

LEGISLATIVE COUNCIL

Tuesday 11 November 1980

The **PRESIDENT (Hon. A. M. Whyte)** took the Chair at 10 a.m. and read prayers.

SITTINGS AND BUSINESS

The **PRESIDENT**: Honourable members will recall that the Council was adjourned on Thursday last until Tuesday 18 November 1980. In the meantime, the honourable Premier requested that the Council be asked to resume on Tuesday 11 November at 10 a.m., in order to consider emergency legislation in connection with the control of all petrol supplies in this State. Acting under the provisions of Council Standing Order No. 1, I despatched urgent telegrams to all members appointing Tuesday 11 November as the day for the resumption of the sittings of the Council.

The business to be transacted at today's sitting will be as determined by the Council but I think it would be appropriate if I read, as I have done on other similar occasions, the relevant House of Commons Standing Order No. 122, paragraph (2), relating to this matter. It states:

The Government business to be transacted on the day on which the House shall so meet shall, subject to the publication of notice thereof in the order paper to be circulated on the day on which the House shall so meet, be such as the Government may appoint, but subject as aforesaid the House shall transact its business as if it had been duly adjourned to the day on which it shall so meet, and any Government order of the day and Government notices of motion that may stand on the order book for any day shall be appointed for the day on which the House shall so meet. Accordingly, the Notice Paper has been reprinted under today's date and, subject to other business which the Government may appoint for today, it is for the Council to decide the order of business to be dealt with.

The **Hon. C. J. SUMNER**: I rise on a point of order, Mr. President. The point of order that I wish to raise concerns whether or not Parliament, and particularly the Legislative Council, has been properly summonsed to meet today. I raise this point because most members of the Council know that on Thursday Mr. Milne, the Australian Democrat representative, was granted a pair for certain purposes, because it was known that he was going interstate. Mr. President, you have indicated that you have used Standing Order No. 1 to summons the Council to meet today. Standing Order No. 1 states that the general powers and responsibilities of the House of Commons in the British Parliament should apply when our own Standing Orders are silent.

This sitting of Parliament has been called together by you, Mr. President, at the Government's request, to deal with permanent legislation; that is, legislation which, if it is passed today, will remain on the Statute books until otherwise repealed. Accordingly, Mr. President, it is my view that you need to be assured that Parliament has been properly summonsed. My concern is that one representative in this Chamber, the Democrat representative Mr. Milne, has received no notice of the sitting of this Parliament. Of course, I do not wish to delay the proceedings, because we must look at the legislation that the Government intends to pass to deal with what it sees as an emergency situation.

Nevertheless, the indication I have received from the

Government and from the copy of the Bill it has given me is that we are dealing with permanent legislation, and I would want you to be assured, Mr. President, and able to assure the Council that it has been summonsed properly and that the Hon. Mr. Milne will not be disfranchised by this special sitting of Parliament which may pass legislation of a permanent nature.

The **PRESIDENT**: In answer to the Hon. Mr. Sumner, I can only assure him that every possible step was taken to contact every member. Telegrams were sent, and the Hon. Mr. Milne's contact number in Sydney was telephoned. The message was left there, but I have heard no response either way from the Hon. Mr. Milne. For all I know, he could appear in this Chamber at any time, but I have had no reply.

The **Hon. C. J. SUMNER**: I would like some further directions, Mr. President. Is there anything in the procedure applicable to this situation which requires the member to be notified and for Parliament to receive an assurance or acceptance by that member that he has been notified? I have not had the opportunity of researching this point. What is the practice on this matter in the United Kingdom Parliament? Are there any precedents, and is it normal for just telegrams or messages to be sent in the hope that the members will receive them, or is there a need for some affirmation from the member that he has received the message and has decided whether or not to attend? Further, I raise the point that, even if the Hon. Mr. Milne has been notified, I understand that he is in Sydney and is incapable of returning, anyway, unless some special transport arrangements are made for him.

The **PRESIDENT**: In reply to the Hon. Mr. Sumner, I point out that all the procedures necessary for the summoning of Parliament were complied with. There is no instruction specifying a reply in acknowledgement of that notice from any member. All that is necessary for this Council to meet is a quorum to be present.

The **Hon. C. J. SUMNER**: On a further point, Mr. President, as I understand the practice in the Federal Parliament and, indeed, other Parliaments, when such a situation arises every effort is made by the Parliament—and that means the Government—to ensure that all members of Parliament are present, and we have seen the use, for instance, at the Federal level, of special aircraft as well as other special transport arrangements being made. I am wondering whether the Government has made any arrangements in this case for Mr. Milne to participate in this debate.

The **PRESIDENT**: I think that is a question for the Government to reply to. I do not know whether it has made any such special arrangements. The point concerning the Federal Parliament is not necessarily applicable to our Standing Orders. As I have said, all the necessary procedures under our Standing Orders have been complied with.

The **Hon. N. K. FOSTER**: I understand from your replies—

The **PRESIDENT**: Are you raising a point of order?

The **Hon. N. K. FOSTER**: Yes, Mr. President. In view of the replies that you have given to the Hon. Mr. Sumner, intimating that efforts were made to contact a member of this Council yesterday in regard to this emergency sitting, I do not understand whether those efforts have been increased this morning, or whether or not, for instance, the Hon. Mr. Milne is likely to telephone at, say, 10 o'clock this morning. If he were contacted in the last few minutes or, say, within the next 15 minutes, would there be sufficient time, in spite of what is occurring in the transport industry, to allow him to attend this sitting of the Council?

The PRESIDENT: I find it very difficult to reply to that. I have no control over the availability of transport to the honourable member. All I can say is that all the procedures necessary to summon this Council today have been complied with.

The Hon. K. T. GRIFFIN (Attorney-General): Before I move a procedural motion, may I indicate that, if the Hon. Lance Milne were able to contact me and did find it impossible to return from New South Wales, I would certainly be prepared to discuss with him the content of the Bill during the sitting this morning. I now move:

That the business to be considered by the Council today be limited to messages received from the House of Assembly and consideration of the Motor Fuel (Temporary Restriction) Bill.

Motion carried.

The Hon. K. T. GRIFFIN: I move:

That all business appearing on the Notice Paper for this day be postponed and taken into consideration on Tuesday 18 November 1980.

Motion carried.

The Hon. K. T. GRIFFIN: I move:

That Standing Orders be so far suspended as to enable the introduction of a Bill forthwith and its passage through all stages without delay.

Motion carried.

MOTOR FUEL (TEMPORARY RESTRICTION) BILL

The Hon. K. T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to provide for temporary rationing of motor fuel, and control over the production, distribution and supply of petroleum; and for other purposes. Read a first time.

The Hon. K. T. GRIFFIN: I move:

That this Bill be now read a second time.

All members are aware that supplies of petroleum products have been disrupted in this State because of industrial disputation which has its origin in another State. Members of the Transport Workers Union are currently meeting at different centres throughout Australia to consider continuation or cessation of the dispute. Notwithstanding the result of that ballot, this Bill is necessary to provide rational and equitable distribution of existing fuel supplies both on this occasion and any future occasion, for until fuel deliveries return to normal there remains the potential for continued difficulties at retail outlets.

Fuel stocks in retail service stations have been depleted rapidly in recent days, and will shortly be exhausted unless distribution provisions are introduced promptly. Reliable information provided by the industry indicates that several weeks supplies of all types of petroleum products are held in the Port Stanvac refinery, the bulk terminals of the oil companies and the service stations in this State. However, accelerated buying has depleted the two weeks normal stocks of motor spirit in the service stations and action is necessary to conserve stocks and ensure that fuel continues to be available for essential services and high priority users.

Approximately one-half of metropolitan service stations are already closed, with the possibility that this figure may rise to 80 or 90 per cent by tomorrow morning unless controlled purchasing is introduced. In these circumstances, the Government has decided that the necessary legislation to control the supply of motor fuel should be enacted. The Government had hoped and expected that such action would not be necessary.

As late as last Thursday, informed advice from the industry indicated there was a good prospect of a return to work at the weekend. That would have meant that fuel supplies would not have been interfered with unduly. In the event, the strike continued throughout the weekend, and beyond.

This national strike could scarcely have occurred at a more inopportune time in South Australia. It began at the end of a Parliamentary sitting week, intensified over a weekend, and now continues into a scheduled non-sitting week. Thus, for several critical days the Government has been powerless to initiate the action proposed, and is able to do so now only at the inconvenience of calling a special sitting of Parliament. The far greater inconvenience, however, is that which will be caused to motorists and to industry if a prolonged dispute results in fuel shortages at a later date. Clearly, both this special sitting and the rapid depletion of fuel stocks over the weekend could have been avoided if permanent legislation had been available, as in other States, ready to be proclaimed at the appropriate moment. Such was not the case, however, even though Parliament has considered the matter of emergency fuel supplies on three previous occasions.

In 1972 Parliament had to be recalled in emergency session to pass a Liquid Fuel (Rationing) Bill to allow the Government of the day to control the allocation of supplies through a permit system. Similar legislation was enacted in 1973. In both these crises, Parliament was asked to consider and pass, in a period of less than 24 hours, legislation to control and ration the remaining supplies of liquid fuel. Rationing was introduced on each of those occasions, and the Acts expired shortly after their enactment.

Earlier this year, in the face of the threat of a disruption to fuel supplies in a situation where a major dispute in another State threatened to spread to South Australia, the Motor Fuel Rationing Bill was considered and passed, but lapsed after a period of 18 days. For some time since that most recent occasion, the Government has adopted the view that permanent legislation is necessary to cover emergency situations. That view is confirmed by the current dispute.

In formulating this policy the Government has worked responsibly in conjunction with the National Petroleum Advisory Committee (N.P.A.C.) to evolve measures and legislation co-ordinated on an Australia-wide basis to enable control and management of fuel supplies under emergency situations. The National Petroleum Advisory Committee is a high-level advisory body which includes senior representatives of Commonwealth and State Governments, industry user bodies, and the A.C.T.U. That committee is preparing advice for Governments on:

- (1) appropriate arrangements for the equitable allocation of liquid fuels during any period of supply shortage;
- (2) priorities for the allocation of liquid fuels during periods of shortage which accord most closely with Australia's overall national interests, having regard to the overall supply situation with respect to liquid fuels in Australia and the actual or anticipated position with respect to any particular product shortages.

N.P.A.C. has recommended that legislation to deal with liquid fuel emergencies should be such as to "ensure reasonable consistency of approach throughout Australia and effectiveness of operations in current and foreseeable circumstances". Whilst preparation of draft legislation for this State was progressing in conjunction with the work of N.P.A.C., it was anticipated that, if reasonable industrial and international attitudes prevailed, legislation would not

be required in the short term and appropriate legislation consistent with the eventual N.P.A.C. recommendations could be introduced towards the end of this year or early next year. Unfortunately, however, present circumstances make it necessary to introduce this Bill at this stage. N.P.A.C. has made it clear that it believes that permanent legislation, rather than a series of temporary Acts, is required.

The present Bill is intended as permanent legislation; it meets the guidelines laid down by N.P.A.C. although, when N.P.A.C. reports finally, this legislation may need to be reviewed, as will all other liquid fuels emergencies legislation existing and proposed in other States. This Bill is based on previous legislation, but in its present form is intended to allow demand restraint measures to be introduced as well as the systems of rationing to ensure supplies for essential services envisaged previously. The Bill is also intended to ensure that the supply chain, from production to sale, continues to function effectively. The systems of priorities and demand restraint measures under consideration are based on the recommendations of N.P.A.C. and of the Liquid Fuels Utilisation Consultative Committee, which this Government established late last year to provide advice on planning and priorities for fuel emergency situations.

The Liquid Fuels Committee has been consulted in the formulation of the measures envisaged in this Bill and is being consulted with regard to their implementation. The fact that the Transport Workers' Union may act to extend the dispute, and thus to place our fuel supply situation under further strain, has precipitated an emergency situation and the Government now must act. It is for this reason that we bring forward this legislation to enable the Government to deal with such emergencies, whether they arise from local or overseas threats now or at some time in the future.

The broad scheme of this Bill is to provide that, where there are or are likely to be shortages of motor fuel in South Australia, the Governor may by proclamation declare a period of not more than seven days to be a period of restriction and may also declare that period to be a rationing period. Such period of restriction may be extended for successive periods of not more than seven days each but so that the total period does not exceed 28 days.

The period of restriction may be extended by recalling Parliament, which may authorise an extension by a resolution of both Houses of Parliament. The Bill allows rationing through a permit system, and also empowers the Minister to announce a scheme such as that adopted in Victoria where vehicles with odd registration numbers obtain fuel one day, while vehicles with even registration numbers obtain fuel on another day.

Any person who is aggrieved by the refusal of the Ministry to grant a permit may appeal to a judge of the Local and District Criminal Court or a special magistrate. There is also provision for a person who incurs expenses in consequence of a direction to recover the amount of those expenses from the Crown.

Profiteering is also severely dealt with, as it has been under previous legislation. The provisions of the Bill will be seen to provide an appropriate scheme with reasonable safeguards.

In addition to the provisions of the Bill, appropriate action will be taken by the Government as and when necessary to encourage car sharing; to provide free parking in the parklands for people sharing cars or operating a car pool; to extend or vary the Bee-line and City Loop bus services to cover these car parks; to introduce multiple hiring of taxis; and to amend

instructions regarding the use of Government vehicles so that more than one public servant and others may be transported to and from work.

Clauses 1 and 2 are formal. Clause 3 contains definitions necessary for the purposes of the new Act. Clause 4 empowers the Minister to delegate his powers under the new Act to any other person.

Clause 5 empowers the Governor to declare periods of restriction and rationing periods. The declaration of a period of restriction brings into effect the Minister's power to make orders relating to the production, supply, distribution and sale of petroleum under Part III. The declaration that a period of restriction also constitutes a rationing period brings into operation the rationing provisions under Part II. A period of restriction (whether or not it also constitutes a rationing period), may be declared initially for a period of seven days, and this initial period may be extended by further periods of up to seven days until a total of 28 days is reached. Thereafter any extension must be made upon the authority of a resolution of both Houses of Parliament. When a period of restriction expires, no further declaration can be made until the expiration of one month, unless the declaration is authorised by resolution of both Houses of Parliament.

Clause 6 makes it an offence to sell or purchase rationed motor fuel unless the purchaser is a permit holder. A permit holder must not use, or permit another to use, fuel purchased under the permit in contravention of the conditions of the permit. Clause 7 empowers the Minister to issue permits. Clause 8 empowers the Minister to exempt any specified class of persons from rationing, or any specified part or parts of the State.

Clause 9 provides that the Minister is, in exercising his powers in respect of rationing, to give special consideration to the needs of those living in country areas. Clause 10 permits an appeal to a local court judge or special magistrate against a refusal by the Minister to issue a permit. The appeal is to be heard expeditiously and without unnecessary formality. If an appeal is rejected by a special magistrate, the appellant may apply to a local court judge for a review of the decision.

Clause 11 enables the Minister to give directions relating to the production, supply, distribution or sale of petroleum. A person who incurs expenses in complying with a direction may recover the expenses from the Crown. Clause 12 enables the Minister to fix a maximum price in relation to the sale of specified kinds of petroleum and establishes a substantial penalty for profiteering. Clause 13 enables the Minister to gather the information necessary to enable him properly to administer the Act.

Clause 14 prevents prerogative writs being taken out against the Minister in relation to the performance of his statutory functions. Clause 15 enables the Minister to publish principles that should be observed, during a period of restriction, in relation to the conservation of petroleum. These principles may involve car pooling and sharing arrangements which would result in technical breaches of policies of insurance. Thus subclause (2) provides that any breach of a policy of insurance that a policy-holder commits by acting in accordance with the published principles shall be disregarded in determining rights under the policy.

Clause 16 empowers police officers to stop motor vehicles and to ask questions relevant to the administration of the Act. Clause 17 is an evidentiary provision dealing with proof of certain formal matters. Clause 18 provides that proceedings for offences are to be dealt with summarily and are not to be taken except upon the authority of the Attorney-General. Clause 19 is a regulation-making power.

The Hon. C. J. SUMNER secured the adjournment of the debate.

[Sitting suspended from 10.26 to 11.45. a.m.]

The Hon. K. T. GRIFFIN (Attorney-General): I seek leave to make a brief statement.

Leave granted.

The Hon. K. T. GRIFFIN: Yesterday, the Clerks endeavoured to contact the Hon. Mr. Lance Milne. All appropriate steps were taken to ensure that the Hon. Mr. Milne was given notice of today's special sitting. Steps were also taken this morning by officers of the Parliament and the Government to contact Mr. Milne, who is interstate and out of contact.

For this reason, the Government takes the view that, because the legislation is of a permanent nature, we should move to limit its life to 18 December 1980. It would be unreasonable in these special circumstances to force through permanent legislation in the absence of the Hon. Mr. Milne, notwithstanding that I indicated earlier this morning that I would be prepared to discuss the matter with Mr. Milne if he could be contacted. The Government will, however, introduce permanent legislation, as contained in the Bill, to be considered by the Council at the earliest opportunity next week.

The Government has appreciated the undertakings given by the Opposition to facilitate the debate on the Bill before us with the limitations to which I have referred and which I will be moving in Committee. The Government also appreciates the undertakings given by the Opposition to facilitate the introduction and debate of permanent legislation at the earliest opportunity next week.

Adjourned debate on second reading (resumed on motion).

The Hon. C. J. SUMNER (Leader of the Opposition): In view of the Attorney-General's Ministerial statement, the Opposition will support the speedy passage of this measure through the Legislative Council and another place. I am pleased that the Government has agreed to the Opposition suggestion that this legislation should not be made permanent at this time. I say that because, first, of the initial point that the Hon. Mr. Milne, the Australian Democrat representative in this Council, has not been contacted about the summoning of Parliament, despite the best attempts. As you, Sir, realise, I raised that matter at the beginning of this morning's sitting. So, the Opposition considers that this would have been unfair to the Hon. Mr. Milne and to the Parliament as a whole.

Secondly, the Opposition considered that, to force permanent legislation on this matter through both Houses today, given that there are significant differences between this Bill and previous Bills that have been debated, would also not have been proper in terms of the Parliamentary process. The Opposition considers that permanent legislation of this kind is necessary but that it ought to be debated in a non-crisis atmosphere, and with all honourable members having the opportunity to move amendments if they so desire.

Although the Opposition supports permanent legislation, there are in this Bill a number of things which we query and in relation to which we will wish to move amendments. I am pleased that Opposition members will now get an opportunity to move those amendments in a calmer atmosphere next week or when the Government introduces the Bill.

I confirm what the Attorney-General has said, namely, that the Opposition is prepared to facilitate the speedy

passage of this Bill through the Parliament with the limitation period of 18 December, to which the Attorney-General has referred. Secondly, the Opposition is prepared to facilitate all debate on a permanent measure when it is introduced before the Council rises for the Christmas break. With those things in mind, the Opposition approached the Government with a view to having this Bill passed today on a temporary basis and for the full debate to occur next week.

I am pleased to say that we have been able to come to an agreement with the Government, on the basis of the discussions we have had during the adjournment. It is most unsatisfactory that we have not had permanent legislation by now. Permanent legislation was first mooted in 1978. It was proposed again in 1979, and it was suggested by the Opposition (and, I suspect, by other honourable members) in March 1980, when the legislation for another temporary period was introduced. Had there been permanent legislation on the Statute Book now, there would have been no need for this emergency sitting of Parliament to be called. The Opposition, when in Government in 1978-79, supported permanent legislation, and in 1980 we made a similar suggestion and I am now pleased to see that the Government intends to introduce permanent legislation at the earliest possible opportunity.

There are a number of matters in the Bill with which we take issue, but there is only one matter on which we will be moving an amendment, namely, to clause 11, which provides for the directions that may be given to people in the rationing period. However, although that is the only amendment we will be moving today, our support of the passage of the rest of the Bill is only on the condition that it is temporary legislation. Our consideration of the Bill today is without prejudice to the position we will adopt on the permanent legislation when introduced next week. There is one amendment which, we believe, is of paramount importance and which we will be moving this afternoon. There will probably be other amendments that we will wish to move to the permanent legislation next week. What we say today is without prejudice to a full debate and consideration of the permanent legislation when it is introduced.

I will be limiting my comments to the matters necessary to explain the amendment to be moved by the Opposition today. It is important that honourable members realise that this Bill differs significantly from previous Bills. Previous Bills have provided for the declaration of a period of rationing during which a permit system would operate for the supply of motor fuel, whereas this Bill adds a further period that can be declared by the Government, namely, a period of restriction.

A period of restriction is a period during which certain guidelines for the use of motor fuel by the public can be promulgated. Those guidelines do not, as I understand the Bill, necessarily have any legal effect. But, as opposed to the previous measure, this Bill divides any period into two, an initial period called "a period of restriction" when these guidelines could be issued, and then a period of rationing when the strict permit system would come into operation. That is different from the situation that existed under the previous Bills introduced and under previous legislation passed.

My preliminary thoughts on that are that it is desirable, but it is a matter which we will need to consider further. However, what is important is that the provision in clause 11, which deals with the directions that may be given regarding the production, supply, distribution or sale of petroleum, apply not only to the period of rationing, as they did in the Bill of March this year, but apply also to the

pre-rationing period, the period of restriction. So, we have a position where quite Draconian powers to interfere in the direction of labour and in the industrial situation in this State can be exercised not only in a period of strict permit and rationing but also in the so-called period of restriction, when the Government really has no other legal powers.

That is quite a substantial difference from previous provisions and gives even more weight to the arguments of the Opposition that the clause dealing with the directions that the Minister may give to people regarding the supply, distribution or sale of petroleum and its products ought to be limited to bodies corporate and not apply to any person, which is the current provision, a provision to which we have objected on previous occasions and to which we intend to object on this occasion. We believe that the directions that can be given to any person constitute a power which is far too wide to meet the needs of the situation and which is particularly too wide, given that there are now two periods, a period of restriction in which the Government really has no legal powers, except powers dealing with these directions (and some other police powers which I will mention in a minute), and then a permit or rationing system.

During that period the Draconian powers that this legislation contains apply, so that our arguments in relation to the amendment of this clause apply even more forcefully under this Bill than they did under previous legislation. In other words, the period of restriction can be introduced by the Government, and it is a matter that is purely in the opinion of the Governor (that is, the Government). It is not subject to any other controls, except after the period of 28 days has elapsed. It is not subject to any supervision by the Parliament. The Bill gives the Governor (the Government) the power to declare these periods of restriction and rationing if, in his opinion, there is likely to be a shortage of motor spirit. Clause 5 of the Bill states:

- (1) Where, in the opinion of the Governor, circumstances have arisen, or are likely to arise, that have caused, or are likely to cause, shortages of motor fuel in the State—

So the Governor has to be assured, or be of the opinion, that circumstances are likely to arise which are likely to cause shortages. That matter is by no means certain. There only has to be a threat to petroleum supplies for this legislation to be introduced; the Government only needs to be of the opinion that that is likely to occur. The Opposition does not object to that broad power, but we say that, to apply the directions contained in clause 11 to the period of restriction, which can be proclaimed, in those circumstances, is not justified.

Another significant difference in this Bill is that the police powers contained in clause 16 are very broad indeed. That clause provides that these extensive police powers which have appeared in previous Bills and which may be necessary will now apply not only when there is a strict permit system but also when there is this pre-rationing period of restriction. Those rationing powers are very substantial. Clause 16 provides:

- (1) During a period of restriction, a member of the police force—
- (a) may, for the purpose of putting questions to the driver of a motor vehicle under paragraph (b), request the driver to stop the vehicle;
- (b) may ask the driver or person apparently in charge of a vehicle (whether on a road or elsewhere) questions relating to—
- (i) the name and place of residence or business of that person;
- (ii) the name and place of residence or business of the owner of the vehicle or of any

petroleum in or on the vehicle;

- (iii) the source from which petroleum on or in the vehicle was obtained and any other matters relating to that petroleum.

The final words in that clause refer to the very broad powers of questioning that the police have. The police may ask a driver or a person apparently in charge of a vehicle about "any" matter relating to petroleum that may be on or in that vehicle. As I have said, they are very broad powers which have been contained in previous legislation and which may be necessary for proper effect to be given to the legislation.

However, the important difference with the power of direction of persons in relation to production, supply, distribution or sale is that police powers and powers of direction apply not only during the rationing period but also during the pre-rationing period, the period of restriction when the Government really has no powers over the control of fuel. They are significant differences and, while I will not at this stage be moving amendments in relation to police powers, that is certainly something we will be giving careful attention and consideration to when the permanent legislation goes through.

At this stage the Opposition will not be moving amendments to clause 16, because we believe that it is important that this legislation be passed as quickly as possible, but that is certainly one area we will be giving attention to in the future. A number of other matters need to be looked at and the Opposition will certainly be discussing them when the permanent legislation is introduced. I refer to the appeal provisions contained in clause 10; clause 14, relating to restrictions on injunctions and *mandamus* against Ministers; the clause relating to profiteering; and the fact that there has been a change in the price control system in South Australia that is not appropriate to the present situation.

The change in the price control system is worth mentioning at this stage, because the Liberals have changed the system of fixing petrol prices in this State from a system of price control to a system of price justification. In the past few days there have been quite substantial increases in the price of petrol beyond the normally considered retail price. A price of 36.5c per litre in the metropolitan area is one price that has been mentioned to me.

Presumably petrol prices are being increased because of the shortage of fuel. Had the system not been changed from price control to price justification, those prices could not have increased. The Opposition will also be giving attention to that matter when permanent legislation is introduced.

I support the second reading of the Bill. I will be moving amendments, one of which deals with directions to persons relating to the production, sale and supply of petroleum. We will proceed with that amendment. My other amendment indicates the Opposition's intention that the Act should expire on 21 November 1980, that at this stage it should not be permanent legislation. As a result of my discussions with the Government, I confirm that the Attorney-General will move an amendment requiring this Bill to expire on 18 December. By that time permanent legislation will be in effect and able to be proclaimed to take effect on the day after the expiry date of this temporary legislation.

The Hon. R. C. DeGARIS: The announcement by the Attorney-General and the reason he gave for the terminating date of this legislation has considerably altered the scope of this debate and I believe that is evident from the speech made by the Hon. Mr. Sumner.

Nevertheless, I believe there are certain matters that the Council should be acquainted with in relation to this type of legislation. Other members know as well as I do that Parliament has been recalled on a number of occasions during the past six years to deal with legislation of this type. So far, Parliament has dealt with variations of this theme to cover, first, emergency powers covering any emergency that may occur; secondly, emergency powers to cover liquid fuel supplies; and thirdly, legislation of a permanent nature or legislation operating for a limited period.

When this Bill was first introduced, it was to be permanent legislation to cover the supply of liquid fuels to the community. I agree with the Hon. Mr. Sumner that this State should have permanent legislation on the Statute Book to enable the Government to act in any emergency that may occur for a limited period. Although permanent legislation cannot be achieved at this time, I am quite certain that all members would agree that if possible permanent emergency legislation should be introduced to enable the Government to act quickly.

There is also a difference between introducing emergency powers in relation to liquid fuels and the reasonable rationing of those supplies and other emergencies that may occur from time to time. Nevertheless, I believe that emergency powers legislation should be available to any Government for a limited period. The Council's difficulty so far is that it has not been able to reach agreement on certain parts of that type of legislation and I will now briefly touch on the history of this type of legislation. The Hon. Mr. Sumner referred to the fact that this type of legislation had only come before the Council since 1978, but the Emergency Powers Bill of 1974 gave the Government virtually similar powers.

In that particular Bill the Government sought the right to proclaim a state of emergency with the power to proclaim any regulations that may be deemed necessary to ensure that people were supplied with the essentials of life. While the Bill armed the Government for a maximum period of 14 days, in most circumstances it had to govern by decree but the Government was precluded under the legislation from introducing any form of industrial conscription making strikes illegal, and preventing picketing.

The Legislative Council amendment to this Bill widened the powers available to the Government by simply giving to the Government, for the requested period, the right to supply, by any method it saw fit, essential supplies to the people. The Bill contained no right for the individual, who may be adversely affected by these wide regulatory powers that the Government sought, to claim compensation for any damage or loss. Grounds for compensation were included in an amendment in this Council. Because of those two amendments in relation to the widening of the powers to allow the Government to give any direction to anyone who supplied the essentials of life, and the provisions of a compensation clause, that legislation failed.

The first legislation of a permanent type came before the Council in 1974. That Bill ultimately went to conference but lapsed because of lack of agreement. Since then there have been other attempts to place permanent legislation on the Statute Book, but always we have bogged down on one or two points. All honourable members would agree that permanent legislation is necessary in regard to fuel rationing, and I suggest that the general view of the Council would be that there should be legislation covering emergencies other than fuel supplies.

In the Motor Fuel Rationing Bill of 1980, which was assented to on 13 March 1980, the philosophy of clause 11

was agreed to by Parliament. While it is unfortunate that the Hon. Mr. Milne is not here today so that this legislation can become permanent, it appears to be reasonably clear that the Hon. Mr. Milne would be voting for this clause, because he voted for an identical clause in March this year.

The Hon. C. J. Sumner: It was not identical.

The Hon. R. C. DeGARIS: It was almost identical. If the honourable member reads the clause he will find only a small variation.

The Hon. C. J. Sumner: It applies to the whole period, whereas the previous clause applies only to the period of rationing. This applies to the pre-period, too.

The Hon. Anne Levy: That's not a trivial difference.

The Hon. R. C. DeGARIS: I am talking about the general powers contained in clause 11, which is somewhat different from the point that has been made by the Hon. Mr. Sumner. I am dealing with the philosophy in relation to clause 11, and that philosophy was agreed to by the Hon. Lance Milne in 1980. The specific clause and the philosophy of it are the same in this Bill as in the Bill assented to on 13 March 1980.

The Hon. Anne Levy interjecting:

The Hon. R. C. DeGARIS: The point the honourable member is making is in relation to another clause altogether.

The Hon. Anne Levy: It applies to restrictions as well as to rations.

The PRESIDENT: Order!

The Hon. R. C. DeGARIS: The point is not worth debating, because the Attorney-General has agreed that this legislation will be for only a certain period. From reading what the Hon. Mr. Milne had to say in regard to the 1980 Bill, I see no variation.

Members interjecting:

The PRESIDENT: Order!

The Hon. R. C. DeGARIS: I am certain that the Hon. Lance Milne would not change his mind in that period. The A.L.P. members once again attack this clause on the basis on which they have always attacked it; that is, in relation to the original philosophy of 1974, that no direction should be given in relation to any matter dealing with industrial conscription, that no direction should be given that may relate to picketing, and that the sacred cow of the A.L.P., that is, the right to strike, must be absolutely preserved.

The Hon. J. E. Dunford: Why not?

The Hon. R. C. DeGARIS: I will come to that in a moment. We, as Parliament, must recognise that there is a right to strike, although every effort and facility should be available to prevent, if possible, that action being taken. On the other hand, if we are to grant, even for a limited period, sweeping emergency powers to any Government, those powers should be exercisable equally on all sections of the community. For example, if an emergency occurs in which certain essential services cannot be provided, it surely must be the Government's right to direct that those essential services are continued regardless of whether that direction offends employer, employee, capital or labour.

The Hon. J. E. Dunford interjecting:

The PRESIDENT: Order! The Hon. Mr. Dunford should desist from interjecting.

The Hon. R. C. DeGARIS: What would the community expect a Government to do if, because of some emergency, health and hospital services were threatened with closure? What we are dealing with in this Bill is the supply of liquid fuel, and the powers in clause 11 may be directed towards labour, capital, employer or employee. I stress also that any Government which did not, in the circumstances, act with general community support in such

a situation would leave itself wide open to creating a serious problem. It is a power that must be used with extreme caution, yet, without it, emergency powers are of little use.

In this morning's *Advertiser* Mr. Bannon is reported to have said something about why emergency legislation has not been passed previously. I think I have answered that question in what I have said. If we are to have emergency powers, those powers must apply equally to every person in the community. One cannot select one group to which those powers do not apply.

The last point is one that I have already covered. That is, the question of a termination date. In the March 1980 Bill the only amendment which the Hon. Mr. Milne was interested in moving and which he finally achieved was in relation to a date of termination, which was 30 days. I have already made the point that, if we are looking at general emergency-type legislation covering all forms of emergencies that may occur, I will be looking very carefully at this question of a period of 30 days.

I believe that in general emergency legislation that may be too long, but in relation to this question of rationing, Parliament has already determined that 30 days is a reasonable period and, in this particular Bill, it is in steps of seven days. If the rationing period ends for any reason, before it can be invoked again, Parliament must be called together. Because of the announcement of the Attorney-General that it is only for a limited period, it cuts across the general thrust of the debate, and I support the second reading.

The Hon. K. T. GRIFFIN (Attorney-General): I appreciate the indication from the Opposition that it will be supporting this legislation and facilitating progress through the Council and through another place. I also appreciate that, as I have already indicated in my brief Ministerial statement, the Opposition will also facilitate the introduction of a Bill in almost identical form, at the earliest opportunity next week, to enable us to debate the permanent legislation on which the Opposition wants to raise some question. I already indicated in my second reading explanation that the Government took the view earlier this year that permanent legislation was necessary, and I am pleased to hear that the Opposition supports the principle of permanent legislation.

I have also indicated that the reason for not being able to present permanent legislation before this time is that we have been anxious to co-ordinate our legislation with the National Petroleum Advisory Committee, which is endeavouring to develop uniform proposals that will operate throughout Australia and apply to all energy resources in times of crisis. However, next week and the week after we will have the opportunity to debate permanent legislation more fully.

This Bill contains a number of safeguards that have been highlighted by me in my second reading explanation. Among other things, there is the limitation on the length of declarations of periods of restriction and rationing. There is also the requirement that if the aggregate period of restriction reaches 28 days it cannot be extended without the concurrence of Parliament. I believe that that is a proper and adequate safeguard against abuse of the limited powers that are given to the Minister in this legislation.

There is also the provision that when rationing applies a person who is aggrieved by a decision of the Minister will have a right of appeal to a Local Court judge or to a special magistrate, and where there is a right of appeal to a special magistrate there is also a further right of appeal to a Local and District Criminal Court judge. There is also

the provision that, if anyone given a direction complies with that direction and incurs expenses, that will be a claim against the Crown. That, too, is a proper and adequate provision in this emergency legislation. However, the Leader of the Opposition, when talking about police powers in clause 16 of the Bill, did not go further to state that in that clause, notwithstanding the powers of the police to question, there is a very important safeguard in (3), which specifically provides that a person is not obliged to answer a question put to him under this clause if the answer to the question would tend to incriminate him of an offence.

The Hon. Anne Levy: How are people going to know that?

The Hon. K. T. GRIFFIN: It is a right which they have, and a right which they have under common law, and it is a right which certainly could have been abridged in such emergency legislation but which the Government believes in this context is an important right to preserve. Therefore, the right is there and citizens are not deprived of that right. In looking at the Bill as a whole, it is quite clear that there are a number of safeguards which were not included in the former Government's legislation and several of which were not included in the legislation that we considered earlier this year, but because of the permanent nature of this Bill it was the Government's view that such safeguards ought to be included.

The Leader of the Opposition has made a number of comments about clause 11, in particular, and I want to spend a few moments expanding on the operation of that clause and to more clearly explain what is intended by the provision for the Government to declare a period of restriction and, subsequently, a period of rationing. Under the Bill, the principal declaration to which the time limits apply is the declaration of a period of restriction. It is during that period that clause 11 becomes important. The second stage of any fuel emergency situation is the declaration of a rationing period; that is the second step and the second level of the procedures which would be adopted. The declaration of a period of rationing must be made during a period of restriction, so the same limitations, in effect, apply to rationing as apply to periods of restriction. During a period of restriction, there may be sufficient fuel available in service stations not to require immediate rationing. Rationing is really a last resort which involves establishing a bureaucratic apparatus to monitor and police it and a distribution process for permits which, if at all possible, we would want to avoid.

So, at a stage where a disruption to supply is either threatened or in operation, but where there are still apparently adequate reserves available in petrol stations, it may be that the Government would move, first, to do something similar to that which was done in Victoria last week, and that is to declare that on a certain day those persons whose vehicle registration numbers are even numbers will be able to obtain fuel, and those whose vehicle numbers are odd numbers will be able to obtain fuel on an alternative day. During that period of restriction without rationing being imposed, it may also be necessary for the Minister to put a ban on the filling of containers. It may be that there is a need for a restriction to be placed on the quantity or value of fuel which can be purchased from service stations. There is no need to introduce rationing to do that: a declaration by the Minister would have the effect of providing that sort of restriction. It may also be necessary for the Minister, during that period of restriction without rationing, to declare that service stations shall be open only during certain hours of the day.

A number of measures can be taken to control the

availability of fuel reserves during a period when adequate reserves are still available, and the Government wants to restrict the panic buying which has been evident during the past few days as a result of the current emergency situation. The powers I have mentioned are all powers which the Minister can exercise under clause 11. He can also exercise the power of giving a direction to a refinery to produce only a certain sort of fuel, maybe to ensure that maximum distillate is available, or perhaps maximum petrol. The Minister may want to do that without having invoked a rationing period. These powers are necessary to facilitate the maintenance of reserves and to ensure that everyone is treated fairly and reasonably over as long a period as possible.

The second step is to impose a period of rationing when, of course, permits would need to be issued and when fuel would not be available to the ordinary public, even in limited quantities, as during a period of restriction and rationing. This may be necessary if it appears that disruption to supply will be prolonged. During this time, essential services and high priority users would need to have their supplies guaranteed, and the Government could then invoke the rationing period. During the period of restriction, it is important that the police have adequate powers to question, with the safeguard that a person is not required to answer questions that may tend to incriminate. If directions have been issued by the Minister to restrict the hours of trading, to restrict the quantities of fuel available, to provide that containers should not be filled, and to provide for an odds and evens supply situation, then surely the police must have the power to ensure that declarations are honoured by the community at large. During a period of restriction, clause 11 may be invoked for all of those purposes. Of course, it is a concern of the Opposition, to which reference has already been made, that that power may be used much more widely.

One cannot deny that, in the way in which clause 11 is drafted, that is certainly within power, but the principal emphasis of clause 11 is to ensure that fuel supplies are maintained and available on a reasonable basis to all the community before rationing is imposed. I also direct my attention to the amendment which the Leader of the Opposition will be moving in Committee, to which he has referred, and which is to confine the operation of clause 11 to bodies corporate. With the explanation I have given, it should be quite clear to members of the Council that, if the operation of clause 11 were confined to bodies corporate, it would be impossible for the Minister to give the sort of directions to which I referred and which would ensure that fuel supplies were available on a reasonable basis to the population at large. To be denied that power would seriously prejudice the ability of the Government to ensure that that objective is reached and maintained.

Certainly, there will be other matters to which honourable members will refer later in the debate. I believe that the Bill, even if it were to be of a permanent nature, has appropriate safeguards which, in Opposition, the present Government was seeking to have included in past legislation, and that the breadth of the measure is adequate and necessary for the proper implementation of the powers granted by the Bill.

Bill read a second time.

In Committee.

Clause 1—"Short title."

The Hon. C. J. SUMNER: I have received information, which the Government may also have received, that the industrial dispute that has led to this legislation's becoming necessary, in the Government's view, has now been settled and that the workers concerned are due to return to work tomorrow. If that is the case, and if the Government can

be assured of that position, we might be able to short-circuit the matter by not having to proceed and by treating this Bill as the permanent Bill, which could then be fully debated next week. If, of course, the Government is of the contrary view and still feels that we should pass this Bill today, then, as I have indicated, the Opposition is prepared to co-operate completely with that wish. However, there is the alternative which the Government might consider.

The Hon. K. T. GRIFFIN: The information I have received is that in two States meetings of employees have resolved to go back to work, but that the earliest time at which that could be would be midday tomorrow. There are still other meetings in other States and there are, as I understand it, still meetings to be held in those States which have agreed. One of the concerns which the Government would have in not proceeding with the legislation today would be that there are no absolute guarantees that the strike is off and that supplies are readily available again. The last thing we would want would be to be caught later in the week, or even tomorrow, with the situation getting worse and no return to work being effected. It may be, too, that there are other areas where supplies would be disrupted and I think that, Parliament having been recalled for the purpose of considering this legislation in the light of the matters to which I have referred, it would be most unwise for the Government not to require the Parliament to pass this temporary legislation.

Clause passed.

Clauses 2 and 3 passed.

Clause 4—"Delegation by the Minister of powers under this Act."

The Hon. C. J. SUMNER: This clause provides for the delegation by the Minister of powers under the Act. My query to the Government is as to who is the Minister concerned. We have a rather curious situation with the administration of this legislation. In March, when a similar Bill (albeit of a temporary nature) was introduced, it was introduced into the House of Assembly by the Premier. During the debate on that matter in the House of Assembly, I understand that the Minister of Industrial Affairs took over the conduct of the Bill when it got into Committee. The Labor Government's administration of this Act was quite clear: it was with the Minister of Labour and Industry, who introduced the Bills when they were introduced by the Labor Government. On this occasion, we have the curious position of the Bill's being introduced in the Upper House, not by the Premier, without the involvement of the Minister of Industrial Affairs, and by the Attorney-General.

The Hon. K. T. Griffin: Acting Minister of Mines and Energy.

The Hon. D. H. Laidlaw: That's democracy.

The Hon. C. J. SUMNER: That may be so, but it is a curious form of it. It may be, as the Attorney-General has said, that he is introducing the Bill as Acting Minister of Mines and Energy. The Minister of Mines and Energy is out of the country so much that one wonders whether he is in the Government or not. He should be here, in the Parliament, fulfilling his obligations to his constituents.

The Hon. K. T. Griffin: Several of your members were overseas earlier this year.

The CHAIRMAN: Order! There has been enough interruption.

The Hon. C. J. Sumner: Ministers weren't overseas.

Members interjecting:

The CHAIRMAN: Order! If honourable members wish to continue to defy calls to order, I will take action if that is what is wanted.

The Hon. C. J. SUMNER: I could not agree more. The general principle of the Labor Government is that Ministers should be in the Chamber when Parliament is sitting. Be that as it may, we are now trying to work out what the Government has in mind about the administration of this Bill. The Attorney-General seems to have introduced this Bill as Acting Minister of Mines and Energy. Nevertheless, it has done a bit of a round robin performance over the past few months, and I would like to know who is the Minister who will be charged with the responsibility for this legislation and by which department it will be administered.

The Hon. K. T. GRIFFIN: The Minister of Mines and Energy will have the responsibility for the administration of this Bill. The Minister of Industrial Affairs, through his Department of Trade and Industry, will be involved, as will be the Minister of Transport, through motor registration offices. Essentially, this legislation deals with energy resources. As I indicated in the second reading explanation, at the Federal level the National Petroleum Advisory Committee has been looking at uniform legislation directed towards emergency situations affecting supplies of energy resources in Australia.

One of those energy resources is petroleum and motor fuel. It has been the Department of Mines and Energy which has been liaising with the National Petroleum Advisory Committee in developing that uniform legislation. So, the Government has taken the view that, because it relates to an energy resource and because of the work at the Federal level with the National Petroleum Advisory Committee, the Minister of Mines and Energy through the Energy Division of the Department of Mines and Energy should be the Minister responsible for administering the Act. There will be some liaison with the Department of Industrial Affairs and Employment, the Department of Transport and other departments where necessary in the administration of this Act.

The Hon. C. J. SUMNER: I thank the Attorney-General for his explanation. As I understand it, the former Department of Labor and Industry, now the Department of Industrial Affairs, has in the past actually carried out the practical day-to-day administrative tasks assigned to the Government under this legislation and would have the expertise and the background to ensure that the legislation was put into effect quickly and efficiently. While the Attorney-General has answered the first part of my question (that is, that the Minister responsible will now be the Minister of Mines and Energy), I ask where the practical day-to-day administration will be carried out in respect to permits, rationing periods, and so on.

The Hon. K. T. GRIFFIN: The day-to-day administration will be through the Energy Division of the Department of Mines and Energy. One has to remember that, because of the energy resource emphasis of this Bill and because of the day-to-day activities of the Department of Mines and Energy, they are in constant contact with oil companies, with refiners and with a variety of other persons who are directly concerned with the administration and implementation of this legislation. I have been advised that the Department of Mines and Energy is ready to undertake the administration of the Act. In fact, some time ago, the changeover from the Department of Trade and Industry to the Department of Mines and Energy did occur. There is, as I have indicated earlier, still liaison between the Department of Mines and Energy and the Department of Trade and Industry, as there will be and has been with other departments that have some interest in the legislation.

Clause passed.

Clauses 5 to 10 passed.

Clause 11—"Directions in relation the production, supply, distribution or sale of petroleum."

The Hon. C. J. SUMNER: I move:

Page 5, line 14—Leave out "person" and insert "body corporate".

I indicate that there are a number of other amendments to clause 11 which are of the same effect as the amendment that I have just moved and which are consequential. So, if this amendment is carried I assume that the balance of the amendments will be agreed to by the Committee. If the first amendment is lost then I will not proceed with the balance. This amendment would provide that during a period of restriction the Minister may give directions only to a body corporate in relation to the production, supply, distribution or sale of petroleum and not be able to give directions to any person. This issue has been canvassed in the Council over a number of years, including when proposals for permanent legislation were introduced in 1978 and 1979, and again earlier this year on 12 March, when the previous temporary Bill was introduced by this Government.

I do not wish to canvass all the arguments that were advanced then. We can debate them more fully next week if need be. In essence, the Opposition's argument is that this power goes too far for what is necessary for the proper administration of the Act. It applies to any person, and that could mean a clerk in an oil company; it could mean a junior person in a trade union office—any person anywhere in South Australia. They are all caught by clause 11. In our view, that is not necessary. What we ought to put in the legislation is what is necessary for its proper administration, and the main—

The Hon. R. J. Ritson: What about a person who will not fuel the flying doctor's plane? That person is not a body corporate.

The Hon. C. J. SUMNER: The honourable member is mumbling. Perhaps he can make a contribution when he gets his opportunity. What we believe ought to be in the legislation is what is necessary for the proper administration of the Act. If there is a power to direct a body corporate, we believe that that goes far enough. If there is an oil company or some other major corporate body that is retaining supplies of fuel in contravention of the Act and there is a necessity for a direction to be given to ensure that that fuel is made available to fit in with the rationing system, that direction can be given with the amendment that we have moved. I would emphasise again that this power is even broader than it was under the previous legislation, because it applies not only to the period of rationing but also to the period of restriction. A provision similar to this one exists in some other States but has never been used; that gives weight to our proposition that it is not necessary.

The Hon. R. C. DeGaris: Would it make any difference to your attitude—

The Hon. C. J. SUMNER: Obviously it would not. All we are saying now is that it goes even further, and applies to the extended period. There is one point that I would like to take up in relation to the Hon. Mr. DeGaris's comments in his second reading speech when he tried to divine what the Hon. Mr. Milne's attitude would be to clause 11. I tried to find out what the Hon. Mr. Milne said on 12 March this year when this clause was being debated. There was a division on my amendment in the same terms as this amendment, and the Hon. Mr. Milne found himself with the Liberal Party. My amendment was lost by a vote of 11 against and 10 in favour. However, in speaking to the clause he said—

The Hon. R. C. DeGaris: How he voted is important, not how he spoke.

The Hon. C. J. SUMNER: Yes. However, in a day of co-operation between all political Parties in this Parliament we should not be casting those sorts of aspersions against an honourable member who is not here. He said:

I am supporting this clause only as long as these powers are given to the Government for the shortest possible time. The Bill is full of holes, and there have not been a lot of amendments moved to it. The whole thing needs reviewing.

He was referring to clause 11 in its original form. Although the Hon. Mr. Milne voted with honourable members opposite in supporting clause 11, the Hon. Mr. DeGaris will have to concede, from the statement that I have just cited, that there is absolutely no guarantee that the Hon. Mr. Milne would see this clause in the same light in permanent legislation, particularly in view of the fact that the power would be more extensive than it was in March this year. The Hon. Mr. Milne further stated:

I oppose this amendment with considerable misgiving, because of the harsh powers given to the Minister in this clause.

He was referring to my amendment. He continued:

To continue with such a power for very long would indeed be a negation of our ideas of personal liberty.

Honourable members would realise that, although the Hon. Mr. Milne supported clause 11 and opposed my amendment in March, he had doubts about it and gave it very qualified support. I do not know that the Hon. Mr. DeGaris can be quite so sure in his prediction about the way in which the Hon. Mr. Milne would have treated this clause on this occasion. No doubt we will be able to ascertain that opinion next week.

The Hon. K. T. GRIFFIN: The Government cannot accept the amendment moved by the Leader of the Opposition. I should point out that in New South Wales, for example, the emergency legislation contains a provision that the Minister may control, direct, restrict and prohibit the sale, supply, use or consumption; that direction may be given to any person. The same sort of provision applies in Victoria, where there is power to give a direction to any person, in the Australian Capital Territory, where there is power to give a direction to a person, and in Western Australia. So, in other States and in the Australian Capital Territory there has been a recognition of the need to include in this sort of legislation the power to give directions to persons, including bodies corporate.

I have already indicated the extent of the power in clause 11. It is particularly relevant during periods of restriction when the Government may not deem it appropriate to move to a period of rationing. I repeat for the record that there are things that Governments can do, other than establishing the apparatus for issuing permits, to ensure that supplies are eked out and are made available on a fair basis to the community. There are the limitation on containers to be filled; the restriction on the quantity that any person may purchase; limits on the hours of trading; directions to refineries to ensure that adequate supplies of certain types of fuel are available; and the odds and evens process in operation in Victoria.

If clause 11 was limited in its operation to bodies corporate, many service stations would not be subject to the Minister's direction, because they are not owned or operated by bodies corporate but by individuals. A serious loophole would exist in the administrative framework if those persons could not be subject to the direction. It would make a farce of any direction that was made by the Minister to conserve supplies. The Government believes strongly that it is important to have this power; it will be used wisely and responsibly, but it is necessary if one is to look at the implementation of emergency measures at two

levels: first, restriction and, subsequently, rationing. I urge the Committee to oppose the amendment.

The Hon. R. J. RITSON: I briefly emphasise the very good sense of what the Attorney-General has just said. The Leader of the Opposition has expressed dismay that the powers of direction should be operating in a period of restriction rather than in a period of rationing, but surely everyone can see that, if one is to have a period of restriction, the only way in which one can restrict the production, distribution and supply of fuel is by having the power to direct. As the Attorney said, many people who will be involved in the distribution of fuel are not bodies corporate. One could imagine, for example, in an extreme emergency, that many private supplies of fuel held on hobby farms, or fuel owned by natural persons, not bodies corporate, could become vital to the support of sections of our society. It is absolutely absurd to say that, in this extreme situation, one should not have power to act instantly. If these powers to direct persons as well as bodies corporate exist, the Government can take action immediately. I urge the Council to consider the very good sense of this. It is not intended as a strike-breaking clause and I have every confidence that the Government will always use those powers with common sense.

The Hon. C. J. SUMNER: It may be a matter of common sense whether this Committee will agree to this particular clause. I do not agree with the Hon. Dr. Ritson but, due to time constraints, I will leave the matter for the moment and provide him with the benefit of our arguments when the permanent Bill is introduced.

The Committee divided on the amendment:

Ayes (10)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, J. E. Dunford, N. K. Foster, Anne Levy, C. J. Sumner (teller), and Barbara Wiese.

Noes (10)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, and R. J. Ritson.

The PRESIDENT: There are 10 Ayes and 10 Noes. I must say that, placed in different circumstances, I know exactly how I would have voted on this question. I am surprised that, if we are to reconsider the whole matter, it has even been introduced. Nevertheless, it is not for me to prohibit the furtherance of debate in Parliament. I give my casting vote for the Ayes.

Amendment thus carried.

The Hon. C. J. SUMNER: I move:

Page 5—

Lines 17 and 18—Leave out "person to whom" and insert "body corporate to which".

Line 21—Leave out "person to whom" and insert "body corporate to which".

Lines 23 to 25—Leave out all words in these lines and insert:—

"Penalty: Ten thousand dollars".

Page 6, line 1—

Leave out "person who" and insert "body corporate that".

Amendments carried; clause as amended passed.

Clauses 12 to 19 passed.

New clause 20—"Expiry of this Act."

The Hon. K. T. GRIFFIN: I move:

Page 8, after clause 19, insert new clause as follows:

20. This Act shall expire on the 21st day of November 1980.

This new clause effectively puts a limit on the operation of this Bill, which will expire on 18 December 1980. This is consistent with the Ministerial statement which I made earlier today and in which I indicated that the Government would at the earliest opportunity next week introduce

legislation of a permanent nature that will come into effect subsequent to 18 December 1980.

The Hon. C. J. SUMNER: I support the amendment, which is in accordance with the arrangement to which the Government and Opposition came earlier.

New clause inserted.

Title passed.

Bill read a third time and passed.

The Hon. K. T. GRIFFIN (Attorney-General): I move:

That Standing Orders be so far suspended as to enable the Clerk to deliver messages to the House of Assembly when the Council is not sitting.

Motion carried.

[Sitting suspended from 1.7 to 3.58 p.m.]

WORKERS COMPENSATION (INSURANCE) BILL

Received from the House of Assembly and read a first time.

MOTOR FUEL (TEMPORARY RESTRICTION) BILL

Returned from the House of Assembly with the following amendments:

Page 5—

Line 14 (clause 11)—Leave out “body corporate” and insert “person”.

Lines 17 and 18 (clause 11)—Leave out “body corporate to which” and insert “person to whom”.

Line 21 (clause 11)—Leave out “body corporate to which” and insert “person to whom”.

Line 23 (clause 11)—Leave out “Penalty: Ten thousand dollars” and insert—

Penalty: Where the convicted person is a body corporate—ten thousand dollars; where the convicted person is a natural person—one thousand dollars.

Page 6, line 1—

(clause 11)—Leave out “body corporate that” and insert “person who”.

Consideration in Committee.

The Hon. K. T. GRIFFIN: I move:

That the House of Assembly's amendments be agreed to. The amendments relate to clause 11, which contains the Minister's power to give directions to any person in relation to the production, supply, distribution or sale of petroleum. The House of Assembly's amendments seek to provide that the directions may be given to any person rather than to any body corporate, as limited by the amendments earlier considered in this Chamber.

I have already indicated that, if the Minister's power to give directions under clause 11 is limited to bodies corporate, it will seriously impede the Government's ability to deal with emergency fuel situations. I said this morning that it is envisaged that this power in clause 11, if it was extended to persons as well as bodies corporate, would extend to such things as providing that no containers could be filled at service stations. There might be a restriction on the quantity of fuel purchased; there might be restrictions on the hours of trading; there might be provision for vehicles with odd registration numbers obtaining petrol on one day and for vehicles with even registration numbers obtaining petrol on another day; and it might even extend to a direction to the oil refinery to produce certain sorts of fuel for the purpose of meeting an emergency.

If the power to direct was limited to bodies corporate, it would mean that independent service stations, many of

which are run by individuals, and other service stations, where perhaps a company is the owner but the licensee is an individual, would not be subject to the directions. It would mean that those service stations operated by companies would be subject to restrictions while others were not. That is a rather farcical situation for any Administration to have to contend with. It would put in jeopardy the Government's capacity to deal with an emergency.

As I said this morning, one must remember that the Bill is so structured that the period of restriction that may be declared by proclamation is the important first step in regulating the availability of fuel supplies to the population at large. The rationing procedures come at a later stage.

The period of restriction can avoid the panic buying situation which has arisen in the past few days in the metropolitan area. It is important that the power to give directions under clause 11 must be a power to direct “persons”, which will include bodies corporate, but not be limited to that. Accordingly, I ask the Committee to support the motion.

The Hon. C. J. SUMNER: I ask the Committee to insist on the Bill as it passed this Council earlier today and, therefore, to oppose the motion. This particular issue, relating to those who may be directed by the Minister at a time of a motor fuel shortage that brings the Act into operation, has been around for some considerable time, and debated in this Council on a number of occasions. However, Labor Party members (both when in Government and now) have always adopted a consistent approach. In 1978 and 1979 when we, as a Government, introduced permanent legislation to deal with potential shortages, a clause of this kind was not in the Bill. The Liberals, then in Opposition, tried to insert a provision of this kind, and we opposed it. Likewise, where temporary provisions had been introduced by the Labor Government, there was no provision of this kind. When petrol rationing was actually imposed (in 1972, I think), there was no need for a provision of this kind in that legislation, which was passed by this Parliament and which was introduced by the Labor Government.

Earlier this year, the issue arose again, and the Liberal temporary Bill contained a provision that was originally in this Bill when introduced in the Council. We opposed it, and moved the same amendments, restricting the direction to bodies corporate, and not applying it to any person anywhere in the State. On all these occasions, we have consistently adopted this approach, and we believe that, today, in considering this matter, the Council should again not accept the amendment from the House of Assembly which would extend the directions that can be given beyond bodies corporate to any person anywhere in the State.

The Attorney has put as his main argument in favour of his motion that our provision would seriously impede the Government in administering the Bill. He believes that petrol rationing would be jeopardised and that it would limit the Government's capacity to deal with the emergency. We do not accept that. In 1972, when there was similar legislation, there was no need for a clause of this kind. In New South Wales, Victoria and Western Australia, where there is a clause in similar legislation, it has never been used. In other words, in a practical situation on the ground when the legislation has to be applied, a clause of this nature has not been found necessary. It has not been found necessary in the past, and it is unlikely that it will be found necessary in the future.

The Hon. L. H. Davis: So far.

The CHAIRMAN: Order!

The Hon. C. J. SUMNER: It is the Hon. Mr. Davis who is interjecting again. The situation is that in the past, in so far as this legislation has been put to the test, a clause of this kind has not been necessary. We do not believe that it will be necessary in the future. What the Government is doing, potentially, of course, is trying to give itself the power to intervene in a quite dramatic way in an industrial situation when it may not be proper, may not be desirable, for it to intervene in that way. Indeed, it may only exacerbate the dispute.

Beyond that, of course, the power is quite broad and all-encompassing. It applies, as I have said, to any person anywhere in South Australia; whether that person is in a position of authority or not is not the point. The provision says that anyone in the State, a clerk in one of the oil companies, a secretary in a trade union office—anyone anywhere—can receive directions under this legislation. We believe that that is far too broad for the purposes of the Act, because the purposes of similar legislation have been quite adequately fulfilled without such a clause in the past. Accordingly, I ask the Committee to insist on its previous position on this issue.

The Hon. K. T. GRIFFIN: I just want to reply to one point the Leader made; that is, that in other States this sort of power has not been invoked. I indicated this morning that that power exists in New South Wales, Victoria, the Australian Capital Territory and Western Australia. My understanding is that, at least in Victoria (and I presume in other States), where there has been some period of restriction, that power has been the basis for invoking the sorts of restrictions to which I have referred—the odd and even days of supply, restrictions on the quantity of fuel purchased by any one person, and those other sorts of restrictions which are not rationing but are restrictions promulgated by declaration which, upon

promulgation by declaration, become effective in law to require service stations, in particular, to comply with the terms of direction. It is my understanding that this sort of power is the basis of which Victoria, certainly, and I believe other States, have been able to restrict the availability of supplies without proceeding to rationing.

The Committee divided on the motion:

Ayes (9)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), D. H. Laidlaw, and R. J. Ritson.

Noes (9)—The Hons. Frank Blevins, G. L. Bruce, B. A. Chatterton, J. R. Cornwall, J. E. Dunford, N. K. Foster, Anne Levy, C. J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. C. M. Hill. **No**—The Hon. C. W. Creedon.

The CHAIRMAN: There are 9 Ayes and 9 Noes. Since the decision is left to me, I want to explain that this morning, when this measure was being debated, I indicated that I did not agree with the amendment, but I voted for it so that it could go through the proper Parliamentary process and be considered in another place. The Bill has been returned with a clear indication that the majority of members of Parliament do not agree with the original amendment moved in this Council. Since this is an emergency provision and should not be further delayed, I intend to give my casting vote to the Ayes.

Motion carried.

ADJOURNMENT

At 4.25 p.m. the Council adjourned until Tuesday 18 November at 2.15 p.m.