HOUSE OF ASSEMBLY

Wednesday, October 18, 1967

The SPEAKER (Hon. L. G. Riches) took the Chair at 2 p.m. and read prayers.

QUESTIONS

DROUGHT ASSISTANCE

Mr. HALL: This morning's news reports reveal that the Prime Minister has told the Commonwealth House that his Government may help the South Australian Government regarding the drought in this State in one of two ways: either on a $1 for $1 basis of subsidy on moneys spent by the State Government or on the basis of a direct grant to this Government. Can the Premier say when State Treasury officials will confer with the Commonwealth authorities and when drought relief will become effective in this State?

The Hon. D. A. DUNSTAN: I have received no official information from the Prime Minister; I know no more from that source than I read in the report that the Leader apparently read this morning. However, having seen the report in the press, I immediately had officials of my department contact Canberra to see what could be done, because it is urgent that relief be given immediately. As a result of telephone discussions that have taken place this morning, a meeting is expected to be held on Friday next, depending on the availability of officers from Victoria who are also to be included in the meeting. Telephone conversations are currently proceeding to try to arrange a meeting on Friday of all relevant officials who will try to hammer out with the Commonwealth just what assistance that Government will give.

BRIGHTON TECHNICAL SCHOOL

Mr. HUDSON: The Education Department has agreed to the complete enclosure of the shelter area at the Brighton Boys Technical High School. This area was originally intended to double as a shelter area and assembly hall, but it was left with one end open to the elements. As I understand this work is projected by the Public Buildings Department, will the Minister of Works ascertain when the work will be completed?

The Hon. C. D. HUTCHENS: Undoubtedly what the honourable member says about the Education Department having agreed to this project is correct. As soon as notice of it is received by my department, I shall obtain a report on commencement and completion dates.

MOUNT PLEASANT ROAD

The Hon. B. H. TEUSNER: Has the Minister representing the Minister of Roads a reply to my question of last week about the reconstruction of the main highway between Angaston and Mount Pleasant?

The Hon. J. D. CORCORAN: The Minister of Roads reports that it is expected that road reconstruction currently in hand between Angaston and Springton will be completed early in the 1968-69 financial year. There are no plans for any major works between Springton and Mount Pleasant, as this length of road is in reasonably good condition.

KIMBA WATER SUPPLY

Mr. BOCKELBERG: When I last asked the Minister of Works a question about a water supply for Kimba, he said that Commonwealth assistance was expected. Has he further information on the matter?

The Hon. C. D. HUTCHENS: No-one more than I would like to be able to give a favourable reply on this matter to the honourable member. As the honourable member and many other honourable members know, I visited the Kimba area where I was delighted to see the progressive work being undertaken by farmers. I saw that more than anything else a permanent water supply was needed in the area. Accordingly, the Government has twice approached the Commonwealth Government about a scheme for Kimba, but as yet the Commonwealth has made no decision. I hope that when a decision is made it will be favourable and, if it is, facilities are available for work to commence immediately.

GOVERNMENT PUBLICATIONS

Mr. MILLHOUSE: In the last couple of years, I have raised with the Premier's predecessor (the Minister of Social Welfare) the question of the sale of Government publications in Adelaide. As the Premier is aware, Government publications at present are sold at the Government Printing Office in King William Road, but when that office is moved at some future time that outlet will cease. I have had representations from one of my constituents to the effect that there should be a bookshop in the city of Adelaide to cater for the sale of both Commonwealth and State publications: it is that suggestion that I have put to the honourable gentleman's predecessor.

Since I last raised the matter, I understand that the Commonwealth Government has decided to embark on such a scheme in Sydney and Melbourne in conjunction with the Governments of New South Wales and Victoria. Can the Premier say what plans the Government may have for the sale of Government publications after the Government Printing Office is moved from its present site? If it has plans, do they encompass any arrangement with the Commonwealth (similar to that to which I have referred in Melbourne and Sydney) for a joint outlet for the publications of both Governments?

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

BERRI LAND

Mr. CURREN: Some time ago a part of the Berri area known as the Schrafel subdivision was acquired by the Lands Department for housing subdivision. Can the Minister of Lands say what progress has been made in preparing the site for subdivision, and when the subdivision is likely to be gazetted and applications invited?

The Hon. J. D. CORCORAN: The boundary survey has been completed. The subdivisional survey was commenced on, I think, Monday last and will take about three weeks to complete. It is estimated that the preparation of plans and the acceptance of tenders will take five weeks, and the work of preparing details for the offering of the land, the fixing of valuations and rents, etc., will probably take six weeks. It is expected that the department will be able to offer this land about the end of January, 1968.

SUPERVISION CHARGE

Mr. RODDA: Has the Minister of Lands, representing the Minister of Local Government, a reply to the question I asked during the Estimates debate regarding an 8 per cent supervision fee levied on councils in the South-East in connection with the country electricity supplies legislation?

The Hon. J. D. CORCORAN: The Minister of Local Government reports that all approved grants to councils made in accordance with the provisions of the Electricity Supplies (Country Areas) Act are paid by the Highways Department on the recommendation of the Electricity Trust. No charge is levied by either the trust or the department for supervision of such grants.

JUSTICES OF THE PEACE

Mr. COUMBE: Has the Premier a reply to my question of September 27 about sales of the new handbook for justices of the peace and also about the number of justices of the peace who have enrolled for the new course?

The Hon. D. A. DUNSTAN: Apart from copies of the handbook that have already been supplied to all courts of summary jurisdiction, 404 copies have been sold. The course is available only to justices, not to applicants for a commission of the peace. The number of justices currently taking the course is 104, and 80 have so far been registered for the next course, which will commence next March or April.

PORT PIRIE HOSPITAL

Mr. McKEE: Has the Minister of Works a reply to my question about the proposed children's ward at the Port Pirie Hospital?

The Hon. C. D. HUTCHENS: Preliminary investigations have been undertaken regarding the overall development of the Port Pirie Hospital. The development programme is subject to approval by the Director-General of Medical Services. Included in the proposals for the overall development is the provision of a children's ward. The preliminary investigations that have been undertaken indicate that this project will require reference to the Public Works Committee. The current planning programme for the children's ward at the Port Pirie Hospital indicates that it may be possible to commence construction early in 1968-69, subject to a favourable report being received from the Public Works Committee.

FRUIT PROCESSING

Mr. McANANEY: Has the Premier a reply to the question I asked on September 14 about Rosella Foods Proprietary Limited transferring its operations to another State?

The Hon. D. A. DUNSTAN: Officers of my department have discussed the matter with the Chairman of Unilever Australia Proprietary Limited and ascertained that Rosella Foods Proprietary Limited is not closing down its operations in South Australia. True, making plum and apricot jam will cease as it is no longer economical, but it is not expected that this will create problems for fruitgrowers. There will be no reduction in the number of employees at the Rosella factory, which will continue to make tomato sauce and chutney. The "company that replaced Rosella" in the terms of the honourable member's question has indicated its wish to continue to share in

the industrial development of South Australia, and does not intend to reduce its operations here.

MURRAY RIVER SALINITY

Mr. CURREN: Last Wednesday's *News* published a proposal by Mr. Simon Pels of Deniliquin, New South Wales, to solve some of the salinity problems in the Murray River. Can the Minister of Works say whether this proposal has been considered by the River Murray Commission and, if it has, whether the Minister has a report from the South Australian commissioner?

The Hon. C. D. HUTCHENS: The proposal was considered by the commission but it was rejected. The proposal was not original, was unsatisfactory, and was not supported by the branch employing Mr. Pels.

Mr. HALL: Has the Minister of Works a reply to my recent question about water that will be allocated to South Australia in relation to the quantities that can be diverted and provided for dilution purposes?

The Hon. C. D. HUTCHENS: The allocation of 291,000 acre feet is the divertible component of Murray River water supplied to South Australia for the period September, 1967, to April, 1968, inclusive. At the same time 376,000 acre feet of dilution water is being provided.

MATRICULATION

Mr. HALL: Following the raising of the matriculation standard with its consequent effects, it has been forecast that because of the reduced number of students obtaining passes in the required six subjects instead of four as previously required, sufficient students will not be available this year to fill quotas at the Adelaide and Flinders Universities. Although it is only a forecast based on a surmise and the effects observed in other States, the forecast has been made by responsible people. Has the Minister of Education considered this matter and, if he has, does he believe that university quotas will not be filled next year? If the forecast proves correct, can he foreshadow any attempt by the department to alter the situation to ensure that quotas are filled?

The Hon. R. R. LOVEDAY: It must be clearly understood that determining standards for matriculation is the responsibility of the universities and, therefore, it is impossible for the department, in the situation visualized by the Leader, to alter the quotas, because the standards have been determined by the universities and are their responsibility. As my officers were concerned at the time the universities decided to alter matriculation requirements, they pointed out the dangers that would probably arise as a result of the alterations. The officers were not in favour of the alterations. Indeed, we have been concerned during the year to watch the work of our matriculation students. It is considered that their time has been more than heavily engaged on the new programme laid down by the universities, so much so that students have not had such an appropriate method of working as students had during the Leaving Honours year, which was formerly regarded as a suitable year preparatory to entering university. It is too early to assess the number of matriculation passes, but departmental officers are watching the matter closely. It may well be that the university authorities will have to adjust their ideas if the forecast referred to by the Leader proves correct.

MILLSWOOD SUBWAY

Mr. LANGLEY: Has the Minister of Lands a reply from his colleague to my recent question concerning the roadworks being carried out and safety precautions being provided at the southern end of the Millswood subway on Goodwood Road?

The Hon. J. D. CORCORAN: The Minister of Roads reports:

The general layout of Goodwood Road at the southern approach to the Millswood subway was designed by the Highways Department, which also undertook land acquisition. The preparation of detailed construction plans and construction itself are the responsibility of the Corporation of the City of Unley which is in receipt of a grant for the work. The council reports that it is expected the work will be completed by the end of 1967. Pedestrian safety is being increased by the erection of fencing to prohibit crossing at the widened portion of roadway.

GLENCOE ROAD

Mr. RODDA: Has the Minister of Lands a reply from his colleague to my recent question regarding the Glencoe road?

The Hon. J. D. CORCORAN: The Minister of Roads reports:

The Kirip Railway Station Main Road No. 304 is under the control of the District Council of Tantanoola. In its applications for grants for 1967-68, the council applied for a grant to seal a one mile length of the Kirip Railway Station Main Road No. 304, but gave it a lower priority than an application for a grant for construction work on the Tantanoola-Poonada Range Main Road No. 303. The Highways Department agreed with the council's assessment of priority, and a grant was approved for the latter road,

but available funds were not sufficient to enable both applications to be approved. If the council again applies for a grant for the Kirip road in its 1968-69 applications, and gives the application high priority, it is reasonable to assume that a grant would be approved.

RAILWAY CONCESSION FARES

Mr. MILLHOUSE: During the debate on the Estimates I again suggested that the Railways Department grant to schoolchildren terminal concession passes rather than the present quarterly passes, which do not coincide with the school terms and which result in those of us who have to pay for the passes wasting many weeks of unused travel each year. At the time, either the Minister of Social Welfare or one of his colleagues undertook to take up the matter with the Railways Commissioner to see whether this change could be made in the interests of public relations and for other reasons. As I have not had a reply, I fear that in the welter of business the matter may have been overlooked. Will the Minister representing the Minister of Transport submit my suggestion to his colleague and specifically ask the Railways Commissioner for a reply?

The Hon. FRANK WALSH: Yes.

UPPER PORT REACH

Mr. HURST: I think most members are aware of the plans to develop the Upper Port Reach in my district. As residents in this area have recently asked me whether the Government has completely abandoned this scheme, can the Premier outline the Government's intentions in this regard?

The Hon. D. A. DUNSTAN: The Government has certainly not abandoned this scheme. However, the original proposition of the Marine and Harbors Department and the Housing Trust provided for extremely expensive development for which, if we were to carry it out by using public moneys, no public moneys were available. At the time this Government took office, there was no conceivable way in which the capital cost of this work could be met without completely curtailing the urgent and normal programme of public works in this State. I negotiated with a consortium of private developers to see whether they would undertake this scheme and whether the scheme could be used as a means of giving a valuable boost to the building industry in this State. I am happy to say that negotiations on this score are proceeding satisfactorily, and I expect to be able to make an announcement soon.

STRATHMONT HOSPITAL

Mrs. STEELE: Opposition members have persistently pressed the Government to implement its pronounced policy of building new mental hospitals, and $130,000 was provided in the Estimates this year to commence construction of the Strathmont hospital that was planned by the previous Government and subsequently recommended by the Public Works Committee, I think in 1964. Can the Minister representing the Minister of Health say whether the construction of this hospital has commenced, bearing in mind the Government's announcement that it would be commenced before the end of this year?

The Hon. FRANK WALSH: Although I know of no tenders being called, I will obtain a full report for the honourable member and bring it down next week.

DANGEROUS DRUG.

Mr. HEASLIP: On August 30 last I asked a question of the Premier about the dangerous drug lysergic acid diethylamide (L.S.D.), to which the Premier replied:

No complaints that seriously habit-forming drugs are freely available in South Australia have come to my attention, nor to my knowledge has anything been drawn to the attention of the Government about illegal manufacture of drugs that would otherwise be available only on prescription. However, I shall refer the matter to the Minister of Health and get a considered reply for the honourable member.

Since then, many reports have appeared in the press indicating that legislative action has been taken by Governments in other States, any many supplementary questions have been asked in this House. However, as I believe that no announcement of this Government's policy on the matter has yet been made, and as Parliament is expected to rise within the next week or so, will the Premier say whether his Government intends to introduce legislation to control the availability of what I consider to be a drug that is most dangerous to teenagers?

The Hon. D. A. DUNSTAN: A Bill is intended to be introduced to control the possession, manufacture and supply of deleterious drugs.

KALANGADOO SCHOOL

Mr. RODDA: I understand that a contract has been let to clear certain trees at the Kalangadoo school to provide a new playing area but that the contractor concerned has felled a number of trees, leaving milltops and debris,

etc., lying in the area. Although the school committee is anxious to proceed with the development of the area in order to fill a need that exists at the school, for one reason or another the contractor is making slow progress in clearing this debris which, with the onset of summer, will be difficult to burn. In addition to this, of course, the whole area is being cluttered up. Will the Minister of Education ascertain whether this clearing work cannot be expedited?

The Hon. R. R. LOVEDAY: I will have the matter examined and see what can be done.

PENOLA ELECTRICITY

Mr. RODDA: As only one of the local electricians at Penola undertakes maintenance work on the township's electricity supply (additional men having to come from Mount Gambier in the case of any major works that may be necessary), can the Minister of Works say whether the Electricity Trust intends soon to establish a regular maintenance depot at Penola?

The Hon. C. D. HUTCHENS: I will inquire and inform the honourable member in due course.

PETROLEUM (SUBMERGED LANDS) BILL

The Hon. D. A. DUNSTAN (Premier and Treasurer) obtained leave and introduced a Bill for an Act relating to the exploration for, and the exploitation of, the petroleum resources, and certain other resources of certain submerged lands adjacent to the coasts of the State, to amend the Mining (Petroleum) Act, 1940-1963, and for other purposes. Read a first time.

The Hon. D. A. DUNSTAN: I move:

That this Bill be now read a second time.

It represents an important advance, not only by this State, but also by Australia, in the exploration and exploitation of the natural resources available to our nation. The legislation now proposed is part of an Australia-wide scheme of legislation in which all States, the Northern Territory and the Commonwealth are involved. The purpose of the joint legislative scheme is to provide a comprehensive and practical set of laws to govern and control the exploration for, and the exploitation of, the petroleum resources of submerged lands adjacent to the entire Australian coast.

As the long title discloses, the Bill relates only to submerged lands adjacent to the coasts of this State, but it is an integral and essential part of the entire legislative scheme just referred to. Much of the legal and constitutional background to this Bill has already been presented to this House in the White Paper (P.P. 70) *A Survey of the Problems concerning State and Commonwealth Legislation with respect to Offshore Petroleum,* but it will be convenient to restate briefly the reasons why the Bill is necessary and why it takes the form it does.

Recent discoveries have confirmed what has been long known that there are likely to be, in the Australian contintental shelf, natural resources of great value to Australia in general and to our State in particular. The continental shelf, speaking generally, refers to the sea-bed and the subsoil of the submarine areas adjacent to the coast to a depth, in any event, of 200 metres (that is, slightly over 100 fathoms) and beyond that limit to where the depth of the sea admits of the exploitation of the natural resources to be found there: it also refers to the sea-bed and subsoil of similar submarine areas adjacent to the coasts of islands. From an international point of view, the continental shelf only begins outside the area of the territorial sea, but the Bill deals with both the continental shelf area and the area of the territorial sea—in the Bill (as we shall see) the term "adjacent area" comprises both these areas. I should here make plain that the Bill has nothing to say about inland waters (which include both Spencer and St. Vincent Gulfs, which are accepted by the Commonwealth as inland waters): inland waters are, in the contemplation of the law, part of the undisputed territory of this State. By an international agreement (the Geneva Convention on the continental shelf of April 29, 1958) to which the Commonwealth of Australia is a party, Australia, as an international State, exercises sovereign rights over the continental shelf for the purpose of exploring it and exploiting its natural resources. These rights are exclusive in the sense that, if Australia does not explore or exploit for that purpose, no other country may lay claim to do so without Australia's permission. Of course, by general principles of international law, Australia has similar rights to explore the sea-bed and subsoil of the territorial sea areas and exploit their resources.

Although all these rights are conferred upon Australia by international law, it is left to the various domestic Parliaments to pass laws to give effect to those rights and to authorize, regulate and control the vast, expensive, and difficult undertakings of offshore mining for

petroleum. But it is at this stage that difficulties arise. The Governments of Australia work under a federal system whereby, speaking generally, certain legislative powers are vested in the Commonwealth whilst the remainder are left with the States. When the whole question of legislating for offshore petroleum was first examined by State and Commonwealth Ministers and officers about four years ago, it was discovered that there was disagreement whether the Commonwealth or the States had the power to pass the necessary legislation. After considerable discussion, certain conclusions were reached:

(1) It was essential that whatever legislation was passed should be incontestably valid from a constitutional point of view. Operators would not risk outlaying millions of dollars upon mining operations unless the authorities (that is, the licences, permits and so on) under which they operated were unchallengable in law.

(2) If there was any doubt as to the constitutional power of the Commonwealth, on the one hand, or of the States, on the other, to pass the necessary legislation, it would be useless to leave to the Commonwealth alone or to the States alone the task of passing that legislation because, whatever understanding Governments might reach on the subject, an understanding of that kind could not prevent third parties from challenging the constitutional validity of any laws that were made.

(3) It was essential that Governments should be empowered by appropriate executive action to protect operators against outside intruders—that is, rival or "pirate" operators who came from some foreign country, who owed no allegiance to Australia and who would probably regard themselves as exempt from its laws.

(4) It was highly desirable that the administrative control of mining for petroleum should be decentralized and left with the States (and the Northern Territory), which hitherto had severally exercised control over all mining.

(5) At the same time, even if administrative control was left with the States and the Northern Territory, it was necessary to ensure that the laws governing offshore mining should be substantially uniform, and that the Commonwealth would continue to discharge the responsibilities in respect to those heads of power which had been conferred upon it by the Commonwealth Constitution and which were peculiarly matters of Commonwealth concern.

(6) If administrative control was to be left substantially with the States and the Northern Territory, it was necessary to allocate appropriate offshore areas for which each State and the Northern Territory respectively would be responsible. But, if areas were to be allocated, boundaries for those areas had to be established.

(7) As charges in the nature of royalties would be inevitable, it was necessary to lay down some basis for the disposition of royalties.

(8) The whole legislative scheme would have to be made to fit in with the general law of the land and to confer on offshore mining operations the same peace, order and good government generally as appertained to the community on shore.

An examination of these broad aims, which began some four years ago, suggested to Ministers and officers that the only safe method by which those aims might be secured was for the Parliaments of the Commonwealth and of the States to pass Acts which, apart from formal and transitional provisions, were in all essential respects identical: the Commonwealth legislation would "mirror" that of the States (and vice versa). The legislation so enacted would provide a Common Mining Code based upon all the constitutional resources available both to the Commonwealth and the States: in the result any permit, licence or authority would be subject to substantially uniform conditions and regulations and be issued pursuant to both State and Commonwealth legislation, so that its holder could rest secure in the knowledge that the power to grant such an authority must exist and his authority must be valid. The legislation would also seek to achieve all the other aims just referred to.

The whole project envisaged (comprising as it did the introduction of substantially uniform Bills in the Commonwealth and State Parliaments, the subsequent administration of the resulting legislation if the Bills were duly passed, the review and co-ordination of administrative decisions and policies, and a continuous mutual understanding on such important matters as amendments to Acts and regulations,

the refinement of crude petroleum, trade and commerce among the States, unit development of petroleum pools extending from one adjacent area to another and Commonwealth constitutional responsibilities affected by the legislation) could not be covered or covered completely by the legislation. It was therefore necessary to conclude a multilateral agreement between Commonwealth and States governing these matters. That agreement I now table. It will be referred to again later.

With the Commonwealth-States agreement (which was executed on October 16) I have furnished to honourable members a map by which an idea of the various offshore adjacent areas can be obtained. It should be particularly observed that the map shows the outer limits of the areas: under the Bill the adjacent area in respect of South Australia (as with other States) covers the area shown to the extent only that that area includes areas of territorial waters and areas of superjacent waters of the continental shelf. I shall return to the question of the adjacent area later.

Members will see from the map that, for survey purposes, the boundaries have been drawn far beyond the limit of the continental shelf. Therefore, the area shown offshore by the dotted lines on the map includes areas far beyond those with which we are dealing, but it does so to enable the lines to be drawn for survey purposes.

Mr. Coumbe: Will that be exhibited again?

The Hon. D. A. DUNSTAN: It is in the papers I have tabled. From these preliminary remarks honourable members will understand that the main features of the joint scheme and of this Bill, which forms part of it, are as follows:

(1) The implementation, with respect to the entire Australian continent, of the Geneva Convention of April, 1958, in so far as it extends to the exploration and exploitation of offshore petroleum resources;

(2) A determination on the part of the States and the Commonwealth, in the national interest, to avoid constitutional controversy, and to co-operate for the purpose of ensuring the legal effectiveness of permits, licences and other authorities to explore for and to exploit offshore petroleum resources;

(3) An agreement between the States and the Commonwealth to submit appropriate legislation to their respective Parliaments and to co-operate in its administration;

(4) The adoption of "mirror" legislation as the basic method of law making and the establishment of a Common Mining Code for the whole of Australia; and

(5) A continuance of the principle of decentralized administration of mining—that is, State administration—subject to an adequate recognition of Commonwealth responsibilities towards the Australian nation as a whole.

Turning now to the actual terms of the Bill, it begins with a long title and a series of recitals that summarize the foundations, the purpose and the principles of the Bill already discussed. The text of the Geneva Convention referred to in the second recital forms the First Schedule to the Bill. Clause 1 gives the short title and clause 2 provides for the coming into operation of the Bill by proclamation either all at once or Part by Part.

Clause 3 gives a bird's-eye view of the Bill. I shall refer briefly at this stage to its various Parts. Part I contains some important preliminary clauses, including a definition clause (clause 4), a reference clause (clause 5), and several other clauses relating to the operation of the Bill that will require separate examination. Part II, headed "Application of Laws", provides for the extension of the ordinary laws of the State to offshore mining for petroleum. This, too, will require separate examination. Part III, headed "Mining for Petroleum", has been, throughout the conferences leading up to the presenting of this Bill, and is, in the agreement that I have just referred to, called the Common Mining Code. This description extends to Divisions 1, 2, 3, 4, 5 and 6.

Division 7 varies from State to State and covers the transitional provisions, and Division 8 relates to the fees for registration and the like and the royalties payable by the operators. The Common Mining Code is identical in all States from clauses 19 to 136, inclusive. This similarity makes for ease of administration as between the Commonwealth and the State on the one hand and as between neighbour States on the other. Part IV is confined to the regulation-making power. Clause 4 is the definition clause. Only four definitions at

this stage merit a separate reference. They are as follows:

"adjacent area", which is linked with the description in the Second Schedule, which describes the area of administration responsible for the State of South Australia;

"petroleum", which gives an extended definition of that term;

"the continental shelf", which is linked with the definition provided by Article 1 in the First Schedule; and

"the Convention", which is the convention I have previously referred to.

Clause 5 contains several subclauses that provide convenient references to such phrases as the term of the permit, the renewal of the permit, and the year of the term of the permit, which frequently appear at intervals throughout this Act. This clause enables the drafting of the Act to be greatly shortened. Clause 6 makes it clear that the Act and regulations operate in the space above and below the adjacent area or any part of that area. Clause 7 has a purely surveying significance and is expressed in terms that enable any qualified surveyor to work out a position on the surface of the earth for the purposes of the Act and the regulations.

Clause 8 makes it clear that the Act will apply to all natural persons, whether Australian citizens or not or whether resident in South Australia or not, and to all corporations, whether incorporated and carrying on business in South Australia or not; and subclauses (2) and (3) of that clause make it clear that the Parliament intends to exercise its legislative powers to the fullest extent permissible under the constitutional law.

Clauses 9, 10, 11 and 12 are all rendered necessary by the fact that the legislative scheme is based upon "mirror" legislation. It will be seen that these clauses will prevent a duplicating of operation in respect of obligations and liabilities; rights, privileges and powers; acts and omissions and offences. For example, where an obligation imposed by both the Commonwealth Act and the State Act has been discharged once, it is discharged for the purposes of both Acts (clause 9). Where a power is exercised once it is exercised for the purposes of both Acts (clause 10). Clauses 11 and 12 have a similar kind of operation.

Clause 13 is important. By amending the Mining Petroleum Act, 1940-1963, it confines its operation to the land territory of the State. Subclause (3), however, makes it clear that the Mining Petroleum Act, 1940-1963, still operates in the State's internal waters, which, as I have already explained, include small bays and inlets and the two main gulfs, Spencer Gulf and St. Vincent Gulf.

Clause 14 is the principal clause of Part II. This clause, in effect, provides that the ordinary laws of the State will operate in the adjacent area in respect of all acts, matters, circumstances and things concerned with offshore mining of petroleum. This means that, speaking generally, the laws that establish, for the ordinary citizen, peace, order, and good government will be extended to the offshore mining operations in exactly the same way as if those operations were taking place on land. Subclause (3) contains certain necessary exceptions: the extended provisions cannot, of course, include laws that relate to exploration for or the recovery of petroleum, laws relating to the construction or operations of pipelines, laws that are incapable by their very nature of application in the adjacent area, or laws that are expressed not to extend to the adjacent area.

Subclause (3) also makes it clear that clause 14 has nothing to say about provisions in any law of the Commonwealth that already operates in the adjacent area. Subclauses (4) and (5) provide essential powers to modify by regulation the laws that have been extended by clause 14, where the precise wording of those laws would provide an anomaly or some other wholly inappropriate operation, having regard to the fact that the laws are intended to operate at sea and not on land. The prime purpose of this regulation-making power is to enable appropriate modifications of the land laws to be made so that they can operate properly at sea. Clause 15, in effect, provides that the various procedures that are appropriate for legal proceedings on land will apply to proceedings in respect of offshore mining operations.

Part III, Divisions 2 to 6, contains the Common Mining Code. Division 1, headed "Preliminary", contains three clauses of great importance, especially clause 16. Clause 16 is really the administrative hub of the whole Act. Under this clause a designated authority is set up, who carries the entire responsibility for the administration of the Common Mining Code in South Australia. He is to be appointed by His Excellency the Governor (subclause (2)), and may be the Minister to whom the administration of this Act is committed. He will then be given the powers and functions that are to be defined in an arrangement which His Excellency the Governor is empowered (by

subclause (3)) to make with His Excellency the Governor-General of Australia. Those powers and functions include the power to delegate all or any part of his duties as occasion requires. The designated authority appointed by His Excellency the Governor for the purposes of the State Act will also be the man who is appointed the designated authority for the purposes of the Commonwealth Act in respect of the adjacent area of South Australia.

In this way the one authority will be enabled to exercise all the powers, and perform all the functions, required of him by both the Commonwealth's and this State's Acts. Everything he does will be done under and pursuant to Commonwealth and State legislation. Every discretion he exercises will be a discretion under the two Acts. Every authority he issues to conduct mining operations will be an authority issued under both Acts. Every condition he imposes will bc a condition imposed pursuant to both Acts. It is through the single person, the designated authority, that the administrative aims of the joint legislative scheme are to be achieved.

Clause 17 is an important administrative provision. It provides that for the purposes of the Act the surface of the earth shall be deemed to be divided up into particular sections measuring five minutes of meridian one way and five minutes of longitude the other. Subclauses (2) and (3) deal with the exceptional cases which may occur, for example, as the result of an irregular coast line, where a block is constituted by something less than a complete graticular section.

Clause 18 enables the designated authority to withdraw a block entirely from the operation of the Act, subject however to this qualification, that he so withdraws it before a permit has been issued. This power is rendered necessary because the constitutional responsibilities of the Commonwealth may be such that a withdrawal of this kind will become imperative. for example, for defence purposes. Division 2 provides the clauses which govern the application for the issue, and the operation of exploration permits. The general scheme of the Bill contemplates that an operator will proceed by stages, starting with a permit and proceeding, subject to the conditions laid down in the Bill, and upon appropriate actions being taken by the permittee after the discovery of oil, to a production licence.

Clause 19 represents the basic control, and forbids a person to explore for petroleum in the adjacent area except under a permit or in pursuance of Part III (which means pursuant to the transitional provisions). The first step is taken by the designated authority's inviting applications for the grant of a permit (clause 20 (1)). Where no application is made within the period specified in the instrument inviting applications, or an application is not wholly acceded to (subclause (3)), the designated authority may at any subsequent time receive an application for the grant of a permit in respect of some or all of the blocks not previously taken up.

Clause 21 deals with the procedure for, and the conditions governing, the application for a permit: the attention of honourable members is invited to subclause (1) (*d*), which sets out the particulars to be supplied by the applicant. The application fee is $1,000 (subclause (1) (*f*)). Subclause (2) provides an important control: it lays down that if 16 blocks or more are available the application shall be for not less than 16, and if less than 16 blocks are available the application shall be for the number available. Subclause (3) ensures that the application shall be for blocks constituted by graticular sections forming a single geographical area. Honourable members should observe that under clause 20 (5) the designated authority may, upon application in writing served on him, direct that subclauses (2) and (3) of clause 21 do not apply to an application: in other words that the applicant is exempted from compliance with those subclauses. Where a permit is not granted the sum of $900 must be refunded to the applicant (subclause (5)).

Clause 22 relates to the powers of the designated authority where an application has been received by him under clause 20. He may inform the applicant that he is prepared to grant a permit and that he will require the applicant to lodge a security for compliance with the conditions of the permit, or he may refuse the permit. Where the designated authority is prepared to grant a permit the applicant is to be given, by an instrument referred to in subclause (2), a summary of the conditions to be included in the permit and a certain time to make a formal request for the grant of the permit and the lodging of the necessary security. The applicant then may proceed to request the grant of a permit and lodge the appropriate security with the designated authority (subclauses (3)), and the designated authority is thereupon to make an appropriate grant under subclause (4).

If the applicant does not follow up his original application in the manner contemplated by clause 22 his application may lapse

(subclause (5)). Clause 23 lays down a procedure similar to that prescribed in the earlier part of this Division in accordance with which applications may be made for blocks that have been surrendered or cancelled. A material difference in the conditions which apply to such an application is to be found in subclause (4) (*d*) by which the applicant is required to specify an amount that he is prepared to pay to the designated authority in addition to the fee of $1,000 specified in clause 24 (1) (*a*).

As will be seen from both clauses 21 and 23 the designated authority is empowered, as he is in other comparable provisions under the Bill, to require the applicant to furnish further information in connection with his application. Clause 24 is particularly directed to the fee which will become payable upon an application under clause 23. The fee is $1,000 plus a deposit of 10 per cent of the sum referred to in clause 23 (4) (*d*). If the permit is refused (subclause (2)), $900 and the deposit just mentioned will be refunded to the applicant subject to the operation of clause 25.

Clause 25 is basically similar to clause 22, and sets out the procedure upon the consideration of an application under clause 23 of the Act. The designated authority is empowered to serve on an applicant an instrument informing him that he will be required to lodge security for compliance with the conditions with which the permit, if granted, will be subject, and a warning that the application will lapse unless the applicant takes the necessary steps specified in subclause (5) (*b*).

Clause 26 follows this up by enabling the designated authority to grant a permit under clause 23, provided the applicant requests the grant of a permit, pays the balance of any amount due to be paid (or enters into an agreement under clause 109), and lodges with the designated authority the necessary security. As with other applications the application will lapse if the applicant does not comply with the necessary requirements for taking up the permit. Clause 27 provides that where the requirements of clause 25 have been complied with, the designated authority "shall" grant the applicant an exploration permit for petroleum in respect of the block or blocks specified in an instrument under clause 25.

Clauses 28 to 33 lay down various important characteristics and incidents of a permit once it has been issued. Clause 28 authorizes the permittee, subject to his complying with all legal requirements, to explore for petroleum and to carry on such operations and execute such works as are necessary for that purpose in the permit area. Clause 29 provides that, subject to Part III, a permit, otherwise than by way of renewal, remains in force for six years and a permit, granted by way of renewal, remains in force for a period of five years.

Clauses 30 to 32 lay down the procedure for the renewal of a permit. The application is made under clause 30 not less than three months before the date of expiration of the permit (unless the designated authority extends the time available), upon the payment of a fee of $100. The renewal may not, however, be made for the full number of blocks which originally were covered by the permit. Clause 31 (1) provides that the renewal will extend, where the number of blocks is divisible by two without remainder, to one-half of that number, or where the number of blocks is one less or one more than a number that is divisible by four without remainder, to one-half of that number. The blocks in respect of which the renewal of a permit is sought must be within a single geographic area or be a number of discrete areas (subclause (3)).

Where blocks for which a renewal may be made number 16 or more, the area constituted by blocks in respect of which the application is made must be not less than 16 in number (subclause (4)). Where the number of blocks in respect of which an application for a renewal is made, is, when calculated under subclause (1), less than 16, the designated authority may give special directions as to the blocks for which the application may be made (subclause (5)). If he thinks fit, the designated authority may, under subclause (6), exempt the applicant from the operation of subclauses (3) and (4) and give such directions as he thinks fit concerning his application. The procedures laid down in clause 32, which relate to the grant or refusal of renewal of a permit, follow very closely the procedures already outlined in clauses 22 to 27 where an original application for a permit is under consideration.

Clause 33 is a very important clause, which provides that a permit may be granted subject to such conditions as the designated authority thinks fit, and specifies in the permit and, in particular, authorizes the inclusion amongst the conditions of one requiring the permittee, during the term of the permit, to carry out works and spend moneys as specified in the permit. Honourable members should clearly realize that the wide terms of clause 33 do not in law permit the designated authority to include any conditions that his

fancy may suggest. There is incontrovertible High Court authority that a clause like this empowers the designated authority to include only such conditions as conform to the general scope and object of the Act, and do not permit him to include conditions that have no relation to the exploration for and exploitation of petroleum resources in our offshore areas.

Clauses 34 to 38 relate to the important stage in petroleum exploration when petroleum is actually discovered and, as a consequence of its discovery, provides the permittee with a foundation on which he can thereafter make an application for a production licence for petroleum under Division 3. By clause 34 the permittee is required to report a discovery promptly with all appropriate details (which are referred to in the clause), and if he should fail to do so, he renders himself liable to a penalty of $2,000. Under clause 35, the designated authority may direct the permittee thereupon to do such things as the designated authority thinks necessary to determine the chemical compositions and physical properties of the petroleum discovered and the quantity of petroleum in the petroleum pool to which the discovery relates. An operator who fails to comply with any such direction becomes liable to a penalty of $2,000.

Clauses 36 to 38 lay down the procedure by which a permittee establishes what the Bill calls a "location" on the basis of which he may subsequently apply for a production licence. A location is, to all intents and purposes, a definitive area of operation specified by the permittee in pursuance of the requirements of these clauses. The establishment of the location is carried out by the following steps. First, under clause 36 (1), a permittee is expected, after a discovery has been made, to "nominate" a block, in respect of which the permit is in force, for the purposes of making a "declaration of location" under clause 37. (If he fails to nominate a block himself, the designated authority may call on him to do so, and if, after being called on, he fails to nominate a block within three months, the designated authority may himself nominate the required block.)

In the instrument of nomination, the permittee or the designated authority must also specify a "discovery block" (that is, a block in which petroleum has been discovered) to form part of the "location" when it has been declared. When a permittee or the designated authority has duly nominated a block under clause 36, clause 37 empowers the designated authority to declare the nominated block and such of the blocks that immediately adjoin it and are within the permit area to be a location for the purposes of Part III. The designated authority under subclause (2) may, upon request if he thinks he is justified in doing so, revoke the declaration. Clause 38 defines what is meant by "immediately adjoining blocks" for the purposes of clause 37.

It should be observed that subclauses (4) to (6) of clause 36 lay down certain restrictions on the nomination of a block and of a discovery block under subclauses (1) and (3) of that clause. Subclause (4) precludes a block being nominated if it is already in a location or if it is such that the discovery block specified under subclause (3) would not form part of the location when declared. Moreover, under subclause (5) restrictions are placed upon the positions of discovery blocks capable of being nominated under subclause (3) of clause 36. This subclause operates in such a way as to prevent the permittee from specifying his discovery block in such a way as to defeat the operation of clause 37. Division 3 (production licences for petroleum) develops along lines foreshadowed by Division 2.

Clause 39 forbids a person to recover petroleum in the adjacent area except in pursuance of a licence or except as otherwise provided by Part III (which means the transitional provisions). Any application for a production licence is controlled fundamentally as to the number of blocks involved by clause 40. Under this clause the number of blocks for which application may be made is determined by the number of blocks which constitute the location declared under clause 37. Honourable members will see that under subclause (1) the maximum number of blocks in respect of which an application may be made is set out in paragraphs (*a*), (*b*, (*c*), (*d*), (*e*), and (*f*), which provide, in effect, a descending scale. Where nine blocks constitute the location the application may be made in respect of five of those blocks, and so on down the scale.

The application period is governed by the provisions of subclause (4), which provides a basic period of two years after the date upon which the location was declared: this period can be extended to four years by the designated authority on application to him by the permittee. Subclause (2) provides the permittee with the right, if he wishes to exercise it, of taking up in the first instance less than the total number of blocks which under subclause (1) he would be entitled to apply for

(referred to as his primary entitlement). If he applies for and is granted a reduced number he may, from time to time, within the application period, apply to add to that reduced number until he reaches a number of blocks that is not greater than his primary entitlement.

Where a permittee has obtained his primary entitlement under subclause (1), or by obtaining additional blocks has reached the number that he would have been entitled to under subclause (1), he may, within the application period, apply to the designated authority for the grant of a licence in respect of any of the other blocks forming part of the location (subclause (3)). Clause 41 lays down the requirements as to the form of the application and sets the fee for such an application at $200.

If an applicant, having obtained his full entitlement for a primary licence, thereafter makes an application under clause 40 (3) for further blocks in the location (thereby obtaining a secondary licence), the designated authority is empowered by clause 42 to determine the rate of royalty at a rate not less than 11 per cent or more than 12½ per cent of the value of the well head of petroleum recovered. The designated authority will, pursuant to subclause (2), give the applicant an opportunity to confer with him before he fixes that rate.

Clauses 43 and 44 are along lines similar to clause 22. They provide that where an application for a licence has been made under clause 40 and the applicant has furnished any information required of him under clause 41 (2), the designated authority must (clause 43 (1)) inform him that he is prepared to grant him the licence applied for, and is empowered to require the applicant to lodge security for compliance with the conditions of the licence. The instrument by which he informs the applicant of the intended grant must include a summary of the conditions of the licence and, where the application relates to a secondary licence, a rate of royalty specified by him under clause 42.

The instrument also warns the applicant of a possible lapse on failure to comply with the designated authority's requirements. Following the same pattern as before, the applicant, under clause 44 (1), may request the grant of a licence and lodge the necessary security, whereupon the designated authority, under subclause (2), is obliged to grant a production licence for petroleum in respect of the blocks applied for. The designated authority is precluded, by subclause (3), from granting a secondary licence in respect of one or more blocks in a location unless a primary licence has already been granted in respect of part of the location and the total number of blocks included equals the permittee's full primary entitlement under clause 40 (1) and 40 (2).

Clause 44 (4) provides for the lapse of the application if the applicant does not, within three months after the service of the instrument on him under clause 43, make the necessary request for the grant or fails to lodge the security required of him. Subclause (5) makes provision for the licence to supersede the permit. Clause 45 supplements clause 40 (2) by empowering the designated authority to vary the licence already issued so as to include in the licence area the further blocks applied for. Subclause (2) is a machinery provision giving effect to the variation of the licence.

Clause 46 deals generally with blocks that have not been taken up by the licensee. A permit is determined as to any block that has not been made the subject of an application by the permittee under clause 40 or has been made the subject of an application but that application has lapsed. In addition, where a permittee makes application for a secondary licence the permit is determined as to any blocks forming part of the location concerned that are not the subject of the secondary licence or of any application for a primary licence or for the variation of a primary licence. Where the block or blocks constituting a location are no longer the subject of a permit, subclause (3) empowers the designated authority to revoke the declaration of a location made under clause 37 (1).

Clause 47 deals generally with applications for blocks in respect of which a licence has been surrendered or cancelled, or as to which a permit is surrendered, cancelled, or determined and which have been included in a location in which, in the opinion of the designated authority, there is petroleum. In these circumstances the designated authority may invite applications for the grant of a licence within a period specified by him. The designated authority is required by subclause (2) to state in the instrument inviting applications that an applicant must specify a sum he is prepared to pay for the grant of a licence or that an applicant must specify the rate of royalty over 10 per cent of the value at the well head that he would be prepared to pay if the licence were granted. Where the designated authority adopts the second of these two

courses, he may also in the instrument inviting applications state that a successful applicant will be required to pay, in respect of the grant of the licence to him, a sum specified in the instrument.

Where no application is received after applications have been invited, or where applications have been received but a licence is not granted, the designated authority may thereafter receive an application for the grant of a licence without invitation under subclause (1). He may not, of course, receive any such application during a period in which an application may still be made under subclause (1). Subclause (6) sets out the facts and matters to be included in an application under this clause so as to comply with the requirements just discussed. As in other cases, an applicant may be required to furnish to the designated authority further information in connection with his application (subclause (7)).

Clause 48 deals with the application fee in respect of an application under clause 47. This is fixed at $1,000, together with a deposit of 10 per cent of any sum that the applicant must pay in respect of the grant. Where a licence is not granted on the application, $900 must be returned to the applicant and the deposit may be returned if the designated authority so determines (subclauses (2) and (3)).

Clause 49 provides the further procedure necessary to be followed where an application has been received under either clause 47 (1) or clause 47 (4). This clause follows the pattern of similar clauses previously discussed, and confers on the designated authority the power to inform an applicant that he is prepared to grant a licence in respect of a block applied for together (where appropriate) with a specification of the conditions upon which the grant will be made.

Where the application is under subclause (4), the designated authority may require the applicant to pay the sum specified in the application or royalty at the rate specified in the application or both, as the case may be, and the designated authority may, in any event, inform the applicant that he will be required to lodge a security in compliance with the conditions of the licence. Again, as with similar clauses previously discussed, the instrument by which the applicant is informed of these matters must contain a summary of the conditions, a statement of the amounts required to be paid, and a warning that the application will lapse if the applicant does not comply with the requirements placed upon him by the designated authority (subclauses (1), (2), (3), (4) and (5)).

By subclause (6) an applicant is given three months from the date of the service on him of the instrument referred to in subclause (5) to request the grant of a licence and, where appropriate, to pay any sums required of him and lodge any necessary security. If he fails to make such request to pay any sums required of him or lodge the necessary security, subclauses (7) and (8) provide that his application will lapse. Clause 50 represents the culmination of applications under clause 47, and provides that where the applicant has made the necessary request, paid any sums required of him (or has undertaken to pay them by instalments), and has lodged any necessary security, the designated authority must grant him a production licence for petroleum in respect of the block applied for.

Clause 51 is a machinery clause enabling a licensee, who holds a licence in respect of two or more blocks, to obtain by an appropriate application, and the payment of a fee of $100, two or more licences in respect of the blocks that were the subject of the original licence. This privilege was designed to facilitate dealings with blocks on the part of the licensee, and does not involve any departure from the fundamental scheme of the Bill. Clause 52 is one of the important foundations of the Bill, and provides that a licence authorizes the licensee, subject to the Act, the regulations and the conditions of the licence, to carry on operations for the recovery of petroleum, explore for petroleum, and carry on such operations and execute such works in the licence area as are necessary for these purposes.

Clause 53 is another important basic provision and deals with the term of a licence. Where a licence is granted, otherwise than by way of renewal, it remains in force for 21 years. Where it has been granted on a first renewal it remains in force for a further 21 years, and where a licence is granted by way of renewal other than a first renewal it remains in force for such period, not exceeding 21 years, as the designated authority determines and specifies in the licence.

Clauses 54 and 55 deal with renewals and follow fairly closely the pattern of the renewal clauses previously considered in respect of permits (clauses 30 and 32). By clause 54 the licensee is empowered to apply for the renewal of his licence. He must do so in an approved form and by an application made not less than six months before the licence ceases to have effect. His application must be accompanied

by particulars of proposals for work and expenditure in respect of the licence area, and a fee of $200 must be paid. By subclause (3) the designated authority may, in his discretion, reduce the six-month notice period. By clause 55 it is provided that where a licensee has complied with the conditions of the licence, with the provisions of the Common Mining Code, and with the regulations, the designated authority shall, if the application is in respect of a first renewal, and may, if the application is in respect of a renewal other than a first renewal, inform the licensee by an appropriate instrument that he is prepared to grant the renewal sought (subclause (1)).

By subclause (2), where a licensee has not complied with the conditions, with the Common Mining Code or with the regulations, and makes an application under subclause (1), the designated authority may, in special circumstances, still indicate that he is prepared to grant a renewal. If, however, (subclause (3)), the designated authority is not satisfied that special circumstances exist that would justify his granting a renewal, notwithstanding such non-compliance, the designated authority is obliged to refuse to grant the renewal. The designated authority, however, may not refuse the renewal until he has given (in the manner provided by subclause (4)) the licensee an appropriate opportunity to submit to him any matters with respect to the renewal that the licensee desires to place before him. Subclause (5) provides that where an application is in respect of a renewal (other than a first renewal) the designated authority may, in his discretion, refuse to grant any renewal of the licence.

Upon any application, the designated authority may, pursuant to subclause (6), require the applicant to lodge security for compliance with the conditions of the licence if renewed. An instrument conveying this information to the licensee must (subclause (7)) contain a summary of the conditions to which the licence is subject, and a warning that the application will lapse if the licensee does not comply with the requirements made. Upon being served with an instrument under subclauses (1) and (2), that the designated authority is prepared to grant a licence, the licensee may, within one month thereafter, request the renewal of a licence and, if so required, lodge any necessary security. By subclause (9), where such a request has been made, and any necessary security has been lodged, the designated authority is bound to grant the renewal.

Where, however, a request under subclause (8) is not made or any necessary security has not been lodged, the application will lapse (subclause (10)). Subclause (11) saves a licence in respect of which an application for renewal has been made, where it has expired before the designated authority has reached a decision on the application for renewal. Clause 56 is a key clause: it empowers the designated authority to grant a licence subject to such conditions as he thinks fit, and specifies in the licence. Once again, it is appropriate to remind honourable members that the designated authority is constrained to specify only such conditions as conform to the general scope and object of the Act.

Clause 57 is another important clause that affects generally the extent of the development which operators are required to carry out in the course of their operations. By this clause, the licensee is bound, during the first year of his licence, to carry out in, or in relation to, the licence area approved works of the value of not less than $100,000 multiplied by the number of blocks in his licence (subclause (1)). By subclause (2) he must, during each subsequent year of his licence, carry out approved works to the value of not less than $100,000 multiplied by the number of blocks in his licence, or, where he has actually recovered petroleum from the licence area, the value by which the amount just mentioned exceeds the value of the petroleum recovered.

If the licensee fails to comply with subclauses (1) or (2), as the case may be, the State may recover from the licensee the sum by which his approved works has fallen short of what is required of him. By subclause (4) the designated authority may exempt him from compliance with this clause in respect of any year, on such terms as he thinks fit. Honourable members should observe that the value of the petroleum is the value at the well head of that petroleum ascertained in accordance with clause 151. Clause 58 confers upon the designated authority a power regarded by petroleum mining authorities as essential, having regard to the variations that exist in the geographical structures of the offshore areas and the size and relationships of the various petroleum pools to be found there.

By subclause (1), the designated authority, if he is satisfied that there is recoverable petroleum in a licensed area, may direct the licensee to take all necessary and practicable steps to recover that petroleum and, if the designated authority is not satisfied with the licensee's response to that direction he may,

pursuant to subclause (2), give detailed directions to the licensee in, or in relation to, the recovery of petroleum in the licence area. Subclauses (3) and (4) give corresponding powers to the designated authority in relation to an increase or reduction in the rate at which petroleum is being recovered from a licence area.

Linked with clause 58 is clause 59—a clause of great consequence that deals with the co-ordination of operations for the recovery of petroleum where a petroleum pool extends from one State or one adjacent area into another State or another adjacent area. It will be seen that, unless there was some provision enabling the recovery of petroleum from such a petroleum pool to be co-ordinated, severe injustices might be caused to one licensee, with rights over part of the petroleum pool, through the actions of another licensee who has rights over another part of the petroleum pool and who drains that petroleum pool of all that recoverable petroleum.

The machinery provided by clause 59 enables the designated authority to ensure, if circumstances require it, that a licensee either voluntarily enters into an agreement with another licensee or other licensees concerned for the unit development of a petroleum pool of the kind just mentioned or, failing agreement, that he, in fact, complies with a scheme formulated by the designated authority relating to the recovery of petroleum from that pool. Honourable members will realize, of course, that clause 59 cannot be made effective without consultation between the authorities in each State concerned with the particular petroleum pool, and it is at this stage, **therefore, that** recourse must be had to the agreement, which I mentioned earlier, which provides, by clause 16, the machinery for the authorities concerned to co-operate in the administration of a recovery of petroleum from a petroleum pool affecting the areas of two States.

Division 4 concerns the construction and operation of pipelines. Pipelines for the conveyance of petroleum recovered from the adjacent area are controlled by a licence system, which is set up by this division. For the purposes of understanding its operation, it is necessary to appreciate that pipelines fall into two classes: first, what I might call the pipeline proper (referred to in the Act and in the definition clause (clause (4)) as "pipeline") and, secondly, subsidiary lines described by the definition of "secondary lines" in clause 4. "Pipeline" means a pipe or system of pipes in the adjacent area for conveying petroleum, but does not include a pipeline or system of pipes:

(*a*) for returning petroleum to a natural reservoir;

(*b*) for conveying petroleum for the purposes of petroleum exploration or recovering operations;

(*c*) for conveying petroleum to be flared or vented; or

(*d*) for conveying petroleum from a well to a terminal station without passing through another terminal station.

A "secondary line" means a pipe or system of pipes for any of the four purposes to which I have just referred that are excluded from the definition of "pipeline". A "terminal station" is defined by clause 4 to mean a pumping station, tank station or valve station declared to be a terminal station under clause 63 or under a corresponding law elsewhere, and will, in practice, amount to a gathering point where the lines from two or more wells are merged into one main line.

Clause 60 provides the foundation for the clauses that follow, and states that a person shall not, in any adjacent area, commence or continue the construction of a pipeline except under and in pursuance of the pipeline licence. This prohibition is extended, by subclause (2), to the alteration or reconstruction of a pipeline. Subclause (3) prohibits the operation of a pipeline except in pursuance of a pipeline licence and with the consent of the designated authority under clause 75 (which relates to the commencement or resumption of pipeline operations). Subclause (4) completes the picture by prohibiting the construction, alteration, reconstruction, or operation of a water line, pumping station valve station, or secondary line (all as defined in clause 4), except in pursuance of the pipeline licence or with the consent in writing of the designated authority and in accordance with any conditions he specifies. Subclause (5) gives the designated authority the discretion to refuse any consent under this clause. The penalty for breach of this clause is $2,000 a day.

Clause 61 provides an important safeguard against a too strict operation of clause 60 by permitting an operator to act contrary to clause 60 in an emergency where there is a likelihood of loss or injury; or for the purposes of maintaining a pipeline, water line, pumping station, tank station, valve station, or secondary line in good order or repair; or where the act, which is contrary to clause 50, was in fact done in order to comply with a direction given

to him by the designated authority under this Bill or the regulations.

Clause 62 completes the sanctions imposed by clause 60 by giving to the designated authority power by instrument in writing to direct an appropriate person (as defined by subclause (2)) to make alterations to or to remove lines or stations constructed, altered, or reconstructed in contravention of the Act. Where a person has failed to comply with a direction under this clause, the designated authority is empowered by subclause (3) to do himself all or any of the things required and, by subclause (4), to recover his costs and expenses from the appropriate person. Clause 63 (as adverted to earlier) provides the machinery for the declaration of a pumping station, tank station, or valve stations, as a terminal station.

Clause 64 lays down the procedure governing an application for a pipeline licence, and the attention of honourable members is invited to the various matters which must be included in such an application and which are specified in paragraphs (*a*) to (*e*) in subclause (1). The fee for an application is $1,000. Subclause (2) contemplates that a notice may be published in the *Government Gazette* of an application for a pipeline licence by a person other than the licensee in whose area the pipeline is sought to be laid, or of an application for a pipeline licence for the construction of a pipeline to convey petroleum recovered in a licence area under a corresponding law made by a person other than a pipeline operator under a corresponding law (as explained in subclause (5)).

Where such a notice is published, the licensee or the pipeline operator under a corresponding law may, within three months or within such further time as the designated authority allows, make an application for a pipeline licence to be issued to himself and request that the application about which the notice is published be rejected. By subclause (3), the designated authority is empowered to reject an application under subclause (2) where, in the result, he grants a pipeline licence to the licensee or to the pipeline operator under a corresponding law. As with similar clauses earlier in the Bill, the designated authority is empowered by subclause (4) to require an applicant to furnish further information in connection with his application.

Clause 65 lays down the basic procedure to be followed where an application has been made under clause 64. If the applicant is the licensee and has complied with all legal requirements applicable to him, or is a pipeline operator under a corresponding law, the designated authority must inform the applicant that he is prepared to grant a licence; and, if the applicant is any other person, the designated authority (unless he has acted under clause 64 (3)) may so inform him. Where a licensee, who has not complied with the conditions of his licence or with the Common Mining Code or the regulations, makes an application for a pipeline licence, the designated authority has a discretion to inform him nevertheless that he is prepared to grant a pipeline licence to him (subclause (2)).

If the designated authority is not satisfied that special circumstances exist that justify his granting a pipeline licence, he is obliged to refuse to grant that licence (subclause (3)). However, as in the similar case under clause 55 (4), the designated authority must give the licensee an opportunity of submitting any matters upon the application that he wishes the designated authority to consider, and the designated authority must take those matters into account before reaching a final decision. In addition to all his other powers, the designated authority has power by subclause (5) to refuse to grant a pipeline licence to a person other than the licensee or the pipeline operator under a corresponding law. If the designated authority decides to inform the applicant that he is, under subclause (1) or (2), prepared to grant a pipeline licence, he must, at the same time, inform the applicant that he will be required to lodge a security for compliance with the conditions of the licence and with the provisions of the Common Mining Code and with the regulations (subclause (6)).

By subclause (7), the instrument by which the designated authority so informs the applicant must specify the route to be followed by the pipeline, a summary of the conditions upon which the pipeline licence will be granted and a warning that the application will lapse if the applicant does not make a request under subclause (9) and lodge any security required of him. The route to be followed (referred to in subclause (7) (a)) is required, by subclause (8), to be either the route shown in the plan accompanying the application or, if the designated authority considers that route not appropriate, another route that, in the opinion of the designated authority, is appropriate.

Subclause (9) gives the applicant a period of three months within which he may request the designated authority to grant a pipeline

licence and lodge with the designated authority any necessary security. Subclause (10) directs the designated authority to grant a pipeline licence where an appropriate request has been made and the applicant has lodged any security required of him. On the other hand, if he does not make a request within due time or does not lodge the necessary security, the application will, by virtue of subclause (11), lapse. Where a pipeline licence is not granted on an application, subclause (12) directs that the sum of $900 shall be refunded to the applicant. Subclause (13) simply provides a definition of "pipeline operator under a corresponding law" for the purposes of clause 65.

Clause 66 is similar to clauses 52 and 28. It provides the basic guarantee that a pipeline licence while it remains in force authorizes the pipeline licensee, subject to the Bill and the regulations and the conditions of the pipeline licence, to construct the pipeline specified in the pipeline licence and the accessory pumping station, tank station and valve station; to operate the pipeline, pumping stations, tank stations and valve stations, and to do all such other things in the adjacent area as are necessary for or incidental to construction and operation of a pipeline and the pumping stations, tank stations and valve stations.

Clause 67 lays down the term of a pipeline licence, which it fixes at a period of 21 years or, where the designated authority is of the opinion that, having regard to the dates of expiry of the relevant licence, it is not necessary for the pipeline licence to remain in force for 21 years, then for such lesser period as he determines. Subclause (2) lays down the precise date of commencement of the pipeline licence.

Clauses 68 and 69 deal with applications for renewal of a pipeline licence. Clause 68 empowers a pipeline licensee to make an application for renewal in accordance with an approved form and not less than six months before the date of expiry of the pipeline licence (unless the designated authority reduces that period). The prescribed fee is $200. As with previous clauses dealing with renewals, clause 69 provides that the designated authority shall, if the pipeline licensee has complied with the conditions of the licence, with the Common Mining Code and with the regulations, inform the pipeline licensee, by instrument in writing, that he is prepared to grant a renewal of the pipeline licence and that he will be required to lodge a security for compliance with the conditions of the licence, with the Common Mining Code and with the regulations.

Where the pipeline licensee has not complied with the conditions of the licence, the Common Mining Code or the regulations, the designated authority is given a discretionary power, in special circumstances, nevertheless to serve such an instrument. Under subclause (2), if the designated authority is not satisfied that special circumstances justify the granting of a renewal to a pipeline licensee who has failed to comply with the conditions of the licence, the Common Mining Code or the regulations, he is bound to refuse the renewal. As with similar clauses previously discussed, for example, clause 65 (4), the designated authority is precluded from refusing a renewal unless, in the manner provided by subclause (3), he has given the applicant an opportunity of making submissions to him on the matter and has taken those submissions into account in reaching a decision.

Where the designated authority serves an instrument under subclause (1) conveying his preparedness to grant a licence, the instrument must contain, as required by subclause (4), a summary of the conditions to which the pipeline licence will be subject and a warning that the application will lapse if the pipeline licensee does not make a request for a grant and lodge any necessary security with the designated authority. A pipeline licensee on whom there has been served an instrument under subclause (1) is, by subclause (5), then empowered, within a period of one month after service upon him of that instrument, to request the designated authority to grant him a renewal and to lodge any necessary security with the designated authority.

On his duly carrying out these two things, subclause (6) directs the designated authority to grant him a renewal of the pipeline licence which he applied for. On the other hand, if he fails to make a request in due time or to lodge the security required of him, his application will lapse (subclause (7)). Subclause (8) contains the same sort of safeguard as clause 55 (11): it artificially prevents the pipeline licence from expiring where an application for renewal has been lodged, but where the designated authority has not reached a decision.

Clause 70 is in a form similar to clauses 56 and 33 and lays down, in subclause (1), that a pipeline licence may be granted subject to such conditions as the designated authority thinks fit and specifies in the pipeline licence.

In particular (subclause (2)), the conditions may include one that the pipeline licensee shall complete the construction of the pipeline within a period specified. Once again honourable members are reminded that the discretion of the designated authority is controlled by the scope and purpose of the Act and is not at large.

Clause 71 provides the necessary power for the practical operation of a pipeline. Subclause (1) enables a pipeline licensee to apply to vary the pipeline licence. His application must comply with the requirements of subclause (2) and must be accompanied by a fee of $100 (paragraph (*e*)). The designated authority may, under subclause (3), require further information to be supplied to him. Subclause (4) contains an important safeguard for third parties. By that subclause the designated authority is directed to publish in the *Gazette* notice of an application pursuant to clause 71 so that other persons may submit to him in writing any matters that they wish him to consider in connection with the application. It will be readily seen that a variation of a pipeline licence, once a given operational situation is settled, might detrimentally affect the interest of third parties, and it is to avoid such a consequence that this procedure has been introduced. Subclause (5) empowers the designated authority, after considering any matters submitted to him, to vary the pipeline licence as he thinks necessary or to refuse to vary it.

Clause 72 incorporates a safeguard in the public interest. It empowers the designated authority, at the request of either the Minister or a Minister of State of the Commonwealth on the one hand, or a body established by a law of the Commonwealth or of the State on the other hand, if in his opinion it is in the public interest to do so, to direct a pipeline licensee or the holder of an instrument of consent under clause 60 to make such changes in the design, construction, route or position of the pipeline or of the other lines or stations mentioned in the clause as he sees fit to specify within a stated period. This power prevents any pipeline or station from interfering in any way with matters of public concern.

Members will realize that this is a very special power and will only be exercised upon very special occasions. A person who disobeys a direction given under subclause (1) will be liable to a penalty of $2,000. The clause preserves the financial interests of the pipeline licensee or other persons concerned who are given, by subclause (3), the right to bring an action in the Supreme Court and, under subclauses (4) and (5), to be indemnified against part or all of the costs incurred by him in complying with the direction.

Clause 73 is one which has corresponding provisions in offshore oil legislation in other parts of the world. This clause empowers the designated authority to direct a pipeline licensee to be a common carrier. No definition of common carrier is provided or needed. A common carrier, in law, is one who by profession to the public undertakes for hire to transport from place to place either by land or water the goods of such persons as may choose to employ him. He is bound to convey the goods of any person who offers to pay his hire and in the absence of a special agreement or statutory agreement is an insurer of the goods entrusted to him unless any loss or injury caused was brought about by act of God or the Queen's enemies. A direction under clause 73 will have this result with reference to the pipeline licensee to whom the direction is given.

Clause 74 seeks to ensure that full use will be made of any pipelines which have been authorized under this legislation. It provides that, subject to the designated authority's consent and to any conditions that he imposes, a pipeline licensee will not cease to operate a pipeline. Subclause (2) states three obvious exceptions to this general prohibition, namely, where the failure was in the ordinary course of operations, was for the purposes of repair or maintenance work, or was in an emergency where there was a likelihood of loss or injury. Under clause 75, where a pipeline has not previously been in operation or has ceased to operate otherwise than for repair or maintenance work or in the ordinary course of operations, the designated authority, on application, may consent to the commencement or resumption of operations, provided he is of the opinion that those operations may be carried on in safety.

Division 5 deals with the important administrative topic of registration of instruments. Clearly, for the efficient operation of any scheme designed to govern offshore mining through the medium of permits, licences and authorities, it is essential that some provision should be made to keep proper records of the issue and transfer of instruments. This Division was drafted to some extent upon the pattern of the Real Property Act, although there are certain important differences. The basic scheme envisages a central register kept by the

designated authority in which important memorials and memoranda are recorded so that a complete picture of the situation with respect to this State is retained by a central authority.

Clause 76 directs the setting up of a register and specifies the various particulars that are to be kept in that register from time to time. Subclause (5), it is to be noticed, provides, amongst other things, that a permit, licence, pipeline licence, access authority or an instrument is to be of no force until it has been registered. Clause 77 provides for the memorializing of the determination of a permit (wholly or in part), the determination of a permit in respect of a block for which a licence is granted, and the expiry of a permit, licence, pipeline licence or access authority.

The registration provisions, speaking generally, fall into two groups: first, those that deal with the approval and registration of transfers (that is, transfers of a complete permit, licence, pipeline licence or access authority); and secondly, those that deal with the creation of some legal or equitable interest in or affecting an existing or future permit, licence, pipeline licence or access authority and the approval of and registration with respect to those instruments.

Clause 78 provides that a transfer is of no force until it has been approved by the designated authority and registered (subclause (1)). Subclauses (2) to (12) provide the machinery for effecting a transfer. An application for approval of the transfer is lodged, together with an instrument of transfer; a memorandum of the date of application is made and the designated authority is empowered to approve the application or to refuse it. The designated authority may make the transfer subject to the lodgment of the security. The necessary entry is made in the register of payment of the fee under clause 92 and, upon memorandum of transfer being entered, the transfer takes effect.

Clause 79 deals with the important topic of devolution of title by operation of law. As with transmission applications under the Real Property Act, so here it is possible for the person to whom the rights of the registered holder have devolved by operation of law to have his name entered in the register in place of the original registered holder. Clause 80 deals with the second class of instruments (referred to previously) under Division 5, namely, legal or equitable interests in or affecting existing or future permits, licences, pipeline licences, or access authorities. Such an interest is, by clause 80, not capable of being created, assigned, affected or dealt with except by an instrument in writing.

Clause 81 provides machinery somewhat similar to that referred to under clause 78 by which an application is made for approval and entry in the register. The designated authority is empowered either to approve or refuse an application and, on payment of the necessary fee and the submission of the necessary documents, an instrument submitted with the application may be approved and an entry of approval entered in the register. Since, under clause 92, the amount of registration fee depends to a large extent on the value of the consideration involved in any registrable transaction, clause 82 contains an important sanction designed to ensure that an instrument to be registered fully and truly sets forth the true consideration for the transfer or instrument and all other facts and circumstances, if any, affecting the amount of the fee payable. Subclauses (2) and (3) contain supplementary provisions for the determination of the correct fee.

Clause 83 makes it clear that any instrument lodged with the designated authority under this Division takes effect according to its own terms, and does not have any force, effect or validity which it would not have had if Division 5 was not in operation. Clause 84 confers a power upon the designated authority to insist on supplementary information to enable him to carry out his duties under the Division. A person who furnishes false or misleading information is liable to a penalty of $1,000. Clause 85 supplements clause 84 by giving the designated authority power to require any person to produce relevant documents for the purpose of carrying out his duties. Again a penalty of $1,000 is provided for breach of this clause.

Clause 86 is one of the fundamental clauses to this Division in that it makes the register of all instruments registered or subject to inspection available for inspection at all convenient times upon payment of a fee of $2. Subclause (2) gives the designated authority the power to protect the interests of a registered holder upon special grounds where he is of opinion that inspection should not be allowed without the written consent of the registered holder. Clause 87 makes the register evidence in all courts of all matters required or authorized by this Division to be entered in the register, and provides machinery for certified copies to be obtained. Subclause (3) is a further evidentiary aid under which the designated authority may certify that certain

things have been done or entries made, and his certificate thereupon becomes evidence in courts. Clause 88 contains the safeguard of an appeal to the Supreme Court in order to rectify any error in the register.

Clause 89 is a customary provision in virtue of which the designated authority or a person acting under his direction or authority is exempted from actions, suits or proceedings in respect of acts or matters done in good faith in the exercise of powers or authorities referred by this Division. Clause 90 protects the register against wilfully false entries and also makes it an offence to produce or tender in evidence documents falsely purporting to be copies or extracts. The maximum penalty for an offence against this section is imprisonment for two years. Clause 91 empowers the designated authority to determine the fee payable under Division 5 and gives to a party dissatisfied with any such determination the right of appeal to the Supreme Court. Clause 92 provides for the imposition of registration fees. It is to be observed that under subclause (7) stamp duty is not chargeable on any transfer or other instrument so far as it relates to a permit, licence, pipeline licence or access authority.

The foundation of the imposition of these registration fees is to be found in subclause (1) which empowers the designated authority in respect of the memorandum of transfer or a memorandum of approval of an instrument of the kind referred to in clause 80 to impose a fee at the rate of 1½ per cent of the value of the consideration for the transfer or the value of the permit, licence or pipeline licence transferred, or of the interest created, assigned, effected or dealt with by the instrument, whichever is the greater. Subclause (2) provides a statutory minimum of $5. Subclauses (3) to (6) enable the designated authority to reduce the fee, which would otherwise be payable, in a manner which is designed to encourage approved exploration works, to avoid double payment of fees and to facilitate arrangements entered into between related companies. In this way the designated authority will be able to ensure that the payment of fees does not discourage initiative in exploration or re-organization or administration.

Division 6 is headed "General" but, broadly speaking, it contains a number of important powers designed to give that flexibility of administration which is so important to a scheme such as this and which enables the designated authority in South Australia to adjust his administration to suit the different conditions which may prevail in the offshore areas of South Australia. However, Division 6 goes further than that and deals with other matters of day-to-day administration. Clause 93 provides for the forms of permits, licences, pipeline licences, special prospecting authorities and access authorities. Clause 94 empowers the designated authority to publicize in the *Gazette* such particulars as he thinks fit of various transactions or events which affect the operation of permits, licences, pipeline licences, and any blocks in respect of which they have been issued (as the case may require).

Clause 95 provides special rules for making certain the date from which permits, licences, and pipeline licences and their surrender cancellation and variation, take effect. Clause 96 ensures that, where a permit, licence or pipeline licence is granted subject to a condition that specified works or operations are to be carried out, the permittee, licensee or pipeline licensee concerned shall commence to carry out those works or operations within a period of six months after the day on which his authority has effect. Subclause (2) empowers the designated authority to grant exemptions and subclause (3) imposes a penalty for non-compliance. Clause 97 is one of the most important provisions of the Act with respect to the actual offshore mining operations themselves and the method of conducting those operations.

The fundamental principle, contained in subclause (1), is that operations shall be carried out in a proper and workmanlike manner, and in accordance with good oil field practice. Subclause (1) also imposes on a permittee or licensee the duty of securing (that is, ensuring) the safety, health, and welfare of persons engaged in these operations in or about the permit area or licence area. ('Good oil field practice' is a phrase defined in clause 4 in Part I of the Bill.) Subclause (2) sets out in some detail, but without limiting the generality of subclause (1), specific duties of a permittee or licensee. Subclauses (3) and (4) impose on a pipeline licensee duties similar to those contained in subclauses (1) and (2) and subclause (5) imposes similar duties to those contained in the earlier subclauses upon the holder of a special prospecting authority or access authority. Subclause (6) provides a safeguard to a person charged with the failure to comply with those clauses in that on prosecution for non-compliance with this clause he is given the defence that he took

all reasonable steps to comply with this clause. The maximum penalty is $2,000.

Clause 98 supplements clause 97 in that it imposes on an operator the duty to maintain all structures, equipment and property in good condition and repair and to remove from the operations area all structures, equipment and other property that are not used, or to be used, in connection with the operations in which he is engaged. Clause 99 governs and controls clauses 97 and 98 in that those two clauses take effect subject only to any other provisions of the Bill, to the regulations, to any specific direction given by the designated authority and to any other law. Clause 100 provides the holder of a permit or licence with protection against persons' drilling too close to his own boundary. The clause forbids the making of a well any part of which is less than 1,000 feet from a boundary of the permit area or licence area, except with the consent in writing of the designated authority and subject to such conditions as he imposes. If a permittee or licensee acts in breach of this clause the designating authority can direct him to put matters right by plugging the well or closing it off or taking other necessary steps in accordance with directions given to him.

In various parts of this Bill there have been allusions to the power of the designated authority to give directions on various matters. The designated authority's power to give those directions is given generally by clause 101 which provides that by instrument in writing served on a permittee, licensee, pipeline licensee or the holder of a special prospecting authority or access authority, to give to that person a direction as to any matter with respect to which regulations may be made under clause 155 of the Act. A direction so given overrides any regulations, although such a direction cannot be inconsistent with the applied provisions referred to under Part II.

Clause 102 supplements clause 101 by providing the necessary machinery for ensuring that things directed to be done are done. The machinery is that, on failure to carry out a direction, the designated authority may himself do the thing directed to be done and recover his costs from the person in default. The defendant is given the defence to a claim for such a recovery that he took all reasonable steps to comply with the direction. Clause 103 is another key provision designed to give flexibility in administration: it provides a wide range of powers of exemption, all of which the designated authority may exercise according to the circumstances of individual cases.

Clause 104 relates to the aftermath of a surrender, and provides that if the holder of an instrument under the Act surrenders that instrument as to all or some of the blocks in respect of which it is in force, or as to the whole or part of a pipeline in respect of which it is in force, as the case may be, the designated authority may ensure that he has paid all fees and other amounts payable by him; that he has complied with the conditions of the instrument, with the Common Mining Code, and with the regulations; that he has removed all property brought on to the area in connection with the operations authorized by the instrument; that he has plugged or closed off all wells made in the relevant area; that he has done all things necessary to conserve and protect the natural resources of the relevant area; and, generally, that he has made good any damage to the sea-bed or subsoil in the relevant area caused by any of the operations authorized under the instrument. Subclause (3) gives the designated authority certain powers of exemption and upon the designating authority consenting, under subclause (4), the instrument of surrender takes effect.

Clause 105 gives to the designated authority a sanctioning power far greater and more effective generally than any of the penalties imposed either by way of imprisonment or fine under the Bill. The power here given to the designated authority is similar to the powers to be found in virtually every lease that is executed in the commercial world from day to day. This clause provides that, where a permittee, licensee or pipeline licensee has not complied with a condition of the relevant instrument; or has not complied with the direction given to him (under clause 101); or has not complied with part of the Common Mining Code, or of the regulations; or has not paid any amount payable by him under this Bill within three months after due date, the designated authority may, by instrument in writing, cancel the permit or licence as to all or some of the blocks in respect of which it is in force or, as the case may be, cancel the pipeline licence as to the whole or part of the pipeline. As in the case of similar provisions previously discussed, the designated authority is by subclause (2) required to give the holder of the instrument a proper opportunity of submitting to him any matters about the alleged breach that he wishes the designated authority to consider, and the designated authority must consider those matters before he reaches a decision.

Clause 106 provides for the independence of the various sanctions imposed by the Bill, for example, a permittee may have his licence cancelled, notwithstanding that he has been convicted of an offence in respect of the same default which led to the cancellation; or a permittee may have his permit cancelled for non-payment of an amount payable under the Act, notwithstanding that judgment for the amount due has been entered. Clause 107 provides similar sorts of safeguard to those set out in clause 104, except that these safeguards are imposed not on the surrender of an instrument, but upon its cancellation or expiry. The designated authority is given the same powers, in effect, to clean up the area, as he was given under clause 104 (2), and if the various things required to be done are not done by the person responsible, the designated authority may direct those things to be done.

Clause 108 supplements clause 107 by empowering the designated authority to do all or any of the things required by his direction to be done and, if the property brought into the area has not been removed in accordance with his direction, the designated authority may publish an instrument in the *Government Gazette* directing its removal or disposition to his satisfaction within a period specified in the instrument, and may serve a copy of the instrument on each person whom he believes to be the owner of a property in question. If he publishes such an instrument giving a direction, he may subsequently have recourse to the powers conferred by clause 113 which, speaking generally, give him a power of sale. This clause will be discussed shortly.

By various clauses, for example clause 27 and clause 50, it is contemplated that payments may be made to the designated authority in certain circumstances, and clause 109 is an enabling provision in virtue of which a person required to make a payment may enter into an agreement with the designated authority to make whatever payment is required of him by instalments. Interest may be charged and subclause (2) provides that the rate applicable is to be 6 per cent or such lower rate as is prescribed. Subclause (3) provides a limit to the instalment period of 21 years. Subclause (4) safeguards the payment of any instalments by directing that any instalment or interest which is due under an agreement reached with the designated authority and which has not been paid is payable by the registered holder, permittee or licensee as the case may be. Who ultimately bears the burden of such payment will become a matter for negotiation between the registered holder and any other party concerned in the payment.

Clause 110 provides a penalty for late payment and subclause (2) confers on the designated authority a power to remit the whole or any part of the penalty. Clauses 111 and 112 provide the operator with the means of obtaining two important supplementary authorities. Under clause 111, where applications have been invited under clause 23 for a permit, or under clause 47 for a licence, a person may make application for the grant of a special prospecting authority. Subclause (2) prescribes the form of the application and subclause (3) empowers the designated authority to grant or refuse it. A special prospecting authority, s subclause (4) provides, authorizes the holder, subject to the Bill, to the regulations and the conditions applicable to it, to carry on, in the blocks specified in the authority, the petroleum exploration operations also specified in the authority. The exploration operations may be anything permitted by the designated authority except that (subclause (5)) the holder may not make a well. A special prospecting authority, unless surrendered or cancelled, remains in force for any period specified, not exceeding six months (subclause (6)), and may either be surrendered or, if the holder has not complied with the conditions, may be cancelled by the designated authority. Subclauses (8), (9) and (10) are similar in effect to subclauses (2) and (3) of clause 107 and enable the designated authority, in effect, to clean up the area after the operations comprised in the authority have been finished, and to give directions if the cleaning up is not carried out.

Clause 112 empowers a permittee or licensee to apply to the designated authority for the grant of an access authority to enable him to carry out operations in a part of the adjacent area that is not part of his permit area or licence area. The application must be in accordance with the requirements of subclause (2). The designated authority may, if he is satisfied that it is necessary or desirable to grant the authority to enable the permittee or licensee more effectively to exercise his rights or to perform his duties, grant to the applicant an access authority under this clause, subject to such conditions as he thinks fit. Subclause (3) (*b*) enables him to vary an access authority previously granted. The designated authority is, by subclause (4), prevented from granting or varying an access authority where the permit or licence area of a registered holder other than the applicant is involved, unless he

has, under subclause (4), given that other holder an appropriate opportunity to submit any matters that he considers relevant to the designated authority and the designated authority has considered those matters.

An access authority authorizes the holder, subject to this Bill and the regulations and to the conditions applicable, to carry on, in the area specified in the access authority, the petroleum exploration operations specified in that authority (subclause (5)). Subclause (6) denies to the holder of an access authority the right to make a well. An access authority remains in force until surrendered or cancelled for such period as is specified in the access authority (subclause (7)). Subclause (8) empowers the designated authority to accept a surrender of, or to cancel, an access authority, and where an access authority has been surrendered or cancelled or has expired, the designated authority is empowered by subclauses (9) to (12) to ensure the clearing of the area in substantially the same way as under clauses 111 and 107.

As I foreshadowed earlier, when considering clause 108, clause 113 provides a sanction for those persons who have not complied with a direction to clear a relinquished area given under clause 108. By clause 113 the designated authority is empowered to remove any property left in the relinquished area, dispose of it in such manner as he thinks fit and, if he has served the instrument referred to in clause 108 (*b*), to sell, by public auction or otherwise, all or any part of the property concerned. The designated authority is thereupon empowered to deduct from the proceeds of sale his costs and expenses and any fees or amounts due and payable under the Bill. By subclause (3) he is given the power to recover his costs and expenses to the extent that they are not recovered under subclause (2) by an appropriate action in a court of competent jurisdiction. In this Part, the furnishing of a security has been referred to in several places: in Division 2, in reference to permits, in Division 3, in reference to production licences and in Division 4, in reference to pipeline licences.

Clause 114 provides the governing rules for all these securities. Securities for the purposes of permits are here stated to be in the sum of $5,000; for production licences, in the sum of $50,000 and for pipeline licences, in the sum of $20,000. These securities are to be in such manner and form as are approved, and are to be by cash deposit or by such other method as the designated authority allows. Securities given under clause 114 bind the parties subscribing as if the security was sealed, and, if a security is put in suit in an action before a court, its production, by virtue of subclause (3), entitles the designated authority to judgment, unless the person appearing to have executed the security proves compliance with its conditions, or that the security was not executed by him, or release, or satisfaction. Subclauses (4) and (5) are really standard form provisions in similar securities usually given in the commercial world. Subclause (4) provides that the subscriber is not deemed to have been released or discharged by reason either of extension of time or other concession, waiver of non-compliance of the condition, or failure by the designated authority to bring suit upon previous non-compliance. Subclause (5) provides that subscribers are bound jointly and severally unless otherwise provided.

Because it is so important that each central mining authority should assemble and collate as much relevant information as possible in connection with the adjacent area under his administrative control, clause 115 provides that the designated authority or any inspector, who has reason to believe that a person is capable of giving information or producing documents relating to exploration or recovery operations or operations connected with the construction or operation of a pipeline, may require that person to furnish such information to him either in writing or in answer to questions. Subclause (2) contains a common provision as to non-availability of privilege to the effect that a person who is required to provide the information must do so notwithstanding the tendency in his answer to incriminate him; but the information or answer does not thereupon become admissible in evidence against him, other than for proceedings under clause 117. Clause 116 gives to the designated authority, or an inspector, power to compel answer upon oath, and clause 117 prohibits refusal or failure to comply with clause 115 or the furnishing knowingly of false or misleading information or of a false or misleading document. The maximum penalty is $2,000.

Clause 118 relates to the release of information and is a very important one for the development of oil exploration generally in Australia. Honourable members will see in this clause an attempt to balance, on the one hand, the rights of persons connected with offshore mining operations to preserve a degree of secrecy as to the information they have obtained and, on the other hand, the

need, in due course, for information obtained in the course of those operations to be made available to the mining community generally. A distinction is drawn, for the purposes of this clause, between purely factual matter to be derived from reports, cores, cuttings or samples and pure opinion or speculation based upon that factual matter.

For the purpose of protecting a well, a structure and any equipment in the adjacent area, the designated authority is, by clause 119, empowered to set up what are called safety zones. A safety zone may extend to a distance of 500 metres around the well, structure or equipment that is specified in the instrument (published in the *Gazette*) setting up the safety zone. In order to make such a safety zone effective it is necessary to impose a heavy penalty on persons intruding into that zone, and subclause (3) imposes on the owner and the person in command or in charge of any vessel the liability to be fined up to $10,000 if the vessel in question enters or remains in a safety zone in contravention of the instrument by which the designated authority sets up that safety zone.

As can well be realized, any discovery of water in a permit area or licence area is deemed to be of general importance, and clause 120 places upon a permittee or licensee the duty of reporting to the designated authority particulars of any discovery of water within one month after the date of discovery. In order to enable the designated authority to keep proper administrative control over the adjacent area, it is necessary for him to know from time to time details of the position of some well, structure or equipment being used for offshore mining operations. Clause 121 gives the designated authority power, by instrument in writing, to direct the permittee or licensee to carry out a survey of the position of any specified well, structure or equipment, and to furnish to him a report in writing of the survey. By subclause (2) the designated authority may direct the furnishing of further and better information if he is dissatisfied with the initial report. The clause is enforced by a sanction contained in subclause (3) and a maximum penalty of $2,000.

Clause 122 is a more general clause along the same lines as clause 121 and empowers the designated authority to direct a person operating under a permit, licence, pipeline licence, special prospecting authority, access authority, or instrument of consent to keep such records, retain such samples, and furnish to him such report or reports, cores, cuttings and samples as he specifies by instrument in writing. This power is sanctioned by a maximum penalty for non-compliance of $2,000.

Clauses 123 and 124 are designed to ensure that South Australia complies with those duties that rest upon Australia as a whole by virtue of Article 5 of the Convention on the continental shelf. (It will be observed incidentally that paragraph (3) of Article 5 relates to the safety zones already discussed in relation to clause 119.) Broadly speaking, clauses 123 and 124 preserve the right of persons generally, in the adjacent area, to carry out scientific investigations; preserve against interference both navigation and fishing; and conserve the resources generally of the sea and sea bed. Operations for exploration for the recovery of or conveyance of any minerals (including petroleum) are also protected.

Clause 125 provides the machinery for appointment of inspectors under the Act, and clause 126 confers the usual powers that are given to mining inspectors to have access to relevant areas in order to inspect and test equipment and to inspect and take extracts from relevant documents. A maximum penalty of $500 is imposed on persons who, without reasonable excuse, obstruct or hinder an inspector in the exercise of his powers. Clause 127 is another basic clause in the Bill which provides that upon recovery of petroleum, property in it vests in the permittee or the licensee concerned. Clause 128 is a clause similar in purpose to clauses 9, 10, 11 and 12 and is designed to prevent the double payment of royalty. It provides that to the extent to which a person pays royalty to the Commonwealth in respect of petroleum recovered under a law of the Commonwealth or an instrument under that law, he is not liable to pay royalty under the State legislation. Honourable members should clearly understand that this provision had nothing to do with the ultimate sharing of royalties which is the subject matter of the next clause.

Clause 129 is designed to carry out clause 19 of the Commonwealth-States agreement and provides an appropriate formula. By clause 19 the Commonwealth is entitled to four-tenths of so much of the royalty as is not override royalty and South Australia to six-tenths of that same royalty. Moreover, any override royalty becomes payable to the State. Any amounts received by reason of late payment are allocated between the Commonwealth and the State in the same way as royalties. It will be observed that under clause 148 of the Bill the designated authority may, in certain cases,

reduce the rate of recovery of petroleum and, consequent upon this, may determine that the royalty in respect of petroleum recovered from a particular well shall be at the rate which he specifies. Clause 130 indicates that such a situation is regarded as exceptional and limited and provides that a determination made by the designated authority, under clause 148, shall be disregarded in ascertaining the percentage rate at which royalty is payable under the Bill for the purposes of clause 129.

Clause 131 provides a much needed sanction by creating continuing offences, so that where a person continues to fail to comply with some requirement of the Act or regulations, he will be liable to a repeating penalty for every day on which the offence is deemed to continue. Clause 132 provides machinery by which offences may be prosecuted either in a court of summary jurisdiction or in the Supreme Court. In both cases proceedings are summary. The Supreme Court is given the necessary power to make rules of court to implement this clause. Clause 133 contains an important sanction and an important safeguard. On the one hand where offences have been committed under clauses 19, 39 or 60, that is to say, where persons do acts which can only be justified by a permit, a licence, a pipeline licence or by the transitional provisions, the court may order an appropriate form of forfeiture. Subclause (1) sets out the kind of forfeitures which can be ordered: they are, forfeiture of a specified aircraft, a specified vessel, specified equipment, or specified petroleum. The court is also empowered to order payments of the proceeds of sale of specified petroleum or of an amount equal to the value at well head of petroleum recovered or conveyed through a pipeline. An order for forfeiture may be set aside if it is impracticable to carry it out (subclause (2)). Any person likely to be affected by an order for forfeiture is given the right to be heard (subclause (3)).

Clause 134 provides, in effect, that there is no time limit on the bringing of proceedings for offences against Part III or the regulations. Clauses 135 and 136 are simply pieces of legal machinery. Clause 135 enables a court to take judicial notice of the signatures of the designated authority or his delegate and of the fact that a person is or has been the designated authority or a delegate. Clause 136 contains the usual provisions for substituted service. Division 7 contains transitional provisions and, in effect, enables existing interests to be preserved while at the same time providing the means for transferring an interest under the old Act to an interest under the new Act. Holders of interests under the old Act may surrender at any time and obtain an appropriate authority under this Act in order to carry on their operations.

Division 8 deals with fees and royalties generally. The fees for a permit are $100 a year or $5 a year for each block to which a permit relates, whichever is the greater (clause 141). The yearly fee for a licence is calculated at the rate of $3,000 for each of the blocks to which the licence relates at the commencement of the year in question (clause 142). The yearly fee for a pipeline licence is $20 in respect of each mile or portion of a mile of the length of the pipeline on the first day of the year in question (clause 143). Under clause 144 fees become payable within one month after, in the case of the first year of any term, the day on which that term commenced, or in the case of any other year of the term, the anniversary of the day on which the term commenced.

Clause 145 imposes a penalty for late payment and clause 146 provides that any fee or penalty becomes a debt due to the State. Clause 147 is a fundamental clause by which the duty to pay royalty is made a condition of a permit or licence, and, subject to clause 148, is specified generally at 10 per cent of the value at the well head of the petroleum. It will be recalled that under clause 42 a special rate of royalty becomes payable under a secondary licence and this special rate is reflected in subclause (3). The percentage applicable in respect of petroleum recovered under a secondary licence supersedes the prescribed rate as from the commencement of the next royalty period after the day from which the secondary licence has effect (subclause (4)). Subclauses (5), (6) and (7) provide for the royalties applicable in respect of licences granted under clauses 47 and 51 and upon a renewal of the licence. As already mentioned the designated authority is given, by clause 148, the power to reduce in special cases the amount of royalty that would otherwise be payable under clause 147. He is empowered to do this when he is satisfied that recovery of petroleum from a well has become so reduced that further recovery would be uneconomic. Moreover, under clause 149 special remissions of royalty are authorized. Royalty is not payable in respect of petroleum that was unavoidably lost, or was used for the purpose of prospecting or recovery operations, or that has, with the approval of the designated authority, been flared or vented in connection with recovery

operations. Where petroleum that has been recovered is, with the approval of the designated authority, returned to a natural reservoir, royalty is not payable in respect of that petroleum by reason only of that recovery, but royalty will become payable when the petroleum is ultimately recovered from the natural reservoir to which it has been returned.

It has been stated several times that the value of petroleum for the purposes of this Act means value at well head and clause 150 indicates how the well head is to be ascertained. The well head is such valve station as is agreed by the permittee or licensee with the designated authority or, in default of agreement, as is determined by the designated authority.

Clause 151 is complementary to clause 150, and provides that the value at the well head is such amount as is agreed by the permittee or the licensee with the designated authority or, in default of agreement, as is determined by the designated authority.

Clause 152 provides machinery for the ascertainment of the quantity of petroleum recovered for the purposes of the Act. That quantity is the quantity measured by an approved measuring device installed at the well head, or other approved place, or, where no such device is installed, it is the quantity determined by the designated authority as being the quantity recovered during any relevant period.

Clause 153 fixes the time by which royalty must be paid and proposes the usual penalty for late payment. Subclause (3) makes an allowance of seven days where the value of the petroleum is agreed or determined under clause 151. Clause 154 is a machinery provision which makes amounts payable under clauses 147 and 153 debts due to the State and recoverable in any court of competent jurisdiction.

Part IV is devoted entirely to clause 155 which confers the regulation-making powers. They may be viewed under four heads: first, the generalized power under subclause (1), enabling His Excellency the Governor in Council to prescribe all matters that are required or permitted to be prescribed, or are necessary or convenient to be prescribed for the carrying out or giving effect to this Act; secondly, subclause (2) which contains a number of specified powers which take effect without affecting the generality of subclause (1); thirdly, regulations which enable the State to ensure that it carries out or gives effect to the Convention in the First Schedule; and lastly, subclause (4) which enables appropriate penalties to be imposed for non-compliance.

Mr. MILLHOUSE secured the adjournment of the debate.

LONG SERVICE LEAVE BILL

Returned from the Legislative Council with amendments.

LOCAL GOVERNMENT ACT AMENDMENT BILL (RATING)

Returned from the Legislative Council without amendment.

TRAVELLING STOCK RESERVE: KOORINGA, BALDINA AND KING

The Hon. J. D. CORCORAN (Minister of Lands): I move:

That the travelling stock reserve between Baldina Creek and Stone Chimney Creek and extending easterly, westerly around and beyond Douglas, and southerly, in the hundreds of Kooringa, Baldina and King, as shown on the plan laid before Parliament on September 12, 1967, be resumed in terms of section 136 of the Pastoral Act, 1936-1966, for the purpose of being dealt with as Crown lands.

This reserve comprises approximately 5,950 acres and the major portion was set aside at time of survey (1875-76), the balance being dedicated in the *Government Gazette* of September 27, 1934, at page 646. With modern methods of transport, the need for reserves of these dimensions has largely disappeared, and it is proposed that the stock route from section 165, hundred of King, west to section 206, hundred of Baldina, be reduced to 10 chains width and thence to section 191, hundred of Kooringa, be resumed to enable a road of three chains width to be delineated; further, that the stock route from part section 98, hundred of Baldina, south to section 2, hundred of Baldina, be resumed to enable a road of three chains width to be delineated. These proposals were made on the initiative of the District Council of Burra Burra, and are recommended by the Pastoral Board. They have the concurrence of the Stockowners' Association of South Australia. In view of these circumstances, I ask honourable members to support the motion.

Mr. QUIRKE (Burra): This motion is a continuation of the policy previously adopted by the Lands Department and the Pastoral Board: the resumption of the control of roads that were formerly needed for the droving of stock over long distances. As you, Mr. Speaker, are probably aware, one such road stretched practically from Port Augusta to Mount Gambier, but the control of most of

it has been resumed. Such stock reserves can become weed menaces and it is better that they be placed under the control of people who can keep them clear of weeds, which is the primary intention of the motion. In such cases as this there is a carriageway down the centre, and the land on each side is allotted to contiguous landholders who apply for it. This procedure has worked admirably in the past, and the weed problem has usually been solved. As member for the district, I know of no objections to the motion, so I support it.

Motion carried.

FISHERIES ACT AMENDMENT BILL

The Hon. G. A. BYWATERS (Minister of Agriculture) obtained leave and introduced a Bill for an Act to amend the Fisheries Act, 1917-1962. Read a first time.

The Hon. G. A. BYWATERS: I move:

That this Bill be now read a second time.

In July, 1965, representatives of crayfishermen's associations from all sections of the South Australian crayfishing industry held a meeting at Millicent at which the then Director of Fisheries (Mr. A. C. Bogg) and I were present. All representatives expressed their concern at the state of the crayfishing industry and in particular stressed the need for control of the number of crayfishing boats operating and the number of craypots in use on each boat. Indirectly as a result of this meeting and because of other complicated management problems, a Parliamentary Select Committee was formed to consider the need for amendment to the Fisheries Act, 1917-1962. The Select Committee gathered evidence from many people who desired to present evidence, including individual fishermen, representatives from all professional fishermen's associations in the State, representatives from the processing sector of the industry, representatives from amateur angling bodies in the State, representatives from interstate Fisheries Departments and a representative from the South Australian Fisheries and Fauna Conservation Department.

After considering the evidence placed before it, the Committee prepared a report which outlined many recommendations for amendment to the Fisheries Act. Effective implementation of these amendments can only be accomplished if the Fisheries Act is completely redrafted. This will not be possible during the current session of Parliament. However, the fishery for southern crayfish is so valuable to the South Australian fishing industry and the provisions of the Fisheries Act relating to its management are so urgently in need of revision that this Bill has been prepared as an interim measure. The main recommendations which the Select Committee made in relation to management of the southern crayfish fishery are contained in paragraphs 73 to 82 of its report. The committee, although hesitant to prohibit the taking of crayfish by other than professional fishermen, felt that some immediate action was necessary to ensure that over-fishing of the known crayfish areas of the State did not take place.

For this reason, it decided to recommend that a boat limit and a pot limit be imposed in this industry for an experimental period of three years. It was the opinion of the committee that, in conjunction with the proposed boat limits and pot limits, the licence held by a person who took crayfish for sale should be endorsed to indicate that the licence holder was a licensed crayfish fisherman. The committee was also of the opinion that after September 1, 1967, no boats other than those engaged commercially in crayfishing at that date should be permitted to engage in crayfishing with more than three cray pots or three drop nets, unless it could be proved that a boat under construction at that time was intended to be used for crayfishing. The committee stressed that its recommendations relating to limiting the number of boats and the number of crayfish pots which, might be used by persons working these boats, should be brought into effect as soon as possible, preferably for the crayfish season which will commence on November 1, 1967.

It is realized that this Bill will not give complete effect to the Select Committee's recommendations relating to crayfish. It is presented as a preliminary means of controlling effort in the southern crayfish fishery until all the recommendations of the Select Committee can be implemented. The Bill accordingly provides by clause 5 that it will be an offence to use more than three crayfish pots or drop nets at any one time in taking crayfish without a permit. Provision for permits is made by new section 15c inserted by clause 4 of the Bill. The new section limits their issue to persons holding licences on September 1, 1967, who were prior to that date engaged in commercial crayfishing, with the exception that a licensee who had a vessel under construction on August 31 for the purpose of crayfishing commercially may be granted a permit.

Clause 6 of the Bill empowers the Governor by regulation to prescribe the maximum number of crayfish pots that may be used in taking crayfish. This provision is considered to be desirable. As the Bill is an interim measure, clause 7 provides that it shall expire on May 31, 1969, which will be the end of the main crayfishing season for 1968-69.

Mr. HALL secured the adjournment of the debate.

UNFAIR TRADING PRACTICES BILL

The Hon. D. A. DUNSTAN (Premier and Treasurer) obtained leave and introduced a Bill for an Act relating to certain trade and business practices, to repeal the Book Purchasers Protection Act, 1963-1964, and for other purposes. Read a first time.

The Hon. D. A. DUNSTAN: I move:

That this Bill be now read a second time.

It is designed to prohibit or render unprofitable the carrying out of certain undesirable and unfair trading and business practices that, unfortunately, are all too prevalent in this State. It is also largely designed to protect the consumer or purchaser of goods, land and services from such practices and the consequences of such practices. Clause 2 repeals the Book Purchasers Protection Act, 1963-1964, as the provisions of clause 7 are wide enough to cover the matters dealt with in that Act. However, provision is made for proceedings for any offence commenced under that Act to be heard and determined and finally disposed of as if that Act were still in force. It had originally been intended that the Bill, in addition to covering matters that it now covers, would apply to the purchase of land on terms and the purchase of businesses in South Australia under the Business Agents Act. However, the Government's plans for inclusion in this measure were shown to have certain practical difficulties, and discussions are still taking place concerning these particular matters which, in consequence, have not now been included in the Bill.

This Bill will clear up many anomalies and difficulties that have arisen from the Book Purchases Protection Act and will widen its general provisions. Clause 3 contains the definitions necessary for the purposes of the Bill. Clause 4 makes the Prices Commissioner responsible for the administration of the measure, subject to Ministerial control. Clause 5 confers on the Prices Commissioner and every authorized officer, for the purposes of this measure, the powers and functions exercisable under the Prices Act. Clause 6 deals with the publication of any advertisement of goods, land or services or rights in connection therewith as being available for disposal by way of credit sale or hire-purchase. These provisions, which I shall outline, are largely taken from the current law in the United Kingdom, where considerable added protections have been given to consumers by way of information required to be supplied to them.

Mr. Millhouse: When was it enacted there?

The Hon. D. A. DUNSTAN: About two years ago.

Mr. Millhouse: Under the present Government?

The Hon. D. A. DUNSTAN: Yes, it has been in operation now for some time. In fact, many migrants here have from time to time raised the fact that, in South Australia, they find themselves not given similar protections to those which they had under United Kingdom law. I know that the member for Gawler (Mr. Clark) has often had representations from people seeking that we should at least provide some of the things included in the United Kingdom law that those people have found useful in giving them adequate information about just what it is they are buying and in connection with transactions involved.

Subclause (1) of clause 6 provides that where the advertisement indicates or suggests that a deposit is payable, the advertisement must also contain—

(*a*) either—

(i) the amount, directly expressed, of the deposit so payable; or

(ii) a statement that the amount of the deposit is a fraction of an amount that is directly expressed therein;

and

(*b*) the other relevant terms governing the credit sale or hire-purchase referred to in subclause (4) of the clause.

Under the Hire-purchase Agreements Act, a deposit is required but under other credit transactions it is not. The advertisement must contain the other relevant terms. Subclause (2) provides that if the advertisement indicates or suggests that no deposit is payable, the advertisement must also contain the other relevant terms governing the credit sale or hire-purchase referred to in subclause (4) of

the clause. Subclause (3) provides that if the advertisement contains—

(*a*) an indication of the amount of any payment (other than a deposit) or instalment;

(*b*) the rate of interest or charge to be borne by the purchaser under the credit sale or hire-purchase agreement;

or

(*c*) a sum stated as the hire-purchase price or the total purchase price,

the advertisement must also contain—

(*d*) a statement—

(i) of the amount, directly expressed, of the deposit, if any, payable in respect of the credit sale or hire-purchase;

(ii) that the amount of the deposit, if any, is a fraction of an amount that is directly expressed therein;

or

(iii) that no deposit is payable in respect of the credit sale or hire-purchase;

and

(*e*) the other relevant terms governing the credit sale or hire-purchase referred to in subclause (4) of the clause.

Subclause (4) spells out the other relevant terms required to be shown in the advertisement, if not already shown therein. Subclauses (5) to (7) contain explanatory matter. Subclauses (8) and (9) deal with contraventions of the section and penalties therefor. Subclause (10) provides a defendant with a defence to a charge in respect of an offence under the clause if he proves—

(*a*) that the matters contained in the advertisement did not relate to any business carried on by him or by a body corporate of which he was at the relevant time an officer or employee and for and on behalf of which and under the authority of which he was acting;

and

(*b*) that the matters so contained were not devised or selected by him or by any other person under his direction or control.

Clause 7 deals with door-to-door sales of goods, services, rights in respect of goods or services, shares and rights relating to the burial, cremation or disposal of the remains of any person. It does not apply to any sale the price payable under which is $20 or less or to any contract or agreement referred to in paragraphs (*a*), (*b*), (*c*) or (*d*) of subclause (2). Under subclause (3) a contract or agreement to which the clause applies shall not be enforceable by the vendor against the purchaser unless—

(*a*) the contract or agreement sets out all its terms in writing;

(*b*) at least two copies thereof have been signed by all parties thereto;

(*c*) the words prescribed by paragraph (*c*) of the subclause are printed conspicuously thereon;

(*d*) the purchaser has acknowledged in writing the receipt of the duplicate copy of the contract or agreement; and

(*e*) the vendor, not less than five nor more than 14 days after the execution of the contract or agreement, has received at his ordinary place of business from the purchaser a notice in writing that the purchaser has confirmed the contract or agreement.

Members will see that this generally follows the scheme enacted by the Book Purchasers Protection Act originally introduced in this House, as a private member's Bill, by the Leader of the Opposition. It does not follow the scheme of the Western Australian legislation, which, although broadly covering matters now covered in this legislation, does not require that the purchaser notify his acceptance of the contract. Subclause (4) provides that this notice may be endorsed in an identical copy of the contract or agreement.

Subclause (5) makes it an offence for the vendor or any agent of his to accept or receive from the purchaser under a contract or agreement to which the clause applies any deposit or other consideration or to deliver any goods or supply any service under the contract or agreement until the vendor has received from the purchaser notice of the confirmation of the contract or agreement. Subclause (6) makes it an offence for the vendor or any agent of his, within 14 days after the signing of the contract or agreement, to solicit or attempt to obtain from the purchaser the notice of confirmation. Subclause (7) makes it an offence for the vendor or any agent of his to obtain or attempt to obtain from the purchaser any authority to act as the purchaser's agent to give the notice of confirmation or otherwise in relation to the contract or agreement.

Subclause (8) makes the vendor and every person who acted for the vendor in negotiating a contract or agreement to which the

clause applies guilty of an offence if the contract or agreement does not contain the words prescribed by subclause (3) (*c*) printed as required by that paragraph; or if the contract or agreement is made enforceable in or is subject to the law of a State or Territory of the Commonwealth outside this State. This latter reference is to one of the more recent devices used by unscrupulous door-to-door salesmen in South Australia and their principals. What they do is to obtain a contract that evades the provisions of the law in South Australia by specifying that the contract, though made in this State, is deemed to have been made in another State and is subject to the laws of that State where protections of the kind specified in the Bill do not operate. If there is then a refusal of the purchaser to go ahead with the contract, the vendor sues in that State and obtains a judgment and, by use of the provisions of the Commonwealth Service and Execution of Process Act, enforces his judgment in this State. The courts of the State cannot then use the laws of the State relating to the contract concerned.

We have not a complete device to evade this particular lurk, but what we can now do (and I believe that this provision will stand up against challenge) is to say that anyone who indulges in that type of activity commits an offence in this State. Therefore, if he then tries to enforce his contract we can extradite him, having him convicted of an offence against the Act in this State. This may be a salutary deterrent against acts of the kind that many people have had to suffer recently.

Clause 8 makes it an offence for a person, with intent to sell goods or services, to publish an advertisement which contains a representation which he knew or might, on reasonable investigation, have ascertained to be untrue or deceptive. Subclause (2) exempts from the application of the clause certain classes of person who, in good faith and without knowledge of the fact that the advertisement contained an untrue or deceptive representation, publish the advertisement. People in this State are entitled to rely on advertisements that state the position truly, and should not have to suffer for what are clearly deceptive and misleading statements. The mere fact that an advertisement is made does not constitute part of a contract, but it certainly has its effect on citizens who read it and who rely on its terms in making subsequent contracts.

Mr. Clark: It doesn't apply only to printed advertisements.

The Hon. D. A. DUNSTAN: No, it applies to an advertisement of any kind, including one on a hoarding. It applies to anyone who publishes an advertisement in any way and puts it out in a handbill. Clause 9 makes it an offence for a person to publish an advertisement of goods for sale with intent not to sell such goods but to obtain the attendance of members of the public at any place mentioned in the advertisement. This and subsequent provisions are related to bait advertising, which has, on the part of a few concerns in South Australia, been rife in recent times.

True, they have at their stores the goods that they advertise, but the goods are advertised so as to mislead people. When a person attends at a store, the goods are either damaged or are disparaged by a salesman, and the person who has gone there intending to buy goods of a certain class is pressured into buying goods of the same class but dearer. Bait advertising was used in certain parts of the United States of America and has been prohibited as a result of the recommendations of the Federal Trade Commissioners, and the provisions of this Bill have been taken from United States Statutes.

Clause 10 makes it an offence for a person who advertises goods for hire or rental by him to fail to supply them for hire or rental in accordance with the advertisement unless he proves that after the publication of the advertisement the advertised goods were sold, hired or rented to a *bona fide* customer. Clause 11 makes it an offence for a person who advertises that any service is available or will be supplied by him at a price stated in the advertisement to fail or refuse, on demand and tender of the price so specified, to supply such service at that price. It will be noted that in every case where the offence created by any clause is necessarily widely drawn, the innocent defendant is always provided with a suitable defence to escape the consequences of the penalty that would otherwise attach to persons guilty of the offence in question.

Clause 12 provides that where it appears to a court that a contract in writing for the sale or supply of goods, etc., is in a form ordinarily used and insisted upon by the vendor and—

(*a*) that there has been no real bargaining or negotiations between the parties as to all the terms or as to some material term of the contract;

(*b*) that the purchaser under the contract did not directly advert to the substance of all the terms or to the substance of some material term of the contract; or

(*c*) that, because of the vendor's superior bargaining position, the purchaser had no choice but to agree to the terms of the contract or to terms similar or not less onerous in order to procure from the vendor the goods, etc.,

the court may, if it deems it just and equitable to do so and that no substantial injustice will be caused thereby to the vendor, make such order as between the parties as it considers just in accordance with the substantial merits of the case. In other words, we are here directing the court to give a judgment on the merits, not merely to accept as the beginning and end of the case a document which someone has signed but the terms of which have not been properly adverted to.

This will allow the court to do substantial justice, not merely to rely on the pure formalities of a signed document. The court will be able to consider whether, in fact, the parties to the contract on both sides have fully adverted to the terms of the contract. This is a somewhat novel departure in the law. It has been strongly advocated by Sir Mellis Napier and I should imagine that most members of the profession would subscribe to it. I want to tell members, however, that because of the short time the Law Society has had available for the Law Reform Committee to consider this provision, it has asked for more time to consider the ramifications.

Mr. Millhouse: Is it to get that time?

The Hon. D. A. DUNSTAN: I hope that it will have an opportunity during the remainder of this session to examine the implications. I made available the Bill in draft form before it was printed, although I admit that that was done not long ago, because I had not had it available in draft form for very long before that. At the same time, I should like, if possible, to include the provision in this measure because of cases that have come before the courts and because matters are at present decided purely on the formalities, not on whether the parties have adverted to the material terms of the contract.

Mr. Millhouse: Do you intend to delay the debate in order to get the views of the Law Society?

The Hon. D. A. DUNSTAN: No, but I do not imagine that the debate on this measure will be resumed until next week. Subclause (2) of clause 12 provides also that the court may, notwithstanding that any rules or doctrines of law or equity have been excluded by the contract—

(*a*) apply any rules and doctrines of law or equity that would, but for such exclusion, if any, ordinarily be applicable;

(*b*) disregard any breach by the purchaser of any terms of the contract; and

(*c*) have regard to any facts proved or known to exist.

Clause 13 makes a body corporate equally liable for offences committed by persons acting for or on behalf of and under the authority of the body corporate. Clause 14 deals with the procedure for dealing with offences under the Bill. Clause 15 provides the necessary regulation-making power for the purposes of the Bill.

Mr. HALL secured the adjournment of the debate.

PACKAGES BILL

Adjourned debate on second reading.

(Continued from October 11. Page 2632.)

Mr. JENNINGS (Enfield): I thank the House for the courtesy extended to me the other evening when I was given leave to continue my remarks before I had really commenced them. One of the most abused terms ever used in this House is the statement that a member would not have spoken unless something or other had happened. However, in this case that statement is true.

Mr. Quirke: Have you a new one?

Mr. JENNINGS: Well, I certainly would not have given my valuable consideration to this matter if the member for Light (Mr. Freebairn) had not spoken to it.

The Hon. Frank Walsh: Do you think he switched the light off?

Mr. JENNINGS: I do not think he threw any light on the matter at all. I do not think any light emanates from him in any way. We have been hearing statements like measures being "introduced with indecent haste in the dying hours of the session". The member for Light was not original in saying those things: we hear them almost as often as we hear the member for Gumeracha (Sir Thomas Playford) say, when he opposes legislation, that the Acts Interpretation Act provides that all legislation must be remedial. I have been hearing that statement for 15 years, but no-one ever says who is going to interpret what is remedial: I think only Parliament itself can decide that.

One of the complaints made by the member for Light about this Bill was that he had not had time to study it, and he said that he protested vehemently. Well, if that was the most vehement protest that he could make, we have nothing to fear. He bit like a lamb that had lost its milk teeth. After saying that he supported the Bill in general terms, he said:

I must protest at the haste with which the legislation has been introduced in this House, and I must vehemently protest against the fact that the printed Bill has only just been laid before members.

Later, he said:

I protest at this high-handed way in which the Minister is conducting the passage of this legislation: I am disappointed with the Minister for conducting the affairs of his department in this way. I was informed that two senior representatives of industry had been privy to negotiations with the Minister's department in the formative stages of the legislation. I have telephoned those members, but neither has seen the actual Bill.

The member for Light was assigned to lead his side for no other reason that I can think of except that he must be good at packaging, because he keeps wrapping himself up. The member for Light has been getting close to being charged with deliberately misleading this House. He may have telephoned these gentlemen, as he said he did, but he did not speak to one of them because, at that time, that person was in another State.

Mr. Freebairn: How does that affect the issue?

Mr. JENNINGS: It is some indication of the honourable member's integrity. I could tell the House much more about this incident.

Mr. McAnaney: You can ring London in three minutes!

Mr. JENNINGS: Did the honourable member do it? Of course not. At the end of last August a copy of the draft Bill was received from the Commonwealth Parliamentary Draftsman with the acknowledgment that it might not necessarily suit each State, because it would have to go through the State's drafting process. This was done, and the Bill was introduced quickly. When the member for Light had received his copy of the Bill he said that industry had not had a chance to study it and was not privy to what was going on. I assure the honourable member that the industries involved in this legislation have been privy to all negotiations and have seen every draft Bill. The Bill was introduced on a Thursday: the next day the Warden of Standards had conferences with about 100 people from the Food Technology Association and the National Packing Association, all of whom approved of the Bill and asked the Warden of Standards to convey to the Minister their thanks for making the officer available to discuss the matter so freely and frankly.

Although the member for Light said that industry had not been taken into the Government's confidence, that is not true. If the member for Light was capable of understanding the Bill he had plenty of time between the Thursday and the next Tuesday, and on that morning he met the Warden of Standards and spoke to him for two hours about the Bill. If the honourable member did not understand the legislation following that conversation, I suggest that it would not be the fault of the Warden of Standards. The peculiar attitude adopted by the member for Light is probably actuated by his desire to lead his Party.

The Hon. G. A. Bywaters: Where to?

Mr. JENNINGS: It will finish in the same place whoever leads it. It is a domestic matter for Opposition members, but members on this side would not advocate any change, because we have the best electoral asset we have ever had in the present Leader of the Opposition. On the other hand, that Party has few alternatives.

Mr. Langley: What about the member for Mitcham?

Mr. JENNINGS: He would not be acceptable, because he was not acceptable to his district. If someone as inept as the Commonwealth member for Boothby could defeat the member for Mitcham in a pre-selection ballot, it does not say much for the honourable member, and he is unlikely to lead the Opposition. Perhaps the only possible person who could challenge the member for Light for the leadership would be the member for Stirling. After all, there cannot be too many members who can boast that they built a circular tank stand with the proper angles which, after it had been knocked over by a bulldozer, remained unbroken. Another aspect that may make the member for Stirling attractive to the electorate is that, although the Communist bogey exploited so often by the Liberal Party was exploded at the Capricornia by-election, it may be acceptable now to have a Leader of the Liberal Party who has publicly admitted that he stayed out until 5 a.m. with a Communist girl. What they were both doing was never explained: perhaps they were talking! I do not know whether they discussed Marx, Freud, Engels, or Havelock Ellis but, whatever it was, perhaps that could explain the reason why the member for Light is being

challenged by the member for Stirling in his ambitions to lead the Liberal Party. I could not care in the least, because whoever it is will spend a considerable time in Opposition.

I have not spoken much to the Bill: I do not think there is any need to, because the Minister is capable of replying on the matters that have been raised. As the member for Light was assigned the job to lead his Party in this matter, perhaps, as I said previously, because he is so good at wrapping himself up, I think I have concentrated mostly on wrapping him up properly. May perpetual light shine on the member for Light, because it will never emanate from him. I support the Bill.

The Hon. D. N. BROOKMAN (Alexandra): The Opposition is often told that it talks too much and is repetitive, yet we have to listen to the sort of drivel that the member for Enfield has just delivered concerning the member for Light.

Mr. Langley: The member for Light himself did it the other day.

The Hon. D. N. BROOKMAN: The member for Enfield was assisted by some of the more infantile senses of humour on his side. If anyone seriously wished to criticize the Opposition for wasting time, I would remind him that he should bear in mind the utterly futile speeches that are made by members of the Government, such as the speech just made. Although I respect the views of the member for Light (he obviously undertook much work on this Bill, but was most unfairly criticized by the member for Enfield and, impliedly, by other Government members) I cannot agree with his conclusions. I believe this Bill will prove to be one of those useless and expensive types of legislation introduced in this House. Except in respect of limited cases concerning the labelling of certain commodities, I cannot see what possible use this Bill may have.

It will simply add to the work of the Public Service and increase the number of appointments. The inspectors to be appointed will have to be armed with wide powers in order to check on unimportant matters. We deplore the creation of unnecessary duties for the Public Service, yet a Bill such as this will change a small branch into an organization of significant size. Why must we interfere with every form of commercial life? We have enough to do in Parliament in considering important subjects such as health, road safety and education, without becoming involved in whether a commodity comes in "giant size" or "economy size". It may be an argument in favour of the Bill that it seeks uniformity and that it is the result of conferences with other States that have taken place in order to ascertain what agreement can be reached on this matter. However, I believe that the object of these conferences has long since been forgotten, and that the machinery of how something is applied is the only consideration nowadays.

Why on earth must we have uniformity in connection with a packet of soap flakes? I have been a reader of the publication of the Australian Consumers' Association for years; I enjoy reading the articles in that publication, including those dealing with trading practices and false labelling. Indeed, I agree with much of what appears in the publication, and I think the association does much good in drawing to the public's attention what can take place in connection with misleading labelling, etc. However, to transmit views on this sort of activity into legislation is a different matter altogether. Why not let a few natural laws apply instead of dealing with these matters artificially? The Minister, in his second reading explanation, said that we must avoid using such expressions as "big gallon" and "economy size", but who seriously is fooled by "big gallon"? Which motorist expects more at a service station selling petrol by a "big gallon", and who on earth worries about whether 3c or 4c "off" is marked on a packet of soap flakes?

Mr. Langley: Tell me what the 3c is taken off!

The Hon. D. N. BROOKMAN: The honourable member may do well to undertake some research into that matter.

Mr. Langley: It's fake advertising.

The Hon. D. N. BROOKMAN: No-one is really fooled by this rubbish. In explaining the Bill, the Minister did not tell us much about certain matters; it was left to the member for Light to refer to the conference with other States that had been held on this subject. On this subject, the Minister has merely said that "for some years the authorities of the various States have been seeking to evolve a uniform code relating to the packing of the articles and to the labelling of the packs". He also said that the Bill applied to articles generally sold by "weight, measure or denomination". We may understand his remarks concerning "weight" and "measure", but "denomination" covers almost everything sold under a name; the word simply relates to the appellation of an article. That will cover an enormous range of things. Therefore, the definition of "article" is so wide that it needs far-reaching executive powers for

the Minister to exempt those things to which he does not want it to apply.

If Parliament continues to give away executive powers, it will theoretically reduce its work to practically nothing. However, what will happen is what happens under Parkinson's law: the work will go on building up but Parliament will get less and less of it because most of the things that it used to consider will be handed over to a Minister for executive action. I have much criticism of the powers provided in the Bill. It is a statutory defence under clause 40 (3) (*a*) for a person to prove that the commission of the offence was due to a cause that he could not reasonably have foreseen or for which he could not reasonably have made allowance. That may be some solace to directors of large companies who, when they read the Bill carefully, will see that every false move made by any employee of their firm anywhere implicates them. However, possibly by this defence they will escape. Other defences are provided in clause 40 (3), as follows:

(*c*) that he purchased the article from another person and sold or delivered it in the same state as it was when delivered to him; and

(*d*) that not less than two days before introducing evidence to establish this defence he notified the person taking those proceedings that he intends to avail himself of this defence indicating the circumstances relied upon to establish this defence.

If I am correct, this means that a person must tell a prosecutor what he will say in his defence. In referring to these statutory defences, the Minister said:

First, they do not, by any means, exhaust the ordinary defences open to a person charged, but they do give that person a clear indication of a defence which, if made out, must inevitably succeed. However, they serve another purpose, that is, they stand as a clear warning to those responsible for bringing proceedings under the Bill to, at least, assure themselves that in all probability a person charged cannot succeed on the statutory defence. In short, if it seems likely that the person charged could succeed on the defence, grave doubts as to whether the charge should be brought at all must arise.

Why should it be left to the defendant to give details of his case to a prosecutor so that the prosecutor can make up his mind whether a charge should be pressed?

The Hon. Sir Thomas Playford: It means much more than that.

The Hon. D. N. BROOKMAN: Referring to this, the Minister said:

Thus, in themselves, they act as a highly practical limiting factor in the bringing of proceedings under the Act.

If this is a new system of limiting proceedings under Acts, I wonder why more use has not been made of it before. I have no argument with the Minister's description of the Bill: my argument is with his comments. Referring to the selling and packing of articles, the Minister said:

It may safely be asserted that any honest and reasonably prudent seller is not at all likely to find himself in breach of a provision of this Part.

I should think that that is the least that should be said. The definition of "article" includes liquids, goods, chattels, wares, merchandise, and "any other goods of any description normally sold by weight, measure or denomination (other than in a single denomination), but does not include an article which is for the time being exempted from the provisions of this Act by notice under section 5 of this Act". In other words, just about everything one can think of is included in the definition: the only things that will not be included in practice will be those things specifically exempted by the Minister. The definition of "packer" is extremely wide. The definition of "sell" provides:

(*a*) offer or expose for sale;
(*b*) keep or have in possession for sale;
(*c*) barter or exchange;
(*d*) deal in or agree to sell.

Therefore, the act of selling is included in the negotiation to sell. Clause 4 (2) provides:

For the purposes of this Act, a packer who authorizes, directs, causes, suffers or permits an article to be packed shall be deemed to have packed that article.

Therefore, everyone in a firm, from the board of directors down to the person who actually puts the article in a container (and this applies to large and small factories and shops), is a packer. Executive powers are freely given under the Bill. Clause 8 provides:

An inspector may—

(*a*) enter or be upon any place or premises or stop and search any vehicle where he has reasonable cause to believe that articles are packed, marked, sold, or, without limiting the generality of the foregoing expressions, otherwise dealt with in order to ascertain whether the provisions of this Act have been or are being complied with.

An inspector can take with him a member of the Police Force. However, it is questionable whether a policeman could go on his own. In fact, an inspector can require "any person to answer any question in relation to any

article which is or which he suspects on reasonable grounds has been upon that place or those premises or in that vehicle". Clause 8 (2) provides:

A person shall not—

(*c*) refuse or fail to truthfully answer any question which may be asked of him under this Act;

(*d*) directly or indirectly prevent a person appearing before or being questioned by an inspector; or

(*e*) falsely pretend to be engaged in or associated with the administration of this Act.

The prohibition on a person's refusing or failing to truthfully answer questions that may be asked of him under the Bill is much wider than the interrogative powers given to the police. Parliament often scrutinizes the interrogative powers of the police, and I should like information about the powers being given in this Bill. Clause 9 provides that "the Minister may, on receiving an application under and in accordance with this Division by notice in writing approve of a brand specified in that approval" and the approval must be in the prescribed form, contain the prescribed particulars, and be accompanied by the prescribed fees. I do not know how many approvals will be necessary. Will every change of a brand involve a new fee and a new approval?

Clause 12 (1) provides that a person, not being, or not being authorized by, the owner of an approved brand, shall not mark or authorize, suffer or permit the marking of that brand on any article. The penalty for a first offence against this provision is $200 and that for a second or subsequent offence is $400. This House has spent the whole of an afternoon debating whether the penalty provided in the Impounding Act should be $4 or $6, and the penalties provided in this Bill seem to be fantastic. Further, anyone associated with the packing of an article can be prosecuted.

There is also provision that "the Minister may, after due inquiry and for good cause, revoke an approval given under section 9". The carrying out of these provisions will require the Minister to spend much time declaring, giving permits and revoking approvals. It is also provided that a packer shall not pack an article unless the pack in which that article is contained is marked in the prescribed manner with an approved brand, etc. I assume that most articles are first packed in an empty container by a packer and that the labelling is done before the pack is taken from the factory. Therefore, it seems to me that a packer will commit an offence by putting an article into an unmarked pack.

Further, the Bill provides that on and after a day appointed, a packer shall not pack a prescribed article except in the denomination of the weight or measure prescribed in relation to that article. Denomination means nothing more than name or designation. The penalties provided in the Bill are far more severe than any we have been accustomed to in Bills of this nature. The use of the term "net weight when packed" is practically prohibited, except in respect of prescribed articles. However, that is a good old phrase that everybody knows, and I should not have thought that anyone would be fooled by it.

Clause 24 (1) provides that a packer shall not pack an article in a pack marked with a prohibited expression or marked with a restricted expression in contravention of the provision. The penalties provided are $200 for a first offence and $400 for a second or subsequent offence. These prohibited expressions are to be determined administratively. The Minister will have to decide whether such terms as "giant size" or "economy size" may be used. However, I am sure that within 24 hours of the prohibition of the use of an expression the Minister will have to consider another equally descriptive and forceful word that has been substituted.

The Hon. J. D. Corcoran: I reckon I'll be able to cope with it.

The Hon. D. N. BROOKMAN: Much of a Minister's time is taken up in signing documents, and the Minister of Lands signs his name much more than does any other Minister. Without an extremely large staff the Minister will have difficulty in dealing with all of these so-called misleading labels and the other irregularities that the Bill sets out to correct. Clause 25 provides that "a packer shall not pack an article in a pack marked with any words stating or implying that the article is for sale at a price less than that of its ordinary or customary sale price". Does that mean that the term "3c off" may not be used? I should not be surprised if the racing announcers were penalized for saying "They're off!"

Clause 26 provides, in effect, that a packer shall not pack an article or articles in an opaque outer pack so that the volume of the outer pack exceeds the volume of the article by specific percentages. What will be the position if a person telephones a country grocer and asks him to make up an order comprising 1 lb. of butter, a tin of jam and a few other goods, and the grocer puts them all in an empty detergent carton that has

a much bigger volume than the volume of the goods?

Mr. Langley: That's drivel.

The Hon. D. N. BROOKMAN: Obviously, the member for Unley does not understand whether what I have said comes within the provisions.

Mr. Langley: I don't think anyone with any brains would do it.

The Hon. D. N. BROOKMAN: The honourable member has never shown a tremendous enthusiasm for retaining the legislative powers of the Parliament. He has always been ready to support any Bill that gives power to the Executive.

Mr. Langley: I believe in fairness.

The Hon. D. N. BROOKMAN: I think most members would agree with the member for Unley about that. However, this Bill does give power to the Minister. If the particular Minister is sensible, as the present Minister is, that power will be handled in a proper way. However, the Bill still involves a waste of much money and time. Clause 27 (1) provides:

A person shall not sell an article unless—

(*a*) where the article was packed inside the State, the pack in which the article is contained is marked in accordance with section 15 of this Act;

(*b*) where the article was packed outside the State but within the Commonwealth, the pack in which the article is contained is marked in accordance with the equivalent legislation of the State or Territory of the Commonwealth in which the article was packed;

It is not enough for a person to know this State's laws: he must know the laws of every other State and of the Commonwealth. Statutory defences are included whereby a defendant has to announce his defence to the prosecutor, who then decides whether to proceed with the charge. I should like to know what articles are to be exempted. When a Bill is under the control of a Minister it is fair to ask him how he intends to administer it. Clause 38 seems to be full of red tape: it sets out how a person may obtain a permit. Subclause (3) means that the trader has to employ someone in order to match the additional officers to be appointed by the Government to administer this provision, and this will mean extra work for everyone. I cannot understand some of the clauses, and I hope that the Minister will explain them in Committee. What does clause 45 (2) mean in its reference to exemption from proof by the complainant? I am sure it means something unpleasant for the defendant, and I oppose the Bill.

Mr. MILLHOUSE (Mitcham): When I first listened to and then read the Minister's second reading explanation I was inclined to oppose the idea of a packaging law, because it seemed to be too much unnecessary red tape. Not being the housekeeper in our family—

Mr. Coumbe: You are the boss, though?

Mr. MILLHOUSE: I may be: we won't say that too loudly, but I hope I am. I am not the housekeeper, which is the job of the "2 I.C." who administers the household.

Mr. Coumbe: Is she on equal pay?

Mr. MILLHOUSE: My wife told me that some packaging legislation was necessary, and referred me to various articles in the magazine of the Australasian Consumers Association, of which she is a member and of which she takes much notice. Perhaps I should lend my copies to the member for Alexandra, although he may not be impressed.

The Hon. D. N. Brookman: I subscribed to that magazine for many years.

Mr. MILLHOUSE: I was surprised that the Minister did not acknowledge the Australasian Consumers Association when he explained the Bill: it would have been a small gracious act if he had done so, because that association is one body that has for many years advocated some law on packaging in order to restrict the worst abuses that are common today. In the August, 1962, issue of the magazine, in an article headed "Deceptive Packaging—The Silent Salesman before the Magistrate" appears the following paragraph:

In these days of the self-service store and the supermarket, the package has largely taken the place of the shop assistant. Instead of the family grocer's advice, we now have to rely on what the new "silent salesman" tells us—usually well got up and with a very definite line of sales talk, the package tells us all that the manufacturer of the goods thinks we should know. Often this is done in a satisfactory and honest way. Too many packages, however, are deceptive and misleading, and far too many just do not give us the information we want.

That paragraph sums up the justification for legislation on this topic. In its submission to the Victorian inquiry the association set out its main points, which are covered in the present Bill, but my complaint is that the Bill goes so far. The suggested main points to be covered by legislation were as follows:

Net weight or volume to be shown clearly and conspicuously on all packages;

The net weight to be the moisture-free weight, and the drained weight to be given for products packed in liquid;

Packaged goods to be sold only in a limited number of standardized sizes;

Containers to be not more than 5 per cent greater in volume than the contents;

No price to be shown on the packet except the retail selling price;

No wording purporting to describe the size (such as "king size") to be used unless the actual net weight or volume is shown immediately beside such wording in type at least as large as the wording itself;

All regulations to be uniform throughout Australia.

Later, the association quoted some of what it called the "exotic" size names, such as those in the following list: giant size quart; starter size; big 2 ounce; one third bigger than king size; super king size; long gallon; queen size; giant imperial quart; colossal; gigantic; economy family; giant economy and not regular 10 oz. but big 12 oz.

I do not know how many housewives would be taken in by these names, but a person would not have much intelligence if she were taken in. The principle having been laid down for me by another person, I was prepared to accept it, and that was my view until I read this legislation today. The further I have gone into the Bill the less enthusiastic I am about it, and the more annoyed I have become with some of its clauses and with some of the principles involved in the clauses. The member for Alexandra referred to some of these this afternoon. I shall deal with them because this is a most one-sided Bill, weighted heavily in favour of authority and against a packer or seller of goods. One could scarcely conceive a Bill more heavily weighted in favour of authority than is this Bill. I think many of its provisions go much too far. If we are to have legislation on this topic we should have workable legislation that will not be unduly oppressive on industry and commerce. My attention was first caught by the definition of "sell"; we find that "sell" is defined much more widely than actual selling, because it includes:

(*a*) offer or expose for sale;

(*b*) keep or have in possession for sale; —

and so on. So, one does not have actually to make a sale; if one has kept an article for sale, this is included in the definition of "sell".

The Hon. J. D. Corcoran: For what other purpose would an article be kept?

Mr. MILLHOUSE: It might be kept for any purpose. My point is that the definition is much wider than the meaning of the word itself.

Mr. Hudson: But you realize it is necessary, don't you?

Mr. MILLHOUSE: No. However, I stand to be corrected by the member for Glenelg, who I understand has done a little law, and I know he enjoys demonstrating his ability in this respect. I hope he will demonstrate the points I have mentioned.

Mr. Hudson: It is a matter not of law but of common sense. If a person is displaying a "giant" pack—

Mr. MILLHOUSE: I would prefer the honourable member to make his own speech rather than to ride on the back of mine. Clause 8 defines the powers of inspectors. I understand we have provisions in the Weights and Measures Act which are not dissimilar from these. However, they do go a long way, and as a matter of principle it is undesirable that an inspector can be upon any place or premises, stop and search any vehicle, take a policeman with him, or require a person to answer any questions, and so on. Such provisions are quite contrary to the principle of the liberty of the individual. However, since we have let this through once, I suppose we are not on very strong ground in opposing it this time. The inspector can also examine any article and compulsorily buy it so that he can take it away and examine it.

Perhaps the Minister will be interested in this: in clause 8 (2) we have a list of offences or prohibitions. Paragraph (*c*) provides that a person shall not "refuse or fail to truthfully answer any question which may be asked of him under this Act". This is something which we do not normally like. I realize the member for Glenelg is waiting to jump in and remind me of subclause (3).

Mr. Hudson: I just wanted to say you had split an infinitive.

Mr. MILLHOUSE: Normally the principle is that a person does not have to make a statement to the police if he does not want to do so, whether such a statement would incriminate him or not. A person has a right in this country to shut up if he wants to do so, but here we make it an offence to "refuse or fail to truthfully answer any question". In subclause (3) we cut it down by providing:

Nothing in paragraph (*c*) of subsection (2) of this section shall be construed as compelling a person to answer any question which would tend to incriminate him.

How on earth the average layman can work out his position and know what questions he

must answer and what questions he need not answer, I do not know. No-one could be expected to know.

The Hon Sir Thomas Playford: A solicitor would not know.

Mr. MILLHOUSE: I agree.

The Hon. Sir Thomas Playford: The honourable member for Glenelg would not know.

Mr. MILLHOUSE: He would think he knew, but I do not think he would know. It is first provided that a person must truthfully answer any question, otherwise he is commiting an offence, but then subclause (3) provides:

Nothing in paragraph (c) of subsection (2) of this section shall be construed as compelling a person to answer any question which would tend to incriminate him.

This is an absurd provision which would be hard enough to work out in the cool calm of a courtroom.

The Hon. Sir Thomas Playford: Why do they ask a question, except to incriminate?

Mr. MILLHOUSE: That is the whole point. This is so involved and difficult that it is entirely undesirable, quite apart from the principle of the thing. Division II of Part II deals with approved brands. Here we have a series of provisions which puts the Minister as an individual in supreme control of what is to be done. The member for Alexandra was very generous to the present Minister; I am not sure that I would have been as generous as he was. However, we could have worse, I suppose. Clause 9 provides:

The Minister, on receiving an application under and in accordance with this Division, by notice in writing approve of a brand specified in that approval.

If this is to be administered properly, every article sold under a brand name in South Australia will have to be approved by the Minister, and this will be a pretty big job. Clause 13 provides:

The Minister may after due inquiry and for good cause—

two phrases that mean absolutely nothing: they could have been omitted altogether—

revoke an approval given under section 9 of this Act.

The Hon. J. D. Corcoran: If we had not put this in, you would have said it was necessary.

Mr. MILLHOUSE: I do not think the Minister can read my mind. The Minister must give approval, and then he may revoke it; everybody is entirely at his mercy.

The Hon. D. N. Brookman: No reasons need be given.

Mr. MILLHOUSE: I agree. I hope the relevant authority is listening to this: I may be accused of taking a petty point, but the word "which" has dropped out of our drafting in the last few months for some reason; instead of "which" we are using "that". I know this is common speech but in my view it is not yet the Queen's English.

Mr. Hudson: But you split an infinitive a few minutes ago without blushing.

Mr. MILLHOUSE: I point out that the word "that" is wrongly used in this subclause: the proper word is "which".

The Hon. J. D. Corcoran: You are only having a shot at the Parliamentary Draftsman, and you know it.

Mr. MILLHOUSE: Obviously the Parliamentary Draftsman has been through the model Bill and has changed all the "which's" to "that's". Clause 20 (4) provides:

In any proceedings for an offence that is a contravention . . . .

But clause 16 (3) provides:

In proceedings for an offence which is a contravention . . . .

Here, the word "which" is properly used. I cannot see any vice in using "which". I do not see why we have to be so modern as to be ungrammatical in our drafting. The Draftsman not only in this Bill but in other Bills is doing his best to avoid the grammatically correct "which": instead, he favours the ungrammatical "that". Although, as I say, I may be accused of making a petty point, it is nevertheless annoying.

Coming to some of the more objectionable and more important matters in the Bill, we find that a defendant in proceedings is given a statutory defence. But then we have something which I think is absolutely terrible; something which I think has not been in our legislation previously; and something at which I protest now, because it is the first opportunity I have had (and I hope it will not come again). I refer to the provision that a person cannot set up a statutory defence unless he has given two days' notice to the prosecution that he intends to plead it. This, to me, is quite bad; I have never seen it before. What does it mean? The purpose of the provision obviously is to make the prosecutor's job easier, so that he will know the defence to be put up by the defendant. Prosecutors have in the past in hundreds of thousands of offences managed to get by in courts without a provision of this nature. Why we must introduce such a provision now, I do not know. I understand (and the Minister will correct me if I am

wrong) that, in fact, this provision is not as severe as the provision in other States.

The Hon. J. D. Corcoran: We will revert to it.

Mr. MILLHOUSE: Actually, I hope we shall cut it out.

The Hon. J. D. Corcoran: No.

Mr. MILLHOUSE: The Minister is apparently not open to any persuasion on this matter, but if this is an example of having uniform legislation in this State, the less we have of it the better. I shall give an example of the effect of this provision. Frequently (and members may complain about this if they wish) a barrister or solicitor (whoever is appearing in a case) does not work up the brief until the day before or even the day of the hearing. The brief may not even be delivered to him until the the day that he has to go into court to take the case. If he discovers that the defendant has a statutory defence and that he can prove all the ingredients of the defence set out in the Bill, he cannot, because of this provision, lead evidence to establish that defence. That is entirely contrary to our principles of justice. If a person has a defence, he should be able to use it. To say that, unless a person has given the prosecutor notice two days beforehand, he cannot use a defence, is entirely unjust, yet that is what this provision means.

I said in opening that this was a one-sided Bill, and this provision is a prime example of one-sidedness. Not only is a defendant obliged to prove all these things but he is told that he cannot prove them unless he gives notice to the prosecutor, to make the latter's job easier. This is a new provision in the South Australian Statutes. I hope that, despite the intransigence of the Minister (and I hope that he will not be so intransigent as he was a few minutes ago), we shall cut out this provision. It will not affect the rest of the provisions and it will not invalidate the defence; it will merely restore what has always been the situation under our Statutes. I hope this principle will not creep into the Statutes in South Australia.

Under clause 24 (the member for Alexandra, I think, dealt with this), a packer shall not pack an article in a pack marked with a "prohibited expression" or a "restricted expression". I do not know how many members have looked at the definitions of those two phrases contained in clause 24 (3), but they are damned difficult to understand. Who will interpret them in the first place? I cannot understand what they mean. I defy anyone in this Chamber to tell me what "prohibited expression" means without giving the matter much thought and time. According to the Bill, it means:

> . . . any expression, whether consisting of a single word or of more words than one and whether in an abbreviated form or not, that directly or indirectly relates to or qualifies a unit of measure of physical quantity and without prejudice to the generality of the foregoing includes any expression, within the meaning of this provision, prescribed as a prohibited expression for the purposes of this section;

That is just one example of the unclear drafting of the Bill. Clause 25, which is short and to the point, provides:

> A packer shall not pack an article in a pack marked with any words stating or implying that the article is for sale at a price less than that of its ordinary or customary sale price.

I know which practice that is meant to stop (and the Minister made play of this in his explanation): it is meant to stop indicating that, say, 5c has been taken off, but it is much wider than that. Why cannot an article be marked with the price at which it is to be sold at a sale? Why cannot the sale price of an item be marked on a pack? This provision goes much further than is necessary.

Mr. Hughes: You ought to know better than that.

The Hon. J. D. Corcoran: They know what it means.

Mr. MILLHOUSE: I do not wish to be unkind to members opposite, but I bet the member for Wallaroo has not even looked at this Bill.

The Hon. J. D. Corcoran: I bet you haven't either, in view of what you are saying.

Mr. Hughes: I have looked at it, and I understand it.

Mr. MILLHOUSE: I shall be glad to hear the honourable member in due course. Clause 38 is also extremely wide.

The Hon. J. D. Corcoran: You haven't got on to a narrow one yet!

Mr. MILLHOUSE: I am afraid that this is the vice of the Bill. Clause 38 (1) (*b*) provides:

> Where in relation to any article there has been a contravention or failure to comply with any of the provisions of this Act with respect to the packing of any article or the marking of a pack containing any article and the Minister is satisfied that—

and it is not good that any man should have as wide a discretion as this—

> the articles were packed outside the Commonwealth and were brought into the State in such circumstances that it is just and reasonable that the sale of the articles in the State should be permitted . . .

As I understand this, if John Martins, the Myer Emporium, or any other concern imports goods from overseas which do not comply in any way with the provisions of this Bill, the organization concerned cannot sell those goods unless it obtains a permit from the Minister. I do not know how many hundreds or thousands of articles are imported into South Australia for sale by retailers or warehousemen; nor do I know what proportion would not comply with the provisions of the Bill and the regulations which will be made under it. However, I believe that none of these articles can be sold at all unless the Minister gives a permit for their sale. This is surely something which will be administratively most oppressive and which will be a great burden on commerce. Of course, it is worse than that. Once a person has a permit he must continue to make returns by the 15th day of every month of what he has left. Clause 38 (3) provides:

A person to whom a permit is granted shall deliver or forward by post to the Warden of Standards on or before the fifteenth day in each month, until all the articles specified in the permit have been sold, particulars in a form approved of by the Minister of all articles, the sale of which is authorized by the permit, sold by him during the month preceding that month.

Therefore, this person must inform the warden of all the articles he has sold.

Mr. Hall: And you are not allowed to mark them down to sell them.

Mr. MILLHOUSE: True. Under subclause (4) the Minister can revoke a permit at any time.

The Hon. J. D. Corcoran: I think you are being a little facetious.

Mr. MILLHOUSE: I am not being at all facetious. This provision is not ambiguous: I have stated the plain meaning of subclause (1). Anyone dealing in goods from abroad must have a permit before he can sell them and, without giving any reasons, the Minister can revoke the permit at any time he likes. So far I have picked out the main points in the Bill that I dislike, but I dislike other provisions as well. Whether or not the evil the Bill seeks to remedy justifies all this beaureaucratic red tape I do not know, but I have grave doubts about it. I hope the Minister will accept that I am sincere when I say—

The Hon. J. D. Corcoran: I do not know that you are.

Mr. MILLHOUSE: I am. When I read the Bill in detail, I was prepared to accept it, and I am still prepared to accept the principle behind it. However, I do not think we should put on the Statute Book a Bill in this form. Of course, the Minister will say that this is to be uniform legislation throughout the Commonwealth. However, I believe that we are the first State to take the plunge.

The Hon. Sir Thomas Playford: What if the others forget to pass it?

Mr. MILLHOUSE: If that happened, all the Minister would have to do is declare some other piece of legislation to be complementary, and he has the power to do this. South Australia is the first State to have this legislation. If the uniform legislation to be introduced is of this nature, then we would be better to remain on our own.

The Hon. J. D. Corcoran: When is this legislation to come into effect?

Mr. MILLHOUSE: I know there is a 12-month period.

The Hon. J. D. Corcoran: What are the conditions? You are saying that we are the first State, and that we will be the only one.

Mr. MILLHOUSE: That is not what I was implying.

The Hon. J. D. Corcoran: What is wrong with being the first State, anyway? Why make the point?

Mr. MILLHOUSE: Because I do not think we should be the first to introduce legislation containing so many objectionable features. I do not know whether the Minister will defend himself in relation to the various points I have raised; I bet he does not, because they are indefensible. At this stage I am not prepared to vote against the second reading, but I think we should make certain that commerce in this State is fully aware of the contents of the Bill.

The Hon. J. D. Corcoran: Talk to some representatives and see whether or not they are.

Mr. MILLHOUSE: I want to.

The Hon. J. D. Corcoran: Well, go and do it; you have had a week or a fortnight in which to do so.

Mr. MILLHOUSE: I do not know why the Minister is so angry and sensitive about this matter.

The Hon. J. D. Corcoran: I am challenging you.

Mr. MILLHOUSE: Surely I am allowed to make comments; he should not take it as a personal insult when I do. If he likes to bring forward legislation such as this under the guise that it is uniform, and for no other purpose, then he must stand up to it; he should not get so testy about it. I think I

have said enough to show that I support the principle but that I do not like many features of the Bill.

Mrs. STEELE (Burnside): Most people believe that, with the great growth in supermarkets, with the mass production of goods for sale in them and with the merchandising of these goods, which are mainly manufactured in the Eastern States (which is where most supermarkets emanated), there is some need for uniformity. This was one of the points the Minister made in his second reading explanation. He said that for some considerable time the authorities that control things of this nature have been meeting together with the idea of bringing about some uniformity. I believe that this is most desirable. He said:

A considerable degree of agreement has now been reached, and this Bill is an attempt to give effect to the uniform system.

I believe that the Bill is all right as far as it goes except that, as the merchandising and mass production of goods takes place in the Eastern States, we have to know with some certainty whether the other States have indeed agreed.

The Hon. J. D. Corcoran: We cannot proclaim it unless the other States pass it.

Mrs. STEELE: I realize that. However, because of the goods that come into the State it is necessary that there be similar legislation on the Statute Books of other States before we can have any kind of uniformity at all. A need exists for some control but, in common with previous members who have spoken and who have said that they found themselves midway between accepting the Bill and not being happy about it, my feelings towards it are fairly lukewarm. After having read through the Bill fairly carefully, I believe that its terms are broad and that the only thing really specific about it is the severity of many of the penalties that apply to particular clauses. The definition of "article" in clause 4 is as follows:

"Article" includes, but without limiting the generality of the meaning of the expression—(*a*) liquids; (*b*) goods; (*c*) chattels; (*d*) wares; (*e*) merchandise; and (*f*) any other goods of any description.

Because I thought that to use "goods, chattels, wares, and merchandise" was repetitive and redundant, I took the trouble to seek their meaning in the Oxford Dictionary, which defines "goods" as "movable property; merchandise, wares"; "chattel" as "movable possession"; "ware" as "things manufactured for sale, especially pottery of any kind (otherwise usually in combinations such as hardware, tinware, etc.)"; and "merchandise" as "commodities of commerce, goods for sale". Therefore, paragraphs (*b*), (*c*), (*d*) and (*e*) literally refer to the same thing. In case they have not been covered, the provision specifically refers to "any other goods of any description". That seems to be rather vague and unnecessary repetition.

"Bottle" is defined to mean "a hollow vessel of glass, synthetic resin or other similar material but does not include a jar or tumbler". I was in some doubt about this definition because I thought that "tumbler" might have been excluded because it could be seen as an encouragement to sell products which are packed in tumblers. Also, I was concerned that by excluding "jar" the sale of such things as honey, pickles and jam would be excluded from this type of container. However, on taking up the matter with the Parliamentary Draftsman, I was assured that the only occasion on which "bottle" is referred to in the Bill is in clause 20 (3) (*a*), and that is because of some peculiarity or because of some particular way in which bottles are filled, which relates to the fact that the bottle has a neck.

The principle of supermarkets and the mass production and merchandising of goods has come to be a way of life in our community today, and the housewife uses supermarkets extensively. In fact, with the growth of the supermarket many of the smaller shopkeepers are going out of business because they cannot compete with it. It was almost inevitable, I thought, that the Minister would refer to the terminology with which we have become so accustomed these days. Other members, too, have referred to the various superlatives applied to goods marketed these days.

This, of course, is done with an eye to making sales by suggesting that by buying certain goods in these particular sizes the housewife is getting a better deal. However, I suggest that a woman with the need to keep within a domestic budget is a pretty canny customer, and that she does not buy unless she is pretty well assured that what she is buying is a good quality product at an economic price. Naturally, she has a keen desire to buy the best possible product, having regard to its quality, quantity and price.

For this reason, most women shop around and become fairly perceptive in the process. For most everyday commodities, they usually go to a well established line. I was interested

in the following comment made by the Minister in his second reading explanation:

. . . the modern housewife is no longer able to examine the product she is buying: she cannot pinch the fruit, finger the flower, or otherwise test the products for quality and freshness.

Some people will say that it is a jolly good thing that she can no longer do these things. However, most of the things she would normally have pinched or tested are now sold in bags made of soft plastic material, and a housewife can still feel them or pinch them if she wants to do so. In any case, the point is that she still is a perceptive buyer, and I do not think these gimmicks of "giant", "jumbo" or "king" or any of the other terms applying to sizes really fool her too much. I think she is well aware of what she wants to get.

The Hon. J. D. Corcoran: Those descriptions obviously fool some people.

Mrs. STEELE: Some people will always be fooled by these things. However, I do not think the average housewife is often caught. One of the most insidious practices these days (this has been referred to by other members) is the marking down of goods with labels like "save 5c" or "5c off the original price" to entice people to buy. This is a bad thing, because we find that this so-called marking-off notice is actually part of the original printing of the label, and sometimes no indication of the original price is given. I instance the example of one product that has become popular on the market in the last few years.

[*Sitting suspended from* 6 *to* 7.30 *p.m.*]

Mrs. STEELE: Although I agree with bargains being offered to the purchasing public, I think it would be more intrinsically honest if it were insisted that any reductions of the kind I referred to before the dinner adjournment were to be denoted by pasting a separate strip indicating a reduction in price across the original label on the package or article.

Of course, the simple way for people to show their disapproval of the practice I have mentioned and of showing that they do not consider the article worth purchasing is to refrain from purchasing it. I deplore the practice of incorporating on an original label a notification that there is a reduction, without giving the customer any way of knowing by how much the original price has been reduced. Although the Minister has said that this legislation will not come into effect until similar legislation becomes operative in the other States, I deplore the fact that this measure has been brought before the House with such haste. The Bill requires more consideration than can be given to it in the time available, and as its provisions affect the whole community I consider that we could well have awaited developments in the other States.

Mr. HUDSON (Glenelg): I think it worth while to recall to the minds of members, particularly the member for Alexandra (Hon. D. N. Brookman), the basic purpose of a law of this kind. We all know that the cost of packages of excessive size is ultimately borne by the consumer. Consequently, legislation that prevents misleading packaging, as long as similar measures are enforced throughout the rest of Australia, will lead to a reduction in costs of production and, if there is sufficient competition in the particular trade, it should lead to a reduction in the price of the article concerned. I would have thought that, in these circumstances, members opposite, particularly the member for Alexandra, would be clear about the virtues of uniform legislation of this kind.

The reason for the proviso regarding the operation of the uniform legislation is quite clear. If different laws regarding packaging operated in different States, we could well have the position that, instead of a reduction in costs resulting from the legislation, manufacturers could be forced to increase costs in order to comply with different conditions in the different States. Therefore, substantial savings to the ordinary consumer can result from uniform legislation of this kind.

The complete argument in favour of such legislation is stronger than I have already stated, for many reasons. First, experience shows that, if one manufacturer starts to distribute, say, detergent in a much larger packet than his competitors, although the larger packet does not contain significantly more of the product, while the other manufacturers are economizing in regard to the amount of packing material they use and selling the same quantity as the first manufacturer, those in the latter category experience reduced sales and are forced into adopting the same practice as has been adopted by the manufacturer using the larger packet. Therefore, not only are costs increased by the manufacturer who hopes that presenting his goods in a "giant" size pack will encourage the consumer to buy more, but the competitors are compelled to adop the same procedure.

This sort of competitive process, which is basically directed at misleading the consumer,

is often associated with misleading advertisements on television and elsewhere, as I am sure every other member knows. The advertising costs incurred by each manufacturer in trying to increase his share of the market do not result in overall expansion of the market and, therefore, in benefit to the consumer. On the contrary, when the competitors start advertising in the same way, resultant increased costs have to be met by the consumer. The consumer pays in two ways, because the costs of both the unnecessarily large package and the unnecessary advertising are passed on to him.

I would have thought it was absolutely clear to members such as the member for Alexandra that uniform legislation that prevented this sort of practice would result in substantial benefit to the ordinary consumer. The member for Mitcham (Mr. Millhouse) has misrepresented the clause that provides that a packer shall not mark down an item by 5c, 10c, or whatever the amount may be. There is nothing to prevent a retailer from reducing the price of the article.

Mr. Coumbe: One person could be the packer and retailer.

Mr. HUDSON: I suggest to the member for Torrens that, in respect of 99 per cent of the items covered by the legislation with which we are dealing, the same person would not be both the packer and the retailer. We are dealing, in the main, with products sold by supermarkets. I am surprised at the attitude adopted by the member for Burnside (Mrs. Steele) regarding the marking down of prices. She has asked the House: how else can one know how much one is saving unless the saving is shown on the package? Everyone knows that these marking on packages are put there merely to deceive the customer. Sometimes I tease my wife or she teases me when one or other of us has shopped at a supermarket and we inquire how much we have saved. We find that by buying the items on which we allegedly save 5c, 8c, or 20c the net result is that we have spent $1 more than we intended. These gimmicks are intended to promote expenditure and sales, and are a kind of promotion that will increase the cost, to the detriment of the consumer.

Mr. Coumbe: Compulsive selling?

Mr. HUDSON: Of course, and sometimes compulsive buying. The member for Mitcham referred to the kind of defence available under clause 34, and other clauses, where the person charged with a particular offence is required to give two days' notice before introducing evidence that he will use that defence. I understand that, if the case comes on and he has not given two days' notice to the prosecutor that he will avail himself of that defence (perhaps his solicitor did not know that the defence could be used or had not been given sufficient warning of the case), an adjournment can be obtained so that the necessary two days' notice can be given. Nothing in the clause implies that a court should not allow an adjournment where a defendant indicated that he wanted to take advantage of the statutory defence available to him but which he had not been able to do because he had not given two days' notice. The court would not refuse an adjournment.

Mr. Millhouse: You realize that a court would normally give the adjournment if one party was taken by surprise. There is no need for a provision like this.

Mr. HUDSON: Quite: therefore, he will be given an adjournment and so will be protected. The provision is included because it may result in a saving of court costs. Perhaps the proceedings may be dropped by the prosecution before the case comes to court, and surely, that would be to the advantage of the defendant. If the prosecutor was able to see that, in the circumstances, he had little chance of success and dropped the charge, a considerable saving to the defendant and to the Crown would result. I do not know, from what they have said, the attitude of Opposition members. The member for Alexandra said he will oppose the Bill, but I assume that he does not understand the extent to which costs can rise and be passed on to the purchaser as a result of misleading packaging and excessive advertising.

I ask the honourable member to reconsider his opposition, as it seems that, provided it is uniform legislation throughout Australia so that manufacturers know that the same thing is done everywhere, there is considerable benefit to be gained. The member for Mitcham will support the second reading although he may have reservations about particular details. However, I am not sure of the position adopted by the member for Burnside. Opposition members should think carefully about the economics of the packaging industry and what it means to the customer who, ultimately, when any excessive competition disappears, has to bear the brunt of excessive and unnecessary packaging and advertising. When a competitive condition in any particular industry is fluent and certain producers are trying to establish a share of the market, prices may be reduced and the effect of misleading packaging may not be

apparent. However, when competition in the industry stabilizes, and we are left with misleading and unnecessary packaging and advertising, the level of prices will tend to rise, the ultimate result being that the consumer, instead of saving 5c or 8c, is taken for a ride.

I should think that there have been sufficient examples in the magazine *Choice* to indicate how consumers can be taken for a ride. Opposition members should not look at a particular industry and the prices in it and consider that that is a permanent condition. The current situation may be the result of a particular firm's attempting to establish a larger share of the market and of cutting prices, to some extent, in order to do so. However, once it is properly established and it turns to an offensive role and gets the other fellow to play along (and there are plenty of monopolistic practices adopted in our economy and industries), prices soon rise and the consumer cannot but lose. Those members concerned with the interests of the consumer and concerned to see that costs of production are not raised unnecessarily will support the Bill, as I do.

Mr. HALL (Leader of the Opposition): I thought Opposition members were instilling some clarity into the debate but, after listening to the member for Glenelg, we are more confused than ever. I do not know on what clause he bases his assertion that one can mark down a pack on the shelf and sell it.

Mr. Hudson: Name me a clause that states that you cannot cross out a price and put another one on the packet.

Mr. HALL: What clause is that?

Mr. Hudson: Name me a clause under which it cannot be done?

Mr. HALL: Apparently, the honourable member has not read the Bill. Two clauses are concerned with this matter, but it seems that the honourable member has read only the one dealing with packing and not one dealing with selling, which provides:

A person shall not sell an article in a pack marked with any words stating or implying that the article is for sale at a price less than that of its ordinary or customary sale price unless the sale of that article is authorized by a permit.

Penalty: For a first offence, one hundred dollars and for a second or subsequent offence, two hundred dollars.

If the honourable member likes to quibble about words, he should look at the definition of "brand", which states:

"Brand" includes any mark, device, name, word, letter, numeral or symbol and any combination thereof.

Mr. Hudson: But "brand" is not in that.

Mr. HALL: It does not suit the honourable member's argument, but if one puts a word on a package one is putting an authorized brand on it.

Mr. Hudson: I give up.

Mr. HALL: I should think the honourable member would give up.

Mr. Hudson: It says nothing about "brand".

Mr. HALL: It says "mark".

Mr. Hudson: But "mark" is not "brand".

Mr. HALL: The definition says it is: it says that "brand" includes any mark.

Mr. Hudson: The Leader is talking absolute rubbish.

Mr. HALL: The Bill says that one may not put an unauthorized brand on a package. I repeat the definition:

"Brand" includes any mark, device, name, word, letter. . . .

A person may not do this unless he has the Minister's permission. Therefore, if one buys a gross of bottles of detergent and puts a price on them (or the price might already be marked on them)—

Mr. Hudson: "Brand" has a nominal meaning.

Mr. HALL: Apparently it does not mean what the definition says it means. Can the honourable member honestly say that it does not mean what it says it means?

Mr. Hudson: It is given a limited meaning.

Mr. HALL: Clause 4 does not limit the meaning of "brand".

Mr. Hudson: The rule of interpretation—

Mr. HALL: Directly we shall come back to the remedial provision in the Acts Interpretation Act. It includes anything put on the pack: if this is not so, nothing in this Bill can be believed.

Mr. Hudson: The definition does not state "Brand is . . .": it states "Brand includes . . .".

Mr. HALL: I give in to the honourable member. He can read the definition in clause 4. If one has a line that is not selling freely and a proper price has been marked on it by the manufacturer, one cannot write a lower price on the article without the Minister's permission.

Mr. Coumbe: What if one wants to quit his stock cheaply?

Mr. HALL: One might be able to sell it as a result of a sign elsewhere in the store, but one cannot mark it down on the pack.

Mr. Hudson: A mark or symbol that would be included in the word "brand" would be a mark or symbol identifying the package as

being from one manufacturer and not another. If the Leader does not understand this, he ought to sit down.

Mr. HALL: I do not understand it. I am reading the definition in the Bill. The honourable member, by some devious means, is trying to make out that "brand" does not include something written on the package. It is what is contained in the Bill that counts, not something in the mind of the member for Glenelg. This provision immediately imposes a restriction on normal trading practice, and that is what is so wrong about this Bill. It is so wide that it is using a steam hammer to kill an ant. In the Weights and Measures Act and the regulations thereunder there are some overriding inspection procedures that can protect the public in regard to weights. The Minister has been telling members on this side of the House to grow up, but this is a Bill of great complexity that will be a humbug and a nuisance to normal trading if the letter of the Bill is applied. In the minds of members opposite it attempts to do many things which, in fact, it will not do.

The member for Glenelg talks about reducing excessive advertising, but he will not cure excessive advertising by fiddling about with the cartons that goods are sold in. There is no need to repeat the detail given by the member for Mitcham and by other speakers on this side of the House. Let the Minister say that clause 35 does not mean what I have said it means. I shall not oppose the second reading, but I shall oppose the third reading if the Bill is not extensively amended.

Mr. CLARK (Gawler): There seems to be much confusion on this issue. It is obvious that the Leader believes he knows more than the State Governments and Commonwealth Government know; possibly he might, but we have not had proof of this yet. In his second reading explanation the Minister stated that the Bill dealt with the packaging and selling of certain articles, but one would hardly believe this after hearing the remarks of members opposite. The Minister said:

Undoubtedly, the expansion and development of the industry has brought great benefits to the consumer: familiar brand names, standardization of quality, and convenience of handling are but a few of them. On the other hand—

and this is the important part: this is mainly why this legislation has been introduced—

there have been some disadvantages, too, in packages of misleading size, in deceptive labels, in confusing claims as to price reductions and to quantities and sizes—who nowadays is really sure which is the best value, the "giant", "economy" or "family" size?

I repeat: who is sure? Let us consider the speeches made so far by members opposite. I was called out of the House on urgent business this afternoon and did not hear most of the speech of the member for Alexandra, so I shall not refer to it, except for one point that I did hear. The member for Light obviously had done quite an amount of work on this Bill but his speech was marred by fancifully critical ideas that he seemed to dig up. It is hard to understand his vehement claim that this is hasty legislation. He referred to the genesis of this Bill, which was the Cuthill inquiry in Victoria from 1962 to 1963. In view of the years he named, it is hard to regard this legislation as hasty. Indeed, legislation of this type should have been uniformly introduced throughout the whole of Australia years ago. As a matter of fact I believe that, if this Government were not in office now, this legislation would never have been introduced.

The Hon. Sir Thomas Playford: The honourable member is absolutely right there.

Mr. CLARK: I am pleased to hear the member for Gumeracha say that, because it only confirms the opinion I have always held of the Playford Government. Surely, no-one can claim that we have been hasty. The Government wishes to protect the consumer and, indeed, not only the consumer is to be protected under the Bill. I congratulate the member for Alexandra on being consistent: he has shown in the past an intense dislike (almost amounting to a phobia) of uniformity. Over the years I have noticed that he seems to think that there is something intrinsically bad about it. However, this Bill is useless unless there is uniformity and, unless similar measures are passed in all other States, the Commonwealth Constitution negates the value of the Bill.

I have never heard the member for Mitcham make a worse contribution than he made today. Although I usually enjoy listening to the honourable member, even if he annoys me, the whole tenor of his remarks on this Bill was criticizing for the sake of being critical. If there was any point in the criticism that he made today, I could not see it. Nor could I understand his criticizing this Government's being the first to introduce such a measure. Is there something wrong in that?

Mr. Shannon: The first to introduce uniform legislation; that's amazing.

Mr. CLARK: The honourable member is putting words into my mouth. We are hoping that this will be uniform legislation, and I am personally proud that we are the first to introduce such a Bill. I was interested in the remarks made by the member for Burnside (Mrs. Steele) who, being a woman, is naturally interested in these things. The honourable member, as well as the member for Alexandra, said that she did not think many people were influenced by the gimmicks that we see in connection with the size and reduced price of articles. If that is so, why on earth do the firms concerned continue with these gimmicks? As large sums are spent, particularly through television, in advertising certain articles, there must be money in it, and I fancy that the consumer is paying for these costs in the long run. It obviously must pay firms to continue using these gimmicks of which, we are told, few people take notice.

How many of us have bought what seems to be a huge tube of toothpaste which, once the top is removed, consists mainly of air! The first 10 minutes of the Leader's remarks was devoted to an absolutely incomprehensible argument with the member for Glenelg and, frankly, I did not know what the Leader was talking about. The Leader then proceeded to slate the Bill in every respect. I am proud that we are leading the field in this respect. Although we have been accused of being unduly hasty, I think the original decision to introduce this legislation was made in May last.

Mr. Lawn: When were the discussions commenced?

Mr. CLARK: The Cuthill report was made in 1962. Although all Governments decided that this was a wise course to adopt (no doubt having been satisfied of the necessity for legislation of this type), the Leader has every right to think differently. Indeed, the fact that everyone else thinks differently from the Leader does not necessarily mean that he is wrong, although it does look a little as though he is wrong! I am sure the effect of this Bill will be to save the consumer's money. The producer will also benefit, because I think gimmick advertising has become an embarrassment to him although, having become involved in these methods, he may find it hard to dissociate himself from them.

The Hon. Sir THOMAS PLAYFORD (Gumeracha): I oppose the Bill for several reasons, which I will enumerate later. The previous two speakers from the Government Party directed their remarks to what they described as dishonest advertising and gimmicks. This is probably the first Government South Australia has had that has engaged in doubtful advertising and has handed out gimmicks; therefore, it should be conversant with the matters referred to in the Bill.

This is not the first time legislation of this type has been introduced. Previously, with the best intentions possible, the States of the Commonwealth introduced legislation to provide for the uniform labelling of textiles. However, it rebounded against the people who had asked for it in the first place. That legislation was passed in this House with the support of both Parties, but the wool industry later regretted that it had ever been introduced, because it prevented many people from using wool with synthetics. As a result, wool was not used at all and the synthetics, which did not have to be branded, cornered the market. Although that legislation was introduced to protect users of woollen goods, it failed and no-one would now suggest that it was any good at all.

The main thing wrong with the Bill is that similar legislation will not be passed by all the other States. The member for Gawler said that the Bill would be ineffective unless uniform legislation were introduced in other States. However, I cannot imagine that other States will make the mistake we are making and introduce similar legislation. We all know that many Ministers' conferences are held. Although Ministers attend, blithely committing their Governments to introduce legislation, frequently that legislation is not introduced or, if it is, it is amended or rejected.

If the Bill is passed, it will mean that South Australian industries will face many handicaps in comparison with their competitors in other States. The Bill deals with two major factors—selling and packaging. First, I wish to deal with the provisions relating to packaging. We cannot legislate here to cover packers in Victoria. For instance, although we can provide that packets of detergent shall be full, industries in Victoria will not take the slightest notice of that provision. Of course, the Minister will say that South Australia can deal with those industries when they try to sell their products here.

The Hon. J. D. Corcoran: The Minister will not say anything of the kind.

The Hon. Sir THOMAS PLAYFORD: Then we agree. Therefore, industries in Victoria can pack in any way they like and sell their products in South Australia. In other words, only industries in South Australia that sell their products here can be dealt with effectively

under the Constitution. Products sold in Victoria by those industries will not be covered by the Bill.

As the Minister of Agriculture knows, South Australia has a law prohibiting the entry of certain fruit into South Australia, and officers of his department try to intercept such fruit at the border. However, all too frequently fruit infected with fruit fly comes into South Australia in contravention of our law. The Minister is not to blame for this because, if he tried to prosecute anybody with regard to the entry of that fruit, the High Court would declare that the regulations concerned infringed section 92 of the Commonwealth Constitution. On the advice of the Crown Solicitor, the previous Government never conducted such a prosecution.

Even if all States pass legislation of this type it will be ineffective because the Privy Council and the High Court have time and again stated that section 92 applies to all Governments: its provisions cannot be overcome by the States getting together. Therefore, it does not matter whether we have a marketing scheme: it would tumble down unless there was another way to prop it up as the wheat marketing scheme was propped up when the price of wheat was made uniform in all States so that there would be no reason for a farmer to sell his wheat across the border.

I do not like the Bill, because it imposes many restrictions that cannot be set out clearly in the legislation. Further, it will not be effective, because it cannot be put into operation. This Government can control the price of a commodity produced and sold in South Australia, but it cannot control the price of a commodity produced in New South Wales or Victoria and sold here. We may try to bluff our way through but, when the seller threatens to issue a writ (which happened many times during my term as Premier), the Crown Solicitor will promptly advise the Government to get out from under.

Although perhaps not intentionally, the Minister is in error when he says that this legislation will be effective because it will mean uniformity between the States: it will not be effective, because similar legislation will not be passed by the other State Parliaments or by the Commonwealth Parliament. Indeed, if it were passed by those Parliaments, it could not be enforced except in a limited way as far as South Australia is concerned. Those limits would impose on South Australian manufacturers hardships that manufacturers in other States would not have to contend with.

The honourable member for Frome shakes his head, but I had 20 years' experience of section 92 of the Commonwealth Constitution and was involved in many cases before the High Court and the Privy Council in which it was discussed. Indeed, the Rt. Honourable J. B. Chifley's attempt to nationalize the banks failed because of section 92 when the Commonwealth Government had a clear mandate under the Constitution, and in that case one would not have thought that the section would apply. However, by a unanimous decision the attempt to nationalize the banks failed when the court held that, if there was one control of banking, transactions between the States could be impeded.

What has been our experience regarding transport laws? This Government cannot impose the same registration fees on vehicles from other States as it can on South Australian vehicles that use our roads. If the Minister took the trouble to get proper advice on this matter, he would find that, irrespective of whether the other States passed uniform legislation, such legislation could not be put into effect because of the constitutional problems that would arise.

Let me deal with the second question which the Minister and the member for Gawler have emphasized as being important, and which the member for Glenelg briefly touched on: that this must be a uniform measure. There is scarcely one clause in the Bill that cannot be completely altered by an administrative act of the Minister. Will the Minister, before he gives consent to a brand or before he revokes a consent he has given, confer with the respective Ministers in the other States? Of course he will not. That shows just how ridiculous the Bill is: it is so stupid unless there is an administrative wisdom about it that I cannot find. Unless a superhuman Minister is in charge of its administration, the Bill will cause all sorts of dislocation to industry, and will not, as has been so confidently claimed by members opposite, reduce the price of commodities: it will do exactly the opposite. If industry has to go through all the rigmarole involved in the Bill, its effect will not be as members opposite have forecast.

Another aspect that has not been emphasized is that South Australia has a Prices Commissioner and a small Prices Department, which has done the best it could with its limited number of personnel. The department has

only a small staff and, strangely enough, there has been no increase in its size. If the department has to go through the rigmarole of approving brands and opening packets to see how much spare air is contained in them, it will not be able to do the legitimate work for which its officers have been appointed. Members opposite know that there are many commodities produced on which the watchful eye of the Prices Commissioner would be advantageous.

The Bill falls down on several grounds. Similar legislation has not been passed by the other States and, although the decision was made many months ago, according to interjections that have been made this evening, there is no glaring urgency for the other States to pass it. I doubt very much, knowing the feelings of some of the other State Governments and Parliaments, that even the skeleton of the Bill would be acceptable to them. However, if the legislation is accepted in other States, the matters are so much concerned with day-to-day administration that the legislation will not be uniform, and consequently, industries in this State will be at a great disadvantage compared with competitors in other States, where industries have a much larger market and can effect lower unit costs. We have had many instances of industries in this State being subjected to extreme economic pressure from competitors in other States. I consider that, if the legislation is challenged, it will be found to be unconstitutional. Further, it will impose on commerce restrictions that will serve no useful purpose.

I have wondered whether the Chamber of Commerce has considered what will be the results of this Bill. I am sure that if it does that we will hear from it. The provisions and definitions are so wide as to render impracticable their administration. I consider that the Bill is founded on wrong principles. We have heard much about advertising this evening. Probably advertising has resulted in reduced costs because of increased sales and the lowering of unit costs.

Mr. LANGLEY (Unley): I support the Bill and am sure that many people, especially housewives, will be pleased at the action being taken. The member for Gumeracha (Sir Thomas Playford), as usual, does not believe in progress of any kind. He is not abreast of the times in relation to the views of the Chamber of Commerce, because I am assured by the Minister that the chamber is quite satisfied with the measure. Opposition members say that South Australia should not be first in anything, but this State has been behind the other States for many years and it is only in the last two or three years that we have been able to do things that were needed for a long time. I cannot understand the argument that the people of this State are different from people in other States. I have not noticed any difference, and we should all be on the same plane. The member for Light (Mr. Freebairn) often likes to have a shot at me.

Mr. Clark: He never scores, though.

Mr. LANGLEY: No, I have made a few runs in my time. The member for Light made many references to what he called the haste with which the Bill was being treated and said that he did not have time to consider the matter properly. Although I give him credit in relation to some of his criticism, my opinions differ from his. He had plenty of time to study the Bill. Indeed, he was the main speaker for the Opposition. I do not think the Opposition has much confidence in our Minister, because it has said that the powers being given to the Minister are too wide. However, I have the greatest confidence in the Minister. Perhaps we have someone they want, but I am sure he would not want any position on the other side. This legislation will eliminate such undesirable practices as, for example, have been indulged in by some hotelkeepers in regard to drinking glasses and not giving people the amount of liquor for which they have paid.

Further, we are living in the age of supermarkets, and certain products are put out as specials or promotion lines. These lines sell well but manufacturers cannot further reduce the price: they sometimes sell a lesser quantity in a package of the same size, or lower the quality, and so hoodwink the public. Soap powder manufacturers brand their packets "5c off" but nobody knows the correct price. I admire the present trend of advertising, although it is misleading in many cases. This legislation will prevent this type of advertising and ensure that what is sold is genuine and of the correct weight. The Bill will ensure that competition will be based on the quality and the merits of the product, and I am sure that manufacturers and packers will abide by it, because they will be helped by it. This legislation will be popular, because the people of South Australia will realize that it will benefit the State.

Mr. SHANNON (Onkaparinga): I have shown this Bill to people concerned with the company in which I have a personal interest and they do not object to it. This company

exports a considerable quantity of cheese and also sells it in the Eastern States, but it is not prepacked: it is packed by the wholesaler to whom the company sells it. For the sales we make within the State the cheese is prepacked. I favour prepacking goods for housewives, because it suits them to buy the goods packed in that way. By introducing this legislation we are trying to tell our grandmothers how to suck eggs. Reputable packers show the correct net weight on the package, and most housewives know what they are buying and the price they should pay. They seldom fall for the same trick twice. Perhaps we underestimate the intelligence of our womenfolk, as they are competent to look after their interests.

It was a mistake, as we realize now, to pass legislation some years ago dealing with the wool industry. We thought we were protecting the wool industry, but we were doing it a great disservice and robbing the grower of an expanding market for a cheaper but in many ways good product, because a mixture of wool staple and synthetics helped to dispose of much of our wool. We should be careful about introducing this legislation, because we may be the only State that does so. Clause 2 provides for the Minister, when good and ready, to proclaim the Act. To me, this Bill seems to be more window dressing, as was the radio programme on which the Premier appeared this morning to answer a series of questions. He was asked whether boxing, wrestling, and rodeos would be permitted on a Sunday and he replied, "I won't let a rodeo take place in a built-up area." This legislation, introduced in the dying hours of this Parliament, is window dressing, and I am sure that our Eastern States competitors will be laughing at us for introducing it. I think Sir Henry Bolte is a clever fellow. He has sold us a couple of pups already, as far as I can gather, and here is another pup coming up. This legislation has been called uniform legislation, but we will be more uniform than anybody else! Interstate manufacturers will stand aside and say, "Silly fools! We can send our goods to South Australia packed as we like, and they cannot do anything to us." The Minister has been fighting to the best of his ability the importation of margarine into this State, but unhappily he has been fighting a losing battle, largely because of section 92 of the Commonwealth Constitution.

I do not think this Bill is in the interests of the housewife. Clause 35, which has a effect contrary to the alleged aim of the Bill (the protection of the housewife) provides:

A person shall not sell an article in a pack marked with any words stating or implying that the article is for sale at a price less than that of its ordinary or customary sale price unless the sale of that article is authorized by a permit.

I am connected with a company that has a large trade in butter. Several brands in 1 lb. and ½ lb. packs are available to South Australian housewives. From time to time chain stores offer butter for sale at 3c or 4c a pound less than the price they actually pay for it.

The Hon. J. D. Corcoran: They could cut 7c a pound off it if they wanted to do so.

Mr. SHANNON: If the clause does not mean anything we need not have it in. It is strange how often the Government introduces legislation to which alterations must be made.

The Hon. J. D. Corcoran: This clause has a purpose.

Mr. SHANNON: Yes, the purpose is to cause the housewife to pay a little more than she would otherwise have to pay. I challenge the Minister to explain that clause 35 does not prohibit this practice. If it does not prohibit this practice, what is the sense of it? There is much talk about large packets of detergent, cereals, etc. Cereals are put in a grease-proof pack that states "12 oz. net weight". The grease-proof pack is put in a cardboard container with the manufacturer's brand on the outside. The container may be a little larger than is necessary to contain the grease-proof pack.

Mr. Casey: A little larger?

Mr. SHANNON: It does not matter. The honourable member buys what is in the cardboard. Does he believe people are foolish enough to think they will get something for nothing if a product is sold in a pack that is larger than is absolutely necessary? Is this hoodwinking the public into thinking it is getting more? There is a provision that the net weight must be stated, and I applaud it. We are trying to make out that people are so foolish that they do not understand their own business.

I believe I could get up on a soap box in the Botanic Park and make a real song and dance about what we are saving the housewife, but this will not save her a razoo. She will still pay the same for the commodities.

Mr. Clark: Then why do the manufacturers do this?

Mr. SHANNON: Because they have to face competition. If anyone thinks he is getting something for nothing it does not take more than one occasion for him to wake up that this is not so.

The Hon. C. D. Hutchens: But 10,000 people buying something just once helps, doesn't it?

Mr. SHANNON: No business was ever successful on a "one-sale" basis. It must keep selling the same article, and to the same people. When a business has a satisfied clientele it is on the road to success.

The Hon. C. D. Hutchens: The gimmicks are reselling articles all the time.

Mr. SHANNON: I do not think they are.

Mr. Clark: Why do you think they keep on producing them—just for fun?

Mr. SHANNON: No, they do not. How silly can one get? I have had the experience in Parliament over the last 30-odd years of trying to save fools from their folly, and I know of no less rewarding exercise. In fact, trying to prevent a fool's being parted from his money is not only a waste of time but also a disservice to some people.

Mr. Clark: But you were saying they don't fall for this sort of thing.

Mr. SHANNON: I do not think many people fall for it. I do not agree for a moment that the average housewife, for instance, falls for these gimmicks, as has been suggested by the member for Glenelg. I think the housewife is probably more selective in her approach than most of us give her credit for. My wife receives her housekeeping allowance and looks after it, making sure that she gets full value for her money. Although a housewife may be misled once, she will never fall for the same sort of thing again. How stupid can we get in trying to pass legislation seeking to protect the housewife against herself!

I do not think this legislation will do any real good for the economy; indeed it could do some injury to some of the industries establishing in this State that depend not only on supplying the home market but also on supplying markets in the Eastern States. I should like to foster the expansion of our markets to the Eastern States, but I do not think this legislation will help in that regard.

Mr. QUIRKE (Burra): I hope this legislation is passed in its entirety. I am sorry to say that I have listened to much ill informed criticism this evening. I considered this legislation five years ago when, as a Minister of the previous Government, I attended two conferences in Canberra. There have also been four conferences comprising all Ministers, together with their advisers, and I think there have been 10 conferences of the officers responsible for preparing this legislation.

During my association with those people I became aware of their dedication to the job, not in their own interests but in the interests of the people whom they were given the job to protect. Every Minister concerned at the time was present at these conferences, and all the obstacles were slowly overcome. Listening to the obstacles raised, one became aware of the reasons for this legislation. I was struck by the pitiful way in which money was being extracted from people through sheer bare-faced and unadulterated robbery. The evidence produced was not phoney: it was advanced by people who were able to substantiate the need for this type of legislation. This is not bad legislation. The matter that has received most criticism is contained in clause 35, which provides:

> A person shall not sell an article in a pack marked with any words stating or implying that the article is for sale at a price less than that of its ordinary or customary sale price unless the sale of that article is authorized by a permit.

The permit would come from the Minister. An article may have the label "5c off", but that is not, of course, a true indication of the value of that article. Although it may certainly be 5c cheaper than another article seemingly of the same size, I point out that the cheaper one is 5c less in value, for it contains so much less material. That is a sheer take, and this legislation is designed to prevent that. This Bill does not prevent a person from selling an article at any price, although if the price is increased no doubt the Prices Commissioner will be concerned. The price can be reduced until it is given away, and no-one's consent is required. The Chamber of Commerce, the Chamber of Manufactures, the Food Technology Association, and the National Packing Associatioin are all conversant with and approve of this legislation.

Mr. Jennings: The member for Light didn't say that.

Mr. QUIRKE: Perhaps he did not know, but I do know. People are not hurt by honest and straightforward methods. Some people may care to get a bit on the side by using methods that are not honest and straightforward, but this legislation is designed to prevent their using such methods to the detriment of the people who purchase the

products involved. These provisions will nail manufacturers down: many packets of breakfast cereal (or whatever the commodity may be) would need to be sold to cover a $500 fine. I believe that the fines provided are heavy, because borderline cases may be involved. However, I trust that the magistrates hearing prosecutions under the Bill will take this factor into account. Although the fines are extraordinarily heavy, they are not heavy enough to deal with some of the people of whom I heard when I was a Minister who deliberately did their best to take other people down.

Some things sold today are said to be marvellous for growing children and are advertised extravagantly. However, during wartime, it was only because of the impact it would have had on the economy that these products were not banned as a useless waste of good foodstuff. I have explained the meaning of clause 35, and I am sure that the provision will not be detrimental to or inflict any penalty on anybody except those who deliberately breach the law. Nothing in this provision will prevent people from selling an article in open competition at any price they like. If an article has a standard price of 40c and someone wants to sell it for 10c less, there is nothing to stop his doing so. However, some provision in the Prices Act might prevent the price of that article being increased.

As I have said, I was associated five years ago with this matter and with the people who brought it into existence. Those people had been prompted by Ministers and other officers of Government and knew the necessity for this legislation as well as for legislation dealing with weights and measures. In fact, during my period of administration, the necessity for standard measures and standard packaging stood out. Something is being done about standard measures, and in fact something was done in the Licensing Act. I should like to see the end of the reputed quart. It is ridiculous that, instead of there being four quarts to a gallon, there are six reputed quarts to a gallon. A 20oz. pint bottle, which is a handy size and which is much better than the under-sized reputed pints, is now available. However, why such things as reputed quarts, rods, poles, perches, the proof spirit measurement of liquor and so on grew up, I do not know. All these matters are being handled slowly and methodically by the people concerned, their main wish being that there shall not be a sudden and heavy impact on people when the new provisions are introduced.

I should think that when the Bill was passed the Minister would permit it to remain in abeyance; therefore, it does not matter whether we are the first or the last State to pass it. The position is that this legislation will not operate unless all States pass it. Regarding section 92 of the Constitution, to which reference has been made, I am reminded of the famous James case which occurred in the dried fruits industry some years ago and which cost the growers of the State $200,000—a parcel of money in those days. We thought that by an Act of Parliament we could make growers sell their products to registered packing houses in this State. Of course, not all growers would do that, and some earned their spurs by selling over the border. This was known as "currant running" and, at that time, unless a person had taken a truck-load of currants over the Victorian border he had not earned his place in polite society. On one occasion two inspectors hid in the hop bushes along the channel in an effort to apprehend a grower in this practice. At about 2 a.m. they saw a lantern burning and heard the sound of boxes being loaded. Being young at the job and over-enthusiastic, when the load was ready they went to the gate and said to the grower in the truck, "Where are you taking the fruit?" He said that he was taking it home, which he did: he did not take it out on the road.

However, the point is that, when a grower challenged the Act on the basis of section 92, he won the case and we had to pay. How could this position be overcome? Victoria and New South Wales passed legislation complementary to that in South Australia and there is also a Commonwealth Dried Fruits Board. Therefore, with South Australia, Victoria and New South Wales having dried fruits legislation and with the co-ordinating Commonwealth board, section 92 did not operate in the three States. A similar situation could be worked out in relation to this type of legislation. Whether complementary Commonwealth legislation will be introduced in this case I do not know, but it can be done.

I pay a tribute to the people responsible for bringing the Bill down. It has taken them six years to achieve this, and it is a monument to their undivided and devoted effort. Much of the ill informed criticism that has been levelled at the Bill is completely unjustified and unwarranted. I support the Bill.

The Hon. J. D. CORCORAN (Minister of Lands): I am rather surprised at the reaction

of the Opposition to this measure. I express my appreciation to the member for Burra for his contribution, because I know he played an important part in the formative stages of the measure. I do not think I could express in better terms than this my appreciation for the work that has been done on this measure by my departmental officers and officers throughout the Commonwealth. It would be germane to pay a tribute to the late Mr. Reg Osborne, the Warden of Standards prior to Mr. Servin. He played a prominent part in the early stages of the negotiations prior to the legislation being introduced. Much has been said about the haste with which the legislation has been introduced, and much has been made of the point that we are the first State in the Commonwealth to introduce such legislation. It would appear, the way members opposite have spoken about it, that this is a crime. I make it perfectly clear that the Bill will not be proclaimed unless every other State and the Commonwealth Government passes complementary legislation.

Mr. Millhouse: Why do you want to be the first?

The Hon. J. D. CORCORAN: It has been decided by the Ministers of the State Governments and Commonwealth Government that the Bill will be proclaimed on January 1, 1968, provided that all the States and the Commonwealth pass complementary legislation. Even the honourable member for Mitcham, from this point on, could work out why we are introducing the Bill now. He made a powerful speech on the far-reaching effects of the Bill and spent much of his time criticizing the Parliamentary Draftsman about the use of the words "which" and "that".

Mr. Millhouse: You were going to move an amendment as a result of it.

The Hon. J. D. CORCORAN: Is that a fact? Is the honourable member telling me what I am to do? He might find out differently.

Mr. Millhouse: I shall be very pleased if I am wrong.

The Hon. J. D. CORCORAN: I shall deal later with what the honourable member has had to say. Many useless comments have been made about the Bill: the member for Alexandra went to great lengths to explain how it would interfere with commerce, and the member for Light complained bitterly that commerce and industry had not been consulted.

Mr. Freebairn: And quite justifiably, too.

The Hon. J. D. CORCORAN: The honourable member must know that many things go on before a Bill is drawn up and that with me nothing changes after negotiations have taken place in connection with the drafting of a Bill. If he could put his finger on one thing that had changed since the negotiations were completed, I would be happy to apologize to him.

Mr. Freebairn: How could I show that? You were not courteous to the Opposition on that occasion.

The Hon. J. D. CORCORAN: When I asked the honourable member to speak on this matter I made it clear to him that he would be the only member to speak and that the debate would be adjourned immediately he finished. I said that in the light of the fact that he had had a copy of the Bill since it had been introduced. I do not think that was being unfair to him.

Mr. Freebairn: Of course it was unfair. I wanted time for my Party to study the Bill, but it did not have time to do so.

The Hon. J. D. CORCORAN: From my experience a Bill is normally farmed out to a member and the Party relies to a great extent on his deliberations. No doubt the honourable member did a reasonable job because he supported the Bill. Although some of his colleagues did not agree with him, I do not think he was wrong in supporting the Bill.

Mr. Freebairn: I supported the second reading.

The Hon. J. D. CORCORAN: The honourable member supported the Bill up to that stage. I am not interested about what he does from here on: that is his business. I want to say a little more about the way in which the member for Light canvassed the various members of this organization. I think he had a sneaking suspicion that he was going to have a victory over me and the department in that we had done nothing about consulting the industry. However, I want to make it quite clear that much trouble was taken to consult the industries involved; in fact, upwards of 200 hours of negotiation took place. The honourable member for Mitcham laughs. He can stand up after cursorily glancing at the Bill this afternoon (as he admitted) and tell us exactly what is wrong with it. The various States have looked at this, and we have consulted with the industry for upwards of 200 hours in some cases. I think the honourable member for Light thought he was going to have a victory over us in that we had not done our homework on this measure.

Mr. Freebairn: Not at all.

The Hon. J. D. CORCORAN: I think the honourable member thought he had us at a disadvantage, but I hope he has been enlightened since then.

The Hon. G. A. Bywaters: I think he is a bit wet behind the ears!

The Hon. J. D. CORCORAN: I do not want to be personal about this. I think the honourable member has a perfect right to say what he said. The member for Gumeracha (Sir Thomas Playford) made great play about the effects of this Bill and how ineffective it would be because of section 92 of the Commonwealth Constitution. He said we could do nothing about anything that goes on in another State and that another State could not do anything about what goes on here. Nobody denies that. The honourable member for Light pointed out during the debate on the Weights and Measures Bill that this was really the function of the Commonwealth, and indeed it is. The Commonwealth Government need not ask us if it wants to take it over tomorrow. Indeed, if the States do not pass complementary legislation in this matter, my tip is that the Commonwealth Government will take it over.

Mr. Coumbe: Under what power?

The Hon. J. D. CORCORAN: Under the Commonwealth Constitution, and the member for Light could give the honourable member an exact reference. This is the Commonwealth's function, and not the function of the States. It has been left with the States because the Commonwealth decided not to take it over as part of its Administration.

I shall now deal with how effective this legislation can be in its present form. Unfortunately, the member for Gumeracha may not have listened to my statement that this is a Commonwealth function and that the Commonwealth, without consulting the States, can take over this matter tomorrow if it wants to. The Commonwealth has been represented at all the conferences and knows what is being done. I said this in my second reading explanation:

There is, however, a further factor, in that to avoid much unnecessary inconvenience regard must be had to the "national" nature of the packaging industry, so that the principle that has been adopted in this Part may be summarized in the statement, "If an article was lawfully packed within the Commonwealth or if it could be lawfully sold within the Commonwealth it should be lawfully sold in South Australia". To this end, will be found references "corresponding or equivalent laws" of other States or Territories and I can assure honourable members that the fullest possible use will be made of the powers conferred on the Minister in this regard.

If the member for Gumeracha looks at clause 27, he will see where provision is made. That is to say, if the Warden of Standards inspected in this State packages that were packed, say, in New South Wales and if he found them to be defective, he could communicate with his counterpart in New South Wales, and action could be taken against the packer. That is perfectly legal and the honourable member will see that it does not contravene section 92 of the Commonwealth Constitution.

Mr. McKee: He didn't know that.

The Hon. J. D. CORCORAN: He did not want to know: he wanted to lead people away from the facts. The member for Burnside, the member for Burra and the member for Mitcham were concerned about the penalties. The member for Alexandra also described them as being heavy, and he compared them with the penalties provided in the Impounding Act.

Mr. Quirke: He did not.

The Hon. J. D. CORCORAN: He said that we ought to consider the penalties in the Impounding Act and that we had argued for an afternoon about them, although in this Bill we were imposing fines of $200. I wonder whether we could compare Unilever Australia Proprietary Limited with the Impounding Act! I wonder whether the honourable member has realized that a shortage of 2oz. in a pack would mean about $1,000,000 in one week to a firm like Unilever. The Commonwealth recommended penalties of $1,000 in some cases but the States rejected that, because the amount was too severe. If we did not have a reasonably effective deterrent, the legislation would be completely ineffective. Anyone defending a prosecution under it would not even send the articled clerk along to appear. The penalties provided are completely justified, and there is good reason for them.

The Leader of the Opposition, at a late stage of the debate, made a powerful contribution about clause 35, and an argument ensued between him and the member for Glenelg about whether a retailer was permitted to mark a pack. The Leader knows that this provision is so framed as to prevent the packer from printing into the pattern or the design of the packet "5c off" or something like that, as the member for Burnside mentioned. In order to prevent that, we cannot allow the packet to be marketed, without a permit, in a retail store. I am sure the

Leader has been to a supermarket or a grocer's shop and has seen baskets with "Special" marked on them and notices such as "45c old price; 35c today's price. We want to sell them." Nothing in clause 35 prevents that.

Yet, the Leader had the temerity to say that these people would not be able to cut their prices. I think that was the most important point he made. He did say that the provisions regarding the registration of brands would result in a cumbersome procedure and would involve much administration. However, members know that we must be able to identify the packer. If we are to prosecute for short weight in a pack, it is imperative that we be able to trace the pack to the packer. We can do this in one of two ways. First, we can require the packer to place his name and address on every pack that he sets out. The other method is to require the packer to register a brand with the Warden of Standards, which brand would be sufficient to identify the packer.

Obviously, the most convenient and economic method as far as the packer is concerned is to require him to register his brand. We can still go to the source of the trouble if that is necessary, and I do not see anything wrong with this provision. As the member for Light knows, it solves the problem that arises from the fact that many "shadow" packers are operating in this industry. It is big industry here. If we required packers to place their names and addresses on all the packs, the same packer would be packing different brands and people would become suspicious, so that difficulty has been overcome. The name or address will not be shown, and I think the provision is perfectly reasonable.

The member for Onkaparinga (Mr. Shannon) asks how far we must go to protect a fool. He says that every time we try to protect a fool, we are in trouble. However, I point out that there is benefit in this measure not only for the consumer but also for the manufacturer, the packer and everyone else concerned, as the member for Glenelg and the member for Gawler emphasized.

Surely the procedure is simplified by laying down a uniform pattern. In those circumstances, the honest man is protected. The genuine manufacturer and packer will not be in the least concerned, because he will continue to do the right thing and will appreciate the protection given him. I have had examples of deceptive packaging. In fact, I have some under my bench but I shall not show them, because you, Mr. Speaker, will probably rule that I am exhibiting something. There have been cases where boxes containing the same product and in the same density have been displayed in three sizes: one large; another less than half the size of the first; and the third almost the same size as the second. The smallest pack contained 20oz. of the product, the largest contained 16oz. and the pack almost equivalent in size to the 20oz. pack contained 12oz. I know which pack people would grab, particularly if they were in a hurry, but the smallest pack contained the largest quantity. The packer and manufacturer producing this item had to make the large pack in order to increase the sales, because the product in the small pack was not being sold.

Mr. Coumbe: How was the price range?

The Hon. J. D. CORCORAN: The 20-oz. pack was dearer, because the packer had to get value for it, but the large pack did deceive. People may think it is childish to worry about "king size", "giant size", and so on, but it is necessary. We are not concerned with quality in this Bill (quality will sell itself), but we are concerned that quantity is adequate and that people are not deliberately deceived by these gimmicks. I hope that members will support the Bill in all respects. I know that my loyal friends on this side are convinced that the measure is sound and in the best interest of the consumer, the manufacturer, and the packer, and that if it is adopted throughout the Commonwealth it will be in the best interests of everyone. I have not answered all queries raised by speakers in the debate but, no doubt in Committee I will reply to them. I am pleased with the support that I have had from some Opposition members, and certainly pleased with the support of members on this side.

Bill read a second time.

Mr. MILLHOUSE: I move:

That it be an instruction to the Committee of the whole House on the Bill that it have power to consider a new clause relating to the packing of eggs.

My fundamental reason for asking the House for this instruction is that at present purchasers of eggs, by compulsion, are obliged to buy eggs in non-returnable cartons. They have no choice, if they are to buy this staple food, but to take them in non-returnable cartons for which they must pay (and this is generally agreed) 3c for each carton. I have, and it underlines what I have said, the original letter

from the Australian Egg Board when introducing the non-returnable—

The SPEAKER: Order! I have had considerable difficulty in deciding whether this contingent notice of motion is permissible. It is not clear-cut from precedent, nor, in my judgment, is Erskine May very definite. I have decided on balance to give the member the benefit of the doubt, but I must insist that he confine his remarks to the reason for his desire for the instruction to the Committee. There is precedent for that insistence in this Parliament, in which the member for Mitcham was involved in 1959, and, as he was instructed by the Speaker then, I must now insist that he do not canvass the question that he wants the Committee to consider, but that, in moving that the Committee have power to consider a new clause, he confine his remarks to that question only.

Mr. MILLHOUSE: Thank you, Mr. Speaker, for your ruling, which I greatly appreciate. Sticking strictly to the question whether the House should grant this instruction, I point that that the question of the packing of eggs has aroused much discussion and controversy in the community, so much so that it is proper that this matter be discussed in Parliament, because this is the place where matters of controversy in the community should be debated and thrashed out. The long title of this Bill is such as to enable this subject matter to be discussed here and for Parliament to direct the Egg Board to desist from the course on which it has set itself. The long title of the Bill states:

An Act relating to the packing of certain articles for sale, the selling of those articles and for other purposes.

Obviously, when one considers the long title the question of the sale of eggs in cartons falls within that subject matter. This is a matter of public importance, because eggs are a staple food, and I emphasize that unless this House deals with the matter during the debate on this Bill it will not get another opportunity to do so this session. It is well known that the time for private members' business has already lapsed, and that the Government (and I use a neutral word) is unwilling, because of its legislative programme, to allow time for debate on private members' business. I had that pointed out to me very astringently by the Premier—

Mr. Langley: Hasn't it been done before?

Mr. MILLHOUSE: —some time ago, so that this is the only opportunity to discuss this matter. I will not canvass the merits or demerits of the amendment I desire to move. I have referred to the element of compulsion and will not take the matter further. This matter is within the long title of the Bill and it is a matter of public controversy, however members feel about it. This will be the last opportunity that Parliament will have this session to debate the matter. Therefore, I ask members, in the light of those three points, to allow the instruction so that we may have the opportunity, not at great length, in the Committee to thrash out the problem of egg cartons.

The Hon. J. D. CORCORAN (Minister of Lands): I oppose the motion because I consider that any new clause to be inserted in the Bill should be relevant to it.

Mr. Millhouse: I have shown that it is.

The Hon. J. D. CORCORAN: I cannot agree that this matter has anything to do with the Bill. The honourable member said that if his motion were carried he would canvass the matter only briefly, but I doubt that. The substance of what he has raised in his request for an instruction does, in fact, direct people either to pack or not to pack, whereas this Bill has nothing to do with instructing people to pack or not to pack; it lays down certain requirements if people pack on their own volition, and I therefore consider that the substance of the motion for the instruction is irrelevant. Consequently, I oppose the motion.

Mr. FREEBAIRN: I support the motion. Contrary to what the Minister said, this clause deals with the presentation of eggs to the public. It deals directly with the packing of one of the commodities encompassed within the ambit of this Bill. It is desirable that the Committee should have the opportunity to discuss the types of container in which eggs are marketed in this State. In his second reading explanation the Minister said that nowadays the person buying goods in a shop has no opportunity to examine closely the goods being bought.

The SPEAKER: Order! I cannot allow a debate on what the Committee will discuss if this motion is carried. The motion deals only with the question whether this House shall instruct the Committee to consider a new clause.

Mr. FREEBAIRN: I believe that egg containers should come within the scope of this Bill.

The Hon. Sir THOMAS PLAYFORD: I cannot agree with the Minister when he says that this new clause is outside the scope of the Bill. First, I point out that, if the instruction was not a proper instruction, the Speaker

would not have allowed the motion to be moved. It is clearly laid down by Erskine May that the nature of an instruction that can be allowed—

The Hon. J. D. Corcoran: How many did you allow?

Mr. Coumbe: Don't be cross.

The Hon. J. D. Corcoran: I'm not cross.

Mr. Millhouse: You are cross. You have been like it all day.

Mr. Langley: You ought to talk.

The SPEAKER: Order!

The Hon. Sir THOMAS PLAYFORD: The second question is whether this House should allow this matter to be debated. Over many years it has been the custom of this House to allow an instruction to be moved, although I do not say that there have not been occasions when such a motion has been opposed. The custom has been to allow a member to bring forward something which he regards as important to the community and which he believes should be considered within the scope of the Bill before the House. What reason has the Minister for departing from what is generally accepted practice in this House to allow members to discuss matters they want to discuss? I strongly support the motion.

Mr. HUDSON: I am not one who is very knowledgeable of the customs of this House, but in *Hansard* of November 5, 1959, at page 1451, we find that during the debate on the Prices Act Amendment Bill the member for Mitcham, then a member of the Government Party, moved:

That it be an instruction to the Committee of the Whole House that it have power to consider new clauses to repeal section 8 and sections 34 to 42 of the principal Act.

In the course of the debate Sir Thomas Playford took five points of order against the member for Mitcham. He said:

On a point of order, Mr. Speaker: the honourable member has moved for an instruction to the Committee to discuss certain matters. Is he in order in discussing these matters before the instruction is given?

The Speaker upheld the then Premier on this point, but the member for Mitcham wandered somewhat during the debate and a series of further points of order from Sir Thomas Playford followed. Finally, the motion for the instruction was negatived. I presume that the then Premier (the member for Gumeracha) refused the member for Mitcham permission to move for a new clause to be added to the Prices Act Amendment Bill.

Mr. Clark: Even though it had been the custom for years to do it!

Mr. HUDSON: Yes. I am sure this was not the only occasion on which this sort of thing happened.

Mr. Millhouse: What attitude was taken by the honourable member's Party in those days? The only reason he is opposing this motion is that he is embarrassed.

Mr. HUDSON: It is instructive to refer to this occasion in 1959 when Sir Thomas Playford sat on the member for Mitcham with some force; five times during the debate he raised points of order, and the motion was finally negatived. I believe the House would be in order in refusing this instruction. As the Minister pointed out, the matter the member for Mitcham wants considered is not consistent with the general principles of the Bill, and I think the Minister is completely in order in deciding what kinds of new clause could conceivably be fitted into the pattern of this Bill. Undoubtedly the member for Gumeracha has a new-found friend in the member for Mitcham: they are good buddies these days, and I hope when this debate is over the member for Gumeracha will take the member for Mitcham outside and apologize most humbly for what he did to him in 1959.

Mr. COUMBE: I have deliberately refrained from commenting on this Bill up to the present, but I point out that the member for Mitcham is trying to move for an instruction to discuss a further item under the heading of this Bill. I resent the Minister's action in restraining further debate on a subject which applies to the whole Bill. The Minister gave the position away a few minutes ago: when the member for Mitcham said he wanted to discuss this matter briefly, the Minister said the discussion would go on for ever.

The Hon. J. D. Corcoran: It has nothing to do with this Bill.

Mr. COUMBE: This is a matter of opinion, and if there is any doubt about it the Minister should let the debate go on: he can vote the clause out if he sees fit. The debate the Minister is trying to stop could have proceeded—it would not have taken long. The member for Mitcham is being denied an opportunity to advance a point of view in this place.

The House divided on the motion:

Ayes (14)—Messrs. Bockelberg, Coumbe, Ferguson, Freebairn, Hall, Heaslip, McAnaney, Millhouse (teller), Nankivell, and Pearson, Sir Thomas Playford, Messrs. Rodda and Shannon, and Mrs. Steele.

Noes (20)—Messrs. Broomhill and Burdon, Mrs. Byrne, Messrs. Bywaters, Casey, Clark, Corcoran (teller), Curren, Dunstan, Hudson, Hughes, Hurst, Hutchens, Jennings, Langley, Lawn, Loveday, McKee, Quirke, and Walsh.

Pair—Aye—Mr. Teusner. No—Mr. Ryan.

Majority of 6 for the Noes.

Motion thus negatived.

In Committee.

Clause 1 passed.

Clause 2—"Commencement."

The Hon. Sir THOMAS PLAYFORD: I move:

In subclause (1) before "This" to insert "Subject to subsection (3) of this section". This amendment and another that I intend to move subsequently seek to provide that the proclamation fixing the day on which this measure shall come into force shall not be made until the other States have enacted substantially similar legislation. The Minister has clearly stated during the second reading debate that the Government does not intend to implement the Bill until the other States have enacted similar legislation. I believe he will agree that it will be disadvantageous for people manufacturing and packing commodities in South Australia if the legislation is put into operation only in this State. This legislation is part of a uniform scheme. As the amendment is in almost exactly the same terms as an amendment unanimously accepted by members in 1958, I hope it will be accepted.

The Hon. J. D. CORCORAN (Minister of Lands): During my reply to the second reading debate, I indicated that the Government intended that the Bill would not be proclaimed until all other States in the Commonwealth had passed complementary legislation. The honourable member knows that I am reasonable and, to prove this, I raise no objection to the amendment. I agree that, if the Bill operated in this State without complementary legislation operating in other States, it would be ineffective.

Amendment carried.

The Hon. Sir THOMAS PLAYFORD moved:

To insert the following new subclause:

(3) A proclamation shall not be made under subsection (1) of this section fixing a day on which this Act shall come into operation until the Governor is satisfied that all of the other States of the Commonwealth have enacted legislation substantially similar in effect to this Act.

Amendment carried; clause as amended passed.

Clause 3 passed.

Clause 4—"Definitions."

Mr. FREEBAIRN: I spoke to the Minister privately, asking him whether a farmer who grew clover seed would be included under clause 4. Has he that information?

The Hon. J. D. CORCORAN: I think that if a person sold clover seed by weight in a bag it would be incumbent on him to mark the true weight on the bag, unless the seed was weighed in the bag in the presence of the purchaser.

Clause passed.

Clause 5—"Exemptions."

Mr. HALL (Leader of the Opposition): What items are likely to be exempted?

The Hon. J. D. CORCORAN: Throughout the Bill the Minister has power to exempt. For instance, in the case of soap powders or articles that have a moisture content he can exempt from marking on a pack the true weight when packed. For these things, a certain percentage is allowed from the time the product is packed until it is sold, depending on climatic conditions. Certain exemptions can be made where packs do not exceed a certain weight. Fresh fruit and vegetables, if packed in accordance with the laws of the State, can be exempted, as can jelly crystals, confectionery, nuts, popcorn, and potato crisps in packages of less than 3oz. gross weight. The other exemption for confectionery is where the gross weight of the package does not exceed 8oz. or the sale price of the package does not exceed 20c, if the package is displayed in a receptacle bearing a prominent statement of its contents. Another exemption for confectionery applies where the goods are packed in or together with another article if the substantial value of the contents is represented by that article. There are many things which would be exempted but which it would not be feasible to include in the legislation. I do not think it is necessary to go into them.

Mr. Millhouse: Why not? Why are you hedging about this?

The Hon. J. D. CORCORAN: If the honourable member insists, I can give them. They include fruit, vegetables, jelly crystals, honey in the comb, liquid colouring materials, medicinal mixtures, ice-cream and other frozen confectionery, flour, bran, pollard, and other grain products if intended to be sold in full sacks of standard size and of more than 60 lb. gross weight. This is a cross-section of the goods in the list. I hope that is sufficient detail for the honourable member.

Mr. Coumbe: What about cool drinks?

The Hon. J. D. CORCORAN: They are not included.

The Hon. Sir THOMAS PLAYFORD: Can the Minister say whether this clause is sufficiently wide to provide for an exemption of packages not lidded down or covered over? Grocers frequently use cartons to carry groceries; such cartons could not be branded because they contain all types of commodity. It is a convenient way of delivering parcels of groceries. Can the Minister say whether he has power to make an exemption in this case?

The Hon. J. D. CORCORAN: Although such a carton could be called a packet, the legislation deals only with packages for sale. The articles in such cartons have already been sold. However, the Minister has power to exempt any article.

Mr. HALL: Why is this different from the weights and measures legislation, under which one is subject to a weight provision that protects the public? Why should more protection be given in relation to weights than is given in relation to packaging?

The Hon. J. D. CORCORAN: If I understand the Leader correctly, he is saying there are far more exemptions in the Weights and Measures Act in relation to weight than there are for packaging in this Bill. This is a matter of common sense. If one strikes difficulty with a package, the Minister has power to make an exemption. All the possibilities have been examined over the years, especially during the conferences that have been held, and the prominent articles have been listed. Obviously, in the administration of the Bill, it may be necessary to exempt more articles. I do not understand the Leader when he says more protection is given in regard to weights than is given in regard to cartons. If the Minister sees fit, he has power to exempt any article.

Mr. SHANNON: It is common practice in the fruit industry to prepack various types of fruit in little trays with plastic covers. These have no weight marked on them, but are generally sold in 1 lb. packets. Are these exempt?

The Hon. J. D. CORCORAN: Yes, fresh fruit and vegetables are exempt.

Mr. SHANNON: Then a dishonest trader would have an opportunity to deprive the customer of, perhaps, an ounce in each pack, which could mean quite a difference to his overall profit.

Mr. Casey: They are not usually sold by weight in the pack.

Mr. SHANNON: Yes they are. The honourable member obviously has not seen such a pack.

Clause passed.

Clauses 6 and 7 passed.

Clause 8—"Powers of inspectors."

Mr. MILLHOUSE: I move:

In subclause (2) to strike out paragraph (*c*).

I drew attention to this matter this afternoon, but perhaps the Minister forgot that when he replied to the debate on the second reading. The paragraph that I seek to strike out makes it an offence for a person to refuse or fail to truthfully answer any question asked of him. I think that is a bad provision, because it is a general principle of our law that one does not have to speak if one does not want to do so. Some other judicial systems may provide otherwise, but that is our law unless there is specific statutory provision requiring otherwise, and I do not see the necessity for any such provision here.

Subclause (3) attempts to cut down the effect of subclause (2) (*c*), and it is obvious that the Minister had some doubts about the wisdom of subclause (2) (*c*) when he was drafting the Bill. Subclause (3) is quite ineffective in protecting the individual. First, if the individual is to get any protection from that provision, he has to know that it exists, but not one person in 10,000 will know that, particularly at a time when that person is likely to be questioned by an inspector. Even if the person being questioned knows of the provision, he will have to be a mental gymnast to decide whether or not his answer is likely to incriminate him.

Mr. Curren: If he was telling the truth, the position wouldn't arise.

Mr. MILLHOUSE: That is not correct. The truth can incriminate, and frequently does. If we strike out paragraph (*c*) of subclause (2), we shall not require subclause (3), which is only a watering down of the provision and merely confuses the issue.

The Hon. J. D. CORCORAN: I oppose the amendment. I am amazed that a man with legal training should read all sorts of evils into provisions such as this. If an inspector is to perform his duties effectively and in the interests of the public, he must have facilities for questioning a person. As the member for Mitcham has pointed out, subclause (3) provides that nothing in paragraph (*c*) of subclause (2) shall be construed as compelling a person to answer any question which would tend to incriminate him.

Mr. Millhouse: You don't think that will work, do you?

The Hon. J. D. CORCORAN: The average member of the public has enough common sense to know that, regardless of who is asking the questions, he is not compelled to incriminate himself. A similar provision in the Weights and Measures Act has not caused difficulty, and I do not see why it should cause difficulty in this case.

Mr. MILLHOUSE: I am disappointed at the Minister's attitude. Obviously, he has not understood my point. A man being questioned by an inspector would have to decide whether he would incriminate himself by answering, and doubtless the inspector would be telling the man that he had to answer. I ask the Minister whether he is satisfied that, in opposing my amendment, he is in line with the Premier. I am sorry that the Premier is not here.

Mr. Jennings: I'll guarantee you are.

Mr. MILLHOUSE: During the 13 years that the Premier and I have been in Parliament together, the Premier has tried to persuade Parliament to give some legal sanction to the Judges' Rules, which go much further than does my amendment. They have been drawn up with the object of allowing anyone accused of a crime the right to refuse to answer and the right to an explanation that he does not have to answer. The Premier has raised this matter many times, yet the Minister insists on retaining a provision that has the opposite effect. Will the Minister reconsider his opposition to my amendment, which restores the position that no man should be obliged to incriminate himself or to speak unless he wants to?

Mr. COUMBE: No reference is contained in the Weights and Measures Act similar to subclause (2) (*c*), although the Minister said that such a provision was included in that Act. If the amendment were carried inspectors would still have the right to carry out their duties and would not be impeded if they wanted to take action against people allegedly contravening this Act. The member for Mitcham has raised a valid point of law: he is trying to ensure that a man will not incriminate himself. We have always tried to protect the rights of individuals in our legislation.

The Hon. D. N. BROOKMAN: Earlier, I complained about this provision. These powers of interrogation are too wide in this type of legislation and should not be given to inspectors. Inspectors are being given greater power than is available to members of the Police Force, and I am sure the Law Society would not tolerate this position. Have these powers been referred to the Law Society?

The Hon. J. D. CORCORAN: I think the honourable member is being facetious. The member for Mitcham said that the Premier, when an Opposition member, had three times moved measures more far-reaching than this, but I assume that the moves were rejected by the Government of the day, no doubt for good reasons. The person who will be subject to questioning will not be irresponsible and will know his rights. This is a necessary provision to help inspectors in what could be a difficult task.

The Hon. G. G. PEARSON: This provision does not accord with common British justice. I always thought that it was part of the Government's policy to protect rights of individuals, but legislation that has been introduced recently explodes completely what has now become fallacy. This provision offends my sense of justice, for I consider that it interferes with the rights of the individual. Therefore, it should be struck out.

The Hon. Sir THOMAS PLAYFORD: The common law has always insisted that a person shall not answer questions that tend to incriminate him. Today, if a person is charged with a most serious crime, such as murder or rape, he must be cautioned by a police officer before he is asked questions. If the caution is not administered the officer is strongly criticized by the judge or magistrate. Under this provision, not only are people not cautioned but they are compelled to answer questions, because the inspector will tell them that they must truthfully answer any questions asked of them. What is the purpose of it, otherwise? Obviously the Minister is going to use it to get convictions. It is completely foreign to the Premier's views, as enunciated many times in this place. The present law here makes it necessary for the police to administer a caution, but the Judges' Rules go much further than this. The Minister is wrong in including a provision designed to trap someone into an admission. I am pleased the Premier has come into the Chamber, because I think he will support the views of the Opposition.

The Hon. D.N. BROOKMAN: Regarding the powers of inspectors, section 19 of the Fauna Conservation Act, 1964, provides:

When an inspector or warden—

(*a*) informs a person that he suspects him of having committed an offence against this Act; and

(*b*) shows his identity card to that person; and

(*c*) requests that person to state his full name and usual place of residence . . .

This is all that applies to an inspector under the Fauna Conservation Act. Section 11 (1) of the Branding of Pigs Act, 1964, states that an inspector may—

require any person to answer any questions put to him for the purpose of ascertaining the name and address of the owner of any pig, carcass of a pig or branding instrument.

Section 11 (2) provides that a person must give a correct answer to a question along these lines. It can be seen how very limited are the powers of inspectors under these Acts: they are certainly not as wide as the police powers, or no wider than those powers. This Bill clearly gives powers far wider than those the police have. For the most part, police interrogation is in the first place restricted to the question of name and address and one or two other basic questions of fact. The police must give careful warning before they go further. Under this Bill inspectors—and we do not know who they will be—are given powers that are far too wide.

The Minister explained that the type of person to be interrogated will be so intelligent that he will not be trapped into giving an incriminating statement, but this is a ridiculous argument: Bills are introduced to deal with the people of the State, not to try to work out the type of person who will be interrogated.

The Hon. J. D. CORCORAN: I have discussed this matter with my Leader, and as a result of my discussion and of members' remarks I believe it is desirable to strike out paragraph (*c*) of subclause (2) as well as subclause (3). However, I hope this is not taken to indicate that we run to our Leader with everything.

Amendment carried.

Mr. MILLHOUSE: I appreciate the attitude of the Minister and of the Premier. I move:

To strike out subclause (3).

Amendment carried; clause as amended passed.

Clauses 9 to 19 passed.

Clause 20—"Incorrect weight or measure."

Mr. MILLHOUSE: I move:

In subclause (4) to strike out "and that he has not less than two days before introducing evidence to establish either of the defences notified the person taking those proceedings that he intends to avail himself of a defence provided for in this subsection indicating the circumstances relied upon to establish that defence".

This is the first of a series of amendments I have foreshadowed; they are all to the same effect. My object is to take out the provision that, if one is to have the benefit of the statutory defence provided in subclause (4), one has to give two days' notice to the person taking those proceedings, whoever that may be. This itself is a very inexact phrase. This afternoon I objected to the words I am moving to strike out on the grounds that they represented a new principle. They say that the defendant must notify the prosecution, and I use the word "prosecution" advisedly at the moment. The vice of it is that a person may be robbed of a chance to plead that defence or to lead evidence on it.

The Hon. J. D. Corcoran: You're wrong.

Mr. MILLHOUSE: I am not. The clause provides that "he has not less than two days before introducing evidence to establish either of the defences". I do not know whether the Minister is relying on his legal adviser from Glenelg, who suggested that the person concerned could ask for an adjournment. That, I suppose, is literally true, but there are several objections to this course being taken: the first, of course, is that the court may not grant an adjournment (and there is no obligation on the court to grant one); secondly (and this is the normal thing), an adjournment may well be granted on terms, those terms being that the defendant will pay the costs of the adjournment. I think it is utterly objectionable to allow to creep into our Statutes a provision of this nature, especially when it is entirely unnecessary. There is another objection to the clause as it is drafted (and I hope the relevant authority will note my remarks)—

The CHAIRMAN: Order! The honourable member is speaking to the Chair and not to any relevant authority.

Mr. MILLHOUSE: I thought I was looking in your direction.

The CHAIRMAN: Well, you were not.

Mr. MILLHOUSE: I shall look in your direction now, Sir.

The CHAIRMAN: The honourable member must address the Chair, although I do not ask him to look at me.

Mr. MILLHOUSE: I will do both. Is the "person taking these proceedings" the prosecutor, or is it the person sitting on the bench (the magistrate or the justice of the peace)? I do not know how this provision would be interpreted. Who takes the proceedings? It may be the complainant but, if it is, why do we not specify the complainant. As the offences will be dealt with summarily and no

doubt on complaint in the Magistrates Court why do we not make clear what we mean? If we mean that the defendant must notify the complainant, we should say so. The "person taking those proceedings" does not mean anything of itself, because the complainant is often not the prosecutor in court. I object to this provision on the ground that it is entirely unnecessary; it is a burden which we should not put on a defendant. In some cases, it may mean that the defendant is robbed of the opportunity to plead a defence that we establish.

Mr. Coumbe: Does this apply elsewhere?

Mr. MILLHOUSE: I have never known of it before, and that is one of the reasons why I object to the provision so strongly; it is breaking new and, I believe, most undesirable ground. I hope the Minister will allow this passage to be struck out.

The Hon. J. D. CORCORAN: I believe the provision in the uniform code regarding this matter was far more stringent than this provision. In fact, it did what I think the honourable member suggested this provision would do: if the defence was not entered two days prior to the hearing, it could not be used. However, in this case a person can take an adjournment and still be able to use the statutory defence. This provision could facilitate many hearings because, if a person indicated that he intended to use a statutory defence (and if it were established that the defence was, in fact, a statutory one), there would be no purpose in proceeding. We were badgered in respect of the red tape, bureaucracy and everything else but I think this is one measure which, if anything, short-cuts the proceedings and saves on costs.

Mr. Millhouse: It doesn't.

The Hon. J. D. CORCORAN: I am saying it does, and it is just as easy for me to say that it does as it is for the honourable member to say that it does not. It could save costs both for the defendant and the prosecution. I do not see what the honourable member is driving at.

Mr. COUMBE: I support the member for Mitcham. The defence set out could be completely void if the person concerned did not produce his evidence two days prior to the proceedings. We know that in other jurisdictions that is not the case. The usual procedure in a court of summary jurisdiction is that the prosecution must present its case and try to prove it, and the opportunity is then given to the defendant to deny the charge. The usual procedure in this country in a court of summary jurisdiction is for a complaint to be laid and a summons issued requiring a person to answer certain charges at a certain time in a certain court. The defendant then denies that charge if he wishes. This procedure applies under most other Acts, and it should apply in this case. Why does the Minister insist on the provision relating to two days?

The Hon. J. D. Corcoran: To facilitate the matter. If people have a statutory defence and give two days' notice, we won't take them to court.

Mr. COUMBE: I see. I noticed the peculiar wording the Minister used when referring to this matter in his second reading explanation, when he said:

With regard to the statutory defences set out throughout this Bill, I draw honourable members' attention to what is considered to be their practical effect. First, they do not, by any means, exhaust the ordinary defences open to a person charged, but they do give that person a clear indication of a defence which, if made out, must inevitably succeed. However, they serve another purpose, that is, they stand as a clear warning to those responsible for bringing proceedings under the Bill to, at least, assure themselves that in all probability a person charged cannot succeed on the statutory defence. In short, if it seems likely that the person charged could succeed on the defence, grave doubts as to whether the charge should be brought at all must arise. Thus, in themselves, they act as a highly practical limiting factor in the bringing of proceedings under the Act.

The Minister has said that, if a person advises the department that he will bring a statutory defence, proceedings will not be carried any further.

The Hon. J. D. Corcoran: No. It may not be the fellow for whom they are looking. They probably still have a case and are looking for another person.

Mr. COUMBE: It appears to me that frivolous charges could be made because, if a person did not say that he had a statutory defence, the department would go on with the case.

The Hon. J. D. Corcoran: He could bring along the defence when the case went to court.

Mr. COUMBE: Then why have this provision in the Bill?

Mr. MILLHOUSE: I wish the Minister would take the matter seriously.

The Hon. J. D. Corcoran: I am. The honourable member should see what I have received from the Commonwealth, and then he would realize that I am.

Mr. MILLHOUSE: I am not impressed by that, and I am surprised that the Minister is; we still have a duty to make up our own minds. The Minister has said that, if there is a notification of a statutory defence, the prosecution is not likely to be proceeded with.

The Hon. J. D. Corcoran: It is a possibility.

Mr. MILLHOUSE: It is no more than the faintest possibility, because if this provision is passed everyone represented by a solicitor will automatically give notice that he is going to raise a statutory defence. He may not raise it if the trial proceeds. However, if the Minister thinks that the Crown Solicitor (or whoever prosecutes) would be likely to desist from proceedings because he was notified of a statutory defence (without being given any indication of what that defence will be), then he is misguided. They are not as soft as that in the Crown Law Office. I previously referred to the phrase "the person taking those proceedings", and said that it was not exact. The Minister did not reply. I do not know whom he thinks this phrase refers to—the complainant, the prosecutor or the person sitting on the bench. What method of notification will be used? None is set out in the clause. What will the court do in a case where the defendant proceeds to adduce evidence to establish a statutory defence, the person taking the proceedings (if that is established) says that he has not been notified of this, and the defendant or his counsel says that notification has been given two days before? Who will be the person taking the proceedings? What method of notification is to be employed and how is the notification to be proved? If there is any dispute in court, what is the court going to do about it?

The Hon. J. D. CORCORAN: After due consideration, I accept the honourable member's amendment.

Amendment carried; clause as amended passed.

Clause 21—"Net weight when packed."

Mr. COUMBE: Section 49 of the Weights and Measures Act, which is equivalent to this clause, sets out that, if someone sells an article by weight, measure or number, he shall be prosecuted if the weight is short. Section 49 (3) of that Act and this clause conflict.

The Hon. J. D. CORCORAN: Section 49 (3) of the Weights and Measures Act will have to be repealed when this Bill comes into force.

Clause passed.

Clauses 22 to 26 passed.

Clause 27—"Selling an article not marked with an approved brand, etc."

Mr. MILLHOUSE: I move:

In subclause (4) (*b*) after "relate" to insert "and"; after subclause (4) (*c*) to strike out "and"; and in subclause (4) to strike out paragraph (*d*).

These amendments are similar to the amendment carried in clause 20.

Amendments carried; clause as amended passed.

Clause 28—"Selling an article in other than the prescribed denomination."

Mr. MILLHOUSE moved:

In subclause (3) (*b*) after "relate" to insert "and"; after subclause (3) (*c*) to strike out "and"; and in subclause (3) to strike out paragraph (*d*).

Amendments carried; clause as amended passed.

Clause 29 passed.

Clause 30—"Selling an article without statement of true weight."

Mr. MILLHOUSE moved:

In subclause (3) (*b*) after "relate" to insert "and"; after subclause (3) (*c*) to strike out "and"; and in subclause (3) to strike out paragraph (*d*).

Amendments carried; clause as amended passed.

Clause 31 passed.

Clause 32—"Selling short weight or measure."

Mr. MILLHOUSE moved:

In subclause (4) (*b*) after "relate" to insert "and"; after subclause (4) (*c*) to strike out "and"; and in subclause (4) to strike out paragraph (*d*).

Amendments carried; clause as amended passed.

Clause 33 passed.

Clause 34—"Selling articles marked with a prohibited or restricted expression."

Mr. MILLHOUSE moved:

In subclause (2) (*b*) after "relate" to insert "and"; after subclause (2) (*c*) to strike out "and"; and in subclause (2) to strike out paragraph (*d*).

Amendments carried; clause as amended passed.

Clause 35—"Selling article marked with statement as to reduced price."

Mr. COUMBE: Considerable doubt has arisen as to the full implications of this clause. I believe the Minister wants this clause to control the marking of two sets of prices on a carton: in other words, to prohibit the ordinary price as well as a sale price being shown. Although I do not object to

this, I question whether the clause is not wider than the Minister intends. If a retail shopkeeper has slow-selling stock, he sometimes writes a reduced price on it. Sometimes a retailer puts out a catch line to attract customers. I realize that the qualifying phrase may be "unless the sale of that article is authorized by a permit". Clause 27, dealing with the sale of goods, provides that other things may be sold in the shop. "An article" means any article.

The CHAIRMAN: Order! There is too much conversation in the Chamber.

Mr. COUMBE: The phrase "an article in a pack" is too wide. I ask the Minister to explain whether this clause confines the writing to the prescribed article or one covered by a permit, or whether it does anything to restrict a trader from marking a price in a genuine way in order to quit stock or attract customers.

The Hon. J. D. CORCORAN: I do not disagree with what the honourable member has said. As I said during my reply to the second reading debate, we have had to restrict the writing of a price on a packet. However, I did say that there were other methods of disposing of stock. Surely the honourable member has seen goods placed in a basket, and this provision will not prohibit that. The honourable member may be able to suggest a way to get around this and still achieve what we want to do, but I cannot. Such marking as "5c off" printed on a packet pack does not mean anything.

Mr. Coumbe: That is printed by the packer.

The Hon. J. D. CORCORAN: Yes, and it is part of the printing. We consider such marking undesirable. The retail price could have been 40c and could still be 40c, because "5c off" has no significance. In order to prevent that sort of thing, we have to prevent markings being placed on a pack to the effect that there is so much off, but there is nothing to prevent the marking of the full price on the pack.

Mr. Coumbe: Sometimes the old price is partly rubbed out and the new price is written on.

The Hon. J. D. CORCORAN: In that case, a marking such as "5c off" is not being put on. I know that there is difficulty about this matter but, in order to do what we want to do, neither I nor my advisers can see any other way of doing it. I do not think the provision will cause any difficulty to retailers who want to dispose of surplus stock.

Mr. HALL: The Minister, in replying to the second reading debate, completely refuted the argument advanced by the member for Glenelg (Mr. Hudson) that this clause did not do what the Minister says it does. The Minister said a short time ago that the retailer could put his own price on the pack.

The Hon. J. D. Corcoran: Yes, without a marking such as "5c off".

Mr. HALL: I do not think he can do that without a permit. The Minister said in his reply to the second reading debate that that could not be done but now he has changed his story. Many staple commodities have a customary or ordinary selling price. If a person puts a price below that figure on a pack, he contravenes this provision. If the Minister and I agree on that, there is not much to argue about. I agree with what the Minister is trying to do. If this legislation is to be uniform, why will this not be achieved on the packing side? The packer cannot put on any mark other than a prescribed mark.

A trader may have a pack of towels on a shelf. We know that many sales are held in the drapery trade, because stock has to be quitted before it is out of date. If a draper has six packs of towels, each at different prices, he has six bins. He cannot put the price on each pack. The Minister is trying to prevent a manufacturer from printing on the pack "5c off", but this has been covered by clause 15 (1). I do not like restrictions on legitimate business, because it is necessary today to attractively present goods, the price of which is important. If a store wishes to reduce the price in order to clear stocks it should be permitted to do so.

The Hon. D. N. BROOKMAN: Nothing illustrates more the absurdity of this legislation than this clause and the Minister's explanation. A trader cannot write on an article any words implying a reduced price, but the Minister says that he could have a large bin on which was marked "5c off" and into which he could throw soap, detergents, and any other article for sale, without breaking the law.

Mr. SHANNON: People are aware that canned fruit is sold off at the end of the season, and my wife stocks our pantry with various kinds of fruits that she buys at reduced prices. The sale of this fruit at a reduced price is a desirable practice, because it benefits housewives, but this provision creates a problem because it prohibits a marking down from what is the ordinary or customary price in order to attract customers. Overall, the trader

I have referred to makes a profit. I think the Minister would be well advised to drop this clause altogether.

The Hon. J. D. CORCORAN moved:

After "article" first occurring to strike out "in a pack marked with any words stating or implying that the article is for sale at a price less than that of its ordinary or customary sale price" and insert "packed in contravention of section 25 of this Act".

The Hon. Sir THOMAS PLAYFORD: What is the object of this provision? Surely, if somebody is prepared to mark down the price of an article and sell it more cheaply, the Government should encourage this. The housewife is not being protected by this measure.

Mr. MILLHOUSE: Let us analyse what this clause now means. We are making it an offence to pack an article in contravention of clause 25 but, having made it an offence to pack, we then say we will give a person a permit to sell it, even though it is an offence to pack it. The Minister would probably prosecute a person for packing it in a certain way, and he would then give a permit to somebody else to sell it. If he is going to do this it would be better to leave the provision out altogether. I can see there is a problem, but I am afraid it is insoluble, methods of merchandising being what they are.

The Hon. J. D. CORCORAN: I do not want to prevent the practice of retailers cutting prices and selling articles more cheaply. I think the member for Mitcham is right; consequently, I ask leave to withdraw my amendment with a view to moving another.

Leave granted; amendment withdrawn.

The Hon. J. D. CORCORAN moved:

After "article" first occurring to strike out "in a pack marked with any words stating or implying that the article is for sale at a price less than that of its ordinary or customary sale price unless the sale of that article is authorized by a permit" and insert "packed in contravention of section 25 of this Act"

Amendment carried; clause as amended passed.

Clause 36—"Selling or marking an article with misleading price."

Mr. MILLHOUSE moved:

In subclause (3) (*b*) after "relate" to insert "and"; after subclause (3) (*c*) to strike out "and"; and in subclause (3) to strike out paragraph (*d*).

Amendments carried; clause as amended passed.

Clause 37 passed.

Clause 38—"Permits."

Mr. MILLHOUSE: This clause is more objectionable than any other in the Bill, and that is saying something. It prevents an importer, whether a large retailer like Myer's or a wholesale importer, from importing into this State from overseas any articles and selling them if those articles happen in any way to contravene the provisions of this Bill, unless the importer obtains a permit from the Minister.

[*Midnight*]

The Minister may grant a permit authorizing the sale in this State. I do not know the ramifications of this clause, but it seems to me to make a serious inroad on commerce in South Australia. If anyone imports, say, packets of frozen fish from Japan that do not happen to comply exactly with everything in this Bill, that commodity cannot be sold until the Minister gives a permit.

That is an intolerable imposition on commerce. The Minister did not appreciate this effect of the clause. In addition, the person concerned must go on giving returns as long as the articles in question remain unsold and the Minister can, if he wishes, revoke the permit he has given. There is no reason for this sweeping provision and, unless the Minister can give some better support to the clause than he previously gave, I cannot support the provision as it stands. I ask the Minister to do members the favour of at least justifying the clause.

The Hon. J. D. Corcoran: I have already justified it.

The Hon. D. N. BROOKMAN: I freely give the advice that this clause is unconstitutional and will never stand up to a challenge in the court.

The Hon. Sir THOMAS PLAYFORD: The fact that the clause is probably unconstitutional does not relieve us of the responsibility of ensuring that the Bill is not passed containing an unconstitutional provision. Although the measure is presumably designed for the benefit of the consumer, if we are to prohibit import and sale the consumer obviously will not benefit. An importer brings goods into the State which are in demand and which he can supply to the consumer at a price lower than that of other comparable goods.

Mr. HEASLIP: I can see no reason for the inclusion of this clause. I understood that the Bill was designed to eliminate gimmicks and misleading statements in advertising. The whole idea was to provide cheaper

goods for consumers, but this clause will prevent people from importing goods at a lower price and selling them at a lower price. The clause is completely unnecessary. In fact, I do not think the Bill is necessary.

Mr. QUIRKE: As I read the clause, it does not prohibit imports. It is designed to make provision for goods that are imported and do not comply entirely with the requirements of the Bill.

The Hon. J. D. Corcoran: Yes, goods that are packed for export and do not comply with the Bill. In other words, it is designed so that a permit can be granted for their sale here.

Mr. QUIRKE: I do not see any difficulty about this clause, which I support.

Mr. MILLHOUSE: I am afraid I cannot take the charitable view that the member for Burra has taken. I do not think the clause has the restricted meaning that the Minister has given it.

The Hon. J. D. Corcoran: You give yours.

Mr. MILLHOUSE: I have done so twice. There is no doubt that the plain interpretation of this clause is that, if anyone imports anything into this country which does not comply with all the other provisions of this Bill, he cannot sell it unless the Minister gives a permit.

The Hon. J. D. Corcoran: What's wrong with that?

Mr. MILLHOUSE: It is an entirely unnecessary and intolerable burden on traders. Why should the Minister have to give a permit in each case? He has not only to give a permit but also to satisfy himself that it is just and reasonable (whatever those words mean) for the goods to be sold here. Unless the Minister can give a better explanation than he has given, I am afraid I must move to strike out paragraph (*b*) of subclause (1). The rest of the clause is perhaps not so bad, but this subclause is particularly objectionable and does not bear the restricted interpretation which the member for Burra has put on it.

Upon the clause being declared passed:

Mr. MILLHOUSE: Mr. Acting Chairman, I was on my feet.

The ACTING CHAIRMAN (Mr. Hughes): I am afraid you were not.

Mr. MILLHOUSE: I certainly was.

Mr. Jennings: What a jolly wretched thing! It's worse than anything we've seen for years and years and years.

Mr. MILLHOUSE: As soon as I saw the Minister was not getting to his feet, I got to my feet.

The ACTING CHAIRMAN: You were awfully slow about it.

Mr. MILLHOUSE: I have just been called a jumping jack by a member opposite. I jumped up immediately: I was on my feet before you put the question.

The ACTING CHAIRMAN: I will give you the opportunity of continuing, but please do not address the Chair in that manner.

Mr. MILLHOUSE: You are kind to let me go on. As the Minister has not given an explanation, I move:

In subclause (1) to strike out paragraph (*b*).

This will strike out the provision that articles imported to South Australia from outside the Commonwealth cannot be sold unless they are in absolute conformity with the legislation and unless the Minister is satisfied that it is just and reasonable that they should be sold. This is the worst part of the objectionable clause. As the Minister has not given an explanation, I have no alternative but to move the amendment.

The Hon. Sir THOMAS PLAYFORD: I am in sympathy with the amendment, but I am not sure that I support the member for Mitcham. The Minister's failure to reply to the criticism arises from the fact that there is no reply that he can give. If he gives a permit, he immediately places people outside South Australia in a better position than people in the State. On the other hand, if he does not give a permit he is in a hopeless position, because he will be cutting South Australian consumers off from many of the commodities that they want. The Minister faces an insoluble problem. Any law that we pass will have no effect on packaging overseas. Commodities that come into South Australia normally will not comply.

The Minister would be wise to delete the whole clause. If an oversea firm brings in a line of articles of good quality and good value but does not comply with the packaging laws of this State, should these goods be allowed to be sold? The Minister cannot reply, because he knows there is no answer. This clause will cause trouble for the Minister and will not help the consumer.

Mr. HEASLIP: No reason has been given for the inclusion of this provision, but a responsible Minister in charge of a Bill should answer all questions.

The Hon. J. D. Corcoran: I have stated the reasons two or three times.

Amendment negatived; clause passed.

Clause 39 passed.

Clause 40—"Offences in relation to sales under a permit."

Mr. MILLHOUSE moved:

In subclause (3) (*b*) after "relate" to insert "and"; after subclause (3) (*c*) to strike out "and"; and in subclause (3) to strike out paragraph (*d*).

Amendments carried; clause as amended passed.

Clauses 41 and 42 passed.

Clause 43—"Offences by corporations."

The Hon. D. N. BROOKMAN moved:

To strike out "it".

Amendment carried; clause as amended passed.

Clause 44 passed.

Clause 45—"Evidence of a permit to be given by defendant."

The Hon. D. N. BROOKMAN: Subclause (2) appears to be a particularly unfair provision, and it will work heavily against the defendant. Will the Minister comment on this?

The Hon. J. D. CORCORAN: The onus is on the person holding the permit, because he should know: he holds the permit, and he can provide proof by showing it.

Mr. Millhouse: Who gives the permit?

The Hon. J. D. CORCORAN: It is issued by the Minister, but it may not be known at the time that the man has a permit, and the onus of proving that he has a permit is on him. I do not think it is unreasonable.

Clause passed.

Clause 46—"Compensation."

Mr. MILLHOUSE: This is one of those uniform clauses that have not been considered very well in their South Australian context. It allows the court to award compensation; this in itself is not necessarily bad. Subclause (2) provides that the compensation must not exceed $1,000. It is quite likely that the court which is hearing the charges, and therefore the court which is given the opportunity of assessing and granting compensation, may well be composed of two justices of the peace. To give them a civil jurisdiction up to $1,000 is giving them a very high jurisdiction; it is something we do not do in any other Act.

With due deference to the member for Torrens and others of us who are justices, I have grave doubts whether it is wise to give justices of the peace such a big jurisdiction in a civil matter, yet that is what we are doing under this clause: we say that justices can assess damages involving sums up to $1,000. The local courts in South Australia which, I think, have a jurisdiction up to $2,500, are composed invariably of magistrates who are trained legal men. A local court of limited jurisdiction can deal with a sum of not more than $200 (previously $60). We are giving five times that limited jurisdiction under this Bill. I suspect that this aspect has not been considered by the Minister and, indeed, I think that it bears consideration. I suggest that in another place it might be wise to add a proviso that this jurisdiction may be exercised only where the court is composed of a special magistrate.

Clause passed.

Clause 47 and title passed.

Bill read a third time and passed.

ADJOURNMENT

At 12.34 a.m. the House adjourned until Thursday, October 19, at 2 p.m.