New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 60, 1969.

An Act to make provision for the appointment of persons as Public Defenders; to enable certain persons to apply for and be provided with legal assistance in connection with certain criminal proceedings; to repeal the Poor Prisoners Defence Act, 1907; to amend the Public Service Act, 1902, and the Criminal Appeal Act of 1912; and for purposes connected therewith. [Assented to, 27th October, 1969.]

P 96151 [5c]

BE

 \mathbf{B}^{E} it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title **1.** (1) This Act may be cited as the "Public Defenders and commencement. Act, 1969".

> (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Repeal of Act No. 23, 1907, and amendment of Act No. 16, 1912. 2.

repealed.

(2) The Criminal Appeal Act of 1912 is amended—

(1) The Poor Prisoners Defence Act, 1907, is

(a) by omitting from section one the words "Criminal Appeal Act of" and by inserting in lieu thereof the words "Criminal Appeal Act,";

(b) by omitting section thirteen;

(c) by omitting subsection four of section nineteen.

Public Defenders.

3. (1) The Governor may appoint such number of persons as he deems necessary to be Public Defenders.

(2) A person shall not be appointed as a Public Defender unless he is a barrister.

(3) A person shall not be appointed as a Public Defender if he is of or above the age of seventy years.

(4) A Public Defender shall be paid such remuneration as may be determined by the Governor.

(5) The persons specified in the Schedule to this Act shall be deemed to have been appointed under this Act as Public Defenders on the day on which this Act commences.

(6)

(6) A Public Defender shall be deemed to have vacated his office—

- (a) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office;
- (b) if he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or of his estate for their benefit;
- (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (e) if he resigns his office by writing under his hand addressed to the Governor; or
- (f) upon his attaining the age of seventy years.

(7) A person who is, at the date on which he is or is deemed to be appointed as a Public Defender, an officer of the Public Service shall, in the event of his ceasing to hold office as a Public Defender by reason of that office being discontinued or abolished, be entitled, if he is under the age of sixty years, to be appointed upon the recommendation of the Public Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment under this Act.

(8) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, to any person appointed or deemed to be appointed as a Public Defender, who is at the date on which he is or is deemed to be appointed or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916. 3

(9)

(9) Any officer of the Public Service or person who at the date on which he is or is deemed to be appointed as a Public Defender is an employee within the meaning of the Superannuation Act, 1916, shall continue to contribute to any fund or account and be entitled to receive any deferred or extended leave, and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as the case may be, and for that purpose his service as Public Defender shall be deemed to be service for the purpose of those Acts.

Legal assistance.

4

4. (1) In this section "prescribed officer" means the Under Secretary of the Department of the Attorney-General and of Justice, an Assistant Under Secretary of that department or any other officer of that department authorised by the Minister to act as a prescribed officer for the purposes of this section.

(2) Any person who—

- (a) is charged with the commission of an indictable offence;
- (b) has been committed for trial or sentence for an indictable offence; or
- (c) desires to appeal against his conviction for an indictable offence,

may apply to a prescribed officer for legal assistance under this section.

(3) Where an application is made to a prescribed officer under subsection two of this section and it appears to him that the applicant's means are insufficient to enable him to provide or to continue to provide adequate legal assistance for himself, the prescribed officer may, subject to any directions given to him by the Minister, make arrangements for the applicant to be provided with such legal assistance in connection with the proceedings on the charge or the trial or the proceedings at which he is to be sentenced or on the appeal, as the case may be, as the prescribed officer thinks fit.

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(5) The fees of any barrister or solicitor, other than a Public Defender, the Public Solicitor or a solicitor employed in the office of the Public Solicitor, with whom any arrangements under subsection three of this section or by whom any advice referred to in subsection four of this section is furnished shall be paid by the Department of the Attorney-General and of Justice out of moneys provided by Parliament for the purpose.

(6) An arrangement under subsection three of this section may be made with, or advice referred to in subsection four of this section may be obtained from, a Public Defender, the Public Solicitor or any other barrister or solicitor.

5. The Public Service Act, 1902, is amended by omitting Amendment from section five the words "or Crown prosecutors" and by of Act No. inserting in lieu thereof the words ", Crown prosecutors or Sec. 5. Public Defenders". (Act not to

Sec. 5. (Act not to apply to certain public officers.)

SCHEDULE.

Sec. 3.

Howard Frank Purnell, Esquire. Clarence Denis Cullen, Esquire. Ernest Frank Byron, Esquire.

BY AUTHORITY: V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES-1969

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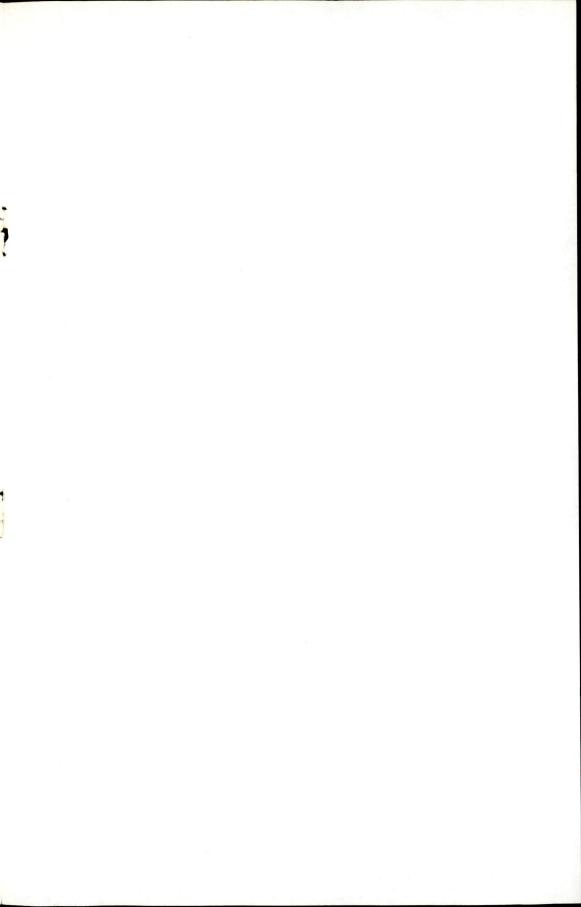
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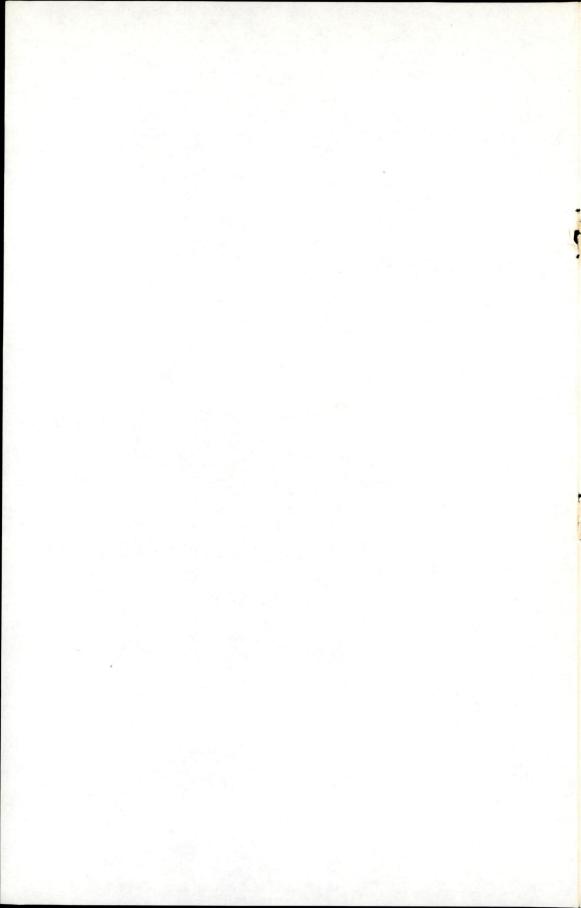
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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGIS-LATIVE ASSEMBLY of NEW SOUTH WALES.

> R. E. WARD, for Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 15 October, 1969.



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 60, 1969.

An Act to make provision for the appointment of persons as Public Defenders; to enable certain persons to apply for and be provided with legal assistance in connection with certain criminal proceedings; to repeal the Poor Prisoners Defence Act, 1907; to amend the Public Service Act, 1902, and the Criminal Appeal Act of 1912; and for purposes connected therewith. [Assented to, 27th October, 1969.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

> L. A. PUNCH, Chairman of Committees of the Legislative Assembly.

B^E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows : —

Short title **1.** (1) This Act may be cited as the "Public Defenders and commencement. Act, 1969".

> (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Repeal of Act No. 23, 1907, and amendment of Act No. 16, 1912.

2. (1) The Poor Prisoners Defence Act, 1907, is repealed.

(2) The Criminal Appeal Act of 1912 is amended—

- (a) by omitting from section one the words "Criminal Appeal Act of" and by inserting in lieu thereof the words "Criminal Appeal Act,";
- (b) by omitting section thirteen;
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3. (1) The Governor may appoint such number of persons as he deems necessary to be Public Defenders.

(2) A person shall not be appointed as a Public Defender unless he is a barrister.

(3) A person shall not be appointed as a Public Defender if he is of or above the age of seventy years.

(4) A Public Defender shall be paid such remuneration as may be determined by the Governor.

(5) The persons specified in the Schedule to this Act shall be deemed to have been appointed under this Act as Public Defenders on the day on which this Act commences.

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Act No. 60, 1969.

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- (a) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office;
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- (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or of his estate for their benefit;
- (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (e) if he resigns his office by writing under his hand addressed to the Governor; or
- (f) upon his attaining the age of seventy years.

(7) A person who is, at the date on which he is or is deemed to be appointed as a Public Defender, an officer of the Public Service shall, in the event of his ceasing to hold office as a Public Defender by reason of that office being discontinued or abolished, be entitled, if he is under the age of sixty years, to be appointed upon the recommendation of the Public Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment under this Act.

(8) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, to any person appointed or deemed to be appointed as a Public Defender, who is at the date on which he is or is deemed to be appointed or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916.

Act No. 60, 1969.

Public Defenders.

(9) Any officer of the Public Service or person who at the date on which he is or is deemed to be appointed as a Public Defender is an employee within the meaning of the Superannuation Act, 1916, shall continue to contribute to any fund or account and be entitled to receive any deferred or extended leave, and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as the case may be, and for that purpose his service as Public Defender shall be deemed to be service for the purpose of those Acts.

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4. (1) In this section "prescribed officer" means the Under Secretary of the Department of the Attorney-General and of Justice, an Assistant Under Secretary of that department or any other officer of that department authorised by the Minister to act as a prescribed officer for the purposes of this section.

(2) Any person who—

- (a) is charged with the commission of an indictable offence;
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(3) Where an application is made to a prescribed officer under subsection two of this section and it appears to him that the applicant's means are insufficient to enable him to provide or to continue to provide adequate legal assistance for himself, the prescribed officer may, subject to any directions given to him by the Minister, make arrangements for the applicant to be provided with such legal assistance in connection with the proceedings on the charge or the trial or the proceedings at which he is to be sentenced or on the appeal, as the case may be, as the prescribed officer thinks fit.

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Act No. 60, 1969.

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(5) The fees of any barrister or solicitor, other than a Public Defender, the Public Solicitor or a solicitor employed in the office of the Public Solicitor, with whom any arrangements under subsection three of this section or by whom any advice referred to in subsection four of this section is furnished shall be paid by the Department of the Attorney-General and of Justice out of moneys provided by Parliament for the purpose.

(6) An arrangement under subsection three of this section may be made with, or advice referred to in subsection four of this section may be obtained from, a Public Defender, the Public Solicitor or any other barrister or solicitor.

5. The Public Service Act, 1902, is amended by omitting Amendment from section five the words "or Crown prosecutors" and by of Act No. inserting in lieu thereof the words ", Crown prosecutors or Sec. 5. Public Defenders". (Act not to

(Act not to apply to certain public officers.)

SCHEDULE.

Sec. 3.

Howard Frank Purnell, Esquire. Clarence Denis Cullen, Esquire. Ernest Frank Byron, Esquire.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,

Governor.

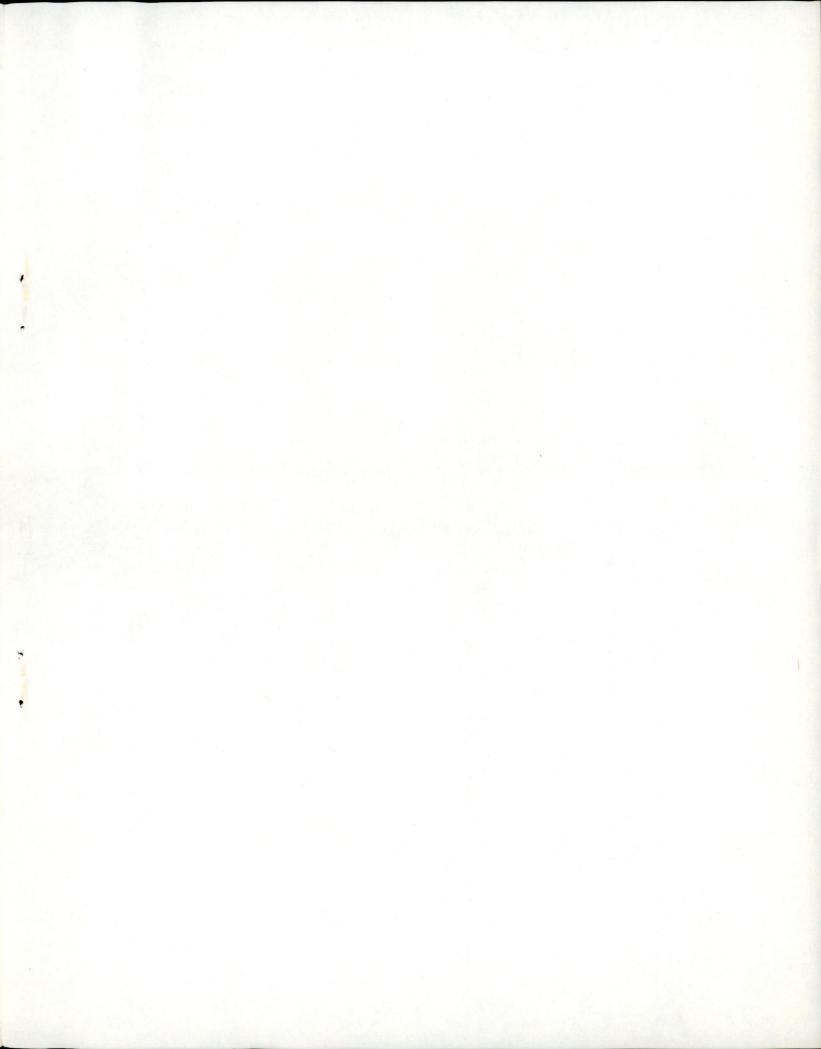
Government House,

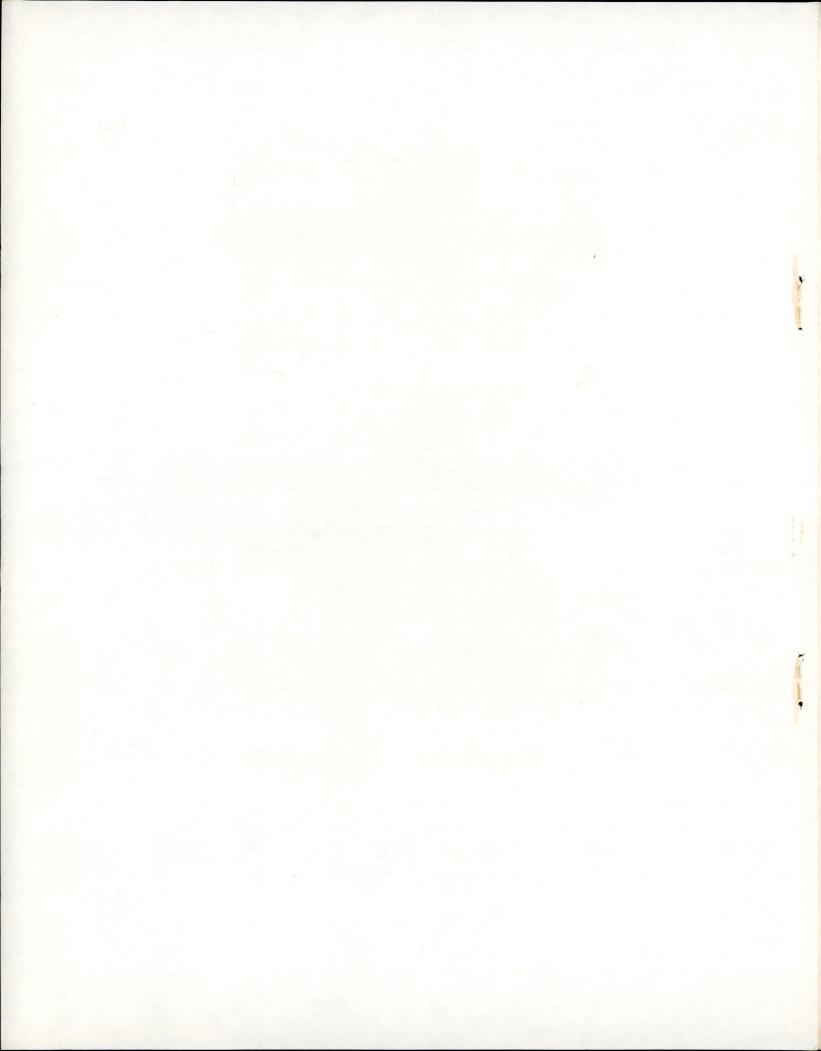
Sydney, 27th October, 1969.

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PUBLIC DEFENDERS BILL.

Schedule of Amendments referred to in Legislative Council's Message of 2 October, 1969.

No. 1.—Page, 2, clause 3, lines 22 and 23. Omit "of the Supreme Court of New South Wales".

No. 2.—Page 3, clause 3, line 30. After "as" insert "a".

No. 3.-Page 4, clause 3, line 2. After "appointed" insert "as a Public Defender".

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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

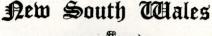
I. P. K. VIDLER, Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 10 September, 1969.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

J. R. STEVENSON, Clerk of the Parliaments.

Legislative Council Chamber, Sydney, 2 October, 1969.





ANNO OCTAVO DECIMO ELIZABETHÆ II REGINÆ

Act No. , 1969.

An Act to make provision for the appointment of persons as Public Defenders; to enable certain persons to apply for and be provided with legal assistance in connection with certain criminal proceedings; to repeal the Poor Prisoners Defence Act, 1907; to amend the Public Service Act, 1902, and the Criminal Appeal Act of 1912; and for purposes connected therewith.

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(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation 10 published in the Gazette.

2. (1) The Poor Prisoners Defence Act, 1907, is Repeal of Act No. 23, 1907, and repealed.

amendment of Act No. 16, 1912.

(2) The Criminal Appeal Act of 1912 is amended-

(a) by omitting from section one the words "Criminal Appeal Act of" and by inserting in lieu thereof the words "Criminal Appeal Act,";

(b) by omitting section thirteen;

(c) by omitting subsection four of section nineteen.

3. (1) The Governor may appoint such number of Public 20 persons as he deems necessary to be Public Defenders.

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(2) A person shall not be appointed as a Public Defender unless he is a barrister of the Supreme Court of New South Wales.

(3) A person shall not be appointed as a Public 25 Defender if he is of or above the age of seventy years.

(4) A Public Defender shall be paid such remuneration as may be determined by the Governor.

(5) The persons specified in the Schedule to this Act shall be deemed to have been appointed under this Act as 30 Public Defenders on the day on which this Act commences.

(6)

(6) A Public Defender shall be deemed to have vacated his office—

- (a) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office;
- (b) if he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or of his estate for their benefit;
- (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (e) if he resigns his office by writing under his hand addressed to the Governor; or
- (f) upon his attaining the age of seventy years.
- (7) A person who is, at the date on which he is or is 20 deemed to be appointed as a Public Defender, an officer of the Public Service shall, in the event of his ceasing to hold office as a Public Defender by reason of that office being discontinued or abolished, be entitled, if he is under the age of sixty years, to be appointed upon the recommendation of the Public
- 25 Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment under this Act.

(8) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, to any person
30 appointed or deemed to be appointed as a Public Defender, who is at the date on which he is or is deemed to be appointed or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916.

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(3) Where an application is made to a prescribed officer under subsection two of this section and it appears to him that the applicant's means are insufficient to enable him
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(5) The fees of any barrister or solicitor, other than a Public Defender, the Public Solicitor or a solicitor employed in the office of the Public Solicitor, with whom any arrangements under subsection three of this section or by whom10 any advice referred to in subsection four of this section is furnished shall be paid by the Department of the Attorney-General and of Justice out of moneys provided by Parliament for the purpose.

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 inserting in lieu thereof the words ", Crown prosecutors or Sec. 5.

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Sec. 5. (Act not to apply to certain public officers.)

SCHEDULE.

Sec. 3.

Howard Frank Purnell, Esquire. Clarence Denis Cullen, Esquire.

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES-1969 [5C]

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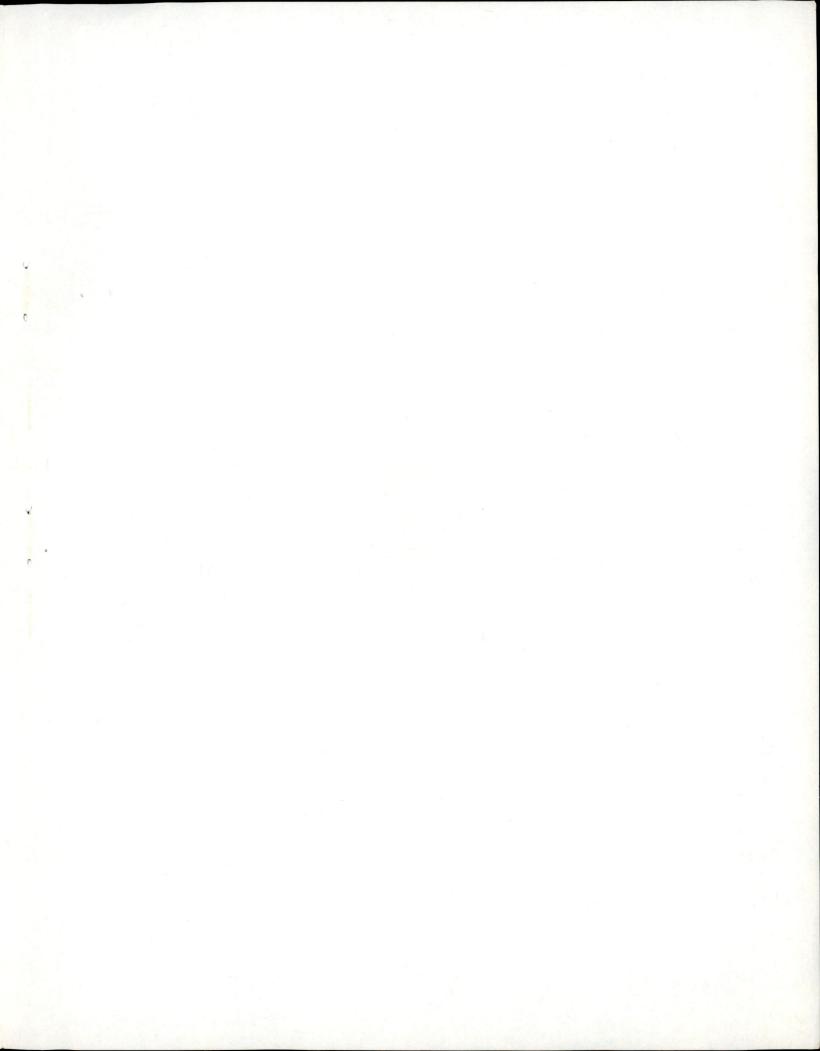
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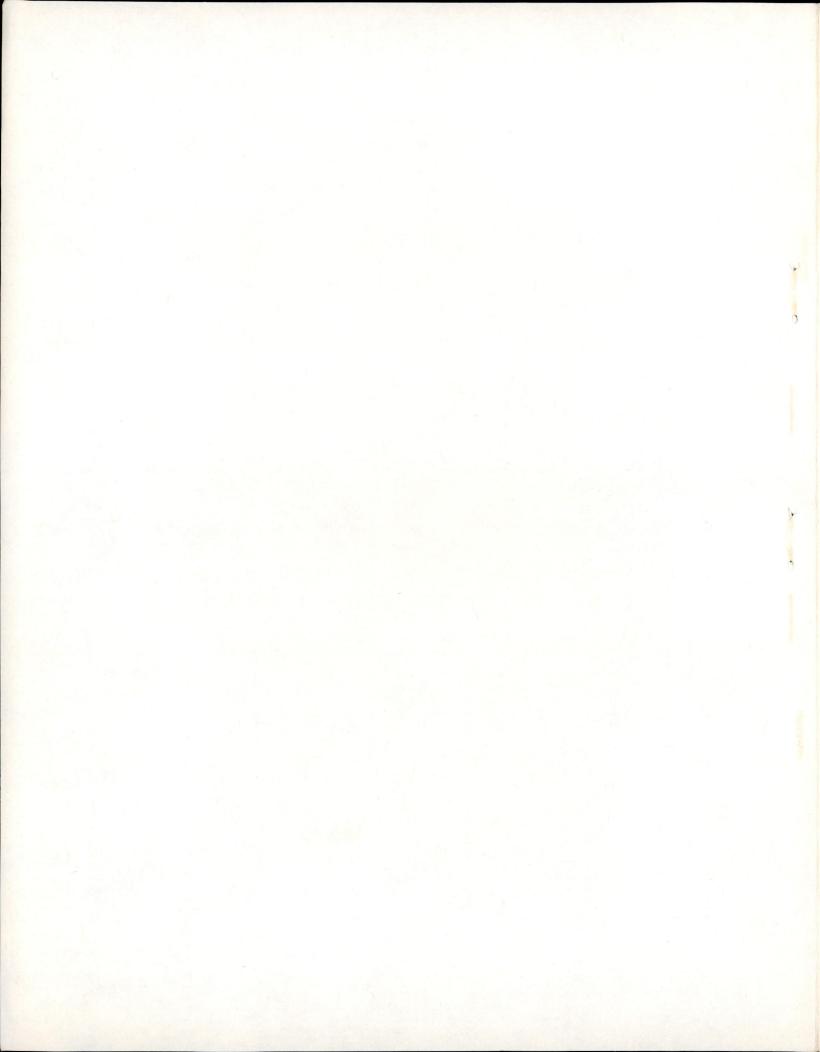
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> I. P. K. VIDLER, Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 10 September, 1969.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.

Legislative Council Chamber, Sydney, October, 1969.



ANNO OCTAVO DECIMO ELIZABETHÆ II REGINÆ

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(5) The persons specified in the Schedule to this Act shall be deemed to have been appointed under this Act as 30 Public Defenders on the day on which this Act commences.

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 25 Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment under this Act.

(8) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, to any person
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SCHEDULE.

Sec. 3.

Howard Frank Purnell, Esquire. Clarence Denis Cullen, Esquire. Ernest Frank Byron, Esquire.

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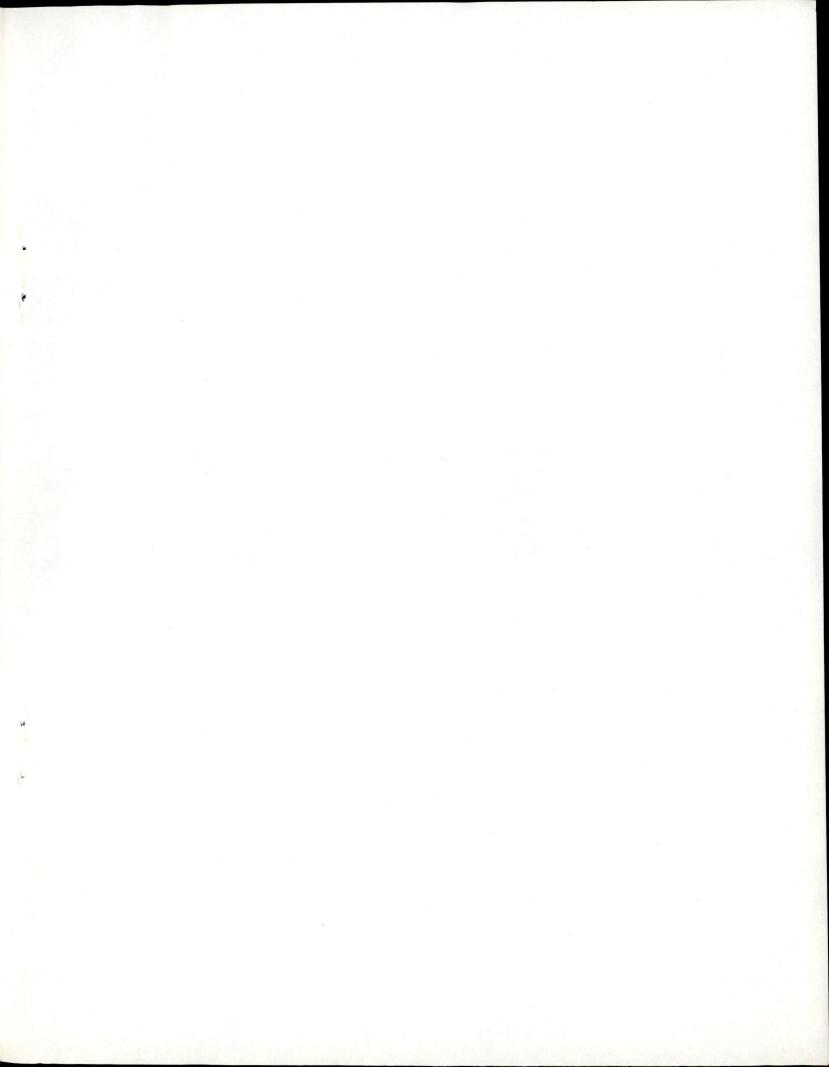
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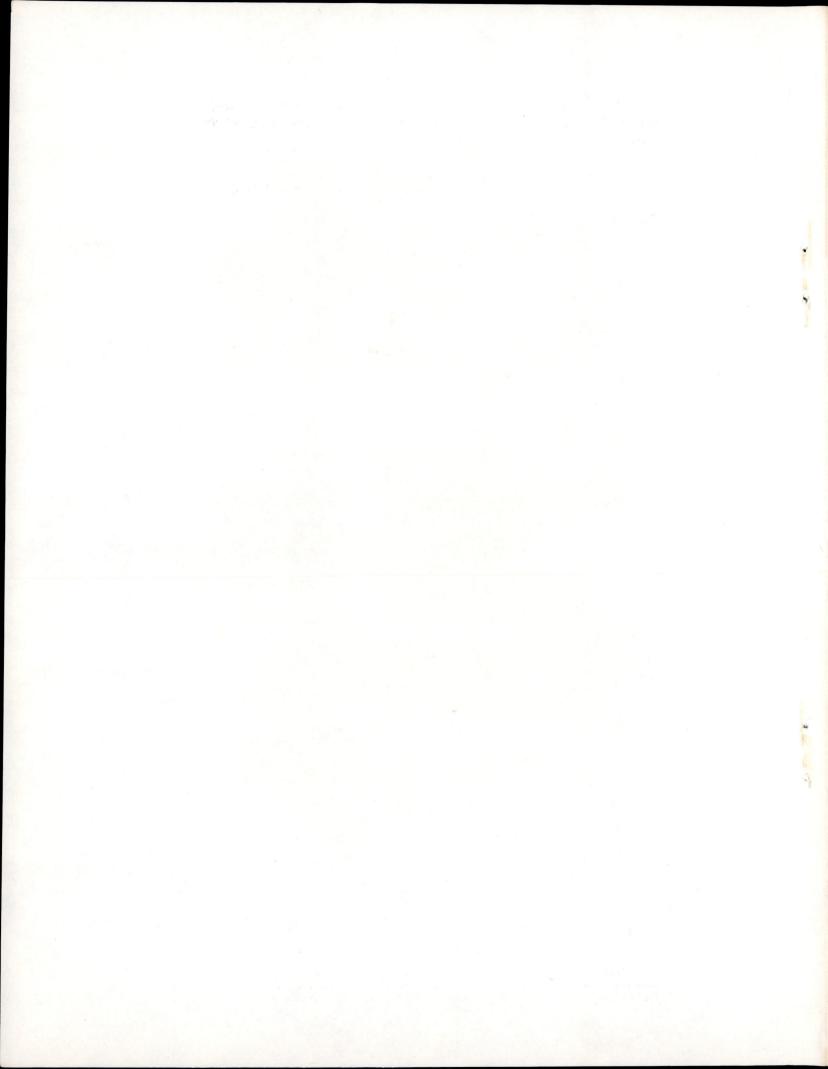
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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

> I. P. K. VIDLER, Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, 10 September, 1969.

New South Wales



ANNO OCTAVO DECIMO ELIZABETHÆ II REGINÆ

Act No. , 1969.

An Act to make provision for the appointment of persons as Public Defenders; to enable certain persons to apply for and be provided with legal assistance in connection with certain criminal proceedings; to repeal the Poor Prisoners Defence Act, 1907; to amend the Public Service Act, 1902, and the Criminal Appeal Act of 1912; and for purposes connected therewith.

BE

79325 21-

B^E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as 5 follows : --

1. (1) This Act may be cited as the "Public Defenders Short title and com-Act, 1969". mencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation 10 published in the Gazette.

2. (1) The Poor Prisoners Defence Act, 1907, is Repeal of repealed.

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(2) The Criminal Appeal Act of 1912 is amended-

- (a) by omitting from section one the words "Criminal Appeal Act of" and by inserting in lieu thereof the words "Criminal Appeal Act,";
- (b) by omitting section thirteen;

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(c) by omitting subsection four of section nineteen.

3. (1) The Governor may appoint such number of Public 20 persons as he deems necessary to be Public Defenders.

Defenders.

(2) A person shall not be appointed as a Public Defender unless he is a barrister of the Supreme Court of New South Wales.

(3) A person shall not be appointed as a Public 25 Defender if he is of or above the age of seventy years.

(4) A Public Defender shall be paid such remuneration as may be determined by the Governor.

(5) The persons specified in the Schedule to this Act shall be deemed to have been appointed under this Act as 30 Public Defenders on the day on which this Act commences.

(6)

(6) A Public Defender shall be deemed to have vacated his office—

- (a) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office;
- (b) if he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or of his estate for their benefit;
 - (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
 - (e) if he resigns his office by writing under his hand addressed to the Governor; or
 - (f) upon his attaining the age of seventy years.
- (7) A person who is, at the date on which he is or is
 20 deemed to be appointed as a Public Defender, an officer of the Public Service shall, in the event of his ceasing to hold office as a Public Defender by reason of that office being discontinued or abolished, be entitled, if he is under the age of sixty years, to be appointed upon the recommendation of the Public
 25 Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment under this Act.

(8) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, to any person
30 appointed or deemed to be appointed as Public Defender, who is at the date on which he is or is deemed to be appointed or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916.

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(9) Any officer of the Public Service or person who at the date on which he is or is deemed to be appointed is an employee within the meaning of the Superannuation Act, 1916, shall continue to contribute to any fund or account and

5 be entitled to receive any deferred or extended leave, and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as the case may be, and for that purpose his service as Public Defender shall be

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4. (1) In this section "prescribed officer" means the Legal Under Secretary of the Department of the Attorney-General assistance. and of Justice, an Assistant Under Secretary of that department or any other officer of that department authorised by the

15 Minister to act as a prescribed officer for the purposes of this section.

(2) Any person who—

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may apply to a prescribed officer for legal assistance under 25 this section.

(3) Where an application is made to a prescribed officer under subsection two of this section and it appears to him that the applicant's means are insufficient to enable him to provide or to continue to provide adequate legal assistance
30 for himself, the prescribed officer may, subject to any directions given to him by the Minister, make arrangements for the applicant to be provided with such legal assistance in connection with the proceedings on the charge or the trial or the proceedings at which he is to be sentenced or on the appeal,

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(4) The prescribed officer shall not make arrangements under subsection three of this section in respect of legal assistance in connection with proceedings on an appeal unless it appears to him, on such legal advice as he sees fit to obtain,5 that the applicant has good grounds for taking the appeal.

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Sec. 3.

SCHEDULE.

Howard Frank Purnell, Esquire. Clarence Denis Cullen, Esquire.

25 Ernest Frank Byron, Esquire.

BY AUTHORITY: V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES-1969 [5c]

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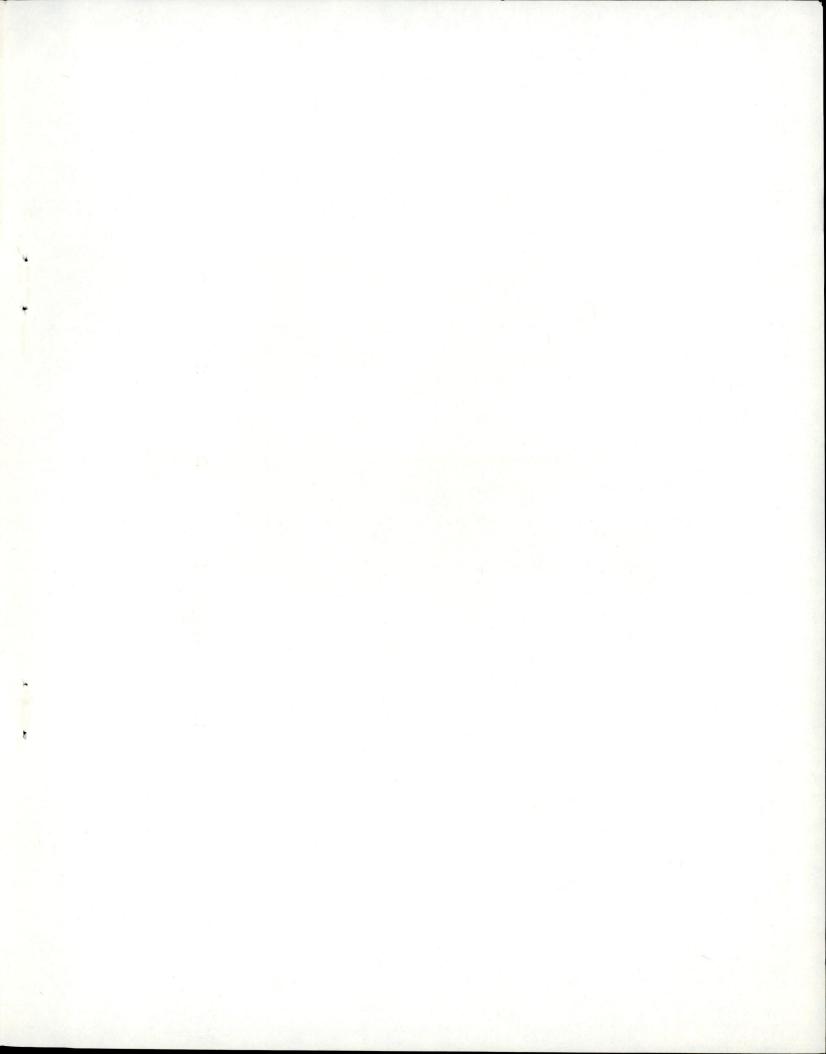
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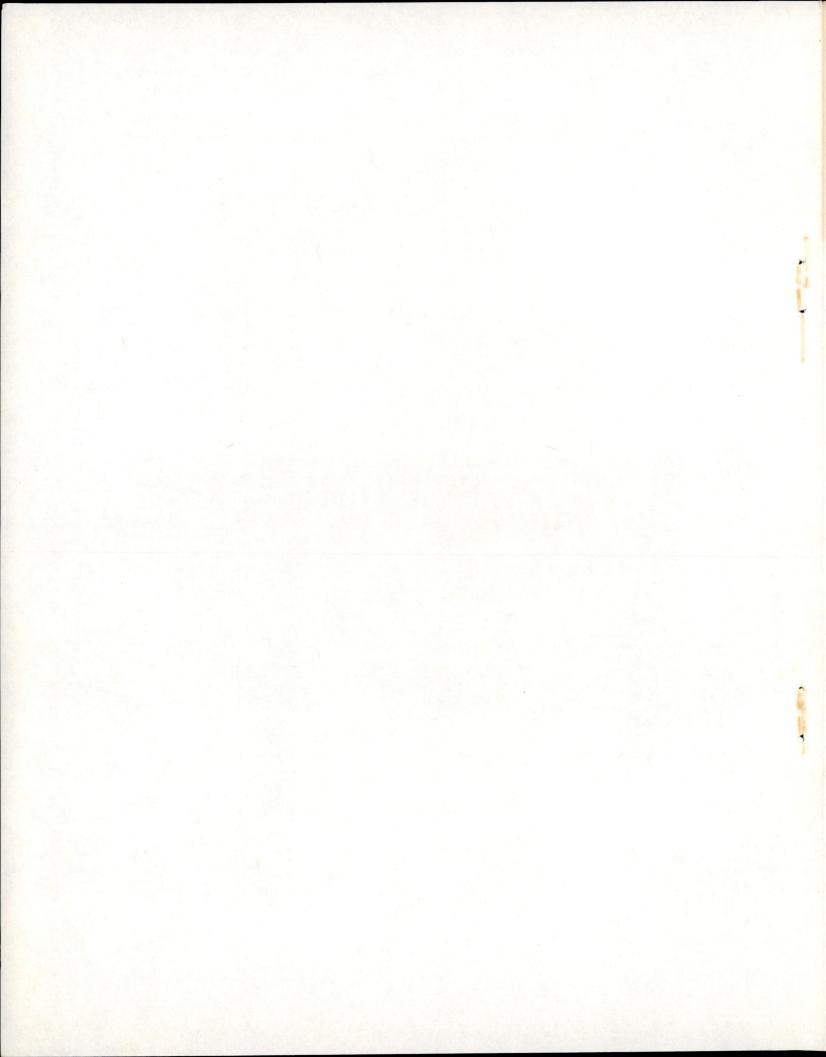
Sec. 3.

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No. , 1969.

A BILL

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[MR McCAW-26 August, 1969.]

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- (a) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office;
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- (e) if he resigns his office by writing under his hand addressed to the Governor; or
- (f) upon his attaining the age of seventy years.
- (7) A person who is, at the date on which he is or is 20 deemed to be appointed as a Public Defender, an officer of the Public Service shall, in the event of his ceasing to hold office as a Public Defender by reason of that office being discontinued or abolished, be entitled, if he is under the age of sixty years, to be appointed upon the recommendation of the Public
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(8) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, to any person 30 appointed or deemed to be appointed as Public Defender, who is at the date on which he is or is deemed to be appointed or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916.

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES-1969 [5c]

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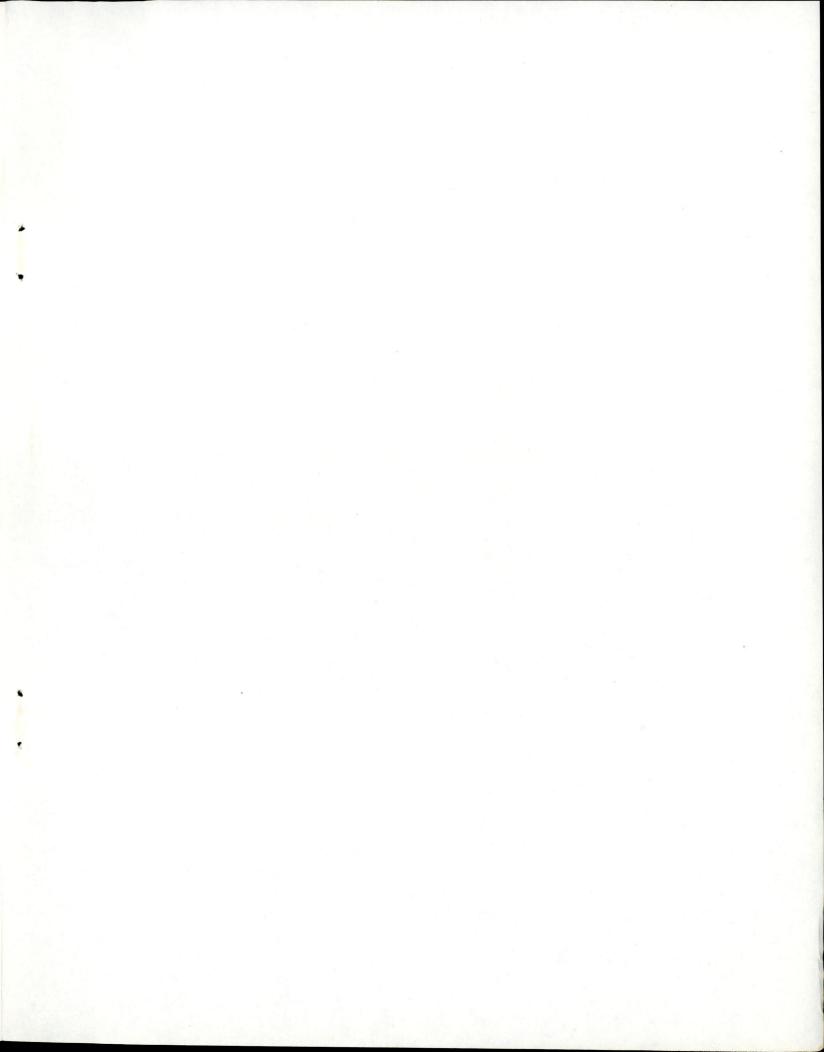
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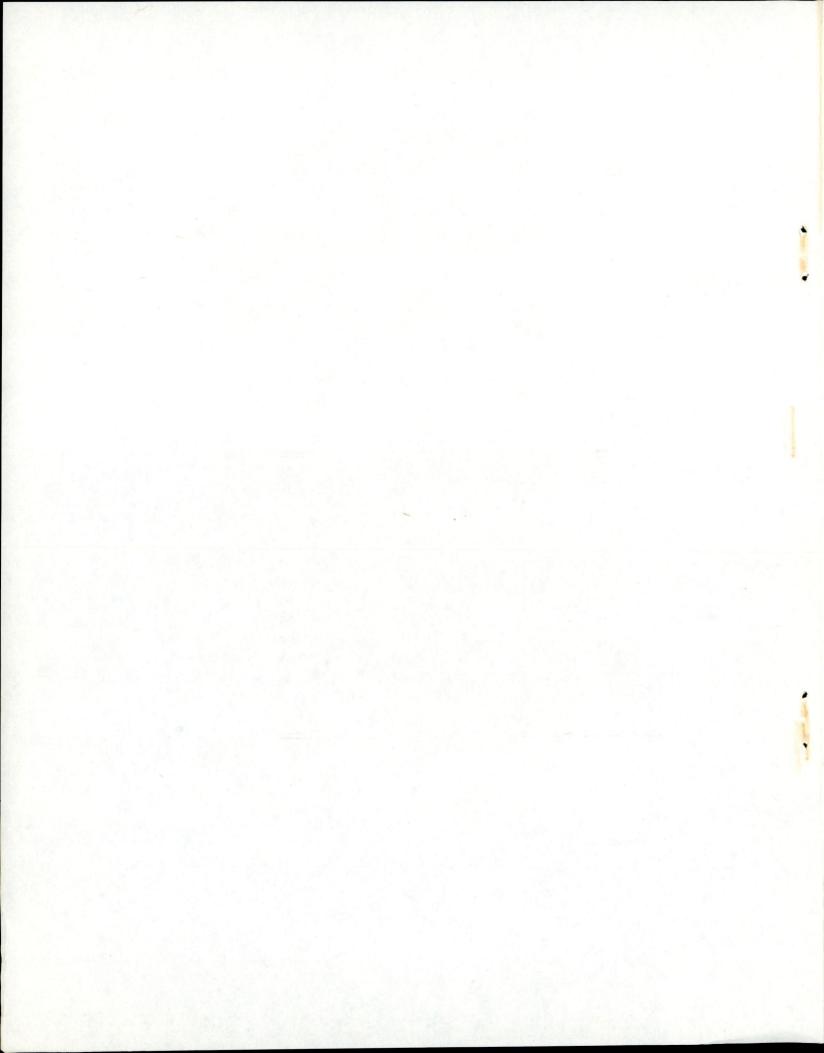
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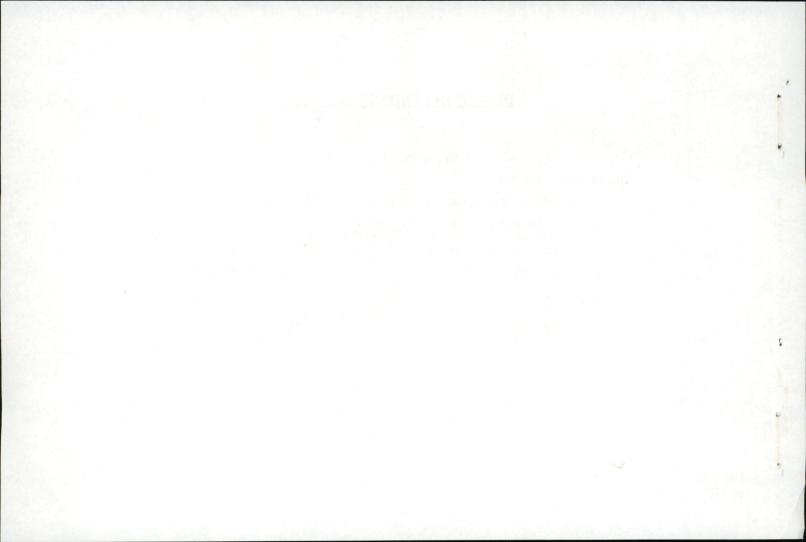
PUBLIC DEFENDERS BILL, 1969

EXPLANATORY NOTE

The objects of this Bill are-

- (a) to authorise the appointment of persons as Public Defenders;
- (b) to enable a prescribed officer of the Department of the Attorney-General and of Justice to arrange for the provision of legal assistance in certain criminal proceedings to persons of insufficient means;
- (c) to make other amendments of a consequential or ancillary character.

79325 21-



PROOF

No. , 1969.

A BILL

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