LEGISLATIVE COUNCIL

Wednesday 12 March 1980

The PRESIDENT (Hon. A. M. Whyte) took the Chair at 11.30 a.m. and read prayers.

SITTINGS AND BUSINESS

The PRESIDENT: Honourable members will recall that the Council was adjourned on Thursday last until Tuesday 25 March 1980. In the meantime, the Premier requested that the Council be asked to resume today at 11.30 a.m. in order to consider emergency legislation in connection with the control of all petrol supplies in this State. Acting under the provisions of Standing Order 1, I dispatched urgent telegrams to all honourable members appointing Wednesday 12 March 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 122, paragraph (2), relating to this matter, 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, subject to other business that the Government may appoint for today, it is for the Council to decide the order of the business to be dealt with.

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

> That the business to be considered by the Council be limited to messages received from the House of Assembly.

In so moving, I point out to the Council that my motion is consistent with the proceedings on 31 July 1972 and 4 October 1974 when the Parliament was summoned to meet, earlier than the date to which it had previously been adjourned, for the purpose of considering urgent legislation. We have been called together today, before the date to which we had previously adjourned, for the purpose of considering one matter, namely, the Motor Fuel Rationing Bill, 1980, when the message relating thereto is received here from another place.

The PRESIDENT: Is the motion seconded?

The Hon. M. B. DAWKINS: Yes, Sir.

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition does not wish to delay or in any way impede the debate on the Bill for which Parliament has been especially called together today, namely, the emergency legislation relating to fuel rationing. Certainly, if the message transmitting that Bill from another place to the Council was now available, I would raise no objection. However, my understanding of the position on previous occasions is that the normal business before Orders of the Day has, in fact, been proceeded with when emergency legislation has been before Parliament at a special sitting, although the then Opposition previously did not ask questions on the day concerned so that the Bill could be dealt with expeditiously.

If we had the message from another place, and the Bill were here, then we would adopt the same course. On the other hand, it is clear that the message is not here and, from what I can gather, the debate in another place will continue for some time. Therefore, I can see no special reason why the normal forms of the Council should not be adhered to, the normal forms being the presentation of petitions and the opportunity for questions, giving notices of motion and then proceeding with the business of the day, which today would be, I imagine without exception, the emergency legislation dealing with motor fuel rationing.

I believe that the normal forms of the Council should pertain until the Council has before it the emergency legislation. I would certainly be prepared to give the Leader of the Government in this Chamber a guarantee that, as soon as a message is received from another place transmitting the Bill (assuming that it passes in another place), we would be quite prepared for Question Time to cease, at least from this side of the Council, to enable the Bill to be immediately debated and considered. It seems to be a bad precedent to call Parliament together and then not allow the traditional questioning of Ministers.

The Government has decided that it is necessary to call Parliament together. The Opposition, once it has looked at the Bill, will, if it believes that it is necessary, do what it can to expedite the legislation. However, as the Bill has not reached this Council, we consider that Question Time and the normal prodecures should pertain. We would be setting a bad precedent if that did not occur. I emphasise that, if the Bill were here and if we were waiting for it, there would be no objection, and the Opposition would be happy to go straight on with it.

However, the Bill is still being debated in another place and, on that basis, the normal procedures should pertain. For those reasons, I oppose the motion in its present form but, in the future, if the Bill were actually before this Council, the Opposition would be happy to co-operate. Certainly, today we would be happy to co-operate as soon as the message is received from another place, especially if it is received before the normal period for Question Time, petitions, notices of motion, and the like, expires.

The Hon. K. T. GRIFFIN (Attorney-General): I draw the attention of the Council to Standing Order No. 67, which provides:

> The Council shall, unless it otherwise direct, proceed each day with its ordinary business in the following order—1. Presentation of Petitions. 2. Asking questions without notice, and giving notices. 3. The business of the day as set down on the Notice Paper.

What I said when moving the motion still stands: the Council is not called here today for the purpose of ordinary business: it is called together for the purpose of considering a specific piece of emergency legislation, and for that reason it is my view that it would be inappropriate to proceed with the other Orders of the Day.

We are not sure when the message will get to us from another place, but it is my view that we should be ready and available to consider it at the earliest opportunity, and dealing with the other Orders of the Day on the Notice Paper detracts from our opportunity to do that.

The Council divided on the motion:

Ayes (11)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

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

Majority of 1 for the Ayes.

Motion thus carried.

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

That all business appearing on the Notice Paper for this day be postponed and taken into consideration on Tuesday 25 March 1980.

Mr. President, in accordance with your ruling, the business on the Notice Paper for 25 March was brought forward to today but, consistent with previous practice and in accordance with my earlier intimation, I am now moving that such business be postponed until Tuesday 25 March, which is the day to which it was originally adjourned.

Motion carried.

DANGEROUS SUBSTANCES ACT AMENDMENT BILL

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

SITTINGS AND BUSINESS

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

That the sittings of the Council be suspended until the ringing of the Bells.

I intimate to the Council that, if the message is received before lunch, I would envisage the ringing of the bells to enable me to proceed with the second reading explanation and the Council would then adjourn until 2.15 p.m. If the message is not received before lunch I envisage that the bells will ring not before 2.10 p.m.

Motion carried.

[Sitting suspended from 11.48 a.m. to 5.5 p.m.]

MOTOR FUEL RATIONING BILL

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

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

That this Bill be now read a second time.

All members will be aware that there is a possibility that supplies of motor fuel may be disrupted in this State because of industrial disputation which has its origin in another State. In this situation, the Government has decided that the necessary legislation should be enacted quickly to enable it to control the supply of motor fuel should that become necessary. On several occasions during the last decade, South Australia has experienced severe shortages of essential petroleum products.

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

In 1977 the Government of the day introduced similar legislation under rather different circumstances inasmuch as there were no indications that it could be needed. Parliament then approved of legislation which had a limited life but which was capable of dealing with any emergency that may have occurred within a period of three months. This Bill, however, is introduced in the climate of interstate industrial disputation which can affect the people of this State. The Government must have available to it power to act should the circumstances require it. The Bill will expire on 31 May 1980 or earlier if the need for it no longer exists. Of course it is the earnest hope of the Government that the provisions of this Act will not be needed, but the speed with which events have moved in other States in recent days means that we must be prepared for any eventuality.

Several weeks supplies of all types of petroleum products are held in the Port Stanvac refinery, the bulk terminals of the oil companies and service stations in this State. There is no immediate threat to South Australia's supplies. But there is industrial action in another State and it has extended to this State to the extent, so far, of a 24-hour stoppage by petrol tanker drivers, and restrictions to refuelling at Adelaide Airport. The Government cannot overlook the possibility that the industrial dispute in New South Wales could cause greater problems in this State and therefore considers it prudent that steps be taken to safeguard the situation. We are, therefore, doing what this Parliament has decided previously should be done, i.e. providing the means for action to be taken over a limited period to cope with any eventuality. With a few exceptions this Bill is similar to previous legislation. The Liquid Fuels Consultative Committee, established recently by this Government to recommend priorities for the allocation of available supplies in the event of any crisis, has been consulted, in case it becomes necessary to bring the Act into operation. Since the decision was taken to present this legislation to Parliament today there has been a meeting of the South Australian members of the Transport Workers Union. Following their meeting the State Secretary issued a warning to the Federal Government and said that if any action was taken against New South Wales "our members are out". It is precisely this possibility, stemming from matters outside the control of the Government in South Australia, which makes introduction of this legislation necessary today.

Clause 1 is formal. Clause 2 provides that the new Act shall come into operation on a day to be fixed by proclamation. Clause 3 is formal. Clause 4 contains a number of definitions required for the purposes of the new Act. I draw attention to the definition of "rationed motor fuel". This is defined as meaning motor fuel of a kind declared by regulation to be rationed motor fuel. Thus, regulations may be made from time to time declaring various kinds of motor fuel to be subject to the rationing procedures.

Clause 5 provides that the Minister may delegate any of his powers under the Act to other persons. A delegation does not however derogate from the power of the Minister to act personally in any matter. Clause 6 contains a number of offences relating to rationed motor fuel. A person is prohibited from selling rationed motor fuel by retail except to a permit holder. A person other than a permit holder is prohibited from purchasing rationed motor fuel by retail. A permit holder is required to observe the conditions of his permit and if he fails to do so commits an offence.

Clause 7 deals with the granting of permits. Subclause (1) provides that the Minister may, if satisfied that it is in the public interest to do so, issue a permit to any person. The permit may be subject to such conditions as the Minister thinks fit. The Minister has an absolute discretion to cancel the permit. A person who is driving a motor vehicle to which motor fuel has been supplied in pursuance of a permit must carry the permit with him in the vehicle. He must produce it for inspection when required to do so

by a member of the Police Force. Clause 8 empowers the Minister to grant exemptions from the provisions of the Act. Those exemptions may relate to specified persons or classes of persons, or may relate to particular parts of the State. Any exemption must be published in the *Gazette* as soon as reasonably practicable after it is granted by the Minister.

Clause 9 empowers the Minister to give directions in relation to the supply or distribution of rationed motor fuel. A direction must be served upon the person to whom it is addressed or published in the *Gazette*. Subclause (3) provides that it is an offence for a person to contravene or fail to comply with a direction, and subclause (4) provides that any rationed motor fuel in relation to which an offence is committed under subclause (3) is to be forfeited to the Crown. Subclause (7) provides that a person who incurs expenses in complying with a direction under the clause may recover those expenses by action in a court of competent jurisdiction.

Clause 10 invests the Minister with the powers he requires to obtain information relating to reserves of motor fuel. Clause 11 provides that no action should be taken to restrain or compel the Minister or a delegate of the Minister to take or refrain from taking action in pursuance of this Act. This means that actions of mandamus or prohibition against the Minister or his delegates will not be entertained by a court. Clause 12 prohibits profiteering in rationed motor fuel. If any sign of profiteering appears, the Government will bring down regulations under the Prices Act fixing the price of fuel. This clause will then provide a very severe penalty for non-compliance with the price-fixing regulation.

Clause 13 empowers members of the Police Force to stop motor vehicles and ask the drivers questions pertinent to determining whether breaches of the Act have occurred. Clause 14 is an evidentiary provision to facilitate proof of various formal matters in proceedings for offences against the new Act. Clause 15 provides that proceedings for an offence against the new Act are to be disposed of summarily and are not to be commenced without the authorisation of the Attorney-General.

Clause 16 empowers the Governor to make regulations that are contemplated by the Act or necessary or expedient for the purposes of the new Act. A penalty not exceeding $500 may be imposed for contravention of or failure to comply with a regulation. Clause 17 provides that the new Act is to expire on a date of expiry fixed by proclamation, or on the thirty-first day of May 1980, whichever is the earlier.

Since the matter was considered in another place, it has come to the Government's notice that in Sydney the Government has ensured petrol supplies for deliveries of milk, bread and other perishable foods. The Government has also been considering extending the petrol freeze beyond Sydney, Newcastle and Wollongong.

In Melbourne, the Victorian Government has declared a state of emergency and shut down service stations from 2 o'clock this afternoon until 7 a.m. tomorrow. Petrol sales will then be rationed to conserve supplies. The move followed a decision by Victorian petrol tanker drivers to strike for at least 48 hours to support the New South Wales strikers. The Government has now been informed that in the Australian Capital Territory an emergency situation has been declared and that petrol is subject to rationing. I commend the Bill to honourable members.

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition is prepared to support the second reading, but in Committee it will be moving some amendments which I will enumerate during the course of this debate and which I will enlarge upon in Committee. A threshold question is involved in this sort of legislation, which is whether or not the legislation is necessary, particularly as Parliament is due to reconvene on 25 March, 13 days from now.

The Government has advanced the position that there is a crisis with respect to petrol supplies. That is certainly so in other States, although the second reading explanation makes clear that in South Australia there is no immediate threat to petrol supplies. The other matter that is worthy of comment is that last night on television the Premier said that there was two weeks supply of petrol in service stations and four weeks supply at the refinery at Port Stanvac.

I concede that, in a matter involving emergency legislation, we must allow some discretion to the Government which, presumably, is in as good a position as anyone to decide whether such emergency legislation is required. Indeed, if it did not introduce emergency legislation when it was required it would be in dereliction of its duty to the public. At the same time, there is a need for careful Parliamentary scrutiny of the reasons for such emergency legislation. I say that particularly in view of the position that the Government, when in Opposition, took on emergency legislation.

When a Bill similar to this was before another place in 1977 the Premier, who was the then Leader of the Opposition, stated:

> . . . it deals with the future and with a hypothetical situation, and sets out reserve powers that can be initiated without the specific approval of Parliament. In other words, Parliament is today being asked to accept legislation for a hypothetical situation that may arise in the future. As such, it is totally impossible for us to consider every possibility that may arise in the future.

In the same debate the present Minister of Industrial Affairs (Hon. D. C. Brown) stated:

> Certainly, any responsible member would give the Government powers to control an actual dispute in a potential crisis in our community, but a dispute has not yet arisen, and petrol is still flowing through our service stations and from the Port Stanvac oil refinery.

It is within that context that this Council must consider whether or not a case has been established for emergency legislation. I ask the Government to respond, in addition to the information that the Attorney-General has given to the Council, and say exactly what in South Australia is the crisis or emergency, in view of the Premier's statement that there is two weeks fuel available in the petrol stations at present and a further four weeks supply at Port Stanvac. Further, as we are concerned with an industrial dispute in another State and not in South Australia—the Attorney has referred to a potential industrial dispute in South Australia—has the Government spoken with officials in South Australia of the Transport Workers Union to ascertain their views on the likelihood of further industrial action in South Australia on the part of tanker drivers following the dispute in New South Wales which the South Australian tanker drivers supported yesterday in a 24-hour stoppage? I hope that this legislation and the drama and panic surrounding it will not produce a situation of crisis that would not otherwise have occurred and make the situation more difficult to resolve than would have otherwise have been the case.

I hope that the Government is convinced that the rush at this stage, given that we are sitting again in 13 days time, is not counter-productive and likely to produce panic buying that will result in a shortage of petrol supplies at a much earlier date than would otherwise have been the case. Over the past few months the Government has gained a

reputation as a dithering and indecisive Government. I have previously cited in this Council various examples of its dithering that members of Parliament have become used to. I refer to the turn-around over Moore's building, the turn-around regarding the Westlakes lights, the turn-around over the Bank of Adelaide, the turn-around in the planning and development legislation in this State, and the turn-around over Select Committees and whether or not they should be open to the public. We have also seen the dithering and indecision by this Government over the Aboriginal land rights issue.

I am sure that the Government is very pleased to be presented with this crisis, because it can finally appear to be decisive. However, I certainly hope that that is not the only reason why it is introducing this legislation today.

I would like some further information from the Attorney-General on the question that I have put to him dealing with the threshold question of whether or not the emergency legislation is in fact necessary. The Opposition is inclined to accept that it is necessary, but we believe that there should be full Parliamentary scrutiny and control of the reasons given by the Government for such legislation. The Government has been hoist with its own petard by not having legislation on the Statute Book which could have been brought into effect by proclamation or through action by Executive Council and which could have dealt with this situation. As honourable members know, in 1978 the Government introduced permanent legislation, through an emergency powers Bill, with provision for the Government to act.

The Hon. J. C. Burdett: It wasn't emergency powers.

The Hon. C. J. SUMNER: It was emergency powers legislation in relation to motor fuel rationing. Bills of that kind were introduced in 1978 and 1979 to place on the Statute Book permanent legislation that would have enabled the Government to deal with this present crisis without resort to Parliament. However, as you will recall, Mr. President, the then Opposition in this Council and in another place objected to that Government legislation. In 1979 the then Opposition in this Council moved amendments to that legislation which would have become law had those amendments not been moved. The previous Government attempted to provide permanent legislation to enable a situation such as this to be dealt with. As a result of Liberal Party objections, we do not now have that permanent legislation, and the Government has now been forced to call Parliament together today to put through yet another temporary Bill.

I turn now to the details of the Bill more fully. The really incredible position in relation to this Bill is that it contains many of the clauses that members opposite objected to most strongly when they were in Opposition.

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

The Hon. C. J. SUMNER: The Hon. Mr. DeGaris has said that what I am saying is not true, but I am sure that, after he has heard my speech, he will be more than convinced that what I say is correct. In 1979 (only some nine months ago) honourable members opposite, when a similar Bill was debated (albeit a Bill with permanent powers), complained bitterly about some of the clauses in that Bill, and bitterly about some matters that were omitted from it. Now the Government has introduced a Bill which contains the clause to which they objected, but which does not contain the clause they thought ought to be in the Bill.

The Hon. R. C. DeGaris interjecting:

The Hon. C. J. SUMNER: If the Hon. Mr. DeGaris will keep his cool for a while and allow me to put the position to him, he will see that it really is a quite staggering turn around. Although the Government has tried to appear decisive on this issue by acting quickly and calling Parliament together in dramatic circumstances, when one examines the Bill one sees that it provides yet another example of the Government's not knowing what it is doing. It provides another example of the Government adopting a stance in Opposition that it is not prepared to adopt in Government.

It should be remembered that the Bill introduced today is a much more Draconian piece of legislation than the Bill introduced in August of last year. Let us look at whether the Government has been consistent, at what it did in Opposition and at what it is now doing in Government. I would like to look at a number of issues dealt with by the then Opposition when it was debating similar legislation in 1977 and 1979. Let us look at what the Premier said in 1977.

The Hon. R. C. DeGaris: I thought we were dealing with things in this Council.

The PRESIDENT: Order! The Hon. Mr. DeGaris will have every opportunity to speak in a moment.

The Hon. C. J. SUMNER: Honourable members will know, and I am sure the Attorney knows, that this Bill is similar to the one introduced by the Labor Government in the House of Assembly in August 1977. The Attorney may also be aware (although perhaps he is not, because I am sure he would be considerably embarrassed by the situation if he were) that the Liberals in the House of Assembly in 1977 voted against the third reading of the Bill introduced by the Labor Government, a Bill, I emphasise, that was in substantially similar terms to the Bill we are faced with today.

The Hon. J. C. Burdett: It was not in similar terms. It was permanent.

The Hon. C. J. SUMNER: The trouble with the Hon. Mr. Burdett is, as I pointed out before, that he interjects when he does not know what he is talking about. The simple fact is that the Bill introduced in 1977 was a temporary measure and was in substantially the same terms as the Bill we are dealing with today. Is the Minister clear about that?

The Hon. J. C. Burdett: No.

The Hon. C. J. SUMNER: If the Minister checks in *Hansard* he will find that it was a temporary measure due to expire on 31 October. This is what the Premier said during the third reading debate (and it is all here in *Hansard;* all their votes are recorded—the Liberals in the House of Assembly):

> Basically, this Bill is a travesty of what we know as Parliamentary democracy and it holds the whole basis of freedom of speech and debate and the right of the people's representatives in contempt.

That is interesting, and it is what the Premier said in 1977. He also stated:

> Why do they want it passed so quickly when we have had real petrol crises many times in the past, as the Minister himself said, that have been far more acute than now?

This is what the Premier finally said in relation to a Bill that was the same as that which his Government has now produced in this Council:

> This is a black day for South Australian Parliamentary democracy.

If one is talking about consistency in Government and Opposition, Government members would be aware that the Premier is not the least interested in consistency. Let us look at another example of where the Government has changed its mind, namely, on the duration of the legislation. The Bill introduced in 1977 by the Labor Government was assented to on 11 August 1977 and was due to expire on 31 October 1977. The period of duration was 80 days, and the Bill before us now has a duration of

about the same time. It is due to expire on 31 May 1980, about 80 days from today. This is what the Premier, when Leader of the Opposition, said about that situation in 1977 (page 374 of *Hansard* of 3 August 1977):

> The fact that we are prepared to deal with an emergency should never be used as an excuse to keep the subject or the cause of the emergency, the direct set of circumstances, out of Parliament and away from Parliamentary debate and examination. Emergency legislation is no substitute for specific consideration of a specific matter, or a specific set of circumstances. Emergency legislation is no substitute for specific legislation designed to deal with a set of specific circumstances.

On the same subject, the duration of the legislation, he also said:

> For that reason, I find the date set down for the completion of this piece of legislation, 31 October, nearly three months from this date, to be totally inappropriate and totally contradictory to the whole spirit of emergency legislation. We are being asked by this Government to give away for one-quarter of a year our fundamental rights to speak on behalf of the people on what could be a most important matter affecting every aspect of their lives. I am not prepared as an individual member to give away that right, and I do not believe any member of Parliament should be prepared to give away that right and responsibility.

That is what the Premier said in 1977 in his second reading speech. Speaking in the Committee stage, he said:

> It seems to me that the three-month period is a deliberate attempt to subvert the due democratic processes of Parliament.

Again:

> I believe that legislation with such sweeping powers must not remain on the Statute Book for three months.

Still again:

> If we want to keep this legislation alive, the Minister has only to bring into this Chamber a Bill of one line to amend clause 26. I do not mind if we have to do this every two or three weeks. The Opposition is willing to consider that.

That was the Premier's comment in 1977 when we introduced a Bill that had a duration of 80 days. Today the Premier has introduced a Bill with a duration of 80 days but we have not had any comment along the same lines from the Premier. The Government has done an about-turn, a back flip, over the position that it adopted when it was in Opposition. On the other hand, the Opposition recognises that legislation of this kind should operate for only a limited period. In 1979, when we introduced the legislation that had the aim of being permanent, we had in it a clause providing that Parliament had to be called together—

The Hon. K. T. Griffin: That wasn't in the Bill.

The Hon. C. J. SUMNER: It was provided in the Bill in 1979 that Parliament had to be called together within 30 days. Perhaps, if the Hon. Mr. Griffin looks at that Bill, he will find that the provision was there. The Attorney-General does not want to hear what the Premier said, and he would not want to hear what he said, because he would find it excruciatingly embarrassing.

He need not worry too much, because whether he wants to hear it or not is not my concern. Honourable members on this side want to hear it and, more particularly, we are interested to hear the response of the Attorney-General, the Hon. Mr. Burdett and the Hon. Mr. Hill. The 1979 Bill provided that Parliament had to meet after 30 days; in other words, the proclamation of an emergency situation could last for only 30 days. The Opposition, when in Government, recognised that there should be some time limit on the operation of these emergency procedures without the necessity for Parliamentary scrutiny. Now, despite the fact that in 1977 the present Premier jumped up and down and became emotional about the fact that an 80-day period was involved, he has included in the Bill a clause that provides for almost exactly the same period of operation. Let us look at some of the other areas where the Government has changed its mind. Clause 11 of the Bill provides:

> 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, in his second reading explanation, was good enough to speak frankly and to tell us that this clause meant "that actions of mandamus or prohibition against the Minister or his delegates will not be entertained by a court". What did the Attorney say about this in 1979, some nine months ago, regarding a similar clause in a Bill then? That clause may not have been precisely the same, but it had the same effect as clause 11.

The Hon. J. C. Burdett: In which Bill?

The Hon. C. J. SUMNER: The Motor Fuel Rationing Bill.

The Hon. J. C. Burdett: But that was a permanent Bill.

The Hon. C. J. SUMNER: In 1979, that is right, but a clause of that Bill was exactly the same as the clause in the Bill that we are now debating.

The Hon. J. C. Burdett: But surely it is different when it is a permanent Bill compared to a temporary Bill.

The Hon. C. J. SUMNER: I thought that the Hon. Mr. Burdett would say that. He likes to draw these subtle distinctions.

The Hon. J. C. Burdett: That is not subtle.

The Hon. C. J. SUMNER: The honourable member is a lawyer.

The Hon. N. K. Foster: He is what? Don't denigrate your profession.

The PRESIDENT: Order!

The Hon. C. J. SUMNER: The honourable member is trying to draw a distinction that really has no validity. As I have explained, when the permanent Bill became law, if it had become law, the emergency provisions would have lasted for only 30 days before Parliamentary scrutiny became necessary. Therefore, the Bill was permanently on the Statute Book, but in terms of its actual practical operation, it could operate for only 30 days.

The Hon. Mr. Burdett now says that a Bill that can operate for 80 days is different from a Bill that the Labor Government introduced last year. He will stand up in this Chamber later and say, "Well, you can make a distinction between the permanent Bill of last year and the temporary Bill that the Government is now introducing." I believe that that argument will not receive acceptance in this Chamber, particularly in view of what the Hon. Mr. Burdett and his colleagues have said about this clause. Let us look at what the Hon. Mr. Griffin said about the prohibition on mandamus. He stated:

> 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 dictatorship but should always be subject to the ordinary processes of the law. I will urge at the appropriate time that honourable members strenuously oppose that provision in clause 11.

That is what the Hon. Mr. Griffin said in 1979. Clause 11, in 1979, was precisely the same as clause 11 in the Bill that we have today. What attitudes are the Attorney-General and the Hon. Mr. DeGaris going to adopt?

The Hon. R. C. DeGaris: What did they say?

The Hon. C. J. SUMNER: I believe the Hon. Mr. DeGaris will be moving amendments to clause 11, as he is a man of principle. He voted before to remove clause 11,

and I am sure that he will vote now to remove it. If he does not, I shall be very disappointed in him. At page 568 of 1979 *Hansard*, the Hon. Mr. Griffin stated:

> That clause 11, 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.

He also said:

> I do not believe that this State has yet got to the position where the Minister, in those circumstances, ought to be above the law and not be subject to judicial review.

It is clear, if the State had not got to that position in August 1979, that it certainly has got to it now under a Liberal Government.

Let us look at what the Hon. Mr. Hill had to say about the same clause 11. In regard to the prohibition against prerogative writs against Ministers, he stated:

> 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.

He further stated:

> 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.

The Hon. Mr. Hill said that. Perhaps he would like to tell us, in his second reading contribution, whether he intends to support clause 11 in this Bill. He is a member of Cabinet, and I can only assume that he argued against it in Cabinet but lost out, as did the Hon. Mr. Griffin and the Hon. Mr. Burdett.

I refer now to the division on clause 11. Messrs. Burdett, Cameron and Carnie voted against the clause, as did the Hon. Mr. Davis. He is here today, and I shall be interested to see what he does with the amendment to remove the clause. Also, Messrs. Dawkins and DeGaris voted against the clause. I have already asked the Hon. Mr. DeGaris about the matter, and he will no doubt try to wriggle out of it as well, or he may be principled enough to move an amendment—I hope he will. Of course, the Opposition will not support him, but I would like to see him move an amendment at least to maintain consistency with his previous position. Messrs. Griffin, Hill, and Laidlaw also voted against the clause, believing that it should be thrown out of the Bill. That is a further example of how the Government has changed its tune between nine months ago and the present time.

Another area where a similar situation applies is in relation to judicial review of a Minister's decision not to issue a permit under the Bill. Last year, in response to the Bill that the Labor Government introduced, the Liberals wanted to put in a fresh clause—clause 8a—which dealt with the position where a Minister had refused to grant a permit. I will not read the full details of the new clause put in on that occasion, but the effect of it was that the honourable Ministers opposite, when in Opposition, were suggesting that there ought to be an appeal to a judge of the Local Court in Chambers if the Minister refused to issue a permit under the Act.

Let us look at what various present Ministers said about that appeal provision that they wanted to see in the Act. Mr. Brown, who is now the Minister of Industrial Affairs, when moving an amendment in the Lower House on 2 August said (page 346 of *Hansard*):

> As I pointed out in the second reading debate, the Bill as it is drafted gives complete and absolute power to the Minister in deciding who should obtain a permit, and also in relation to the petrol sales allowed to the permit holder. That power is extensive, and I point out the haste with which the Minister would be making many decisions. I believe there is almost bound to be an injustice done because people have changing circumstances in which they may have applied for a permit, been rejected, and believe that the Minister does not understand or appreciate the circumstances confronting them.

In the Lower House, Mr. Brown moved a similar amendment providing for appeals to a judge of the Local Court. All the Liberals in the Lower House, many of whom now comprise the Government, voted to have that appeal provision inserted. But, do we find that provision in today's Bill? Of course we do not; it is not there.

The Hon. J. C. Burdett: Was that the 1977 Bill?

The Hon. C. J. SUMNER: It was the 1979 Bill.

The Hon. J. C. Burdett: The 1979 Bill was a permanent Bill.

The Hon. C. J. SUMNER: The Hon. Mr. Burdett insists on saying that the 1979 Bill was a permanent Bill and that it is, therefore, somehow different from a temporary Bill. I am sure that honourable members in this Council are not accepting that specious nonsense coming from the Hon. Mr. Burdett. I should have thought that decency would compel the Minister to sit there silently and take it, instead of trying to make these fatuous distinctions and comparisons.

That Bill was a permanent Bill, but its duration in terms of the emergency was only 30 days. Members opposite have now introduced a Bill which has a duration of 80 days and which contains no appeal provisions or provisions relating to a judicial review through mandamus, yet they talk about this Bill, by not being permanent, being somehow in a different category from the one that was introduced in 1979.

That is what Mr. Brown, the present Minister of Industrial Affairs, said. That honourable member was supported by all his Liberal colleagues in another place, including many of the members of the present Ministry. However, apparently what was good enough for them on 2 August 1979 they are not really interested in following through today. Let us look at what Mr. Griffin said about the appeal provision (page 531 of *Hansard*), as follows:

> It is quite conceivable that in a time of crisis business can be bankrupted by both the crisis and by the decision of the Minister in respect of a permit.

That was the substantive reason that that honourable member gave for wanting the appeal provision. Has that situation changed? Perhaps the Hon. Mr. Griffin would like to tell the Council whether the situation is still likely to occur. What is there in the temporary nature of this Bill which would mean that that position might not pertain again? The honourable member continued:

> What I seek to do at the appropriate occasion is provide for some method of review of the Minister's decision by some person who is aggrieved by his decision with respect to a permit.

In Committee, the Hon. Mr. Griffin moved an amendment providing for the appeal procedure that I have outlined and said:

> At present, the Bill provides no machinery by which the Minister's decision may be reviewed—

just as this Bill does not provide any machinery. The Hon. Mr. Griffin continued:

> If the Minister is to exercise this power under clause 9 in a way that would severely prejudice the viability of businesses, or that may even accelerate the decline of businesses to bankruptcy without that decision being subject to review, it is a bad law to enact.

That is what the present Attorney-General said when he was being very innocent in Opposition last August. Of

course, he was not the only one to comment on this provision. The Hon. Mr. Burdett entered the fray, saying:

> I support the new clause, because grave hardship could be imposed on an individual whose application for a permit is refused. That refusal could bring his business to a complete standstill. I am not impressed with the Attorney-General when he says that a number of applications for appeal could bring the Act to a standstill.

I suppose that he will not be impressed with the present Attorney-General, because he is not putting in the provision that the Hon. Mr. Burdett was so enthusiastic about only nine months ago. The Hon. Mr. Burdett stated:

> I suggest, particularly at the present time when there is such a dependence on fuel in business, that if a person is unjustly deprived of a permit and is therefore gravely disadvantaged, a right of appeal is quite proper.

Perhaps the Hon. Mr. Burdett will be silly enough to try to answer that. This Government has produced a Bill of 80 days duration; yet our Bill last year, although it was to be placed permanently on the Statute Book, provided for a duration of only 30 days. When there was a 30-day emergency period, the Hon. Mr. Burdett stated:

> That refusal could bring his business to a complete standstill.

I would like to know what the Hon. Mr. Burdett is going to say when he is confronted, as he is now, with a Bill that has an 80-day duration. The Hon. Mr. Hill also entered the fray. The Council should hear what he had to say, because it was probably in answer to the Hon. Mr. Burdett. The Hon. Mr. Hill stated:

> I support the new clause.

He then stated:

> Some people could be in a difficult economic situation before the 30-day period started, and those people should have a right of appeal, because they could face bankruptcy if they were treated harshly by the Minister under the permit system.

The Hon. Mr. Hill is saying that people could be in trouble within 30 days, yet this Bill provides for an 80-day duration. That is the Bill the Government supports. Is the Hon. Mr. Hill going to show the same concern for those businesses now? Of course he will not.

The PRESIDENT: Order! I ask honourable members who are continuing their quite audible conversations to desist for the sake of *Hansard*. The Hon. Mr. Sumner.

The Hon. C. J. SUMNER: On 21 August 1979 (page 567 of *Hansard*) the Hon. Mr. DeGaris, who also supported the insertion of this provision, stated:

> I do not think we can use the question of the 30-day period as a means of saying that there should be no appeal provisions.

A division was then called and Messrs. Burdett, Cameron, Carnie, Davis, Dawkins, DeGaris, Griffin, Hill, and Laidlaw, all present members of this Council, supported the Attorney-General's amendment to insert appeal provisions.

I should like to make our position clear. If any members opposite have enough principles or consistency to move amendments deleting the restriction on prerogative writs or inserting an appeal provision, the Opposition will oppose them. We introduced a permanent Bill last year, and we believe that in an emergency situation that position is sustainable. But I should like to know from honourable members opposite what has changed between August 1979 and the present time to enable the Government to do a complete about-turn on this issue?

The Opposition will not be moving amendments to clause 11. It will not be moving to insert provisions that will allow for an appeal, because we are not that inconsistent or hypocritical. We would like to know from honourable members opposite why they are not moving on these two issues, and particularly why the Hon. Mr. Burdett, who had so much to say last August, is not moving those amendments? This Bill is more Draconian than the Bill that was introduced in 1979.

The Hon. R. C. DeGaris: That is the most used word I have heard today.

The Hon. C. J. SUMNER: That is because it is very appropriate. I did not think that the Hon. Mr. DeGaris took any notice of what happened in another place. I thought the honourable member received Bills here without giving any thought to them; that is what he used to tell the Council in the old days. Obviously, today the Hon. Mr. DeGaris has jumped the gun and spent some time in another place listening to the debate and has heard the word "Draconian" used.

The Hon. R. C. DeGaris: I had nothing else to do, really.

The Hon. C. J. SUMNER: The Hon. Mr. DeGaris should have voted to have Question Time. We could have filled in a little time asking Ministers questions, and I am sure that would have been appreciated in the past. However, it seems that this is a further matter upon which members of the Government have changed their minds over the last few months. I repeat that this Bill is more Draconian than the previous Government's Bill, because it contains a considerably significant change in clause 9(1). Clause 9(1) of the Bill introduced by the previous Government in 1979 provided:

> Where, in the opinion of the Minister, it is in the public interest to do so, he may, during a rationing period, give directions to any body corporate carrying on a business involving the supply of motor fuel in relation to the supply of rationed motor fuel.

Clause 9(1) of the present Bill provides:

> Where, in the opinion of the Minister, it is in the public interest to do so, he may give directions to any person in relation to the supply or distribution of rationed motor fuel.

The substantial change is that in the Bill introduced by the previous Government there was power for the Minister to give directions to any body corporate carrying on a business involving the supply of motor fuel. In the Bill introduced by the Government today, the Minister may give directions to any person in relation to the supply or distribution of rationed motor fuel. The reasoning behind the clause introduced by the previous Government was that if the oil companies or other companies that had supplies and stocks of motor fuel were withholding such supplies there should be a method through Ministerial direction whereby those companies could be forced to release that fuel for consumption in accordance with the rationing procedures laid down elsewhere in the Bill.

The Bill introduced today goes much further than providing for a direction only to a company. Under this Bill, the Minister could direct any employee of a company. For example, the Minister could direct a clerk employed by the Shell Company to do something in relation to this matter. The Minister could also give directions to individual trade unionists and force them to transport fuel, or to carry out any directions that the Minister wished, provided they related to the supply or distribution of rationed motor fuel. That is quite a Draconian clause; it is wide-ranging and includes any person, trade unionist, or employee of an oil company. Therefore, in that sense this clause is much stronger and much more Draconian than the provision that existed in the Bill introduced by the previous Government in 1979.

The Opposition opposes this clause and will be moving amendments to it. As I have said, this clause is far too

Draconian for the purposes of the Bill. In the past when rationing has been necessary, as it was in, I think, 1974, a clause of this type was not considered to be necessary, and was certainly not used. In fact, I wonder why the Government has included this clause in the Bill.

If one were suspicious, one could say that the Government has raised this issue to try to give the trade unions a little bit of a bash. One could say that it was introduced to try to confront workers in this State with a situation that they would find unacceptable. The simple fact is that the provision is completely unnecessary. During previous crises, the provision has either not been enacted or not been used. A similar clause has existed in Western Australia and New South Wales—

The Hon. J. C. Burdett: And in the 1972 legislation.

The Hon. C. J. SUMNER: It may have, but it was never used.

The Hon. J. C. Burdett: It won't be used here, either.

The Hon. C. J. SUMNER: I appreciate the Hon. Mr. Burdett's interjection because, if the provision will not be used, why does he want to put it into the Bill, thus producing a provocative situation? The provision has not been used in Western Australia or New South Wales and a similar clause has not been used in Victoria, the Victorian Parliament having passed special emergency legislation to deal with the State Electricity Commission dispute a couple of years ago. The provision is not used because it is ineffective. If it were to be used, it would not work. It is provocative, and does nothing to try to solve an industrial dispute; all it is likely to do is produce further conflict and problems. It is the same sort of situation as that involving section 45D of the Trade Practices Act, which is the genesis of the problem that now exists in New South Wales; that is, you have in non-industrial legislation a clause which impinges on industrial relations, and the Conciliation and Arbitration Commission has no power to act in this sort of 45D situation.

Sir John Moore convened a conference and made some recommendations but he has no jurisdiction beyond that. This is what happens if one takes these matters outside the industrial arena. We have a system of industrial relations in Australia and a method of resolving industrial disputes, and that is where industrial disputes should go, to those tribunals and those people who have the skill and expertise to try to resolve industrial matters, without the provocation of a clause such as clause 9, which means that the Minister, or indeed—and this is a point that I am sure that the Hon. Mr. Griffin has overlooked—a delegate of the Minister (because the Bill gives the Minister authority to delegate any of the powers under the Bill to any other person, so it could be an official in the Department of Industrial Affairs) can give directions to any person in the State in relation to the supply or distribution of rationed fuel.

If that was done in the context of an industrial dispute, it would do nothing to settle the dispute. It would exacerbate it and would be a provocative act. Regarding this clause, I direct questions to the Attorney-General. Could the power in clause 9 be used against workers working under Federal awards? Has the Attorney obtained an opinion from his officers on whether section 109 of the Constitution would prevent a Minister from acting under clause 9? For instance, tanker drivers are covered by a Federal award. Would the Minister be able to act under clause 9 on tanker drivers?

I hope that the Attorney is listening, because, if he is not, I will raise the matter again in Committee. Has he obtained an opinion on whether there is any conflict or potential conflict between State and Federal awards? Regarding a seaman on a tanker, would there be effective jurisdiction under clause 9? Would the clause apply to giving directions to seamen on a tanker? Finally, I would like the Attorney to explain why the Liberal Party has changed the wording of the Bill introduced today from that of the amendment introduced by it in August last year. At that time, the Liberal Party spoke in its amendment of the supply or manufacture of rationed motor fuel. Today it is talking about the supply or distribution of rationed motor fuel.

I would like the Attorney to give me some indication of why the Government has seen fit to make that change to clause 9. In Committee we will move an amendment that would place clause 9 back as it was in the Bill that we introduced in 1979, the Bill to which I have referred as being one that would have been permanently on the Statute Book. The other amendment we will introduce relates to the duration of this legislation. We will be moving to insert "28 March 1980" in lieu of "31 May 1980".

That is, we believe that the legislation should operate only until the end of the week in which Parliament resumes. If the problem still exists, there will be no objection from members on this side to the Government's introducing a further amending Bill extending the time, but we believe that from now to 28 March, given that Parliament is due to resume that week, is a sufficient period, and there ought to be a further Parliamentary review of the position then. I think those amendments will improve the legislation substantially. I will be interested to hear whether members opposite intend to introduce amendments to clause 11 and the appeal provisions, as they were particularly vociferous about that matter only nine months ago.

[Sitting suspended from 6.9 to 7.15 p.m.]

The Hon. N. K. FOSTER: I rise once more, in my short term in this State Parliament, to speak on a matter on which I spoke just a few weeks before this Government was forced into office. Government members obviously are still nonplussed about the plate that was bestowed on them, and they are still reeling. By now, they should be showing some degree of responsibility by accepting that, when they were in Opposition, they did apply themselves to a matter which was then before the Council, and two years prior to that to a similar matter, in about 1977.

The matter of industrial relations represents one of the great tragedies of Australian history. Governments have failed to comprehend the human problems that must have some bearing on what each and every one of us may determine from time to time to be the public interest. As I have said previously, that phrase in itself is difficult to define. When matters are debated in Parliament, and when they are being supported by one side or the other, very often we hear members say that they are acting on behalf of the public or in the public interest. However, the phrase is never easy to define clearly and properly, and I am sure that the Hon. Mr. DeGaris would agree that various attempts to define it have been fraught with difficulty and have never been successful.

The introduction of this legislation results from a conflict in human terms compounded by a commercial interest as opposed to an interest which is represented by trade unions and which is bound up with and can only be described as self-survival. Nothing is more important, and no other factor has been brought to the notice of those who are involved in the work force, and those who are attempting to gain a place in the work force, which is more important, more prominent, more pronounced, and more serious than is this situation today.

The background of this dispute is comparatively recent.

Our presence here this evening is brought about by the fact that Governments continue to meddle within the framework of ignorance, and by their concerted efforts to continually misunderstand the trade union movement, the workers' point of view, and what is inherent in that by taking upon themselves powers within the framework of the various Acts to attempt to solve the problems of which they know so little.

I could quote from the Report of the Joint Committee of Constitutional Review in 1969. I could weary this House for some considerable time, perhaps for as long as four hours, not digressing from the subject of industrial relations and industrial disputation, and all of the weaknesses, failures and mechanisms that go with it. Sadly, I could speak about the politicising of, particularly, conservative Liberal Parties in this country and in Great Britain, and about their attemps to cure (as they consider they are doing) the ills of industry generally in regard to industrial relations. There is no greater human white-collar crime than setting about, as has been done on so many proven occasions in Australia, particularly prior to elections, to incite workers by a denial of wage justice, and of justice in conditions. This has been done by the political tone of press and media reporting, which may be of some value in a weak, determined way, and related to the wishes of a political Party. So often workers have fallen victim to this kind of thing in this country.

I can cite the last occasion on which Premier Askin took the people of New South Wales to an election on the issue of a deliberate blackout of New South Wales in the power industry: there was a deliberate, criminal misrepresentation of workers' claims on the one hand and also a misrepresentation of the position regarding sufficient coal reserves to ensure that the lights were kept burning and power was provided to factories. Of course, instead of that, down came the Legislature, as has happened so often in Victoria. People who worked in the north, east, west, or south of the city were allocated a particular day on which they could work. This situation was brought about by the fact, it was claimed, that unions were taking upon themselves untold power. The Government did not have the courage to say, "We will deny, by Statute, the right of workers to strike, to withhold their labour."

Any other industry in Australia, from the Stock Exchange to the small delicatessen, has that right, if it wants to go so far as to close up shop. There is nothing in legislation to deal with the Stock Exchange's rip off of some people in Adelaide, or the rip off by Shierlaw, but there is an Act to cover situations where workers want to protect their jobs. As I have said, nothing is more serious in this day and age than that. For two years or more we have seen the spectacle of a patient, militant union having tankers standing out in the gulf. Some members opposite say they will not speak in this debate, but I bet Burdett wakes up before the end of the night and says something in this Chamber.

The PRESIDENT: Order! The honourable member must refer to members by their proper titles.

The Hon. N. K. FOSTER: Mr. Burdett is sound asleep over there. He does not intend to open his eyes now that I have awakened him. During the next few weeks, at the behest of the Federal Government, if this strike goes on the public will be told more and more about those so-called seamen who are holding up ships in the gulf. Of course, not a word will be said about the justification of their claim, and not a word will be said about Commonwealth action. The Shipping Commission gives the right to any seaman in other areas of commercial interest, other than the one that the seamen are protesting about, to be employed. That is what it is all about.

If any body of people has been patient, it has been the Seamen's Union of Australia. No credit has been given by anybody in the Government. Let us examine the attitude of some members in the Government. Dean Brown is a member of Moral Rearmament, which is a world-wide organisation, but I do not intend to weary the House tonight by speaking about its charter. That organisation is quite anti-union and quite wealthy. Mr. Brown has been associated with it for a number of years. It is only because of patience on this side of the House that it has not been revealed before. We find today that he wants to steer a legislative programme along with this matter. He has already made a complete and utter mess of his suggestions in regard to shopping hours, and the same may apply to this matter.

The dispute arose because an unfair advantage was taken by the Federal Government over differences that had existed between the Federal Transport Workers Union and a State body in New South Wales for 10 years or more. Agreement had been reached in a number of employer-employee areas in regard to the settlement of that dispute. Honourable members who have been in this Chamber for some time know that it was the policy of previous Federal and State Labor Governments in regard to the law of torts which sparked off the row in New South Wales. What the present Government's attitude to that has been is history.

There was a dispute in New South Wales which, to use the words of most Arbitration Commission judges, was a very sorry state of affairs. One would think that the Government at that time would have bent over backwards because of what the trade union movement, some areas of the court and some areas of employer organisations were doing, to ensure that such an ugly situation would not be taken unfair advantage of. Successive Liberal Governments, both State and Federal, have gone to the utmost lengths to ensure that the situation would never be cured. It would always be there—ready to be exploited by a Federal Liberal and Country Party Government and a State Liberal Government in New South Wales for a number of years. Nothing constructive has ever been done from a Parliamentary viewpoint by those who now sit in Government in South Australia or their political allies in either the Commonwealth or the State. Last night on television we saw the spectacle of Petersen in Queensland.

The Hon. R. C. DeGaris: And Wran in New South Wales.

The Hon. N. K. FOSTER: Not to the same extent. I did not see Wran on television last night with about 8 000 policemen. Did you, Mr. DeGaris? Did you see people in New South Wales treated as they were under Askin? "Run over the bastards" is what he said.

The PRESIDENT: Order!

The Hon. N. K. FOSTER: "Run over the bastards" were his words on record in this country, in regard not only to unionists but also to those who saw fit to protest.

The PRESIDENT: Order! I am not interested in what Mr. Askin said. I am interested in what the honourable member says, and I draw his attention to the fact that his words are unparliamentary.

The Hon. N. K. FOSTER: I accept that. I agree with you, Mr. President. It is unparliamentary, and it should not have been said and applied to workers in the street, either. That is how the Premier in New South Wales applied it. It is unparliamentary, and it is also undignified to refer to the people in the streets in such a manner.

It is no good our glossing over the matter. Members have a right to repeat such a phrase, whether or not it is unparliamentary. I suggest to the Hon. Mr. DeGaris that we did not see that sort of thing on television last night in

relation to New South Wales. I want also to emphasise the frustrations of those involved. If any honourable member had worked in industry, not knowing where his next job would come from and where no equalisation factors were involved, he would be able to appreciate what I am now saying. This applied in an industry in which I worked for many years, and it now applies nationally.

About 500 000 people in Australia are forced into poverty. Staring every worker in the face today is the thought that he might join the ever-increasing queue of unemployed or under-employed people. Is it any wonder, therefore, that those in an outlying Sydney urban area should start such a dispute?

The people whom Government members purport to represent, namely, the business people in certain primary industries, are asking what sort of measures they should take to protect their rights in relation to wool. However, they are not willing to tell the public that the situation arose because of the people for whom they should not have any regard, namely, the woolbrokers. Farmers keep the woolbrokers.

The Hon. R. C. DeGaris: It's the other way around sometimes.

The Hon. N. K. FOSTER: I thank the honourable member for that interjection. That is how he kept going when he was a farmer. The woolbrokers gave the honourable member his money back at a good interest rate; that is how they supported him. It is all right for the honourable member to applaud those sorts of people, but he does not see that they have reneged on an agreement. There has been a long-standing agreement in New South Wales, so that tanker drivers in that State have the right to protect their area of work. Why should not the people to whom I have been referring have such a right? Their moves to obtain such a right brought on the wrath of the Federal Government, which introduced a provision, so that the false god, relating to small business men, namely, the "free go for free enterprise" concept, prevailed. This occurred not in an attempt to protect small business people but to create a division amongst the people of this country, as well as to gain some political advantage therefrom.

Inherent in the Conciliation and Arbitration Act is the area of work concept, and this has caused unions to want to protect the area of work that has been granted to them by their trade classifications. Honourable members should read some of the recommendations contained in the report regarding the Federal Government's powers. One can read the minority report regarding this matter submitted by a former South Australian Liberal member in the Federal Parliament, Sir Alexander Downer. I do not intend to repeat the contents of that report, as honourable members will not take any notice of it. However, if anything will spark off a dispute at any time, it will be the effort being made by people to protect their area of work.

The burden that the trade union movement has had heaped upon it by successive Liberal Governments is almost indescribable in its stupidity. Hardly anywhere at any time has there been any real attempt to get the parties together. As was stated in this debate earlier, that has not been done in this dispute, although ways and means have been contrived to ensure that that very thing did not come about. Honourable members need only have watched television last night to gain confirmation on that matter.

I point out that, although Victoria has been mentioned this afternoon and no doubt earlier in the debate in another place, the fact is that in Victoria the price limit on a litre of petrol is 35·5c determined by the Hamer Government. The price in South Australia is 38·5c. Honourable members know that they can get petrol for 31·4 or 31·5c (it can vary by about a cent). I am reliably informed that one petrol station has already increased its petrol price by about the 7c differential, claiming that it was legal to do so.

What does the Bill say about blackmarketeers? What does Premier Tonkin say about it? A report in tonight's *News* refers to his statement about blackmarketeers and unionists. That is enough to make any sensible and reasonable person sick. If that is the Premier's choice of words, he is not a fit and proper person to earn a living in this country, let alone to head a Government. The reference is to blackmarketeers and unionists. Farmers and oil companies make profits, and Fraser reduces his deficit, but the Premier lumps together blackmarketeers and unionists who picket fuel supplies. What sort of attempt is that towards achieving satisfactory industrial relations, when on the front page of the only evening newspaper printed in South Australia that statement is made?

Regarding the penalties in the Bill, a worker's house can be sold up and he can be sent to ruin, but how will these penalties send an oil company to ruin? Can the Government show me where the Bill deprives people who will go to the Stock Exchange tomorrow and benefit from this dispute? Instead, this Bill imposes a penalty on the people least able to afford it. The Premier seeks to impose a penalty, which is vicious and which is discriminatory. That is a great way to settle an industrial dispute.

No motion has been moved and directed to the Federal Government by any Liberal Party branch; there has been no motion from any State Liberal Government or representation by any State Liberal member. No representation has been made from any areas of the State Liberal Parties to Mr. Street or any of the other Liberal Ministers who, under the framework of the Liberal Party, are required to visit sub-branch meetings from time to time and give what has been described as a Ministerial report.

Liberal Party members ask their Ministers to do that, but they have to find Federal Liberal Party Ministers from South Australia. Jack McLeay could be considerably strained to do that, but such is the calibre of members returned by the Liberal Party in South Australia that even a person like Fraser does not want to trust more than one South Australian member with more than a very junior portfolio. When the Liberal Party had more representation, that was the way it went and it is the way it still goes. No representation has been made. What about Tony Street, whose correct portfolio I forget, Mr. President, and I am sorry that I cannot comply more properly with proper Parliamentary practice.

The PRESIDENT: You are not doing well in that respect at all.

The Hon. N. K. FOSTER: It is relevant, all right; he is the chief Minister in this matter, yet he plays ducks and drakes with the situation. There was no attempt to get people to the discussion table. Mr. Street's advice was to leave it all up to the Arbitration Court, when the Federal Liberal Government is guilty of enacting the very clause that has caused and compounded this problem. The Liberals say "Leave it to the court," but no power resides in the court to settle the dispute. Therefore, it is up to State Legislatures to introduce legislation in varying terms to cover a situation that should never have come about. This provision will not cure any ills. It is an attempt to stretch the petrol in the tanks of vehicles for them to go a bit further, and the wrong people are being blamed in this matter.

Members opposite want to get on their high horses about this matter, but they should blame the people who

have set up the organisation and caused this and other very serious disputes. The system of importing, transporting, distributing, costing, and marketing this product in the United States, Great Britain and Australia, has been fraught with inquiries over the years. Members opposite should visit the Parliamentary Library and see the numerous volumes on this subject that have emanated from America alone. Such reading material would fill the shelves of quite a large high school and keep its students reading for at least five years.

What has become of all those inquiries? The oil companies have hidden behind them. Can we expect the oil companies to determine whether or not they will accept the decision of an arbitrator in relation to the dispute in New South Wales, bearing in mind that it has reached a stage where stands have been taken and public statements made? People now have to back off and be seen to at least have some dignity when a final solution is found. The art of saving face was perhaps once thought to be confined to people in the Orient, but it is very real in relation to the discussion and settlement of matters such as this. I would like to have canvassed other matters in relation to this Bill, but I do not intend to do so.

The Hon. R. C. DeGaris: Have you already been canvassing the Bill?

The Hon. N. K. FOSTER: What was that?

The Hon. R. C. DeGaris: I was wondering—

The Hon. N. K. FOSTER: The Hon. Mr. DeGaris is always wondering.

The PRESIDENT: Order! The Hon. Mr. Foster will continue with his contribution to this debate, and I hope he gets somewhere near the Bill.

The Hon. N. K. FOSTER: The measures in this Bill have already been canvassed by the Leader, who pointed out the inadequacies, stupidity and lack of foresight on the part of members opposite. Less than 12 months ago they ranted and raved, and I clearly remember the Hon. Mr. Burdett pulling the then Government to pieces in his great legal manner. The Hon. Mr. Burdett was dreadfully shocked that there was no provision for appeals in the previous Government's Bill. However, this Bill contains no such provision, either, as has been pointed out by the Hon. Mr. Sumner. There were several other matters over which members opposite tore us down.

The Hon. Anne Levy: Perhaps they'll move an amendment.

The Hon. N. K. FOSTER: Yes. We are here because of the fact that members opposite thumped the table and used their numbers last time to withdraw from the Bill the very things that they are attempting to put into this Bill tonight to give it those very wide powers that, in fact, members opposite said should never ever be entrusted to any politician, or to any Parliament.

The Hon. J. C. Burdett: In a permanent Bill.

The Hon. N. K. FOSTER: The Hon. Mr. Burdett is absolutely pathetic. The only defence he has been able to advance in this debate is that one was a permanent Bill and the other one temporary. The fact is that the purpose of this Bill is almost exactly the same, in the context that he uses, as that of the previous Bill. In the Hon. Mr. Burdett's profession nothing would remain permanent if its members were to take the initiative when making judgments. But learned judges on the bench usually reach for the library and refer to something that occurred in 1582, and they judge, award or determine accordingly; so there is no initiative in the Minister's profession. If that is the only answer he can give, it is no wonder he is hanging his head in shame here tonight.

The Hon. C. J. Sumner: That is why he is not Attorney-General.

The Hon. N. K. FOSTER: There is no way he is going to get to be Attorney-General. If I had not told him he could not get the numbers in Mallee he would not be here tonight; he would have been out.

The Hon. C. J. Sumner: He might have been Premier.

The Hon. N. K. FOSTER: He could not be any worse than the bloke who is there now.

The PRESIDENT: Order! Will the Hon. Mr. Foster resume his seat. The honourable member has received a good hearing and I do not see why, at this stage, he cannot say something about the Bill and less about personalities.

The Hon. N. K. FOSTER: It would be in two syllables and unparliamentary terms if I were to describe the Bill. I do not intend to weary the Council, but fancy trying to speak to a Bill such as this! It is a disgrace to the Government that it should produce such a measure in the light of the arguments put up a short time ago. Members opposite should get their Minister off his backside (if I may use that term), get out into the streets tomorrow and talk to people involved in this dispute. Has the Minister been anywhere near the Transport Workers Union regarding this matter as it affects workers in this State? All members opposite have done to the Transport Workers Union in this State when its representatives have come to this Parliament for something, as when their members were locked into a dispute with the concrete mixers and owners and the Government of the day put up some firm proposals, is sit there and knock it all off. Is it any wonder that the transport workers consider that the only defence they have is that which lies within their own hands by direct action?

The Hon. D. H. Laidlaw: The Minister withdrew the Bill.

The Hon. N. K. FOSTER: Why?

The Hon. D. H. Laidlaw: Because he wanted to. Because they wanted minimum rates.

The Hon. N. K. FOSTER: Your memory is bad, Mr. Laidlaw. The Hon. Mr. Laidlaw is referring to a Bill that was brought into effect by the business organisations in that industry to protect themselves, as was done in Western Australia. Members of the trade union movement, particularly the transport workers, just do not regard the fact that this Government has been in office for only a few months as the reason why they have been denied a hearing. Members opposite always denied them when in Opposition, because their Party has always ruled this place, and every piece of legislation brought in by the former Government seeking conciliation in industrial matters was aborted by them.

Is it any wonder that they have no reason to love you? The very matter that bugged you a few months ago bugs you again, on the Treasury benches. You will not win any friends or influence the argument. If there is any success for the measures that you or your brethren in Canberra have put forward, it will only be short-lived. You will force the workers back through fear or starve them back, and that is no way in which to settle an industrial dispute.

We came here today in good faith, following a note sent around and telegrams sent to us. We thought the procedures of this place would remain. We intended to ask questions regarding the dispute but, as soon as the Government got wind of that, the Attorney-General (I think that is what he calls himself) moved a motion which meant that the Government would not accept questions on any matter. It moved the motion just because it thought it might have been questioned on this matter so far as Standing Orders permitted and on many other matters.

If you think you derive popularity from the people by the way you are going about this matter, I will be very surprised. I hope you will put your Premier on a plane or

bus to Canberra tomorrow, with a delegation from your side of politics and business, as it were, to make strong representations to those responsible for the turmoil that may result from this strike, particularly as it affects the people.

Until you do that, you are leaving the job to those whom you condemned in your press statement this afternoon. Bob Hawke, Nolan or someone else will get the mess into which you have placed many people, because you will not be able to settle the dispute. You have let it go too far. You will have to cease abusing people.

I hope you go to Canberra tomorrow. There is a transport conference on there, and I have been asked to go. However, I do not want to go. I said, "How is a man going to get there and back?" I could get there only on the basis of God willing and the transport workers permitting. You should get over there, and make representations to Fraser and Street. While you are there, you may get the false power brokers in the wool industry to look at themselves about dishonouring agreements that they have made with workers in the wool industry.

The Hon. J. E. DUNFORD: I will briefly support the second reading. My Leader has quoted a statement by the Premier that he was reluctant to support a similar Bill last year. The Premier was reluctant because he felt the Bill was premature, but I believe it may not be premature. I read sinister aspects into it, and I refer specifically to clause 9, the only part in which I am specifically interested. As a former trade union official, I see a sinister underlying threat to the trade union movement. Clause 9 provides:

> (1) Where, in the opinion of the Minister, it is in the public interest to do so, he may give directions to any person in relation to the supply or distribution of rationed motor fuel.
>
> (2) A direction under this section shall be given—
>
> *(a)* by instrument in writing served personally or by post upon the person to whom the direction is addressed; or
>
> *(b)* by publication of the direction in the *Gazette*.
>
> (3) A person to whom a direction is given under this section shall not contravene or fail to comply with the direction.

A penalty of $10 000 is provided. No sensible Parliament would give such power to any Minister, Labor or Liberal. The present Minister is not here, and I do not like to attack him, but he is inexperienced and easily led. *Hansard* contains a reference to the red hen, and another member who is called the scab. I refer to Mr. Randall, or whatever his name is. These are the people I am concerned about. I am concerned, too, about some of the people in the Ministry, and I shall quote them later, because that matter refers to a clause which I am opposing most vigorously. I know the Hon. Mr. DeGaris will start to write notes, and then he will talk—

The PRESIDENT: He is not talking now, and I will do my best to look after the honourable member, as long as he addresses the Chair.

The Hon. J. E. DUNFORD: The Hon. Mr. DeGaris is trying to put me off the course of my remarks. I can see a Liberal Minister having the power to direct people to scab or to break picket lines. People like McLachlan would not need much direction to get out their vigilantes. If there is anything left of them when they come back from Victoria, they will be able to attack the Seamen's Union.

I recall Clyde Cameron, a close friend and a dear colleague, speaking on an arbitration Bill in 1974. He said that, if the Liberal Party continued to prosecute people who used the right to strike, blood would flow in the streets. Anyone who watched *Nationwide* last night would never have seen a more bloodthirsty type than Ian McLachlan appeared. He said that he would go to Victoria and fix up the problem. The day will have to come for McLachlan. I have had dealings with him. He tried to force me off Commonwealth Hill, which was owned by his father, I think, at the time, and I saw his attitude in the abattoirs dispute, where the workers were defending their rights. They had my full support. Now, the workers in Sydney are defending their rights and their jobs, and this little jerk Laidely is causing some problems, with his group behind him. It rather reminds me of the situation with Woolley, on Kangaroo Island. I do not think he has been the same since that dispute, but he was conned, just as this man is being conned.

Sydney is being held to ransom by evil people, and Laidely is being pushed into a position where he has used the law of tort, which is a political term; people call it the wrongs law. If an employer wishes, he can take a case to the court to see whether he can have a person gaoled. With a Liberal Government in power, the trade unions could be fined $250 000. That situation has never worked, and it never will, but it is a danger which I see in the Bill.

I have said many times in the past five years that I have always defended the right to strike. If a worker has not got a right to strike, he might as well not be in the community. Without that right, there is no difference between a free man and a slave. A man is free only if he can withdraw his labour.

If one can demand a decent rate of pay, he is free. In my 30 years experience in the trade union movement, I have never known of any one person taking direct action. Some graziers gave a few bob. When we complained about living conditions, lack of hot water and safety in relation to machines, we had to go on strike and stand over the employer. Stand over them we did. Seven blokes had to wipe each other's backsides in the morning, so we burnt down the lavatory. That action was illegal and we could have been put in gaol, but we had to do it.

I refer to an article that I have kept for 10 years, written by my close comrade, Clyde Cameron, and called "Social Order and the Right to Dissent". Clyde Cameron talked about some pertinent issues and stated:

> The strike is the only weapon for which the opponents of Labor have real respect. Strikes gave the working class their right to belong to a union. As recently as last year, the same weapon was used to retain the right to strike. It was through strikes that the unions won the 8-hour day, the 48-hour week, then the 44-hour week and, finally, the 40-hour week. Less than 10 years separated the 44-hour week from the 40-hour week. When the 40-hour week came into being in 1947, no-one then imagined that, in this age of technology with its computers and automated workshops, 40 hours would remain the standard week for another 24 years—

that period is now 33 years—

> and that, even then, the unions would be forced to resort to direct action to achieve a 35-hour week.

I am tipping that this will be the next struggle, because no Governments, Labor or Liberal, will legislate for this measure, and the only way the worker will obtain the 35-hour week will be by direct action. The article continues:

> Strikes gave us paid annual leave—first one week, then two weeks and finally three weeks. Now workers are again being forced to use the strike and the threat to strike to win four weeks leave and to establish the principle of "loaded" leave.

That was 10 years ago; strikes obtained four weeks annual leave and annual leave loading, in some cases of up to 25 per cent. The Hon. Anne Levy tells me that in France the workers have 5 weeks annual leave. The article continues:

> The strike weapon first established the principle of paid sick leave and then cumulative sick leave. Paid public

holidays came from the early struggles of direct actionists. And it was the great metal trades strike of 1947 which restored the fitter and turner's margin to its pre-war figure of 37½ per cent of the basic wage.

Probably the most telling victory through the strike weapon in recent times was when the trade union movement last year forced the Government to release Clarrie O'Shea whom Judge Kerr—

We all know both of them. Judge Kerr was the murderer of the Labor Party.

The PRESIDENT: Order! The Hon. Mr. Dunford must link his remarks to the Bill; he is moving a long way away from anything contained in it.

The Hon. J. E. DUNFORD: I do not want to disagree, but I thought I was talking about pickets. As Mr. Foster said, unionists and picketers will be fined as a result of this Bill. The two groups are linked together. Under clause 9, anyone who is directed to break the picket lines to do certain things that the Minister wants him to do will be on strike. The whole reason for clause 9 is that the Government contemplates a strike and contemplates a continuing strike by the Seamen's Union, and wants to put the union off that course. I want to bring to the notice of honourable members that I am using Clarrie O'Shea as an example. That matter turned Australia over.

The Hon. R. C. DeGaris: Who is he?

The Hon. J. E. DUNFORD: Thank goodness the honourable member has not got your job, Mr. President, and thank goodness he is not on the front bench, when he says things like that. I have no doubt that confrontation between labour and capital has been intensified by the rulers and Fascist element in the Liberal Party and the community. If McLachlan had his way he would bring the troops out tomorrow. Bjelke-Petersen would bring the troops out and the Police Force to support them. That has been the breakdown of the trade union movement. That was the problem in Nazi Germany. I see the Hon. Mr. Burdett getting sick, but has he read the book?

The Hon. J. C. Burdett: I said, "What about the Bill?"

The Hon. J. E. DUNFORD: Under the Bill, there is a maximum fine of $10 000. While we have the threat of a $10 000 fine over a worker who refuses to scab on his workmates, I cannot support the second reading of the Bill. The use of that power by Liberal Governments and their supporters is against the working class in Australia. I refer briefly to an article titled *Use of power* which states:

If we accept that power is the capacity to make decisions, the ability to influence events which affect our lives, then I see nothing wrong with the trade union movement demanding some of the power in this or any other society. After all, the union movement in total represents two and a quarter million wage and salary earners, who along with their families comprise the majority of the people.

Our opponents will protest that they don't want a totally subservient trade union movement or working class, but they are really concerned about the irresponsible use of trade union power. This is a load of hypocritical nonsense. What our opponents want is all power for themselves and those they represent.

The anti-union forces in this country have short memories, or, perhaps more precisely, they hope the Australian people have short memories. A succession of Liberal—Country Party Governments used their political power to reward the national and multinational monopolies which dominate the economic life of Australia.

The big disputes that are affecting Australia today have an effect. Adverse public reaction is steamed up by the press, and headlines align the trade unions with black marketeers. The public will go crook and blame the unions. I have never seen one trade union member go to a trade union secretary and say that his union ought to condemn the Storemen and Packers Union, the Seamen's Union, or the T.W.U. They remain behind the unions, because this is how the unions have developed over the years.

I have some of the answers to some of the problems. We do not have to have Bills with fines of $10 000 and threats of intimidation. We do not have to fine a trade union $250 000, or a worker $50 000. All the goods and articles could be provided if one considered proper representation where the workers have the right to ask for a bigger share of the cake. That was brought out in Labor Party policy some years ago. The Labor Party has always agreed with penalties. Those people who breach industrial awards, whether they are employees or employers, ought to be dealt with by the harshest possible penalties. It seems that we have a situation in South Australia emanating from the close-down of Port Stanvac where the Seamen's Union is exposing the racketeers, the international shippers of oil—

The PRESIDENT: Order! If honourable members wish to confer with colleagues in the gallery, would they please be seated and make their conversation as inaudible as possible.

The Hon. J. E. DUNFORD: The Seamen's Union does not want me to present its case, but I have followed it with interest. I do not believe that Adelaide will run short of petrol as a result of any action taken by this union. Certainly, the Port Stanvac oil refinery has closed down, but the union must make its point. The shippers say that it would cost $3 000 000 a vessel to employ Australian seamen. Unfortunately, the public thinks that members of the Seamen's Union get that huge sum of money. The Hon. Mr. Blevins will support me when I say that some ships carry what are called "flags of convenience", being registered in certain ports where they do not have to pay income tax. Despite this, Australian shipping lines such as the Miller line must pay not only Australian rates to seamen but also their taxes in this country.

If the Seamen's Union is seen in its correct light, one will realise that it is doing this country a service and, if the union is supported, more taxation will go to the Australian Government and more jobs will be available for Australian seamen. Indeed, I believe that several hundred such men are now looking for jobs. This sort of action will help those men and will stop people ripping off Australia by not paying their taxes.

I said previously that I am concerned about this Bill, as I believe that it could, if passed, be used irresponsibly by the Minister of Industrial Affairs (Hon. D. C. Brown), who may improve in years to come. That Minister is young and inexperienced, but he is led in Cabinet by some wily old characters with bad reputations. I refer to a certain backbencher who had been a member of Parliament for only six months—

The PRESIDENT: Order! I have told honourable members who are in the gallery that, if they wish to converse, they must sit down and do so as quietly as possible.

The Hon. J. E. DUNFORD: The Minister to whom I have referred may influence Mr. Brown, who is reputed to be on his way up in the Cabinet. However, I do not know where he is going.

The Hon. N. K. Foster: Who is he?

The Hon. J. E. DUNFORD: I will tell the honourable member in a moment. The following report regarding this honourable member, who in September 1973 had been in Parliament for only six months, appeared in the *Advertiser*:

So controversial, so direct and so potentially embarrassing was his after-dinner speech during the Budget debate that

there is no doubt he was ordered to sit down by his anxious Parliamentary colleagues.

I will give honourable members a hint about whom I am speaking: he is a Liberal. The press report continues:

> The speech has lifted [this man] from a conventional back-bencher to a minor political celebrity. He has been reported in at least one interstate newspaper. Federal members have noted his views and may raise them in Federal Parliament —and the A.L.P. newspaper the *Herald* will give [him] front page prominence in its next issue. Why the fuss?

The report states that this chap, who is a shearing contractor, employs about 50 men on Kangaroo Island.

The PRESIDENT: Order! The honourable member is getting a long way from the Bill. I do not wish repeatedly to draw his attention to that.

The Hon. J. E. DUNFORD: I am sorry, Sir. The member to whom I have referred is reported as having said:

> Too much emphasis and fear is placed on the unemployment issue. If the employees are not effective, stand them down. Let them go hungry.

The report continues:

> A burst of angry interjections from the Government benches did not deter the tall Liberal.
>
> "I mean this," he went on. "The only way to get the message through to some people is through their stomachs. There are far too many wasting their time in many of our Public Service utilities and it is about time . . .

The PRESIDENT: Order! The Hon. Mr. Dunford has spoken sufficiently on that point. If the honourable member wants to discuss the Bill, I will give him one more chance to do so.

The Hon. J. E. DUNFORD: I want to carry on about that bloke, because he is the key man in the Ministry, they tell me. I am concerned about this situation. If this part of the Bill is not deleted we will have more industrial trouble in South Australia. I do not want to see that. Certainly, some forces emanating from South Australia want to see that.

Trade union officials are not criminals. They work hard, and I felt much sympathy towards Mr. Beatty of the Transport Workers Union when he appeared on *Nationwide* last night. He said he had been in the game for 35 years. Does he look like a crook? He was apologetic in defending his members. He claimed that his members came to him and said, "We will lose our jobs. It is your job to ensure that they are not lost. You must protect our future jobs in the industry". He has done that, and that is the cause of the dispute.

I have told the Council that because of the dispute threatening fuel supplies in South Australia, and any fair-minded person would agree with that. People ripping off Australia must be stopped. I should like to finish by saying—

The Hon. J. C. Burdett: Hear, hear!

The Hon. J. E. DUNFORD: If the Minister has just woken up, he has missed quite a bit. Finally, I appeal to the Liberal Party (if it is possible to appeal to it), to withdraw the objectionable provisions in clause 9 which should not be passed.

Certainly, if the Hon. Mr. Milne is the democrat that he claims he is, he should not support those provisions. In considering strikes, one point stated by the Secretary of the T.W.U. on air was that the only good strike is the one you are in. Honourable members criticise the storeman and packers for seeking $7 or $8 a week, yet soon members will get a $40 or $50 a week increase. We should consider what we would do in their position. For that reason I support the storemen and packers, the transport workers and the seamen.

The Hon. R. C. DeGARIS: It has been claimed by a prominent mathematician that if one had enough monkeys typing on enough typewriters for a long enough period one would eventually produce Gray's *Elegy written in a Country Churchyard*—

The Hon. Anne Levy: It's from Hamlet; at least get your quotations correct.

The Hon. R. C. DeGARIS: I see. It is statistically certain also that, given enough time and enough Bills being introduced in this Chamber, eventually the Hon. Mr. Foster and the Hon. Mr. Dunford will be able to make a speech relating to the principles in a Bill before the Council.

The Hon. N. K. Foster: This Bill has no principles in it.

The Hon. R. C. DeGARIS: What principles were there then in a number of Bills, in similar terms, that appeared before this Council over many years to handle emergency situations? That is what this Bill is all about: it gives the Government emergency powers in relation to a possible disruption of fuel supplies in South Australia. Over a period this Council has passed legislation similar to this on two occasions to allow the Government of the day these particular powers for a short period.

The Hon. C. J. Sumner: What did you do last year?

The Hon. R. C. DeGARIS: I will come to that point. The first Bill of this nature to come before the Parliament was presented to an emergency session such as this on Monday 31 July 1972. A position had arisen in South Australia in which fuel supplies were threatened because of industrial disputation, and the then A.L.P. Government felt that it should have some emergency legislation to deal with the rationing of liquid fuels, if the position deteriorated.

It is fair to note that South Australia has at any time about a fortnight's supply of fuel, and I will touch on that matter later. On the previous Friday, that is, 29 July, the Government had issued a proclamation freezing supplies of liquid fuel in the metropolitan area. This proclamation was issued under the shopping hours provision of the Industrial Code, but the proclamation did not apply to country districts because the shopping hours provision of the Industrial Code, 1972, did not apply throughout all South Australia.

On Saturday 29 June 1972 all members of Parliament were informed that Parliament was to meet on Monday 31 July to deal with the state of emergency that had been created by the continued unsettled conditions in the oil industry. It is fair to note the dates involved, because at the end of July and beginning of August Parliament was actually sitting. However, in the present situation the Government has introduced legislation but has been criticised because Parliament has been called back after it adjourned for a fortnight. The point I am making is that when the emergency session was called on Monday 31 July 1972 Parliament was sitting, which indicates that the argument put forward by the Opposition that we should wait until Parliament is sitting in the event of a crisis such as this is not a valid argument.

The original Bill gave the Minister extremely wide powers in regard to the implementation of a rationing system, but that Bill did not include a termination date. An amendment imposing a terminating date of 31 August 1972 was accepted in another place. That amendment was not moved in this Chamber, but was moved by the then Opposition in another place.

The Hon. C. J. Sumner: How long was the period?

The Hon. R. C. DeGARIS: One month.

The Hon. C. J. Sumner: What is so different?

The Hon. R. C. DeGARIS: I am coming to that point in relation to the attitude this Council has always adopted. I am now covering the points the Hon. Mr. Sumner tried to

make, but did not do so with any great conviction. In the original Bill Parliament decreed that if the Government required an extension of such wide powers the Government must seek further Parliamentary approval.

The Hon. C. J. Sumner: Do you agree with that?

The Hon. R. C. DeGARIS: Of course I agree with that.

The Hon. Anne Levy: Do you think that one month is a good idea?

The Hon. R. C. DeGARIS: I did not say that. I said that the one-month provision was accepted in another place. This Council has never interfered with the request of the House of Assembly in relation to a termination date in legislation of this type. The Bill introduced in 1972 also provided for a penalty of $1 000 for using liquid fuel for a purpose other than the purpose referred to, and that in a prosecution under this section it was up to the defendant to prove his innocence. The Hon. Mr. Blevins may well understand that point, because he has made some very excellent speeches on this question. The then Government introduced a clear reverse onus of proof situation in regard to that Bill dealing with emergency powers. The Council would not accept the reverse onus of proof provision and amended the Bill accordingly. A further amendment was moved and accepted by the Government, dealing with the question of the original proclamation, which had doubtful validity under the Industrial Code. However, that does not interest us at this stage.

That particular Bill expired on 31 August 1972, and the Government did not seek a renewal on its expiration. In August 1974 the then Government introduced a wide-ranging measure known as the Emergency Powers Bill, which attempted to place permanently on the Statute Book a piece of legislation that allowed the Government to invoke the powers contained in the legislation by the making of any regulations that may be deemed neccessary to ensure that people were supplied with the essentials of life. That Bill armed the Government with the power to govern by decree, but with certain exclusions, for a maximum period of 14 days. The Government could not make regulations to introduce any form of industrial conscription, make strikes illegal or prevent picketing. However, it could govern by decree on anybody else in the community for a period of 14 days.

It was the Legislative Council's view that if the Government wanted this type of emergency powers those powers should be exercisable over all members of the community without any exclusion. I think that that is a perfectly valid point that was made by the Council at that time. That Bill, the Emergency Powers Bill, 1974, contained no rights for the individual who may have been adversely affected by those wide regulatory powers to claim compensation for any damage or loss suffered. Because these points could not be resolved at conference, the Bill was laid aside, and quite rightly so, Mr. President, if I may say so. In early August 1977 a further Motor Fuel Rationing Bill was introduced that was operative until the end of October that year. I would like the Hon. Anne Levy and the Hon. Mr. Sumner to note the date.

The Hon. C. J. Sumner: For 80 days.

The Hon. R. C. DeGARIS: Almost three months. I point out that the Council did not in any way interfere with that particular provision, and if the Hon. Mr. Sumner wants to make comparisons regarding inconsistencies the Bill he should use to compare the attitudes of members in this House (the Bill he must compare) is the 1977 Government Bill and not the 1979 Government Bill, which I will deal with in a little more length in a moment.

The Hon. Anne Levy: You disagree with Dr. Tonkin? He opposed the 80 days.

The Hon. R. C. DeGARIS: I appreciate that. What I am dealing with is not a question of the attitude of the House of Assembly but the attitude one should adopt in a responsible House of Review, which is an entirely different question and which the Hon. Anne Levy and the Hon. Mr. Sumner do not understand. One must look at how this Council has viewed emergency legislation that has come before it over the years. The Legislative Council, in 1977, moved two amendments to the Bill that had been introduced. The first amendment removed the reference to a 44-gallon drum from the definition of "bulk fuel", an amendment which, if it had not been carried, would have placed serious difficulties in the way of the primary production section of the economy. A further amendment was moved providing power for the Government to move fuel during any crisis.

One of the most important powers we must consider in any Bill of this nature is the Government's right to move fuel to supply emergency services during any fuel crisis. Without that power, any rationing or control is absolutely useless, because the Government must maintain its emergency services, whether they be hospitals, police, ambulances, or whatever else they may be. Those services must be maintained, and without power for the Government to move fuel in that sort of crisis any system of emergency powers is quite useless in protecting the community. I think one must accept that in any crisis involving motor fuel, particularly fuel supplies for emergency services, it is essential that the Government have power to move fuel to ensure that services are maintained. Neither of the proposed amendments was acceptable to the Government and, once again, that Bill was laid aside.

The Hon. C. J. Sumner: In 1977.

The Hon. R. C. DeGARIS: It was laid aside in 1977.

The Hon. J. C. Burdett: Laid aside in 1978.

The Hon. R. C. DeGARIS: Yes.

The Hon. C. J. Sumner: It was passed in 1977.

The Hon. R. C. DeGARIS: I do not think so. Whether there was a further Bill, I do not know, but that particular Bill was laid aside on the basis of the two points I have raised, the major point being the Government's right to move fuel in a crisis. If one is going to deny that right to Government, then any emergency powers are not worth anything.

I want to deal further with the question raised by the Hon. Mr. Sumner when he claimed that members on this side were taking an inconsistent view because we were not moving amendments similar to those that were moved to the 1979 Bill. As I have pointed out, if one wants to look at consistency, one must look at the short-term Bill dealt with in 1977-78 regarding fuel rationing, not at the 1979 Bill, which was putting something on the Statute Book permanently. There is a big difference between the two approaches.

The Hon. C. J. Sumner: You're after 80 days.

The Hon. R. C. DeGARIS: This Council raised no objection to that point on the Bill in 1977-78. As long as it had a terminating date, we accepted three months as a logical time. I do not believe that the Government should change its approach. I refer now to what I said on 21 August 1979 regarding the 1979 Bill (page 568 of *Hansard*). The point I made was quite valid. That is that, where we have permanent legislation regarding these matters, we must be careful to ensure that people have a right of appeal and everything that goes with it. These points were not raised regarding the temporary Bill. They were raised only in relation to where the Statute was to become permanent. If legislation is put on the Statute Book permanently and if an emergency occurs and continues for 30 days, that Bill will be there. It must be

brought back before Parliament for extension but only the extension, not the original measure, is discussed.

The Hon. C. J. Sumner: Couldn't amendments be moved when it came back?

The Hon. R. C. DeGARIS: The Bill is not up for approval: it is only up for extension.

The PRESIDENT: Order! The Hon. Mr. Sumner had a fairly good hearing this afternoon.

The Hon. C. J. Sumner: I didn't, you know.

The PRESIDENT: I beg your pardon. The Hon. Mr. Sumner is reflecting on my handling of the Chair when he was on his feet. I take exception to that. I expect the same courtesy.

The Hon. C. J. Sumner: I am doing that. I am just asking the odd question.

The Hon. R. C. DeGARIS: In 1979, I said:

> When the 30 days are up, Parliament could be in the position of not being able to do anything but continue the legislation in an emergency. In such circumstances we would be left with passing a Bill with no appeal provisions and with this clause included. It is not valid to argue that the Bill is only for 30 days. We must consider the position where the legislation may have to be extended. If it goes on the Statute Book as it is now, there is no way that Parliament can insist upon a change in any of its provisions. That point should be borne in mind by honourable members when voting on this clause.

That is a valid point but there could be a repeat proclamation six times a year. If that happened, there would be no way, in that continuing emergency situation, in which an injustice could be done and could not be corrected. The Council has been totally consistent. Where there has been a termination date, we have not argued about the time for which the Bill should run, and we have not argued that there should be appeal provisions in a Bill that is to operate for a limited period. However, when legislation comes before us that is to be a permanent measure, I would be most insistent that it contained appeal provisions and other matters.

I see no reason to argue the matter in relation to a short period if emergency legislation is required. We have not argued it previously, and it is wrong to say that we are inconsistent by not arguing it now.

One point I wish to draw to the Attorney's attention relates to clause 9, and another deals with whether the Government should consider subdelegation of powers. In an emergency situation, when things have to be done quickly, some of the powers delegated may have to be further delegated. I draw that to the attention of the Attorney, to see whether he considers it a valid point.

In any position of crisis in relation to fuel supplies, it is imperative that the Government should have the power to move fuel, and I am pleased to see that such a power is provided in clause 9. I know the Hon. Mr. Dunford has looked at the matter purely and simply from the point of view of breaking picket lines, or something like that.

The Hon. J. E. Dunford: Not to protect the trade union movement. You want confrontation. You're the same as your mate, Ian McLachlan.

The PRESIDENT: Order! I think the honourable member has cleared up the point, and the Hon. Mr. DeGaris should address the Chair rather than addressing the Hon. Mr. Dunford.

The Hon. R. C. DeGARIS: I agree, Sir; it is much more pleasant, too. The Government must have the power to move fuel in a crisis. Regarding the question of giving directions to a body corporate, if one service station is owned by a company and another by an individual, and if there is power to give an order to the service station that is owned by the company, but no power to give any instruction to the service station owned by an individual, the situation is not logical. It may be necessary in that position to rely on the good offices of the Government for this power to move fuel in a crisis, but I would prefer the amendment that I moved, I think, in 1979.

If the Government is thinking of permanent legislation, I recommend that it should look at this approach. The Government must issue, if it intends to give any direction, an emergency order and, by that order, the Minister can take action or demand that some action be taken or that someone refrain from action. The amendment also contains a penalty for anyone who prevents someone from complying with that emergency order, or who hinders or obstructs a person acting in compliance with that order, or counsels or procures a person to contravene an emergency order. If we are putting legislation permanently on the Statute Book, I recommend that the Government should consider an amendment along those lines, rather than just having the power contained in clause 9 (1). I am extremely pleased that the Government has seen fit to take action to have the power to move fuel in a crisis. I believe that, without that power, any emergency legislation would be of little value.

I support the second reading, and I should like to make a couple of comments on the need for the Government to look at a policy that will increase the amount of storage available in this State. Australia has the smallest capacity for storage of any Western country. I know of one country which has a storage capacity, on farms, in manufacturing, and in industrial premises, as well as in the petrol distribution centres and refineries, of almost six months fuel.

We in this State have a capacity to store about a fortnight's supply. I suggest that the Government look at a policy of encouraging, not necessarily by subsidy but perhaps by loan assistance, users of liquid fuel to have a storage capacity that can increase the quantity of fuel that can be stored to enable a longer period of usage in any crisis that may occur. I commend that policy to the Government.

I support the second reading. If the Hon. Mr. Sumner will look at the attitude that we have adopted to temporary emergency power in relation to fuel rationing, he will see that there is absolutely no inconsistency between our attitude regarding this Bill and that in relation to previous Bills introduced by the Labor Government.

The Hon. G. L. BRUCE: I am in a bit of a quandary; I support the Bill in principle, but I violently oppose some sections of it. I do not know how that comment will be interpreted. I violently oppose clause 3, and I will deal with that clause at some length later. I support my comrade, the Hon. Mr. Dunford, in his comments about clause 9. This is a strike-breaking clause.

The title of the Bill is a misnomer. It is for an Act to provide temporary rationing and control over the distribution of motor fuel, and for other purposes. Instead of using the term "for other purposes", the Government might as well have called the Bill a strike-breaking Bill. The only Bill the Council need consider is a Bill to control the distribution of motor fuel.

This Bill effectively curtails any strike action. The Government is taking away the democratic right of any worker in Australia to strike. I understand that the Bill provided for a $10 000 fine to be imposed on a person if he did not obey an instruction under this Bill. Because of discussion and amendments, the fine was reduced to $1 000. Members on the Government side seem to think that that action makes this clause acceptable. As one of my friends and colleagues said, that is like being a little bit

pregnant—there is no such thing. It does not matter whether the fine is 50 cents, $1, $5 000 or $100 000; the principle is still the same.

The trade union movement's stand is clear—no member who is fined under one of these provisions (including section 45D of the Federal Bill) will pay his fine. That puts the Government in confrontation with the trade union movement, with the workers, and with the citizens in our community. If the Government is prepared for confrontation, so be it. The responsibility rests with the Government.

The argument put by the Government is that this clause will not be used. If it will not be used, why is it included in the Bill? No sensible person could oppose the Bill if it related purely to the rationing and distribution of fuel and if it intended that emergency services were to be maintained. However, confrontation will occur because of the imposition of a fine, whether it be $1 000 or $10 000.

One would think that we were dealing with people invading Australia instead of fellow Australians who are forced to take action to protect their jobs, and it is an indictment of our society that this is so. The Government says that it will fine a worker $1 000 (and under the Federal legislation the fine is much more) if he obeys an instruction that he, as a union member, has taken with a group of his fellow workers about taking certain action. No worker will comply with the Government's wishes on that, so this is a strike-breaking Bill. This is a matter for the industrial courts, not for the Government. It should not introduce Bills of this type that cut across industrial legislation.

The other thing that concerns me is that in this Chamber, irrespective of what happens, the Hon. Lance Milne has the power to decide which way this Bill goes. If he decides that he is going to restrict the freedom and democratic right of the worker to go on strike (although he has said it does not, that is what it boils down to, and it is selective), it is going to happen; if he decides that it is not, it will not happen. I resent the fact that he calls the shots for the whole of this Council, but that is the way it is. I do not believe that it should be that way, although that is no reflection on him personally.

The Government has picked out only two unions in this Bill. It has not picked out the Seamen's Union, but it has picked out the Transport Workers Union and the Storemen and Packers Union. We could be in a situation in a couple of weeks where there is no fuel in South Australia because the seamen will not man the tugs that berth the boats or unload the fuel. Clause 9 (1) provides:

> Where, in the opinion of the Minister, it is in the public interest to do so, he may give directions to any person in relation to the supply or distribution of rationed motor fuel.

I imagine that that fuel in the tanker not being berthed is not rationed motor fuel. If the seamen do not want to berth it, they do not have to do so under this Bill. This Bill attacks the storemen and packers who handle it at Port Stanvac, who can be fined $1 000 if they do not front up. They can be told, "We want you down there to man the valves and taps". However, if they do not go down to do that, they will individually be fined $1 000. The Government is effectively destroying the trade union movement in one blow, as it can prosecute and persecute individual members of that union.

One can say exactly the same thing of the Transport Workers Union members. A member could be home on strike and firmly believe that he is protecting his job. However, if he refuses to bring in tankers he is liable to a penalty of $1 000. If we run out of fuel and have emergency measures, the seamen will be out there with $3 000 000 or $4 000 000 worth of crude oil, but nothing can be done under this Bill.

Members opposite say that this Bill must have those clauses in it. I suggest that this is an expediency Bill, introduced in a rush to win public sympathy. People are greedy. On television I saw a chap in Melbourne who waited on a queue for some time and then purchased 93 cents worth of petrol to fill his tank. It cost him more than that to wait in the queue to get his tank filled. I do not disagree that there should be legislation for emergency supplies, but the Government has created a run on petrol stations. Whereas we might have had fuel for four weeks, we will now have only enough for two weeks, because of greed.

The other thing to which I object is the principle established by saying that those fines can be implemented. It reminded me of a story that bears repeating. At a party a nice young lady was present. A chap said to her, "Will you spend the evening with me for $10 000 and a fur coat?". Eventually, she agreed. He said, "What about $5?" and she said, "What do you think I am?" He said, "We have already established what you are; we are just haggling about the price." In this Bill we have established the same principle, regardless of what the fine is. The Government will be able to prosecute and persecute individuals, whether they be right or wrong, by standards laid down in this Bill. I believe that the whole thing should be withdrawn. Clause 9 (1) of the previous Bill, which was introduced by the former Labor Government, provides:

> Where in the opinion of the Minister it is in the public interest to do so he may during a rationing period give directions to any body corporate carrying on a business.

I do not object to that provision. There must be rules and regulations applying to both sides and, if it is decided to fine a union, be it $1 000 or $50 000, it could call its members together and take a mass decision, knowing what the outcome would be. However, the Government is not doing that: it is getting at the individual who can hardly stand up and who has no group to support him. Such a person can be fined $1 000 unless he knuckles down to this legislation.

This is against all the principles of democracy and is surely leading to a confrontation with the trade union movement for which the Government is obviously looking. The legislation is hamfisted. Although no-one could criticise the intention behind the Bill, it contains no right of appeal, which I think is wrong. The Party to which I belong is not pressing for such a right of appeal to be inserted. However, a direct right of control should not be given to the Minister without there being a right of appeal, which no-one should be denied.

The Hon. J. E. Dunford: Mr. DeGaris and Mr. Burdett have said that 1 000 times previously.

The Hon. G. L. BRUCE: I agree with them. I do not believe that any Minister should have the right of direct control without an individual's having a right of appeal against his decision. We had petrol rationing in 1972 and 1973, legislation having been passed in 1974, 1976 and 1977 without rationing having been necessary. We got through those crises, and I do not believe that any individual was fined, be it $1 000 or $10 000. We are talking about fellow Australians, who have their rights, and they should not, because they agree with the decisions taken by the democratic bodies to which they belong, be told, "We will take you as an individual and prosecute and persecute you."

To that extent, the whole thing is wrong. I agree that the Bill should have been introduced and that, if necessary, petrol rationing should occur. However, clause 9 should not be allowed to pass in its present form. Unfortunately, the whole matter rests on the Hon. Mr. Milne's shoulders.

The Labor Party will move amendments that should be supported, and it will depend on the Hon. Mr. Milne whether they are carried, and whether individuals will be forced to the wall and be made to suffer in a way in which they should not suffer. I support the Bill on a limited basis only.

The Hon. FRANK BLEVINS: I, too, support the Bill, and should like to make some brief remarks in support of the second reading speeches made by my colleagues. Parliament has been called together and honourable members are present today because of a dispute that has arisen in New South Wales because one small contractor has decided to take on the whole trade union movement, the whole organised labour system, and indeed a large proportion of employers. This man has said that under section 45D of the Trade Practices Act he will summons the union involved and try to have it fined, if the court sees fit, up to $250 000, because of a restraint on his right to deliver petrol. The Trade Practices Act was never designed for that kind of action. Indeed, it is a total perversion of the Act that section 45D was inserted therein. Legislation of such a nature would certainly be more appropriate elsewhere.

If penalties imposed against striking workers solved industrial disputes or prevented them, there would be no disputes in Australia. I do not think there is any country in the democratic world which has as much penal legislation and has tried as much penal legislation against unionists as Australia, yet Australia has one of the worst strike records in the world. It should have penetrated even the densest skulls that such action does not prevent industrial disputes.

In fact, provisions such as section 45D of the Trade Practices Act create industrial disputes. Section 45D is one of the most vicious penal clauses ever written into legislation to attack the working class of this country. The first union ever to feel the wrath of this provision was my union, the Seamen's Union, which was involved with a rapacious conglomerate, Utah, which makes enormous profits, employs a few Australians and manages, by some accountancy practices which are well known to Liberals but which are unknown to me, to repatriate about 110 per cent of its profits to its parent company. It does nothing whatever for this country, but it took on the Seamen's Union under section 45D of the Trade Practices Act and the appropriate Queensland Act. That action did not solve the industrial dispute: it prolonged the industrial dispute because the trade union movement in Australia will not tolerate penal clauses of this kind. Two A.C.T.U. Congresses have been held since section 45D was put in the Trade Practices Act and unanimously every union affiliated with the A.C.T.U. passed this motion:

> In our view the Trade Practices Act is a totally unacceptable vehicle to cover the legitimate activities of trade unions. We urge therefore that the Government reviews its position in consultation with the trade union movement. We believe it is appropriate that this issue should be the subject of discussions on the reconstituted National Labour Advisory Council. The trade union movement stands ready to support any trade union which is made the subject of the operations of these provisions should the Government reject our advice and implement such legislation.

The Government rejected that advice. We are here today because of an industrial dispute in New South Wales resulting from this provision. The situation has been caused because some two-bit contractor decided that he would take on organised labour in this country. His action is gradually bringing Australia to a halt. I do not believe that what the Government has done today is a panic move, because all over Australia the wheels are stopping. That is happening now and it will continue to happen. All the talk about bringing out troops and sending some half-baked graziers out to fix things, or whatever nonsense Liberals talk at times like this, will not stop it.

The only action that will stop this situation is for such legislation, first, not to be used and, secondly, to be taken off the Statute Book. If clause 45D were not on the Statute Book we would not have this dispute. The Government can sheet this dispute and its other problems home to this legislation.

The reason why the trade union movement will not stand this legislation and why Parliament has been recalled today is that the trade union movement just cannot operate under such legislation. That is recognised not just by the trade union movement but by the people as a whole through the laws that they pass in Parliament, in any sensible country, and I have to exclude Australia from that description.

If honourable members go back about 70 years in the United Kingdom the case that stands out as a fine precedent is the Taff Vale case, in which railway workers were sued in, I think, 1901.

That was the culmination of one of the greatest union-bashing eras ever seen in the United Kingdom. The Amalgamated Society of Railway Servants, which had organised picketing against the Taff Vale Railway Company during a bitter strike, was fined £23 000. It was always assumed that unions could not be sued through common law in that way. However, the Taff Vale decision quite clearly showed that they could be. Therefore, the law was immediately altered, because the Government in power in the United Kingdom at that time realised that it was impossible to operate if a union could be sued for the damage it caused every time it went on strike. In that situation, the whole system collapses.

It is not just the trade unionists who need the trade union movement; the employers also need it. Employers cannot operate in a modern industrial society without trade unions. It is in the interests of employers that legislation such as section 45D of the Trade Practices Act is abolished and correcting legislation following the Taff Vale decision is enacted. Any sensible employer in this country will confirm that. For example, B.H.P. would have nothing to with section 45D of the Trade Practices Act. The Hon. Mr. Laidlaw and his many companies would not have anything to do with this type of legislation, because he knows that there is always tomorrow, and he will always have to try to re-establish some kind of working relationship with the workers the following day, knowing that workers have very long memories. Therefore, this type of legislation is anathema to any sensible employer or sensible Government, and is certainly anathema to the trade union movement.

Clause 9 of this Bill is merely another form of penal sanction. I have no idea where members opposite get their advice, because it is quite clear that they do not receive it from the Hon. Mr. Laidlaw, who is deadly quiet at present. He will vote for this Bill, but he will not stand up in this Chamber and support it, because he realises what will follow from this type of legislation. The Hon. Mr. Laidlaw knows that his companies cannot operate, and this State cannot operate, by threatening people with clause 9 and telling them that if they do not do as they are told they will be fined $1 000. In that situation the whole organised trade union movement would respond; it would stop the State and, if necessary, stop the country. If members opposite think the trade union movement cannot do that, then they should watch what happens over the next few days and see exactly what it can do, purely because of the stupidity of Government members. No

unionist likes going on strike, and he can afford to do so far less than can an employer. However, trade unionists are forced into that position time and time again because people like Government members want disputes like this for Party-political and electioneering purposes.

The PRESIDENT: Order! If the honourable member does not want a lot of interjections—

The Hon. Frank Blevins: I am not getting any.

The PRESIDENT: Order! If the Hon. Mr. Blevins does not want to receive any interjections, I advise him to address the Chair.

The Hon. FRANK BLEVINS: Mr. President, I did not have one interjection apart from yours. It is quite obvious that Government members will take no notice of me or other members on this side. That is perfectly clear, because they know—and they are quite correct in this and I do not deny it—that strikes, industrial disputes and bans are unpopular in the community. Members opposite realise that, and they believe they can get some mileage out of it. Therefore, if they will not listen to me, perhaps they will listen to one of their own, a gentleman who has probably been even a personal friend of the Hon. Mr. Laidlaw.

I refer to Commissioner Portus, whom I think the Hon. Mr. Laidlaw would know quite well and who certainly was not somebody known to be on the side of the working class. Commissioner Portus said (and I want members opposite to listen carefully) in an article headed "Civil Law and the Settlement of Disputes", which appeared in the *Journal of Industrial Relations* of September 1973 (I will not read the whole article because it is available from the library), in the last paragraph:

> In summary my object in the last part of this article is to open up some aspects which appear to me to merit discussion, but on the general theme it appears best that the law of torts—

and section 45D of the Trade Practices Act and clause 9 of this Bill apply, I think, equally as well to the law of torts, and are legal attempts to bash workers into work—

> . . . should not apply to strike action. These torts should be confined to relationships between people which it is accepted by the community should be covered by the ordinary law. Industrial relations are not in this category. They are in a shadow land only partly within the law. Their most significant aspect deals with the co-operation between employer and union groups and this co-operation will at times break down and strikes will occur. In our present stage of society, this co-operation cannot be rigidly enforced by law.

Those words are, I think, very wise, and I commend Commissioner Portus for them. I appeal to the Hon. Mr. Laidlaw, and anybody else on the other side who has some knowledge of industrial relations, to pull the Liberal Party back from the brink of this legislation and here, along with the Hon. Gordon Bruce, I address myself to the Hon. Lance Milne and ask him to assist in stopping legislation of this nature going into the laws of this State. It is totally unneccesary and will inflame, as it already has done (that is why we are here today), a very bad industrial relations scene in this country. This legislation is totally unneccesary and, while supporting the second reading, I oppose that part of the Bill most strongly.

The Hon. K. T. GRIFFIN (Attorney-General): The Leader and other speakers have raised some questions about whether or not there is an emergency in this State that warrants Parliament being called together.

The Hon. Frank Blevins: Nobody's raised that here.

The Hon. K. T. GRIFFIN: The Leader of the Opposition asked me at the beginning of his speech to justify once again that there is sufficient evidence before the Government to warrant Parliament being called together again for the purpose of considering this legislation. The Leader is quite correct in saying that we have about two weeks supply of fuel in petrol stations, and we have another four weeks supply in all other bulk terminals. What he does not seem to appreciate is that if there is a strike we will not be able to get at what is in the bulk terminals, and we will be limited to what is held in service stations. Previous experience in 1972, 1973 and 1977 indicates that it is important in such circumstances to be able to take action to ration motor fuel available for service stations for the purpose of maintaining essential services.

It is not only a strike or disputation in New South Wales that is causing concern in South Australia. It is the fact that the Transport Workers Union here has struck for 24 hours and has said that, if the Federal Government takes action against its New South Wales counterparts, the employees here will go out on strike in sympathy. The point to make is that that strike has extended to Victoria, and I indicated at the conclusion of my second reading explanation that the Government had information this afternoon that the Victorian Government had taken action to introduce rationing from 2 p.m. today, in view of a strike by Transport Workers Union members in that State for a period of not less than 48 hours.

The indications that I also referred to in the early part of the second reading explanation were that in New South Wales the Government was looking towards extending the freeze on petrol reselling beyond Newcastle, Wollongong, and Sydney, and that in the Australian Capital Territory an emergency had been identified and rationing was to take place there. Now we have heard that the Tasmanian Government is drafting a rationing Bill to deal with an emergency situation that is likely to occur there.

All these factors indicate to the Government that it was not precipitate in calling Parliament together to discuss this emergency legislation. We have not indicated that we will have the Bill assented to and proclaim the Act to come into effect at this stage, but the Government needs legislation to proclaim to come into effect if it is of the opinion that rationing ought to take place. If we had not called Parliament together to consider this matter today, we could have been in the situation later in the week where we needed emergency powers to deal with rationing but were confronted with the weekend and would not be able to move until next week. We would have been branded by the Opposition as being irresponsible in not calling Parliament together to consider such a situation. I believe that I have demonstrated, as the Premier has indicated in another place, that the Government was justified and acted responsibily in moving to have this legislation considered and enacted today.

The Hon. C. J. Sumner: Is Port Stanvac one of the problems?

The Hon. K. T. GRIFFIN: Port Stanvac is a problem but we can deal with that in the Committee stage. The Opposition has levelled a number of criticisms at the Government's decision to introduce, in the Bill, certain provisions which the previous Government introduced last year and which were under consideration by Parliament when the Government called an early election. If it had not been for the Government's decision to call that early election, we may well have had on the Statute Book fuel rationing legislation with which to deal with the present situation.

On that occasion, the Opposition moved a number of amendments in the Council with a view to having them considered by the House of Assembly and, if the House of Assembly would not consider them, by a conference of

managers. While the Leader of the Opposition suggests that the Bill would not have got past the Council after a conference, there is no evidence that that would have been the outcome of a conference of managers. At that time the Oppostion in this place supported the Bill that was before us. We were anxious to establish that, because it would be on the Statute Book until it was repealed, there should be adequate provision against abuse of power and against matters that would not be subject to Parliamentary scrutiny.

The Hon. C. J. Sumner: After 30 days.

The Hon. K. T. GRIFFIN: The Leader of the Opposition keeps saying that, after 30 days, under that Bill the matter would be subject to Parliamentary scrutiny. At the time he was making the point, I interjected to say that there is nothing about that in the Bill, and he was not able to point to any express provision which required the Government, acting under that legislation, to come back to the Parliament.

The Hon. C. J. Sumner: Clause 5 (3)—look at it!

The PRESIDENT: Order! The Leader of the Opposition is continually interjecting, after having a reasonable time to ask his questions. He should now be prepared to listen to the replies.

The Hon. C. J. Sumner: He won't answer the questions.

The PRESIDENT: Order!

The Hon. K. T. GRIFFIN: There was no provision in clause 5 of the Bill before us on that occasion that required the Government to come back to Parliament for consideration of the emergency.

The Hon. C. J. Sumner: The 30 days has expired under clause 5 (3). The rationing period has expired.

The Hon. K. T. GRIFFIN: We are changing our tune now; the Leader is no longer asserting that it is a requirement of the Bill that the Government should come back to Parliament, but only after the emergency period of 30 days expires should the Government come back to Parliament for consideration of that matter. That is different from providing expressly in the Bill that the Government must come back to Parliament for consideration of an emergency.

As the Hon. Ren DeGaris has indicated, it would have been possible, under that Bill, for an emergency to have been declared every two months, and it would have continued for 30 days, under clause 5, without any Parliamentary review. The Parliamentary review was entirely at the whim of the Government of the day; if the Government decided that it should not come back to Parliament for any extension of the powers, then it could not be compelled to come back for that purpose to enable its actions to be scrutinised. That is a totally different situation from that which the Leader of the Opposition has been putting to us.

The Leader referred to a number of clauses to which members now on this side moved amendments and sought to address some comments to the then Government. I think it is more appropriate that we should deal with most of those in Committee, as we deal with the clauses individually.

Clause 9 appears to have caused considerable concern among Opposition members. That is a clause, except for the change in verbiage from corporations to persons, in accordance with the Opposition amendment accepted by the Council last year, which is identical with the proposal of the previous Government in the Motor Fuel Rationing Bill that came before us last year. The Leader has said that the reasoning of the previous Government in wanting to limit the application of clause 9 to corporations was that, if the oil companies withheld supplies, the Minister could compel them to release those supplies. That has a very limited application, and does not really take into account all sorts of initiatives which must be taken by the Government of the day to deal with the rationing situation. It has already been said in the debate that clause 9 of the Bill now before the Council extends to service stations where those service stations are carried on by individuals.

If only service stations whose businesses were carried on by corporations were caught by the provision of clause 9, grave injustice could arise. The Hon. Ren DeGaris gave an example of two service stations of comparable size, comparable turnover of fuel and comparable location, one owned by a body corporate and the other owned by an individual. The service station owned by the individual, under the previous Government's proposal, could not be given any direction by the Minister, but the service station owned and operated by the body corporate could be given Ministerial directions. I suggest that it must be obvious that that situation could give rise to grave injustice and result in considerable inequity in situations like the one I have cited.

Another factor that the Opposition does not appear to have recognised in proposed clause 9 is that in 1972, 1973 and 1977 the previous Government introduced legislation containing a provision that enabled the Minister to give directions to persons, not in identical terms to clause 9, but in similar terms. Under section 15(2) of the 1977 Act, the Minister had the power to give directions in the following circumstances:

> . . . by notice in writing prohibit or restrict the movement of any particular consignment of bulk fuel, of any class of consignments of bulk fuel, or of consignments of bulk fuel generally.

Subsection (3) of that section provides:

> A person shall not move, or cause, suffer or permit another person to move a consignment of bulk fuel in contravention of a notice under subsection (2) of this section.

In those three Bills, bulk fuel was defined as motor fuel in a container having a capacity of not less than 180 litres. The effect of the definition was that fuel in 44-gallon drums and any container with a greater capacity was regarded as bulk fuel. While the movement of 44-gallon drums of fuel or other bulk fuel is not prohibited under the Bill, clause 9 as presently drafted enables the Minister to give directions to persons who may seek to bring into South Australia 44-gallon drums and sell them from the roadside. In 1972 and 1973, the main problem encountered by the Administration during rationing periods was that a number of persons tried to circumvent the legislation by bringing 44-gallon drums from Victoria on the back of a truck and selling them on the roadside. The Government's proposal will enable the Minister to give directions that will prevent that practice, which if allowed, may effectively negate the principle of the Bill, which is designed to control the sale of rationed motor fuel.

The other point regarding clause 9 that I wanted to make (and it may be that this point has not been recognised by members opposite) is that, where a person is referred to, a body corporate is included in that definition by virtue of the provisions of section 4 of the Acts Interpretation Act. One of the definitions of section 4 of that Act states that a person or party includes a body corporate. Therefore, clause 9 of this Bill seeks to allow the Minister to give directions to bodies corporate and to persons.

The other point that some members of the Opposition may not have recognised is that in the House of Assembly the Premier moved an amendment (which was accepted)

to provide a penalty of $10 000 for a body corporate and of $1 000 for a person.

There can be no complaint with a penalty of $1 000 if the offence is committed by persons, because that penalty is consistent with other penalties in the Act where persons, whether they are natural persons or bodies corporate, commit offences. The Government has taken the initiative to reduce the penalty so that it is consistent, so far as individuals are concerned, with other provisions of the legislation.

The Hon. R. C. DeGaris: Are you saying that the penalty is smaller than in the previous A.L.P. Bill?

The Hon. K. T. GRIFFIN: Let me give an example. In the 1977 Bill, there was a penalty for failure of a person to comply with the directions of the Minister in the context to which I earlier referred of $1 for every litre of bulk fuel comprised in a consignment. There is probably 20 000 litres of fuel in a bulk tanker. Therefore, the maximum penalty is $20 000 for moving a tanker contrary to the directions of the Minister under the 1977 Motor Fuel Rationing (Temporary Provisions) Act. That is a substantial penalty, and we have sought to relate the penalty not to the quantity of fuel moved contrary to the direction of the Minister but rather to the offence.

There are three other aspects to clause 9 that honourable members ought to recognise. The first is that, if a direction is given by the Minister and a person incurs expenses in complying with the direction, they can be recovered by that person from the Government in an action against the Crown in any court of competent jurisdiction. The second point is that any decision or direction of the Minister under clause 9, if persons affected are concerned about the operation of the direction, can be challenged in a court by prerogative writ. The third point to recognise is that any prosecution, whether under clause 9 or any other part of the Bill, must have approval of the Attorney-General. Whilst that is a decision to which the Attorney-General of the day must address his mind, he must arrive at a decision which is based on balance as one which is reasonable and responsible. So, there are a number of safeguards in clause 9 as to the way in which it should operate.

I ask honourable members to consider those points, which have not been clearly made during the course of the debate. The last principal matter to which I wish to direct a few comments is in relation to clause 17 of the Bill. Honourable members will have the opportunity to debate the merits of whether this Bill should expire on one day or another. However, I want to put to the Council that the Government has considered the date upon which the Bill should expire and has taken the view that, because of the intervention of Easter and the intervention of a Parliamentary recess, and because Parliament will be resuming early in June, 31 May 1980 is the responsible date that we should recommend to the Parliament for the Bill to expire. If it was to expire on an earlier date and we were confronted with a resurgence of the present dispute, although there might currently be a truce or a temporary resolution (if, for example, we were faced with the situation that in April we had no basis upon which we could introduce rationing), if we had to introduce it again in April or May, we would have to recall Parliament.

Parliament ought not to be recalled in the knowledge that there may be an emergency if there is an opportunity for us to provide the Government with powers, with suitable brakes upon them, to take effect until Parliament again resumes. Of course, there is the possibility that, if Parliament had to be recalled in April or May further to consider the legislation in order to deal with a resurgence of the present difficulties, some members who will be overseas on Parliamentary and Government business may be recalled and that other honourable members, from both sides of the House, may be away in other parts of Australia.

The Government is willing to act in that way if it is required to do so. At present, however, we have the opportunity to ensure that this does not occur and, if there is a need to extend the legislation, we will have every opportunity so to extend it and to debate it fully when Parliament resumes at the beginning of June.

The Hon. Mr. DeGaris has made several other points that I certainly recognise as having some substance. The honourable member made the point that in 1979 he moved an amendment which, rather than enacting a provision such as the present clause 9, enacted a wider clause 9 referred to as clause 15a, which provision related to emergency orders being issued by the Minister.

If one examines the amendments that were accepted by the then Government, one will see that they give much wider powers than those for which the Government is presently looking in clause 9.

The Hon. Mr. DeGaris also commented on the necessity for this State and other States conscientiously to look at the possibility of increasing their storage facilities, so that we in South Australia are not again confronted with the sort of emergency situation that we are now having to consider. I thank honourable members for those parts of their contributions that related to the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Interpretation."

The Hon. C. J. SUMNER: I should like the Government to clarify whether or not it sees this Bill as having application to one of the industrial disputes that it alleges is at present causing disruption to fuel supplies in this State. The New South Wales situation has received much prominence, and most of the Government's attention has been directed to the fact that tanker drivers in this State may take other industrial action in support of their New South Wales colleagues, and that that could therefore cause a shortage of fuel in South Australia, particularly at the retail outlets.

However, the Attorney-General said (and certainly the Premier mentioned this in another place) that some industrial problems have occurred in relation to the docking of oil tankers at Port Stanvac and that, therefore, a potential problem exists in relation to restricting the amount of motor fuel that can be produced at Port Stanvac.

I raise this query under this clause as it relates to the definitions. Does the Attorney believe that the provisions of this Bill will assist the Government in any industrial situation arising from delays in the docking of oil tankers carrying crude oil to be supplied to Port Stanvac?

The Hon. K. T. GRIFFIN: The Bill is designed to deal with the rationing of motor fuel. It is possible that a rationing initiative may have to be taken as a result of insufficient supplies of fuel oil coming from Port Stanvac, just as it may occur as a result of the refusal of drivers to move fuel to retail outlets, or from the refinery or other bulk installations to service station outlets.

I cannot see that this Bill will in any way deal with that industrial dispute, because it is not intended to do so. It is intended to deal with the rationing of motor fuel, which may consequently arise out of that dispute or the Transport Workers Union dispute or any other related activity which puts our fuel supplies in short supply.

The Hon. C. J. SUMNER: Is it envisaged that crude oil is included in the definition of "motor fuel"?

The Hon. K. T. GRIFFIN: The definition in this clause provides:

> "motor fuel" means any substance (whether liquid or gaseous) used or capable of being used as fuel for a motor vehicle:

As I understand it, at that stage crude oil does not have a capacity to be used as a fuel for a motor vehicle; it has that capacity only when it has been refined. Therefore, I would not envisage that crude oil in a sea tanker would be likely to come within the definition.

Clause passed.

Clause 5—"Delegation by the Minister of powers under this Act."

The Hon. R. C. DeGARIS: Has the Attorney considered the question of sub-delegation, to which I referred in my second reading speech?

The Hon. K. T. GRIFFIN: I have looked at this matter. In practice it could arise that a delegate of the Minister may need to require other persons to act for him in carrying out certain functions. The ideal situation is to ensure that any delegate of a delegate is appropriately authorised. It seems that in the current situation the Minister will have it within his power to overcome that difficulty by issuing a wide delegation, if that is needed, of the powers to issue such things as permits. I can see that the widening of the power to delegate may be an advantage, but I do not see that the present clause 5 without that power to delegate a delegation would present any real difficulties in the issuing of such things as permits.

The Hon. C. J. SUMNER: Although this clause is clear, I would like the Attorney to assure the Committee that this is what the Government has in mind.

I take it that, under clause 5, the Minister may delegate any of his powers under the Bill to any other person. In other words, he could delegate his powers under the Bill to the most junior clerk in his department. Indeed, he could delegate his powers under clause 9 to any person within his department or not. Therefore, I want the Government's intentions clearly understood by this Council. The power of delegation is so sweeping and broad that it covers the most junior employee of the Minister's department, or even a person outside of the Minister's department. Secondly, the delegation can apply to the powers that can be exercised by the Minister under clause 9.

The Hon. K. T. GRIFFIN: Technically, that is correct. The Minister can delegate as the clause suggests, by instrument in writing, to any other person. That includes all of the Minister's powers under the Bill. However, in practice, as I am sure the Leader will recollect, that practice was not adopted by the Minister in 1972, 1973 and 1977. Any serious decisions, such as those under clause 9, would not be delegated by the Minister. However, it is certainly technically possible for that to be done, but in the realities of political life and administering the legislation it is most unlikely.

Clause passed.

Clause 6 passed.

Clause 7—"Permits."

The Hon. C. J. SUMNER: This clause deals with the issuing of permits by the Minister if he is satisfied that it is necessary to do so in the public interest. That raises the question that I mentioned in the second reading debate relating to the inconsistency between the Government's approach now and the approach it adopted when in Opposition. In the 1979 Bill there was a clause that I believe is identical to clause 7, and there was also a clause identical to clause 8. Mr. Chairman, I am sure you will recall that honourable members opposite tried to insert a new clause 8a, which would have provided for a review by a Local Court judge of a decision by the Minister to refuse a permit under clause 7.

Last year, when in Opposition, honourable members opposite tried to insert a clause in the 1979 Bill that would have provided for a right of appeal by an aggrieved person who had applied for a permit and had been refused, or had had conditions placed on a permit that he found unacceptable. In moving that amendment the Hon. Mr. Griffin said:

> At present, the Bill provides no machinery by which the Minister's decision may be reviewed.

Later he also said:

> If the Minister is to exercise this power under clause 9 in a way that would severely prejudice the viability of businesses, or that may even accelerate the decline of business to bankruptcy without that decision being subject to review, it is a bad law to enact.

The Hon. Mr. Burdett, who jumped up and down a fair bit during my contribution to the second reading debate, had this to say:

> I support the new clause—

this was an appeal clause moved by the present Attorney-General—

> because grave hardship could be imposed on an individual whose application for a permit is refused. That refusal could bring his business to a complete standstill. I am not impressed with the Attorney-General when he says that a number of applications for appeal could bring the Act to a standstill. . . I suggest, particularly at the present time when there is such a dependence on fuel in business, that if a person is unjustly deprived of a permit and is therefore gravely disadvantaged, a right of appeal is quite proper.

The Hon. Mr. Burdett and the Hon. Mr. Griffin wanted a clause setting up a system of appeals against the Minister's decision, and all honourable members opposite supported that. The Hon. Mr. Davis was here, and his name appears in the division list. The Hon. Mr. Ritson is let off the hook, because he was not here then, but the Hon. Mr. Hill was here, and so was the Hon. Mr. DeGaris.

The Hon. C. M. Hill: Perhaps we didn't trust the Minister in those days.

The Hon. C. J. SUMNER: That is very revealing; the Minister could not trust the Minister then. He is saying that it is all right for Liberal Ministers to be beyond the law, but that it is not all right for Labor Ministers. The point I make is that we have permits under clause 7 and powers under clause 9 which, under this Bill, are even more widespread and far-reaching than they were in the 1979 Bill, and yet for some reason Government members are not moving an amendment to insert an appeal provision. Their main reason for moving an admendment previously was that a business could experience tremendous problems and go bankrupt if it was refused a permit by a Minister and there was no right of appeal. Surely, if that could have occurred within the 30-day period talked about under the 1979 Bill, it is even more likely to occur in the 80-day period we are talking about under this Bill. I, for the life of me, cannot see what the Government is doing, when nine months ago it was being vociferous about the need for an appeal when the Bill was less widespread and less Draconian than this Bill, while it is now saying that that appeal provision is not needed. Will the Attorney-General say, in view of his deep concern—very conscientiously held, I am sure—expressed last August about businesses that could go bankrupt within the 30-day period, why he is not so concerned about that problem now when the period under this legislation, albeit temporary legislation, is 80 days?

The Hon. K. T. GRIFFIN: If this Bill were to establish a permanent system by which the Government of the day could invoke emergency rationing procedures, I would

certainly want to ensure that there were adequate provisions included in it which would ensure that any alleged abuse of power by a Minister could be subjected to review. Honourable members will recognise that in the short time we have been in Government, and with the number of Bills that have come before us which have in any way provided for a Ministerial decision (Bills which are on the Statute Book forever and do not have any determinate time in which they operate), careful attention has been given by the Government to ensuring that there are adequate rights of review.

Certainly, the Leader of the Opposition can argue about the attitude of the then Opposition to both the Government's Bill and its own amendments moved during the debate on the 1979 Bill, and he can throw up what, in debating terms, he would allege as inconsistencies. What he does not seem to acknowledge is that the concepts of the two Bills are quite different. The 1979 Bill was to be a permanent enactment that would not be subject to review by the Opposition regarding how it was operating from time to time.

The Hon. C. J. Sumner: For 30 days.

The Hon. K. T. GRIFFIN: I will not keep answering the Leader of the Opposition, because he does not seem to understand what it is all about. The Bill in 1979 was intended to be on the Statute Book permanently and there was no opportunity for the Opposition to review the legislation. There was no terminating date fixed. In this Bill, there is a date by which its operation is to be terminated. In those circumstances, the operation of clause 7 is more likely to be undertaken by the Minister and his officers in a way that is not subject to any public criticism, because if there is such criticism there will be an opportunity for Parliament to raise those matters with the Government should the Government bring the matter back either for an extension of the period of operation or to enact legislation of a permanent nature that would give the Government wider powers than there are in the Bill.

The Hon. C. J. SUMNER: I do not know whether members opposite, particularly those on the front bench, are being deliberately dim-witted or whether they are dim-witted. I raised the matter of the rights of appeal that the Opposition sought to insert in a Bill that dealt with a maximum rationing period of 30 days.

The Hon. R. C. DeGaris: At a time.

The Hon. C. J. SUMNER: Yes. Here the Government has introduced a Bill with a potential period of operation of 80 days, more than twice the maximum period available in 1979. Clause 5 (3), which I referred to the Attorney-General in my second reading speech, when he chose to ignore what I said, provides that a rationing period shall expire on the expiration of 30 days from the day on which it commenced. It also provides that no rationing period may commence within 30 days of the conclusion of a previous rationing period. If the crisis goes on for more than 30 days, the Government must come back to Parliament. When a Bill comes before Parliament and there are amendments to it, we can go about amending the Bill.

Members interjecting:

The Hon. C. J. SUMNER: I do not have to give the Hon. Mr. Burdett a lesson in basic Parliamentary procedure. In the 1979 Bill, the maximum period without Parliamentary review was 30 days at a time, in terms of one crisis. If the Government wants the powers after the expiration of 30 days, it must come back to Parliament.

The Hon. R. C. DeGaris: Not with that measure.

The Hon. C. J. SUMNER: If the honourable member reads clause 5 (3) and clause 5 (4) of the 1979 Bill, he will see that they provide that the rationing period can extend for only 30 days. Then, the Government must come back to Parliament.

The Hon. J. C. Burdett: With a separate Bill.

The Hon. C. J. SUMNER: Or an amendment to this Bill.

The Hon. J. C. Burdett: No, a separate Bill.

The Hon. C. J. SUMNER: If the Government treated Parliament with that sort of contempt, by coming back with a separate Bill, it would deserve the condemnation of the people and the Parliament. The 1979 Bill clearly accepts that the Government should come back with an amendment to extend the rationing period. In any event, the critical point is that the Bill provided for a 30-day maximum rationing period at any time. I think not only are the front-bench members being dim-witted (they are usually much sharper than this, even at 10 p.m.) but the Hon. Mr. DeGaris, it seems to me, is also being dim-witted.

The Hon. J. C. Burdett: But he's right.

The Hon. C. J. SUMNER: No. After 30 days, it must come back to the Parliament.

The Hon. J. C. Burdett: With a separate Bill.

The Hon. C. J. SUMNER: Under the Bill now before us, the Government has *carte blanche* for 80 days.

The Hon. M. B. Dawkins: You had it for 88 days in 1977.

The Hon. C. J. SUMNER: The interjections of the Hon. Mr. Dawkins are very useful. In 1977 we had a period of 80 days. However, when we introduced the Bill in 1979 we were struck by the tremendously powerful arguments of the Premier in another place, and he convinced us that we should restrict it to 30 days, and so we did.

The Hon. J. C. Burdett: Permanent or temporary legislation?

The Hon. C. J. SUMNER: In 1979 the period was restricted to 30 days. I cannot find any reason for the Hon. Mr. Burdett saying that one is temporary and one is permanent. Under the 1979 Bill the maximum period was 30 days, and under this Bill it is 80 days. In view of that, does not the Attorney believe that businesses could go bankrupt? If he thought they could go bankrupt in 30 days, as he did in August of last year, does he not think they could go bankrupt or be under pressure in 80 days?

The Attorney and the Hon. Mr. Burdett said that they were worried that, with no right of appeal, businesses could go bankrupt and would be unjustly treated. If that could happen in 30 days, they could be more unjustly treated in 80 days. What has caused the Hon. Mr. Griffin, the Hon. Mr. Burdett, and the Hon. Mr. Hill to change their mind about the likelihood of businesses going bankrupt if there is no method of review in the Bill?

The Hon. K. T. GRIFFIN: I do not think there is much point in pursuing this discussion. We have made our position clear. The Leader has made his position clear, and he has indicated that he will support the clause. Rather than keep us here arguing, I would prefer to get on with the business.

The Hon. R. C. DeGARIS: I have never heard a Leader of the Opposition so vehemently debate a matter before the Chair when he is not even moving to amend it, as appears to be the case. The Leader has called members on this side dim-witted, but I think his view on this is so blinkered as to be almost ridiculous. As had been explained to him, the 1979 legislation was permanent legislation, written permanently on the Statute Book. To say that it was for 30 days cannot be justified, because, once that legislation was on the Statute Book, if there was a period of 30 days rationing and it had to continue, all the Government would have to do would be to bring back a separate Bill setting out the period of the rationing.

The Hon. C. J. Sumner: You would come back to the Parliament.

The Hon. R. C. DeGARIS: But you could not alter the period of the Bill. There may be a rationing period for six months, but we could never get back to the question of appeals. If one goes back a shade further, one finds that in the previous discussions the question of appeals was raised. The A.L.P. Government said, "But this is for a limited period, and we did not pursue that question." If the Leader can separate in his mind the difference between temporary legislation and permanent legislation, I am sure that the situation will be resolved to his satisfaction.

The Hon. K. L. MILNE: I move:

Page 3, lines 17 to 19—Leave out subclause (10).

This amendment is largely cosmetic, but we should consider country people as a definite class which can be expanded at a later date. Consideration should not be given to these people as an afterthought. I foreshadow that I will move to insert new clause 8a about which I will speak later.

The Hon. K. T. GRIFFIN: This is an appropriate time for me to indicate the Government's view on this amendment. The Hon. Mr. Milne has indicated that the amendment is largely cosmetic, but I think it goes further than that. It tends to highlight, in a different and wider form than does the Bill, the requirement that the Minister shall give special consideration to the needs of people living in the country areas of the State. Subclause (10) provides that the Minister is to have due regard to the needs of primary industry, considering seasonal conditions as they exist from time to time, which, as I freely admit, does not take into account the needs of townspeople in rural areas. To that extent, the amendment is wider. The Government is prepared to accept the proposition.

The CHAIRMAN: Will the Hon. Mr. Milne explain new clause 8a?

The Hon. K. L. MILNE: Regarding 8a, in South Australia approximately 75 per cent of people live in the city or suburban areas and only about 25 per cent live in country areas, that is, in country centres and on the land. By "special consideration", I mean that, where justified, people in country areas in certain industries and in certain service industries, and people living on rural properties, would have an increased petrol ration. This would obviously be justifiable to a greater extent the further people live from a country town or transport.

City people are inclined to forget the extent to which country people, and farmers in particular, rely on their motor vehicles, both private and commercial, to earn a living. Most of the farmers do not live near public transport and, in any case, they would have to travel by car to reach public transport facilities. Train services are not very helpful to them in moving around their area, and several lines have been closed, despite promises to the contrary. Although I have not provided this in an amendment, I hope that some administrative action will be taken to prevent city people from travelling to country areas to fill their tanks if rationing ever became strict.

When we consider the subject again, as I believe we will, we should lift our sights to the whole of Australia and try to influence the Government in Canberra. I believe that petrol throughout Australia should be controlled by rationing and not by higher prices. I would suggest not stringent rationing like we have in wartime but sufficient rationing to control waste by the rich as well as the not-so-rich. Then, prices could be reduced to a sensible level in a country like Australia, with vast distances for people to cover by road. We should consider a rationing programme in the city and country quite differently.

Amendment carried; clause as amended passed.

Clause 8 passed.

New clause 8a—"Special consideration to be given to those living in country areas."

The Hon. K. L. MILNE: I move:

After clause 8, insert new clause as follows:

8a. In exercising his powers under this Part, the Minister shall give special consideration to the needs of those living in country areas of this State.

New clause inserted.

Clause 9—"Directions in relation to the supply or distribution of rationed motor fuel."

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

Page 4—

Line 4—Leave out "to any person".

Line 5—After "motor fuel" insert "to any body corporate that carries on the business of supplying or distributing motor fuel".

The other amendments standing in my name are consequential on the principal amendment. The critical point in my amendment is that clause 9, as it presently stands, gives far too comprehensive a power to the Minister. It is a power that is unnecessary. It was unnecessary and was never used in previous rationing situations. As the clause stands at the moment, the power reaches down to any person in a company or a trade union. Therefore, no matter how insignificant or how minor it is in the scheme of things, this clause could be used to provide the power for the Minister to direct someone in relation to the supply or distribution of rationed motor fuel.

A really critical problem could occur when oil companies were holding on to fuel supplies during a rationing period. We ought primarily to examine that problem. My amendment, which provides that the Minister can give a direction to any body corporate, covers that situation, which would be the most common one. However, as I have explained, clause 9, which the Government has proposed, goes much further than that.

I said during the second reading debate that, in the Opposition's view, this clause went too far, and unnecessarily so, and that a provision such as is in clause 9 has been unneccesary in the past. Although such a provision exists in some legislation in New South Wales, Western Australia and Victoria, it has never been used. So, why should we have legislation that cannot and will not be used?

This takes out of the industrial arena what could potentially be an industrial dispute. If the Government is seeking to direct members of unions to carry out certain work, it means that, outside the context of an industrial dispute, the Government can intervene and give directions to a union or unionist in a way that would be provocative, just as most penal provisions that have existed in the industrial arena have been provocative, as a result of which they have not assisted in the resolution of industrial disputes.

The Hon. L. H. Davis: Why haven't they got rid of it then?

The Hon. C. J. SUMNER: Certainly, it has not been used. The evidence is that the existence of the provision in the New South Wales legislation provokes situations that could better be settled in an industrial context and not in a fuel rationing context. That is primarily the Opposition's objection to it.

This matter has been covered fully by the Hon. Mr. Dunford, the Hon. Mr. Bruce and the Hon. Mr. Blevins during the second reading debate, and I certainly do not wish to canvass all the arguments about where industrial disputes should be settled. The Opposition is concerned

that this will provide the Government with a way of trying to resolve an industrial dispute by giving direction to unionists in a way that is outside the general procedures for settling industrial disputes, and that it would be completely counter-productive.

In reply to my questions regarding clause 5, I was told that the Minister might delegate his powers under the Act to any person—perhaps even to the lowliest clerk in the Minister's department or, indeed, to people outside the department. Surely, if those extensive powers of delegation apply to clause 9, as they undoubtedly do, we ought to restrict the scope of that clause as much as we can. It should be restricted to what is necessary to carry into effect the purposes of the Bill.

The direction to any person goes far beyond the purpose of the Bill and what is necessary for its effective operation. Accordingly, the Opposition considers that it cannot support clause 9 in its present form and that it should be restricted to a body corporate, as is provided for in the amendment.

The Attorney-General might like also to answer the question which I asked during my second reading speech but which he did not answer regarding whether or not the direction from a Minister under this clause, if the Government was using it in an industrial dispute, would be valid if it was given to employees who were covered by Federal awards.

Did the Attorney consider this issue when the Bill came before Cabinet? Did he obtain a Crown Law opinion on it? Has he any personal opinion on it? The clause may be all-embracing on the face of it, but it may well be ineffective and therefore completely unnecessary and unnecessarily provocative because it may not be able to be used in situations in which the Government thinks it could be used. Could it be used against employees who are covered by Federal awards? Tanker drivers, for instance, are covered by Federal awards. Does the Attorney believe that any direction would be inconsistent?

The use of this provision could be, under section 109 of the Australian Constitution, inconsistent with the Federal law as expressed through Federal awards. The Committee should consider restricting the ambit of this clause which goes too far and which goes beyond what is necessary for the effective operation of the Bill. I ask the Committee to support the amendment.

The Hon. K. T. GRIFFIN: Apart from this clause there is no other power in the Bill for the Minister to give directions to ensure that supplies of fuel are available, even to those who hold a permit. If a service station proprietor is not a body corporate and has fuel in his storage tanks, he is not required, without the operation of this clause, and a direction by the Minister, to supply the fuel from those tanks to any person who presents a permit to him. I have indicated in the second reading debate that the Government believes it is important to have the wider power which it has in the clause as presently drafted.

A limitation of the power in accordance with the proposed amendment would seriously prejudice the capacity of the Government to deal with a rationing period. As indicated earlier, many of the operators of service stations are individuals and are not bodies corporate; I understand the majority are not bodies corporate. We could have a situation in which the majority of service stations at which the fuel is available for retail use could not be directed to supply it in response to a permit issued by the Minister.

The situation would be intolerable if the Government could not ensure that the reserves of fuel available in the fuel tanks of those service station proprietors who are individuals could be made available. I have no doubt that many of them would comply with the spirit of any permit system introduced in the rationing period, but it is conceivable that many of them also would seek to retain fuel in their tanks. The Leader has made special reference to the oil companies, saying that it is necessary for the Minister to have power to give directions to oil companies which may otherwise seek to stockpile the motor fuel in their tanks.

The same argument applies there as applies in respect of service station proprietors. The powers of the Minister cannot be limited to only giving directions to oil companies, because we have generally found that during a rationing period the oil companies are the most co-operative in the provision of fuel to those who are supplying essential services. The problem rests not with the oil companies but with persons down the line such as service station proprietors or persons employed by the oil companies who refuse to shift fuel; it may be pickets, and it may even be, as the Hon. Mr. Bruce indicated, seamen who refuse to unload tankers of motor fuel.

As I have indicated, it will not extend to tankers that hold crude oil, but it will apply (particularly in the Port River estuary) to sea tankers that carry refined motor spirit. From time to time, there are also tankers off Port Stanvac carrying refined motor spirit which is discharged at Port Stanvac. Because those tankers carry motor fuel, they could be affected by a Ministerial direction. I acknowledge that there are some constitutional difficulties that may affect the capacity of the State Government to affect tankers that stand in the coastal waters or the territorial sea. Ultimately, however, the Government will cope with that problem. There may well be a constitutional difficulty in relation to off-shore tankers. However, I do not believe that there would be any difficulty in respect of persons covered by Federal awards, unless the direction specifically related to a matter prescribed in that award. Once again, I cannot state categorically that there is not a conflict between State and Federal jurisdiction. I cannot say that there is not an element of doubt, because there is.

If the Government was ever confronted with a situation that it felt was a matter of such importance that it needed to be clarified in the High Court, it has that avenue open to it. However, I believe that it is unlikely that we will ever reach that situation. The wider powers sought by the Government in clause 9 are directed to the supply and distribution of rationed motor fuel and apply in circumstances where either an individual or a body corporate is involved in the chain that is affected by the direction. Therefore, I cannot accept the Leader's amendment.

The Hon. K. L. MILNE: Before I speak to clause 9, I would like to defend myself, if I may. The Hon. Mr. Bruce has said that he resents my position in this Council. I do not believe that he actually meant that, but that is what he said. I remind the Hon. Mr. Bruce that, unless a large number of people had been fed up with the behaviour of both major Parties, I would not be here at all. If this Chamber continues to behave as it has today, with members attacking and insulting each other, as well as point-scoring—

The CHAIRMAN: Order! The honourable member should deal with the clause.

The Hon. K. L. MILNE: I was just saying that I need co-operation now that I am here. Attack me on policies, if you like, but not for being in a situation that was none of my doing. Give me a go. I think I can rely on the honourable member's support in the future. I oppose this amendment with considerable misgiving, because of the harsh powers given to the Minister in this clause. To

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

The Hon. Frank Blevins: Totally undemocratic.

The CHAIRMAN: Order!

The Hon. Frank Blevins: No real Democrat could possibly support the clause.

The CHAIRMAN: Order! The Hon. Mr. Blevins feels that he can continually defy the Chair. This late at night is a bad time to put that to the test.

The Hon. K. L. MILNE: I do not like the idea of a Minister being able to give directions by simply publishing them in the *Gazette.* Who looks at the *Gazette* to get their instructions? We will all have to look at it in future. I suppose members will have to have it delivered to themselves at the House whenever it is published. I am supporting this clause only as long as these powers are given to the Government for the shortest possible time. The Bill is full of holes, and there have not been a lot of amendments moved to it. The whole thing needs reviewing. I support this Bill for the shortest possible time, which means that it will be no surprise to honourable members when I foreshadow that I will be supporting the Opposition's amendment to clause 17.

The Hon. G. L. BRUCE: When I referred to the Hon. Lance Milne previously, I was drawing attention to the fact that 8 per cent of the population elected him, and he is calling 100 per cent of the shots in this Chamber. I would like to go back to the Attorney-General's remarks about petrol sellers and his concern that the seller might not be able to sell his petrol. That seller has outlaid thousands of dollars for petrol, he operates on a fine margin, and he is begging to sell his petrol. If honourable members saw the television news tonight they would know that petrol sellers in Melbourne are up in arms because they have petrol in their tanks that they cannot sell so that they can get their money back. The Bill is deficient because it ropes everybody in as a person, whether petrol seller, union, or whatever. If someone wants to differentiate, let him do so in the Bill. I know I am pushing water uphill, because nothing is going to happen—numbers beat logic any day.

It does concern me, though, that a Democrat can get up in this Chamber and say that he is prepared to give powers to this Government for a limited time. It does not matter if that time is only five minutes if they can take an individual out and ruin him. The amount of the fine set is $1 000. A working man does not have that amount, so they will sell him up to get the money. It is no good saying that he would not be fined, because the power is there to fine him. I do not think it is right for a Democrat to say he supports this Bill for a limited time because you can put a thousand people to the wall and shoot them in five minutes. That is the degree I was talking before—you cannot be a little bit pregnant. The honourable member is a little bit of a Democrat. It is a bad situation when the Government can include powers to fine the individual and not even refer to unionists; it is skating around the issue and saying they are petrol sellers. This Bill refers specifically, in my view, to union people driving trucks or transports with petrol in them. It is out to drive the thin end of the wedge into the union movement, or into anybody who makes a stand against the Government or its civil powers in industrial matters. If a person strikes on principle, or for whatever other reason, Government members say he cannot do so, and they are prepared to hammer him on the head and say, "We're not worried about your union; we're going to crucify you." Government members have dodged the issue and have not mentioned the one who will stand up on a picket line or refuse to drive a truck. I feel that the clause is wrong.

The Hon. M. B. CAMERON: That was an incredible outburst by the Hon. Mr. Bruce. It is a pity that he did not direct as much attention to ordinary people as to the unionists. More power should be given so that something can be done about the unionists. If the honourable member is going to get anywhere in his Party, it is time he stopped listening to Trades Hall and started listening to the people. He is not concerned about what is happening to the people as a result of the actions of unionists and he is not concerned about why the Bill has been introduced.

The Hon. R. C. DeGARIS: I am pleased that the Hon. Lance Milne has followed the precedent set by his colleague in the House of Assembly. The Hon. Mr. Blevins, by interjection, said that no Democrat could possibly support this clause. When a similar provision to this was moved here on the 1979 legislation, Mr. Millhouse, in the lower House, supported it.

The Hon. FRANK BLEVINS: I oppose the whole clause. As I said in my second reading speech, I consider it totally unnecessary. It is not only an interference in the way the union operates but is also provocative. I think it has been designed to be provocative. We have the opinion of the Hon. Don Laidlaw on this. With my knowledge of the member over the past 15 years, I am sure that he would not want any part of this clause. I trust that, when we divide, those true democrats who oppose clauses of this kind will oppose this one.

The Hon. K. T. GRIFFIN: I want to make several comments on the statements made by the Hon. Mr. Bruce. Of course, he reads the Bill as he sees it, and I guess we all do that. I see the clause as having a much wider application and being applied much more responsibly than he sees it. We can only agree to differ on that.

The Hon. G. L. Bruce: Who else is there besides the reseller? Tell us some of the other persons.

The Hon. K. T. GRIFFIN: I do not have to do that. I have freely admitted that we must realise the realities of the situation and that it can affect not only retailers and resellers but also persons in an organisation who are refusing to comply with directions. I have made no secret of the fact that that is within the province of the Minister to deal with, but I have been trying to say that the powers are necessary for the Minister. Otherwise, the power of the Government to deal with rationing will be severely restricted.

The penalty to which the Hon. Mr. Bruce has referred is $1 000 maximum. No penalty in the legislation is greater than $1 000, except in the case of corporations that commit an offence against clause 9, when the penalty is $10 000.

If anyone could get past the Attorney-General in terms of his approval for a prosecution, it is most unlikely that the courts would act in a way that would impose the maximum penalty. I hope we never get to the situation where we are forced to take proceedings under clause 9.

The other provisions with respect to penalty are consistent. In the previous Government's legislation, as far back as 1972-73, the penalty for a breach of section 15 was $1 a gallon; in 1977, it was $1 for every litre of bulk fuel comprised in a consignment. The penalties under clause 9 are very much reduced in comparison with the maximum penalties provided in that legislation.

The Committee divided on the amendment:

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

Noes (11)—The Hons. J. C. Burdett, M. B. Cameron, J. A. Carnie, L. H. Davis, M. B. Dawkins, R. C. DeGaris, K. T. Griffin (teller), C. M. Hill, D. H. Laidlaw, K. L. Milne, and R. J. Ritson.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. R. C. DeGARIS: I ask the Attorney-General how the direction to any person in relation to the supply or distribution of rationed fuel will be given.

The Hon. K. T. GRIFFIN: It will be by instrument in writing.

Members interjecting:

The CHAIRMAN: Order!

The Hon. K. T. GRIFFIN: I think the question is relevant; the Hon. Mr. Milne asked a similar question about the word "or" between paragraphs *(a)* and *(b)*. Honourable members on the other side who have read so diligently the debates on the 1979 Bill will remember that the Government accepted the paragraph *(b)* addition because there might be such an emergency that service by post would take several days, and it would be important to announce publicly the direction that had been given, if it was given to a class of person. It was my view on that occasion that the Government should have available to it a quicker method than by post, by which the direction could be given.

Difficulties could also arise in personal service, because some people may have a suspicion that they are the persons to whom the instrument in writing is directed and will deliberately make themselves unavailable for service. Therefore, the clause was amended when the Bill was last before Parliament, and provision is incorporated in this Bill to ensure that, if there is an emergency, notice can be given publicly in the *Gazette*. I envisage that such action would also be reported in the daily media.

The CHAIRMAN: I report than an amendment to clause 9 that was inserted in the House of Assembly does not appear in the copy of the Bill before the Council. In line 13, the words "ten thousand dollars" were struck out and the words "one thousand dollars" inserted.

Clause passed.

Clause 10 passed.

Clause 11—"Actions for injunctions and mandamus against Minister."

The Hon. C. J. SUMNER: I would like to ascertain from the Government why it has seen fit to repeat in this Bill a clause in precisely the same terms as that which appeared in the 1979 Bill and to which all members opposite objected most strongly. This clause provides that the Minister shall not be subject to any court proceedings, particularly by way of prerogative writ, mandamus or prohibition, in carrying out any of his powers under the Bill. When that clause was included in the 1979 Bill introduced by a Labor Government, there was a dreadful to do by honourable members opposite. They were most agitated about it, particularly the Attorney-General, who said:

> The Government, in exercising its responsibility, should not be placed in the position of a dictatorship but should always be subject to the ordinary processes of the law.

When discussing that Bill in Committee, Mr. Griffin stated:

> I do not believe that this State has yet got to the position where the Minister, in those circumstances, ought to be above the law and not be subject to judicial review.

That was not confined to the Hon. Mr. Griffin, who moved for clause 11 to be struck out: the Hon. Mr. Hill also got into the Act, and stated:

> 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. . . 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.

Tonight, the Hon. Mr. Hill, as a member of the Government, is supporting precisely the same clause that he opposed only nine months ago. I am seeking clarification as to the Government's attitude on these sort of things. Does the Government believe that it is able to say something nine months ago and then completely contradict itself now? That is precisely what Government members are doing.

Clause 11, whether it is in a permanent Bill or a temporary Bill, has the same effect: it removes the Minister from any proceedings by way of prerogative writ. What is the distinction honourable members opposite and the Government see between this position now with this Bill, which has a duration of 80 days, and the Bill we introduced in 1979, which had a maximum period of 30 days? Even if this was only a temporary measure, does the Hon. Mr. Griffin think that it is satisfactory for him as a Minister to be above the law for that period? I would like his comments about that. Does he believe that the Minister in charge of this Bill and its administration, as well as the Government, should be above the law? Does the Minister believe that the insertion of this clause is the most undemocratic process that he has ever seen in legislation before this Parliament?

The Hon. K. T. GRIFFIN: The Government's position on this clause is that, as the legislation is subject to review on 31 May or at such other time as may be determined, it is appropriate for this to be included in the Bill. Certainly, if the Bill was of a permanent nature, there would need to be a fairly serious review of all its provisions.

The Hon. C. J. SUMNER: I take it that the Attorney is conceding that, for a period of 80 days, the Minister in charge of this Bill and the Government will be above the law and that he is perfectly happy for that situation to obtain.

The Hon. K. T. GRIFFIN: The Minister will not be above the law. If the honourable member cares to look carefully at the various provisions of the legislation, he will see that a number of things are not encompassed by clause 11 and, although in some respects the Minister is, in effect, above the law, this situation will be reviewed should the matter come back before Parliament and should the Government seek later to proceed with some alternative legislation.

Clause passed.

Clauses 12 and 13 passed.

Clause 14—"Evidentiary provision."

The CHAIRMAN: I point out to the Committee that, in the copy of the Bill on honourable members' files, line 35 should be deleted.

Clause passed.

Clause 15 passed.

Clause 16—"Regulations."

The Hon. C. J. SUMNER: A formula that is a little different from the normal seems to have slipped into this clause. It contains a regulation-making power, and refers to such regulations as are contemplated by the Act or as are necessary or expedient for the purposes of the Act. To my mind, the broad statement that regulations are contemplated by the Act is not normally contained in a Bill that requires regulations. I wonder on what basis it was considered necessary to include this provision.

The Hon. K. T. GRIFFIN: I really do not know why that was changed. It was not one of the principal provisions of the Bill to which I gave my earlier attention. I presume that this was a formula proposed by the Parliamentary Counsel. Although it may differ from some of the usual provisions, I cannot see that any difficulty in relation to it is likely to be caused.

The Hon. R. C. DeGARIS: Some years ago, the matter

of regulation-making powers was debated. I do not know whether the Hon. Mr. Sumner can remember that debate. However, the question exists as to how far regulation-making powers can go. I know that there was a long debate on the issue, and I ask the Attorney to check with the draftsman on that point.

The Hon. C. J. Sumner: You've opposed things like that before, haven't you?

The Hon. R. C. DeGARIS: No, we have amended them.

The Hon. C. J. Sumner: You don't like them usually.

The Hon. R. C. DeGARIS: It involves a technical drafting point.

The Hon. C. J. Sumner: But you don't usually like that sort of thing.

The Hon. R. C. DeGARIS: It is not a question of liking it or not; it depends on how far the regulation-making powers go. I would like the Attorney to inquire from the Parliamentary Counsel whether the drafting of this clause goes further than the actual contents of the Act in making regulations.

The Hon. K. T. GRIFFIN: I understand that the same question was asked in another place and that the answer was that the Parliamentary Counsel is now using this form of words for regulation-making powers, but in this case it has some relevance because the Bill deals with the rationing of motor fuel.

In the 1979 emergency legislation the fuel was to be declared by proclamation but, consistent with other attitudes which have developed over a period of time, "rationed motor fuel" now means motor fuel of a kind declared by regulation to be rationed motor fuel. The Parliamentary Counsel felt it was important to extend the regulation-making power to encompass possible difficulties by describing "rationed motor fuel" in the regulations.

Clause passed.

Clause 17—"Expiry of this Act."

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

Page 6, line 15—Leave out "the 31st day of May, 1980" and insert "the 28th day of March, 1980".

This issue has been canvassed fully by the Council in the second reading debate and also peripherally in the discussion of other clauses in Committee. It deals with the length of operation of this Bill. The Government seeks to have it operate until 31 May 1980, or until some time prior to that if it deems that the crisis has passed, and it can then cease the operation of the Act by proclamation.

The period to 31 May 1980 is about 80 days, a similar period to that used by the former Labor Government in its temporary legislation of 1977. However, it was in relation to that legislation that the Premier, when Leader of the Opposition, made those rather extraordinary statements about its being a dark day for Parliamentary democracy because the period of time was 80 days and not, as he thought it should be, about 2½ weeks.

The former Labor Government recognised the principle involved in restricting the period to a certain defined period less than 80 days and did that in its 1979 Bill, where it effectively restricted the period in which rationing could occur to 30 days before the matter had to come back to Parliament in one form or another for some kind of Parliamentary review.

I see that honourable members opposite have ceased interjecting. I have finally convinced them that if the crisis extended beyond 30 days under the 1979 Bill (the permanent Bill that we introduced), the Government would have had to come back to Parliament in one form or another. The former Labor Government recognised that there should be some form of restriction, whereas in 1977, in the temporary legislation it had a period of 80 days. When it introduced this provision on a permanent basis it restricted it to 30 days. My amendment in this case is to restrict the operation of the Bill until 28 March.

The Hon. K. T. Griffin: That is 16 days.

The Hon. C. J. SUMNER: That is what the Premier, when he was Leader of the Opposition in another place in 1979, thought was a reasonable period. Under our amendment, if the crisis is not resolved and there are still problems, it will be quite simple for the Government to introduce a Bill to extend the time. I assure honourable members opposite that should the crisis still exist and there are still grounds for continuing with rationing, assuming that the Bill has been brought into operation by that time, members on this side will not object to the speedy passage of an amending Bill in the week preceding 28 March. In fact, that is precisely what the Premier, when Leader of the Opposition, suggested at great length in 1977. He said that he had no objection to the House sitting every two or three weeks to enable that legislation to be kept under Parliamentary review. He stated:

> I do not mind if we have to do this every two or three weeks. The Opposition is willing to consider that.

The Opposition believes that there should be some time limit, but 80 days is too long. As a matter of principle, in 1979 we accepted some time limit, but it was considerably less than 80 days.

In relation to the present Bill, we have chosen 28 March because it is a week in which Parliament is sitting, so it would be easy to introduce further legislation. I certainly do not intend to carry on as the Premier did when as Leader of the Opposition he spoke to the third reading of a similar Bill and said, "This is a black day for South Australian Parliamentary democracy." Nevertheless, if we take his point, there should be some restriction on the operation of this Bill. That restriction should be less than 80 days, which is the point that the Premier made with such gusto and perhaps over-reaction. He made that comment in 1977, but he now seems to have completely forgotten about it and is blustering on in his usual way without considering matters of this kind. The Premier has not attempted to be consistent or responsible in Government in relation to what he said when his Party was in Opposition. I believe that 28 March is an appropriate date, and I urge the Committee to accept my amendment.

The Hon. K. T. GRIFFIN: The Government cannot accept the amendment. I have already indicated that the Leader's approach is not consistent with the view that was permitted to prevail in 1977, when emergency legislation was allowed by this Council to continue for about 88 days before it expired. Members opposite should recognise that in clause 17 the Government has included an additional provision that the previous Government did not include in its legislation. That provision gives the Government the capacity to terminate the operation of the Bill before 31 May 1980. The Premier has indicated in another place that, if this emergency legislation passes and if the motor fuel availability stabilises, the Government will be anxious to ensure that this legislation is terminated earlier than 31 May 1980. Whilst the Leader has indicated that 28 March is a Friday and is at the end of a sitting week, he does not appear to recognise that, if we were to sit for a full day considering whether or not an extension of time should be granted, it would be an irresponsible use of everyone's time.

The performance today has indicated that, rather than recognise that there is an emergency and a need for this legislation, the Opposition has sought to ensure that impediments are placed in the way of a reasonable debate. The point I made previously was that if the date is fixed at some time between 28 March and 31 May it is most likely to be during a period when a number of members on both

sides of the Council will be away from South Australia, either in other parts of Australia or overseas. If the Government is required to recall Parliament in those circumstances, there will be a considerable cost to the State and individuals, and inconvenience to members generally. If we are compelled to do that, we will face up to that responsibility and wear the criticism we will get from Opposition members for having acted in that way. I have indicated that 31 May is, in the Government's view, a reasonable time by which the Act should expire, if not earlier, because Parliament is set to resume early in June.

The Hon. C. J. SUMNER: I am sorry that the Attorney-General had to introduce that little bit of nastiness into the debate at this late hour. He considers that the Opposition's looking at legislation of this kind, debating it and suggesting amendments is, somehow or other, irresponsible. Let me make it quite clear to the Committee that I said at the outset (as did the Leader in the House of Assembly) that we would support the second reading of the Bill but intended to move some amendments. The speeches that have been made in this Committee have been taken up as much by the Government as by Opposition members. For the Attorney-General to suggest that it would take another day to ensure the continuation of this legislation is quite absurd. It would take another day only if the Government wished to continue it in circumstances where there was no crisis. I have already told the Attorney that, if the situation pertained where the Government had in fact introduced fuel rationing, there was a shortage and the Government needed to come back to Parliament, the Bill would have an easy passage through this Chamber.

I, and other honourable members on this side, take objection to the fact that the Attorney has apparently said that the Opposition ought not to debate this Bill or move amendments to it, despite the fact that in 1977 when a similar Bill was brought before the House of Assembly it was opposed by the Liberals. In 1977 the Liberals did not co-operate with the Government in getting similar legislation through. They opposed that legislation in the Lower House and voted against the third reading. The Premier said on the third reading:

> Basically, this Bill is a travesty of what we know as Parliamentary democracy and it holds the whole basis of freedom of speech and debate and the rights of the people's representatives in contempt.

That is what the Premier said in 1977.

The Hon. R. C. DeGaris: Do you agree with that?

The Hon. C. J. SUMNER: No, I think it is one of the more puerile statements he has made, and he has made a fair number of those. If that was the position of the Liberal Party in 1977 and if it did not co-operate with the Government to pass the legislation in the Lower House, the Attorney-General can hardly say that the Opposition now has in some way delayed the Bill. We supported the concept in the Lower House and voted for the second and third readings. In this place, we have supported the second reading and doubtless will consider our attitude to the third reading when the Committee stage concludes. It is improper for the Attorney to make those allegations, particularly in view of the attitude that his Premier took in 1977.

The Hon. R. C. DeGARIS: I stress that the Hon. Mr. Sumner is constantly referring to what someone has said in the House of Assembly.

The Hon. C. J. Sumner: He's the Premier.

The Hon. R. C. DeGARIS: I do not mind whether he is the Premier or the Governor. Over the years that these Bills have been coming before us, the Council has never interfered with the period of time for which the Government wanted the temporary legislation. The first Bill provided for a period of 30 days and we left that alone. The second was for 80 days and we left that alone. I suggest that, to be consistent, we should leave this alone.

The Committee divided on the amendment:

Ayes (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.

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

Pair—Aye—The Hon. C. W. Creedon. No—The Hon. M. B. Dawkins.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Title passed.

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): I said that the Opposition would determine its attitude to the Bill after it had been considered in Committee. Needless to say, the Opposition is most unhappy, particularly with clause 9 and with the fact that the Committee saw fit not to amend it to make it more restrictive, but to leave it in the broadest possible terms, so that a direction can be given by a Minister to any person, whether a trade unionist, an employee of a company, or any other person. We believe that that clause is too broad and should not have been supported by the Committee. That, of course, is our primary objection to the Bill.

However, the Government maintains, and there is certainly some evidence, that we are in a crisis situation, so, although members on this side are unhappy with clause 9, we believe that the Bill has been amended by giving it a very limited period of operation to 28 March 1980, just over two weeks. Given that it is temporary legislation which will expire on that date, the Opposition is prepared to support the third reading, although with grave misgivings in relation to clause 9.

Bill read a third time and passed.

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

> That so much of Standing Orders be suspended as to enable the Clerk to deliver a message to the House of Assembly, notwithstanding that the Council is not sitting.

Motion carried.

[Sitting suspended from 11.19 p.m. to 12.45 a.m.]

MOTOR FUEL RATIONING BILL

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

ADJOURNMENT

At 12.48 a.m. the Council adjourned until Tuesday 25 March at 2.15 p.m.