to the Act. Clause 5 enacts new Part IVA in the principal Act under which the parole board is constituted and its functions are defined. New section 42 inserts certain definitions necessary for the purposes of the Part.

New section 42a constitutes the board. It is to consist of 10 members altogether, one of whom is to be a judge of the Supreme Court; one to be the Comptroller of Prisons; two are to be legally qualified medical practitioners; two are to be experienced sociologists; two are to be nominated by the South

Australian Chamber of Manufactures Incorporated; and two are to be nominated by the Australian Council of Trade Unions. In practice, the board will consist of six members at any time when it is considering an application for parole because where two persons of specified professions are to be appointed, one is to be a man and the other a woman, and the male members are to sit when an application by a male prisoner is being considered and a female member is to sit when an application by a female prisoner is being considered.

New section 42b deals with the terms and conditions upon which the members hold their appointment. The chairman is to be appointed for a term of five years and the other members are to be appointed for a term of three years. New section 42c deals with the procedure of the board. New section 42d entitles the members of the board to receive remuneration allowances and expenses as determined by the Governor. New section 42e is an evidentiary provision. New section 42f invests the board with certain judicial powers. New section 42g provides that the board is to make reports upon its activities and to report upon prisoners serving sentences of life imprisonment or indeterminate duration.

New section 42h provides for the appointment of a secretary and parole officers. New section 42i imposes upon a judge an obligation to fix a non-parole period where a person is sentenced to imprisonment for more than one year. This requirement need not be complied with where the judge is of opinion that there are special circumstances that render it inappropriate to fix such a period. New section 42j deals with the situation where a prisoner is subject to more than one sentence of imprisonment. The court may, in imposing the subsequent sentence, vary a non-parole period previously fixed, or, if it imposes a separate non-parole period, the non-parole periods shall be cumulative or concurrent depending upon whether the sentences of imprisonment are cumulative or concurrent.

New section 42k invests the board with a wide discretion to release a prisoner upon parole. The parole may be upon such terms as the board thinks fit and specifies in the order. A prisoner released upon parole shall be subject to the supervision of a parole officer. New subsection (6) provides that a prisoner released upon probation or licence pursuant to the Act as in force before the commencement of the amending Act shall be deemed to be a prisoner released upon parole under the amended Act. New section 42l provides that a prisoner released upon parole shall remain upon parole for the term of his sentence, and if his probationary release is not cancelled the sentence of the court shall then be wholly satisfied.

New section 42m empowers the board to cancel the probationary release of a prisoner. If his release is cancelled the period that he has spent on parole does not count as part of his sentence. New section 42n empowers the board to release a prisoner upon parole notwithstanding that on previous occasions his probationary release may have been cancelled. New section 42o empowers the board to make recommendations to the Governor that an habitual criminal be released on licence pursuant to section 323 of the Criminal Law Consolidation Act.

New section 42p vests the board with authority to deal with sexual offenders detained pursuant to section 77a of the Criminal Law Consolidation Act. If the board is satisfied upon the reports of two legally qualified medical practitioners that a person detained is fit to be at liberty, it may recommend to the Governor that he be released. New section 42q empowers the Governor to make regulations for the purposes of the new Part. In particular, he may regulate the supervision of prisoners released upon parole and he may provide for the reduction of a non-parole period as an incentive to, or reward for, the good conduct or industry of a prisoner. New section 42r provides that the new Part does not limit the prerogative of mercy or any other prerogative exercisable by the Governor.

The Hon. A. J. SHARD secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (PRISONS)

Second reading.

The Hon. R. C. DeGARIS (Chief Secretary): I move:

That this Bill be now read a second time.

The amendments made by this Bill are consequential upon those provided by the Prisons Act Amendment Bill at present before Parliament. In addition, the Bill inserts a new provision that is designed to deal with persons of psychopathic tendencies. These people frequently require long periods of restraint and treatment before they are in a fit condition to be returned to society. The present Bill therefore inserts a provision that will give the courts

adequate power to deal effectively with persons who because of their ungovernable criminal propensities require extended periods of detention and treatment.

The provisions of the Bill are as follows: Clauses 1 and 2 are formal. Clause 3 inserts a definition of "the Parole Board" in the principal Act. Clause 4 amends section 77a of the principal Act to provide that the release of a sexual offender detained pursuant to that provision is dependent upon the recommendation of the Parole Board instead of the direct report of two legally qualified medical practitioners as at present. Honourable members will recall that the Parole Board is to consider the progress of sexual offenders detained pursuant to this section and the reports of medical practitioners upon whether such prisoners are fit to be released.

Clause 5 inserts new section 313a in the principal Act. This is the provision to which I have previously referred which is designed to deal with psychopathic prisoners. It provides that where any person apparently of or above the age of 25 years has been convicted since the age of 18 years of three offences punishable by imprisonment for two years or more, and the court is satisfied that it is in the interests of the public or the interests of the prisoner that he should be detained for a substantial period, the court may impose, in lieu of any other sentence, a sentence of imprisonment for a term of not less than 10 years.

Clause 6 amends section 323 of the principal Act. The recommendation for the release of an habitual criminal is to be made in future by the Parole Board instead of the Comptroller of Prisons. Clause 7 amends section 328 of the principal Act. These amendments are consequential upon the enactment of the provisions establishing a Parole Boad.

The Hon. A. J. SHARD secured the adjournment of the debate.

OFFENDERS PROBATION ACT AMENDMENT BILL

Second reading.

The Hon. R. C. DeGARIS (Chief Secretary): I move:

That this Bill be now read a second time.

It is not directly related to the establishment of a Parole Board but it is connected with the general reform of penal law that is being undertaken by the Government at present. It fulfils a long-felt need in that it enables the courts to impose suspended sentences of imprisonment upon offenders. Thus a court may sentence an offender to imprisonment, but may suspend the operation of that sentence provided that the offender observes the conditions of a bond to be of good behaviour and to observe such other conditions as the court thinks appropriate to the particular case.

The provisions of the Bill are as follows: Clause 1 is formal. Clause 2 amends section 4 of the principal Act. The amendment provides that where a person is convicted of an offence punishable by imprisonment and the court is of the opinion that there are circumstances justifying a suspended sentence, it may sentence the offender to imprisonment but suspend the sentence upon condition that the convicted person enters into, and observes the terms and conditions of, a recognizance to be of good behaviour for a term not exceeding three years, fixed by the court. New subsection (2b) provides that if during the term of the recognizance the offender properly observes the conditions upon which he was released the sentence of imprisonment shall be wholly extinguished.

Clause 3 amends section 9 of the principal Act. New subsection (4) will provide that if a person upon whom a suspended sentence has been imposed fails to observe the terms of his bond the court before which he has been brought shall order that the suspension be revoked and the sentence carried into effect.

The Hon. A. J. SHARD secured the adjournment of the debate.

FOOTWEAR REGULATION BILL

Adjourned debate on second reading.

(Continued from October 21. Page 2297.)

The Hon. V. G. SPRINGETT (Southern): Clause 5 of the Bill sets out in some detail the provisions relating to marking of shoes, which by definition include all articles of footwear. The Bill provides that manufacturers of footwear must indicate the type of sole used. In the case of leather soles, the words "all-leather sole" must be used, whilst soles of other materials can show the words "non-leather sole" in order to make it clear to the public what they are buying. I think this is excellent.

In passing, I should like to refer to other factors concerned with the manufacture of shoes which have quite an important bearing in their effect upon the public. I refer to the style and the shape of shoes. Probably more foot problems result from bad shoes than from any other cause. For instance, when stiletto

heels were popular it was estimated that the pressure per square inch of the heel of an average woman of 8st. or 9st. had almost the same effect on that small area of ground as an elephant standing on a large area. These high heels in general have quite a devastating effect on the posture and, therefore, the back comfort of the wearer. Pointed toes, too, damage the posture of the toes in relation to the whole make-up of the foot. The result is that many people who have been the victims of fashion are later sufferers from bad feet. I would think that whilst it is good that the materials used for manufacturing shoes should be clearly stamped on the shoe, I think many manufacturers must take some blame for some tragically crippled feet because of the type of object they have made for people to wear.

The Hon. D. H. L. Banfield: Is it the manufacturers or the fashion designers?

The Hon. V. G. SPRINGETT: Both, I think.

The Hon. D. H. L. Banfield: Wouldn't the manufacturers only follow the trend of the fashion designers?

The Hon. V. G. SPRINGETT: They follow the trend, but they will only accept those things that they want to manufacture. I think they are both involved in this, one as much as the other. Then, of course, the doctor comes into it, and especially the orthopaedic surgeon.

The Hon. D. H. L. Banfield: It keeps him in business.

The Hon. V. G. SPRINGETT: I think the doctors get enough without that. I just rise to support the Bill and to underscore the fact that I hope the public conscience will be such that comfort and good fitting as well as elegance will control fashions.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Interpretation."

The Hon. D. H. L. BANFIELD: I wish to refer to the following definition:

"Inspector" means any inspector appointed or deemed to be appointed under section 205 of the Industrial Code, 1967, as amended, and in office:

Can the Minister say why the meaning of "inspector" is not spelt out in the clause?

The Hon. C. R. STORY (Minister of Agriculture): I think the honourable member has a much better grasp of industrial matters than I have.

The Hon. S. C. Bevan: It means that the "inspector" is a factories inspector.

The Hon. C. R. STORY: Yes. It is very much easier to define the term "inspector" in the Industrial Code than it is in this Bill. I do not think it upsets the honourable member that it is done in this way. The same inspector will do the job under this Bill.

Clause passed.

Clauses 5 to 7 passed.

Clause 8—"Powers of inspectors."

The Hon. D. H. L. BANFIELD: In subclause (1) (*d*) I think the word "was" should be "has".

The CHAIRMAN: The honourable member is correct, and I will make the alteration.

Clause passed.

Remaining clauses (9 to 14), schedule and title passed.

Bill reported without amendment. Committee's report adopted.

LAND VALUERS LICENSING BILL

Adjourned debate on second reading.

(Continued from October 21. Page 2298.)

The Hon. L. R. HART (Midland): This Bill has received very little attention from honourable members who have spoken on it so far both in this Council and in another place, so one assumes that it is fairly straightforward. Persons engaged in valuing land, for the many purposes for which valuations are required, need to be both competent and experienced. In the past, land valuers gained most of their competency from experience in the field. Under this Bill a person applying for a licence as a land valuer, besides being of good character and repute, must prove that he has had a specified period of satisfactory practical experience in the valuation of land or that he has had a shorter period of practical experience but has passed the examinations conducted by the board that is set up under this Bill. As time passes, the task of valuing land becomes increasingly more exacting and, therefore, the need to have people of proven competency becomes evident.

Most other States have some form of registration of land valuers. In Tasmania land valuers are required to have a certificate of competency issued by the Valuers Examination Board. In Queensland, where there is a Valuers Registration Act along similar lines to this Bill, there is a prohibition against any person not registered as a land valuer.

Previously, in South Australia a person had to be registered under the Appraisers Act before he could engage in valuations of any kind. In Victoria there is a Valuers Qualification Board set up under the Valuation of Land Act; this board grants certificates. In New South Wales there is no Act governing land valuers, but reference is made to the Valuer-General under the Valuation of Land Act; however, there is no reference to registration. Valuers, of course, are required for purposes other than valuing land, and it appears that such valuers will continue to be registered under the Appraisers Act, the Act under which land valuers were previously registered. Clause 4, dealing with the Land Valuers Licensing Board, provides:

(2) The board shall consist of five persons appointed by the Governor of whom—

(*a*) three shall be persons nominated by the Minister of whom one, who shall be appointed by the Governor to be Chairman of the board, shall be a legal practitioner of not less than seven years' standing;

The provision makes no reference to the qualifications of the other two persons, although there is a requirement that, of the two persons not nominated by the Minister, one shall be nominated by the Commonwealth Institute of Valuers and the other by the valuers division of the Real Estate Institute of South Australia. So, I assume the board will be competent and able to carry out its duties. Because I do not think there is anything contentious in this Bill, I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 24 passed.

Clause 25—"Regulations."

The Hon. L. R. HART: For the sake of consistency, I was wondering whether some of the matters to be dealt with by regulation should not be included in the Bill, whether there should not be a schedule to the Bill setting out some of the things that are to be done by regulation—for instance, the subjects in which a person shall be examined, the examination fees he shall pay, the places where the examinations shall be held, and so on. There is much to be said for having these things dealt with in the Act rather than by regulation. Perhaps other honourable members would like to comment on this.

Clause passed.

Title passed.

Bill reported without amendment. Committee's report adopted.

ADJOURNMENT

At 5.9 p.m. the Council adjourned until Tuesday, October 28, at 2.15 p.m.