APPENDIX IX

ADOPTIONS

Mr. WOTTON: My question to the Premier, in the absence of the Attorney-General, is supplementary to the question I asked the Attorney-General last Tuesday. Will any purpose be served in making application before the court in regard to the court's power under the adoption legislation to dispense with the consent of the parent if no supporting evidence is available? In reply to my question last Tuesday the Attorney-General stated:

The question that must be placed before the court is whether it is prepared to exercise its power under the adoption legislation and to dispense with the consent of the parent . . . I suggest that solicitors acting for the people concerned should take the matters to court and have them dealt with on this preliminary question to have the matters tested.

I have been informed that to support such applications evidence is required, among others things, of (*a*) abandonment, (*b*) that the children are orphans legally put up for adoption, or (*c*) that the parents cannot be located. In the majority of cases this evidence is unobtainable. In those cases where it might be obtained, the people concerned are in oversea countries. I believe it would serve no useful purpose making such applications without evidence, as I have outlined, being available.

The Hon. D. A. DUNSTAN: I will get a report for the honourable member.

At 3.8 *p.m., the bells having been rung*:

The SPEAKER: Call on the business of the day.

SALARIES ADJUSTMENT (PUBLIC OFFICES) BILL

Returned from the Legislative Council without amendment.

MENTAL HEALTH BILL

The Hon. R. G. PAYNE (Minister of Community Welfare) obtained leave and introduced a Bill for an Act to make provision for the treatment and protection of persons who are mentally ill; to make provision for the care, treatment and protection of persons who are mentally handicapped; to repeal the Mental Health Act, 1935-1974; and for other purposes. Read a first time.

The Hon. R. G. PAYNE: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation incorporated in *Hansard* without my reading it. The Government intends that this Bill will proceed to a Select Committee.

Leave granted.

Explanation of Bill

Within the past decade significant changes and developments have occurred in the mental health services of this State. Different categories of patient have been provided with facilities and services most conducive to their well-being. New institutions have been built and extensive renovations and modern replacements of old and obsolete wards have been undertaken or are being actively planned. The Strathmont Centre for the intellectually retarded attracts visitors from all over Australia. The Security Hospital, Northfield, for mentally ill offenders, and Willis House, Enfield Hospital, for the treatment of adolescents, are unique in design and advanced in function. Within the large hospitals at Hillcrest and Glenside, a division has been made into smaller units which operate for the better care of psychiatric and psychogeriatric patients. The team system has led to more effective treatment and reduced the risk of institutionalisation which is one of the ill effects of long-term admission to a large hospital.

Training programs for psychiatric and mental deficiency nurses are of high standard. Educational programmes for trainee psychiatrists, clinical psychologists, social workers, mental health visitors and other professionals have been introduced. Consultant services are provided to hospitals in the larger country centres and to other departments and agencies. There is still a shortage of accommodation for intellectually retarded persons and for mentally deteriorated old people, but the Government is taking active steps to remedy this need.

This progress points to the need for an urgent review of the Mental Health Act, which continues to be based largely upon nineteenth century concepts. Not surprisingly, in recent years, criticisms have been advanced against some of the rather antiquated notions embodied in the existing Act. It has been attacked on the grounds that it is too easy to deprive a person of his civil liberties because of mental defect, that a person can be deprived of liberty for life on the opinion of a medical practitioner, that the provisions for appeal against detention are inadequate and that those that do exist are such that they have been rarely acted upon. The sections of the Act dealing with criminal mental defectives have been roundly condemned as making it possible for a mentally ill defendant to be incarcerated in a hospital for criminal mental defectives for an indefinite period without trial. The dangers of such powers of preventive detention have been frequently stressed. Though some of the critics have expressed extreme views which could not generally be supported, the Government has felt for some time that there is nevertheless a valid case for complete review of the existing Act. A committee was therefore established early in 1975 to review the Mental Health Act, 1935-1974, and to make recommendations which might form the basis upon which a new Act could be framed.

The object of mental health legislation should be to afford the mentally ill and mentally handicapped the maximum advantage that care and treatment can offer, and at the same time to guarantee the minimum interference with their rights, dignity and self respect. However, adequate protection must also be given to the safety and welfare of other members of society. The stress that may be placed upon family life by the mental illness of a member of the family is a further relevant consideration to which due weight must be given. In framing its recommendations, the Committee had to take into consideration a number of factors:

(*a*) It had to relate its recommendations to modern treatment in psychiatry and to the changing patterns of health services. One such fundamental change flows from acceptance in principle of proposals in the Report of the Committee of Inquiry into Health Services in South Australia (the Bright Report) that the mental health services should be integrated more closely with other health services in hospitals and community health centres, and that all future hospital psychiatric services should be developed not in separate institutions, as

formerly, but in conjunction with teaching or base hospitals. Psychiatric facilities are already planned for general hospitals in South Australia. For example, Modbury hospital will have a comprehensive psychiatric unit designed on the basis of 0·35 beds a 1 000 population with additional day patient and outpatient facilities.

(*b*) It had to consider widely opposing views concerning the rights of the individual, ranging from the demand that involuntary commitment should occur only after a trial by jury to the belief that an informal method must be available for ensuring a sick person is given the right to prompt and effective treatment.

(*c*) It had to give careful consideration to that small group of patients who, by reason of mental illness, are considered to be a significant danger to themselves or others. Most thinking people accept that a person who is clearly a danger to others should be under detention and control. Differences of opinion arise in regard to patients who are considered to be a danger only to themselves. Some have argued that individuals should have the right to commit suicide if they wish; others have pointed out that almost all human beings are subject at some time in their lives to psychological crises (for example, bereavement, a broken marriage) which carry with them danger of severe and perhaps suicidal depression. To allow such a person to take his own life when his mental illness would yield easily to treatment is to sanction a tragic and unnecessary waste of life.

(*d*) With the construction of the Security Hospital, Northfield, adjacent to the Yatala Labour Prison, the division of the present Act dealing with criminal mental defectives had become redundant. Patients are admitted to the Security Hospital under the provisions of the Prisons Act and the Criminal Law Consolidation Act.

(*e*) Because of the developments in the health services to which I have already referred, consideration had to be given to the provision of the appropriate legal machinery by which patients, under certain circumstances, can be admitted involuntarily to any hospital with adequate facilities to treat them.

To aid its deliberations, the committee held a seminar to which each of the following organisations and government departments was invited to send representatives:

Law Society of South Australia Incorporated,
Royal Australian College of General Practitioners,
Australian and New Zealand College of Psychiatrists,
Australian Psychological Society,
Australian Association of Social Workers,
South Australian Association for Mental Health,
South Australian Council for Civil Liberties,
Citizens Commission on Human Rights,
Consultative Council on Mental Retardation,
The Parliamentary Labor Party,
The Parliamentary Liberal Party,
The Parliamentary Liberal Movement,
Recovery/Grow,
Police Department, and
Public Trustee.

As a result of the seminar, a final report was submitted to me and work upon the drafting of the Bill was commenced.

Honourable members will notice that the Bill distinguishes between those patients who are acutely mentally ill and in urgent need of treatment in hospital, and those patients who, as a result of more chronic forms of mental illness, behave in such a way as to cause anxiety and distress to others. The impact on families and society of such chronically mentally ill persons is similar to that caused by some intellectually retarded persons or the person mentally infirm because of age or decay of his faculties or damage to the brain from whatever cause. This composite group comprises the "mentally handicapped" for the purposes of the Bill.

An important aspect is that the Bill recognises that, if the mentally ill are to be afforded the maximum advantage that care and treatment can offer and if the mentally handicapped are to be provided with the care and protection required for their welfare, with the minimum interference with their rights, dignity, and self respect, then a commitment had to be entered into by the Government to establish, promote, rationalise, and co-ordinate effective services and adequate facilities within the community for the prevention and treatment of mental illness and mental handicap and for the care and welfare of the mentally ill and mentally handicapped among children, young people and adults of all ages. The objectives of this commitment are clearly stated and should help to ensure that the mentally ill and the mentally handicapped will not be discriminated against or treated as second class citizens in the State of South Australia.

Nothing in the Bill precludes a patient from seeking treatment voluntarily from a doctor of his own choice or from being admitted informally to any hospital with the facilities for his treatment. Nothing in the Bill prevents any parent from making arrangements for the informal admission of an intellectually retarded child to an appropriate training centre or any relative from arranging the informal admission of a demented person to a hostel or nursing home.

The view that the presence of mental illness is not in itself a sufficient reason for the involuntary commitment of a person to hospital has been accepted. It is the behaviour of the patient, who is mentally ill, and his need for inpatient treatment that are significant. The criticism that it is too easy for a doctor to certify a patient under the existing Act is met in this Bill. For involuntary admission to be justified, all three of the following criteria will have to be met:

(1) The patient shall be suffering from a mental illness that requires treatment;
(2) such treatment can be obtained as a result of admission to and detention in a hospital; and
(3) the health and safety of the patient or the protection of other persons can best be secured by such admission and detention.

The Bill requires that the diagnosis and grounds on which involuntary admission has been recommended must be confirmed by the second opinion of a registered specialist in psychiatry within 24 hours; though it is recognised that, outside the metropolitan area, this requirement may not for the present be possible. Unless confirmed, the patient must be discharged from the order by which he was detained. The maximum period of detention possible on this first recommendation has been limited to three days.

However, when the psychiatric examination confirms that a patient lacks the insight to seek treatment for himself and that involuntary commitment is necessary for the patient's own welfare or the protection of others, a

registered psychiatrist may extend the order for a further 21 days making 24 days in all. A restriction imposed is that, if the initial order is signed by a psychiatrist, the extension of the order cannot be authorised by the same psychiatrist. This restriction is desirable because the initial order can be signed by a doctor, possibly a psychiatrist, working in the approved hospital to which the person is admitted. Many orders for admission will be made by general practitioners. However, with the extension of the mental health services into general hospitals, it is essential that a seriously mentally ill person can be brought by his relatives or the police to the casualty or outpatient department of an approved hospital and be admitted by the doctor he sees there.

At any time during the continuance of either the initial three-day order or the subsequent 21-day extension of the order, the patient may be discharged from the order for detention and become either an informal patient or be permitted to leave hospital. It is believed that, with modern treatment, the majority of mentally ill people will respond sufficiently to treatment in three weeks to be competent to make decisions for themselves.

Provision is made that, in the event of a patient proving unmanageable in the psychiatric ward of the hospital to which he has been admitted, or if the treating psychiatrist believes that better facilities for the care and treatment of his patient exist at another approved hospital, he may take steps to authorise the transfer. However, the maximum period of detention remains at 24 days. Further detention of the patient beyond 24 days can be ordered by two psychiatrists, who have each made a separate examination of the patient, only if they are of the opinion that it is necessary for the protection of some other person. The decision to restrict the grounds for further detention of patients in hospital to the protection of some other person has been taken in the view that the great majority of persons suffering from a psychosis with suicidal tendencies will have responded sufficiently to treatment in 24 days as no longer to need protection from themselves. If suicidal impulses remain, it is unlikely the patient is suffering from a psychosis. He should be encouraged to remain in hospital informally, but if he insists on leaving, it is considered to be in the interests of the vast majority of patients that he should not be detained. This does not, of course, mean that steps cannot be taken to have a person, who is not strictly mentally ill but who threatens or attempts suicide, appear before the Guardianship Board.

This power to detain a person beyond 24 days for the protection of some other person recognises the need for special facilities for different types of patients, in this case for a closed, secure ward. Such a patient may be detained until discharged by the superintendent of that approved hospital, or by the Mental Health Review Tribunal, either as a result of one of its periodic reviews, the first of which must take place within two months of the person being first detained by order, or as the result of an appeal. Power is given to the superintendent to grant trial leave to such a patient, as in the existing Act, as this may be desirable as part of his rehabilitation or for a proper assessment of how well he is responding to treatment.

With the integration of mental health services into the general hospital system, the Bill recognises that facilities for certain types of cases are likely to be developed and concentrated in certain hospitals, just as the renal unit has been located at the Queen Elizabeth Hospital and cardithoracic surgery is associated with the Royal Adelaide Hospital. For this reason, the superintendent of an approved hospital is given the option to decline to admit a patient if he believes he has not the facilities needed for the effective treatment of the patient. However, he is obliged to arrange the admission of the patient to another approved hospial which has the proper facilities.

To obviate criticisms directed at the existing Act that a certified patient is not properly informed of his legal rights, the Bill requires that every patient detained in an approved hospital, and if possible a relative, shall be given a printed statement, wherever practicable in the language with which the patient is most familiar, informing him of his legal rights in relation to his involutary hospitalisation and giving details of the facilities provided in the psychiatric ward.

The provisions have referred so far to the person who is acutely mentally ill and in need of treatment in hospital. However, some patients may be in need of treatment at the expiry of 24 days detention but fail to appreciate the need for further treatment and refuse to remain in hospital informally, and the Bill gives no power for them to be further detained unless they are considered to be a danger to some other person.

The Government recognises that certain persons suffering from more chronic forms of mental illness may need care and control, may need to be detained if necessary in hospital against their will, and even be subjected to constructive coercion so that they will accept treatment; but it accepts the view that, in such cases, the deprivation of civil liberties should not rest solely on the opinion of a medical practitioner. The responsibility for examining the facts relevant to each case referred to it and for making appropriate orders has been given to an independent Guardianship Board, which shall consist of a legal practitioner as its chairman, a medical practitioner and three other members with appropriate qualifications. Such a board can require the attendance of any person and receive evidence to assist it to come to a decision. Though without doubt the medical opinion will be of great importance, it will be the board which will determine whether the person should be deprived of his civil liberties and not the medical practitioner. This is the significant difference in this Bill from the existing legislation.

In relation to persons with imperfect or retarded development (intellectual retardation) or deterioration of mental faculties from whatever cause (dementia), the board will assume a similar responsibility for assuring proper custody and care and protection from exploitation and harm.

An application may be made to the board by the patient himself, a relative of that person, the police or by any person who satisfies the board that he has a proper interest in the care and protection of the person in respect of whom the application is made. This would of course include a medical practitioner.

The board has a number of options open to it, from financial management of a person's estate to control over certain important life decisions, to delegation of caring responsibility to a responsible person or officer in charge of a hostel, foster home or large institution, and even to detention in an approved hospital. It is given power to direct that a protected person receive medical or psychiatric treatment. An innovative provision recognises that a person subject to a compulsory order should be able to obtain treatment from his own private medical practitioner or at outpatient level. Of course, if the protected person fails to undertake treatment as directed by the board, it may be necessary in a minority of cases to place him in some form of custodial care, so as to ensure that he will receive proper treatment.

In the existing legislation, the affairs of a patient can be placed in the hands of the Public Trustee only if he has been admitted to hospital. It is known that some patients are admitted to hospital under certificate for one night for this very reason. The provisions of this Bill makes this protection available to anyone suffering from mental illness or mental handicap. The board may appoint an administrator of the estate of any person, considered to be incapable of administering his own affairs. It should be noted also that the board has a discretion to appoint an administrator other than the Public Trustee under certain conditions.

The board shall as often as reasonably practicable review the circumstances of a protected person, and may vary or revoke any of its orders or vary any of its directions. Adequate safeguards against wrongful detention are a significant feature of the Bill before you. In those parts dealing with a medical recommendation, the action of a medical practitioner who makes an order for a person to be admitted to an approved hospital must be confirmed within 24 hours, if possible, and detention beyond three days can be authorised only by a psychiatrist who is not the medical practitioner who signed the initial order. For detention beyond 24 days, the authorisation of two psychiatrists, after separate examinations of a patient, is required. During this time, the patient will have been given a printed statement drawing attention to his legal rights, and he may appeal against his detention to an independent tribunal.

The Mental Health Review Tribunal consists of three members, with a legal practitioner as chairman and a medical practitioner as one of its members. Its purpose is to safeguard the civil liberties and rights of those persons detained in an approved hospital on the order of a medical practitioner or placed in the custody of another person on the order of the Guardianship Board. The functions of the tribunal are to conduct a periodic review of the circumstances of the detention or custody and to determine whether there is good cause for the continuing detention of the patient or custody of the mentally handicapped person and to hear appeals against the detention of a patient in an approved hospital or against an order of the Guardianship Board. Appeals may not be lodged more frequently than once in every 28 days. The appeal may be made not only by the patient himself, a relative or any other person who satisfies the tribunal that he has a proper interest in the care and protection of the patient or mentally handicapped person, but also by the Director of Mental Health Services who may wish to appeal against a decision of the tribunal itself or of the Guardianship Board. The tribunal has the right to obtain such information as is necessary for the exercise of its powers and functions.

A further safeguard to the civil liberties of a detained person is found in the provision that any person aggrieved by a decision or order of the tribunal, and this includes the patient himself, a relative or any other person who can show his interest and concern for the person's welfare, as well as the Director of Mental Health Services, shall be entitled under certain conditions to appeal to the Supreme Court against that decision or order. In every appeal to the tribunal or the court, the person in respect of whom the appeal is brought shall be entitled to be represented by counsel at no cost to himself.

Concern has been expressed at the lack of protection under existing legislation against involuntary patients being subjected to psychiatric treatment against their will. Psychosurgery and so-called "shock treatment" (electro-convulsive therapy) have been especially singled out. Though some of the attacks have been intemperate and misinformed, the Government has accepted the view that many members of the community would feel reassured if the right of the psychiatric patient to have a say in his treatment, when detained in hospital against his will, were properly safeguarded. The Bill therefore states categorically that psychosurgery cannot be performed on a patient detained in an approved hospital without the written consent of the patient or a guardian or a relative and unless the operation has been authorised by two psychiatrists (one of whom must have had at least five years experience as a practising registered specialist) and after each has made an independent examination of the patient. A similar restriction is placed on the administration of electro-convulsive therapy, except that the authorisation of only one psychiatrist is required, and, in an emergency, treatment may be given without the written consent of the patient or a guardian or relative. This exception recognises the fact that electro-convulsive therapy may occasionally need to be used urgently as a life-saving measure.

An aspect of the existing legislation which has been very favourably received is that dealing with the licensing of psychiatrist rehabilitation hostels. Under the system of licensing, the Director of Mental Health Services has certain powers of supervision to ensure an adequate standard of accommodation and care but in return the licensed manager may receive financial and professional support. Because it works so well, this Bill continues the system of licensing hostels, but extends the concept to that of psychiatric rehabilitation centres.

It may be that, in the future, certain private hospitals or nursing homes may also seek to be licensed with mutual benefit to both the mentally handicapped residents and to the manager of the establishment. A provision new to this Bill is that the holder of a licence may appeal against any proposed revocation of the licence to the Mental Health Review Tribunal.

Under the provisions of this Bill, a member of the police force will be required to act for the most part like any other caring person. He will be expected to arrange for a person to be seen by a medical practitioner when he believes that person is mentally ill or to initiate an application to the Guardianship Board when he believes the person to be mentally handicapped. Certainly, the police need power to apprehend, even to break in and enter premises in order to apprehend, a person who is considered to be mentally ill and a serious danger to himself or others. A member of the police force is given power without a warrant to apprehend a person who he has reasonable cause to believe is unlawfully at large, but the apprehension is in the person's interests and involves his return to the approved hospital in which he had been detained or to the person into whose custody he had been placed. In the regulations, provision will be made for the transport of patients or protected persons from one place to another and for a member of the police force to accompany and escort a patient or protected person in an ambulance when this is considered essential for that individual's welfare.

There may be cases where a patient escapes across State borders. On such occasion a special magistrate may issue a warrant directing that the person named therein be apprehended and conveyed to the place from which he escaped. The warrant is required in such cases by reason of the terms of Commonwealth legislation.

It is acknowledged that many mentally ill people, many intellectually retarded and many mentally impaired and deteriorated persons live freely in the community with the help of relatives and the treatment and support which the health services provide. This Bill is concerned with that small number of persons who, by their behaviour, cause concern to those about them. This group is composed of the acutely and seriously mentally ill, who need treatment in hospital in the interest of their own health or for the protection of others, and those mentally handicapped persons who require to be placed under guardianship for their own good or to protect the spouse, family or the community from undue stress and harassment.

Clause 1 is formal. Clause 2 provides for the commencement of the Bill. Clause 3 sets out the arrangement of the Act. Clause 4 repeals the present Mental Health Act and provides the necessary transitional provisions. Clause 5 contains the necessary definitions.

Part II of the Bill provides for the administration of mental health services. Clause 6 provides for the continuation of the office of Director of Mental Health Services. Clause 8 obliges the Director to report annually to both the Minister and the Health Commission. Clause 9 sets out the objectives the Director and the Health Commission must seek to attain in administering the Act. Clause 10 provides that the Minister may declare any place to be an approved hospital for the care and treatment of the mentally ill. Clause 11 obliges the superintendent of an approved hospital to keep certain records as to the treatment administered to any patient, etc. Clause 12 provides that the Director must in certain circumstances inform an inquirer whether a particular person has been admitted to, or detained in, an approved hospital. The superintendent of such a hospital must furnish a patient with copies of all orders, etc., in relation to his admission to the hospital and to his subsequent treatment.

Part III of the Bill relates to the admission and treatment of the mentally ill. Clause 13 allows for the voluntary admission of patients into approved hospitals. Such a patient may leave the hospital of his own free will. Clause 14 sets out all the steps to be taken in relation to a person involuntarily admitted into an approved hospital. Such a person must first be examined by a medical practitioner who may, if he is satisfied that the person is suffering from a mental illness that requires immediate treatment in a hospital and that the person is a danger to himself or others, make an order for the immediate admission and detention of that person in an approved hospital. This initial order is effective for only three days. During that period of three days, the patient must be examined by a psychiatrist (within the first twenty-four hours if possible). The psychiatrist may confirm the three-day order or he may thereupon discharge the patient. Before the expiration of a confirmed three-day order, a psychiatrist may make a further order that the patient be detained for a further period not exceeding twenty-one days. The psychiatrist who makes such an order must not be the medical practitioner who first admitted the patient to the hospital. If the condition of the patient improves during the period of twenty-one days, the order for detention may be discharged. If two psychiatrists are both of the opinion that a patient must be detained beyond the period of twenty-one days in order to protect some other person, then they may make an order accordingly. Such an order may be discharged at any time by the superintendent of the hospital if the patient's condition improves. Such an order may also be discharged by the Mental Health Review Tribunal. A patient who is detained beyond twenty-one days may be given trial leave by the superintendent of the hospital subject to such conditions as the superintendent thinks fit.

Clause 15 obliges the superintendent of an approved hospital to comply with orders under this Part. However, if the superintendent of a hospital believes that the proper facilities do not exist at his hospital for the care of the patient, he shall make arrangements for the admission of the patient into another approved hospital. Clause 16 places a duty on a superintendent to give each patient detained in his hospital a statement setting out the patient's legal rights and all other relevant information. A copy of the same statement must be given to a relative of the patient if possible. Such a statement must be in the language with which the patient is most familiar. Clause 17 empowers the superintendent of an approved hospital to make arrangements for the transfer of patients from his hospital to other hospitals. Clause 18 provides that a member of the police force must apprehend a person whom he believes is suffering from a mental illness that is causing or has caused danger to himself or to others. The police officer must bring such a person to a medical practitioner for examination as soon as possible. A police officer may break into and enter premises and use such force as may be reasonably necessary in the apprehension of a person whose behaviour is such that he may endanger life or property.

Clause 19 sets out certain restrictions on the provision of psychiatric treatment in relation to patients detained in approved hospitals. Psychosurgery may not be performed on a patient unless that patient has been separately examined by two psychiatrists, at least one of whom is a psychiatrist of five years' standing, and both of those psychiatrists have authorised such treatment. Furthermore, the consent in writing of the patient must be first obtained. If the patient does not have the ability to make a rational judgment on the question of his treatment then the consent of a guardian or relative of the patient must be obtained. Before a patient undergoes electro-convulsive therapy ("shock treatment") such treatment must have been authorised by a psychiatrist and the same consent must have been obtained. However, as this kind of treatment is sometimes given as a matter of urgency, provision has been made for the administration of such treatment without the necessary consent where the treatment is essential for the protection of the patient or some other person. Other forms of psychiatric treatment may be declared by regulation to fall within the same category as pyschosurgery or alternatively the same category as electro-convulsive therapy.

Part IV of the Bill relates to the placing of certain persons under the guardianship of the Guardianship Board. Clause 20 constitutes the Guardianship Board. Clause 21 sets out the terms and conditions upon which members of the board hold office and provides for the appointment of deputies. Clause 22 entitles the board members to certain allowances and expenses. Clause 23 provides for the validity of acts of the board notwithstanding vacancies in its membership. Clause 24 sets out sundry provisions relating to the proceedings of the board. Clause 25 gives the board power to require the attendance of any person before the board.

Clause 26 empowers the board to receive certain persons into its guardianship. Persons suffering from mental illness or mental handicap who are incapable of managing their own affairs may come under the guardianship of the board. Persons suffering from mental handicap who require some degree of oversight, care or control may also be received into the guardianship of the board. The sufferer

himself may make application for guardianship; alternatively a relative, a member of the police force or any other person who has a proper interest in the matter may make such application. Clause 27 sets out some of the powers that the board may exercise in relation to a person under its guardianship. Paragraphs (*a*) and (*b*) of subclause (1) provide for a kind of "detention" of a protected person. The board is under a general obligation to review the circumstances of all protected persons whose welfare is, of course, always the paramount consideration.

Clause 28 provides for the appointment of an administrator of the estate of a person who has been received into the guardianship of the board or any other person suffering from a mental illness or mental handicap who is incapable of administering his affairs. The Public Trustee will be appointed as the administrator of such an estate unless there is some special reason why some other person should be so appointed. (The powers and duties of such an administrator are contained in a proposed amendment to the Administration and Probate Act.)

Part V of the Bill relates to the establishment and functions of the Mental Health Review Tribunal. Clause 29 constitutes the tribunal. Clause 30 sets out the terms and conditions upon which members of the tribunal hold office and provides for the appointment of deputies. Clause 31 entitles members of the tribunal to certain allowances and expenses. Clause 32 provides for the validity of acts of the tribunal notwithstanding vacancies in its membership. Clause 33 deals with procedural matters. Clause 34 provides the tribunal with certain necessary powers. It may require the attendance of persons and the production of books and documents, etc. A person who fails to comply with such requirements of the tribunal is guilty of an offence. A person is not obliged to answer incriminating questions.

Clause 35 places a duty upon the tribunal to review the circumstances of the detention of patients in approved hospitals. An initial review must be made within the first two months of a person's detention or custody and thereafter at intervals not exceeding six months. However, the tribunal may extend this interval in the case of a severely mentally handicapped person. The tribunal is under an obligation to discharge an order for detention or custody unless it is satisfied that there is good cause for the continuation of that detention or custody. The tribunal need not make a review under this section if it has heard an appeal on the same matter within the last month. Clause 36 gives a patient, a relative of the patient, the Director and any other person who has a proper interest in the matter the right to appeal to the tribunal against the detention of a patient. Such an appeal may not be instituted during the initial three-day order period nor during the period of twenty-eight days following the determination of a previous appeal or a review by the tribunal.

Clause 37 gives a right of appeal to a protected person, a relative of a protected person, the Director or any other person who has a proper interest in the matter against an order of the Guardianship Board whereby a person is received into the guardianship of the board, by which an administrator is appointed in respect of the estate of a person, or by which a protected person is placed in the custody of another. Such an appeal may not be instituted during the period of twenty-eight days following the determination of a previous appeal or a review by the tribunal. Clause 38 gives any person aggrieved by a decision of the tribunal the right to appeal to the Supreme Court against that decision. Where the appeal is brought by the patient or protected person himself, no order for costs may be made against him. Clause 39 provides that the patient or protected person must be represented by counsel in every appeal to the tribunal or the Supreme Court unless that person desires otherwise. The patient or protected person may engage counsel at his own expense or alternatively may choose a person to represent him from a panel of legal practitioners compiled by the Law Society. The Law Society may choose counsel where the patient or protected person fails to do so. The Health Commission is responsible for counsel fees in accordance with a prescribed scale where the counsel is chosen from the Law Society panel.

Part VI of the Bill relates to the licensing of psychiatric rehabilitation centres (known as psychiatric rehabilitation hostels under the repealed Act). Clause 40 provides that a person who offers accommodation for fee or reward to a patient under an order for detention but out on trial leave must hold a licence under this Part. A defence is provided for the person who did not know and could not reasonably be expected to have known that the person in question was subject to an order for detention. Clause 41 empowers the Minister to grant licences for psychiatric rehabilitation centres. Such licences are renewable annually. A licence may be granted subject to certain specified conditions. The Treasurer is given the power to guarantee the repayment of certain loans made to the holders of licences under this Part. Clause 42 empowers the Minister to revoke licences that have been contravened. The holder of the licence is given a right of appeal to the tribunal.

Part VII of the Bill provides certain miscellaneous provisions. Clause 43 empowers a member of the police force to apprehend persons unlawfully at large, that is, a person who has been detained in an approved hospital or a protected person who has been placed in the custody of another. Officers and employees of an approved hospital are given a similar power in relation to persons detained in their hospitals. A person who is on trial leave from an approved hospital is deemed to be unlawfully at large if he does not return by the specified time or if he does not comply with a condition of his leave. Clause 44 provides that a person who ill-treats or wilfully neglects a person suffering from mental illness or mental handicap is guilty of an indictable offence. Clause 45 provides that a medical practitioner who signs any order, etc., under this Act without having personally examined the patient first, is liable to a penalty not exceeding one thousand dollars. A medical practitioner who falsely certifies that a person is suffering from a mental illness or mental handicap is guilty of an indictable offence. A person who signs any order, etc., under this Act falsely describing himself as a medical practitioner or psychiatrist is guilty of an indictable offence. Any person who fraudulently procures the admission of a person into on approved hospital or the reception of a person into the guardianship of the board is guilty of an indictable offence.

Clause 46 provides that a medical practitioner who is related to a person may not sign any order, etc., under this Act in respect of that person. Clause 47 provides that a person who without lawful excuse removes a person detained in an approved hospital from that approved hospital or removes a protected person from the custody of another is guilty of a misdemeanour. Clause 48 provides a penalty of a fine not exceeding $2 000 or imprisonment for a term not exceeding one year for an indictable offence under this Act. Clause 49 provides immunity for persons who act under this Act in good faith and with reasonable care. Clause 50 provides that all

offences under this Act other than indictable offences are to be disposed of summarily. Clause 51 sets out the various purposes for which regulations may be made under this Act.

Dr. TONKIN secured the adjournment of the debate.

URBAN LAND (PRICE CONTROL) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from September 9. Page 926.)

Mr. ARNOLD (Chaffey): This Bill proposes to extend the life of the Act, which expires on December 31 this year, for a further two years. I am not sure why it is necessary to extend the operation of the Act for that time. In his second reading explanation, the Minister did not indicate why that should be so. The Prices Act is extended for a year at a time. During the Committee stage, I will move to amend that provision to extend the operation of the Act for one year, instead of two.

The Bill also contains two new provisions designed to facilitate the enforcement of the principal Act. One will enable the commissioner to call for documents and to conduct investigations similar to the power that is provided in the Prices Act. I have no objection to that provision. The commissioner should have power to enable him effectively to enforce the Act.

The second provision enables prosecutions to be instituted at any time within two years of an alleged offence being committed. That is an extremely long time. Numerous transactions are made by people selling and buying land, and it is a long time for these people to know that a prosecution could be lodged at any time up to two years after a transaction had been completed. That period seems excessive. The Act now provides that that period is six months. The Minister, in his second reading explanation, gave the following reason for extending the time:

> At the moment, this period is limited to six months by the Justices Act. However, frequently evidence of an infringement of the Act does not appear until after documents have been lodged at the Lands Titles Office for registration. This may be many months after the date of the transaction that constitutes the offence.

Many of the transactions and the completion of documents at the Lands Titles Office are taking too long even now, and to extend the period for up to two years the Government is virtually giving that office approval to take that extra time to complete documents. I recognise what work must go into the search and rechecking of new titles before they can be prepared, but the two-year period is excessive and will only worsen the situation. As far as I am concerned, the Act has had only limited success, and there is no such thing in South Australia as a cheap building allotment. The Act is becoming less effective, as the private sector is providing few allotments because the Land Commission owns or controls most of the land that could be available for housing allotments.

The principal Act is affecting fewer blocks because commission-developed blocks have ties attached to them so that a block owner must build within two years or, if he wishes to sell the allotment, he can sell it only with the commission's approval. The commission is now the major controller and developer of all urban land in South Australia. Therefore, the principal Act is becoming less significant year by year. Because of the commission's activities and its powers, second-class freehold titles are virtually being created. The conditions attached to commission allotments do not apply to normal freehold titles, so we have a situation where commission allotments could be classified as second-class freehold titles. In fact, these allotments are almost in the category of perpetual lease land, which can be sold only with the Minister's approval after meeting certain requirements laid down by the Government of the day.

I said earlier that there is no such thing in South Australia as a cheap allotment. During the debate on the Loan Estimates, the Minister in charge of housing, told the member for Fisher that land prices vary in South Australia from $866 to $1 742 and that development costs range from $3 300 to $5 000. The Minister added that administration costs were about $400, but that he believed the sum of $400 would be reduced to about $200 as the commission increased the availability of allotments on to the market. However this matter is considered, it can be stated conservatively that, by June next year, allotments could cost about $8 000. If the Act was introduced to ensure an abundant supply of cheap housing allotments in South Australia, it has not achieved that aim.

Mr. Goldsworthy: Services cost too much to put on, don't they?

Mr. ARNOLD: That is a major problem that may cause allotments to cost $8 000 by the middle of next year. If the commission offers allotments at up to $8 000, no-one could claim that South Australia had cheap housing allotments. I have foreshadowed that I will move amendments to extend the operation of the principal Act for only one year, in keeping with the Prices Act, and to provide that the time for instigating prosecutions be extended from six months to one year, instead of two years, because to extend it beyond that time would only worsen the situation for the Lands Titles Office. For what the Act is worth today, in the light of the Land Commission, I believe it should be extended for a further 12 months.

Mr. EVANS (Fisher): I do not support the Bill in its present form, although I believe it could be amended to be made more acceptable. Some areas of concern remain in the creation of allotments within the private sector. The object of the Act was to attempt to stabilise land prices within the State, and the measure was brought into practice at a time when money was becoming tighter and and high interest rates were making developers cautious. The overall effect perhaps cannot, therefore, be attributed to the Act that was implemented at that time. At the moment, if a private developer buys an area containing 100 allotments, he is assessed for land tax at an aggregated rate. If he is not a spec builder or a builder who contracts to owners of the allotments (and so sells the allotment with the house, and a different value is placed on it), and if he simply sells the allotment as an individual allotment, he must pay the aggregated rate of land tax on the allotment. However, when he attempts to recoup his land tax at the point of sale he can claim only the individual allotment cost, which is at the minimum rate.

In the case of an allotment valued at about $10 000, before the recent land tax amendment came in the developer would have had to pay about $400 an allotment. Under the new proposals of 27c for every $10 above $150 000, he will have to pay about $250. That is an increased cost to the purchaser, because the developer adds it to the cost of the allotment. The Land Commission does not face the same burden, and that is a situation the Government should consider. I think the Minister would agree that a provision to remove that burden could be made.