LEGISLATIVE COUNCIL

Tuesday 22 September 1981

The PRESIDENT (Hon A. M. Whyte) took the Chair at 2.15 p.m. and read prayers.

PAPERS TABLED

By the Attorney-General (Hon. K. T. Griffin)—

Pursuant to Statute—

Metropolitan Taxi-Cab Board—Report, 1980-81.

Pipelines Authority of South Australia—Report and Statement, 1980-81.

State Government Insurance Commission—Auditor-General's Report, 1980-81.

Superannuation Act, 1974-1980—Regulations— Superannuation Fund Taxation.

By the Minister of Local Government (Hon. C. M. Hill)—

Pursuant to Statute—

Aboriginal Lands Trust—Report, 1980-81.

Advances to Settlers Act, 1930-1972—Administered by the State Bank of South Australia—Balance Sheet, Revenue Statement and Auditor-General's Report, 1980-81.

Crown Lands Act, 1929-1980—Statements, 1980-81—

Section 9 *(f)*—Return of Remissions.

Section 189—Closer Settlement Lands.

Section 197—Cancellation of Closer Settlement Lands.

Section 213—Return of Surrenders Declined.

Discharged Soldiers Settlement Act, 1934-1940—Statement of Disposal of Surplus Lands, 1980-81.

Education Act, 1972-1981—Regulations—Committee Fees.

Fisheries Act, 1971-1980—Regulations—Managed Fisheries Regulations—Abalone Licence Fees.

Pastoral Act, 1936-1980—Statement, 1980-81—

Section 133—Pastoral Improvements for which permission has been granted.

Public Examinations Board of South Australia—Auditor-General's Report, 1980-81.

Sewerage Act, 1929-1981—Regulations—Fees.

South Australian Local Government Grants Commission—Report, 1981.

Waterworks Act, 1932-1981—Regulations—Fees.

By the Minister of Community Welfare (Hon J. C. Burdett)—

Pursuant to Statute—

Long Service Leave (Casual Employment) Board—Report, 1980-81.

Medical Practitioners Act, 1919-1976—Regulations—Fees.

DEPARTMENT OF ENVIRONMENT AND PLANNING

The PRESIDENT laid on the table the following report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Department of Environment and Planning (Savings Bank Building, Grenfell Street).

STATE BANK REPORT

The PRESIDENT laid on the table the State Bank of South Australia Report and Accounts, 1980-81.

QUESTIONS

KANGAROO ISLAND LAND

The Hon. B. A. CHATTERTON: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Lands, a question about the Kangaroo Island soldier settlers.

Leave granted.

The Hon. B. A. CHATTERTON: When the Kangaroo Island soldier settlers had their leases cancelled, their properties were, in some instances, leased to other farmers but in all instances they were eventually sold. It has been reported to me that one farm, which belonged to one of the soldier settlers on Kangaroo Island who were considered to be not viable and therefore had their land leases cancelled, was sold by the Department of Lands for a price of about $40 000 or $50 000. I have also been informed that that same farm is now for sale again and that the advertised price is $255 000, which seems an incredible increase over a period of just over four years.

My questions to the Minister of Lands are: first, is he aware that one of the farms that his department sold for $40 000 or $50 000 is now on the market for the incredible sum of $255 000? Further, if he is aware of this, can he investigate to find out whether the department, when it sold the farm, got the best possible price at that particular time?

The Hon. C. M. HILL: I will refer the questions to the Minister of Lands and bring back a reply.

PUBLIC HOSPITALS

The Hon. J. R. CORNWALL: I seek leave to make a short statement prior to directing a question to the Minister of Community Welfare, representing the Minister of Health, concerning public hospitals.

Leave granted.

The Hon. J. R. CORNWALL: Since this present State Government came to office two years ago there has been a consistent assault on the public hospitals of South Australia. The allocations to the State's public and teaching hospitals have been cut in real terms by at least 8 per cent in each of two successive Budgets. Ostensibly this was to cut back on so-called waste and extravagance in the public hospital sector. However, there has been little attempt to justify this on rational grounds, except for one controversial report from Lawrence Nield and Partners on the Royal Adelaide Hospital. Other than that, there has been little more than rather extravagant political huffing and puffing.

It now transpires that the on-going attack on this State's very fine public hospital system is based on ideological grounds. I have a copy of a letter recently written by the Chairman of the South Australian Health Commission to the Administrator of the Flinders Medical Centre from which I will quote. I will quote it slowly, because people may not believe what they hear. The letter states, *inter alia:*

> In many respects public hospital services conducted by the South Australian Health Commission are a residual service and the important and real role of the private sector must not be overlooked.

Every South Australian to whom I have spoken about that statement has been outraged. It says in fact that public hospitals are picking up the dregs. Over many years we have all come to value the excellence and quality of care delivered to in-patients in our public hospitals. Now they are to be relegated to running a 'residual service'. It is surely inconceivable that the Chairman of the commission would make that statement on his own initiative. It has obviously been made (at least I hope it has obviously been

made) on behalf of the Minister of Health, Mrs Adamson. Will the Minister confirm that the directive concerning public hospitals conducting a 'residual service' was made with her express authority and at her direction? If not, will she take immediate disciplinary action against the person or persons involved?

The Hon. J. C. BURDETT: I will refer the question to my colleague and bring back a reply.

TEACHING OF POLITICS

The Hon. R. J. RITSON: Has the Minister of Local Government a reply to the question I asked him, representing the Minister of Education, on 26 August concerning the teaching of politics in schools?

The Hon. C. M. HILL: It needs to be recognised that teaching about politics and Government occurs in a wide range of subject areas. There are very few schools offering a specific Politics course. In staffing schools, the Education Department attempts to ensure that staff members appointed are appropriately qualified in the fields in which they will be required to teach. This procedure will be applied in Politics as for any other subject field. The detailed allocation of teaching responsibilities to individual teachers is done at school level. Senior staff involved in that allocation are careful to ensure that teachers are appropriately qualified in the field to be taught.

HANDICAPPED PERSONS

The Hon. FRANK BLEVINS: Has the Attorney-General a reply to my question of 27 August about handicapped persons?

The Hon. K. T. GRIFFIN: The honourable member refers to an article which appeared in *The Australian* on Saturday 22 August 1981. The article was incorrect in its assertion that the South Australian Government had refused to accept funds to provide aids for disabled people in South Australia. In fact, the State Government agreed to co-operate with the Commonwealth on the scheme subject to a guarantee from the Commonwealth that it would provide the necessary funds to meet all legitimate requests for aids.

The State Government's eventual refusal to administer the scheme on the Commonwealth's behalf arises because it believes the Commonwealth has:

(a) established an open-ended scheme which is to operate on a first come, first served basis with no consideration given to priority of need or capacity of a consumer to pay;

(b) refused to give a guarantee that the scheme will have sufficient funds for a full 12 months;

(c) offered inadequate funds to meet the likely needs under the scheme. Indeed, it would only need 30 people to have electric wheelchairs prescribed at $6 000 each for South Australia's allocation of $200 000 to be almost exhausted. This would leave many of the needs that disabled people have in South Australia for minor building alterations, domiciliary oxygen supply etc. unsatisfied; and

(d) refused to give an on-going commitment beyond 1981-82.

My colleague the Minister of Health has sent a telex to the Commonwealth Minister of Health advising of the South Australian Government's decision, and recommending that the Commonwealth implement the scheme through its own State offices of its Departments of Health or Veterans Affairs. In the circumstances, the State Government believes that the disabled will be better served if the Commonwealth has direct responsibility for the programme.

RED MEAT SALES

The Hon. M. B. CAMERON: Has the Minister of Community Welfare a reply to a question I asked on 27 August about red meat sales?

The Hon. J. C. BURDETT: The Minister of Industrial Affairs has advised that reliable and specific figures for South Australia relating to the consumption per head of red meat and white meat either before late night trading was introduced or at the present time are not available from any source. Therefore, the allegation by the honourable member that red meat sales in South Australia have decreased since late night shopping was introduced and white meat sales have doubled cannot be substantiated.

The only available figures cover meat consumption over the whole of Australia. These come from the Australian Bureau of Statistics and indicate the following consumption per head:

	1977-78	1979-80
Red Meat	96.6 kg	74.1 kg
Poultry Meat	16.2 kg	20.2 kg

These figures do show a drop in the consumption of red meat and an increase in the consumption of poultry meat per head over the whole of Australia since 1977. However, there are factors other than late night shopping which must be considered when endeavouring to determine the reasons for the change. For example, representatives of the poultry industry consider that the increase in consumption per head throughout Australia is due to improved production and marketing techniques and not because white meat is available at times when red meat is not.

Another reason advanced by the white meat industry is that consumers are constantly being made aware that, on a dietary basis, white meat is better health-wise than red meat, because it contains less fats. A further reason for the reduction in consumption per head in red meat could be that because of the high unemployment situation right across Australia there is a shift to cheaper meats and fish in preference to red meat, which has increased in price in the recent past.

When these factors are taken into consideration, it is obvious that the decrease in the consumption per head in red meat and the increase in the consumption per head in white meat has not been caused solely by the fact that red meat is not available on the late shopping night whereas poultry meat is available.

The Government is of the view that the statement made in the report of the Royal Commission into Shop Trading Hours in 1977 on meat sales still applies today. If meat is to be made available on the late shopping night, it is probable that a number of small family butcher shops in strip shopping centres and on street corners would have their viability seriously threatened.

At present, there are 865 butcher shops situated within the State. Of these, 40 to 50 shops are on the market for sale at any one time and the industry is of the opinion that this number would increase considerably if red meat is permitted to be sold particularly in supermarkets after 5.30 p.m. on weekdays. After considering all of the above matters, the Government does not intend to review its decision to exclude red meat from sale after 5.30 p.m. on weekdays.

The Hon. N. K. FOSTER: I wish to ask a supplementary question. Is it not a fact that leading dieticians come down very heavily on the side that white meat has much more nutritional value than has red meat? Is the Minister also aware that dieticians advise that fewer diseases are trans-

mitted to humans by white meat than by red meat? Is it not a fact that white meat is more difficult to substitute than is red meat, as has been demonstrated in Australia in the past few weeks?

The Hon. J. C. BURDETT: In the reply, the Minister suggested that, nutritionally, white meat was preferable because it contained less fats, but I will refer the questions to my colleague and bring back a reply.

PREGNANCY TERMINATIONS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Health, a question about waiting times for pregnancy terminations.

Leave granted.

The Hon. ANNE LEVY: Some honourable members may recall that in the Address in Reply debate on 4 August I commented in relation to the waiting time for private and public patients for pregnancy terminations. I received a letter on this subject from the Minister of Health, commenting on several matters that I raised in the Address in Reply debate, and I certainly thank the Minister for the time and trouble she has taken to provide this answer. The last paragraph of her letter states:

> I also point out that a survey conducted during the last week of August of all the hospitals you listed indicates that much of the information presented in your statistical table is out of date.

About 3 000 terminations of pregnancy are done in South Australia each year at present, and that would indicate that about 60 terminations are done each week. This certainly represents a much smaller sample than indicated by the data I considered, although I quite agree that the data that I discussed was collected in the latter half of last year, and therefore would not be as up to date as the data that the hospitals have collected for one week in August this year.

Would it be possible for me to obtain a copy of the data which has been collected in the survey mentioned in the Minister's letter? I am not asking that the data (which, even if it concerns 60 individuals, would be fairly extensive) be printed in *Hansard:* I am merely requesting a copy of it so that I can look at it myself to see how it conforms to the statement that the Minister has made about it. I would certainly be most interested to see those figures, which obviously have been collected and which are available.

The Hon. J. C. BURDETT: I will refer the honourable member's question to my colleague and bring down a reply.

ETHNIC TELEVISION

The Hon. C. J. SUMNER: I have some questions to direct to the Minister Assisting the Premier in Ethnic Affairs. First, does the Government support the introduction of channel 0 ethnic television in South Australia? Secondly, if it does, what action is to be taken to ensure that Adelaide is not discriminated against further in this matter? Thirdly, will the Minister make representations to the Federal Government to ensure that South Australia gets access to this service?

The Hon. C. M. HILL: The Government has not discussed the matter as a matter of policy, but of course we were somewhat disappointed when the Federal Government introduced this service and began by showing television to ethnic people in Melbourne and Sydney only. It has always been my hope that the Federal Government, in accordance with some statements that were made at the time, would extend the service to other capital cities where population densities and ethnic community densities are not as great as in Melbourne or Sydney.

I have mentioned the matter to members of the Commonwealth Parliament and asked them to make some formal inquiries in order to ascertain the thinking of the responsible Minister about this matter. I have no doubt that in the immediate future the question of cost would be a consideration that the Commonwealth Government must bear in mind but, in view of the fact that the honourable member has raised the matter formally, I shall be quite happy to take the matter further and obtain some reply from the Commonwealth about its attitude to the possible extension of this service to Adelaide.

The Hon. C. J. Sumner: Will you bring back a reply?

The Hon. C. M. HILL: Yes.

PETROL RATIONING

The Hon. K. L. MILNE: I seek leave to make a brief statement before asking the Attorney-General, representing the Deputy Premier, a question about petrol rationing.

Leave granted.

The Hon. K. L. MILNE: Having seen the enormous queues of people trying to obtain petrol restriction exemptions or particular assistance, I believe that the rationing procedures that have been implemented have caught the Government by surprise. This should not have occurred, because the Government has been faced with petrol shortages before. It seems to me that the rationing of petrol in country areas, whereby motorists are able to purchase $7 of petrol per vehicle, is not helping the situation. The radius from the G.P.O. involved in the restriction on obtaining petrol in country areas is about 30 miles. That represents between one and two gallons of petrol each way, depending on the size of the motor vehicle, if a person wants to out and get it. That means that the selfish people trying to get petrol from the country waste between two to four gallons for the privilege of getting about six gallons. That much is wasted each time. It might be much more practicable for the petrol resellers to identify, from their licences, motorists who live outside the area of the complete ban. People could simply produce their licence, whether at country or city petrol stations, and those without country licences could not receive petrol unless they had a permit, in which case they could receive it anywhere. Will the Government consider allowing petrol to be sold in the country freely, possibly with no $7 limit, to those persons resident outside the banned area of the city and outer suburbs? Also, will the Government consider bringing in heavy penalties for people misusing licences for the purpose of production to the retail outlets?

The Hon. K. T. GRIFFIN: I will refer that suggestion to the Deputy Premier, although there is a great deal of scepticism about that sort of proposition working.

PHOTO LICENCES

The Hon. M. B. DAWKINS: Has the Attorney-General an answer to my recent question about photo drivers' licences?

The Hon. K. T. GRIFFIN: I have the following report from my colleague:

> The matter of photographs on drivers' licences has been investigated at great length by the Registrar of Motor Vehicles and his counterparts in other States. However, none has been satisfied that the benefits of such a system are in proportion to the costs involved.
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> The investigations in this State reached their peak early in 1978 when tenders were called for the supply, delivery and installation

of equipment to be used in the implementation of a system of photographic identification of licence holders.

The assessment of all submissions resulted in a failure to establish the feasibility of the scheme. The main disadvantages and problems were: initial identification of the applicant; high cost; the need for each licence holder to present himself or herself for a photograph to be taken; endorsement of changed addresses; driving restrictions could not be added to the laminated surface; and the need for an annual renewal of licences of holders with medical problems.

The photo licence bulletin referred to by the honourable member suggests that in New South Wales 79 per cent of drivers hold one-year licences. In South Australia the number is in the order of 20 per cent. I am unable to establish whether all of the facts in the bulletin are accurate, but I understand that the survey of voters referred to was a sample of 2 055 persons and that the poll was conducted in February 1980. From this sample it was deduced that Australian voters of all major political Parties are strongly in favour of photo drivers' licences.

PETROL RATIONING

The Hon. G. L. BRUCE: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Mines and Energy, a question on petrol rationing.

Leave granted.

The Hon. G. L. BRUCE: The *News* editorial of 21 September, headed 'We carry the can', stated:

Premier Tonkin and his colleagues are to be congratulated on their handling to date of the petrol crisis.

I object strongly to that, as I believe it has been the greatest shambles and shemozzle of all time. The Government brought in the odds and evens system of petrol rationing. I do not object to petrol rationing, but I do object to the way in which it has been brought in by the present Minister. The odds and evens system does not mean anything out in the great wide world. From people who have approached me, I am led to believe that people have gone to service stations, obtained $7 worth of petrol, and been asked whether they wanted more. In some cases, they moved to the next bowser and obtained another $7 worth or the bowser from which they had already received petrol was switched back and they received another $7 worth. In other cases, people drove across the road and got another $7 worth, and then back to the original station to get enough to fill up their tanks. There have been more full tanks of petrol in Adelaide during the period of rationing than at any other time. I do not believe that the odds and evens system works, as the rationing was just not there.

Since the Government decided that it had to bring in rationing, we have had the greatest shemozzle of all time. According to the television news on Sunday, there were 600 to 700 people queueing for permits, with three officers trying to handle it. I understand that the phone connection broke down because of the weight of calls coming in. Surely if the Government is going to be fair dinkum in introducing petrol rationing it should be done on a fair basis. I also object to the fact that only a couple of hours notice was given of the introduction of the permit system. It was announced at 11 a.m. and came into effect at 2 p.m. People whose vehicles had even numbers and who had not filled up the previous day missed out altogether. If, like me, they did not rush in and get $7 worth but decided to wait until the next day for even numbers, they missed out. People who played the game were penalised in that way. In the light of what I believe to be the failure of the odds and evens system, will the Minister consider the implementation of petrol rationing properly during any future crisis in the petrol industry? Could he give an assurance that all the aspects of issuing permits are looked at to ensure that the chaos presently occurring is not repeated in the future?

The Hon. K. T. GRIFFIN: One has to expect that in a time of shortage of fuel there will be difficulties. One cannot expect to walk up to a counter—

Members interjecting:

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: —and receive a ration entitlement withoout having to wait. I think that the whole community must recognise that the maritime union engineers have caused a great deal of difficulty in the community. Members cannot have it both ways.

The Hon. N. K. Foster: And I support them in their claim.

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: The community has to recognise that this inconvenience can only be the responsibility of that union, which is creating such chaos in South Australia. The petrol rationing scheme is not the greatest shemozzle ever. The odds and evens system has been used extensively in Victoria and New South Wales in other petrol situations. It is a short-term procedure which, in the early stages of a fuel crisis, can serve a useful purpose by restricting the amount of fuel taken from the bowsers. As the situation worsened, the Government took the decision, as has been taken in other States on previous occasions, to introduce a much more extensive rationing system. In the early stages of the strike, the Government was seeking to ensure that as little fuel as possible was taken out of bowsers with a minimum of inconvenience to members of the community. The odds and evens system has not failed. There have been minor difficulties, but—

Members interjecting:

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: —in the whole context of this emergency they are minor difficulties indeed. The honourable member referred to the amount of notice given on Saturday to close the bowsers. Is he suggesting that we should have given a day's notice? Can he envisage the queues that would have occurred and the rush that would have resulted in such a panic buying situation?

The only alternative to the Government in the current climate was to give as little notice as possible that rationing would be introduced, in order to avoid the panic that would otherwise have occurred. I think that the Minister of Mines and Energy has dealt with this crisis responsibly and ably, and his department has likewise coped with the situation very well in the face of considerable adversity. The blame ought to be sheeted home to the union. It is about time it recognised that it cannot get its own way at the expense of the community.

The Hon. G. L. BRUCE: I wish to ask a supplementary question. I do not believe that the question I asked has been answered. Will the Attorney-General refer the questions that I asked to the Minister for his information? Also (and this is the supplementary question) I disagree that the odds and evens system works, and is the Attorney prepared to take the matter to the Minister and ask whether a report could be made by service stations on sales on odds and evens days compared to sales in the previous weeks before rationing? Further, will he report back on that? If he does, we will see who is right and who is wrong.

The Hon. K. T. GRIFFIN: The matters to which the member has referred will be referred to the Minister. Whether or not it is possible to give answers to the last supplementary question is a matter for the Minister.

The Hon. FRANK BLEVINS: I wish to ask a further supplementary question. Has the Minister seen the article in the *Weekend Australian*, wherein the Institute of Marine and Power Engineers is described as one of the very moderate unions in Australia that almost never takes industrial action, and in which the wages and conditions of the engi-

neers, compared to the responsibilities that they have, was outlined? Does the Minister agree that anyone reading that article in the Murdoch press (not the *Tribune*) could be on the side of only the marine engineers, when they stated that their claim was being constantly frustrated by only one shipowner in Australia, namely, B.H.P.? In the interests of South Australian consumers of petrol, will Mr Goldsworthy, so as to be even-handed, immediately telex B.H.P. and ask that company to sit down and negotiate with the marine and power engineers with a view to satisfactorily overcoming the difficulty so that we may all get petrol?

The Hon. K. T. GRIFFIN: The history of the union is irrelevant to this particular dispute, which is inconveniencing the community.

The Hon. FRANK BLEVINS: I asked the Attorney-General whether he would ask the Minister of Mines and Energy, in the interests of equity and of the people of this State getting petrol supplies, to immediately send a telex, or whatever, to B.H.P., demanding that the company negotiate with the marine and power engineers and that B.H.P. stop holding this State to ransom in the way it is.

The Hon. K. T. GRIFFIN: That is a neat twist. B.H.P. has not tied up the ships: the union has. The Minister has made contacts with the union in the past few days, endeavouring to ensure that South Australia is not prejudiced. I will refer the comment to the Minister.

The Hon. N. K. FOSTER: I seek leave to make a statement before asking a question of the Attorney-General, representing the Minister of Mines and Energy, so-called, with respect to the marine and power engineers' strike and with respect to the energy crisis in South Australia brought about by that strike.

Leave granted.

The Hon. N. K. FOSTER: I support the marine engineers wholeheartedly in their struggle for a very modest increase and for recognition of their worth to this country. I further support them on the basis that they were prepared, I understand, to give some relief to South Australia but Mr Goldsworthy cannot keep his dirty hands or sticky tongue out of anything and had to jeopardise this State's chances—

The Hon. K. T. GRIFFIN: I rise on a point of order. The member's comments are quite irrelevant to his statement.

The PRESIDENT: I ask the Hon. Mr Foster not to express an opinion on the happenings of the past few days. If the honourable member wants to ask a question, he should ask it.

The Hon. N. K. FOSTER: My question is: on what date did the Minister of Mines and Energy request the information from the oil companies with respect to what reserves were being held in the event of the Government's taking the necessary action under the existing legislation in respect of petrol rationing? Secondly, what prompted the Minister of Mines and Energy to publicise, and in so doing jeopardise, this State in getting a relief tanker as Tasmania got? Thirdly, why has the Minister of Mines and Energy seen fit to conduct the so-called rationing scheme on behalf of the Cabinet and Government of this State?

Fourthly, why has Mr Brown's department, which is the most appropriate department to handle such matters, refused to accept responsibility to carry out that particular function as was done on past occasions? Fifthly, does the Minister of Mines and Energy understand that, in a critical industrial situation, in the interests of negotiation, he should refrain from being politically naive in respect of his public utterances on this really important matter?

The Hon. K. T. GRIFFIN: Regarding the first and second questions, I will refer them to the Minister. Regarding the third and fourth questions, the replies are that the Minister of Mines and Energy is the Minister to whom the Petrol Shortages Act is committed and, accordingly, it is his responsibility to oversee the operation of that Act in times of emergency. So far as the fifth question is concerned, there is no need to refer that to the Minister: he is not naive.

The Hon. G. L. BRUCE: I wish to ask a supplementary question. Will the Government consider giving any relief to the large number of petrol stations that are sitting on large volumes of petrol and whose owners are being prevented from being able to sell petrol to pay their bills and keep employees?

The Hon. K. T. GRIFFIN: I will refer that question to the Minister.

TRUCK DOORS

The Hon. R. C. DeGARIS: Has the Attorney-General a reply to the question I asked on 26 August regarding names on truck doors?

The Hon. K. T. GRIFFIN: I am informed by my colleague the Minister of Transport, that the requirement to display certain information on commercial vehicles, namely, the vehicle's mass limits, together with the owner's name and address, has recently been reviewed by the Road Traffic Board.

The board considered that vehicles should still display this information to assist in the observance and enforcement of vehicle load limits. As the member would appreciate, the loading of vehicles beyond their capacity can have an adverse effect on road safety.

However, the Road Traffic Board has recommended that the regulations under the Road Traffic Act be amended to require only the minimum amount of information necessary for the enforcement of these limits. The proposed amendments under consideration will significantly reduce the requirements relating to the display of information on vehicles having an unladen mass of less than four tonnes, which would include many farm vehicles.

GAS ROYALTIES

The Hon. R. C. DeGARIS: Has the Attorney-General a reply to the question I asked on 27 August regarding l.p.g. royalties?

The Hon. K. T. GRIFFIN: Under the terms of the Petroleum Act and Cooper Basin Ratification Act, royalty rates are currently set at 10 per cent of the value at the wellhead of all petroleum recovered from the land comprised in the licence. Royalties are payable on 'petroleum' defined as all naturally occurring hydrocarbons. No distinction is therefore made between the constituents of l.p.g., for the purposes of calculating royalty.

SHOPLIFTING

The Hon. J. E. DUNFORD: Has the Minister of Community Welfare a reply to the question I asked on 26 August regarding shoplifting?

The Hon. J. C. BURDETT: My colleague the Minister of Industrial Affairs informs me that the connection between shoplifting and employment in the retail industry drawn by the member is a tenuous one and appears to be based on two assumptions:

1. That unemployment is the major cause of shoplifting.
2. If more staff were employed at retail stores shoplifting would decrease.

Crime statistics show that the majority of persons convicted of shoplifting fall into two major categories—older

females who are often married, and juveniles under the normal age of employment and still attending school.

Usually, neither group is unemployed or without income, nor are they available for employment in the retail industry, or elsewhere. There is some generalised evidence that the reasons for these groups engaging in shoplifting are more likely to be sociological or psychological than economic. Although it is possible that increased numbers of retail staff could deter shoplifters by increased surveillance, the major job of shop assistants is to sell goods rather than act as security staff—a specialised function in its own right.

The Government is encouraging industry to employ more persons, particularly the young unemployed. It seeks to accomplish this by providing a suitable economic climate through the provision of incentives to employers to consolidate and expand their businesses according to the dictates of the market place, rather than by governmental direction. This fostering of private activity in the State has been by such schemes as the Payroll and Land Tax Rebate Scheme, the Establishments Payments Scheme and the Export Bridging Finance Scheme. In addition, the Government's encouragement of the apprenticeship system has been markedly successful in increasing the numbers of young persons in training for skilled occupations. These measures have contributed to the significant increase in employment in South Australia whereby an additional 12 300 persons were added to the employed work force between August 1979 and June 1981, according to the Australian Bureau of Statistics Labour Force Survey. While unemployment remains unacceptably high, a continuing improvement in the economy should see a reduction in the level of unemployment in the coming year.

PSYCHOLOGICAL BOARD

The Hon. J. R. CORNWALL: Has the Minister of Community Welfare a reply to a question I asked on 4 June about the Psychological Board?

The Hon. J. C. BURDETT: My colleague, the Minister of Health has provided the following answer to the honourable member's question without notice of 4 June 1981, concerning the Psychological Board:

1. Having considered the circumstances of the case and the provisions of the Psychological Practices Act, the Minister of Health considers it is neither appropriate nor possible for her to interfere with the decision of the board.

2. The Minister of Health is progressively reviewing the operation of professional boards within her jurisdiction.

3. and 4. In the course of the review, attention will be given to these issues and the extent to which legislation can and ought to require such procedures.

5. This matter is under examination by the Australian Law Reform Commission as part of its privacy reference. The Minister of Health intends to study the commission's report when available, including its administrative and legislative implications.

PETROL RATIONING

The Hon. C. W. CREEDON: I seek leave to make a brief statement before asking the Attorney-General, representing the Minister of Mines and Energy, a question about petrol rationing.

Leave granted.

The Hon. C. W. CREEDON: Over the last few days the State has been subjected to petrol rationing, and I have been wondering what rule of thumb was used to determine what area is described as the city and what areas are considered to be country. It was no trouble to purchase petrol over the weekend, and it was quite easy to fill one's motor vehicle up before returning home from a country outing. That happened in places such as Lobethal, Two Wells and Roseworthy. Gawler seemed to have a few problems, and some of the seven or so petrol outlets there displayed prominent signs asking motorists to blame the Government and not service station proprietors.

Gawler is outside the metropolitan area under the Planning Act. The petrol companies charge Gawler service stations a delivery fee of 0.4 cents per litre, which is added on to the price of petrol. That charge is not levied on service stations within the metropolitan area. The Gawler petrol retailers would like a definitive decision made about which side of the fence they stand on. Will the Minister indicate whether Gawler petrol outlets are inside or outside the metropolitan area? If they are within the metropolitan area, why should they pay the differential? If they are outside the metropolitan area, why should they not be treated as country retailers for rationing purposes?

The Hon. K. T. GRIFFIN: I will refer the honourable member's question to the Minister of Mines and Energy and bring down a reply.

COMMONWEALTH BUDGET

The Hon. B. A. CHATTERTON: Has the Attorney-General a reply to a question I asked on 19 August about the effect of the Commonwealth Budget on South Australian rural producers?

The Hon. K. T. GRIFFIN: Any adjustment measures, financial or otherwise, which the State Government may deem necessary cannot be effectively defined and implemented until market projections for canned fruits on an Australia-wide basis have been made. The Australian Canned Fruits Corporation is currently preparing such projections.

A range of financial and other forms of assistance to growers is being considered by the Government. The most suitable package of assistance measures will be announced when the extent of the problem has been determined and the appropriate adjustment policies finalised. In considering alternative adjustment policies the South Australian Government is examining the basis on which the Federal Government might be asked to provide assistance.

STATE EMBLEM

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation before asking the Attorney-General a question about the State emblem.

Leave granted.

The Hon. FRANK BLEVINS: Last Friday an advertisement appeared in the *Advertiser* and also in the *News* which purported to tell the people of South Australia how good this State Government is. Obviously, that advertisement was misleading. However, everyone in South Australia would be aware that it was misleading so I do not think any harm was done. In fact, whoever anonymously paid for that advertisement wasted their money. There was also a serious side to the advertisement and that is what concerns me, that is, the anonymity of the people who inserted the advertisement and the fact that they used the State emblem.

The Unauthorised Documents Act was passed in 1916 and was amended early in 1979 to include reference to the State badge and the State emblem. Subsequently, a regulation was gazetted on 19 April 1979 (and this is relevant

to what appears to be an actual offence) declaring the piping shrike to be an official emblem of the State. The shrike was used in the advertisement, and that would suggest official approval. The Act says that a prescribed emblem cannot be used without Ministerial permission and the maximum penalty is $500 for a breach.

Last Saturday the *Advertiser* reported that no-one had sought permission to use the emblem. The Premier also said that he did not know who paid for the advertisement. I understand that some sections of the news media have discovered just who paid for and prepared the material and who took the photograph of the Premier. They were several local businessmen, including Mr Graeme Heard of Hawthorn who manages the firm known as Chief Kitchenware of Cavan. Does the Attorney-General believe that the advertisement which appeared in the *Advertiser* and the *News* last Friday was in breach of the Unauthorised Documents Act in its use of the piping shrike emblem? If not, for what reason has the Attorney-General come to this opinion and, if so, is it intended to prosecute the person or persons who inserted the advertisement and used the emblem without authorisation?

The Hon. K. T. GRIFFIN: I will ascertain the facts in respect to the question that the honourable member has raised. I might call his attention to the fact that the State emblem is used on many and various occasions by a variety of people. In fact, if the honourable member looks hard enough, he will recognise that many charitable and business groups also use it. It is even used on souvenirs of South Australia, which go out of the State. In itself, the use of that emblem is not contrary to the Act or to the principle. However, the honourable member's question requires some research of the facts, and I will ensure that it gets that research.

INTO THE 80s

The Hon. ANNE LEVY: Has the Minister of Local Government a reply to a question I asked on 26 August about the document *Into the 80s?*

The Hon. C. M. HILL: Two draft booklets were produced in mid-1980 and distributed to all departmental schools and widely through the community. These draft booklets did not contain a section on women and girls. Consequently, no decision had to be made to have the section removed. Individual officers of the Education Department including the Women's Adviser, school staffs, community groups, and individuals were all invited to make written responses to these drafts.

During the approval process the document was examined and recommended for approval by the Curriculum Co-ordinating Committee, of which the Women's Adviser was a member. The document is not a treatise on social change and does not attempt to cover social issues, because of the very danger that the honourable member mentions, namely, that some important issues could be inadvertently overlooked. The omission referred to was not considered an important omission by the many hundreds of people who offered comments during the preparation of the document.

The honourable member asks whether the Education Department is still committed to the elimination of sexism in schools and their curricula. The answer is, 'Yes'. However, the Education Department accepts that changes in community attitudes cannot occur overnight and an unbalanced approach could be counter-productive. The Minister of Education believes that the document adopts an even-handed approach to all groups in the community who are disadvantaged.

ABORIGINAL TREATIES

The Hon. BARBARA WIESE: Has the Minister of Local Government a reply to a question I asked on 19 August about Aboriginal treaties?

The Hon. C. M. HILL: The honourable member asked whether, since February 1980, a meeting has been held to discuss the concept of establishing a treaty (Makarrata) between the Federal Government and the Aboriginal people of Australia. The Commonwealth has responded to an initial document from the National Aboriginal Conference. The Prime Minister has indicated his willingness to discuss the Makarrata with the National Aboriginal Conference at an appropriate time.

SHOPPING CENTRE LEASES

The Hon. C. J. SUMNER: What action does the Minister of Consumer Affairs intend to take following the release of a report prepared by his department on shopping centre leases?

The Hon. J. C. BURDETT: The only legislative action that was recommended was an amendment to the Arbitration Act. I am considering that. It was also suggested that certain recommendations be made to shopping centres, and this matter also will be taken up.

IRRIGATION ACT AMENDMENT BILL (No. 2)

Second reading.

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a second time.

The amendments made by this Bill will facilitate changes proposed to the method of charging the lessees of non-ratable land in irrigation areas for water supplied to them. In the past, individual agreements have been made with each lessee for water supplied. This is unnecessarily cumbersome and time-consuming, especially since it requires the making of a new agreement with each new lessee of the land concerned when the land changes hands. It is proposed that the Minister will, in future, simply charge lessees for water used under the proposed new section 78. The new provision will also allow the Minister to charge lessees of ratable land that is not connected to a town supply for water supplied for domestic use. In the past water has been supplied for this purpose under agreements that required renewal on each change of ownership.

I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 replaces subsection (3) of section 75 of the principal Act. The new provision requires notice to be given to ratepayers before the rates become due and is in similar terms to the new section 78 (4). Clause 4 makes a consequential change to section 77 of the principal Act.

Clause 5 replaces section 78 of the principal Act with two new sections. New section 78 is an expanded provision that will allow the Minister to fix charges for water supplied to land referred to in the section. Subsection (2) allows for variation in the charges that are made for the supply of water to different land. Subsections (3) and (4) provide for

liability for and recovery of charges and subsection (5) provides that unpaid charges will be a charge on the land and will carry interest at the same rate as that of unpaid rates. Section 78a empowers the Minister to remit interest on rates and charges in cases of hardship.

The Hon. FRANK BLEVINS secured the adjournment of the debate.

ESSENTIAL SERVICES BILL

In Committee.

(Continued from 17 September. Page 989.)

Clause 10—'Delegation.'

The Hon. FRANK BLEVINS: I would like to point out to the Committee some of the implications in allowing clause 10 to pass. This clause states:

> The Minister may, by instrument in writing, delegate his powers, or any of his powers, under this Act to any other person or persons.

As the Opposition has stated throughout the debate, it is opposed to the principle behind the Bill. We are strongly opposed to Parliament giving away its authority in times of emergency to a Minister who can assume the Draconian powers contained in the Bill and do what he wishes. This Bill goes even further. It is bad enough our giving that kind of power to a Minister in that way. This clause allows the Minister to delegate these powers to someone outside the Parliament—to anyone he wishes within the community—so that not only is Parliament giving up its powers to the Minister (which is bad enough) but also it is giving up its powers to a person in the community.

That is an absolutely absurd proposition, particularly when we have listened (as I have listened for six years) to such members opposite as the Attorney-General, the Hon. Mr DeGaris and other honourable members who are not here at present saying how wrong it is for Parliament to be sidestepped in this manner and that we are giving far too much power to the Executive and not facing up to our responsibilities. I agree with them completely. It is perhaps the nature of Governments to assume or grab as much power as the Parliament will allow, and I do not differentiate between political Parties. It is in the very nature of Governments to try to grab as much power as they possibly can.

To some extent I do not blame the Government for trying. However, what I do object to is Parliament's allowing this and then going even further by saying that it is not just granting these powers to the Minister but is allowing the Minister to take these powers and delegate them to any person that he wishes. That is totally unacceptable.

The Hon. K. T. GRIFFIN: The honourable member should note subclause (2), which ensures that two of the most serious powers should not be the subject of a delegation order. One is the power to requisition property and the other concerns the power to fix maximum prices. If the honourable member reflects on the current situation, he will see how impossible it is to administer such a scheme if the Minister does not have power to delegate. In fact, the absence of the power to delegate would mean that the Minister would have to personally issue every rationing certificate. It would also mean that he could not delegate his responsibility to various organisations that may have a substantial fleet, for example, to doctors, the A.M.A. or other groups in the community which have a legitimate need for emergency fuel supplies.

If the honourable member is suggesting that the Minister should not delegate even that responsibility, then I suggest that he is not really being serious about his opposition to the power to delegate. The whole scheme would become completely unworkable if the Minister did not have the opportunity and the authority to delegate for the day-to-day administration of the Act. We have been cognisant of the need to limit the delegation, and that is incorporated in subclause (2).

The Hon. FRANK BLEVINS: I can assure the Attorney that I am very serious. This is enabling legislation. There is no particular situation applying in South Australia to which this Bill is directed. Instead, we are asked to give these powers in advance of a situation arising about which we know absolutely nothing. I concede that powers of delegation are justified in the present emergency. I do not argue with the Attorney about that at all. Perhaps in regard to another situation, after Parliament has deliberated, it may see fit to allow the Minister to delegate some or all of his powers to deal with that situation. I object to delegating these powers blindly, with absolutely no knowledge whatever of what this Bill will be used for, and to blindly giving the Minister this power when Parliament should have it and should only give it out sparingly.

Parliament has an important role to play in protecting the community from possible abuses. It should not blindly give the Minister power to delegate that same power to someone else. We have no knowledge about the situations in which the provisions of this Bill will be used, and that is what I object to. If we were in the middle of an emergency situation and the Government came to Parliament with a concrete situation, saying that it wanted to deal with it in such a way by bringing a Bill before this Council, perhaps I might agree to providing those powers of delegation, but I cannot now blindly agree to giving the Minister the power to delegate these Draconian powers to anyone without knowing what is the situation and who are the people concerned. It is most unfair of the Government to expect Parliament to do that. It would be absolutely stupid of Parliament to do it. The responsibility should rest with Parliament.

The Hon. K. T. GRIFFIN: There is a power of delegation in the Petroleum Shortages Act and there is power of delegation in the State Disaster Act. Indeed, there is power of delegation in a wide range of legislation that has come before this Parliament in recent years. The Bill, if it is to be effective, must have some areas that can be delegated by the Minister to others to implement. This is no different in that respect from the other pieces of legislation in which this provision for delegation exists. The power to delegate, with the restrictions imposed in subclause (2), is responsible in the context of this sort of legislation.

The Hon. R. J. RITSON: I would like to emphasise that point, because the Hon. Mr Blevins has said that the responsible action for Parliament to take is to wait and see what emergency arises and then to meet and hand over whatever powers are necessary. Does that require some sort of clairvoyance? What if an earthquake or some other sort of cataclysmic disaster eventuates—

The Hon. Frank Blevins: We have a Natural Disaster Act.

The Hon. R. J. RITSON: The same principle applies in that Act. Parliament is required to sit within four days, but still the principle of immediate power runs through that legislation, through this Bill and through the Petroleum Shortages Act. If we were to withhold those powers from the Government and if essential services were affected (thereby threatening the essentials of life of the community—not just the safety and wellbeing of the community), it would be entirely irresponsible of this Parliament not to give the Government very extensive powers to co-opt resources and use them from day 1. I do not think that Parliament can avoid its responsibility, namely, its responsibility of giving the Executive sufficient powers to arbi-

trarily manage society from day 1 until Parliament can be called together on day 14.

The Hon. FRANK BLEVINS: I should like to give an example. The difficulty of sticking to the clause is that it relates to every other clause that is passed and substantiates the powers in those clauses. The Government then assumes that those powers can be delegated under this provision. For example, clause 6 (1) provides:

> The Minister may, by notice in writing, require any person who is, in his opinion, in a position to do so to furnish information specified in the notice, relating to the provision or use of an essential service.

Strong penalties of up to $1 000 apply to anyone who does not comply. This is the pimping clause. The Minister or the Government could ask someone to do something, for example, a union official or a rank and file union member. It could ask for something in writing under the threat of the $1 000 fine, and that person would have to respond. Of course, people will not respond in lots of cases and will tell the Minister where to go. I would assume that the Minister, whoever it is, would act with some sensitivity and sensibility when dealing with these powers.

It would be charitable to think that a Minister of the Crown would not behave in an insensitive and provocative way. However, when he can delegate that power to somebody else, whether it be a public servant, a member of the public, or anyone else, who is to say that that person will handle things in the same way as we would expect the Minister to handle them, or that that person would be as sensitive or as aware of how to handle disputes as the Minister should be? Therein lies the danger. People who are not used to handling these sensitive areas could be delegated powers under this clause and create even more chaos. It could result in people being fined and even gaoled if they did not pay the fine. It seems that powers of that nature should not be given quite blindly, outside of a specific situation in which all aspects can be taken into consideration by Parliament, and that Parliament should not give a Minister authority to delegate powers in that way.

The Hon. N. K. FOSTER: This clause provides that the Minister may delegate his power to any other person or persons. I oppose the clause on the basis that this is a delicate area relating to essential services. I believe that the title of the Bill is completely misleading, since the Minister is unable to guarantee to the society essential services as outlined in the Bill. What is involved concerns all South Australians; not only petrol supplies are involved. State legislation is not only inadequate—

The Hon. K. T. GRIFFIN: I rise on a point of order, Sir. The honourable member should be addressing himself to clause 10, which relates to delegation.

The CHAIRMAN: The Attorney-General has drawn my attention to the matter and is correct. I therefore ask the honourable member to refer to clause 10.

The Hon. N. K. FOSTER: I am dealing with the delegation of powers under this Act. If the Attorney-General would be as patient as you, Mr Chairman, he would not continually jump the gun and wrongfully anticipate what the member on his feet is going to say.

The CHAIRMAN: I ask the honourable member to refer to clause 10.

The Hon. N. K. FOSTER: I know that the Government is anxious to get this Bill through, but it will not do the Government any good. There is no such legislation on the Statute books that any Government has had the guts or ability to use, because this sort of legislation works against itself. The Bill should, in clause 10 (1), be more specific as to the area in which the Minister will delegate his power. Will it be delegated to another department or to another Minister, without involving the Minister's own department? Will it be delegated to an *ad hoc* committee in this city or elsewhere? That is an important provision of the Bill.

I would like the Attorney-General to remain in the Chamber while the debate is on and to answer my question. Inherent in the word 'powers' is the Minister's authority, which may be delegated to other persons or even to a committee that is narrowly defined in a community sense. Is the Minister prepared to expand on this provision, if he sees fit to insist on its carriage, to include a broad representation of the community when we find ourselves in a situation similar to that in which we find ourselves today although not necessarily brought about by a petrol crisis? Will the Minister proclaim this Bill in the middle of next week and delegate his authority to a Federal industrial commissioner?

The Hon. R. C. DeGaris: It does not mean that.

The Hon. N. K. FOSTER: I am glad you said that, because the Bill does not spell it out. For this legislation to apply, it has to bridge other Acts of other States. It is not clear whether the Minister has power to request that a member of the Conciliation and Arbitration Commission be so delegated. I say that with some degree of seriousness, because there has not been a resident commissioner since the retirement of Commissioner Portus, who occupied that position in South Australia.

I am trying to get a reply from the Minister in charge of this Bill, but he ignores the proceedings and continues to talk to other members. There is no provision for me to take my seat and speak again when he is in his position. He expects me to address myself to the Bill and yet he takes himself out of the Chamber. What sort of Leader is he? He is a disgrace. Perhaps I might be a little tiresome in this respect, but I wish to receive an answer to my question. Subclause (2) provides:

> No delegation shall be made under this section of the power to requisition property, or to fix maximum prices in relation to the sale of goods or services.

That is specific, is it not? The Attorney does not assent. Why is not subclause (1) more specific about delegation and how wide or how narrow the delegation will be? I cap that by referring to the fact that subclause (2) is specific. I notice the Hon. Mr DeGaris scribbling. He must agree with me.

The Hon. R. C. DeGaris: No, I'm doing the crossword puzzle.

The Hon. N. K. FOSTER: It is all a crossword puzzle. Subclause (3) provides:

> A delegation under this section is revocable at will and does not derogate from the power of the Minister to act personally in any matter.

Does that mean that the Minister, having set up a committee, has the right to say that he does not care what the committee has done in respect of settling a dispute? Settling a dispute should clearly be the intention. Can the Minister say that he will not take notice of the committee, just as Doug Anthony has ignored the report by Senator Rae's committee? The provision here gives the Minister the right to sabotage, and his actions since Thursday in respect of petrol show that he has put his mouth in the wrong place. I agree that the Minister should have power to act but I am pointing out that subclauses (1), (2), and (3) are contradictory in principle if we take the title of the Bill seriously. I rest my case there.

The Hon. K. T. GRIFFIN: Subclauses (1) and (3) are the usual form of drafting where delegation is authorised, not only in this sort of legislation but in almost every piece of legislation that comes before this Parliament and requires the Minister to do something or not to do something.

The Hon. M. B. Dawkins: The Labor Government used it.

The Hon. K. T. GRIFFIN: Yes, the previous Government incorporated it. Subclause (2) is specific because the Government takes the view that the Minister ought to requisition any property or fix maximum prices. That ought not to be done by delegation to the Public Service. So far as a delegation is concerned, the Minister is ultimately responsible for whatever occurs under clause 10, and it is proper that the delegation should be revocable, and at will and in such a way that it does not prejudice the Minister in operating under the legislation. There is nothing irregular in any aspect of clause 10.

The Hon. N. K. FOSTER: The statement by the Attorney-General that the Minister is totally responsible is not contained in any provision, but I do no more than say that, so far as the whole Bill is concerned, no responsible trade union will consider its being on the Statute Book, so it will not work. To say that the Minister is totally responsible is not correct. If the Minister looks at areas of responsibility in the Westminster system over the past 10 years, he will see that the position has not been as it was traditionally in regard to a Minister being totally responsible and in regard to his handing in his commission if anything goes wrong. We have seen several instances in Federal politics where that has not happened.

I do not want to canvass what I heard said over the amplification system in this place a short time ago by the Minister of Mines and Energy, possibly in reply to a question. The Attorney should become more politically aware than to think that he can pull the wool over the eyes of members with the statement that the Minister is totally responsible.

The Hon. K. T. GRIFFIN: I said that the Minister was ultimately responsible for what occurs under the Act. I see nothing unreasonable about the way clause 10 is drafted.

Clause passed.

Clause 11—'Certain actions against the Minister barred.'

The Hon. C. J. SUMNER: The Opposition opposes clause 11, and we will be voting against it. It takes the whole operation of the Act outside any judicial scrutiny. In other words, there is no procedure in the Bill whereby the courts can scrutinise the activities of the Minister or of the public servants acting on behalf of the Minister. There is no procedure for any appeal against any decision by the Minister.

On previous occasions when clauses of this kind have appeared in legislation, members opposite, when in Opposition, have been most critical of any attempt to remove from the courts the authority to ensure that at least the Minister and public servants acting under the legislation acted in accordance with the law. I refer to what the Attorney-General said in December 1980 in relation to the motor fuel shortages legislation which he introduced and which contained a similar clause. On that occasion, he supported such a clause. However, on 9 August 1979, when a similar clause appeared in legislation, promoted by the Labor Government, on petroleum shortages, the Attorney said:

> I do not believe, even in times of crisis or emergency, that the Government or the Minister ought to be above the law.

The Hon. R. C. DeGaris: Am I to understand that you have both changed your mind?

The Hon. C. J. SUMNER: No, that is not true. We supported that clause in the petroleum legislation. It was contained in legislation introduced by the Labor Party in relation to petroleum shortages, including the 1979 Bill. Such a clause was not included in the essential services legislation introduced by the Labor Party in 1974. We are acting, as we have done in relation to other clauses in this Bill, consistently with the position we adopted in 1974. However, it is quite clear that the Attorney-General has made a complete about-face in relation to the principles enunciated in December 1980. Does the Attorney-General believe that this clause places the Government above the law and, if so, why has he agreed to the inclusion of such a clause when he opposed it most vehemently in August 1979?

The Hon. K. T. GRIFFIN: The limitation in clause 11 relates to action that the Minister might take in pursuance of this Act. It is only if the Minister is acting validly within the Act that no action can be taken to compel him to do something or to restrain him from doing something. The operation of this emergency legislation depends upon quick responses to pressing needs and to have the courts override decisions of the Minister, for example, whether or not to issue a permit, may well make the operation of the Act unworkable.

The Hon. C. J. Sumner: Why did you not point that out in August 1979?

The Hon. K. T. GRIFFIN: The terms of this clause are not identical to the 1979 clause. In fact, I now have the benefit of advice from officers to the effect that the way in which the courts are now deciding challenges to Ministerial authority is that the clauses are construed strictly. This clause would be similarly construed, and it would be ineffectual to exclude judicial review if the decision were made without jurisdiction, because such a decision would not be authorised by the Act.

That is why I emphasise that in clause 11 the restraint on action is only in respect of things done by the Minister in pursuance of this Act. If he acts validly within the mandate given by the Act his decisions cannot be challenged. If he acts in a way which persons allege to be outside the Act, that is subject to judicial review. I repeat that, if action were to be initiated in the court to restrain the Minister from doing such things as issuing permits or to compel him to issue permits, the operation of this Act in an emergency would be emasculated.

The Hon. N. K. FOSTER: I rise to strenuously oppose this very short clause, which may well have very wide implications. I am compelled to rise because of the extraordinary reply given by the Attorney-General to another member of his profession, the Hon. Mr Sumner. What the clause says is bad enough. It should not be our responsibility as the Legislature to deny individuals, groups of individuals, corporate bodies, and religious or church organisations the right to challenge the legislation of any Government. The Chifley banking Bill lay in shambles because it was challenged before the courts of this country. Menzies came to political prominence in the 1930s by representing certain vested interests against Government measures. When he leaves this place, the Attorney-General may well find himself representing people against legislation as did a former Attorney-General of the Federal Government, Mr Tom Hughes.

That is just one example. The passage of this clause is not necessary. The clause is ill thought-out and cannot be defended on the narrow basis that it only relates to the Minister's actions within this Act. I know that his actions may not necessarily be as important as the interpretation of the Act during times when it is in operation. If a matter is before a court when this Bill is in operation, surely members of this Council must accept the fact that the Minister's actions may be subject to a great deal of scrutiny, and I refer to a civil or industrial court action, or even an appeal to the High Court.

I am not a lawyer and I do not even profess to be a bush lawyer, but I have had considerable experience in industrial hearings. The Minister cannot have it both ways. He has

already said that the State Government has certain powers in respect to a Federal dispute. If that is the case, surely the Minister must realise that this particular clause is restrictive. There is no field of endeavour in relation to workers under Federal awards. If there was an emergency situation and a company which had acted on the advice of a Minister was involved and acted in such a way as to contravene the Trade Practices Act, where does this clause leave us? It would leave us looking rather stupid. In fact, it might well turn out that the Minister, in relation to a dispute under this clause, had contravened a number of existing Acts of this State, for example, the Prices Act. What legal redress would that particular company have in relation to this Bill, because the Attorney-General has said that the clause is restricted to the actions that can be taken within the meaning of the whole Bill? They were not my words initially: they were the Attorney's words. This clause must be read in that context.

If that is the case, we should be discussing the whole Bill in that regard. I would not accept such ill advice as the Minister said he accepted to the effect that there was nothing wrong with the concept of the clause. The fact is that, under the clause, people cannot go to the courts to initiate an action against the Minister. Inherent in that situation is a denial of people's ability to initiate any form of action against the Minister or against a person for whom the Minister can be held responsible in regard to this matter. I strenuously oppose this clause. The Bill will never work, so the clause is not necessary. If the Minister believed there was any value in its intent, surely he could see that the remaining clauses applied, even if this clause was taken out of the Bill. I implore honourable members to vote against it.

The Hon. R. C. DeGARIS: In regard to the general principles associated with a Bill of this nature, there is full agreement by all of us, Liberal Party, Labor Party and Democrats—

The Hon. N. K. Foster: I couldn't agree with that.

The Hon. Frank Blevins: Do you mean that we don't like it?

The Hon. R. C. DeGARIS: No: I am saying that legislation of this type has been before the house since 1974, and at the second reading stage there has been general agreement that such powers are necessary. Over the time, one or two members have voted against the second reading, and I believe that the Hon. Mr Blevins might have been one of those, but in general there has been agreement among all Parties in this Council that such legislation, in general principle, is acceptable at the second reading.

The Hon. N. K. Foster: In quite a different format, of course.

The Hon. R. C. DeGARIS: No, the format is almost identical. There was very little difference in the format of the petroleum shortages legislation and this Bill. There is not much difference in the general—

The Hon. N. K. Foster: My opinion is that such a measure would have to be in a different format.

The Hon. R. C. DeGARIS: Possibly so. All of us have agreed that there must be some powers available to the Government to act quickly in regard to an emergency that affects the health, welfare and provision of essential services in the community. When it was in power, the Labor Party tried to introduce permanent legislation for use in emergencies. It was unsuccessful, because of amendments moved in the Legislative Council. When the amended Bill was returned to the House of Assembly, the Government took the view that it would not proceed further, and the normal process of a conference between the two Houses was not undertaken. This was unfortunate, because we might have been able to reach a satisfactory agreement if the processes of Parliament had been used at that time.

The point I stress is that between all members there is little difference in regard to the general principle of the need for emergency powers legislation. The fact that Great Britain has had such powers since 1920 and all other States, whether A.L.P. governed or Liberal governed, have similar emergency powers attests to the view that, in general, the principle is accepted. Since this type of Bill has been before Parliament (since 1974), I have been concerned with two principles: first, the powers must apply with equal force to all people, groups of people, associations, companies, or unions; secondly, any person who incurs expenses in relation to the acquisition of property or goods or by any direction given should be adequately compensated. Both of those principles have been incorporated in this Bill.

The third point, about which I have not spoken previously, concerns the proposal in clause 11, which clause we are discussing now. Without it, the ability of the Government to provide the essentials of life to the community may be seriously affected. I want the Council to understand that point. If this clause is deleted from the Bill, the Government may have serious difficulty in supplying the community with essentials. If the clause remains in the Bill, we will be sacrificing for a limited period a basic element of the rule of law.

Procedural remedies are available by which the courts can control administrative action. These technical processes provide the courts with the means of hampering or supervising the whole administrative action of a Government and immediately, if thought necessary, putting a veto on any proceedings not authorised by the letter of the law. These processes are the ultimate guarantees of personal liberty, enabling the courts to review, restrain and even compel administrative action in regard to statutory powers. Where these remedies have been sought, the courts ensure the strictest possible interpretation of the Statutes, particularly where the Statutes conflict with common law principles. By that I mean that, from the judgments I have read on this matter, it appears that the judges lean as much as possible towards ensuring that the common law remains unaffected.

The Bill before us, which grants the Executive extraordinary powers for use in the case of an emergency determined by the Executive, conflicts with common law principles. Therefore, it can be assumed that, if the available remedies are sought, the court will make the strictest interpretation of the Statute. It is not uncommon to find that certain U.K. Statutes have excluded the use of these remedies. According to some constitutional writers, it is doubtful whether any statutory formula has yet been devised that has the effect of totally excluding all remedies that are available. However, U.K. Statutes, as do Australian Statutes, ban certain actions against a Minister.

We must consider the practical position in regard to this Bill, and I want the Council to suppose for a moment that an emergency has occurred, the cause of which is of no concern: it might be due to union activity or to a farmers' ban. Suppose milk supplies to the metropolitan area have been cut off. I believe that any Government has the duty to ensure that those supplies are available to the community. If I may say so in passing, I believe that the contribution made to the second reading debate by the Hon. Frank Blevins was very good, and he pointed out that that situation has never occurred in South Australia, or at least not for very many years. In my memory, essential supplies have not been denied the community by union action.

I hope that never occurs, whether by union action, associated action or any other sort of action, but if it occurs the Government must be in a position to handle the situation. If those circumstances arose, the Government would

have to proclaim its emergency powers and if, in the use of those emergency powers, it issued an order concerning the delivery of milk to the consuming public, a person, or a group of persons, that person or group of persons could seek an injunction from the courts to restrain the Minister from taking that action. In those circumstances, we must ask ourselves whether such a remedy, which will cause delay, is warranted. This point is further complicated by the amendment that has already been passed that places a ban on any form of industrial conscription.

How will the court, if an injunction is sought restraining the action of the Minister, interpret the phrase 'industrial conscription'? Will the instruction given to a group of persons to deliver certain goods be viewed as industrial conscription? While this is proceeding, how can any Government act in the interest of the community to provide essentials of life that are denied to a certain section of the community? Even if the term 'industrial conscription' was clearly defined in the Statute, the power to seek an injunction could well cause sufficient delay to create a serious hazard to the health of certain sections of the community. That, in simple terms, is the dilemma we face in the amendment now before the Committee.

That dilemma is whether we should forgo for a limited period the normal rule of law that applies to all of us or whether the question of the ability of the Government to overcome the situation and supply people with the essentials of life should be seriously interrupted by an injunction restraining the Minister.

One noted English judge said something like this (I have been searching for the exact quote but cannot find it): in an emergency situation one cannot rely upon the principles of the Sermon on the Mount, nor the principles of the *Magna Carta*. Most European countries are not faced with the same dilemma because they do not follow the English principles of the rule of law. It is clear to me that if the prerogative writs remain applicable to emergency legislation then the powers sought could be rendered relatively useless. Therefore, one must ask: should we consider providing some other method of trying to provide a check on Executive power during any proclaimed period of emergency? I pose this question to the Committee: is it possible when a period of emergency is proclaimed, and if the provisions of clause 11 are retained, that we could design some means of Parliamentary supervision of Executive acts undertaken in such circumstances?

In such an approach we run the risk of the adversary system of politics rendering the processes of such oversight impossible, but I have sufficient faith in members of Parliament that, in such an emergency, pettifogging politics would be forgotten. In times of emergency, where joint operations have been undertaken, there is little doubt that the results have been effective. It may be argued that such a provision may be fusing the judicial functions with the executive and legislative functions, but I do not think that could be logically held because the Committee would not be fulfilling a judicial function.

If the right to use prerogative writs is removed by Statute (and there is a case for this in emergency legislation) then we should be able to ensure that Executive action taken has the approval of a large majority if not the unanimous support of the Parliament. It is not beyond the wit of politicians, those who see power as the only end, to create an emergency for political reasons—

The Hon. N. K. Foster: It's done often.

The Hon. R. C. DeGARIS: I do not know whether it has been done often, but it has been done.

The Hon. N. K. Foster: What about in Victoria?

The Hon. R. C. DeGARIS: One draws a long bow if one refers to what happened in Victoria. To give a classic example, I refer to the burning of the Reichstag in Germany in the 1930s. That was a classic means of creating an emergency situation in which powers beyond the normal were assumed by one man. I am just making the plain statement now that it is not beyond the wit of politicians, particularly those who seek power as the only end, to create an emergency for their own political ends. Therefore, we need to design some safeguard that does not unduly hamper the Government in its actions but places some supervision over the use of extraordinary powers granted to the Executive in the case of emergency. Also, we seem to have placed ourselves in this Bill in a somewhat foolish position. This can be argued and debated, and we need to consider the position. We have two emergency powers Acts on the Statute Book and, if this Bill is passed, there will be three such Acts. In those Acts different principles are adopted.

For example, in the natural disasters legislation prerogative writs are permitted, but Parliament has to be called within four days of the emergency being declared. In regard to the petroleum shortages legislation, prerogative writs are banned, but Parliament must be called within 28 days. Under this Bill, prerogative writs are banned and Parliament is to be called within 14 days.

The Hon. C. J. Sumner: It's crazy.

The Hon. R. C. DeGARIS: I do not know whether it is crazy or not, but it does not appear rational to me. Different attitudes apply. In criticising the Hon. Mr Sumner, I point out that in 1974 no position was adopted was in relation to the ban of prerogative writs. The next Bill introduced by the Labor Party did ban such writs. On this question between the Labor Party and the Liberal Party there is a degree of uncertainty. There is a swapping of positive points. One cannot deny that.

The Hon. C. J. Sumner: I want the Attorney to explain his statement of August 1979.

The Hon. R. C. DeGARIS: Irrespective of what the Attorney said, I am trying to tell the Leader that in emergency-type legislation there are principles that are dear to my heart and to his heart, but each of us must recognise that there are practical difficulties in emergency legislation when a person can take an injunction, not because he has any real case with which to go before the court, but just to frustrate the direction that the Government must take to overcome that particular problem. I indicate to the Committee that in emergency legislation we must not have a situation where a person can take an injunction out and frustrate what the Government is trying to do. At the same time, we must be careful when we do remove the basic rules of law applying, as there needs to be put in their place something that does give oversight of the Executive's activities during that emergency period. On balance at this stage I oppose the amendment, but I do so on the basis that I think that, as Parliament must be called together within 14 days, there is that safeguard.

The Hon. K. L. MILNE: This type of clause has been included three times in various petrol Bills: in the Motor Fuel Rationing Act proclaimed in March 1980, in the Motor Fuel (Temporary Provisions) Act proclaimed in November 1980, and in the Petroleum Shortages Act proclaimed in December 1980. The first two Acts were temporary legislation and have expired and lapsed. The Petroleum Shortages Act of 1980 is a permanent measure and, whether one agrees with it or not, a similar clause remains in that Act. One of the reasons may have been that there was such a restricted field covered by that Act and it was not thought to be so serious.

On reflection, when we come to a Bill as broad as the one now under discussion, this clause is too drastic. The State Disaster Act, 1980, referred to by the Hon. Mr

DeGaris, contains a provision for protection but it is not the same. Section 17 (1) of Part V provides:

A person shall not incur any civil liability for any act or omission done by him in good faith in the exercise or discharge of his powers, functions, duties or responsibilities under this Act.

Section 17 (2) provides:

A liability that would, but for subsection (1), lie against a person shall lie against the Crown.

That is getting somewhere near what we are probably trying to do, that is, protect the Minister or the person in charge of the enormous responsibility of taking over the State in a crisis. However, that is not quite right either for this Bill. If injunction procedures are allowed to continue they will be treated with great care by the courts. They can give decisions early, injunctions can be decreed *nisi* and can be discussed later. Alternatively, they can be withdrawn. Courts can do all sorts of things to not frustrate action. If somebody was trying to frustrate action, Parliament could be called together and could put this clause or another clause in to deal with the matter. The Australian Democrat reaction is to object to this clause. We would be prepared to listen to some other clause doing much the same thing without being so drastic. If such a clause could be devised we would treat it seriously indeed. I support the amendment.

The Hon. FRANK BLEVINS: I, too, support the amendment. I refer briefly to the contribution made by the Hon. Mr DeGaris a couple of moments ago. He said that everybody in Parliament generally agreed with the opinions behind the Bill and the format of the Bill. There is one very big difference between what I believe to be the proper way to go about emergency legislation and the way that the Government wishes to go about it; namely, to give this power in a situation which is virtually hypothetical. If the provisions of clause 11 can be justified then they should be justified to Parliament in a given situation. That is the basic difference. It is not a small difference—it is a very big difference. I can agree with almost everything that Mr DeGaris is saying. I could not possibly agree with him completely if we were here discussing an emergency situation. However, we are not.

I object strongly to giving this type of power in advance as it is virtually a blank cheque. It may be that there will be difficulties in dealing with an emergency if clause 11 is not in the Bill. If Parliament was called together during an emergency or when one was in view it may be that I would agree that the intent of the legislation could be frustrated by not having such a clause. However, I do not believe that that is the case, because I do not know what the situation would be when this legislation is invoked. It may well be that clause 11 is totally inappropriate in those circumstances. I do not know, and I suggest with the greatest respect that nobody knows—

The Hon. R. J. Ritson interjecting:

The Hon. FRANK BLEVINS: I will come to the Hon. Dr Ritson in a moment. It seems that nobody knows what the situation will be in which this legislation will be used. This legislation can force somebody to supply to somebody else a service of one form or another. Regardless of the amendment that has been carried earlier saying that this cannot be used for industrial conscription, I believe that that can be so open to interpretation or misinterpretation as to be virtually useless. The Bill is saying that one person can be compelled to supply a service to somebody else. I would have thought that the Hon. Dr Ritson, being on the extreme right of the Liberal Party, would find that provision totally obnoxious. It is against everything that I would have thought that the Hon. Dr Ritson supported; he would believe that people should not be compelled to supply a service to somebody to whom they do not wish to supply a service on pain of a $1 000 fine. If they do not pay the fine they will go to gaol.

The Hon. R. J. Ritson: That is probably conscription anyway.

The Hon. FRANK BLEVINS: Is it? That is what the Hon. Mr DeGaris has been trying to get through. Obviously he has been wasting his time. How the courts or a Minister can decide what is industrial conscription or not I do not know.

The Hon. R. J. Ritson interjecting:

The Hon. FRANK BLEVINS: Just a moment. I said in the second reading stage that I was not in agreement either. I do not like giving blank cheques to anyone. I like to know the circumstances before I give them anything at all.

The Hon. M. B. Dawkins: We had no objection when you wanted to do it.

The Hon. FRANK BLEVINS: In 1974 I was not here. The intent of this Bill is to force a person or a group of people to supply somebody else with a service at a price nominated by the Minister against that person's will. That person who is being forced to supply the service under clause 11 has no recourse to the courts.

The Hon. R. C. DeGaris: That is not so.

The Hon. FRANK BLEVINS: That is so.

The Hon. R. C. DeGaris: No it's not.

The Hon. FRANK BLEVINS: It is. We are depriving them of any action under this Bill. We are saying that no action to compel the Minister or a delegate of the Minister to take or to restrain from taking any action in pursuance of this Bill shall be entertained by any court. We are saying that, if the Minister or his delegate is forcing me to supply a service to somebody else and he is claiming that he is doing it under this Bill, I cannot take any action to restrain him from taking any action in pursuance of this Bill and such action shall not be entertained by any court. It is perfectly clear. I object strongly to giving that provision in a non-emergency. I will take a fair bit of persuading but it may be that in an emergency I will give the Government that power. I may say, because of the difficulties and the inconvenience to the Government, that the Government should have that power in the emergency. I am not persuaded that I should give that power to a Government when there is no emergency.

The Hon. K. T. Griffin: The Bill relates to a period of an emergency.

The Hon. FRANK BLEVINS: It relates to an emergency. If this Bill was being introduced in a period of emergency and we could discuss all the circumstances of that emergency, I may agree with the provisions in the Bill, but the Attorney and I do not know what the circumstances of an emergency will be. It may be inappropriate to have clause 11 there, but the Government will have it, and have it for 14 days. It takes away rights unnecessarily, and that should be done only in a concrete situation when Parliament considers it necessary, not when it refers to hypothetical situations.

The Hon. C. J. SUMNER: I would like to take the Committee through the clauses of this kind and what the Hon. Mr DeGaris and the Hon. Mr Blevins have said. I think that what they have said has considerable merit. However, I find the Attorney-General's argument totally specious. It can be put no other way. He has totally failed to justify to the Committee's satisfaction why, in August 1979, he decided that a clause such as this was putting the Minister and the Government above the law. That was when he was in Opposition. Now he condones such a clause going into similar legislation. He has not justified that.

If the Hon. Mr DeGaris, and the Hon. Mr Hill, who made similar statements in 1979, have changed their minds, they may care to say so. We could say that they had seen

the light or decided to take a new tack. I think the Committee should find it totally unacceptable to use the sort of argument that the Attorney has used, and I will explain why.

The Labor Government, in 1974, introduced the Emergency Powers Bill, which was essential service legislation. That legislation has been referred to in the debate on this Bill previously and we on this side have attempted to make the Bill before us similar to that one, but in that Bill there was no clause that excluded the courts from taking action to review the legislation.

The Hon. R. C. DeGaris: There was no banning of prerogative writs.

The Hon. C. J. SUMNER: No, and there was no other exclusion of the court in 1974. A clause such as this found its way into legislation dealing with petroleum shortages and in August 1979, in a period of shortage of petroleum, a Bill was introduced by the Labor Government. That was the Motor Fuel Rationing Bill and clause 11 provided:

> No action to restrain or compel the Minister, or a delegate of the Minister, to take or refrain from taking any action in pursuance of this Act shall be entertained by any court.

The Attorney-General made quite clear that he was vehemently opposed to such a provision, even though it was contained in legislation that was not permanent. It was legislation that naturally expired when the crisis was over. On that occasion, in relation to this specific clause, the Attorney said:

> I do not believe, even in times of crisis or emergency, that the Government or the Minister ought to be above the law. It is vital for our community that, whether in ordinary times or in times of crisis or emergency, the Government, in exercising its responsibilities, should not be placed in the position of a dictatorship but should always be subject to the ordinary process of the law. I will urge at the appropriate time that honourable members strenuously oppose that provision in clause 11.

The Hon. Mr Hill said:

> I feel strongly about this issue. It surprises me that the Government claims that it is a democratic Government when it is putting a clause like this on the Statute Book . . . If this clause remains in the Bill, that citizen has no rights at all against that Minister in regard to taking out a writ of *mandamus* against the Minister. Putting the Minister above the law, as the Hon. Mr Griffin said, is the most undemocratic process I have ever seen in legislation before this Parliament. I strongly oppose this clause.

The Attorney-General, in Opposition, also said:

> That, coupled with the fact that previously there was not any right to have a Minister's direction reviewed, puts him, as I indicated in the second reading debate, above the law. Although it may be for 30 days only, within that time quite momentous decisions can be taken by the Minister, which are not subject to judicial review.

The Committee should be in no doubt that the Attorney was vehemently opposed, as was the Hon. Mr Hill, to a clause in petroleum shortages legislation excluding the courts from judicial review. It was temporary legislation, not permanent. The next development was that Bills were introduced by the Liberal Government in 1980 dealing with petroleum shortages. A Bill to provide for, again, temporary restrictions was introduced and passed by Parliament. Clause 14 of the Motor Fuel (Temporary Restriction) Bill of 1980 provided:

> No action to restrain or compel the Minister, or a delegate of the Minister, to take or refrain from taking any action in pursuance of this Act shall be entertained by any court.

The exclusion of judicial review continued in Liberal Government legislation, despite the protestations of the Attorney-General. That again was temporary legislation. In permanent legislation, the Petroleum Shortages Bill of 1980, the equivalent clause was clause 14, which provided:

> Subject to this Act, no action to compel the Minister or a delegate of the Minister to take or to restrain him from taking any action in pursuance of this Act shall be entertained by any court.

I now refer to the State Disaster Act, which was also passed in 1980 and which also dealt with emergency situations. There was no provision to exclude judicial review in that Act. In relation to petroleum shortages, there is such a provision and if this clause is passed there will also be such a provision in the Essential Services Bill. I think what the Hon. Mr DeGaris said about the three Acts that will exist when this measure is passed as being a hotch-potch containing different provisions is very true. I believe that that issue needs to be looked at to see whether there is any case for consistency between them.

I think honourable members will see that the clauses I have read out are, in substance, the same. The Attorney-General cannot deny that they are the same as the provision in the Bill now before us. In 1979 the Attorney said that he opposed such a provision. In 1980 and in 1981 he has inserted such a provision. He has provided no substantial argument to support his action. When I criticised him for this in 1980, when dealing with the petroleum shortages legislation, he said that there was a provision in the permanent legislation for an appeal against a Minister who refused to issue a permit. He said that in view of the fact that there is that scope for judicial review, there can be no objection to a provision such as the clause in this Bill which excludes the prerogative writ. It is interesting to note that there is no other provision for appeal in this Bill. Therefore, the basis of the Attorney's argument on the petroleum shortages legislation is again destroyed.

I would like the Attorney to explain how he came to his conclusion on this clause in view of his statements in 1979. Has he changed his mind? If so, can he please tell the Council? I ask him to not treat the Council and its members as fools by trotting out the completely specious argument that he entertained earlier in the debate. I think that there is a case for looking at the provisions in the various Acts to see whether or not there ought to be some kind of consistency. I intend to continue my opposition to clause 11.

The Hon. R. C. DeGaris: If clause 11 remains, can you think of any other process that may be suitable?

The Hon. C. J. SUMNER: There may be other processes that are suitable, but I think that they need further consideration. This is permanent legislation and at this stage I am certainly not prepared to support it.

The Hon. K. T. GRIFFIN: Never at any stage have I treated members of this Council as fools. What the Leader of the Opposition wants is not necessarily what he will get. My remarks relate to this particular clause. The clause is limited in operation. There is even some suggestion that if we were really serious about it the clause should be much wider than it is. As it is, it restricts actions against a Minister to either compel him to do something or to restrain him from doing something, but only when he is acting in pursuance of the legislation. If he does something outside the authority of the Act or even something which he claims to be within the Act but which in fact is outside the authority of the Act, the jurisdiction of the court is not ousted.

The Hon. C. J. Sumner: That is the same situation as in 1979.

The Hon. K. T. GRIFFIN: One must look at this objectively. I accept the advice that I have received which states that clause 11 is limited in operation. For example, it does not prevent actions for damages being taken. It does not outlaw all the prerogative writs or legal action. It only says that an emergency situation such as that which it is envisaged the Act will cover would be free of challenges to Ministerial delegation during the period of the emergency. That period is now 14 days. Accordingly, it seems to me that it is not inappropriate to have this type of clause of

limited application in a Bill of this type which deals with emergencies in such a short period of time.

The Hon. J. C. BURDETT: I refer to the speech made by the Hon. Mr Blevins. I may have misunderstood him, but I thought he said that clause 11 excluded the jurisdiction of courts altogether, but that is not the case. Clause 11 appears to exclude prerogative writs, but an action for damages would still be available to a person where the Minister had acted without jurisdiction in regard to property or in a way which was not justified by the Bill.

The Hon. R. C. DeGaris: Does it exclude all prerogative writs?

The Hon. J. C. BURDETT: I am not sure, but it appears to exclude most of them. The Hon. Mr DeGaris said that this is a serious matter, but it is necessary for a limited period. It covers periods when there is an emergency.

The Hon. N. K. Foster: Are you saying that courts have no role to play in an emergency?

The Hon. J. C. BURDETT: No, I am not saying that at all. The problem is that, if some of the prerogative writs are not excluded, people who do not have a proper cause for complaint will institute prerogative writs thereby avoiding the possibility of the Government's taking appropriate action. They will avoid the action taken by the Government to alleviate the emergency. The main point that I wish to make is that the Hon. Mr Blevins was not correct when he said that clause 11 excluded the jurisdiction of the courts.

It is arguable whether or not it excludes all prerogative writs. Even if it does, nothing else in the Bill precludes an action for damages. If a person was wrongly proceeded against by the Minister and wrongly prevented from carrying out an action where the Minister had no power or had acted improperly, there is no power in clause 11 or anywhere else in the Bill to prevent that person from suing the Minister for damages.

The Hon. C. J. SUMNER: Will the Attorney explain to the Committee the difference between clause 11 in this Bill, which states:

> No action to compel the Minister or a delegate of the Minister to take, or to restrain him from taking, any action in pursuance of this Act shall be entertained by any court.

and clause 11 of the 1979 Motor Fuel Rationing Bill, which states that no action to restrain or compel the Minister or a delegate of the Minister to take or refrain from taking any action pursuant to the Act shall be entertained by any court? I put to the Committee that those two clauses, in substance, are exactly the same. Clause 11 of the Motor Fuel Rationing Bill also referred to action in pursuance of this Act, just as clause 11 of the Bill before us does. In 1979, the Attorney-General stated that this was tantamount to the Government's imposing dictatorship on the State of South Australia, and yet he now supports it. Will the Attorney say what, if any, differences there are between those two clauses?

The Hon. N. K. FOSTER: I hope that the Attorney will reply to my question. One has seen a great deal of publicity in the past few days and weeks about a particular Minister in Canberra in an industrial situation in which there was in existence both an industrial and a civilian ban in respect of Frazer Island mining. Community committees were set up in that regard and certain statements were made by the Queensland Premier during the course of those bans. These statements were actionable and were taken before the court, which heard the actions and made decisions. One complainant involved in the action was awarded a sum by the court in regard to the Queensland Premier who, three days later, came out with a public statement that he had called together his Cabinet, which had agreed that the damages should be paid not by the Premier of the State but by the State.

The Hon. R. C. DeGaris interjecting:

The Hon. N. K. FOSTER: I know that has occurred in this State, but I do not necessarily agree with it. The most current case is that involving the Queensland Premier. It also involved an industrial ban and a ban by a committee of citizens as well as a commodity that is being exported from this country under the powers of the Commonwealth.

The Hon. R. C. DeGaris: Would that be an emergency?

The Hon. N. K. FOSTER: Yes, it may well have been an emergency if the Queensland Government had considered that there was a challenge by those organisations against the action. The Federal Government would have declared an emergency situation. There were mining bans, and other areas were involved. The mind boggles at the number of actions that could have been taken within the judicial area. I therefore expect the Attorney not only to give the Committee his opinion in respect to this matter but also to say when there should be actionable cases against anyone in relation to a number of clauses of this Bill. Clause 11 springs to the defence of a Minister against the rights of individual members of the community, community groups, companies or trade unions—the whole lot. Does the Minister condemn the actions of the Queensland Premier?

The Hon. K. T. GRIFFIN: There is no parallel between the actions that the honourable member mentioned and the actions that this clause intends to cover.

The Hon. N. K. Foster: We have just seen it.

The Hon. K. T. GRIFFIN: That is your problem, not mine. I repeat once again that the clause does not prevent action against the Minister where he is acting outside the authority of the Act.

The Hon. C. J. SUMNER: Does the Attorney-General intend to answer the question that I asked as to the differences between the clause in this Bill and the clause in the 1979 Bill, which he vehemently opposed and which also did not prevent judicial review for actions that were outside the Act?

The Hon. K. T. GRIFFIN: We have been through this on two previous occasions and the point has been made by me in relation to this clause on those occasions. The honourable member has persistently directed questions about it. I have reflected on the object of the clause in this Bill and that is really as far as I intend to go.

The Hon. G. L. BRUCE: Why does this involve a person's instigating a case against the Minister outside the Act? Surely that is not the point.

The Hon. K. T. GRIFFIN: Because the clause says that no action to compel the Minister or a delegate of the Minister to take, or to restrain him from taking, any action in pursuance of this Act shall be entertained by any court; if he acts in a way that is outside the authority of the Act, action can be taken against the Minister.

The Committee divided on the clause:

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), C. M. Hill, and R. J. Ritson.

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

Pair—Aye—The Hon. D. H. Laidlaw. No—The Hon. C. W. Creedon.

Majority of 1 for the Noes.

Clause thus negatived.

Remaining clauses (12 to 14) and title passed.

Bill reported with amendments.

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

That the Committee's report be adopted.

I told the Committee that I would consider recommitting clause 3 (2) in regard to a minor drafting matter, as there were only two periods of seven days rather than four periods of seven days allowed. I have discussed the matter with the Parliamentary Counsel, who is of the opinion that the drafting is adequate. If upon reflection some further tidying up is required, that can be done at the conference stage.

Motion carried.

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

That this Bill be now read a third time.

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition opposes the third reading. I said in the second reading debate that the Opposition would consider its attitude to the Bill depending on the fate of the amendments that were moved by us. The Opposition has had some success with its amendments. Clause 11, which precluded judicial review, has been deleted from the Bill. The time within which Parliament must be called has been reduced from 28 days to 14 days, but our proposal was for seven days and, in that respect, the Bill is still defective.

Our proposition to exclude the use of this legislation to prohibit strikes or to interfere with strikes or other industrial action and not to impose any form of industrial conscription was only partly successful, and the Bill, although it cannot be used to impose any form of industrial conscription, can be used in an industrial situation to force workers, in effect, to work and can otherwise interfere with a strike. In that respect the legislation is unacceptable to us.

In the other clause relating to the definition of essential services the Opposition was successful, but the amendments moved by us were not all agreed to by the Committee. In our view the legislation is defective in two respects. First, regarding the time within which Parliament must be called together, we believe that seven days is the outside limit, and 14 days is not acceptable. Secondly, we believe that the legislation would enable the Government to intervene in an industrial situation to maintain essential services and interfere with strikes and, in effect, to force workers who have withdrawn their labour back to work. We believe that the situation of the supply of essential services in an industrial situation is much better dealt with by some kind of consultative machinery between the Government and the unions.

The Hon. K. T. Griffin: You did not think that in 1974.

The Hon. C. J. SUMNER: In 1974 there was a clause that we moved to be included in the Bill and was rejected as a result of a decision of this Committee. The provision was not accepted, and we regard this legislation as not being acceptable. We support the notion that the provision of essential services should be dealt with by consultation. The union movement in this State has not let the community be deprived of essential services in an industrial situation. It did not happen in the national transport workers strike, and we believe that the Bill as it stands, if it is used in that sort of situation, will have the potential of exacerbating disputes and will not achieve its objectives. Accordingly, the Opposition opposes the third reading.

The Hon. K. T. GRIFFIN (Attorney-General): I am disappointed that the Opposition is indicating that it will not support the third reading of this important Bill. It really demonstrates that the Opposition seeks to have this legislation applied to the wider community, but excluding the unions, so there is one law for one group and one law for another group. The Government takes the view that this Bill should apply even-handedly across the whole community.

The Council divided on the third reading:

Ayes (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, K. L. Milne, 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. D. H. Laidlaw. No—The Hon. C. W. Creedon.

Majority of 1 for the Ayes.

Third reading thus carried.

Bill passed.

SOUTH AUSTRALIAN HEALTH COMMISSION ACT AMENDMENT BILL

The Hon. J. C. BURDETT (Minister of Community Welfare): I move:

That this Bill be now read a second time.

It brings together a number of amendments to the Act designed to facilitate the operations of the Health Commission and to remove problems found in administering the principal Act during its operation.

The definition of 'health centre' at present in the opinion of the Crown Solicitor prevents the incorporation of a body under this Act which provides mainly health centre services but also some hospital services. To ensure flexible co-ordinated services, it must be possible to incorporate such hybrid organisations as health centres, and the definition of 'health centre' is amended by the Bill to enable this to take place.

Similarly, when it is planned to combine different organisations to create one corporate body under the Act, it must be clear which bodies are dissolved when that occurs, and whether property vests in the new corporate body. This Bill is designed to clarify these matters.

At present, the principal Act permits the Health Commission to delegate powers and functions to Commission committees, members or Commission officers or employees. In fact, there are a number of officers working for the Health Commission and various health units which are responsible to the Health Commission who remain public servants. These officers from time to time need to exercise powers and functions of the Commission, and the Bill makes provision authorising the Commission to delegate powers and functions to these people when appropriate.

The principal Act provides for portability of leave rights between organisations in the health area and the Public Service. This provision is an incentive for non-government health bodies to incorporate under the principal Act, since it means that their staff gain the benefit of this portability. The principal Act also provides for portability of leave rights from prescribed employment. In line with the situation which exists under the Public Service Act, it was intended that prior employment with organisations such as the Commonwealth Government, Public Services in other States, and a number of statutory bodies would be recognised for the purposes of this portability. However, the principal Act does not give to the Health Commission the same discretion as the Public Service Act gives to the Public Service Board to impose conditions on the portability of leave rights in relation to persons coming from prescribed employment. This discretion is necessary and the Bill makes provision accordingly.

The present provisions of the principal Act dealing with portability of leave rights, however, provide that leave rights continue only where employment follows immediately upon previous specified or prescribed employment. Again, there

is more flexibility in the Public Service Act, which allows a three-month gap in employment before continuity is lost. This lack of flexibility is causing considerable administrative problems, and accordingly the Bill proposes amendments designed to bring the principal Act into line with the Public Service Act in this respect also.

The principal Act enables the Boards of incorporated hospitals to make regulations and by-laws, but no similar powers exist in the case of incorporated health centres. This omission arises from the fact that, at the time of drafting the Act, health centres were in early days of development and it was not known whether such powers were necessary. It seems now that health centres will not need the same range of powers to make subordinate legislation, but it is clear that some such powers are necessary. This Bill proposes to provide the power to make by-laws in certain essential areas.

This Bill also proposes to delete the third schedule to the principal Act. That schedule sets out a number of Government health centres which may be incorporated in their own right. It is now quite clear that many will not be incorporated as such. In country areas, it is regarded as important that local hospitals and health centres work together and where possible be incorporated under the Act as a single entity. This kind of liaison is already occurring in several places. However, the Act at present quite clearly contemplates separate incorporation of health centres and hospitals, and this is particularly reflected in their separate listing in the schedules to the Act. The Crown Solicitor has advised that the listing of health centres in this schedule is a barrier to their integration where appropriate with local hospitals and therefore should be repealed. The Bill, therefore, provides for the repeal of the third schedule and provides that those Government health centres which should be incorporated in their own right be designated as Government health centres by regulation.

As the present Act stands, the Auditor-General can only audit accounts of the Commission. Accounts of incorporated health centres and hospitals must be audited by an auditor approved by the Auditor-General. It is clear that the Auditor-General should have the right to audit the accounts of major Government hospitals, in the interests of public accountability for expenditure in those hospitals. This Bill aims to clarify this.

To reflect the concern of the Government and the Health Commission to ensure that health services in the State are delivered in an efficient and economical manner, the Bill amends the functions of the Commission to make express reference to this important matter. At present, public servants employed at hospitals about to be incorporated under the principal Act have been given the option of remaining public servants or becoming hospital employees. The Board of such a hospital can continue to use public servants because of section 30 (5) of the principal Act, which enables an appropriate Minister to approve of the use of public servants by the Board. A similar provision is necessary for incorporated health centres, where public servants are in fact being given the same option as that granted to public servants at hospitals about to be incorporated. The Bill makes provision for this matter.

The present Act provides for certain industrial organisations to be recognised organisations for the purposes of the Act. Amongst those organisations listed is the Australian Government Workers Association. That association has recently amalgamated with the Federated Miscellaneous Workers Union of Australia, South Australian Branch, and has requested that the Act be amended to reflect the name of the new body. Provision is made accordingly.

In summary, this Bill is the result of a comprehensive review of the present Act, and its passing will facilitate the operations of the Health Commission, and clarify the duty and powers of various bodies and persons in the health area. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of operation of the measure. Under the clause different provisions may be brought into operation on different days to be fixed by proclamation. Clause 3 amends section 4 of the principal Act which sets out the arrangement of the Act. The clause inserts the heading to the proposed new Division IVA of Part IV empowering incorporated health centres to make by-laws. Clause 4 amends section 6 of the principal Act which provides definitions of expressions used in the Act. The clause amends the section by substituting a new definition of 'Government health centre' as any health centre designated as a Government health centre by the regulations. This definition is consequential upon the proposed repeal of the third schedule to the Act.

The clause also inserts new definitions of 'health centre', 'hospital', 'incorporated health centre' and 'incorporated hospital' designed to provide for the case of any body that it is determined should be incorporated as a health centre, but that has amongst its facilities what would ordinarily be referred to as a hospital. Under these definitions hospitals and health centres are distinguished only on the basis that for a body to be treated as a hospital it must provide some of its services to patients on a live-in basis, while a body may be treated as a health centre notwithstanding that it provides some of its services on that basis.

Clause 5 amends section 16 of the principal Act by expressing as a further function of the Commission the function of ensuring that incorporated hospitals, incorporated health centres and any health service established by, or with the assistance of, the Commission are operated in an efficient and economical manner.

Clause 6 amends section 17 of the principal Act so that it authorises the Commission to delegate any of its powers or functions to any officer of the Public Service of the State in addition to, as at present, committees, members, officers and employees of the Commission.

Clause 7 amends section 21 of the principal Act which provides at subsection (2) that, where a person becomes an officer or employee of the Commission immediately after ceasing to be employed in the Public Service of the State or by an incorporated hospital or centre or in prescribed employment, his existing and accruing recreation, sick and long service leave rights are preserved and continued. The clause amends this provision so that the Commission may determine the extent of and regulate portability in the case of officers or employees who come to the Commission from prescribed employment within three months, or in cases where there is a gap of not more than three months, between the commencement of employment with the Commission and the cessation of employment in the Public Service or by an incorporated hospital or health centre. The provision is now more consistent with the Public Service Act, but does not interfere with rights of employees transferring from one unit of the local health industry to another.

Clause 8 amends section 26 of the principal Act so that the Commission is required to include in its annual report a report on the efficiency of incorporated hospitals and health centres and health services provided or assisted by the Commission during the preceding financial year.

Clause 9 amends section 27 of the principal Act by providing that, where an incorporated hospital is established to take over from any other body the function of providing

health services previously provided by that other body, the proclamation establishing the incorporated hospital may provide for the dissolution of any incorporation of that other body, and, in that event, all the property, rights and liabilities of the dissolved body are transferred to the incorporated hospital. The section in its present form provides for the automatic dissolution of any incorporation of a body the health service functions of which are being taken over by the new incorporated hospital. This is not sufficiently flexible since it does not provide for any case where the body previously performing health service functions that are to be taken over by the new body is required to continue in existence.

Clause 10 should be read together with clause 7, in that it makes corresponding amendments in relation to section 31 dealing with portability of leave rights in relation to incorporated hospitals. Clause 11 provides for the repeal of section 32 of the principal Act which empowers the Governor to vest certain trust property in a newly incorporated hospital. This power is considered to be unnecessary and better left to the Supreme Court in its jurisdiction in respect of trusts.

Clause 12 amends section 34 of the principal Act which provides for the auditing of the accounts of incorporated hospitals to be carried out by auditors approved by the Auditor-General. The clause amends this section so that in the case of certain incorporated hospitals to be prescribed by regulation the audit will be carried out by the Auditor-General.

Clause 13 should be read together with clause 9, in that it makes a corresponding amendment in relation to section 48 dealing with the establishment of incorporated health centres. Clause 14 amends section 51 of the principal Act by including a provision authorizing the management committee of an incorporated health centre to make use of the services of a public servant or any facilities or equipment of a public service department.

Clause 15 should be read together with clauses 7 and 10, in that it makes corresponding amendments in relation to section 52 dealing with portability of leave rights in relation to incorporated health centres. Clause 16 provides for the repeal of section 53 of the principal Act for the same reasons that clause 11 provides for the repeal of section 32.

Clause 17 should be read together with clause 12, in that it makes a corresponding amendment to section 55 dealing with the auditing of the accounts of incorporated health centres. Clause 18 inserts a new Division IVA in Part IV of the principal Act authorizing the management committee of an incorporated health centre to make by-laws relating to the management of the centre or preventing hindrance of or interference with the activities carried on at the centre or any part of its grounds.

Clause 19 amends section 61 of the principal Act which provides a right for certain specified industrial organisations to make submissions to the Commission and incorporated hospitals and health centres. The clause amends this section by substituting for the reference to the Australian Government Workers' Association a reference to the Federated Miscellaneous Workers' Union of Australia, South Australian Branch, the latter body having recently amalgamated with the Australian Government Workers' Association.

Clause 20 inserts a new section 62a requiring the Health Commission to notify the Corporate Affairs Commission where any incorporated body is dissolved pursuant to the provisions of the principal Act. Clause 21 repeals the third schedule to the principal Act.

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

FIRE BRIGADES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 17 September. Page 978.)

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition supports this Bill. I will direct a number of questions to the Minister at the appropriate stage. This Bill had its genesis in a committee of inquiry set up by the Labor Government into fire services in October 1978. It was believed at that time by the then Government that there was a need for a thorough review of fire services in this State.

The present Bill does not bear any great relationship to the recommendations of the committee but, as I have said, it had its genesis in that committee, because it was that committee and its recommendations that led to the Government legislation and the setting up of a Select Committee of the House of Assembly to review it. The committee eventually approved of the Bill now before us.

I should like to spend a brief time acquainting the Council with the history of the matter. The Committee of Inquiry into Fire Services reported to the Labor Government in August 1979. That Government did not have an opportunity to act on that report before its defeat at the election in September 1979. However, the report recommended a number of things, which I will summarise briefly. First, it recommended the establishment of a Fire Commission responsible to the Minister, instead of the administration of fire services being committed to a Fire Brigades Board. The Fire Brigades Board was to be reconstituted as a commission and there were to be a Chairman, Deputy Chairman, and three other members.

There were to be a Director of Fire Services, who would have under him a Chief Fire Officer responsible for the operational side of fighting fires, a Chief Administrative Officer responsible for administration, and a Personnel Officer or Industrial Officer responsible for industrial relations and other personnel matters. The important part of that recommendation was that the Director need not necessarily be a person with firefighting experience, and he would have the overall responsibility for running the Fire Commission, subject to the Minister.

The second main set of recommendations of that committee related to new premises for the Fire Brigade, and it was recommended that a brief for an architect be prepared immediately. I should like the Minister to indicate what stage preparations for new premises for the Fire Brigade have reached and when money will be allocated for construction of those premises. Did the Government proceed with the recommendations of the Committee of Inquiry into Fire Services relating to new premises and the instruction of architects to prepare plans for such premises? I think it should be stated that anyone who inspected the facilities and premises from which the Fire Brigade operates in Wakefield Street would have to admit that the situation is far from satisfactory and that new premises are a matter of urgency.

The third set of recommendations referred to fire districts. The committee recommended that the whole metropolitan area should constitute one fire district, with the possible inclusion of the Crafers, Stirling and Aldgate areas, which are now covered by the Country Fire Service. The committee also recommended that country towns with fewer than 5 000 people should be serviced by the Country Fire Service. It recommended that at Port Pirie the two stations remain, one manned by professionals and the other by auxiliaries. It recommended that the separate station at Gawler should also be retained.

Its fourth recommendation related to fire safety and stated that the roles of the South Australian Fire Brigade, the Department of Labour and Industy, the Public Buildings Department and the Fire Safety Unit should be examined with a view to clarifying their respective roles. The fifth set of recommendations related to personnel, upgrading, training and qualifications. The sixth recommendation related to industrial relations and industrial democracy. It recommended establishment of a staff council within the new Fire Commission to ensure that the views of the employees in the Fire Commission were adequately represented and that the employees had some say in the decisions that affected them.

The seventh recommendation related to the funding of the new commission. At present, the funding comes partly from local government, partly from a levy collected by insurance companies, and partly from grants from the State Government. That is the revenue side of the funding of the brigade. The committee recommended that the system of funding should be changed completely and that funding should be obtained by a fee, similar to the rates collected by the Engineering and Water Supply Department—in other words, a fee imposed on house owners, depending on the value of the property.

It also recommended that 17.5 per cent of the funding of the commission come from Consolidated Revenue and that the balance be by the method I have outlined. Contributions from local government and the insurance levy would be done away with. The report recommended that the Commonwealth be approached to cover the protection given to Commonwealth buildings in the fire districts. That is a brief summary of the recommendations of the Committee of Inquiry into Fire Services, and I think members who have studied the Bill will realise that it does not bear much relationship to those proposals. It touches only one of them, so much more work has to be done.

The second stage in the procedure to arrive at the Bill was that involved in the amendments to the Fire Brigades Act presented to the House of Assembly by the Government, I think in about August last year, and I will summarise those amendments. The first was the establishment of a reconstituted board of the Fire Brigade, with a Chairman, Deputy Chairman, and four others. The main changes in this Bill were that the representation from local government, the Adelaide City Council and one member representing the local government bodies outside the city council, and the insurance representatives were removed from the board.

The Chief Officer was given no position on the board and there was no employee representative on the board as there was on under the previous Fire Brigades Board. Therefore, there was a very significant change to the constitution of the Fire Brigades Board. Specific representation was removed and, most importantly, any employee representation on the board was removed. The second main change as a result of these amendments was that there should be a director of the Fire Brigade and that there should be a Chief Officer under the director who would be responsible for the operational side of fighting fires. In other words, the situation would be similar to defence and the heads of the armed services. The heads of the armed services are responsible for the actual operational side of fighting a war, and the Defence Department is responsible for the administration and policy matters. It was sought to introduce that kind of distinction into the Fire Brigade in South Australia, and I think that was in accordance with the report of the Committee of Inquiry into Fire Services.

The other matter which was dealt with in the Government's Bill and which was the subject of some controversy was clause 26, which in effect provided that, if members of the Fire Brigade were engaged in fighting a fire outside their fire district, then they would be under the authority of the Country Fire Services Director or a person nominated by him. When that Bill was tabled considerable opposition was raised, particularly from the unions concerned and the personnel involved in the Fire Brigade. They objected to the fact that there was not an employee representative on the board and the fact that the Chief Officer would no longer participate on the board. They also objected to the fact that a director was to be appointed who would not necessarily have any firefighting experience and that the Chief Officer, who is a person of firefighting experience, would be made responsible to him. They further objected to clause 26, which would have placed members of the South Australian Fire Brigade under the authority of volunteers in the Country Fire Services if they were called out to fight a fire outside the designated Fire Brigades Board districts.

The example which was raised by the officers and men of the Fire Brigade and which they found particularly obnoxious related to, for instance, the Adelaide Hills, which is an area covered by the Country Fire Services, where an l.p.g. tanker could overturn, creating a potentially dangerous situation. The argument from the Fire Brigade employees was that in that situation the Country Fire Services volunteers would have little idea of how to control the situation and yet the Fire Brigade employees would be under their control. It may not even be the Director of the Country Fire Services but a volunteer who was nominated to deal with that particular situation. As honourable members can see, the employees of the Fire Brigade are hardly likely to be happy with that situation. I believe it would be an untenable situation, because there may be tricky situations such as the one that I have just mentioned where all the expertise would lie with the South Australian Fire Brigade employees and not with the Country Fire Services, yet that service would have responsibility for dealing with the problem.

The Fire Brigade employees do not object to being under the general control of the Country Fire Services in a bush fire situation, which is the most common fire dealt with by the Country Fire Services. As a result of the objections, particularly from the men of the Fire Brigade, a Select Committee was established, and as a result of that we now have the present Bill before us. In relation to the matters that I have just mentioned, the present Bill does not accept the notion of a commission, but establishes a corporation who shall be the Minister. With respect to the Chief Officer or the Chief Executive of the corporation (in other words, the permanent head of the Fire Brigade) the Bill provides that that shall be the Chief Officer, and the notion of a director has been done away with. However, I ask the Minister whether there is a guarantee in the Bill that the Chief Officer will be a person with fire-fighting experience. That is specifically provided for in the Country Fire Services Act in relation to the appointment of a director of that service.

The other matter in the Bill which seems to deal with the situation envisaged in clause 26 of the original Bill is the question of who is in charge of operations in a Country Fire Services district, in present clause 21. I am not sure that that resolves the problems as they were put to me by employees of the Fire Brigade. In other words, who will be in charge in the situation that I have put to the Council where an l.p.g tanker overturns in the Adelaide Hills? Will it be the Director of the C.F.S., or will it be the South Australian Fire Brigade? I am not sure that clause 21 has resolved the problems of command which were put to me when the original Bill was presented in another place last year. In addition to this Bill, I understand that the Minister

has given an undertaking that a fire services advisory council will be appointed and that a consultative committee of employees in the new fire corporation will be set up. They are not referred to in the Bill. I cannot see why they are not in the Bill, but apparently the Opposition in another place has been happy to accept the Minister's assurances that those bodies will be established.

Advisory councils are mentioned in a number of Acts of Parliament and I can see no reason why they cannot be mentioned in this Bill. The Minister has also indicated that a specialist committee will be set up to consider funding, despite the fact that that matter was reported on by the Committee of Inquiry into Fire Services in 1978. Some two years after the original report was presented and after exhaustive inquiries including a Select Committee, we now have amendments to the Fire Brigades Act, although it should be pointed out that the amendments are very limited and relate only to the administrative structure of the Fire Brigade.

There are still many matters outstanding, which were referred to in the Committee of Inquiry into Fire Services and which must be looked at. In two years, this Government has done nothing about them. They include the new building, fire safety, recommendations relating to training and qualifications of personnel and, of course, the important recommendations relating to funding. This Bill can be seen only as a small start in improving and updating the fire services in this State.

I would like the Minister, when he replies, to answer the following questions: is it intended that the Chief Officer will have fire experience, the Chief Officer being, in effect, the permanent head under the Minister and in charge of the Fire Brigade? There is nothing in the Bill that says that that is to be the case. Secondly, what will be the chain of command outside the South Australian Fire Brigade district, and what will be the relationship between the South Australian Fire Brigade and the Country Fire Services? Thirdly, what has happened to the other recommendations of the Committee of Inquiry into Fire Services and, in particular, what planning has commenced on the new building? What has been done in relation to personnel, training, qualifications, fire safety and recommendations relating to fire districts? I support the second reading, but I believe that the questions I have raised are important and the Minister should provide the Council with a report of progress in those areas, given that the Government has had that report for over two years.

The Hon. R. C. DeGARIS: I support the second reading. I did not hear all that the Hon. Mr Sumner said, but I believe that most honourable members who have given any thought to the problem of the financing of the Fire Brigade would agree that the present system deserves examination and, if possible, change. Western Australia has already altered its method of financing fire brigades for reasons that are fairly clear to most members. I believe that Victoria is also undertaking a close investigation and will change, and other States are also making those examinations.

The reason why the system is difficult to substantiate is that those who insure their properties virtually finance the fire brigade operations. Non-insurers, or those who are under-insured, escape, or partially escape, contributions towards the provision of fire brigades. Further, there are many means of evading the contributions. I will not go into that point but, in checking with the members of the Victorian committee that considered this matter, it was pointed out that some people insure outside the country. It is very difficult to detect this occurrence in relation to fire brigade levies.

I know that in our Fire Brigades Act there is a provision that catches those people who do not insure with local companies. I believe it is well known to most members that there are ways and means of evasion which, once again, place the burden of financing the fire brigade services firmly on those who insure with local companies for the full value of their property. There are inequities in relation to one section of the community financing a public utility.

In our fire brigade services there is also a fragmentation and lack of co-ordination between fire brigades, which has been mentioned by the Hon. Mr Sumner. Steps should be taken to solve these problems fairly quickly, because the situation is deteriorating. The community expects the services of an efficient fire brigade. As with other community services, I believe that the only practical solution is for the community as a whole to pay for those services. For many years the general insurance industry has been trying to persuade Governments (as have other people) that it is unreasonable for a sector of industry to try to act as a collector of the tax levy to support a public utility, especially as a heavy burden of the funding falls on one group of citizens. The major share of the cost of establishing and maintaining fire brigades in the four mainland States is borne by the policy holders of insurance companies. Not only do these people contribute by their insurance premiums but also they contribute again in municipal rates or State taxes.

In this State, only a minor portion of the cost is paid by the State Government and municipal governments, usually about 25 per cent. Thus, those who do not insure their assets contribute only a small percentage and still receive the same benefits. I can cite the method of financing fire brigades in the various States. As I have indicated, Victoria is contemplating change; I believe that Western Australia has already changed; and other States are investigating the position.

In New South Wales, 75 per cent of the cost of metropolitan fire brigades is financed by contributions of insurance companies, 12½ per cent by councils, and 12½ per cent by the State Government. This also applies in Victoria, Queensland, Western Australia (until the change) and South Australia. In Tasmania, 60 per cent is provided by the councils and 40 per cent by the State Government. In the A.C.T., 25 per cent is contributed by councils and 75 per cent by the Commonwealth Government. In the Northern Territory, 100 per cent of the cost of fire brigades is provided by the Commonwealth. One can see that there is a variety of means of financing. In the A.C.T. there is no burden at all on insurance companies. That raises another point, which I believe was mentioned by the Hon. Mr Sumner, that, in regard to Commonwealth property outside the Northern Territory or the A.C.T., the Commonwealth gains very good protection of its property with no contribution whatsoever towards the cost of fire brigades.

The Commonwealth contribution in all States to all brigades was $1 900 000 and the total cost in the Commonwealth was $212 000 000. Therefore, the Commonwealth is contributing about 0.9 per cent of the total cost of fire brigade services, which is rather inadequate in view of the size of the property that the Commonwealth holds, particularly in the major metropolitan cities. The methods by which the insurance companies are assessed, to which I have already referred, vary from State to State.

I support strongly the view expressed by the Hon. Mr Sumner that we need in this State to examine the whole question of fire brigade finance and come down with a more equitable system that bears more equally upon those who benefit from the service. Probably the 'user pays' system should have a bigger bearing on the policy to be adopted. I am concerned that the Bill does not provide for

any advisory board to the Minister, who becomes the corporation under the legislation. It is rather an odd way to go about it, but it is similar to provisions in other Acts of Parliament, where the Minister himself is the corporation.

We are getting rid of the board and making the fire brigade more or less a Government department. The board goes all together, but there is no advisory board, and I believe that, while the insurance companies and local government are contributing 87½ per cent of the total cost of the brigade, at least those who are making that contribution should have some direct access through an advisory board to the Minister.

The Hon. C. J. Sumner: The Minister is going to establish one.

The Hon. R. C. DeGARIS: There is nothing in the Bill about that.

The Hon. C. J. Sumner: He is going to establish a fire services advisory council. That is my point—it is curious that it is not in the Bill.

The Hon. R. C. DeGARIS: While the financing remains as it is, the Bill should contain a necessity or requirement for the Minister to appoint an advisory board of those who are at least contributing to the brigade so that they can get their view across to the Minister under the power of Statute. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

CORONERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 September. Page 973.)

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition will support the second reading of the Bill but, subject to what the Attorney says in his reply, it may wish to move amendments. I do not wish to canvass all the matters in the Bill, and I will refer now to three points. The first is the amendment designed to provide flexibility in fixing the salary of the State Coroner. The provision whereby the State Coroner received a fixed percentage of the salary of a Local Court judge has been found to be inadequate in the circumstances under which the State Coroner was set up as a full-time position. Does the Minister think there is any justification in making the coroner's position equivalent to a Local and District Criminal Court judge? If a person was appointed a judge of the Local and District Criminal Court, then he, too, could act as State Coroner and there could be a rostering system for the position of State Coroner. I do not have any firm views on that, but it may be one way out of the problem for the Attorney.

My second query is about the provision which removes the power of the Coroner to commit for trial. That power was included in the Act in 1975, and now the Attorney seeks to remove it. I would like the Attorney to provide more information to the Council about why this provision is now thought to be unnecessary. I appreciate that it is not used on many occasions.

The Hon. K. T. Griffin: It has been used once in six years.

The Hon. C. J. SUMNER: Perhaps in his reply the Attorney will indicate how many times it has been used. Whatever was involved in 1975, it is legitimate to now ask what has happened in the ensuing six years to make that provision no longer appropriate. I appreciate that the evidentiary procedures relating to the admissibility of evidence and the conduct of the coronial inquiries are different from those of commital proceedings in the Magistrates Court, and I am sure that any coroner who thought that a person ought to be committed for trial would take that into account. I imagine he would commit only in those circumstances where he was happy, on the basis of the evidence that had been presented to him, that a person ought to be committed for trial.

The provision in the Coroners Act does of course have the advantage of doing away with unnecessary duplication. If the Coroner thinks that a person ought to be committed for trial, then there is no need for a procedure of committal in the Magistrates Court. This is a matter upon which I have an open mind at present, but I do not believe that a case has been fully made out by the Attorney-General in the second reading explanation, and I would like additional information, as I have requested.

My third query concerns the proposal to authorise the making of rules relating to the payment of costs of holding an inquest. Clause 9 deals with the making of rules by the Coroner and provides:

> —empower coroners to order the payment of costs in respect of inquests and provide for the recovery of such costs;

The justification given by the Attorney-General was as follows:

> It is envisaged that rules may be made authorising a Coroner to order payment of the costs of an inquest by a party who has requested the inquest or who is likely to obtain some benefit from the holding of the inquest.

As presently advised I am opposed to that clause. I believe that the inquest ought to be held as a public service, in effect.

The Hon. K. T. Griffin: Even if they are fishing expeditions?

The Hon. C. J. SUMNER: The Attorney-General is referring to a situation where an insurance company prompts a person to request a coronial inquiry for the purpose of bolstering the insurance company's case. I appreciate that position. It may be that that can be dealt with in some way by providing that the cost of that inquest ought to be borne by the person who requested it. At the moment I am opposed to the clause but I am subject to argument on it.

The problem that I see is the reverse. Let us take the case of a widow whose husband has been killed in a motor vehicle accident. Her solicitors want to go on a fishing expedition. That is open to that widow at the moment and it may be beneficial to her in terms of her claim to ascertain what happened in the accident that killed her husband—whether it be a road accident or an industrial accident. It would be a retrograde step if that service (which, in effect, it is) for that widow was withdrawn because she could not afford the cost of that inquest. I can imagine that a person placed in that situation would feel very reluctant about requesting an inquest if she thought that the whole cost of that inquiry, including costs incurred by counsel, people representing other parties, police or other witnesses and so on, could be landed at her doorstep. There would therefore be a reluctance on the part of people to request inquests. In some situations that would be a retrograde step.

I am concerned about the general powers which the Government is seeking to include in the Bill. To what costs does it refer? Does it mean that the Coroner can claim for a portion of his salary? Can he say that he spent two of his days on the inquest and that the cost of the inquest ought to include part of his time? Would it include the cost of any scientific or forensic evidence that may have to be produced to the satisfaction of the Coroner? Would it include the costs and legal fees of other parties appearing before the Coroner, for example, if an insurance company requested that a coronial inquiry be held? Would the legal fees of other parties, including a widow appearing before a coroner, have to be met by the insurance company or vice

versa? I believe that the clause is far too broad. If the purpose of it is to order payment of costs of an inquest by someone who has requested that inquest, it is far too all-embracing and could do a disservice to many people in the community. The basic principle I adopt is that a coronial inquiry ought to be carried out if someone in the community requests the Coroner to carry it out.

The Hon. K. T. Griffin: The Coroner has discretionary power as to whether or not he should hold an inquest.

The Hon. C. J. SUMNER: He may have that discretionary power. I appreciate that, but I believe that, if in using his discretion he decides that an inquiry is warranted, the person requesting it ought not to have to pay the costs. Perfectly legitimate requests could be deterred by such a general provision. As I understand it, the Coroner in general will conduct an inquest if requested to do so by a party affected. It is basically a service that the State provides to the community in an often tragic situation where a person has been killed.

They are the three queries that I have. The last one referred to concerns me the most. Subject to what the Attorney-General has to say, I will be moving amendments to deal with the question of costs.

The Hon. L. H. DAVIS secured the adjournment of the debate.

SELECT COMMITTEE ON LOCAL GOVERNMENT BOUNDARIES OF THE CITY OF PORT PIRIE

The House of Assembly intimated that it had agreed to the address to His Excellency the Governor.

ADJOURNMENT

At 6.8 p.m. the Council adjourned until Wednesday 23 September at 2.15 p.m.