DANGEROUS DRUGS ACT, 1934.

No. 2180 of 1934.

An Act to regulate the manufacture, sale, possession, distribution, and supply of certain dangerous drugs, and for purposes connected therewith.

[*Assented to 29th November,* 1934.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short title and commencement.

Cf. U.K., 10 & 11, Geo. 5, c. 46. U.K., 22, Geo. 5, c. 15. U.K., 23 & 24, Geo. 5, c. 25, Part II.

1. This Act may be cited as the "Dangerous Drugs Act, 1934," and shall come into operation on a day to be fixed by proclamation.

Repeal of 644, 1895, and 890, 1905.

2. The Opium Act, 1895, and the Opium Act Amendment Act, 1905, are hereby repealed.

Interpretation.

3. In this Act, unless the contrary intention appears—

"board" means the Central Board of Health within the meaning of the Health Act, 1935 :

"coca leaves" means the leaves of any plant of any genus of the erythroxylaceae, from which cocaine can be extracted either directly or by chemical transformation :

"Indian hemp" means the dried flowering or fruiting tops of the pistillate plant known as *cannabis sativa L.* from which the resin has not been extracted, by whatever name the tops are called :

Administration: The administration of this Act was by proclamation committed to the Chief Secretary: *Gazette* 15th April, 1937, p. 789.

s. 1. This Act was proclaimed to commence on 1st October, 1937: *Gazette* 15th April, 1937, p. 789.

s. 3. The expression "The Health Act, 1898," altered to "the Health Act, 1935," pursuant to the Acts Republication Act, 1934.

"medicinal opium" means raw opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the pharmacopoeia in force in South Australia, whether it is in the form of powder or is granulated, or is in any other form, and whether it is or is not mixed with neutral substances:

"prepared opium" means any preparation of opium in a form capable of being used for the purpose of smoking, and includes dross and any other residues remaining after opium has been smoked:

"raw opium" means the spontaneously coagulated juice obtained from the capsules of the *papaver somniferum L.*, which has been submitted only to the necessary manipulations for packing and transport, whatever its content of morphine:

"sell" includes—

(*a*) sell (whether by wholesale or retail), barter, or exchange:

(*b*) dealing in, agreeing to sell, or offering or exposing for sale or sending, forwarding, delivering, or receiving for sale or on sale:

(*c*) authorising, directing, causing, suffering, permitting, or attempting any of such acts or things:

and "sale" and each of the other derivatives of "sell" have corresponding interpretations:

"trade in" includes buying and selling (on commission or otherwise), procuring any drug or substance to be supplied by a second party to a third party, conveying in transit, and causing to be conveyed in transit; and also includes all other operations and transactions which are directly or indirectly concerned with the buying or selling of any drug or substance.

Drugs to which Act applies.

Cf. U.K., 10 & 11, Geo. 5, c. 46, s. 8. U.K., 22, Geo. 5, c. 15, ss. 1 and 2 (3).

4. (1) Subject to subsection (6) hereof the drugs to which this Act applies are—

(*a*) medicinal opium and raw opium:

(*b*) any extract or tincture of Indian hemp:

(*c*) morphine and its salts, and diacetylmorphine (commonly known as diamorphine or heroin) and the other esters of morphine and their respective salts:

(*d*) cocaine (including synthetic cocaine) and ecgonine and their respective salts, and the esters of ecgonine and their respective salts:

(*e*) any solution or dilution of morphine or cocaine or their salts in an inert substance whether liquid or solid, containing any proportion of morphine or cocaine, and any preparation, admixture, extract, or other substance (not being such a solution or dilution as aforesaid) containing more than one-fifth of one per centum of morphine or one-tenth of one per centum of cocaine or of ecgonine :

(*f*) any preparations, admixture, extract, or other substance containing any proportion of diacetylmorphine :

(*g*) dihydrohydroxycodeinone, dihydrocodeinone, dihydromorphinone, acetyldihydrocodeinone, dihydromorphine, their esters and the salts of any of these substances and of their esters, morphine-N-oxide (commonly known as genomorphine), the morphine-N-oxide derivatives, and any other pentavalent nitrogen morphine derivatives :

(*h*) thebaine and its salts, and (with the exception of methyl-morphine, commonly known as codeine, and ethylmorphine, commonly known as dionin, and their respective salts), benzylmorphine and the other ethers of morphine and their respective salts :

(*i*) any preparation, admixture, extract, or other substance containing any proportion of any of the substances mentioned in paragraph (*g*) or in paragraph (*h*) of this subsection.

For the purpose of the foregoing provision the expression " ecgonine " means laevo-ecgonine, and includes any derivatives of ecgonine from which it may be recovered industrially, and the percentage in the case of morphine shall be calculated as in respect of anhydrous morphine.

(2) Percentages in the case of liquid preparations shall, unless other provision in that behalf is made by regulation under this Act, be calculated on the basis that a preparation containing one per centum of any substance means a preparation in which one gramme of the substance, if a solid, or one millilitre of the substance, if a liquid, is contained in every one hundred millilitres of the preparation, and so in proportion for any greater or less percentage.

(3) If it appears to the Governor that any new derivative of morphine or cocaine or of any salts of morphine or cocaine or any other alkaloid of opium or any other drug or substance of whatever kind is or is likely to be productive, if improperly

s. 4. (3) The following proclamation under subsection (3) of section 4 was in force on 15th April, 1937: *Gazette* 15th April, 1937, p. 790 (declaring that all the provisions of this Act shall apply to coca leaves, Indian hemp, and resins obtained from Indian hemp).

used, or is capable of being converted into a substance which is, or is likely to be productive, if improperly used, of ill-effects substantially of the same character or nature as or analagous to those produced by morphine, cocaine, or Indian hemp, the Governor may by proclamation declare that this Act shall apply to that new derivative or alkaloid or other drug or substance in the same manner as it applies to the drugs mentioned in subsection (1) of this section.

(4) If it appears to the Governor that the use of any preparation, admixture, extract, or other substance containing any of the drugs mentioned in subsection (1) of this section in a percentage less than is therein mentioned, is having ill-effects, the Governor may by proclamation declare that this Act shall apply to any such preparation, admixture, extract, or substance.

(5) The Governor may by proclamation with such modifications as may be specified in the proclamation declare that this Act shall apply to any of the following drugs, namely, methylmorphine (commonly known as codein), ethylmorphine (commonly known as dionin) and their respective salts.

(6) This Act shall not apply in respect of the preparations for the time being comprised in the list in the schedule.

Penalties.
U.K., 10 & 11, Geo. 5, c. 46, s. 5.
N.S.W., 7, 1927, s. 2.

5. (1) Any person who—

(*a*) manufactures, sells, or trades in prepared opium ; or
(*b*) conveys in any manner or has in his possession any prepared opium ; or
(*c*) being the occupier of any premises permits those premises to be used for the purpose of the preparation of opium for smoking or the sale, distribution, or smoking of prepared opium ; or
(*d*) being the owner or lessee of any premises knowingly permits those premises to be used for the purpose of opium smoking ; or
(*e*) is concerned in the management of any premises used for any such purpose as aforesaid ; or
(*f*) has in his possession any pipes or other utensils for use in connection with the smoking of opium or any utensils used in connection with the preparation of opium for smoking ; or
(*g*) smokes or otherwise uses prepared opium, or frequents any place used for the purpose of opium smoking ;

shall be guilty of an offence against this Act.

In this subsection the expression " owner " includes the person entitled to receive the rent of premises and the person to whom the rent of premises is paid.

(2) Any person who sells, trades in, manufactures, conveys in any manner or has in his possession any drug to which this Act applies shall be guilty of an offence against this Act unless—

(*a*) he is licensed under the regulations to manufacture or supply the drug; or

(*b*) he is otherwise licensed or authorised under the regulations to be in possession of the drug; or

(*c*) the drug was supplied for his use by a legally qualified medical practitioner or a veterinary surgeon qualified in accordance with the regulations, or on and in accordance with a prescription complying with the regulations.

(3) Any person who grows or cultivates the opium poppy (*papaver somniferum L.*) shall be guilty of an offence against this Act: Provided that this subsection shall not apply to any opium poppy grown or cultivated or caused to be grown or cultivated by The Governors of the Botanic Garden.

(4) Any prepared opium or other drug in the order or disposition of any person shall be deemed to be in his possession.

Prohibition of trade in new drugs.
U.K., 22, Geo. 5, c. 15, s. 2.

6. (1) No person shall sell, trade in, or manufacture for the purpose of trade any products obtained from any of the phenanthrene alkaloids of opium or from the ecgonine alkaloids of the coca leaf or any substance having a chemical structure identical with that of any such product which is produced by synthetic process, not being a product or substance which was on the thirteenth day of July, nineteen hundred and thirty-one, being used for medical or scientific purposes: Provided that if the Governor is at any time satisfied that any such product or substance is of medical or scientific value, he may by proclamation direct that this subsection shall cease to apply to that product or substance.

(2) Any person who acts in contravention of this section shall be guilty of an offence against this Act.

Regulations.
Cf. U.K., 10 & 11, Geo. 5, c. 46, s. 7.
Cf. U.K., 23 & 24, Geo. 5, c. 25, Part III.
N.S.W., 7, 1927, s. 2.

7. (1) For the purpose of preventing the improper use of the drugs to which this Act applies the Governor may make regulations making provision for regulating and controlling the manufacture, sale, possession, distribution, and supply of those drugs, and in particular and without limiting the generality of the foregoing power for—

(*a*) prohibiting the manufacture of any drug to which this Act applies except on premises licensed for the purpose and subject to the conditions specified in the licence:

(*b*) prohibiting the manufacture, sale, distribution, or supply of any such drug except by persons licensed or otherwise authorised under the regulations and subject to any conditions specified in the licence or authority:

(*c*) regulating the issue by legally qualified medical practitioners or veterinary surgeons possessing such qualifications as are prescribed by the regulations, of prescriptions containing any such drug, the dispensing of any such prescriptions, and the supply of any such drugs thereunder:

(*d*) prohibiting the issue by persons other than legally qualified medical practitioners or veterinary surgeons possessing such qualifications as are prescribed by the regulations, of prescriptions containing any such drug:

(*e*) requiring persons engaged in the manufacture, sale, distribution, or supply of any such drug to keep such books and furnish such information either in writing or otherwise as may be prescribed, and making provision for the inspection of any such books and records by the prescribed persons:

(*f*) regulating the storage and safe custody of any such drugs by persons licensed or otherwise authorised under the regulations:

(*g*) fixing the fees to be paid in respect of any licence or authority issued thereunder:

(*h*) providing for the forfeiture of any such drug unlawfully in the possession of any person:

(*i*) providing that any specified breach of the regulations shall be regarded as "infamous conduct in a professional respect" within the meaning of any Act, or misconduct sufficient to justify the removal of the name of the offender from a register under any Act:

(*j*) declaring that any substance or preparation, which by its nature is not capable of being used in evasion of the provisions of this Act, shall be added to the list of preparations in the schedule, and shall be a substance or preparation in respect of which this Act shall not apply and declaring that any substance or preparation included in the said list or added thereto shall be removed from the said list:

(*k*) for the detention and treatment of persons convicted of any offence against this Act who the convicting court is satisfied are addicted to the use of drugs to which this Act applies.

(2) The regulations shall provide for authorising a pharmaceutical chemist registered under the Pharmacy Act, 1935—

(*a*) to manufacture at his shop in the ordinary course of his retail business any preparation, admixture, or extract of any drug to which this Act applies ; or

(*b*) to carry on at his shop the business of retailing, dispensing, or compounding any such drug,

and the regulations may provide for authorising or licensing any wholesale chemist or manufacturer to manufacture any such preparation, admixture, or extract.

The regulations shall also provide for authorising legally qualified medical practitioners, pharmaceutical chemists employed in dispensing medicines at any public hospital or other institution, persons in charge of laboratories for the purpose of research or instruction, dentists registered under the Dentists Act, 1931, veterinary surgeons possessing such qualifications as may be prescribed by the regulations, and such other persons as to the board may seem proper, to be in possession of any drug to which this Act applies for the purposes of their professions or employments, subject to such conditions and restrictions as may be prescribed.

The regulations shall also provide that licences or authorities for the purposes of this Act may be issued or granted by the Minister upon the recommendation of the board and may be issued or granted on such terms and subject to such conditions (including in the case of a licence the payment of a fee) as the board thinks proper.

The regulations shall also provide that any licence or authority may be withdrawn by the Minister upon the recommendation of the board.

The regulations shall also provide for an appeal to a Judge of the Supreme Court against any determination of the Minister or the board with respect of a licence or authority, and the procedure on any such appeal shall be in accordance with rules of court.

(3) Any regulations proposed to be made under this section shall be first submitted by the Minister to The Pharmacy Board of South Australia and the Minister shall consider any representations made by the said board. The said board may also from time to time make representations to the Minister for the making of any regulations under this section or for the alteration of any regulations so made. The Minister may also submit any such regulations proposed to be made to any

s. 7 (2). The expression "Pharmacy Act, 1891," altered to "Pharmacy Act, 1935," pursuant to the Acts Republication Act, 1934.

association of wholesale chemists or manufacturers of drugs to which this Act applies and shall consider any representations made by any such association.

Offences against regulations. U.K., 13 & 14, Geo. 5, c. 5, s. 2.

8. Any person—

(*a*) who acts in contravention of or fails to comply with any regulation made under this Act; or

(*b*) who acts in contravention of or fails to comply with the conditions of any licence issued or authority granted under or in pursuance of this Act; or

(*c*) who for the purpose of obtaining, whether for himself or for any other person, the issue, grant, or renewal of any such licence or authority as aforesaid, makes any declaration or statement which is false in any particular, or knowingly utters, produces, or makes use of any such declaration or statement or any document containing the same,

shall be guilty of an offence against this Act.

Forging, &c., prescriptions. Vic., 3748, 1928, s. 45.

9. (1) Any person who forges, or fraudulently alters or utters knowing it to be forged or fraudulently altered, any prescription of a legally qualified medical practitioner or a veterinary surgeon qualified in accordance with the regulations, including any of the drugs to which this Act applies shall be guilty of a misdemeanour and liable to imprisonment for a term of not more than five years.

(2) Any person who—

(*a*) knowingly by any false representation (whether verbal or in writing or by conduct) obtains from any legally qualified medical practitioner or a veterinary surgeon qualified in accordance with the regulations, any prescription including any drug to which this Act applies, or induces any pharmaceutical chemist to dispense any forged or fraudulently altered prescription or any prescription obtained in contravention of this subsection; or

(*b*) has in his possession any forged or fraudulently altered prescription, as mentioned in subsection (1) hereof, or any prescription obtained in contravention of this subsection knowing the same to be forged or fraudulently altered or obtained as aforesaid,

shall be guilty of an offence against this Act.

Obtaining drugs by false representations. Vic., 3748, 1928, s. 46.

10. Any person who knowingly by any false representation (whether verbal or in writing or by conduct) obtains from any pharmaceutical chemist, wholesale chemist or manufacturer any of the drugs to which this Act applies shall be guilty of an offence against this Act.

Power to search for drugs.
Cf. 644, 1895, s. 4.
Cf. U.K., 10 & 11, Geo. 5, c. 46 s. 10.

11. (1) If any member of the police force has reasonable cause to suspect that there is, in contravention of this Act, in any house, building, ship, vessel, or place any prepared opium or drug to which this Act applies, he may, with the authority in writing of a special magistrate or of an officer of police, enter and search any such house, building, ship, vessel, or place, and may break open the same and seize and carry away any prepared opium or any such drug, and arrest any person present who he has reasonable grounds to suspect is committing or has committed an offence against this Act in connection therewith.

(2) Any member of the police force may stop, search, and detain—

(*a*) any vehicle in or upon which there is reason to suspect that any prepared opium or drug to which this Act applies may be found in contravention of this Act; and

(*b*) any person who is reasonably suspected of having in his possession, or conveying in any manner, any prepared opium or drug to which this Act applies in contravention of this Act: Provided that before any such person is searched he may require to be taken before a justice, in which case the justice may order the said person to be searched or may discharge him without search.

(3) If any member of the police force has reasonable cause to suspect that any person has possession of any prepared opium or drug to which this Act applies in contravention of this Act, he may, without warrant, arrest the suspected person.

(4) Every person arrested under this section may be detained until such time as he can, without undue delay, be taken before a justice.

(5) Any justice before whom any person arrested under this section is brought, may—

(*a*) commit that person to gaol until he can be brought before a special magistrate or two justices to be dealt with according to law; or

(*b*) admit him to bail upon his giving sufficient security for his appearance before a special magistrate or two justices at the time and place appointed for the hearing of the charge.

Power to enter.
U.K., 10 & 11, Geo. 5, c. 46, s. 10.
U.K., 13 & 14, Geo. 5, c. 5, s. 1 (2).
N.S.W., 7, 1927, s. 2.

12. Any member of the police force of or above the rank of sergeant authorised in that behalf by any general or special order of the Minister or the board and any person employed in the public service authorised as aforesaid shall, for the

purposes of the execution of this Act, have power to enter the premises of any person carrying on the business of a producer, manufacturer, seller, or distributor of any drug to which this Act applies, or of any person otherwise licensed or authorised under or pursuant to this Act to be in possession of any such drug, and to demand the production of and to inspect any books or documents relating to dealings in any such drug, and to inspect any stocks of any such drug.

Penalties for obstructing police, etc.
U.K., 10 & 11, Geo. 5, c. 46, s. 10 (2).

13. Any person who wilfully delays or obstructs any person in the exercise of his powers under section 11 or section 12, or fails to produce or conceals or attempts to conceal any such books, stocks, opium, drug, or documents as aforesaid, shall be guilty of an offence against this Act.

Penalties.
U.K., 13 & 14, Geo. 5, c. 5, s. 2 (2).
N.S.W., 7, 1927, s. 2.

14. (1) Every person guilty of an offence against this Act shall in respect of every offence be liable on summary conviction to a fine not exceeding two hundred and fifty pounds, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment; and in any case on conviction for the offence the court may order that all articles in respect of which the offence was committed shall be forfeited to His Majesty.

The court before which the offender was convicted may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

(2) No person shall, on conviction for any offence of contravening or failing to comply with the conditions of any licence or authority granted under the regulations made in pursuance of this Act to supply a drug to which this Act applies or any regulation relating to the keeping of books or the issuing or dispensing of prescriptions containing a drug to which this Act applies, be sentenced to imprisonment without the option of a fine or to pay a fine exceeding ten pounds, if the court dealing with the case is satisfied that the offence was committed through inadvertence and was not preparatory to or committed in the course of or in connection with the commission or intended commission of any other offence against this Act.

(3) If any person attempts to commit an offence against this Act, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable on summary conviction to the same punishment and forfeiture as if he had committed an offence under this Act.

(4) Where a company is convicted of an offence under this Act, the chairman, and every director, and every officer concerned in the management of the company, shall be deemed guilty of the like offence, unless he proves that the act constituting the offence took place without his knowledge or consent.

(5) Any term of imprisonment imposed on any person by a court of summary jurisdiction in respect of the non-payment of a fine for an offence against this Act may be ordered to commence at the expiration of any term of imprisonment imposed on that person for the same offence in addition to the fine.

(6) In any proceedings against a person for an offence against this Act it shall not be necessary to negative by evidence any licence, authority, or other matter of exception or defence, and the burden of proving any such matter shall lie on the person seeking to avail himself thereof.

(7) An analyst appointed under The Food and Drugs Act, 1908, analysing any drug or substance submitted to him in pursuance of the regulations under this Act, may give a certificate in the form prescribed of the result of the analysis.

In any legal proceedings under this Act the production of a certificate purporting to be signed by any such analyst shall be *prima facie* evidence of the identity of the drug or substance analysed, and of the result of the analysis, without proof of the signature or appointment of the person appearing to have signed the same.

Variation of proclamation. U.K., 22, Geo. 5, c. 15, s. 4.

15. Any proclamation made by the Governor under this Act may be varied or revoked by any subsequent proclamation made by the Governor.

N.S.W., 7, 1927, s. 2.

SCHEDULE.

Cereoli Iodoformi et Morphinae, B.P.C.
Emp. Opii, B.P., 1898.
Lin. Opii, B.P., 1914.
" Opii, Ammon., B.P.C.
Pasta Arsenicalis, B.P.C.
Pil. Digitalis et Opii Co., B.P.C.
" Hydrarg. c. Cret. et Opii, B.P.C.
" Hydrarg. c. Opio. B.P.C.
" Ipecac. c. Scilla, B.P.
" Plumbi c. Opio, B.P.
Pulv. Cretae Aromat. c. Opio, B.P.
" Ipecac. et Opii (Dover's Powder).
" Kino Co., B.P., 1914.
Tablettae Plumbi c. Opio, B.P.C.
Ung. Gallae c. Opio, B.P., 1914 (Gall and Opium Ointment).
" Gallae Co., B.P.C.