HOUSE OF ASSEMBLY

Thursday, June 10, 1976

The SPEAKER (Hon. E. Connelly) took the Chair at 2 p.m. and read prayers.

PETITION: SUCCESSION DUTIES

Mr. MILLHOUSE presented a petition signed by 323 residents of South Australia praying that the House would amend the Succession Duties Act to abolish succession duty on that part of an estate passing to a surviving spouse.

PETITION: TOWNSEND HOUSE

The Hon. HUGH HUDSON presented a petition signed by 3 703 citizens of South Australia praying that the House would urge the Government to negotiate with the Townsend House board to prevent any demolition and to ensure that surplus buildings were available to the citizens of South Australia for use as an educational and a community centre.

PETITION: MOTOR CYCLE SPEED LIMITS

Mr. COUMBE presented a petition signed by 235 residents of South Australia praying that the House would urge the Government to introduce legislation to increase the speed limit for a motor cyclist carrying a pillion passenger to 110 kilometres an hour on the open road.

Petitions received.

MINISTERIAL STATEMENT: CO-OPERATIVE TRAVEL SOCIETY

The Hon. PETER DUNCAN (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. PETER DUNCAN: On October 23, 1975, the Government appointed two inspectors to investigate the affairs of Co-operative Travel Society Limited and its associated companies and societies. This action was taken because of complaints by shareholders who were concerned about their investments in the companies and societies. The Government considered that it was in the public interest to have a full investigation of the affairs of these societies and companies. The inspectors have now completed their investigation and submitted their report to me, and I consider it proper that it should be made public. I have therefore this afternoon tabled the report in the House for the benefit of members and the public at large. Action is being taken to wind up five of the societies, as recommended by the inspectors. My legal officers are also examining the report with a view to instituting other proceedings, including criminal prosecutions.

QUESTIONS

COMMONWEALTH GRANTS

Dr. TONKIN: Will the Deputy Premier immediately request the Premier in Canberra to stop making alarmist and irresponsible statements predicting unemployment and cut backs in the State's works programme, as he did following the announcement of Loan Fund allocations at the Premiers' Conference today? In 1975-76, Loan funds totalled $169 400 000. The 15 per cent increase sought by the Premier represented $25 400 000, and since 5 per cent, or $8 400 000, was the amount granted by the Commonwealth today, this represents a short-fall in the Premier's expectations of about $17 000 000.

The Hon. Hugh Hudson: A reduction in real terms.

Dr. TONKIN: Yesterday, this House approved Supplementary Estimates, which included a sum of $20 000 000 for transfer to the Loan Account. The Deputy Premier carefully explained at the time that a smaller increase in Loan Fund allocation was expected, and that the $20 000 000 was regarded as a contingent sum from which any short-fall could be made up, so that the State's works programme could be maintained regardless. Even after such a transfer, the Premier intimated in his speech in the debate on the Appropriation Bill that South Australia's financial position would still be a healthy one. Contrary to this responsible point of view, the Premier has been quoted today as predicting disaster for South Australia, with the loss of hundreds of jobs, and severe cut-backs in the construction of schools, hospitals, and other public buildings. Obviously, from the action taken in the Appropriation Bill, this is a gross misrepresentation of the position; and indulged in to knock the Fraser Government. I believe the Deputy Premier should contact the Premier immediately.

The Hon. J. D. CORCORAN: I do not intend to contact the Premier immediately or at any other time during this day. Suffice to say that I will probably see the Premier (I may not even do that) when he returns tomorrow. The Premier represents this State at the Premiers' Conference, and I may say that he represents it very well indeed. This afternoon we have seen a demonstration of the perfect puppet: a puppet of the Fraser Government.

Members interjecting:

The SPEAKER: Order!

The Hon. J. D. CORCORAN: Over the past few months, the Leader has demonstrated that he is the perfect puppet; in fact, soon after Mr. Fraser was elected the Leader went to see him and came back with the news for South Australians that we were not going to get as good a deal in future as we had received in the past, and he was very happy about it. He was proud to tell the people of South Australia that this would be the case.

Dr. Tonkin: You haven't got it quite right, you know.

The Hon. J. D. CORCORAN: I must say that the Leader has an advantage over me. I have heard nothing up to this time from Canberra, nor have I read any press reports about what the Premier has said at this stage. However, whatever he has said would be right: there would be no question about that.

Members interjecting:

The SPEAKER: Order!

The Hon. J. D. CORCORAN: Although the Premier has not spoken to me, there would be no need to because we work in perfect harmony anyway.

Members interjecting:

The SPEAKER: Order!

The Hon. J. D. CORCORAN: Without knowing what has transpired as a result of the conference so far (and I do not know whether or not it is still continuing)—

Dr. Tonkin: He's put his foot in it.

The Hon. G. T. Virgo: You just did, mate.

The Hon, J. D. CORCORAN: Harking back to what we were discussing in the Chamber early this morning, I said that the $20 000 000 was a contingent sum. We were not in the position to say last evening (nor did we want to say) that that $20 000 000 would be devoted to housing in this State so as to give that area the boost that it needed and to ensure that the unemployment that would otherwise occur (directly as a result, probably, of the Federal Government's policy) did not occur. So there is no way that we are holding that $20 000 000 to make up the short-fall.

Dr. Tonkin: You knew this last night.

The Hon. J. D. CORCORAN: I knew this last night and, for good reasons, I did not disclose this information to the Leader. I did not want to pre-empt the Premier's position at the conference he is attending today; the Leader well knows that. The Leader has given certain figures as the amount that this State will get as a result of the conference today. I do not know whether, in fact, it is an increase in real terms or not, but my colleague the Minister of Mines and Energy tells me that it is, in fact, a reduction in real terms. It is in real terms that we ought to talk, and not refer to percentages or to increases on last year, because the Leader knows as well as I that any increase could be savagely reduced by inflation. The philosophy that has been expounded—

Members interjecting:

The SPEAKER: Order! Members are wasting Question Time with these supplementary questions and this incessant and unnecessary interjecting. The honourable Deputy Premier.

The Hon. J. D. CORCORAN: The philosophy being currently expounded throughout this nation by Fraser is being very ably backed up by his colleague the Leader of the Opposition in this State. Fraser is saying "We are going to increase unemployment in order to cure inflation"; that is what he wants to do. I want to know from the Leader how, if there are to be these vast cuts in public spending, further unemployment can be avoided. He cannot answer that.

Mr. Mathwin: Answer the question!

The Hon. J. D. CORCORAN: We have the farcical situation of the Treasurer of the Australian Government coming out in his mini Budget statement—

Dr. TONKIN: On a point of order, Mr. Speaker, the Minister is now debating a totally different matter. He is asking me a question, which I am not permitted to answer under the Standing Orders of the House.

The SPEAKER: There is no point of order. I ask the honourable Deputy Premier to be as brief as possible in his reply.

The Hon. J. D. CORCORAN: It is sufficient to say that the Premier of this State, every member of his Government, and every member of the Opposition in the Federal Parliament disagree violently with the line of action which the Fraser Government is taking and which the Leader supports so strongly.

Dr. Tonkin: That's pretty obvious.

The Hon. J. D. CORCORAN: We do not believe it is the humane and proper way to tackle the problem. I suppose one could really say that anything that has happened in Canberra, namely, any reduction that might have occurred in the deficit, is in fact the Hayden Budget working. The Leader will not agree with that, because it will not suit his argument, but that is the case. I suppose one could point to some of the cuts talked about by the Fraser Government and say that they are not really cuts but, indeed, fakes. The Treasurer (Mr. Lynch) stated that $2 600 000 had been cut from preliminary estimates. I suppose that about March each year in this State the State Government could say that Government expenditure is to be cut by $90 000 000, because that is about what is cut off forward estimates. That is what the Federal Government has said. It talks about disbanding this and that and cutting back on employment in the Public Service. The whole business is a fraud, and the Leader knows it. We object to the Leader's being controlled by Canberra and told what to say by the Prime Minister. I wish the Leader would be original in his remarks and that they would emanate from his own person instead of from someone else.

CYCLISTS

Mr. OLSON: Will the Minister of Transport examine the possibility of amending section 97 (2) of the Road Traffic Act, which relates to riders of pedal bicycles being permitted to ride abreast on a roadway? This request has been brought to my attention by constituents who believe that, with the additional volume and density of traffic, the action of children riding two abreast is causing a hazard to motorists as well as endangering the lives and safety of children concerned. As amending the law to require cyclists to ride in single file would be difficult to police and would cause embarrassment when cyclists ride two abreast in the country, will the Minister consider restricting this practice at least on main and priority roads?

The Hon. G. T. VIRGO: I shall ask the Road Traffic Board to examine the question, but I believe there are two sides to it. The honourable member has suggested that cyclists riding two abreast constitute a danger to the motorist, but it could equally be said that, from time to time, motorists constitute a danger to cyclists whether they are riding two abreast or in single file. The real solution to the problem, where large numbers of cyclists are concerned, would be to pursue the policy that we have started of providing exclusive cycle tracks. This is being done through the south park lands and botanic park. Although the cycle track in that situation is well under way, I am not sure when it will be opened. When it is opened, however, it will be of great benefit to the people concerned. If such tracks could be built in more areas cyclists would be safer. The member for Glenelg is muttering, as he normally does.

Mr. Mathwin: Like Brighton Road, I was saying.

The Hon. G. T. VIRGO: I am pleased that the honourable member has referred to Brighton Road because it reminds me that it was a Liberal Government that removed bicycle tracks from Anzac Highway.

WORKMEN'S COMPENSATION

Mr. GOLDSWORTHY: Can the Minister of Labour and Industry say whether the Government intends to introduce legislation this session to make workmen's compensation in this State more realistic and to enable companies to reduce premiums to a reasonable level? South Australian companies are forced to charge high premiums because of the level of compensation demanded under the provisions of the Act operating in South Australia: it is the most generous in the Commonwealth.

The Hon. J. D. Wright: That's not true.

Mr. GOLDSWORTHY: It is unrealistic for the Government to expect companies to charge workmen's compensation premiums that are unprofitable. It would be completely wrong of the Government to expect that to happen. The New South Wales Government has just announced that it will introduce legislation that will have the effect of reducing workmen's compensation premiums by 20 per cent.

The Hon. J. D. Wright: Up to 50 per cent.

Mr. GOLDSWORTHY: That makes the point even stronger.

The Hon. J. D. Wright: No, it doesn't and I'll tell you why in a moment.

Mr. GOLDSWORTHY: The reason given is that this will stimulate industry and commerce in that State. The implication is obvious: this is a strong disincentive for industry and commerce in South Australia. The Government made an abortive attempt to introduce legislation in the past session, but it backed down for some reason. It would seem appropriate to ask the Minister whether the

Government would amend the legislation with a view to giving companies the opportunity of reducing premiums, while still remaining profitable.

The Hon. J. D. WRIGHT: I thank the honourable member for his question, which is probably one of the most realistic questions I have heard from the Opposition this session. Most of its other questions have attacked either the trade union movement or the Government. This matter is a real problem in the community.

Members interjecting:

The Hon. J. D. WRIGHT: Am I to be able to answer the question or are members to interfere all the time?

The SPEAKER: Order! The honourable Minister has the floor.

The Hon. J. D. WRIGHT: I find that, every time I rise, I am interrupted by the member for Eyre, the member for Glenelg, the member for Davenport or some other Opposition member. I called them bullies last evening, and that is what they are; they are stand-over members of this Parliament.

Members interjecting:

The SPEAKER: Order!

The Hon. J. D. WRIGHT: I am the member for Adelaide, not Jack. The Leader of the Opposition challenged me yesterday for referring to the member for Hanson as Heini Becker. Surely what is fair is fair and, if I have to do that, members must refer to me as the member for Adelaide; that is a fair proposition. Once again, the Opposition is setting out to make me lose my train of thought, but it is not going to succeed. I congratulate the member for Kavel on a sensible and realistic question, because this is a problem in our community; I have never denied that. I tried to introduce legislation in the past session to solve this problem, but I was not allowed to do so, because everyone poured criticism on the Government's head about it. The answer to the question is "yes"; I will be—

Members interjecting:

The SPEAKER: Order! The honourable Minister must be given an opportunity to answer the question.

The Hon. J. D. WRIGHT: I will certainly be introducing legislation which I consider will benefit the community as a whole. While I have this opportunity to say something about workmen's compensation, I think I should. I noticed that, while I was overseas, an article appeared in the *Advertiser* written by a fellow who calls himself a journalist, anyway, Arnold Franklin.

Members interjecting:

The Hon. J. D. WRIGHT: Eric Franklin, I apologise for the Arnold. In the article he tore the Cabinet to pieces and had plenty to say about people. I do not object to any journalist, any member or anyone else critising me publicly or personally (that is their prerogative), but what I do object to about journalists is their telling lies by writing articles that completely fabricate the facts.

Mr. MATHWIN: On a point of order, Mr. Speaker, I think all members would admit that the Minister's reply has gone far beyond the bounds of a reply. I ask you to give other Opposition members an opportunity of even asking a question. The Minister has taken far too long to reply.

The SPEAKER: In all fairness, I must ask the honourable Minister to be brief and direct in answering the question. At the same time, I ask all Opposition members at least to refrain from interjecting so that the honourable Minister can give a considered reply and not have to contend with answering supplementary questions.

The Hon. J. D. WRIGHT: I commend you, Mr. Speaker, on your attitude. Unquestionably you are the best Speaker I have sat under in the House, because you always protect all members and their rights. I would have finished my reply five minutes ago if I had not been so rudely interrupted by Opposition members. They always seem to pick on me, and I do not know why. Nevertheless, I am still dealing with workmen's compensation, about which the question was asked. The supposed journalist, Eric Franklin—

Mr. MATHWIN: I rise on a point of order, Mr. Speaker. I say that the Minister is defying the Chair.

The SPEAKER: I do not think so. I can only anticipate that this article has something to do with the reply the honourable Minister is giving to the honourable Deputy Leader of the Opposition.

The Hon. J. D. WRIGHT: You could not be further from the truth; it has a lot to do with workmen's compensation. I will say why it was further from the truth, and I am referring now to the article. Although I do not object to people criticising me in public or in any other way, this supposed journalist wrote an article accusing me of certain things, two of which I do not agree with, because that is his prerogative. If he sees some criticism in saying what he did that is acceptable to me. The third point this journalist made was that I had had criticism heaped on my head, I think he said, about my statements regarding insurance companies in this State overcharging in relation to Medibank. In reply to a question from the member for Price some time ago, I criticised insurance companies in this State for overcharging their premiums because of the intake and the rip-off (and I reiterate that) they were getting from Medibank payments. This journalist did not check his facts at all, because within three months of my accusation in this House a national decision was made by the council of insurance companies to reduce premiums by 5 per cent. I did not hear one Opposition member support me at that time; in fact those members were attacking me in this House as vigorously as they could. If the journalist did not know the facts, I am telling him now. The journalist had every right to follow up the matter and establish the facts, rather than heap unfounded criticism on my head.

RAILWAYS

Mr. WHITTEN: Can the Minister of Transport say what effect the Federal Government's decision to review the Adelaide to Crystal Brook railway standardisation agreement will have on South Australia? Does he agree that the decision to review the agreement appears to suggest another broken promise by the Fraser Government? Most of the manufactured goods produced in this State are sent to other States and many of them should be transported by rail. We do not have a direct standardised railway link to Melbourne where much of our market is located. Without the direct connection I believe South Australia will be further restricted in its opportunity—

Mr. CHAPMAN: I rise on a point of order, Mr. Speaker. Here is another example of a member's debating the issue. He has said that he believes that this and that should happen. He does not agree that the transport of goods from South Australia to other States should be conducted as it is, and so on. He is clearly offering an opinion. He is debating the matter, rather than explaining it.

The SPEAKER: He is offering his opinion to the honourable Minister and asking for clarification. It is

rather ambiguous, I agree, but I will have to uphold the honourable member, because of the way in which he framed his question. Whilst he was giving his opinion, he did pre-empt it by saying he would ask the Minister if this was a fact.

Mr. WHITTEN: If I have offended the member for Alexandra, I apologise. I am sure he does not understand the position. I am saying that I believe, and so should the honourable member believe, that we are going to restrict—

The SPEAKER: Order! I must ask the honourable member for Price to make his question concise and to direct it to the honourable Minister.

Mr. WHITTEN: I apologise, Mr. Speaker, and I will ask the Minister whether he considers what has happened will further restrict the State of South Australia.

The Hon. G. T. VIRGO: The Government of South Australia regards the building of the standardised line from Adelaide to Crystal Brook as of the highest importance. We were able to finalise an agreement between South Australia and the Australian Government during the period of the Whitlam Government. We were unable to do so during the period of the former McMahon Government, but we were able to get it finalised during the Whitlam Government period. It was signed and ratified by both Parliaments. Since there has been a change of Government, regrettably there has been an attempt (fortunately, for South Australia's sake, abortive) to reduce by $2 700 000 the sum that had been provided by the Whitlam Labor Government for standardisation in 1975-76. I was able to get that sum restored after having made a special trip to Canberra to see Mr. Peter Nixon, the Federal Minister. However, with great alarm we read and were subsequently informed by letter that the Commonwealth Government now proposes to have a further investigation into the standardisation agreement. We can only view this with considerable alarm, because it is clear that the Federal Government wants to get out of the matter altogether, to reduce the efficiency of it, or to lengthen the period of time in which the job is to be undertaken. Any one of those three alternatives would be disastrous for South Australia. That view has been expressed to the Federal Minister, and I can only hope that wiser counsels will prevail.

LAND TAX

Mr. WOTTON: Following reports of primary producers being forced to pay an estimated 20 per cent and up to 50 per cent of a year's gross income in land tax, and further reports of rural landowners selling out because of intolerably high land tax accounts, can the Deputy Premier say whether he is aware of the situation, and whether the Government has undertaken an analysis of the reasons why there has been such an escalation in land tax in this State? If the Government is not willing to remove this crippling tax altogether, will it amend legislation to alleviate the difficulty by valuing land on an actual-use basis?

The Hon. J. D. CORCORAN: The answer to the question is "Yes". The honourable member is possibly aware that a special officer has been appointed in the office of the Land Tax Commissioner to deal with complaints inquiries and examples that can be put before him. These will all be subsequently examined by the Government, and the Government intends, following that review, to amend the Act, if necessary, later in this session. I cannot say more than that. I am aware of the problems that exist, and I assure the honourable member that a thorough investigation is being undertaken at the moment.

COMPULSORY UNIONISM

Mr. WELLS: Is the Minister of Labour and Industry able to report to the House on the situation surrounding Mr. Kingston-Lee and Mr. Mazey, two gentlemen who were mentioned recently in this House? An attack was made in this Chamber on the Minister and his officers in a statement by the member for Davenport. I am concerned with the welfare of all workers in this State, just as I would be concerned with the position of Mr. Kingston-Lee and Mr. Mazey. However, it would appear (and I seek advice from the Minister on this) that again the member for Davenport has demonstrated his well-known hatred and that his vicious attack on the Minister was unwarranted.

I believe this House should be enlightened as to the true situation surrounding the case of these two men, since it was stated blatantly by the member for Davenport that the Minister's department deliberately delayed advice to these two gentlemen so that they would be out of time in pursuing a case for reinstatement. All members of this House are vitally concerned with this question. I believe that, if what is alleged is true, the Minister will do something about the matter, but if it is demonstrated that the member for Davenport is merely union bashing again he should be roundly castigated for his action in the House under privilege.

The Hon. J. D. WRIGHT: I first want to make this point: I have said today in this Chamber, and I reiterate, that I am subject to criticism as a public identity, and that I accept such criticism where it is valid. However, I strongly object in all circumstances to unfounded criticism of the public servants who work within my department. I think I have a most efficient department. It was efficient before I went there, and it is no more or no less efficient because of my having gone there. I have always believed it to be an efficiently run department. Let me outline the facts of the accusation made by the member for Davenport. On June 8, 1976, the member for Davenport, in an outrageous attack on officers of my department, made unwarranted and misleading allegations.

Members interjecting:

The Hon. J. D. WRIGHT: Members opposite will be laughing on the other sides of their faces before I have finished. The member for Davenport made these unwarranted and misleading allegations without taking the trouble of putting himself in possession of the full facts. The real position is that Mr. Kingston-Lee and Mr. Mazey approached officers of my department seeking advice whether anything could be done against their previous employer in what they felt was an injustice. The company had wanted to transfer them to work which carried a rate of pay about $20 a week less than they were then enjoying. It was thought by them that they may have had a case, in terms of section 157 of the Industrial Conciliation and Arbitration Act, for reducing their rates of wages (which could be considered "injuring" them in the course of employment).

At no time—and I repeat that for the benefit of the member for Eyre—did the two men indicate their desire to pursue a case for reinstatement in employment. It is therefore entirely incorrect for the honourable member to say that the time taken by my departmental officers to offer proper advice in this difficult case meant that no court action could be taken by the men concerned. I shall quote extracts from the report of the inspector from my department who investigated the matter. He states:

Reinstatement is not the contentious issue intended in the complaint. Consequently the investigation has been conducted along the lines that the former employees may have been "injured" in their employment.

Of course, as all members will know (with the possible exception of the member for Davenport), if this could be proved, a breach of section 157 (1) (a) of the Industrial Conciliation and Arbitration Act would have been committed by the employer. That is not in any way connected with section 15 (1) (e) of the same Act, commonly called the reinstatement section. This, of course, is the section in connection with which the member for Davenport criticised my departmental officers. The inspector's report continues:

With reference to the termination, it is common ground that other employment was offered by the company as an alternative to leaving the company. The mode of work offered was considered to be unacceptable by the employees and accordingly they left their employ on an agreed date. A company officer expressed the view—

Mr. Dean Brown: That's a lie, and you know it.

The Hon. J. D. WRIGHT: That is in the report.

Mr. Dean Brown: I know. I read the report last evening, but you weren't here to listen.

The Hon. J. D. WRIGHT: That is in the report. I take exception to the member for Davenport's telling me that I am telling lies, and I ask for a withdrawal of that statement.

The SPEAKER: Order! I ask the honourable member for Davenport to withdraw the statement.

Mr. DEAN BROWN: I did not call the Minister a liar: I said that the report was a lie.

The SPEAKER: Order! Would the honourable member reiterate the statement he made?

Mr. DEAN BROWN: I said that the report was a lie.

The SPEAKER: In that case it must be either the Minister or his officers.

Mr. Wells: You don't have enough guts to apologise.

The SPEAKER: It must be someone.

Mr. DEAN BROWN: For your clarification, Mr. Speaker, I point out that last evening I read to the House the full statement made by these two gentlemen, but the facts being presented by the Minister are excluding much of that information. Therefore, I have said that the report is a lie, and I stand by that statement.

The Hon. J. D. WRIGHT: I insist on a withdrawal: he is accusing officers of my department whom I represent in this place of telling lies in a public report.

The SPEAKER: Order! I must ask the honourable member for Davenport to withdraw the statement in which he is saying that the Minister or his officers are deliberately lying to this House.

Mr. DEAN BROWN: It would give me much pleasure to withdraw the statement, provided first that the Minister will table all the correspondence.

The SPEAKER: Order! There can be no terms: it must be a withdrawal.

Mr. DEAN BROWN: The report the Minister is reading out of the circumstances is false and misrepresents the facts. I withdraw the statement that it is a lie, but I maintain quite rightly that it is misrepresenting the facts and giving only part of the true picture.

Mr. Wells: Now you are accusing departmental officers of telling falsehoods.

The SPEAKER: Order!

The Hon. J. D. WRIGHT: That is about what I would expect from the integrity of that honourable member. I return now to the explanation as follows:

A company officer expressed the view—

and I wonder whether the member for Davenport will challenge this—

that his company reserves the right at all times to transfer staff within the organisation according to the changing requirements of business.

Accordingly, no dismissal was initiated by the company, rather, it was a refusal on the part of the employees to work in an alternative area of work suggested by the company. It must also be remembered that the employees concerned were at all relevant times working under the provisions of a Federal award. Considerable doubt exists as to whether in these circumstances any remedy can be provided from the State Industrial Commission. For this reason the matter was referred to the Industrial Registrar for his advice and for the benefit of those members opposite who are still interested, I quote his reply:

Section 5 of the Federal Conciliation and Arbitration Act, 1904, as amended, provides, *inter alia,* that it is an offence for an employer to dismiss an employee by reason of the circumstances that the employee is a member of a union. However, it has been held that no offence is created by section 5 where the reason for the dismissal is that an employee did not join a particular union.

For the benefit of the shadow Minister, I point out that the case is *J. P. Boerna and G. A. Gaskin Pty. Limited,* 711*B* 689; I had decided to quote details from that case, but I will table those details on the advice of my Leader.

It follows then that there is considerable doubt that the company has committed an offence under the Federal Conciliation and Arbitration Act, and, if this is accepted, it follows that section 157 of the South Australian Industrial Conciliation and Arbitration Act could be considered to be inconsistent with the Federal Act, and an action under section 157 would be invalid, but never any claim under section 15 (1) (e).

Because of the considerable doubts as to jurisdiction, it was properly decided by my officers to advise Messrs. Kingston-Lee and Mazey that, if they wished to pursue the matter, it would be appropriate for them to consult a solicitor. The member for Davenport has alleged in his attack that there was some dereliction of duty on the part of my officers in not getting advice to Messrs. Kingston-Lee and Mazey within 21 days. He obviously does not know that, in terms of section 172 of the South Australian Act, proceedings for possible offences can be commenced up to 12 months from the commission of the alleged offence.

Mr. Mathwin: Take your time, Jack.

The Hon. J. D. WRIGHT: I am. In my view, this attempt by the honourable member—

Dr. TONKIN: I rise on a point of order, Mr. Speaker. The Minister has now admitted to the House that he is taking his time and wasting the time of the Opposition, and I ask that he be requested to expedite the reading of the report.

The SPEAKER: There is no point of order. The honourable Minister of Labour and Industry.

The Hon. J. D. WRIGHT: Thank you, Mr. Speaker. I was merely complying with the request of the member for Glenelg. In my view, this attempt by the member for Davenport to cast aspersions against the veracity of my officers is reprehensible. I have reviewed the file and satisfied myself that every possible avenue was explored in an attempt to assist both Mr. Mazey and Mr. Kingston-Lee. I believe the honourable member's unwarranted attack is just another attempt by members opposite to denigrate public servants, who have no opportunity to refute these allegations.

AUSTRALIAN HONOURS

Mr. ALLEN: Can the Deputy Premier state when the Order of Australia honours that were announced in 1975 and in January, 1976, will be presented? Members will recall that the first of these honours were announced in June, 1975, and another list was given in January, 1976,

but so far people have not been presented with these honours and they are wondering when this ceremony will take place. I remind members that it is a year since the first honours were announced, and probably another list will be announced this weekend, so there will be three lists of honours that will not have been presented. Some of these people are growing older and perhaps some of them may pass on before they are presented with their honours, and that would be a tragedy. Some people have said that, as their names have been listed under the governorship of our present Governor in South Australia, they would like to be presented with their honours by him before he retires.

The Hon. J. D. CORCORAN: As I do not have this information, I will find out for the honourable member and let him have it by letter soon.

LEIGH CREEK TELEVISION

Mr. MAX BROWN: Has the Minister of Mines and Energy information about whether the proposed television service for Leigh Creek is to be installed or not? I am sure the Minister would be aware of the publicity given to this matter and that he would be aware also that Mr. Wallis, the Federal member for Grey, has been involved in this matter for some time. Because of the cloud that is over the issue, I would appreciate any advice the Minister may have.

The Hon. HUGH HUDSON: Agreement was reached between the Prime Minister and the Premier for a television service to be provided for Leigh Creek but, unfortunately, in the mini Budget presented by the Treasurer the $45 000 that was to be the cost to the Commonwealth was cut out. Since that time the residents of Leigh Creek have said that they would impose an overtime ban on the shipment of coal to Port Augusta and that this would commence tomorrow. I have been endeavouring, over a period of some 10 days now, to deal with this matter through the Minister for Post and Telecommunications and through his secretary, and I have still not received a final answer from them. I put it to the Commonwealth Minister that the allocation should be restored because, if the overtime ban went ahead, it would cost the Commonwealth railways $20 000 a week in lost revenue and it would take only a little more than two weeks before that loss offset fully the $45 000 the Commonwealth was proposing to save.

I did say to the Commonwealth Minister that the State of South Australia would lend the Commonwealth $45 000 so that it could undertake the service it had agreed to undertake this year to Leigh Creek, on condition that the Commonwealth would pay the money back in 1977-78. I have still not had a reply to that proposition. I understand there has been a report over the A.B.C., announced by Mr. Kelly, that the service would go ahead. Whether that is accurate or not I do not know, but I would appreciate the courtesy of some reply from the Commonwealth Minister instead of the 10 days of prevarication and difficulty that I have had, and the general difficulty I have experienced in even being able to talk to the Commonwealth Minister. It is a serious matter for the residents of Leigh Creek; they live in an isolated community and they have been concerned to get their television service. The Electricity Trust of South Australia, which employs the vast majority of the people who work in Leigh Creek, has provided more than 50 per cent of the total cost involved, and the Commonwealth is reneging on an agreement that was indicated by letter from the Prime Minister.

Mr. Nankivell: It was taken—

The Hon. HUGH HUDSON: Are you a puppet, too, of the Government? Why don't you stick up for the State!

The SPEAKER: Order! I must call the House to attention. Interjecting is becoming increasingly bad. I will not listen to complaints in future from people who tell me they do not get an opportunity to ask a question, because in many cases it is the fault of the interjections. I will also ask the Minister to be brief, come to the point and conclude the reply.

The Hon. HUGH HUDSON: I am hopeful that the television service to the people of Leigh Creek will go ahead. I have only had a vague indication, third hand, that the allocation is likely to be restored, but I have not had it officially confirmed and I would appreciate having it officially confirmed.

BULK LOADING INSTALLATIONS

Mr. BLACKER: Can the Minister of Works come to any satisfactory arrangement with the Waterside Workers Federation that will ensure that the new bulk loading installation in Port Lincoln will be used when completed? The Minister would be aware of the concern expressed by the Waterside Workers Federation for the continued employment of its members. The method of making payment to waterside workers is primarily based on the number of hours worked during the quarter nine months before the current quarter. This means that the wages paid for the current quarter (April, May and June) are based on the hours worked during the quarter comprising July, August and September of last year. When the new bulk installation is operational there will be a lag of some nine months before the real effects are felt. Because of the concern of the men at the wharf, can the Minister say whether any agreement has been reached?

The Hon. J. D. CORCORAN: There has not been any final agreement. I have had brief discussions with Mr. Max Glenn, Secretary of the local branch of the Waterside Workers Federation in Port Lincoln. I have also had a discussion with Mr. Charlie Fitzgibbons, the Federal Secretary of the Waterside Workers Union on this matter, but no real finality has been reached. I do not expect any problems, but I will keep the honourable member informed of progress.

TEACHER AIDES

Mr. ABBOTT: I preface my question by drawing the Minister of Education's attention to the "situations vacant" advertisements that appeared in the *Advertiser* on Monday, June 7. The headline, in capitals, reads:

"Did you want to be a teacher's aide, and missed?"

Mr. Mathwin: What is the question?

The SPEAKER: Order! The honourable member is asking the question.

Dr. TONKIN: Mr. Speaker, on a point of order. For some considerable time in this House it has been the practice that members have been asked to state clearly their question first and ask leave to explain afterwards.

The SPEAKER: I ask the member for Spence to be briefer in his introduction to the question.

Mr. ABBOTT: Has the Minister seen the advertisement that appeared in the *Advertiser* on June 7, the headlines in capitals of which read:

"Did you want to be a teacher's aide, and missed?"

The advertisement then goes on to say:

Obviously you are a person who loves working with children, believes in education and likes the flexibility of the hours. We have a position for you, which, although

not for a teacher's aide, fulfils all of the above requirements. If you can commence work immediately attend interview at 2.00 p.m., 2nd Floor, 44 Pirie Street, Adelaide (Opposite the lift).

From listening to that one would think it was an educational type of job: 40 women thought so, and arrived for an interview. They eventually found that the job entailed selling encyclopaedias. Can the Minister do anything to prevent people from being misled in this way by believing they are applying for an educational position, perhaps even a job with a school?

The Hon. D. J. HOPGOOD: My attention had been drawn to the advertisement, which intrigued me because I used to work on the second floor of 44 Pirie Street, Adelaide, in the previous portfolio I occupied. Without naming the firm involved, I can certainly point out that the job does involve selling encyclopaedias. My wife was once a customer of this firm, and I have no quarrel with the treatment we received on that occasion. Certainly, on the face of it, the advertisement is quite misleading. Any advertisements that are ever inserted by the Education Department or the Further Education Department, any advertisements for ancillary staff in schools, are always properly annotated to make it clear that the job is as outlined. The State emblem would, of course, be on the letterhead. I warn people to watch these things very closely, and I hope this firm, in any future advertisements for people to take on this job, will ensure that it does not transgress in the way it seems to have done on this occasion.

MILLICENT SOUTH SCHOOL

Mr. VANDEPEER: Can the Minister of Education say why, in view of reports that there was a surplus of student teachers who completed training last year, the Millicent South School has not been supplied with more staff when its mid-year intake has been above expectation and the school will reach a cut-off point at the end of this month? The school has had a larger than expected mid-year intake, and has applied for more staff, but has not yet received an answer. It has the accommodation and, if staff were supplied, that school could relieve the pressure on Millicent North, which is also at cut-off point but which has not the accommodation until the new Samcon open space unit is completed.

The Hon. D. J. HOPGOOD: I am a little bemused by the question, because the mid-year intake has not yet occurred. I wonder whether the school to which the honourable member refers has a continuous enrolment or whether the problem relates to the school's anticipation of its enrolment following the mid-year intake. I will take up the specific matter the honourable member has raised. All I can say is that, although there were people on the list who were noted by our staffing officers earlier this year (and some of them were private students from the tertiary sector, all our bonded and unbonded college students having been placed), the list has been eaten into considerably in anticipation of the mid-year intake. I will certainly look into the matter, but any clarification that the honourable member can give me will be appreciated.

CONCORDE

The Hon. G. R. BROOMHILL: Has the Minister for the Environment been able to work out what is meant by the many conflicting statements coming from Canberra regarding the Concorde aircraft in this country? All members are aware that last year this House passed a motion expressing deep concern about the noise and atmospheric problems relating to the Concorde aircraft. I hope that we have since passed that motion on to the Commonwealth Government. I read that the Commonwealth Government apparently thwarted the environmental impact legislation and it made a decision, based on a report prepared by the British Government, that simply whitewashed the Concorde and its problems and gave it landing rights in Australia. Immediately after that decision was made an all-Party committee of the Australian Parliament drew to the attention of the community the extreme dangers likely to be caused to the upper atmosphere if Concorde is allowed to fly anywhere, let alone in Australia. Attention was also drawn to the extremely severe effects of noise associated with this aircraft. As a result, the Australian community is concerned and uncertain about what is likely to happen. I therefore ask the Minister whether he can throw some light on this matter or, if he cannot, whether he will try to establish what is likely to happen at Australian Government level.

The Hon. D. W. SIMMONS: The honourable member and I share a common interest in this matter on several grounds: first, from the viewpoint of the environment and, secondly, because we both have districts that adjoin West Beach airport. We are both concerned about the possible landing of Concorde in Adelaide. Unfortunately, I can fill in only some of the gaps in the story. It is fair to say that the Commonwealth Government has been somewhat less than forthright on the matter of Concorde. Soon after the Fraser Government came to power I formed the opinion that it was only a matter of time before the Australian skies would be open to Concorde, an opinion that has been proved to be correct. I know that the honourable member has been concerned about the effect of aircraft like Concorde on the ozone layer surrounding the earth. I share his concern about this matter. A report tabled in the Senate in the past week or so has also drawn attention to the possible dangers to mankind as a result of the effects of these aircraft on the ozone layer. My immediate concern in this matter has been the effect of Concorde regarding noise in the region of Adelaide. The submission made by my department to the Commonwealth Government drew special attention to the undersirability of Concorde being allowed to land at West Beach as a regular alternative landing field, which was suggested in an unsatisfactory environmental impact statement prepared by British Airlines and the British Government. South Australia is concerned about the noise levels in Adelaide, and objected to the bland assumption made in a report that West Beach would be the alternative airport to Tullamarine for Concorde. The Federal Minister for Transport (Mr. Nixon) has not replied to our submission but he made a recent brief press statement that the alternative airport for Concorde would now be Alice Springs or Darwin. I hasten to add that in no case did we in South Australia suggest that Concorde would not be permitted to land at West Beach if there was a real emergency. That would be a ridiculous attitude to take. What we objected to was Adelaide Airport's being a regular alternative airfield to Tullamarine. All we know so far is that Mr. Nixon said that Alice Springs and Darwin would be the alternative airports to Tullamarine for Concorde. I have written to the Federal Minister to try to get clarification to ensure that there is no risk of Adelaide's being an alternative airport should Tullamarine not be available.

PERSONAL EXPLANATION: COMPULSORY UNIONISM

Mr. DEAN BROWN (Davenport): I seek leave to make a personal explanation.

Leave granted.

Mr. DEAN BROWN: The Minister of Labour and Industry has grossly misrepresented the truth and the facts as I presented them to the House on Tuesday and Wednesday of this week. I ask members to read again the evidence of the signed statement and the letter from the Labour and Industry Department presented to the House. Members will see the extent of the psychopathic reaction the Minister makes to any criticism whatever. I indicated to the House that both the statement and the letter left no doubt that the man had been dismissed and was making a claim under section 15 (1) (*e*). I referred especially to a signed statement of complaint. Yesterday I read from a photostat copy of a complaint lodged at the Minister's own department. On the second line of that—

The Hon. J. D. Wright: Who wrote it out for you?

The SPEAKER: Order!

Mr. DEAN BROWN: It was signed by Mr. Kingston-Lee and Mr. Mazey.

The Hon. J. D. Wright: Written out by officers of my department.

Mr. DEAN BROWN: I know. On the second line of that statement (and the Minister has just confessed it was written by his own department) section 15 (1) (*e*) of the Act is referred to.

The Hon. HUGH HUDSON: On a point of order, Mr. Speaker. Under the provisions of Standing Order 137 a member may, by leave of the House, explain matters of a personal nature, although there is no question before the House. Such matters, however, may not be debated. The honourable member was granted leave to make a personal explanation. It should be an explanation of a personal nature relating to an accusation that the member for Davenport has been misrepresented. It should not lead to debate.

The SPEAKER: I must uphold the point of order, and must stress that the honourable member for Davenport must not introduce new matter. The honourable member is making a personal explanation and it must be confined to such.

Mr. DEAN BROWN: I am making a personal explanation. I have the copy, taken by *Hansard* last evening, of what was said in this House last evening. That copy indicates clearly that I have been misrepresented in this place. It is therefore a personal matter, and is a matter that comes under a personal explanation. The Minister knows that. Last evening I indicated clearly that the document the Minister had in his department referred, on the second line, to section 15 (1) (*e*). In the Minister's statement to the House this afternoon he claimed that there was no reference whatever in that statement or any other matter referring to section 15 (1) (*e*). I have already presented that evidence to the House. It can be seen in *Hansard*. Therefore, the truth of the case I put originally to the House can be verified. When I presented the evidence to the House last evening, unfortunately the Minister chose not to be in the Chamber, although I understand that he was informed that I was speaking about this matter.

The Hon. J. D. WRIGHT: I rise on a point of order, Mr. Speaker. The honourable member has accused me of choosing not to be in the House. I do not get notice of when the honourable member will speak. If he wants to give me such notice, I will be in the Chamber. I ask him to withdraw the word "chose".

The SPEAKER: There is no point of order, but I stress to honourable members that, when speaking about another honourable member, they refrain from implying what they would like the position to be to suit a particular argument.

Mr. DEAN BROWN: I come back to my main point: I was misrepresented, because the evidence I produced came from a copy of the complaint to the Minister's department. I obtained a copy of it from the person who made the complaint, so there is no fear of my having photocopied secret files. I present evidence now that I was misrepresented by the Minister, because the complaint, the second line of the two-page document, refers specifically to section 15 (1) (*e*) concerning dismissal. That was the whole basis of the Ministerial statement today, in which the Minister claimed that there was no reference to a dismissal. I conclude by saying that the Industrial Court has proved a similar outburst by the Acting Premier, concerning Mr. Werner Lachs, to be totally incorrect—

The SPEAKER: Order!

Mr. DEAN BROWN: —and a similar outburst by—

The SPEAKER: Order! That statement is completely—

Mr. DEAN BROWN:—and I ask for an apology from the Minister.

The SPEAKER: Order! The latter part of what the honourable member has said is completely out of context and has no bearing on the personal explanation the honourable member asked leave to give.

At 3.12 p.m., the bells having been rung:

The SPEAKER: Call on the business of the day.

NOTICES OF MOTION

The Hon. J. D. CORCORAN (Deputy Premier) moved:

That Standing Orders be so far suspended as to enable Notices of Motion: Government Business Nos. 1, 2 and 3 to be proceeded with forthwith.

Motion carried.

ART GALLERY ACT AMENDMENT BILL

The Hon. J. D. CORCORAN (Deputy Premier) obtained leave and introduced a Bill for an Act to amend the Art Gallery Act, 1939-1975. Read a first time.

The Hon. J. D. CORCORAN: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation of the Bill incorporated in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF BILL

This is a short Bill giving to the Art Gallery Board the facility, enjoyed by other similar boards, of borrowing money, subject to the consent of the Treasurer. Provision is made for the repayment of any such money borrowed to be guaranteed by the Treasurer and the effect of this guarantee is to give the board access to funds at rates of interest well below "commercial rates". If this amendment is agreed to, the board's continuing acquisition programme can proceed without increasing its subventions from the Government. Clause 1 is formal. Clause 2 provides for the board to be able to borrow money, with the consent of the Treasurer, upon security if it thinks fit, and for the Treasurer, upon such terms and conditions as he thinks fit, to guarantee the repayment of any loan, such guarantee to be paid from general revenue.

Dr. TONKIN secured the adjournment of the debate.

MARINE ACT AMENDMENT BILL

The Hon. J. D. CORCORAN (Minister of Marine) obtained leave and introduced a Bill for an Act to amend the Marine Act, 1936-1975. Read a first time.

The Hon. J. D. CORCORAN: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation incorporated in *Hansard* without my reading it.

Dr. Tonkin: No. I ask that this one be read.

The SPEAKER: I must ask the honourable Minister to read the explanation.

The Hon. J. D. CORCORAN: This Bill makes a number of miscellaneous amendments to the Marine Act. The major amendments relate to section 63 and section 110 of the principal Act. Section 63 requires that, wherever it is practicable to do so, the master of a ship that has been involved in a collision should stand by to aid any ship that may have been damaged in the collision. It goes on to provide that if a certificated officer fails to observe that requirement his certificate may, after inquiry, be cancelled or suspended. Section 63 does not, however, say by whom the inquiry is to be conducted. The Bill therefore removes the provision for an inquiry from section 63 and widens section 110 to make it clear that an inquiry into a matter covered by section 63 may be held before a court of marine inquiry.

The Bill repeals section 67f of the principal Act. This section at present provides that the regulations applying to fishing vessels do not apply to fishing vessels used solely on the Murray River. The Government believes that, in the interests of safety, these regulations should apply to all fishing vessels and, accordingly, section 67f is removed. The Bill inserts a new section 145 in the principal Act. This new section gives the Minister immunity in civil actions in respect of certificates and other documents issued under the Act. At present, it is possible that if a vessel in respect of which a certificate of survey had been issued, proved to be unseaworthy, or if an officer holding a certificate of competency issued under the Act, proved to be incompetent, an action in negligence could be maintained against the Minister or the officer who issued the certificate. The Government believes that the possibility of such actions is undesirable, hence the new section conferring immunity upon the Minister and officers acting in the administration of the Act is proposed by the Bill.

Clause 1 is formal. Clause 2 suspends the operation of the new Act until Her Majesty's pleasure thereon has been signified in the State. This provision is included in view of section 734 of the Merchant Shipping Act. Clauses 3 and 7 confer the power to make investigations into a failure of duty under section 63 on the court of marine inquiry. Clause 4 repeals section 67f of the principal Act which at present exempts from the fishing boat regulations vessels that operate only on the Murray River. Clauses 5 and 6 are designed to make it perfectly clear that the provisions of Part V relating to investigations by the court of marine inquiry apply to fishing vessels and their officers and crews. Clause 8 exempts the Minister and officials acting in the administration of the Act from liability flowing from the issue of certificates and other documents under the Act.

Mr. GOLDSWORTHY secured the adjournment of the debate.

LEVI PARK ACT AMENDMENT BILL

The Hon. G. T. VIRGO (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Levi Park Act, 1948. Read a first time.

The Hon. G. T. VIRGO: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation of the Bill incorporated in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF BILL

This short Bill amends the principal Act, the Levi Park Act, 1948, to remove the limitations imposed by section 12 on the fees payable to the Chairman and members of the trust constituted by the principal Act. At present the annual fees that may be fixed by the trust for the Chairman and members are limited to a maximun of $52·50 and $13·20 respectively. These maxima were fixed almost 30 years ago.

If the proposed amendment is agreed to the trust will, subject to the approval of the Minister, be empowered to fix more appropriate fees. Clauses 1 and 2 are formal. Clause 3 strikes out from section 2 of the principal Act the specific definition of "Minister" enabling reliance to be placed on the appropriate definition in the Acts Interpretation Act. Clause 4 effects the amendment adverted to above.

Mr. COUMBE secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 1)

The Hon. G. T. VIRGO (Minister of Local Government) brought up the report of the Select Committee, recommending amendments, together with minutes of proceedings and evidence.

Report received.

The Hon. G. T. VIRGO: I move:

That the report be noted.

I seek leave to continue my remarks.

Leave granted; debate adjourned.

OFF-SHORE WATERS (APPLICATION OF LAWS) BILL

Adjourned debate on second reading.

(Continued from June 9. Page 101.)

The Hon. PETER DUNCAN (Attorney-General): I move:

That Standing Orders be so far suspended as to enable this Order of the Day to be proceeded with forthwith and the Bill to pass through its remaining stages without delay.

Motion carried.

Dr. TONKIN (Leader of the Opposition): This Bill has been introduced because it is believed there is at present a legal vacuum with respect to large areas of both the criminal law and civil law in the open seas adjacent to this State. It is being dealt with as a matter of urgency, and the Opposition sees the need for urgency. Nevertheless, we would be happy to regard one or two other pieces of legislation with an equal, if not greater, degree of urgency. The Bill is needed as a result of a recent judgment in the High Court, which upheld the validity of the Commonwealth Seas and Submerged Lands Act, 1973. Briefly, this Act asserted a claim by the Commonwealth to "sovereignty" over the territorial seas of Australia, that it, the waters within three nautical miles of the coast. This Bill will apply the civil and criminal law of this State to certain off-shore waters near the State. Two other States, Western Australia and Tasmania, have enacted or have in contemplation legislation similar to this Bill. Certainly, the vacuum which exists in law relating to the open seas must be filled. The Hon. D. H. L. Banfield pointed out in his second reading speech the following:

In the case of certain serious crimes it may be possible to proceed under old Imperial Acts that give jurisdiction to colonial courts to try serious crimes against United

Kingdom laws committed on British ships. However, this is a complicated and anachronistic procedure, and at any rate it covers only a part of the criminal law. There is not even this limited provision with respect to the civil laws.

The whole question of off-shore rights dealt with in this Bill is a thorny one. After many years of legislation and litigation there is still no light at the end of the tunnel, and it seems that it will take many more years of legislation and litigation before an answer will be found. The history has been dealt with fully during the debate and in another place, and I would like to say that the contribution by the Hon. R. C. DeGaris in that respect has been monumental. It sums up the history and the present legal situation remarkably well, and it is interesting and a pleasure to read. Perhaps, as was suggested by that gentleman on Tuesday, an answer to the problem could be achieved by the Commonwealth and the States getting together to reach agreement on all matters concerning territorial waters (Australian waters, the sea bed, the sub-soil of the sea bed and the air space above the continental shelf), and perhaps some uniform legislation could be provided, as was done with oil search legislation, to help overcome the problem.

I believe there are so many vague and indefinite areas in this regard that the prospects of obtaining uniform legislation that would effectively deal with the problem is remote. The member for Alexandra has an interest in this subject because of his connection with Kangaroo Island and, as he has already pointed out to me privately, Kangaroo Island occupies a unique position under the old laws relating to the sea. Until we find some way of sorting out this entire area, I believe we will see litigation, case after case, and that the whole situation will not be finally resolved until there has been litigation. In the meantime, I am told and advised that this Bill is probably the best answer. I am not entirely happy with that explanation. I have not been able to find any alternatives: indeed, I think that at this stage it is impossible for anyone to put up a reasonable and better alternative. In the circumstances, I support the Bill, but I make it quite clear that I do so with marked reservations, and I look forward to hearing the contribution from other members who have studied this Bill in more depth.

Mr. MILLHOUSE (Mitcham): I was not able to hear the whole of the speech of the Leader but what I did hear of it did not sound to me to be particularly well informed. I am surprised that his so-called shadow Attorney in another place has not better advised him than he has done. In my opinon, this Bill is quite unnecessary. There is no reason at all why it should have been introduced. To compound that lack of necessity it is being pushed through now in the first three days of the session contrary to the Standing Orders of this House. If members had not been so teasy today, as I have noticed—

Mr. Goldsworthy: We sat the sitting out: we did not go home halfway through, as you usually do.

Mr. MILLHOUSE: I was waiting for one of the Liberals to say something like that.

Mr. Goldsworthy: It is true, isn't it!

Mr. MILLHOUSE: May I reply to the member for Kavel by pointing out that, if he and his colleagues had not had a welcome-home party on Tuesday evening and for that purpose requested that the House should not sit on Tuesday evening, it would not have been necessary to sit so late last evening. So, it ill behoves the member for Kavel or any of his colleagues to complain about the late sitting last night. They brought it on themselves, as every member on the other side knows and several members of the Government know.

The DEPUTY SPEAKER: Order! I ask the honourable member to speak to the Bill.

Mr. MILLHOUSE: I am being provoked again by the honourable member for Kavel.

Mr. Goldsworthy: You could have been at the welcome home.

Mr. MILLHOUSE: The last place in the world I wanted to be on Tuesday night was a welcome-home party for the so-called Liberal Party. Let me now come to what I was going to say. If honourable members of this place had not shown themselves this afternoon to be teasy I would have opposed the suspension of Standing Orders, but I thought, and I now know from what the Leader said, that I would have stood alone in that. I understand, although I have not seen it, from the second reading speech of the Attorney-General that this Bill has been introduced (and this is perfectly obvious if one studies it) as a result of the decision of the High Court of Australia in the case of the State of New South Wales against the Commonwealth. My report of that decision is in 50 *Australian Law Journal Reports* of page 218. That decision was delivered on December 17, 1975. The decision in that case, as I imagine the Attorney-General explained, was to the effect that the Commonwealth Seas and Submerged Lands Act, 1973, was valid and its validity has been challenged by all the States of the Commonwealth, including South Australia. That is obviously the basis of the decision, and that was only a majority decision of the High Court of Australia. I quote briefly from the headnote of the decision at page 218 of the ALJR as follows:

The preamble to the Seas and Submerged Lands Act, 1973 (Cth) (the Act), which came into force on December 4, 1973, contained recitals to the effect: (*a*) that a belt of sea adjacent to the coast of Australia, known as the territorial sea, and the airspace over the territorial sea and the bed and subsoil of the territorial sea, were within the sovereignty of Australia; (*b*) that Australia, as a coastal State, had sovereign rights in respect of the continental shelf (that is to say, the sea-bed and subsoil of certain submarine areas adjacent to it but outside the area of the territorial sea) for the purpose of exploring it and exploiting its natural resources; and (*c*) that Australia was a party to the two Geneva Conventions of 1958 on the Territorial Sea and the Contiguous Zone, and on the Continental Shelf.

I will not read the rest of that part of the headnote, but I come now to the digest of the decision itself. It was a decision in which the Chief Justice (Sir Garfield Barwick) and Mr. Justice McTiernan, Mr. Justice Mason, and Mr. Justice Jacobs concurred, while Mr. Justice Gibbs and Mr. Justice Stephen dissented. I may say that that is pretty powerful dissent, and perhaps the member for Playford will have something to say about that later. It was held as follows:

Both prior to and after Federation, the plaintiff States, whether originally as colonies or later as States, did not in their own right have sovereignty and legislative power over the territorial sea up to the three-mile limit, or over the sea-bed and subsoil and superjacent airspace of the territorial sea up to this limit.

It was further held (and there is one other relevant part):

That either as the consequence of the creation of the Commonwealth under the constitution, giving it inter alia the power to legislate as to external affairs, or as a result of the acquisition by the Commonwealth of the status of independent statehood, there became vested, in any event, in the Commonwealth whatever sovereign rights and legislative power that the Australian colonies or Australian States might have had in or in relation to the territorial sea, and its sea-bed, subsoil, and superjacent airspace, and that, accordingly, the provsions of the Act dealing with the Commonwealth's sovereignty over the territorial sea, its sea-bed, subsoil, and superjacent airspace were valid.

It is obvious that the present Bill is drawn as a result of that Act and in an attempt by this State to, at the very least, cut down its effect. However, it is equally obvious to me that the Bill was withdrawn before the subsequent decision of the High Court of Australian in *Pearce v. Florenca,* because that decision was given only on May 14 of this year, less than a month ago. It makes it abundantly clear that it is not necessary to pass legislation of this kind at all. The gravamen of that decision is that, while the States may not have territorial sovereignty over off-shore areas, this does not mean that the States do not have extra-territorial jurisdiction over such areas if there is a connection—

The Hon. Peter Duncan: That is the point.

Mr. MILLHOUSE: Yes, that is the point. I am glad the Attorney is up with me, at least to this point. They may have extra-territorial jurisdiction over these areas. Because I want the Attorney in due course to reply to this debate, if he can, I propose to quote—

The Hon. Hugh Hudson: You don't have to be offensive.

Mr. MILLHOUSE: I am not offensive. I am never offensive. I am one of the mildest mannered members of this place, and the Minister knows it. I propose to canvass some of the judgments in this case, because they are relevant, and particularly relevant to those members who have interests in fisheries, because that matter is dealt with in the judgment. I should mention that this is a unanimous judgment of the High Court of Australia. The facts are simple, and I will quote the first paragraph of the Chief Justice's judgment to set them out. It states:

John Manuel Florenca was charged before a magistrate at Geraldton in Western Australia upon two complaints by the appellant with having in his possession on a boat of which he was the skipper, at a point within one and a half miles of the coast of Western Australia, undersized rock lobsters as defined in the Fisheries Act, 1905-1975 (W.A.) (the Act), contrary in each case to section 24 of the Act.

He was prosecuted, and the magistrate held that the Fisheries Act was invalid, and therefore the prosecution failed. The Western Australian Government appealed, and it was the subject matter of that appeal that the Fisheries Act was valid that is contained in this judgment. The judgment dealt with a fisheries case, and the whole point was as to whether the State of Western Australia could legislate in its Fisheries Act for off-shore areas. This is what the Chief Justice says in his judgment, and I think this is the most relevant part:

The Western Australian legislation was no doubt drawn on the assumption that the State of Western Australia had, as it is said, a territorial sea, in respect of which it had legislative power. This court's recent decision—

that is, *New South Wales v. the Commonwealth,* to which I have already referred—

has shown that assumption not to be well founded. But, quite clearly, in accordance with expressions of opinion in that and in earlier cases, the State has legislative power to make laws which touch and concern the peace, order and good government of Western Australia which are operative beyond the margins of the territory of Western Australia, and thus operative in areas of the sea not limited to the marginal seas commonly described as "territorial waters".

So there the Chief Justice, in his judgment, covers the area which this Bill now so hurriedly brought before us is meant to cover. This is the final sentence from his judgment:

There is, in my opinion, no inconsistency between the existence of the power to exercise the sovereignty which the Seas and Submerged Lands Act proclaimed and the Act.

Mr. Justice Gibbs, who had dissented in the earlier decision, deals with the matter at greater length. I hope that I will not be tedious if I quote at some length from his judgment, because it is all relevant to the matter. On page 7 of the judgment he states:

. . . it has become settled that a law is valid if it is connected, not too remotely, with the State which enacted it, or, in other words, if it operates on some circumstance which really appertains to the State.

There he is dealing with extra-territoriality. He goes on to say, at page 8:

For that reason it is obviously in the public interest that the test should be liberally applied, and that legislation should be held valid if there is any real connection—even a remote or general connection—between the subject matter of the legislation and the State.

The long passage I desire to quote appears at the top of page 10, as follows:

The very fact that the waters are the offshore waters of the State provides the nexus necessary to render valid a law operating within those waters. There is an intimate connection between the land territory of a State and its offshore waters. Those waters have been popularly regarded as the waters of the State, and as vital to its trade. The people of the State have traditionally exploited the resources of the offshore waters and used them for recreation. The enforcement of the laws of the State would be gravely impeded if a person could escape from the reach of the laws and the authority of the State by going below low-water mark. It does not appear that any law of a colony or State has ever been held invalid in its operation within the offshore waters, only on the ground that it lacked sufficient connection with the colony or the State. Legislation of a kind accepted for over a hundred years as being validly enacted is not lightly to be overturned, with consequences gravely inconvenient for the administration of the laws of the States, and in some cases with disturbance to old-established proprietary rights. When after so many years we are asked to declare for the first time that such legislation is *ultra vires,* we may well pause to consider what reason exists to deny the States power to enact legislation taking effect within their offshore waters. The principle that legislation enacted by a State and operating outside its territory must be connected in some relevant way with the State if it is to be valid may have been appropriate to the so-called dependent and inferior legislatures of colonial times, but its only modern justification is that it may avoid conflicts with other rules of law applicable to the area in which the legislation is intended to operate.

In this way the principle may fulfil a useful purpose in providing a touchstone for the validity of a law enacted by one State and intended to take effect within the territory of another. But no rational purpose is served by holding that a law of a State cannot validly operate within its offshore waters. It has now been held that those waters form part of the territory of the Commonwealth, but the Constitution itself sufficiently provides for the resolution of any conflict that may arise between a law of the Commonwealth and a law of a State: by virtue of section 109 the former will prevail. If. in the opinion of the Commonwealth Parliament, a State law infringed a rule of international law relating to the offshore waters, the Parliament could by appropriate legislation inconsistent with the State law render the latter invalid. From the point of view of the Commonwealth, no necessity exists to rely as against the States on any principle of territorial nexus; from the point of view of the States, every consideration of practical convenience requires that the power of a State to legislate in respect of its offshore waters should be as ample as its power to legislate for its land territories. The history of the exercise of State powers in the past, the present public interest, and the reason on which the principle requiring a territorial nexus seems to rest all combine to lead to the conclusion that the fact that the persons, things or events to which the legislation of a State applies occur within the offshore waters provides sufficient connection with the State to render the legislation valid.

The other members of the court agreed, except for the junior puisne judge (Mr. Justice Murphy) who read a short judgment but who had decided the matter on a different ground. It was a unanimous opinion of the

High Court of Australia delivered within the last month that the Western Australian Fisheries Act was valid, and the matter was remitted to the Court of Petty Sessions for rehearing. I have dealt with that decision at some length, because obviously it is unknown to the Attorney-General. If it had been known to him, I do not think even he would have gone ahead with a Bill of this nature, and I am surprised that no member of the Liberal Party (so far anyway) has referred to that decision. I understand that members in this place have been running all over the place today looking for the Legislative Council *Hansard* from yesterday in order to pick up a few points from the speeches. I am sorry if they have been let down by their colleagues in another place.

I have the impression that this Bill is the result of some politicking amongst law officers of the various States, and it is significant (as I understand on reliable authority) that only Western Australia has passed similar legislation, and that dealing only with the criminal law and not the State law, as this Bill purports to do. No other State has yet passed legislation of this nature, although Tasmania may be considering doing something about it.

Mr. Chapman: Did you say Tasmania had not done anything?

Mr. MILLHOUSE: I understand it is considering doing something, but it has not done anything yet. That is the background of the Bill, which the Attorney-General has persuaded his colleagues should be passed as a matter of urgency.

Mr. Chapman: In your opinion and according to the second reading only one State has positively moved in this direction.

Mr. MILLHOUSE: Yes, that is the information I had this morning. I refer to Western Australia, but only on the matter of criminal and not civil jurisdiction. The source of my information is normally a good source, although I may be wrong. Why are we going through a futile exercise, presumably for nothing? It does not matter, therefore, that I do not like several points in the Bill. If the Bill is passed (as I presume it is intended that it shall be passed, as I am sure the Attorney-General will not back down now whatever he may think of what I have said), it will be interesting to see whether he replies to me with anything but personal abuse. I always know when I receive personal abuse from him in reply to what I have said here or elsewhere that he has no valid rebuttal, and relies on abuse. We will see what his performance is like, if he performs at all.

In case members are interested, I do not like several things in this Bill that should be altered, but I do not intend to do anything about them. The first is in the definition of "person connected with the State". If we look at (*b*) we see that it is confined to a person permanently or temporarily resident in the State. Although it may be unlikely, it is possible for someone to fly over from Melbourne in the early morning, row a boat out from Glenelg or Outer Harbor, do something that he should perhaps not do, and then go home again on the late plane in the afternoon. He would be outside the ambit of this Bill. In other words, it seems to me that, by using the word "resident" in that placitum, we are cutting down the scope of the Bill and, assuming now that the Bill is a necessary one, although that is contrary to what I have said, this would cut down unnecessarily and undesirably the ambit of the Bill.

Mr. Chapman: Why did they put that reference in at all? If it is to apply to persons in or about the State, why refer to particular persons and identify them in the way that has been done?

Mr. MILLHOUSE: I should think it would have been better if the draftsman had said "permanently or temporarily in the State", because that would have covered anyone here.

Mr. Chapman: Do you think that indicates the haste in which the Bill was introduced?

Mr. MILLHOUSE: I suspect that the Bill was drafted and the decision to introduce it made before the decision in *Pearce and Florenca,* to which I have referred. The other point is that the definition clause allows by proclamation anyone, apparently, whom the Government fancies to be brought within its ambit. I do not know if that means anything. It is presumably meant (as it often means these days) to nullify entirely the rest of the definition and leave it up to the discretion of the Government of the day who is to be included. I leave clauses 3 and 4, which are an attempt to do by legislation what the High Court has decided is the law of Australia anyway, and turn to clause 5.

I warn Opposition members, who usually have been alert enough on matters of this kind, to take some action with this, because it reverses the onus of proof in two ways. The first does not matter much, because it is peculiarly within a person's knowledge whether he is connected with the State or not and should not be too hard to prove, but why he should have to do that is a good question. However, the second one "(*b*) specified waters are offshore waters" is difficult, and the way in which this clause has been drawn requires a defendant positively to prove the contrary of (*d*) in clause (2). This in general is quite undesirable, and I would support any move, for what it is worth in a Bill that is surplusage anyway, to cut out clause 5. If the Liberals take this seriously (as apparently they do), I hope one of them will move to cut out clause 5, and we could have a bit of a debate. Those are the only points in the Bill itself that I think matter. I sum up by saying I believe this exercise is a complete waste of time, in view of the decision to which I have referred in the last month. I am surprised that that matter has not been canvassed and I understand it has not been canvassed by the old gentlemen in another place who had the first go at this Bill.

Mr. Russack: You'll be old one day yourself.

Mr. Rodda: He's getting old.

The Hon. Peter Duncan: He is old.

Mr. MILLHOUSE: The member for Victoria is so keen to get up and make his contribution that he thought I had sat down. The only thing I was going to say is that the interjection he and his colleague from Gouger have just made is typical of their attitude towards me, and it is interesting on this occasion that they have something in common with the Attorney-General in making an interjection slighting me. There it is. If the Liberals have any guts at all, after what I have said about the Bill, they will oppose it, despite the support their Leader gave. It will be interesting to see if they have got any guts on this occasion.

Mr. CHAPMAN (Alexandra): The Bill is for an Act to apply the civil and criminal law of the State to certain offshore waters in the vicinity of the State and for other purposes, whilst it is a very short Bill in volume, in my view embraces a very large history of events and, also, fails to surface a number of matters of which this House should be aware. It also invites one to become very quickly interwoven in a network of international, Commonwealth and State laws in which I am unable to participate. Having not had any experience in that field, I am therefore totally reliant on the references that have been brought to my

attention, and I can only attempt to bring to the notice of this place the elements of the Bill and its accompanying second reading that concern me.

I noted with interest the comments made by my Leader when he took up the adjournment on the debate earlier today. I also noted with interest the comments made by the member for Mitcham. I am pleased to see that on this occasion, and in relation to this piece of proposed legislation, he has a view, and that he has been about the place to express it. I would go so far as to say I was impressed by the manner in which he addressed the House, because it reminded me of a few areas about which I, too, should have some concern.

Quite apart from the legal verbiage and the jargon that goes on when referring to a Bill of this nature, I will talk about this subject in a language which I understand, which hopefully other members will appreciate and, as and when the occasion arises, which others may read from *Hansard*. The fact is that in this instance the State is clamouring to grasp the opportunity to govern and control an area which, before recent judgments, it presumed it had control of.

Since a recent judgment referred to earlier in the debate it has been established that the State does not have control and it is now clamouring to gain the same. Since 1836, South Australian Governments have assumed that they have had control over the extra-territorial waters adjacent to this State. The State has never been quite sure how far those boundaries extend, but for the purposes of implementing its onshore criminal and civil laws it has assumed it has been the appropriate authority to apply them offshore.

The sovereignty and sovereign rights of the territorial sea, as referred to in the Commonwealth Sea and Submerged Lands Act, 1973, is summed up in the very short section 6 of that Act, as follows:

It is by this Act declared and enacted that the sovereignty in respect of the territorial sea, and in respect of the air space over it and in respect of its bed and subsoil is vested in and exercisable by the Crown in the right of the Commonwealth.

That section has been under challenge for a long time. Recently, it has been challenged by the State of New South Wales, but the judgment in that case clearly and conclusively stood up the validity of the Act and, in fact, ruled that the Commonwealth has had, and will have, the sole rights over those outer areas.

The concern expressed in the second reading explanation that we cannot exercise our powers is a very thin area on which to hastily bring in legislation of this type and expect it to be rushed through not only in this short session but also with the very limited notice that we have received. In the short time I have been here, I have learned to be very cautious about this legally loaded legislation that is shoved through this place for what might appear, on the surface, to be a simple, straightforward reason, but afterwards, when it is too late, we invariably find out it is for some other ulterior motive (sinister or otherwise) about which we cannot do anything. I have been trapped a couple of times. Early on I was trapped in this place by taking for granted and accepting statements from a Minister in relation to workmen's compensation amendments and the ground was cut completely from under me. I was grossly misled at the time, and all of us in the State are suffering as a result.

The next occasion was in relation to boating legislation. I was led into doing something I thought was the right thing and ventilating a subject in this place. I relied on others only to find the carpet being drawn from under me. We finished up with what could well have been designed to be matters outside those declared in the second reading explanation applying in an undesirable way thereafter. Exactly the same sort of thing happened in the amendments to the Licensing Act in the latter part of the last session. At the eleventh hour we got a Bill thrust on us which set out to do one thing but which declared in the second reading explanation to do another. Quite clearly it was established during the debate on that issue that there was an ulterior and sinister motive, and in that instance it was one of application of the law retrospectively. I repeat: it is with some caution that I flounder along in taking for granted these legally loaded legislative Bills that come before us.

Seeing that the waters adjacent to South Australia have been policed and recognised as waters over which the State has had control for a very long period, and that that recognition has been cancelled by the Commonwealth, I can appreciate the first thought that leads towards trying to close the gap, or, as stated in the second reading explanation, fill the vacuum. However, I am not aware of any case of civil or criminal acts which have occurred in or about the South Australian waters when South Australian State law has been exercised that it has not been upheld. If there are cases, I would be interested, at the appropriate time, for the Attorney to cite them. I cannot really understand why there is a problem about exercising the law of the land as the law of the sea adjacent to that land. If it is ascertained that an example involves the Raptis fishing issue then, in my view, I cannot accept the situation, because Commonwealth fishing laws clearly lay down what shall and shall not be done, and the Commonwealth is responsible for policing that situation anyway.

We have been told by Parliamentary Counsel in this place, by arrangement with the Government, that there is nothing retrospective or sinister about fishing laws in this Bill. I hope to hell that that is right. The previous speaker said that he understood that I had a vested interest or a direct concern in this measure because it involved the land and/or waters of Kangaroo Island. On July 31, 1973 (soon after entering this place as the member for the area including Kangaroo Island), I directed a question to the Premier about territorial waters. The question, which was directed to the Minister of Marine in the temporary absence of the Premier, was as follows:

Can the Minister of Marine say whether the waters of Backstairs Passage between Kangaroo Island and the mainland, and the seas from Yorke Peninsula to Cape Northumberland in the south, are under the jurisdiction of the State or the Commonwealth and whether there are any special circumstances applying to this area in respect to the State control of shipping and fishing by arrangement with the Commonwealth?

There was a lengthy explanation stating that the whole question of control of the offshore areas was subject to the Seas and Submerged Lands Bill before the Commonwealth Parliament. That Bill was passed subsequently, challenged, upheld, and now applies. At the risk of being branded as one unwilling to uphold the rights and controls within the States and at the risk of being branded as one not supporting the overall federalism policy about which we have heard so much, I believe that the Commonwealth should retain its rights and controls in the area on the waters, beneath the waters and above the waters, with respect to fishing in particular. There is no doubt in my mind that the fishing industry generally should remain under the jurisdiction of the Commonwealth in outer waters.

There is no question in my mind that before we enter the field of establishing offshore boundaries for South Australia's rights (whether they be three miles, 12 miles

or 100 miles) the first step is to establish the States' onshore boundaries, the low water boundary, because there has been a hell of an argument since federation about where that is. To my knowledge, neither this Government nor anyone else has been able to establish that boundary. Reference has been made to the Letters Patent (referred to at page 830 of volume 8 of the *South Australian Statutes*). There, a line applies along the coastline of South Australia embracing river estuaries, bays and inlets (including Spencer and St. Vincent Gulfs), but nothing at all is said about declaring the inshore boundary of South Australia to confirm whether the area of Kangaroo Island is embraced.

I do not believe anyone in that area is concerned whether, for the purposes of fishing, civil or criminal matters, these laws apply within or outside that boundary. For the purpose of establishing further offshore boundaries that extend into territorial and extra-territorial waters, the first step is to confirm the inshore boundary. By presenting a Bill of this nature, the Government is putting the cart before the horse. I cannot understand for the life of me why we should play around with a measure that invites international, Commonwealth, State and other sorts of legal argument when we see that the Government's object is to embrace something that it already enjoys and, if it does not enjoy it in the area of the fishing industry, the situation is well and truly covered by the Commonwealth. The right and proper action would be for the State Government and the Commonwealth to agree about which should implement the laws that already apply. To play around and try to supersede what is covered by Commonwealth legislation is to clamour for power and authority for the States that is of no earthly use.

As the member for Mitcham pointed out, the State Government started to cross the "t's" and dot the "i's" before the legislation was passed. The reference to identifying certain people and to whom the measure shall apply seems ridiculous to me. Why have such a measure if it is to apply to people over whom the State has control, anyway? I assume that it is a basic right of the State to be concerned about people over whom it has rights and responsibilities in this State. To identify people connected in certain areas and to exclude others who could be involved in a civil or criminal matter in our offshore waters at a time when they are visiting the area (whether they come from another State or another country) is more than I can comprehend. I therefore hope that the Attorney will explain the real purposes behind this measure.

I referred to the confusion and long-term unknown situation that has applied to our inshore boundary. It may well be between Cape Jervis and Yorke Peninsula extending in a westerly direction to embrace Spencer Gulf and hence across the bays to the Western Australian border. However, that is unknown. I was interested to hear the member for Mitcham say that, as far as he was aware, no really tidy situation applied in Tasmania with respect to a firm boundary and extra-territorial water rights and controls. The 1975 Tasmanian Year Book (the most recent available) states that Tasmanian sovereignty covers an area bounded by an approximate rectangle. Latitudes and longitudes are described in terms that embrace the area concerned. Since the boundary line between Tasmanian and Victorian sovereignty is defined as south latitude, numerous Bass Strait islands (the chief being Furnough, King, Hogan, Curtis and Kent) all are part of Tasmania.

In fact, the details and areas of land within and about the whole State are not simply written into that document; it goes on to describe the areas that apply between the offshore island of Tasmania and the mainland itself. Clearly from that document, Tasmania has a satisfactory and tidy sovereignty understanding that embraces the whole of the island groups around the offshore major island State of Tasmania. It may be that that principle could be adopted in South Australia to embrace its offshore islands and so solve the query involved with Kangaroo Island. It has not done so yet, and, until the base boundary line of the State has been defined, I am reluctant to bound into a course of action which seeks to determine a series of offshore boundaries stretching from three miles out to 12 miles out, and then 100 miles out. It is better than a bet each way, on the surface of it.

It seems that the Government is hoping to get through both Houses in this short session approval of this extra extended boundary 100 miles off-shore and control within. If the Government loses on that, it will accept a situation of control 12 miles out. If it misses out on that, having exhausted that part of the each-way bet, it will come back to the three-mile call. Whether the three-mile element or the 12-mile element of the schedule applies, unless the base boundary of the State can be established, it could well be (and I suggest it will be) that there would still be a vacuum area between mainland South Australia and its offshore island, Kangaroo Island. Therefore, to pass the Bill in the hasty way in which it has been prepared and presented (and we are expected to debate it) and still finish up with a grey area at and adjacent to our back door seems to me to be a fruitless exercise.

I have referred to fisheries as they apply in South Australia and as they could apply under this legislation, if passed. I am not aware of the full circumstances involving the Raptis issue, of which we have heard recently but, if any suggestion emerges from this debate or after the application of the legislation that establishes a base on which this Government can exercise its powers retrospectively to net in the Raptist group, I will be very disappointed and, for as long as I live, I shall never let up on having it ventilated publicly again and again. Having been trapped on this kind of matter before, I am suspicious of the Government's motives in bringing in such a loaded Bill.

Regarding fisheries resources, there is a difference of opinion on the exploitation and preservation of this kind of resource, and I take this opportunity to make my position clear. With regard to migratory fish in particular and those fish resources in our nearby waters that have a short life cycle, my attitude is that those resources should be exploited fully, and any restrictive measures taken to preserve and conserve those resources would be denying the State and its people (the fishermen in particular) an opportunity to gain a return. I am extremely critical of the attitude of the State Fisheries Minister in this regard. If a permanently-based fish resource is under threat, by all means steps should be taken to preserve it or, at least, to carefully cultivate it, but, where they are migratory (which many of our fish are), and certainly where they have a short life, as in the case of prawns, we should be netting them with every resource we have at our disposal and let the supply and demand element take over with regard to the natural course of protection that shall apply.

I have absolutely no sympathy with the department or its Minister over the Raptis issue, but I am not condoning breaking the law at this point. I am not aware that the Raptis company has broken the law, and I do not set out to pre-empt the judgment or outcome of that case. In the meantime, that company or any other company which believes that it is acting clearly within the limits of

the law in exploiting a fish or natural resource that has a limited life (and what I say also applies in the case of migratory fish) has my support. It is with extreme reluctance and certainly at this point without committal that I am willing to support the Bill's proceeding any further in this Chamber.

I have listened carefully to previous speakers. There were snide remarks by the member for Mitcham earlier about my colleagues reading the *Hansard* reports from another place. I have been guilty of doing that, as the reports have come down through the *Hansard* channels during the past few hours. I freely admit that I have exercised every minute of my available time since we rose shortly after 3 a.m. until 4.30 p.m. today to explore every avenue in order to obtain information and detail about the Bill. I do not believe that it would have been at all responsible, having been called on to speak on the Bill, if I had wasted that time and, therefore, I do not back away from the accusations made by the honourable member with regard to those recordings from another place.

Mr. Millhouse: It wasn't an accusation.

Mr. CHAPMAN: It was a snide and nasty remark. It is damn fine for the member for Mitcham, with his long history of legal background, to be able to pull off the top of his head Commonwealth Law Reports and all kinds of cases he may think relevant, but it is difficult for a layman such as I, who has a real concern for a subject of this nature, to gather such material in the short time available.

Mr. Millhouse: You had the same time available as I had; you could have gone to Burdett and asked him.

Mr. CHAPMAN: My prickly and quaintly feathered friend on my left may rave on for as long as he likes. I have made the point—equipped with that information and expertise he spoke in the most cynical manner he could lay his tongue to.

The Hon. G. R. Broomhill: Did you ask for any help?

Mr. Millhouse: I wasn't asked by any one of them for any help.

Mr. CHAPMAN: I will not waste any more time arguing with the honourable member, because he does not deserve it. I have made my position clear on the subject. I will ask several questions in Committee and I hope that the only Minister now present in the Chamber (the Attorney-General) will be able to stay with us and answer the questions in the detail and with the consideration they deserve.

Mr. RODDA (Victoria): We have had two legal opinions from this side of the House, one from the member for Mitcham who is a distinguished barrister in his own right—

The Hon. G. R. Broomhill: In his own opinion.

Mr. RODDA: No, in his own right; we must be charitable. I have heard it said that my colleague, the member for Alexandra, is a bush lawyer, but he is probably better than that. Lay members have great faith in the law officers of this State. The second reading explanation when dealing with old Imperial Acts states:

This is a complicated anachronistic procedure and at any rate it covers only part of the criminal law. There is not even this limited provision with respect to civil law.

I think that is as far as the Bill is intended to go. It obviously has wide implications, as has been pointed out by the two previous speakers. The Minister went on to say:

The Government has therefore accepted the recommendation of its legal advisers that a measure of the nature proposed be enacted into law as soon as possible.

He then gives his reasons and explains the clauses. I was interested to hear the member for Mitcham quoting from the *Australian Law Journal* reports. Two of the judges (Mr. Justice Gibbs and Mr. Justice Stephen) dissented from the majority decision handed down. The *Australian Legal Monthly Digest* states the following about the decision:

Doubt expressed by Gibbs J. whether s.122 of the Constitution provided a source of power to legislate for offshore maritime areas.

Mr. Justice Stephen is quoted as saying:

S.122 of the Constitution confers power to legislate for the Government of territory once acquired, not for its initial acquisition, and cannot afford support for the validity of ss. 6 and 10 of the Seas and Submerged Lands Act, 1973.

Those two gentlemen have expressed opposition to the majority decision. That suggests to me that there is good reason for challenging this legislation. Whilst the lay members of this House are not skilled in the finer points of law, at least we can apply common sense, and we have to look at all aspects following enactment of the legislation. I am concerned about the effects in civil law and criminal law that the provisions of the Bill will have on the many people who will be affected by it. I am speaking because I am interested in the fishing industry. I do not support what the member for Alexandra said. I do not think he thought enough about the Bill, because if we want a viable fishing industry in this State the Minister and the Government must see that the resource is preserved. By research and good fish husbandry we must see that the resource is preserved and there must be teeth in the legislation to enable the Minister to act if the provisions of it are flouted. We must not allow the resource to be harmed. It seems to me that this Bill will enable such action to be taken by the Minister. The provisions of the Bill cover many areas. Time in this House is valuable and the Bill has been discussed at length in another place. I know the Minister has been asked to reply to contentious questions arising out of the Bill. I support the Bill.

Mr. BLACKER (Flinders): I wish to speak to this Bill because, relating to offshore waters, it has considerable effect on people engaged in the fishing industry, and I refer particularly to those on lower Eyre Peninsula. As a layman I find the Bill confusing. Reference has been made today about people trying to get *Hansard* pulls. I have been trying to do so so that I could bring myself up to date on what has occurred so far. However, I have not been able to get a copy of some of the speeches made in another place. I do not understand the full implications of the Bill, and this could be to the detriment of people in my district. It has been stated that the validity of the Seas and Submerged Lands Act, 1973, has come into question because of a High Court ruling in a case of the State of New South Wales against the Commonwealth, and that judgment has been referred to in earlier debates.

Clearly, there is an area of uncertainty concerning the State and Commonwealth Governments in relation to offshore waters. We do not seem to know where we stand. Many people in the industry are awaiting the outcome of the situation. Probably one of the provisions that causes alarm is that relating to civil and criminal law. To which jurisdiction would an abalone diver go if a boat cut the air line of a diver? What happens in cases of pirating? I think the natural assumption has been that State law prevails, but that belief has now been brought into question. Where does a fisherman go for recourse if another fisherman happens to be pulling in his licensed pots?

I believe there is as much in this Bill for the catching of offenders as there is for the protection of legitimate fishermen and those who suffer possible harm as a result of a misdemeanour by an outsider. I believe it is desirable

that this vacuum should be filled, even though that aspect has been questioned by the member for Mitcham and the member for Alexandra. A doubt has been raised on whether the Bill is necessary. I could not answer that, nor do I think anyone else in this House could answer it. It is best to accept it from another viewpoint, asking whether we are doing any harm in passing the Bill, in view of the comments of the member for Mitcham and the member for Alexandra. My understanding is that we are doing no harm, and I believe we are providing protection for State people in the control of their waters. The actual definition of "State" is given in Statute Volume No. 8, as follows:

On the west the one hundred and thirty-second degree of east longitude—And on the east the one hundred and forty-first degree of east longitude including therein all and every the bays and gulfs thereof together with the island called Kangaroo Island and all and every the islands adjacent to the said last-mentioned island or to that part of the mainland of the said Province.

That is all embracing to the extent of getting an onshore boundary, even though the demarcation has arisen on whether it should be at low water mark, high water mark or somewhere in between. The onshore boundary is that area defined between the headlands of the coastline. Should a bay be wider than 12 miles, the line goes from one headland to the next within that bay. If the bay is less than 12 miles wide across the headlands, the line goes straight across. There is some confusion about the delineation regarding the gulfs, and no doubt this aspect will require consideration. I understand the matter of such delineation is under discussion between State and Federal authorities. The requirement of the Bill is the control of those waters, and it has been said that existing controls can be instigated by the Federal Government. Section 51 (*x*) of the Commonwealth Constitution refers to fisheries in Australian waters beyond territorial limits, so we must have a demarcation between the territorial limits of the State and the territorial line of the Australian Government. Reference has been made to a three nautical mile line, a 12 nautical mile line, or a 100 nautical mile line. There is some merit in having a schedule of the three separate demarcations so that, should any of these areas be challenged by the Australian Government, they could be annexed without any serious effect on the Bill.

We all know that, according to the Constitution, section 109 relates to over-riding powers, providing that, when a law of the State is inconsistent with a law of the Commonwealth, the latter shall prevail (the Commonwealth always has control over and above the State), and the former shall, to the extent of the inconsistency, be invalid. It becomes a matter of controlling the waters. While doubt has been expressed about the need for the Bill, it is putting in a claim for the State, and that, I think, is worth while. I do not necessarily agree with the member for Alexandra that we should hand over control of our waters to the Commonwealth Government. We should have the right to control our onshore waters because, if we allow those to go, we have to consider the aspect of our jetties, our swimming enclosures, and our wharves. Where would we draw the line? Many of the inshore bays are places where people enjoy recreational fishing, and they could come under Commonwealth law. It would be unfortunate if we were to take this form of government, which is closest to the people, away from such areas.

The Bill is all embracing. It refers to the law of the State, and includes almost every possible aspect. There is a definition of a "person connected with the State". The definition refers to residency of an individual temporarily or permanently employed within the State. I think it is adequate. Subclause (*f*) provides:

(*f*) is, or is a person of a class or kind, declared by proclamation to be a person connected with the State for the purposes of this Act.

While I can see some undesirable aspects of having people declared by proclamation to be involved in the Act, that provision gives the Government power to include people who have committed a misdemeanour in State waters directly or indirectly affecting a citizen or a person connected with the State. The member for Mitcham referred to the case of *Pearce v. Florenca*. It would be interesting to know whether that case has proceeded since the drafting of the Bill and what the real effect would be. I hope the Attorney will explain that.

The member for Alexandra raised one or two issues that frightened me, particularly relating to the control and management of fisheries. He mentioned allowing the resources of prawns and lobsters to be opened for free exploitation, but I believe that in an industry that has been brought under State control it is desirable that some form of management be applied, especially to resources that are not migratory in their habits.

Mr. Chapman: Surely you don't agree with the restrictive control that applies at present?

Mr. BLACKER: Certainly, anomalies exist in the management of the fisheries today, but we would have even greater economic problems within the industry if we had open slather for full exploitation. We would have problems with individual fishermen as well as with processors, boat builders, and with the industry in general. I know of 20 or 30 boats that would be prawning within a fortnight if that situation were to prevail. I think the member for Alexandra would be quite aware of the consequences of such an action. Existing fishermen would be bankrupt and forced out of business, while the factories and the industry generally would be greatly affected. The city of Port Lincoln would suffer as a result of open slather fishery. I must support managed fisheries, although I freely admit that there are many anomalies needing urgent attention to bring about a more efficient system.

Mr. Chapman: Those fishermen who want to have a go would be making a quid instead of being on the dole.

Mr. BLACKER: I do not fully understand that.

Mr. Chapman: A number of people, simply because they are denied a licence, cannot go and catch—

Mr. BLACKER: That is referring specifically to managed fisheries, prawns, abalone and lobster, which I believe is a managed industry, and scallops to a lesser degree, although that is almost an open industry at present. When referring to managed fisheries, it is important that proper management applies. When the honourable member referred to the involvement of Japanese craft, he was referring mainly to migratory fish, the striped tuna, the blue fin tuna and fish on the continental shelf about 350 kilometres off shore with which purse-seine boats and large trawlers are involved, but that is a different matter. In this instance we are dealing with State territorial waters, first from the coastline to the three-mile limit, then from the three-mile to the 12-mile limit, and a final stage (if it becomes appropriate) to the 100-mile limit. I shall seek from the Attorney-General at the appropriate time replies to several queries, but at this stage I support the Bill.

The Hon. PETER DUNCAN (Attorney-General) moved:

That the time for moving the adjournment of the House be extended beyond 5 p.m.

Motion carried.

Mr. GUNN (Eyre): I have read the Bill several times and have discussed it with the Parliamentary Counsel, but I do not profess to understand all its implications fully. My first query to the Attorney is that, if this legislation is challenged and found to be invalid, what will happen? Will we have a situation similar to that of today, or will it be an open book? Secondly, if this legislation is found to be invalid, will it have any effect on our managed fisheries? If action is taken that would allow people to pirate our managed fisheries, the industry would be in a disastrous situation. I put on record that I support the concept of managed fisheries, and, if this legislation will protect people in that industry, it has my wholehearted support. I am not entirely satisfied with the way the managed fisheries programme has been implemented, and I am concerned about that aspect. Also, I should like to know how those administering this legislation will determine where the three-mile limit is: will they use the high water or the low water mark or a point in between?

The Hon. Peter Duncan: Low water.

Mr. GUNN: I hope the Attorney will make that point clear; otherwise, there could be many arguments. I should also like to know whether this legislation will be used in conjunction with the Fisheries Act or whether that Act will be entirely separate. I shall be pleased to have the Attorney reply to my queries. At this stage, I support the second reading. I have raised these matters because there is a long coastline in my district and many people directly and indirectly involved in the fishing industry. I would not want anything done to jeopardise their economic viability.

The Hon. PETER DUNCAN (Attorney-General): I shall reply only briefly, because several matters raised will be more appropriately dealt with in Committee. First, I compliment members of the Opposition on the way they have handled this debate, because I think we all know that it is a particularly difficult and complicated matter. The work and research put into the preparation of their speeches does Opposition members credit. It also indicates the way they have approached this matter from a position of what I may describe as a responsible Opposition. I think their approach is valid, and I appreciate their taking this matter seriously, because the Bill is a most important and serious measure that will have a most important effect on the future of many matters offshore from the coast of South Australia.

However, the contribution of the member for Mitcham was lamentable because, having said what I have about Opposition members, I cannot say the same about the member for Mitcham. Since he has found his new status he seems to have taken upon himself to consider that he does not have to be responsible any more but can be as reckless as he wishes. The most important point he made should be disposed of first; that is, his contention about the decision in Florenca's case, his exposition of which was quite good. However, his understanding of the decision was not as good as his exposition, because he completely misunderstood the basis of that decision. The decision in that case, which involved the validity of fisheries laws in Western Australia, stated clearly that the States have powers to make laws of a non-sovereign kind having effect in territorial waters.

The very thing we are doing in this measure is making laws to apply the laws of South Australia to that area, and, unless this measure is passed, the decision in Florenca's case, deciding that we have power to make those laws, would be utterly useless to the application of the laws in South Australia. The member for Mitcham has again made himself the laughing stock of Parliament by his misinterpretation of that decision. This is a difficult matter, and several points raised by Opposition members should be referred to. First, I make clear that the reference in the schedule to waters that lie within three nautical miles seaward of so much of the boundaries of the State as abut the Southern Ocean mean that the boundary of the State is the low water mark, but that is not a mark that can be clearly identified.

A committee of the Standing Committees of Attorneys-General has been set up and charged with the long and laborious but most important task of establishing the base line for the purpose of the State of South Australia and the other States of the Commonwealth. We hope that soon we will be able to say specifically that the border of South Australia at the low water mark is a particular mark. That work is proceeding, and the conference of Attorneys-General to be held in South Australia next week will receive a report on that matter. The other aspect of this, dealing with the case of Florenca, is the fact there is no presumption of extra-territoriality. The law of the State must specifically be stated to apply to off-shore waters and, if it is not specifically stated to apply to off-shore waters, the Acts of this State do not apply. What this measure seeks to do is apply the criminal and civil laws of South Australia to the off-shore areas. This measure applies to every Act of South Australia equally. It applies to the Fisheries Act, for example, as equally as it applies to legislation providing for speed limits on speed boats and other measures.

Mr. Gunn: That means that, if someone contravenes the Fisheries Act, this law validates that on the seas.

The Hon. PETER DUNCAN: Yes, that is correct. As I have said, I think most of the specifics that have been raised by Opposition members are more appropriately dealt with in Committee, and that is what I intend to do. The only other point with which I want to deal is the concern expressed by Opposition members about the urgency of this matter. I think, as the debate has ensued, it has become more apparent. Now that the fact that many of the State laws do not apply to off-shore waters has become general public knowledge, it is of paramount importance that we pass a measure of this sort to ensure that those laws, where applicable, will apply off the coast and that we are not faced with the position where people openly seek to exploit the loophole that has become apparent.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Definitions."

Mr. MILLHOUSE: The definition of "person connected with the State" was one of the matters I canvassed in the second reading debate, and the Attorney has churlishly dealt with it in his reply. Of course, he knows that here he has the numbers and, anyway, a Chamber of laymen cannot be expected to understand one point of view on a matter of law, or another, so he is quite safe here.

Mr. Gunn: You have just reflected on the intelligence of the whole House.

Mr. MILLHOUSE: I have not. Laymen cannot be expected to understand these things. The Attorney has made a fool of himself, in the long run, in the eyes of anyone who reads his speech, but that is by the bye. Why has the Attorney inserted in the definition in placium (*b*) the word "resident"? I remind him of the example I gave of a person who comes here, not even to stay for a night, but comes here during the day, goes out to sea even a few hundred metres and commits an offence. How are you going to catch, in the definition, such a

person as that? It seems to me that the word "resident" unnecessarily cuts down what the Attorney is trying to do in this Bill. Although he is being dogmatic to the point of churlishness in what he has said in denying that there could possibly be any validity in what I have said, I ask him to assume, just for the sake of answering my question, that there just could conceivably be something in what I have said (and I was not misquoting the High Court decision). Does he not agree that by using this word here, which restricts the meaning of "person connected with the State", he may, if I am right, be cutting down the position now at common law, and therefore, if we pass this Bill (as we are obviously going to do, against my wishes), there may be less ambit in it than there is at the present time without the Bill at all? That is the first point.

The second point (and it is also on the definition and is the other point I canvassed) is what sort of people does he propose or has he in mind to catch by proclamation, or has it simply been inserted by the draftsman in case he has forgotten any other class of person? We are entitled to know why the draftsman or the Minister goes to the trouble of having a definition of this kind and then destroys it entirely and leaves it as wide as the world by giving the Government of the day power by proclamation to enlarge it to any extent it may be able to get away with at law.

The Hon. PETER DUNCAN (Attorney-General): There are two matters to which I wish to refer in answering the honourable member's first assertions. First, if the word "resident" is taken out of (*b*), we are left with a definition which says "is permanently or temporarily in the State." The off-shore waters are not part of the State, so it is necessary to have some nexus or some connection between the person and the State. That is why the qualification of residency has been included. If the honourable member turns to clause 4 he will see that it provides:

Notwithstanding any other provision of this Act, every law of the State that is not expressly or by necessary implication limited in application to Acts or omissions occurring or matters,—

Mr. Millhouse: That is the next clause.

The Hon. PETER DUNCAN: I am aware of that. I am explaining the necessity for (*b*) in the definition of "person connected with the State". Clause 4 (*b*) states:

A person who does any act or makes any omission affecting the person or property of a person connected with the State;

So, if this mythical person comes from across the border and on the waterways in the vicinity of the State commits any act which is an offence against the laws of the State and which affects a person or property of a person connected with the State, that person is caught within the ambit of the Act. As to the contention about (*f*) of the definition of "a person connected with the State", that provision has been put in for the purpose of enabling us to rope in in future any persons who have been forgotten, and that is quite a normal procedure in drafting.

Mr. MILLHOUSE: The Attorney's explanation on the first point I made is nonsense; all one would do to provide this so-called nexus (and that is the word the Attorney used, and strangely that is used in Florenca's case) is to say in (*b*) "is in the State": then there is a connection between the State and a person who is actually here. However, we will leave it. So far as the second point is concerned (and I address these remarks particularly to members of the Opposition, if they are not too somnolent to take them in), the Government is doing precisely what I expected—it is using (*f*) as a dragnet clause so that, if its definition is restricted in any way in placita (*a*) to (*e*), it will not matter because it will be able to include by Executive act any other class of persons. Not only is that sloppy drafting but it gives the Government wide powers, far wider powers than this Chamber can foresee. If the Liberals are willing to let that happen, so be it, but that is the effect of clause 2 (*f*), and we have had an admission of it from the Attorney.

Clause passed.

Clause 3—"Application of law of State to offshore waters."

Mr. BLACKER: Can the Attorney say what implication this Bill will have on existing fisheries laws and on Commonwealth fishing licences?

The Hon. PETER DUNCAN: I thank the honourable member for raising this matter, because it is important that members understand the implications of this measure. This Bill will ensure that the fisheries laws of this State have similar application that other laws of South Australia have. In other words, those laws will apply to offshore waters, including waters in some cases to which Commonwealth fisheries power applies. In those circumstances, the normal situation would apply that, if State laws are inconsistent with Commonwealth laws, Commonwealth laws will override State laws. It is necessary, especially now, that the State's fisheries legislation be extended to cover offshore waters, because the decision in the *New South Wales* v. *the Commonwealth* Seas and Submerged Lands case, has made it clear that the South Australian boundary includes only the gulfs, bays and inland waters. Because of that decision, it has been necessary to ensure that we extend our fisheries limits so that areas that are now in some dispute can, in the interim, be kept under firm, careful and proper fisheries management.

Mr. MILLHOUSE: If I thought that the Attorney knew what he was talking about I would say that he was talking nonsense, but I do not think he even knows what he is talking about. This clause is the guts of the Bill: it is the clause that is supposed to give the power it is said we do not now possess. Let me again quote Chief Justice Barwick's judgment, but before doing so I should explain to members that the Chief Justice is regarded as an anti-States' man (the centralist in these matters, the man who is there to press the power of the Commonwealth at the expense of the States). Therefore, what he has said on this matter is of more significance than what has been said by other judges.

What I will read is not expressed in jargonese or legal gobbledegook, and I apologise to the member for Eyre who I see has given up the struggle and left, if I offended him by referring to laymen, because I did not mean to be slighting by what I said about laymen. What I said is that it is obvious that a person without legal training can find it extremely difficult to understand matters such as this. I hope the Attorney can understand it, because it is written in plain, straighforward, unvarnished English. However, before reading that passage I pose the question that, if the Attorney is right, what explanation can he possibly give for the High Court's decision that the Western Australian Fisheries Act, without the aid of any legislation such as the Bill we are now considering, is valid, and the man who took his rock lobsters and was caught 2·5 kilometres off the coast was guilty of an offence? How on earth can one reconcile the assertions that the Attorney has made with that decision? The Chief Justice's judgment disposes completely of the

point that the Western Australian's thought they had extra-territorial jurisdiction. At the bottom of page 2 of his judgment, Chief Justice Barwick stated:

The Western Australian legislation—

the Fisheries Act of that State—

was no doubt drawn on the assumption that the State of Western Australia had, as it is said, a territorial sea in respect of which it had legislative power. This court's recent decision as to the validity of the Seas and Submerged Lands Act—

and then he quotes the case—

has shown that assumption not to be well founded.

Is the Attorney suggesting that the High Court in the same breath is saying that that assumption, for which a Bill was drawn, was not well founded but at the same time that the same assumption can be used to give power in another sense? That is absolute nonsense, and no lawyer would entertain it for a moment. The judgment continues (and this is the point I make for the benefit of the Attorney):

. . . but, quite clearly, in accordance with expressions of opinion in that and in earlier cases—

the *New South Wales v. the Commonwealth* decision—

the State has—

and this is in present tense—

legislative power to make laws which touch and concern the peace, order and good government of Western Australia, which are operative beyond the margins of the territory of Western Australia—

that is precisely what this clause is supposed to do—

and thus operative in areas of the sea not limited to the marginal seas commonly described as territorial water.

That is, far out past the three-mile limit. The judgment continues:

No question arises in this case as to the validity of the Act, apart from any impact upon it which the passage of the Seas and Submerged Lands Act might have.

It is absurd to suggest that the High Court has said that the Western Australians proceeded on a wrong assumption but, because they did, they gave themselves jurisdiction in another way. What the Chief Justice is saying is that a State Parliament has the power to legislate extra-territorially—not that it is part of the territory of the State, but that it has power to legislate outside the territory of the State into adjacent seas. That is precisely what this Bill aims to do. Western Australia already has the power and, by irresistible implication, each State already has the power. How the Attorney, except by bluster, bluff and the weight of numbers, can get around that plain passage in the Chief Justice's judgment I do not know. He cannot, but he will try, or he will ignore what I have said because he cannot do anything else. He has made a fool of himself by introducing this Bill in the light of the unanimous decision of the High Court. I have quoted the Chief Justice's judgment—what is in the ratio of that judgment.

The Hon. PETER DUNCAN: I certainly intend to reply because I want as much as possible of this debate recorded to show people outside the Chamber just what an idiot the member for Mitcham is making of himself in this matter.

The CHAIRMAN: Order!

The Hon. PETER DUNCAN: He has clearly misunderstood the decision in that case.

Mr. Millhouse: Would you like a copy of it?

The Hon. PETER DUNCAN: I do not want to go into the legal technicalities of the matter at great length, but I point out that there is no presumption of the extra-territorial application of State laws. Unless it is stated in the Act that it will apply extra-territorially, one cannot be certain that it will apply extra-territorially. The Western Australian Fisheries Act was made to apply specifically to territory outside Western Australia. That is the difference and that is what the Bill seeks to do to the laws of South Australia—make them apply extra-territorially. The member for Mitcham can try as he will to save face from the appalling mistake he has made today in this debate, but no amount of words will change the fact that he has misunderstood and misinterpreted a High Court judgment.

Mr. MILLHOUSE: I know that the Attorney is only mouthing the advice he has been given. When he goes to his office tomorrow, he should ask one of his senior law officers to explain to him the effect of the judgment in the matter of *Pearce v. Florenca*. I do not expect that he will acknowledge that what he said today was a mistake, or that he will offer me an apology. If he does what I have suggested, I will know that he knows how wrong he is.

Mr. BLACKER: Will the legislation give to the Fisheries Department any greater policing powers? Does it bring civil law into the Fisheries Act to give the department greater power to manage the industry?

The Hon. PETER DUNCAN: No.

Clause passed.

Remaining clauses (4 to 6) and title passed.

Bill read a third time and passed.

APPROPRIATION BILL (No. 2)

Returned from the Legislative Council without amendment.

SUPPLY BILL (No. 1)

Returned from the Legislative Council without amendment.

ADJOURNMENT

The Hon. PETER DUNCAN (Attorney-General) moved:

That the House at its rising do adjourn until Tuesday, July 27, at 2 p.m.

Motion carried.

At 5.25 p.m. the House adjourned until Tuesday, July 27, at 2 p.m.