**CONTROLLED SUBSTANCES BILL 1983**

**Legislative Council, 8 December 1983, pages 2516-21**

Second reading

**The Hon. J.R . CORNWALL (Minister of Health)** obtained leave and introduced a Bill for an Act to regulate or prohibit the manufacture, production, sale, supply, possession, handling or use of certain poisons, drugs, therapeutic and other substances, and of certain therapeutic devices; to repeal the Food and Drugs Act, 1908, and the Narcotic and Psychotropic Drugs Act, 1934; and for other related purposes. Read a first time.

The Hon. J.R. CORNWALL: I move: That this Bill be now read a second time.

This is a long second reading explanation and, in view of the fact that this may be the last day of the sitting of Parliament for this year at least, I seek the leave and indulgence of the Council to have the explanation inserted in Hansard without my reading it. I make clear in doing so that I do not seek to introduce a precedent. Leave granted.

Explanation of Bill

It introduces wide-ranging changes to the controls over the use of legal and illegal drugs and poisons in South Australia. It represents the most extensive and comprehensive revision of drug law ever undertaken in this State. It spearheads the Government’s comprehensive strategy for tackling drug problems.

Over recent years there have been a number of Royal Commissions and inquiries into drug use and abuse in this country. For example, the Sackville Royal Commission into the Non-Medical Use of Drugs in 1979 canvassed the situation in South Australia. The Williams Commission of Inquiry into Drugs in 1980 examined the matter from a national perspective, with particular reference to law enforcement. There is now a wealth of published material on the drug situation in Australia.

As the various inquiries and Commissions observe, drug taking is not new. Drugs have been taken for centuries, for reasons of tradition or custom, to relieve symptoms and satisfy a myriad of personal needs. However, clear evidence has emerged that patterns of drug use have changed significantly. In particular, as the incidence of illicit drug usage has increased, major changes have taken place in the general nature of drug trafficking in this country.

The new dimension of drug abuse is its promotion for profit, the involvement of organised crime and the diversion of huge sums of money into criminal enterprises. Trafficking has, in recent years, become big business. The illicit drug trade in Australia has become a billion-dollar industry.

The Government believes that urgent action is necessary to combat the growing drug problems. Indeed, if there is a common concern shared by every member of this House, I have no doubt that it would be the growing problem of drug abuse in our community. All the available evidence points to the need for the development of social policies, goals and strategies. Ministers and officers have and will continue to participate in national forums aimed at developing a strategy to deal with the drug problem on a national basis. However, national developments cannot be a substitute for action at the State level, in those areas over which the State has jurisdiction. We must act, and we must act now. The Government has therefore devised a comprehensive strategy, which includes a combination of administrative controls (restrictions on distribution outlets, prescription requirements, record-keeping, monitoring of supplies), treatment and education programmes, and the criminal law. No single approach will adequately deal with the problem—it must be tackled in several ways. Dealers, pushers and traffickers must be prevented from making a profit from human fallibility and vulnerability. Those who have become dependent on drugs or have otherwise sustained harm from their drug use must be offered treatment and rehabilitation. Education programmes must be devised to assist people to develop attitudes and behaviour towards the use of drugs which will be most beneficial to themselves and others.

The Bill before you today spearheads that strategy. It brings together in one coherent piece of legislation, and extends, the administrative and criminal controls which are presently scattered between the Food and Drugs Act and the Narcotic and Psychotropic Drugs Act. Honourable members would be aware that the confused state of the present drugs legislation has attracted criticism from time to time. As the Sackville Royal Commission put it in their 1979 report:

The history of the current controls shows that the South Australian legislation has grown in piecemeal fashion, in response to several pressures. The legislation has not been systematically revised, despite significant changes in the patterns of drug use and in the scope and nature of controls. Frequent amendments to the legislation have often created uncertainty and sometimes confusion.

The Narcotic and Psychotropic Drugs Act particularly has attracted strident criticism from the Supreme Court of South Australia, which has been faced with some difficult questions of statutory interpretation. A former Chief Justice, the distinguished John Jefferson Bray, criticised the Act as follows:

It is an understatement to compare the Narcotic and Psychotropic Drugs Act, 1934-1976, to a patchwork quilt. It is more like a repatched patchwork quilt. The subject dealt with is of vast importance to the life of the community. I venture to suggest that the time has come for a completely new and coherent enactment.

The Government agrees with the sentiments expressed—a coherent legislative framework is a fundamental requirement.

The Bill presented to the Parliament today therefore repeals the existing Food and Drugs Act and Narcotic and Psychotropic Drugs Act and consolidates control over drugs, poisons and therapeutic substances and devices. (A new Food Act is being developed for introduction early next year. This will replace the outmoded food legislation which forms part of the present Food and Drugs Act). The Controlled Substances Bill implements the recommendations of Sackville in most respects and also takes account of the Williams Report, with its emphasis on increased powers and penalties to deal with drug traffickers.

While the format of the Bill differs somewhat from the Sackville draft, it incorporates most of the essential legislative features of Sackville, either directly or through regulationmaking powers. The major features of the Bill are as follows:

1. Revision of penalties in relation to possession and sale of prohibited drugs and drugs of dependence, including creation of a new maximum penalty of $250 000 and 25 years imprisonment for large-scale drug trafficking. Both imprisonment and a fine are mandatory. (Clauses 28 and 29).

2. Inclusion of powers to enable the charging of financiers of drug-trafficking schemes as principal offenders. (Clause 29 (4) (b)

3. Inclusion of powers to enable courts to order forfeiture of property of persons convicted of offences against the Act or of a related person or body. (Clauses 42 and 43).

4. Inclusion of powers to enable courts to prevent the dissipation of such property where a person has been charged with offences under the Act. (Clause 44).

5. Doubling of penalties for illegal prescribing of drugs of dependence. (Clause 30).

6. Creation of an offence to supply substances containing volatile solvents to persons whom the supplier knows intend to use them for inhalation. (Clause 18).

7. Inclusion of provisions to enable the establishment of Drug Assessment and Aid Panels. (Clauses 31 to 37).

8. Inclusion of provisions to enable establishment of a Controlled Substances Advisory Council to monitor and advise upon controls over the licit and illicit use of drugs, poisons and therapeutic substances and devices. (Clauses 6 to 11).

9. Provision of comprehensive and substantially upgraded regulation-making powers, particularly in relation to controls over poisons, drugs and therapeutic substances and devices. (Clause 59).

I now propose to deal in more detail with the areas I have highlighted, to give an outline of the considerations which led to the inclusion of these provisions and to indicate measures which are intended to underpin or complement the legislation.

To turn to the special provisions relating to drugs of dependence and prohibited drugs (points 1 to 4 above), the Bill envisages a grading of penalties based on quantities of drugs involved in the offence. It distinguishes between possessors for personal use and persons who profit from illegal dealings.

Under the proposals, cannabis remains a prohibited drug. The Bill therefore is a significant departure from the Sackville proposals for decriminalisation, or partial prohibition. The simple fact is that there is still widespread community opposition to such a move at this time.

Earlier this year ANOP was commissioned by the South Australian Health Commission to undertake a survey of attitudes of the South Australian community in relation to general concern about drugs and drug laws, knowledge and awareness of drugs and drug usage, expectations about future drug use and problems and the need for drug education. Amongst the mine of information available in the survey is a clear indication that the great majority of South Australians are not prepared to accept decriminalisation. Sackville, in making his recommendation, indicated that public opinion should be taken into account and that ‘change cannot fly in the face of widely held attitudes’. The Bill takes cognisance of those attitudes.

An interesting feature which emerged from the survey was that a majority of the community admitted to having little information about cannabis, although it was perceived to have considerable side effects. As long ago as 1977 a Senate Standing Committee on Social Welfare under the Chairmanship of Senator Peter Baume, a senior medical consultant, recognised that not nearly enough was known about the health implications of cannabis use. That Committee recommended that the Commonwealth Minister for Health direct appropriate studies of the health implications of cannabis use. I am pleased to say that earlier this year South Australia, with the support of the Queensland Minister and subsequently all other Health Ministers, was successful in having the matter referred to the Standing Committee of Health Ministers (a committee comprising the most senior health officers for each State) for investigation, taking account of Australian and overseas information, and report to the next conference of Ministers.

In line with the current practice of the courts, the Bill introduces modest reforms in relation to penalties for simple possession of cannabis and cannabis resin and smoking equipment. Current penalties are $2 000 or two years gaol. Under the Bill, the gaol sentence is removed, and the maximum penalty is reduced to $500.

Figures from the Office of Crime Statistics in the AttorneyGeneral’s Department show that penalties imposed by courts for possession and use of marihuana have been moving down gradually from an average fine of $135 in 1979-80 to $119 in 1980-81 and $117 in 1981 -82. In that time, only 13 people of 2 625 convicted of these offences were sentenced to gaol terms.

(It is interesting to note in passing that the A.C.T. Poisons and Narcotic Drugs Ordinance of 1978 provides for a fine not exceeding $100 in relation to possession of up to 25 grams of cannabis.)

In the case of personal possession or consumption of other drugs of dependence and prohibited drugs (e.g., cocaine, heroin, LSD) the existing penalities of $2 000 or imprisonment for two years, or both, are maintained.

Turning to what may be described as the profiteering offences of clause 29, the penalties for small traders in cannabis or cannabis resin are maintained at $4 000 or imprisonment for 10 years, or both. Similarly, for small traders in other drugs of dependence or prohibited drugs, penalties will remain at the existing $100 000 or imprisonment for 25 years or both, as recommended by Sackville.

However, in line with the recommendations of Williams, large-scale traffickers in both cannabis and drugs of dependence and prohibited drugs will be treated even more severely. They will be liable to penalties of up to $250 000 and imprisonment for 25 years. The Government considers drug trafficking to be one of the most reprehensible crimes against humanity. The Government believes that those who derive profit from the destruction of the lives of others should be pursued and punished with the full rigour and vigour of the law.

As honourable members will note, the quantities of drugs involved in the various offences are to be prescribed by regulation, following the passage of the Act. I believe, however, that it is entirely reasonable for the House to have an indication of the Government’s thinking at this time.

A person will be presumed to possess with the intent to sell if he possesses more than the following quantities (those currently applying and as recommended by Sackville):

grams

Cannabis ....................................................... 100

Cannabis Resin............................................. 20 Cocaine........................................................... 2

Heroin ........................................................... 2

Lysergic A cid................................................. .002

Morphine....................................................... 2

Opium ........................................................... 20

If he possesses these amounts or less, he will most likely be charged with the lesser offence of possession for personal use. If it can be shown that the offence involves the following amounts, indicating large-scale trafficking rather than small trading, the offender will face the highest penalties:

Kilograms

Cannabis (other than resin)........................ 100

Cannabis Resin (including cannabis oil). . . 25 Cocaine...........................................................4

Heroin .......................................................... .3

Lysergic A cid............................................... .0004

M orphine........................................................3

Opium .......................................................... 4.0

The Government proposes, in addition to the abovementioned penalties, the inclusion of powers of forfeiture and confiscation in relation to clause 29 offences along the lines of those proposed by the Hon. Trevor Griffin earlier this year.

Clauses 43 and 44 enable the courts to order forfeiture of money, real or personal property of persons convicted of offences against section 29, or of a related person or body. Courts will be able to prevent dissipation of such property by making a sequestration order where persons have been charged with an offence. There is also power to charge financiers of drug-trafficking schemes as principal offenders (Clause 29 (4) (b)).

The Government is also aware of an upsurge in the diversion of prescription narcotics on to the illicit drug market and widespread poly-drug abuse. Health professionals involved in drug treatment and counselling estimate that prescription drugs now constitute more than 50 per cent of the illegal drugs in South Australia. The Government is aware that, while the great majority of doctors are conscientious, a small number of so-called ‘script doctors’ are unscrupulously issuing prescriptions for personal gain. It is illegal for doctors to prescribe narcotic drugs for addicts, other than those in approved treatment programmes. Since the present penalties seem inadequate as deterrents to such activities, the Government proposes a doubling to $4 000 or imprisonment for four years.

In addition, the Pharmaceutical Services Branch of the South Australian Health Commission is to be strengthened. The acquisition of a computer will assist in surveillance and detection of illegal or irresponsible prescribing.

Seminars will be arranged for health professionals to acquaint them with current trends in drug use and abuse. The Australian Medical Association and the Pharmacy Guild have indicated their willingness to co-operate with the Government in measures to combat the problem.

While the emphasis so far has been on increased penalties in various areas, the Government believes, as I indicated earlier, that criminal sanctions alone are insufficient, indeed sometimes inappropriate, as a means of dealing with the drug problem. There must be a recognition of the need to care adequately for those who have suffered harm associated with their drug use. As Sackville put it, ‘The community has a responsibility to assist such people, even though they are often regarded as the victims of self-inflicted harm ... It is more consistent with the values of a humane society to regard dependence not as a self-inflicted wound, but more as an inevitable consequence of society’s inability to forgo or control absolutely the availability of drugs, chemicals and pharmacological knowledge.’

Accordingly, the Bill proposes the establishment of Drug Assessment and Aid Panels as recommended by Sackville. Each panel is to consist of three members drawn from different disciplines, with experience in treating or assisting misusers of drugs.

Under this scheme, where it is alleged that a person has committed a simple possession offence (i.e., an offence against section 28 other than an offence arising out of the possession, smoking or consumption of cannabis or cannabis resin, or possession of equipment for that purpose) the matter will be referred to an assessment panel to ascertain whether the person should be directed to a treatment programme or whether a prosecution should proceed. The intention of the Bill is that diversion of offenders to the panels should take place at the first opportunity, which is immediately after arrest or apprehension by the police.

A panel will undertake a full assessment of the person referred and will have power to determine whether the prosecution for the alleged offence should proceed. However, the panel will have no power to determine disputed questions of fact and will not proceed to assessment if the person referred does not admit to allegations against him or does not wish the panel to proceed. The panel will have power to refer the matter back to the court if it considers such a course of action appropriate.

Panels will have power to require offenders to give undertakings to be effective for a period not exceeding six months. Such an undertaking may relate to the treatment a person must undertake; participation in a programme of an educative, preventive or rehabilitative nature; or any other matter which may assist the person to overcome personal problems leading to drug misuse. Failure to abide by an undertaking will be a ground to refer the matter to the court for prosecution in the usual way.

Proceedings before a panel will be informal and no representation will be permitted. The panels will be held in private and nothing said before a panel will be admissible as evidence in any legal proceedings.

It should be noted that the Bill does not contemplate the panel procedure applying to children, as a specialist approach to the problems of children is already provided for under the Children’s Protection and Young Offenders Act.

The establishment of Drug Assessment and Aid Panels is a new innovation, which will involve close links between the criminal justice and treatment systems. The Government intends to monitor the operations of the scheme as it develops.

As indicated earlier, the Bill replaces the ‘Drugs’ part of the Food and Drugs Act. While the explanation so far has tended to highlight new controls to deal with the illicit drug scene, it should be pointed out that the Bill also provides the framework for important controls over the licit use of drugs, poisons and therapeutic substances and devices.

The Food and Drugs Act and regulations, among other things, set standards for quality control of drugs used for medicinal purposes and regulate the labelling, packaging, dispensing and advertising of those substances. They also impose record-keeping and notification requirements on those prescribing or dispensing drugs. As explained in the submission of the South Australian Health Commission to the Sackville Commission the Poisons Regulations made under the Food and Drugs Act are designed: to control the sale of poisonous substances in such a way that the general public is protected as far as possible from the misuse of the poisons, and from the possibility of accidental poisoning. Those objectives are achieved by the licensing of dealers in poisons, the restriction of certain strong poisons to sale on prescription, the provision of labelling and bottling requirements, and—in the case of the more dangerous substances—the requiring of a record of the sale of these poisons. In South Australia, as in other States, the legislation classifies ‘poisons’ into eight schedules, and the requirements as to prescription, sale, storage and labelling depend on the schedule into which each substance is placed. The classification in South Australia follows closely the National Poisons Standard adopted by the National Poisons Schedules Standing Committee of the National Health and Medical Research Council.

It is proposed to retain the basic structure of the Poisons Schedules. For reasons of flexibility, the assignment of classifications to poisons, drugs, therapeutic substances and devices will be done by regulation rather than being set out in the Bill (as recommended by Sackville). Parts II, III, IV and VIII of the Bill deal particularly with these matters.

Attention is drawn to clause 18, which relates to the sale or supply of volatile solvents. The Government is concerned at the incidence of abuse in this area, particularly glue sniffing. Extensive consideration has been given to possible approaches to the problem. It seems that making offenders of children with an inhalation habit is not the solution. What this clause seeks to do is express the Government’s abhorrence of the unscrupulous dealers who provide glue and other substances containing volatile solvents, allegedly in some cases together with plastic bags, clearly knowing that they are being purchased for self-inhalation.

Another clause to which attention is particularly drawn is clause 9. This clause proposes the establishment of an expert committee, including consumer representation, to assist the Minister in determining appropriate controls over substances and devices subject to the Act.

The Controlled Substances Advisory Council contemplated by clause 9 is to consist of nine members, and is to be chaired by a Health Commission officer. As honourable members may be aware, Health Commission officers participate extensively in national deliberations on control measures. It should be noted that the Council will have power to form subcommittees and to co-opt members. It will therefore be possible to call in specialist advice in specific areas, should the need arise.

I turn now to the matter of powers of search, seizure and analysis covered by Part VII of the Bill. Essentially, the powers existing under present legislation are repeated. A clear distinction is drawn by clauses 48 (3) and (4) between the powers which may be exercised by a police officer and those which may be exercised by other authorised officers.

I believe I have highlighted the main provisions of the Bill. The clause explanation will, in the normal manner, deal with all clauses in more detail.

I would like now to briefly touch on another aspect of the Government’s drug strategy, that is, education. Sackville noted that carefully constructed drug education programmes have an important part to play in improving the community’s understanding of the drug problem. The ANOP survey indicated that there was considerable support for increased drug education among the South Australian community. I have therefore appointed a top-level working group to study and report on issues related to such education, with particular reference to education in the community, in schools and for health professionals.

In addition, South Australia’s drug services generally will be revamped and strengthened. Honourable members may have noted that the Bill makes no reference to the Alcohol and Drug Addicts (Treatment) Board, which in fact formed part of the Sackville Bill. The recent Smith Inquiry into Mental Health Services in South Australia dealt with the Board as part of its terms of reference, and the future directions of those services are being considered in the context of that review.

As I mentioned previously, the Government believes that urgent action is necessary to combat the drug problem. This Bill spearheads the Government’s strategy. It has involved extensive consideration by the police and officers of the Health Commission and Attorney-General’s Department. I believe it will be the most significant piece of legislation in the health area to come before the House for many years. I intend that the Bill lie on the table until the resumption of Parliament in March next year, so that interested persons have the opportunity to consider and comment on its provisions. Copies will be available and any comments should be made in writing to me by the end of February. I appeal to honourable members, as members of the community, as well as members of this House, to support this important area of law reform.

Clauses 1 and 2 are formal. Clause 3 repeals the two Acts that are replaced by this Act. Clause 4 inserts all the necessary definitions for the purposes of the Act. All the substances and devices to which this Act will apply are to be set out in the regulations. Cannabis (which will be a prohibited drug) is defined, as various penalties will depend on whether the particular drug involved in an offence is cannabis or cannabis resin, as opposed to cannabis oil or any other prohibited drug.

Clause 5 binds the Crown. The effect of this provision is that, for example, Government hospitals will be bound by the provisions of the Act as to licences and other authorisations or permits. This does not of course mean that the Crown will incur any criminal liability for failure to comply with such provisions. Subclauses (2) and (3) make it clear that compliance with this Act does not remove liability under other Acts or at common law. Part II sets up an advisory council. Clause 6 establishes the Council. The nine members will be drawn from a wide range of expertise and interest groups. A Health Commission employee will chair the Council.

Clause 7 sets out the usual provisions for terms and conditions of office. Clause 8 provides for the validity of acts of the Council notwithstanding defective appointments or vacancies of office. Clause 9 provides for the payment of allowances and expenses. Clause 10 also sets out the usual provisions relating to the conduct of the Council’s business. Clause 11 gives the Council the function of keeping all substances and devices subject to the Act under review. The Council must also keep reviewing other substances or devices that might need to be controlled under this Act. The operation of the Act is to be monitored by the Council. The Minister may assign further functions to it. The Council is empowered to make recommendations to the Minister as to amendments to the Act or regulations. The Council must report annually to the Minister and any such report will be laid before Parliament.

Part III deals with the way in which certain substances and devices are brought under the Act. Clause 12 provides that substances potentially harmful to humans may be declared by the regulations to be poisons. A poison may in turn be declared to be a prescription drug or a drug of dependence. Substances designed to be used therapeutically (e.g., herbal medicines) or for contraceptive or cosmetic purposes may be declared to be therapeutic substances. Devices designed to be used for similar purposes may be declared to be therapeutic devices. The Governor may declare a substance to be a volatile solvent. The regulations may also divide poisons, etc., into sub-classes. Part V deals with general offences. Clause 13 makes it unlawful to manufacture, produce or pack certain poisons, therapeutic substances or therapeutic devices. Drugs of dependence are excluded from the operation of this section as they will be dealt with separately under

Part IV. Certain professional people are not guilty of an offence against this section if they manufacture the item concerned while acting in the course of their profession. All other persons must get a licence from the Health Commission. Clause 14 makes it an offence to sell certain poisons, therapeutic substances or therapeutic devices without a licence from the Health Commission. Pharmacists are of course exempted from this provision. Again, drugs of dependence are excluded.

Clause 15 provides a similar offence in relation to retail selling of such items. Clause 16 provides that certain poisons may not be sold to children. The vendor of such poisons is not permitted to sell those poisons to purchasers they do not know without first obtaining evidence of identity. Such a vendor must also attempt to find out the purpose for which the poison is required by the purchaser. Such information must be kept in a register.

Clause 17 relates to the sale and supply of prescription drugs. Such drugs may basically only be sold or supplied by doctors, chemists and certain other professionals while acting in the course of their profession. Clause 18 prohibits the sale of a volatile solvent to a person whom the vendor suspects, or ought to suspect, is going to inhale the solvent. Clause 19 prohibits the sale of certain poisons or therapeutic substances by way of automatic vending machine. Therapeutic devices are not included in this prohibition.

Clause 20 empowers the Minister to prohibit the sale or supply of any other substance or device pending evaluation of its harmful properties. Clause 21 prohibits a person from selling a poison, therapeutic substance or therapeutic device unless it conforms with the regulations. This provision enables the imposition of national or international drug stand­ards. A defence is provided where the vendor could not have known of the fact that the particular item did not conform with the regulations. Clause 22 enables the imposition of labelling and packaging standards. Clauses 23 and 24 similarly provide for the storage and transport of poisons, therapeutic substances and therapeutic devices in accordance with the regulations.

Clause 25 provides that advertisements of certain poisons, therapeutic substances or therapeutic devices is totally prohibited. Clause 26 provides that certain poisons, therapeutic substances and therapeutic devices may only be advertised in accordance with the regulations. Clause 27 provides for the offence of forging or fraudulently altering or uttering a prescription or other document for the supply of a prescription drug, or possessing such a prescription or document, knowing it to be so forged or altered. It is also an offence to obtain a prescription, or a prescription drug, by false representation. A pharmacist may retain a forged prescription and, if he does so, he must forward it to the Commissioner of Police.

Part IV deals specifically with the offences relating to the possession of or trading in drugs of dependence and prohibited drugs. Clause 28 virtually repeats section 5 (1) of the Narcotic and Psychotropic Drugs Act in setting out the offence of possessing a drug of dependence or prohibited drug, consuming such a drug or possessing equipment relating thereto. The penalty where an offence against this section involves the possession or consumption of cannabis or cannabis resin, or the possession of equipment relating thereto, is a fine not exceeding $500. The penalty for any other offence against this section is the same as presently provided in the Narcotic and Psychotropic Drugs Act.

Clause 29 in substance covers the offences set out in section 5 (2) of the Narcotic and Psychotropic Drugs Act. The offence of selling, supplying, manufacturing or producing a drug of dependence or a prohibited drug carries very heavy penalties. If the offence involves over the prescribed amount of cannabis or cannabis resin, then the penalty will be $250 000 and 25 years imprisonment, as dealing in such a large quantity will virtually be viewed as ‘drug trafficking’. If the offence involves a lesser amount of cannabis or cannabis resin (or if the actual amount has not been ascertained), then the penalty is $4 000 or 10 years imprisonment, or both, as presently provided in the Narcotic and Psychotropic Drugs Act. The penalties for all other drugs of dependence and prohibited drugs is $250 000 and 25 years of imprisonment for so-called ‘trafficking’ and $100 000 or 25 years imprisonment, or both, where lesser quantities are involved. Subclause (3) repeats an existing provision whereby a person is deemed to be ‘trading’ in a drug if he knowingly has more than a prescribed quantity of the drug in his possession. The usual exemptions are given to certain professionals.

Clause 30 gives the Health Commission control over the supply of drugs of dependence by doctors to patients for medical purposes. The approval of the Commission is required where a drug of dependence is to be prescribed for a continuous period of more than two months, or where such a drug is to be prescribed on any occasion for a person who the doctor believes is dependent on drugs. The medical profession itself welcomes such a controlled system, as the responsibility for deciding whether or not a drug of dependence should be prescribed in any particular case is borne by an outside, objective authority.

Division II provides for the assessment of persons who are charged with certain drug offences (other than offences relating to possession or consumption of cannabis or cannabis resin or the possession of equipment relating thereto). Clause 31 provides for the establishment of assessment panels. Clause 32 provides for the assessment of persons (other than children) who are alleged to have committed simple possession offences. If the person wishes to be dealt with by a court, then the assessment is abandoned. If, after an initial interview, the panel thinks that the person should be dealt with by a court, it shall not proceed any further with the assessment, but shall authorise prosecution. It is made clear that these provisions do not derogate from the right of the prosecuting authorities to decide at any time not to prosecute an alleged offender.

Clause 33 gives to an assessment panel certain powers to require the attendance of persons or the production of books and papers. The alleged offender will not be guilty of an offence if he fails to appear before the panel or to answer questions, as if he does so fail, the assessment panel will be empowered to authorise his prosecution for the original offence. Clause 34 provides for the undertakings that may be required by the panel from the alleged offender. All these undertakings relate to assisting the person to overcome his drug dependence. An undertaking is not to be effective for more than six months. Clause 35 provides for the manner in which the proceedings of an assessment panel will be conducted. All such proceedings will be in private.

Clause 36 provides that a prosecution for a simple possession offence shall not proceed except upon the authorisation of an assessment panel. A panel may only give such an authorisation in certain situations. For example, if the alleged offender fails to appear before the panel, refuses to give an undertaking or fails to comply with an undertaking, the panel may authorise his prosecution. It is made clear that the alleged offender may be charged with the offence, remanded in custody or released on bail, but no further steps may be taken in the proceedings unless the panel has authorised the prosecution. Where the panel decides that the alleged offender is to be dealt with by the panel, then the offender must be released if he is in custody, or must be discharged from bail, and the information withdrawn if necessary. Clause 37 makes it clear that nothing said in proceedings before an assessment panel is admissible in criminal or civil proceedings.

Part VI deals generally with penalties and forfeiture. Clause 38 provides an offence of aiding and abetting the commission of an offence, or soliciting or inciting the commission of an offence. Clause 39 provides that offences attracting prison sentences of less than five years are minor indictable offences, those attracting prison sentences of five years or more are indictable offences, and all other offences are to be dealt with in a summary manner. Clause 40 sets out the various matters that a court shall take into consideration when determining penalties. Where the offence is one of manufacturing or trading in drugs of dependence or prohibited drugs, the court shall look at the commercial or other motives of the convicted person and (except where an application for forfeiture has been made) the financial gain that is likely to have accrued to the convicted person as a result of the commission of the offence.

Clause 41 is the usual provision that renders company directors liable for offences committed by the company. Clause 42 provides for forfeiture to the Crown of items the subject of offences against the Act. Clause 43 relates to forfeiture where a person is convicted of an offence against section 29 (that is, manufacturing or trading in drugs of dependence or prohibited drugs). In such a case, the court may order forfeiture to the Crown of anything received by the convicted person or a related person or body (as defined in clause 4) in connection with the commission of the offence, or anything acquired as a result of the commission of the offence. Property of the convicted person used in connection with the commission of the offence may also be forfeited. Where the prosecution applies to the court for forfeiture of certain property pursuant to this section, the onus shall lie upon the defendant to prove that the property is not liable to forfeiture.

Clause 44 provides for the sequestration of property that is liable to forfeiture under the preceding clause. Clause 45 provides for the joining of a related person or body to an application for forfeiture or sequestration of his property. Part VII sets out the powers of authorised officers. Clause 46 provides that members of the Police Force are authorised officers, and the Minister may appoint such other persons to be authorised officers as he thinks fit. Clause 47 provides for the appointment of analysts and botanists. Clause 48 sets out the powers of entry, search and seizure. The powers given to members of the Police Force are similar to those currently set out in sections 11 and 12 of the Narcotic and Psychotropic Drugs Act. Except for routine inspections of licensed premises during business hours, or where urgent action is required, the powers conferred by the section require a warrant. A warrant is not to be issued unless the officer of police, special magistrate or justice is satisfied that there are reasonable grounds for the warrant. Clause 49 provides for the analysis of substances by analysts or botanists. Clause 50 provides immunity from liability for authorised officers and accompanying persons, and analysts and botanists.

Part VII deals with miscellaneous matters. Clause 51 provides generally for the granting, refusing or revoking by the Health Commission of licences, authorisations and permits. Clause 52 empowers the Health Commission to grant research permits in respect of poisons, prohibited drugs and therapeutic substances and devices. Clause 53 empowers the Health Commission to prohibit certain manufacturers, suppliers, doctors or chemists from manufacturing, supplying, etc., a specified prescription drug, or any other substance or device, where an offence against the Act has been committed or a licence condition breached, or where a prescription drug has been irresponsibly prescribed or supplied. An appeal to the Supreme Court lies against such an order of the Commission. Clause 54 empowers the Health Commission to circulate amongst doctors, chemists, hospitals, etc., a list of names of persons who the Commission believes on reasonable grounds have obtained or attempted to obtain a prescription or drug by unlawful means. This list is privileged, but may not be disclosed to any person other than those to whom it is circulated.

Clause 55 prohibits authorised officers and others from disclosing trade secrets. Clause 56 empowers the Health Commission to obtain information from certain persons, as an aid to the Commission in its administration of the Act. Clause 57 sets out evidentiary provisions relating to analysis, and the holding of licences, etc. Clause 58 provides that the moneys required for the Act are to be appropriated by Parliament. Clause 59 is the regulation-making power. The Advisory Council is to be consulted on all proposed regulations. Exemptions may be given by, or under, the regulations. The regulations may incorporate a standard, code or pharmacopoeia. Penalties for breach of a regulation are not to exceed $1 000.

The Hon. J.C. BURDETT secured the adjournment of the debate.