

LEGISLATIVE COUNCIL

Monday, July 31, 1972

The PRESIDENT (Hon. Sir Lyell McEwin) took the Chair at 2.15 p.m. and read prayers.

SITTINGS AND BUSINESS

The PRESIDENT: Honourable members will recall that the Council was adjourned on Thursday last until Tuesday, August 1. In the meantime, the honourable Premier requested that both Houses be asked to resume on Monday, July 31, in order to consider urgent legislation in connection with the conservation of fuel in the present crisis. Acting under the provisions of Council Standing Order No. 1 I dispatched urgent telegrams to all honourable members appointing Monday, July 31, as the day for the resumption of the sittings of the Council. The business to be transacted at today's sitting will be as determined by the Council but I think it would be appropriate if I read the relevant House of Commons Standing Order No. 122, paragraph (2), relating to this matter; it is as follows:

The Government business to be transacted on the day on which the House shall so meet shall (subject to the publication of notice thereof in the order paper to be circulated on the day on which the House shall so meet) be such as the Government may appoint, but subject as aforesaid the House shall transact its business as if it had been duly adjourned to the day on which it shall so meet, and any Government Order of the Day and Government notices of motion that may stand on the order book for any day shall be appointed for the day on which the House shall so meet.

Accordingly, the Notice Paper has been reprinted under today's date, and it is for the Council to decide the order of business to be dealt with. I intend to proceed with the normal routine of business of the Council. Has any honourable member a petition to present; any notice of motion; or any question? I call on the business of the day.

ADDRESS IN REPLY

Adjourned debate on motion for adoption.
(Continued from July 27. Page .)

The Hon. A. J. SHARD (Chief Secretary) moved:

That debate on this motion be made an Order of the Day for tomorrow.

Motion carried.

[Sitting suspended from 2.20 to 6.13 p.m.]

LIQUID FUEL (RATIONING) BILL

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

[Sitting suspended from 6.16 to 7.30 p.m.]

The Hon. A. J. SHARD (Chief Secretary):
I move:

That this Bill be now read a second time.

The situation in which this State has found itself in connection with fuel supplies, particularly petrol and distillate, has been so well publicized over the past two or three days as to require little elaboration from me. However, so that honourable members will appreciate the gravity of the position let me say that last Friday evening the total stocks of petrol at the refinery and in oil company installations totalled 792,000gall. of premium grade and 855,000gall. of standard grade. This total of just over 1,500,000gall. of petrol is held for a State of a population of nearly 1,200,000 people in storages with a capacity of 140,000,000gall. which are normally reasonably full. The normal usage of petrol supplied from the refinery and storages in this State is 600,000gall. a day. The stock of distillate last Friday was 2,300,000gall. in the metropolitan area with no significant stocks in country bulk storages. This is about 10 days normal supply in distillate. It is clear then that the situation is really quite desperate and, quite independently of this Bill, the Government is using all the resources at its command to alleviate it.

This Bill deals with a specific aspect of the problem, that is, the conservation of existing fuel supplies. As soon as it was appreciated that our supplies were dangerously low, it was clear that immediate (and I emphasize the word "immediate") steps would have to be taken to ensure that, before Parliament could be called together, the rapidly dwindling fuel supplies in this State were conserved for essential purposes. Last Friday, after consultation with its advisers and with a clear realization of the consequences of the step, the Government decided that a proclamation under the provisions of the Industrial Code relating to the restriction of shopping hours was the only means available to it of holding the situation until appropriate legislative steps could be taken. It is quite clear that aside from certain questions in relation to the efficacy of this proclamation it was practical to apply it only in the metropolitan area. But, as I have said, it was the only step open to the Government to take in these circumstances.

This Bill then has two main objects—first, to deal with certain aspects of the proclamation and, secondly, to provide a system of rationing which it is hoped will, at least, enable the most essential services in this State to continue to operate until the present emergency is solved.

As the nature of the problem emerged over the weekend it became necessary, on more than one occasion, to redefine the meaning of what is an "essential service". The reason for this is quite simple. The State's economic survival depends upon fuel being available to at least some services. The wider the definition of an "essential service", the more fuel will be allocated and the shorter will be the period for which we can reasonably survive. The Government is not unmindful of the fact that many persons and bodies who in ordinary circumstances consider themselves to be performing an essential service have not been allocated fuel under the scheme provided for by the proclamation, nor indeed will they be allocated fuel under the scheme provided in this Act, which is just as limiting as the proclamation but extends throughout the State. It is simply a question of stark arithmetic. The more fuel that is issued from day to day the shorter will be our survival period.

I will now consider the Bill in some detail. Clauses 1 and 2 are formal. Clause 3 sets out certain definitions necessary for the purposes of this Act, of which only one seems to require special comment. This is the definition of "the appointed day". If, as I sincerely hope, this Bill will be enacted into law today, it necessarily follows that people will have committed offences against the Act as a consequence of acts or omissions that occurred this morning, since at law the Act will have been deemed to come into operation at one minute past midnight today. To avoid this situation, references will be made in the Act to events occurring on or after the appointed day and, as it will be noted in the definition, the appointed day will be the day next following the day of the commencement of this Act. Hopefully, this will be tomorrow.

Clause 4 in express terms validates the proclamation. The Government is not unaware that in strict law questions may be raised as to the efficacy of the proclamation of July 28 last. It does not see the problem as a simple one, but it does see it having two aspects, one of which is the question of breaches of the Industrial Code that may have occurred as a consequence of actions taken after the proclamation came into force. There is, however, a much more important aspect of this, and that is how the proclamation may have affected the private rights of the citizens of this State. In the Government's view, this is a more important one and for this reason above all others it has been thought proper that the question of the validity or effect of the proclamation should

be put beyond doubt. Accordingly, clause 4 in terms validates and renders effectual the proclamation as if there had been express power to make it conferred by the Industrial Code. This is not to suggest that in the Government's view the patently irresponsible, even if it is put no higher, conduct of fortunately a few vendors of petrol deserves the greatest disapprobation, and the question of whether or not prosecutions will be undertaken is still under consideration. However, the question of prosecutions is by no means the most important aspect of this question of validation.

Clause 5 revokes the proclamation but preserves anything done under it including, of course, any acts that were by implication validated by clause 4. Again, this goes as much to the private rights (for instance, in the case of contracts and other agreements) of the citizens as to anything else. Clause 6 preserves all permits granted under the proclamation as though they were permits issued under this Act. However, so that the situation can be kept under constant review, these permits will have an effective life until Friday next only. Clause 7 confers on the Minister a wide discretion to issue a permit for the supply of liquid fuel. Although this discretion is wide, honourable members may be assured that, in the circumstances of the emergency, every application for a permit will be examined against the criteria that the Government has established, and is constantly reviewing, for the granting of permits. These criteria have been given wide publicity in official statements made on and since last Friday.

Clause 8 confers on the Minister a power to revoke a permit. This power again is in the discretion of the Minister, and I wish to make it quite clear that it will be used primarily as an instrument to prevent abuses of the permit system. The situation is far too serious to allow the interests of the public of this State to be jeopardized by irresponsible people. Clause 9 relates to an alternative system of providing fuel for essential purposes. The Government has made it clear that those persons who control what are normally known as "industrial pumps" may use what petrol is available to them for their own purposes to ensure that they can continue operations. This will include the provision of petrol to persons who must arrive or depart in essential industries before or after the times at which public transport is operating. The Government confidently expects that people in this class will ensure that fuel is used with proper regard to the situation. Should any question arise

as to any improper use, the power to revoke the authority to sell petrol in these circumstances will have to be brought into play. In these instances, where in the Government's view the industry is of an essential nature these industrial pumps will be recharged, but in other industries operations may continue only as long as present stocks of fuel last.

Clause 10 makes it clear that a person shall not sell liquid fuel to a person other than a permit holder and that the seller shall comply with any conditions set out in the permit. Subclause (2) of this clause relates back to section 9 of this Act. Clause 11 is intended to ensure that liquid fuel supplied under this Act will be used for proper purposes. It may be expected that the provisions of this section will be policed with the utmost stringency. Clause 12 prohibits the person who has obtained fuel under a permit from disposing of it. Clause 13 prohibits a permit holder from lending out his permit. One need hardly add that such an action would immediately result in the revocation of the permit. Clause 14 is intended, amongst other things, to catch persons who attempt to buy fuel on a permit that has been revoked. Clause 15 provides that a person having been issued with a permit must carry it at all appropriate times. Clause 16 closely follows section 42 of the Road Traffic Act, 1961, and is, I think, self-explanatory. Clause 17 provides a substantial penalty for anybody who makes a false statement with a view to obtaining a permit under this Act. Again, such a person may be assured that his permit will be revoked.

Clauses 18 and 19 together give power to the Minister by notice to control the movement of bulk fuel (as defined in clause 18) within the State. They are of particular importance, and it is hoped that it will not be necessary to invoke the powers conferred here, but as a matter of prudence it is felt desirable they should be included. Clause 20 provides that the powers of the Minister may be exercised on his behalf by any person for the time being authorized by him. It is clear that in an exercise of this nature a large number of people will necessarily have responsibilities under the measure. Clause 21 has been inserted following deep consideration by the Government and its advisers. On balance, it is thought that a provision of this nature is necessary. It will leave the Minister and persons administering this Act free to carry out their duties in a responsible manner, without being concerned with the possibility of

future actions against them in the court, actions that may have the effect of freezing badly needed supplies. Clause 22 provides that allegations in respect of the matters set out in paragraphs (a) to (d) of that clause shall be *prima facie* evidence of the matter so alleged. In the circumstances of this measure, it is not thought that the matters contained here are unreasonable.

Clause 23 is intended to ensure that the restrictions on the use of liquid fuel imposed by the Act may be removed as soon as it is possible to do so. In effect, it provides that the restricting provisions may be suspended by proclamation. Subclause (2) provides for the incidents of such a suspension and is intended to ensure that those incidents are as nearly the same as they would be if the provisions were repealed by Statute. It is the Government's view, of course, that these restrictions should remain in operation no longer than is absolutely necessary. Clause 24 increases by \$800 the maximum penalty that can be imposed under the Prices Act for a "black marketing" offence and is intended to indicate the disapproval of the Legislature of such practices, particularly during an emergency of this nature.

As regards clause 25, since the circumstances that gave rise to this measure are somewhat unusual and in many instances the penalties are rather higher than would be usual in offences of this nature, it has been thought desirable to provide that no prosecution shall be commenced without the consent of the Attorney-General. Honourable members are no doubt familiar with a provision of this nature that appears in other Acts of this State. Clause 26 provides that any liquid fuel in relation to which an offence has been committed shall be forfeited to the Crown. Clause 27 is a standard provision in many Bills and provides for disposition of offences summarily. Clause 28 gives a very wide regulation-making power expressed in quite general terms. In the nature of things, any regulations made under this Act would be subject to the scrutiny of this Council. It is not clear whether or not any regulations will in fact be required, but the provision has been included from an abundance of caution. Clause 29 provides that the legislation will expire on August 31, 1972.

The Hon. R. C. DeGARIS (Leader of the Opposition): I support the second reading of this Bill. Because there is no need for a lengthy debate on this matter, I shall make the points that need to be made as quickly as

possible. There is little to be gained by criticizing the action or inaction of the Government in this matter. Many aspects of the history leading to this Bill could be discussed in this Council. However, I believe that over-emphasis of those aspects should be avoided; we are here to discuss a Bill and ensure that that Bill carries out the Government's intention and, at the same time, ensure that the ordinary rights of citizens are protected.

As the Chief Secretary said in his second reading explanation, last Friday evening the stocks of petrol at the refinery and in oil company installations totalled about 800,000gall. of premium grade and about 850,000gall. of standard grade. This total of just over 1,500,000gall. of petrol is held for a State with a population of nearly 1,200,000; the petrol is held in storages with a capacity of 140,000,000gall., and those storages are usually reasonably full. The normal rate of usage of petrol supplied from the refinery and storages in this State is 600,000gall. a day. The stock of distillate last Friday was 2,300,000gall. in the metropolitan area, with no significant stocks in country bulk storages. This is about 10 days normal supply of distillate.

Today's announcement that the employees at the Port Stanvac refinery will be returning to work is encouraging. I believe that supplies of about 20 days crude oil are at present stored in the refinery, and a tanker is awaiting discharge. The Port Stanvac refinery supplies between 60 per cent and 70 per cent of South Australia's needs of petrol, so it can be seen that, if that refinery is operating, minimal rationing will be necessary in South Australia. I believe that Broken Hill and the Northern Territory draw their fuel supplies from South Australia, but this point was not dealt with in the second reading explanation. Although I do not think it is a vital point in any way, can the Chief Secretary say what the situation is in relation to supplies for Broken Hill and the Northern Territory?

I believe that this morning the Government issued a request (and I emphasize that it was a request) to South Australian petrol retailers that all lubricating oils, diesel fuels, lighting kerosene and furnace oil should be frozen. I daresay that this Bill does a similar thing, but it seems a little unnecessary that those fuels and lubricants should be frozen in the same way as petrol and distillate are. It appears that, in making that request, the Government may have over-reacted to the situation. Can the Chief Secretary say whether the Gov-

ernment has asked the oil companies to rebate rentals to service station operators who find themselves in difficulties as a result of the strike? I do not know whether the Government has discussed this question, nor do I know whether the Government has framed a policy on it.

At about 12.45 p.m. today the Government afforded me the opportunity of looking at the Bill prior to its introduction in the Council, and I thank the Government for the courtesy it extended in this regard. I think we all appreciate that in a situation like this, where the Government requires that legislation be dealt with urgently, it assists greatly if one can get some knowledge of the Bill before it is introduced. My first reaction to the Bill when it was shown to me was to query some of its provisions that I thought probably went beyond reasonable limits. First, the Bill prescribed no date of termination, which I believe is essential in a Bill being hurriedly pushed through the Council; however, I am not criticizing the Government for its wanting the Bill dealt with quickly.

The inclusion of a termination date in the Bill would allow us probably to accept some provisions to which we might otherwise strongly object. We can accept some loss of the rights of individuals during a crisis, but the powers involved should be terminated immediately the crisis is over. If the Government requires the powers to continue, it should bring back to Parliament a request for their continuation, and Parliament should have the right to reject or approve that continuation. Since I first read the Bill early this afternoon, the House of Assembly has amended it by inserting clause 29, which provides that the legislation will expire on August 31; I am pleased to see that provision.

The next matter that I wish to emphasize strongly is the possible prosecution of those who did not obey the Government's original proclamation. In his second reading explanation the Chief Secretary dealt with this point in connection with clause 4. He stated:

This is not to suggest that in the Government's view the patently irresponsible, even if it is put no higher, conduct of fortunately a few vendors of petrol deserves the greatest disapprobation, and the question of whether prosecutions will be undertaken is still under consideration. However, the question of prosecutions is by no means the most important aspect of this question of validation.

The Bill, under one clause, validates the proclamation made last Friday but then, under the next clause, virtually revokes that proclamation. That the Bill validates the proclamation

may create an injustice concerning some people in the community, irrespective of what members may think about the actions of those people.

The Hon. T. M. Casey: Do you condone those actions?

The Hon. R. C. DeGARIS: It is not a matter of condoning actions at all; the Minister of Agriculture has totally missed the point. A person who believes he is acting within the law suddenly finds that legislation is passed and that a proclamation, which may not have been valid, has been validated.

The Hon. Sir Arthur Rymill: Retrospectively.

The Hon. R. C. DeGARIS: Yes. This is the point one must consider.

The Hon. C. R. Story: In all probability, he is acting within the law.

The Hon. R. C. DeGARIS: That could be so. I said that he may or may not be acting within the law; that does not matter. But to validate something after the proclamation has been issued, and to make sure that the person concerned can be prosecuted, irrespective of whether or not he was breaking the law at the time, creates an irregular situation. I fully appreciate the fact concerning private rights, and perhaps that is the main reason why the Government has included this provision. Clause 4 validates the proclamation, and clause 5 revokes it. A person who obeyed the proclamation, which itself was not valid, might be sued for damages because he did not fulfil a contract. Therefore, it is necessary that the proclamation be validated for the protection of such a person.

But I am concerned about the possibility of someone being prosecuted who believed he was acting within the law and who suddenly found that, as a result of this validation, he had committed a breach of the law. Although I intended to move an amendment in this regard (that amendment is not drafted), I now consider that there is an easier way to solve this problem. I seek an assurance from the Chief Secretary that no prosecution will be undertaken against a person who disobeyed the proclamation, provided that this measure shall be deemed not to validate such prosecution. If the proclamation issued last Friday was valid, I would have no wish to protect a person who broke the law in that regard; but, if it was not a valid proclamation, I believe no action should be taken against the person concerned, simply because this Bill validates that proclamation.

The Hon. A. M. Whyte: A person should not be prosecuted in retrospect.

The Hon. R. C. DeGARIS: That is so, if he committed a breach of the law.

The Hon. Sir Arthur Rymill: Unless he broke the law as it then stood.

The Hon. R. C. DeGARIS: That is right. If a person broke the law as it stood, I would have no wish to protect him but, if he did not break the law, I do not believe that a validation—

The Hon. A. J. Shard: You are saying that, if a prosecution is launched against a person who contravened the proclamation, the prosecution should be on that basis and not because this Bill validates it?

The Hon. R. C. DeGARIS: That is right. I have no wish to protect a person if he is guilty but, if the original proclamation was invalid, I believe that he should not be prosecuted under this Bill validating as it does, that proclamation. This could be covered by an amendment but, knowing the Chief Secretary to be an honourable man, I am willing to accept an undertaking from him on this basis.

The Hon. G. J. Gilfillan: The fine is heavier under this Bill than under the proclamation.

The Hon. R. C. DeGARIS: True. If the Chief Secretary acknowledged that no prosecutions would be launched if the proclamation was invalid, that would suit my purpose excellently. There is a problem here that—

The Hon. A. J. Shard: It is not an easy one to solve.

The Hon. R. C. DeGARIS: I fully appreciate the difficulty. This Bill will not come into operation probably until one minute past 12 tomorrow and, even though in the intervening four hours people got to know that no prosecutions would be launched until that time, I do not think the State's fuel supplies would be greatly depleted, so I think the Government is quite safe in this regard. Clause 11 restricts the use of liquid fuel, subclause (1) providing:

A permit holder who has been sold liquid fuel under a permit shall not, on or after the appointed day, use that liquid fuel for a purpose other than the purpose referred to in that permit or for a purpose necessarily incidental to that purpose. Penalty: One thousand dollars.

As was pointed out by the Hon. Mr. Gilfillan by way of interjection, the penalties here are considerably higher than those provided in the proclamation: \$1,000 is a heavy penalty but

the clause provides a reverse onus of proof. Subclause (3) provides:

In proceedings for an offence that is a contravention of subsection (1) or subsection (2) of this section it shall lie upon the defendant to prove that the purpose for which the liquid fuel was used was a purpose referred to in the permit or a purpose necessarily incidental to that purpose or, as the case may be, a purpose for which the fuel was sold or delivered under an authorization or a purpose necessarily incidental to that purpose.

This clause provides a high penalty of \$1,000, and also a reverse onus of proof. Although I realize that it deals specifically with the matter of permits and the use of fuel under them, I can envisage several instances in which it may be extremely difficult for a person to prove that he was using fuel for an acceptable purpose. I believe that we should seriously question the wisdom of providing that a person charged under this clause must prove his innocence or suffer a penalty of \$1,000. Having drawn attention to this matter, I leave it to other members to express their views on it.

Clause 16 also deals with the power of the police to stop a vehicle and ask the driver questions. When I first looked at this provision, I was somewhat perturbed about it until I realized that it was in almost identical terms to section 42 of the Road Traffic Act. Although that section is somewhat restricted in its application, the provision in this Bill goes almost all the way with regard to questioning about the use of liquid fuels. However, now that a termination date has been included in the Bill, I am prepared to accept this provision. Had it not been for the termination provision, I might have taken this point more strongly. I have the same views with regard to clause 21. I know that this clause was inserted after much consideration by the Government. I draw attention to this provision because it leaves the Minister or persons administering the legislation free to carry out their duties without being concerned that court actions may be taken in relation to Government decisions with regard to the freezing of supplies.

Again in this instance had the termination date not been included in the legislation I would have queried this clause strongly. In a situation such as this, I can foresee the possibility of an injunction being taken out against the Minister or persons authorized to administer the legislation, and in the short period that the legislation will operate much havoc could face the Government as it tries

to deal with a difficult situation. Therefore, I am prepared to accept this clause, bearing in mind that the new termination clause has been included.

By clause 24, the maximum penalty that could be imposed under the Prices Act has been increased from \$200 to \$1,000. This clause deals with profiteering. I do not think anyone would object to a maximum of \$1,000 where a person is guilty of profiteering or, to use an old war-time term, black marketing with regard to fuel supplies. I heartily support the high penalty in this case. However, I again draw attention to the other provisions in the Bill where a reverse onus of proof applies; I think we should consider that matter carefully. I should like the Chief Secretary to say how permits will be issued in country areas. One thinks of councils and police stations in this regard.

The Hon. A. J. Shard: Police stations.

The Hon. R. C. DeGARIS: I am also interested in the future of country supplies. Although I do not know whether this is so, I have heard that supplies that existed in country areas have already been moved to the metropolitan area. Other members may have questions to raise. I am pleased that the terminating date has been included in the Bill, as this is the most important amendment I would have suggested. It is also important that the validation of the proclamation of last Friday be clarified in relation to possible prosecutions. The only other query I have is in respect of the onus of proof provision in clause 11, which also provides for a high penalty of \$1,000. I support the second reading.

The Hon. G. J. GILFILLAN (Northern): I support the Bill with feelings similar to those expressed by the Hon. Mr. DeGaris. We realize that we have a crisis with regard to the fuel position in the State. This crisis has probably been heightened by many of the public news releases made during the last few days. Until the latter part of last week there did not appear to be any panic buying, but we have now reached the position where some type of control seems desirable in the best interests of the State. Like the Hon. Mr. DeGaris, I believe that the clauses that deal with the proclamation should be treated with some caution. The Government is probably being wise in protecting itself against claims for damages that could occur if the proclamation were proved to be invalid. For that reason, I do not oppose the retrospectivity provisions in the Bill. I,

too, would like an assurance from the Government that those people who contravened the proclamation, perhaps in good faith having taken legal advice, will not be prosecuted if the proclamation is legally invalid. I agree that from this point on anyone who commits a breach of these provisions should be liable to prosecution. However, those who have contravened the provisions up until this time but who have perhaps not been legally responsible (if the proclamation is invalid) should not be prosecuted. I will accept an undertaking from the Government on this point.

In many cases, service station proprietors throughout the State have rationed their petrol over the last few days, providing only regular customers with limited supplies, and they now have large stocks at their stations. These stocks may cost money to remove if they are removed to some other area. As I see it, the Bill does not provide for this, except that perhaps this will be provided for in regulations, which may take some time to frame. To my mind, there is an anomaly, in that these people have paid for their petrol and have paid the tax due on it. Not only are their sales restricted but many of them are also carrying fairly heavy overdrafts in many cases, and I hope that the Government will consider this point.

I am not advocating acquisition, but I heard one service station proprietor say that, if his stocks were frozen, he would suffer severe financial embarrassment and that it would be much better if the petrol were acquired and he were paid for it. I believe that the point raised by the Hon. Mr. DeGaris regarding the issuing of permits in country districts is valid. I understood that the Chief Secretary interjected, saying that this would be done by councils.

The Hon. A. J. Shard: No, at police stations.

The Hon. G. J. GILFILLAN: Yes. All these things take time to set in motion and we are at a time of year when seasonal conditions throughout much of the State are critical. Anyone who is short of fuel will need it quite seriously. It is needed for seeding operations, hand-feeding of stock, and this type of work, but particularly in the hand-feeding of stock. We have just come through a drought period, with opening rains and a very late season, and stock will not survive unless they receive sufficient attention. This brings me back to one of my serious objections to the Bill, namely, the provision regarding the onus

of proof, which has been raised by the Hon. Mr. DeGaris. This is in clause 11, which provides:

(3) In proceedings for an offence that is a contravention of subsection (1) or subsection (2) of this section it shall lie upon the defendant to prove that the purpose for which the liquid fuel was used was a purpose referred to in the permit or a purpose necessarily incidental to that purpose or, as the case may be, a purpose for which the fuel was sold or delivered under an authorization or a purpose necessarily incidental to that purpose.

Many members in this Chamber have had experience of fuel rationing, and, in any enterprise where there is a multiple use of fuel, it is impossible to say explicitly where specific gallons of fuel have been used. The petrol, which may cover several usages, undoubtedly will be put into one container and used from there. I speak from experience as a person with a rural background, and on a property at present we could find a variety of operations being carried out. We could find seeding operations in progress, where a truck is used to cart seed to the paddock. The tractor may or may not be started with petrol, depending on what fuel it uses. There could be a stationary engine pumping water, and petrol could be used to hand-feed stock at the same time.

I imagine that this applies to many business enterprises where there are many different usages of fuel. To put the onus of proof on a defendant to show that fuel was used for the purposes for which it was allocated is quite unfair when such a heavy fine as \$1,000 is provided. Surely the real test of this legislation will not be how the person is using the fuel but how it is allocated. If he can prove his need and satisfy the person to whom he applies that the fuel is necessary, that should be all that is necessary.

If there is reason to believe that he has abused the privilege, surely it is open to the police to investigate. This is allowed for widely in a subsequent clause and surely this should be sufficient, without having to put the onus of proof back on the defendant. I consider that is distasteful in any Bill, particularly where it is difficult to prove that a person has not used the fuel for that purpose and where such a substantial fine is involved.

I wish to refer to one or two other matters that are probably not related to the Bill directly but are related indirectly. One is the availability of fuel supplies in future. I am pleased that the Government has accepted the amendment moved in the House of Assembly to provide for the period of operation of this Bill to

be limited to until the end of August. I know that Parliament can extend its operation in the present session if that is necessary, and I consider that what has been done overcomes some of the objections that Parliament can have in dealing in such a short time with a Bill with such massive penalties.

Much depends on the goodwill of many people and the return to work of those employed in the refineries. I hope that these difficulties will be resolved, that the refineries will come into full production, and that no discrimination will be made between oil companies. I have no interest in any oil company other than as a consumer but I think it would be most unfair if employees of one company received continuity of employment whilst employees of another were laid off. I consider that that would be a most unfortunate reflection on the efforts being made by many parties, including this Parliament, to get the State back on its feet again regarding fuel supplies. I support the Bill in principle but retain the right to speak on some clauses in Committee.

The Hon. C. M. HILL (Central No. 2): Some of the people who sold petrol on Saturday, according to newspaper reports, came from the district in which I serve, and I think I would be lacking in my duty if I did not raise their voice in this Council and further emphasize the point that previous speakers have made, namely, that clarification is required about the Government's intentions concerning possible prosecutions against such people. These people believed that they were acting within the law in selling petrol as they did, and they proceeded, which was their right in those circumstances.

In their opinion, they were acting within the law, and I look forward with interest to what the Government says about whether it intends to proceed with prosecutions against such people. My view of this legislation will hinge on that point.

The Hon. C. R. Story: If it does not proceed, it is not happy about the law at the moment.

The Hon. F. J. Potter: If it does proceed, it is likely to get costs against it.

The PRESIDENT: Order!

The Hon. C. M. HILL: That is right. Apparently, while these sales were being made there was considerable criticism of the Government over the way in which it had handled this whole affair. The criticism was made by not only those selling petrol but also those who were at the stations. Throughout the metropolitan area, generally speaking, there has been considerable criticism of the Government about

the way it has handled this whole affair, and much of this criticism has been justified.

The history of the present Government Party regarding the motorist of the State over the past four or five years justifies such criticism. About 4½ years ago the Metropolitan Adelaide Transportation Study plan was released; the present Government, then in Opposition, was most critical about the plan, and particularly about the freeway and the general road schemes within it.

By criticizing these parts of the plan, it was criticizing the right of the motorist to be given reasonable facilities for what he paid to the Government for his right and privilege of using a motor vehicle. Time and time again over a period of two years we heard from the Government, when in Opposition, very vocal criticism of the freeway plan and road plans generally.

The motorist who listened to that criticism, understandably thought to himself, "I am not very happy about this Party because of its attitude towards me as a motorist." What did the present Government do when it came to office? Not only intent on increasing general taxation in its first year in office by 25 per cent (compared to an 11 per cent increase in the previous year imposed by the previous Government), the Government also taxed the motorist by increasing licence fees.

The PRESIDENT: Order! I point out to the honourable member that the Bill deals with fuel supplies rather than with transport control or any other measure.

The Hon. C. M. HILL: Thank you, Mr. President. I was simply trying to give the history of the complaints one has heard in the last few days by motorists generally in the State towards the Government's attitude to them. I think it is completely justified, because recently motorists have been saying, "Where is the Government's advanced planning that we have heard about? Why has the Government suddenly found that the total storage facilities for premium and standard petrol in the State have been reduced to less than 2 per cent of capacity?" This, in effect, is why we have the Bill now before us.

Last Friday, the Government was forced to face up to this crisis. Last week in the Legislature warnings were given about the urgency of the position. On my reckoning based on the Chief Secretary's figures given a moment ago, only 1.07 per cent of total storage capacity was being used. Surely that is a reflection on the Government.

I am seeking on behalf of the motorists, whose voices one can hear if one goes out into

the streets of the city and suburbs, not only an assurance on what will happen regarding possible prosecutions and the names and addresses the police, on behalf of the Government, obtained over the weekend but also an assurance that a similar state of affairs will not happen again during the term of the present Government. Surely that is not an unreasonable assurance to seek.

If there is further industrial strife (and only an optimist would not expect further industrial strife soon) it is reasonable to say that the same position could recur. To what extent in the future will the Government allow our petrol supplies to be depleted before it acts in a way comparable to the way it is acting on this occasion?

The Hon. M. B. Cameron: Perhaps the Government can get someone to make a verbal report on this matter.

The Hon. C. M. HILL: Unfortunately this matter is not in the hands of the Minister of Agriculture, so we are unlikely to hear of any verbal reports. The Government prides itself on its advanced planning. It has appointed boards and committees in the realm of commerce and industry to ensure that—

The Hon. A. J. Shard: What clause refers to that?

The Hon. C. M. HILL: If the Chief Secretary is trying to avoid giving an assurance to the Council that the Government will not allow a repetition of the present position, he will have to say so. People want an assurance that a similar state of affairs will not be repeated. I hope that the Chief Secretary will be pleased to give such an assurance and that all the planning, about which we have heard from the Government, will stand up when the crunch comes, as it came on this occasion. It should not happen again.

I will listen with interest to what is said about potential prosecutions. If the Government will assure Parliament that it will safeguard fuel supplies in the event of any future industrial trouble so that this state of affairs will not be repeated, it may make up a little of the ground it has lost throughout the State over the last few days.

The Hon. R. A. GEDDES (Northern): We are having an interesting debate on this legislation. It is interesting to note that Australian oil companies have been able to supply fuel during so many weeks of the crisis. I was interested to hear in the second reading explanation that the normal storage capacity for fuel supplies in South Australia was about 140,000,000gall. The capital outlay for the

storage tanks must be considerable. These tanks were built over many years, and their existence shows the great degree of independence and initiative possessed by the various oil companies in maintaining a continuity of supply. I make that point, because many Government members and members of the Opposition in the Commonwealth Parliament are maligning the oil companies for their actions.

The Hon. M. B. Cameron: Playing politics!

The Hon. R. A. GEDDES: Yes. If this huge storage had not been available, think what the consequences might have been. The second reading explanation states:

Clause 6 preserves all permits granted under the proclamation as if they were permits issued under this Act. However, so that the situation can be kept under constant review, these permits will have an effective life until Friday next only.

I realize there are problems about the proclamation and that perhaps too many permits have been issued. However, must a doctor or the holder of an ambulance permit, and what I term the holder of a V.I.P. permit, go back and stand in a queue before next Friday to re-equip himself with a permit in order to carry on in his job?

The Hon. T. M. Casey: I think the A.M.A. is handling the matter for doctors.

The Hon. R. A. GEDDES: I have been told that the A.M.A. will not handle doctors' permits from now on and, although it is not impeccable, my authority is fairly accurate. Not only doctors but also members of the nursing profession and other similar types of people should surely be able to obtain quicker endorsement than that to which the Minister referred in his second reading explanation. Although I gather from what the Minister has said by interjection that the Police Force will be responsible for issuing permits in country areas, I ask that consideration be given to other, proper types of people in the country who need permits. As the Minister of Agriculture would realize, many housewives, farmers and property holders are unable to get public transport to obtain their milk, bread and other commodities and must travel a reasonable distance to do so. Although many people have stocks of fuel on their properties others (perhaps pensioners, of whom I could mention many in my district) live five or six miles from a town and have no fuel on their blocks. These people will be faced with a serious problem if they cannot obtain fuel to go to the doctor or to pick up their mail each week. I therefore suggest that more

reasonable consideration be given to these types of people who will be in need.

The Hon. M. B. CAMERON: They might not have a police station nearby.

The Hon. R. A. GEDDES: That is possible. I think all members representing country districts are aware of the problem the Police Department has had in maintaining police stations in some country areas. However, there are ways and means of overcoming this problem. Let us not be so dogmatic as to provide that only those who deliver milk or perishable goods in the country will receive permits. The Leader of the Opposition referred to clause 11 and to the problems of the onus of proof. I put to the Government the problems facing stock transporters, many of whom carry fat lambs, which, the Government would realize, are perishable. When a carrier brings his stock to the abattoirs, he might on the return journey call in on various property owners to ascertain whether they will have stock ready for cartage in a couple of days. He therefore carries stock from point A to point B and vice versa. Can the Minister say what will happen if such a person who has digressed from his route is asked by the police why he has digressed?

The Hon. A. J. SHARD: I can only say that that is splitting hairs.

The Hon. R. A. GEDDES: If the Chief Secretary considers that I am splitting hairs, he can show me when the Bill is in Committee where I am doing so. In his second reading explanation the Minister said that clause 11 was intended to ensure that liquid fuel supplied under the Act would be used for proper purposes, and that it could be anticipated that the provisions of this clause would be policed with the utmost stringency. If I am splitting hairs, let us ensure that the hairs are properly split so that honourable members can understand where they are going. I support the contention made by other honourable members regarding the onus of proof. I support the second reading and I hope that by August 31, when the legislation is repealed, we will see the last of this type of industrial unrest caused by a mass Australia-wide slowdown resulting in an enormous waste of manpower and money.

The Hon. A. M. WHYTE (Northern): I support the Bill, although I do not support the reason why such a situation has arisen. Nor do I agree that the diplomacy with which the Bill was introduced was all that could be desired. However, previous speakers have already touched on this aspect. When the

Government introduces legislation, part of which is good and part of which I believe is necessary, I will assist to have that legislation passed. I am concerned about two points, the first of which relates to the transport of livestock, to which the honourable Mr. Geddes has already referred. Permits to handle stock were a matter of controversy when similar legislation was enacted just after the Second World War. The honourable member was trying not to split hairs but to alert the Minister to the fact that these anomalies do arise and can cause much inconvenience, and that they should therefore be viewed objectively with a view to ensuring that they can be coped with.

Clause 20 gives the Minister power to authorize any person to act on his behalf. It was stated by interjection, not by the Chief Secretary in his second reading explanation, that authority for distributing permits would rest with the police. I do not think this is a wise move, as local councils would be a more efficient organization to handle permits. I say this, first, because the police do not know of the activities of all residents in a certain area, or whether they need permits for carting water, hand feeding stock or other functions for which a permit may be desired. All the necessary rigmarole to obtain a permit from a new policeman in an area could be overcome by councils, which understand the position and know each resident in the district.

On the one hand we are asking the police to issue permits, and on the other hand we are asking them to police the provisions of the Act. Therefore, in some one-man police stations the policeman would have to decide whether to prosecute someone for breaking the law or to stay in his office and issue the necessary permits. Local councils would be better equipped to perform this function.

The Hon. C. M. HILL: I don't think they trust local government.

The Hon. D. H. L. BANFIELD: We have seen that previous Ministers had some doubt about these things.

The Hon. A. M. WHYTE: Regardless of Ministers, there are some very responsible people in local government, and I believe they would be the most fitting people to do this. This is a crisis, as everyone tells us. Therefore, we should do the very best with this legislation. I hope the Government takes heed of and considers what I have suggested. I have one further point. I have heard that already stocks of fuel are being withdrawn from the country. That would be a stupid step to take because,

if all the country supplies were brought into the city, they would not make the wheels of industry turn for more than one day.

The Hon. D. H. L. Banfield: Can you name one place where that has happened?

The Hon. A. M. WHYTE: Yes, I can.

The Hon. D. H. L. Banfield: Well, do so.

The Hon. A. M. WHYTE: Already stocks have been withdrawn from Kadina. I believe it is a step in the wrong direction, because the country supplies will be needed in the country. They will keep that portion of the community and the industry to which it subscribes working for some time.

The Hon. T. M. Casey: Were all the stocks withdrawn from Kadina?

The Hon. A. M. WHYTE: Only one company did so, I believe.

The Hon. T. M. Casey: Then there is still plenty of fuel left in Kadina, is there?

The Hon. A. M. WHYTE: I do not know about that. My point, without being interrogated—

The Hon. D. H. L. Banfield: You are making the accusation, you know.

The Hon. A. M. WHYTE: —is that such stocks should not be withdrawn from the country.

The Hon. D. H. L. Banfield: Were they withdrawn on Government instructions?

The Hon. A. M. WHYTE: I would not know.

The Hon. D. H. L. Banfield: Well, that is what you are implying.

The Hon. A. M. WHYTE: I am not. From what I was saying, the inference was drawn that that was what the Government was doing.

The Hon. D. H. L. Banfield: That is what you implied.

The Hon. A. M. WHYTE: It is not. I merely said that petrol had been withdrawn from the country. If the honourable member draws the inference that it was because of Government instructions, that is his business. I believe it would be a retrograde step to have country supplies withdrawn to the metropolitan area.

The Hon. D. H. L. Banfield: The Government has issued no instructions to that effect.

The Hon. A. M. WHYTE: I hope it did not.

The Hon. D. H. L. Banfield: You said it did, in effect.

The Hon. A. M. WHYTE: No.

The Hon. C. M. Hill: He did not say that at all.

The Hon. A. M. WHYTE: I hope the Government will issue some sort of instruction

that this shall not happen. I think I have put my points as clearly as I can. I may have something further to say later. Perhaps the Chief Secretary will be good enough to let me know the Government's attitude to the suggestions I have made. I support the Bill.

The Hon. A. J. SHARD (Chief Secretary): I thank honourable members for their attention to this Bill. I do not want to play politics on this matter or we shall be here until midnight—and I know who would win. As I understand it, the main bone of contention is clause 4. An undertaking was sought from the Government that there would be no prosecutions either under the proclamation or under this Bill. I think I could sum it up in a few words if I said that the Leader wanted an undertaking that, if a prosecution was launched for breach of the proclamation, it would stand on the proclamation and have nothing to do with this Bill.

The Hon. R. C. DeGaris: That's right.

The Hon. A. J. SHARD: I have looked at that with some of my colleagues, and I consider that we cannot as a Government give that undertaking. It is necessary to leave the Bill as it is to protect those people under contracts who have obeyed the proclamation and put the welfare of the State above their personal interests.

If we were to omit this clause from the Bill, the people would have no protection. Also, we do not want to create the impression, which is far from the truth, that we were playing around and were introducing this Bill only as a stop-gap. The Government thought, and still thinks, that, when the Governor issued the proclamation, the Government was acting quite legally. To give a promise now that there will not be any prosecutions under the proclamation would be telling the public, in effect, that we were only funning. We were not: we were serious. We believed we were right, and we still think we are right. Despite what has been said in this debate, we believe that the clause should remain in its entirety.

The next point was what was happening regarding Broken Hill and the Northern Territory. I have had some inquiries made. So far, since the proclamation was issued, no petroleum has been sent to Broken Hill or the Northern Territory. I understand that negotiations are proceeding with a company in another State and we hope that some petrol will come to this State in the next day or so, and some of that will be sent to Broken Hill and the Northern

Territory. The Hon. Mr. Gilfillan was concerned about petrol stations. An overabundance of petrol is not stored in the tanks of the various petrol stations, and the Government does not intend to have that petrol transferred elsewhere. Government officials are negotiating with the oil companies (I do not know whether "compensation" is the correct word to use here) to assist the petrol station owners over their financial difficulties—with what success or hope I do not know. The process used here will be negotiation.

Another main point mentioned was the distribution of permits in the country. The Government committee has decided that they will be issued through police stations. However, some ears were listening this evening to what was being said in this Chamber about permits being issued through local government. I am prepared to talk with the committee on behalf of the Government tomorrow morning and have discussions with it to see whether, particularly where there is no reasonable size police station, it may be possible for local government to be used. If I have omitted to answer any question or point raised, I will endeavour to give a reply in Committee, to the best of my ability. Again, I thank honourable members for their attention to the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Validation of the proclamation."

The Hon. R. C. DeGARIS (Leader of the Opposition): As I have an amendment that is not ready, I ask that consideration of this clause be deferred.

Consideration of clause 4 deferred.

Clause 5 passed.

Clause 6—"Expiration of certain permits."

The Hon. R. A. GEDDES: Can the Chief Secretary say what plans are being made for doctors and other busy people who have to renew their permits by Friday? Will it be necessary for them to go to Adelaide and queue up for permits?

The Hon. A. J. SHARD (Chief Secretary): I believe that doctors may now apply for permits directly to the Australian Medical Association.

The Hon. C. R. STORY: Has the Chief Secretary any foundation for his belief that the A.M.A. is implementing the system to which he refers? Can he say whether those nurses who have to use motor cars are being provided for?

The Hon. A. J. SHARD: I assure the honourable member that the permit system that I

described in relation to doctors is operating. I believe that permits are not issued to nurses who can get to and from work by public transport, but those who are on shift work and need petrol can get it either under the permit system or from the bulk store at their place of employment.

The Hon. C. R. STORY: I am greatly interested in the need for petrol of district nurses, who play a tremendously important part in catering for geriatric patients in those patients' own homes.

The Hon. F. J. Potter: That service is even more important than Meals on Wheels.

The Hon. C. R. STORY: Yes.

The Hon. V. G. SPRINGETT: What about the District and Bush Nursing Society?

The Hon. C. M. HILL: One of my constituents, an accountant for a private hospital, telephoned me yesterday to say that, of the 23 patients at the hospital, 17 needed intensive care; further, the nurses there were in real trouble in regard to petrol supplies. It may well be that since that telephone conversation the Government has made arrangements that cover the position adequately. Of course, I realize that it is not possible to supply petrol to everyone who says he needs it. However, the nurses at the hospital I referred to have an urgent and genuine case for help, and I hope that they will be given every consideration.

The Hon. A. J. SHARD: Honourable members need not worry about such matters, because, generally speaking, the whole nursing situation is covered. The D.B.N.S. has been issued with a special permit that will provide it with a quantity of petrol sufficient to keep its nurses on the road.

Clause passed.

Clauses 7 to 10 passed.

Clause 11—"Liquid fuel—restriction on use."

The Hon. R. C. DeGARIS: Subclause (3) provides that the onus of proof shall lie on a person charged with an offence under subclause (1), which carries the high penalty of \$1,000. Other honourable members have drawn the Government's attention to this matter, but I am still not convinced that it is necessary in this situation to require a person to prove his innocence. Other honourable members have said that it could lead to a gross miscarriage of justice. Consequently, I believe that subclause (3) is unnecessary, although I realize that the Bill now provides for a termination date. Nevertheless, a person could be affected adversely by the provision.

The Hon. A. J. SHARD: The Government treats this clause seriously. If a person has a permit but cannot prove the use for which it was issued, he deserves to be dealt with accordingly. We do not think that \$1,000 is too big a fine. If a person secures a permit to do a specific job and does that job, he has nothing to fear. However, if he abuses the permit, he must prove that what he has done is proper in the circumstances. This is a time of crisis, when we are trying to save everything we can and, if we are going to let off lightly people who come out and say, "We'll defy the Government," we have to have a provision such as this to act as a deterrent, and that is why the provision exists.

The Hon. Sir ARTHUR RYMILL: I do not think that what the Chief Secretary has just said gets the point made by the Leader. If it is alleged that the fuel is not used for the purpose referred to in the permit and the defendant cannot prove that the allegation is wrong, he is liable for up to \$1,000. There are grey areas, as they are known these days, in the use of fuel, and the Hon. Mr. Geddes and the Leader of the Opposition both referred to this point.

The Hon. T. M. Casey: You are referring to the person in rural industry who is using fuel on his property for various purposes.

The Hon. Sir ARTHUR RYMILL: I am referring to the onus of proof.

The Hon. T. M. Casey: The Hon. Mr. Geddes has referred to the person in rural industry who uses fuel on the property for many things.

The CHAIRMAN: Order! I think we had better allow members to make their own speeches. The Hon. Sir Arthur Rymill.

The Hon. Sir ARTHUR RYMILL: I have no wish to converse with the Minister of Agriculture at this stage, although I am always happy to hear what he has to say.

The Hon. T. M. Casey: I'm only trying to find out what you're arguing about.

The Hon. Sir ARTHUR RYMILL: The onus is put on the defendant, and this is opposed to all principles of British justice.

The Hon. A. J. Shard: Not all.

The Hon. Sir ARTHUR RYMILL: In this case, it is not on the Crown to prove that the person concerned is guilty. This is all right when things are black or white and the situation involves matters than can definitely be proved. However, under this clause, if there is an allegation in the proceedings that the

defendant used fuel for purposes for which he was not permitted to use it, and if he cannot prove that he used the fuel for the purposes for which he was given the permit, he is guilty of an offence. This is not just a question of explicit fact: it is a question of various mutations that can creep into the use of this fuel in the very way concerning which the permit is given. This being the case, it is unfair for the defendant to have to prove that he is not guilty when there are certain cases of use concerning which I think it would probably be impossible for him to prove this.

The general onus of proof in criminal actions, which this involves, is on the prosecution, and it is not merely a matter of proving that, more likely than not, the defendant used the fuel in the wrong way: the Crown has to prove beyond reasonable doubt that the defendant used the fuel in the wrong way. This provision does not merely reduce the Crown's onus to proving the matter on the balance of probabilities: it puts the onus on the defendant to prove that he did not use the fuel otherwise than pursuant to the permit. I visualize (and again instance what both the Leader and the Hon. Mr. Geddes said) cases where it would be impossible for anyone to prove this. There are grey areas of use, yet the defendant can be potted for an offence that he probably did not commit at all. That is why I agree with the Leader that this clause should not be inserted in the Bill.

The Hon. A. J. Shard: Do you mean the whole clause or subclause (3)?

The Hon. Sir ARTHUR RYMILL: I am referring to subclause (3); I have no objection to the rest of the clause. I object only to throwing the onus of proof on the defendant, for this is the opposite from normality. I believe that, if subclause (3) were deleted, it would not destroy the Bill. True, as the Leader has pointed out, the Bill is of limited duration, and that possibly makes one a little more lenient regarding these matters of principle, but I think a grave injustice can be done if prosecutions are levied relying on subclause (3), and that is why I intend to vote for its deletion.

The Hon. F. J. POTTER: Subclause (3) causes me some disquiet. As honourable members have already said, it is not usual for the onus of proof to be placed on a defendant in charges of this nature. That is not to say, of course, that a provision such as this does not occasionally appear in our Statutes, because it does, and we have had debates on this matter at other times.

The Hon. A. J. SHARD: But it is reversed this time.

The Hon. F. J. POTTER: The normal situation in which it is necessary to resort to this so-called reverse onus of proof is the situation where it is peculiarly within the knowledge of the defendant that a certain situation exists, and it is quite impossible for the prosecution actually to aver in a charge and prove the specific offence. It seems to me that this is not one of those cases, because the actual offence created by this clause is the offence of using liquid fuel for a purpose other than that referred to in the permit. Therefore, it must be taken as a first step in the prosecution that the prosecution has information and can, in fact, aver that there is a specific breach of the permit.

If the prosecution is in a position to raise that matter, I think that it ought to be on the prosecution to prove it, and that the onus should not be thrown on the defendant to prove, in fact, that the purpose for which he used the fuel was within the terms of the permit. In other words, it ought to lie on the prosecution (in fact, I think it must lie on the prosecution) to prove the breach of the permit. My guess is that this subclause has been put in for good measure and that the matter has not really been thought out by the Government. The other two subclauses make the existing state of affairs a positive element in the prosecution. I think that, as usual, it should lie on the prosecution to prove whether or not this is so. This is not one of those cases that would justify our including a separate provision, as in subclause (3).

The Hon. A. F. KNEEBONE (Minister of Lands): As our attitude to this type of provision is well known (we have argued against this sort of thing before), honourable members can understand that we considered the matter most carefully before including this subclause in the Bill. As many people have applied for permits, it is difficult to check whether the reasons given are accurate reasons. We believe that the only way to cover the case of people who apply for a permit and then do not use it for that purpose is to include this subclause. If the crisis were not so bad, we would not have to include this provision.

The Hon. G. J. GILFILLAN: I move:

To strike out subclause (3).

I believe that the reasons given for deleting this provision far outweigh any advantages that it has been said to have. If the amendment is carried, it will still be possible for a person to be charged, brought to court, and questioned

on oath. By deleting this subclause, we will put more onus of proof on to those who will launch a prosecution. This amendment does not tamper in any way with the penalty, which is most severe. I point out that, the offence of black marketing is dealt with in another clause of the Bill altogether.

The Committee divided on the amendment:

Ayes (10)—The Hons. Jessie Cooper, R.

C. DeGaris, R. A. Geddes, G. J. Gilfillan (teller), F. J. Potter, E. K. Russack, Sir Arthur Rymill, V. G. Springett, C. R. Story, and A. M. Whyte.

Noes (5)—The Hons. D. H. L. Banfield, T. M. Casey, C. M. Hill, A. F. Kneebone, and A. J. Shard (teller).

Pair—Aye—The Hon. M. B. Dawkins.

No—The Hon. M. B. Cameron.

Majority of 5 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 12 to 14 passed.

Clause 15—"Permit holder to carry permit."

The Hon. R. A. GEDDES: A query has been raised by a garage proprietor at Penong on the Far West Coast regarding whether travellers from Western Australia to South Australia will be allowed to buy fuel from this or any other garage in that area if this Bill is proclaimed. The question applies to both motorists and the drivers of semi-trailers carrying goods from Western Australia. Perhaps we should do more thinking to make this measure work so that genuine visitors or travellers will be able to get a permit from authorities in those areas. On the other hand, will they have to telephone the Premier's Department in Adelaide? I understand that there is no strike in Western Australia, that there is freedom of fuel supplies, and people could be embarrassed through no fault of their own. Has the Chief Secretary any thoughts on the matter?

The Hon. A. J. SHARD: There is a thought in my mind that, unless they had a permit, the garage could not provide them with petrol. It would be ridiculous if people from other States could get petrol here and use it, while inhabitants of this State could not get a permit.

The Hon. T. M. Casey: Essential services here, at that.

The Hon. A. J. SHARD: Yes. I would say that transport drivers would have to have permits. I think I am right in what I am saying and would have a bet on the side on it, but I do not want my word to be taken for granted.

The Hon. C. R. STORY: I ask the Chief Secretary about the reverse situation. We are doing much business with Western Australia at present and much fruit is being pushed from South Australia to that State. A person may have set out this morning and may get to Penong with a load of South Australian perishable goods on his truck. He could find himself in a difficult situation. I wonder whether the Government has considered section 92 of the Commonwealth Constitution regarding travel to other States. It seems to me that this is not a hypothetical case.

The Hon. A. J. SHARD: It is not in regard to transport.

The Hon. C. R. STORY: How does a person get a permit if he is anywhere between Ceduna and the border? That does not seem to be provided for in the Bill, although it may be.

The Hon. A. J. SHARD: I cannot answer all these questions. The case that the Hon. Mr. Story has put in regard to transports travelling to other States is quite different from the case of people who are on holidays. I am willing to bring the matter to the Premier's attention this evening or tomorrow and find out what can be done. I would say that drivers of trucks taking perishable goods to other States would be given a permit for the whole journey.

The Hon. A. M. WHYTE: I understand that most people carry fairly large reserves with them and they could possibly travel out of the State and get their requirements. As there has been no prohibition on sales in Western Australia, the point made by the Hon. Mr. Geddes is valid. People wishing to travel from Western Australia to another State could be caught. It is quite a distance from Western Australia to Penong. The nearest public transport which could handle their cars is at Port Augusta. Cases may arise in the next few days of people being stranded at places such as Nundroo or Penong through ignorance. Serious consideration must be given to the matter so that people, perhaps small children, will not be stranded.

The Hon. Sir ARTHUR RYMILL: One could put up literally thousands of these cases. The whole principle of the Bill is to put the trust of Parliament in the Minister. We do not enumerate the cases or set forth all the cases in which he is expected to give or not to give a permit. Under clause 7 he has a general power to exercise his discretion regarding all permits. In supporting this Bill, as it seems that most members of this Council, if not all,

are doing, that is the whole principle—we are putting our trust in the Minister. It is no good raising the case of particular areas. There are dozens of cases that affect any area of the State. We are asked to put our trust in the Minister. It would be impossible for the Bill to deal specifically with all these areas.

Clause passed.

Clause 16—"Power to stop vehicle and ask questions."

The Hon. Sir ARTHUR RYMILL: Frankly, I do not like this clause. If the Bill was to have any lengthy period of operation, I would certainly be debating this clause and possibly opposing it. However, the Bill has been given a limited life. It may have to be extended. No-one knows that at this stage, but we hope that it will have a limited life of some sort. I am supporting the clause because I do not want to do anything that may restrict the passage of the Bill, but I make clear that it is not to be assumed that I would normally vote for a provision about people having to answer questions compulsorily or being convicted of an offence if they refused to do so. This is, of course, the antithesis of British law, although I regret that the practice has been whittled away in recent time. Normally, one does not become liable to a penalty for failing to answer questions. It may be that, for a very temporary purpose, it should happen, and for that reason I support the clause as it stands.

Clause passed.

Remaining clauses (17 to 29) passed.

Clause 4—"Validation of the proclamation."

The Hon. R. C. DeGARIS: Before I deal with my amendment, I mention that I support the Hon. Sir Arthur Rymill regarding the clause he spoke to, clause 16, and I am certain those remarks apply also to clause 21. I move to insert the following new subclause:

(2) Without otherwise limiting the generality of subsection (1) of this section, no proceedings, under the Industrial Code, 1967-1972, shall be brought in respect of an offence under that Act where those proceedings depend for their efficacy on the validation of the proclamation by that subsection.

This new subclause means, in effect, that no proceedings shall be taken on the ground of relying entirely on the Bill for the validation of such proceedings. In other words, if the original proclamation was valid, the prosecutions can proceed; if the original proclamation was not valid, it cannot rely for its validity on the passage of this Bill. Clearly, in his second reading explanation the

Chief Secretary took a contrary view, but I am sure that he missed the point I made: it is unreasonable and unfair that a person should be prosecuted as a result of a validation made some four days after an act had taken place.

The Hon. A. J. SHARD: As the amendment is not acceptable to the Government, I ask the Committee not to agree to it.

The Hon. C. R. STORY: I have listened with much interest to the Leader's remarks and to those of the Hon. Sir Arthur Rymill. I do not agree with what has been said, because I do not place my trust in princes, particularly when I know some of the princes. As I do not agree to the amendment, I shall vote against it.

The Committee divided on the amendment:

Ayes (10)—The Hons. M. B. Cameron, Jessie Cooper, R. C. DeGaris (teller), G. J.

Gilfillan, C. M. Hill, F. J. Potter, E. K. Russack, Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

Noes (6)—The Hons. D. H. L. Banfield, T. M. Casey, R. A. Geddes, A. F. Kneebone, A. J. Shard (teller), and C. R. Story.

Majority of 4 for the Ayes.

Amendment thus carried; clause as amended passed.

Schedule and title passed.

Bill read a third time and passed.

[Sitting suspended from 10.10 to 10.21 p.m.]

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

ADJOURNMENT

At 10.22 p.m. the Council adjourned until Tuesday, August 1, at 2.15 p.m.