**FOOD AND DRUGS ACT AMENDMENT BILL 1950**

**Legislative Assembly, 5 September 1950, pages 550-1**

Second reading

**The Hon. C. S. Hincks for the Hon. T. PLAYFORD (Gumeracha—Premier and Treasurer)—**Section 52 of the Justices Act lays down the general rule relating to the time within which complaints for offences are to be laid and provides that, unless other provision is specifically made in the Statute dealing with the offence, complaints for offences shall be made within six months from the time when the matter of complaint arose. Subsection (1) of section 51 of the Food and Drugs Act provides that, when any food or drug is purchased for analysis, any complaint shall be laid within 28 days from the purchase. This is the only provision in that Act dealing with the laying of complaints so that the result of this provision is that, for prosecutions under the Food and Drugs Act, there are two limits with respect to the time for laying complaints. When food or drugs are purchased for analysis, the complaint must be laid within 28 days but there are very many other offences created by the Act and in these cases the six months limit provided by the Justices Act applies.

Another effect of subsection (1) of section 51 is to render virtually useless the provisions of subsection (6) of section 58. Section 58 provides that a defendant may escape liability if he proves to the court on a charge relating to food or drugs, that he acquired the food or drugs under warranty from another person. In such circumstances the person giving the warranty may be charged with giving a false warranty but, by the time a court has considered the matter, the 28 days would almost invariably have expired. The Crown Solicitor has advised that the limitation of section 51 applies to proceedings on the warranty so that, although a breach of the Act would be proved, no one could be convicted. Probably, the policy of this limitation of 28 days was that, when an offence is committed with respect to food, the matter should be brought before the court as speedily as possible so that, if necessary, the food in question could be on exhibit before the court. However, this provision applies only where an analysis is made and, in the general run of things, a competent analysis of food should constitute almost conclusive evidence before the court. Where food or drugs are taken for analysis, a sample must, if the defendant so requires, be given to him so that he can secure a separate analysis if he thinks fit. In addition, it is provided that when the defendant is served with a summons, he must, in general, be given a copy of the analyst’s certificate.

The Central Board of Health has therefore suggested that the limitation imposed by section 51 be removed and that the time for laying all complaints under the Act be six months from the commission of the offence. There is no such limitation as that provided by section 51 in the Dairy Industry Act or the Metropolitan Milk Supply Act which regulate the sale of milk and cream. It is accordingly provided by the Bill that subsection (1) of section 51 of the Food and Drugs Act is to be repealed. The effect of this repeal will be that the time for laying complaints will be regulated by the provisions of section 52 of the Justices Act. I move the second reading.

Mr. O’HALLORAN secured the adjournment of the debate.