



Speech by

Liz Cunningham

MEMBER FOR GLADSTONE

Hansard Wednesday, 10 November 2004

LIQUID FUEL SUPPLY AMENDMENT BILL

Mrs LIZ CUNNINGHAM (Gladstone—Ind) (10.11 p.m.): According to information in 2002, small amounts of ethanol have been added to Australian fuel for around 20 years. In Australia ethanol is produced from wheat and sugar cane. In 2002, ethanol production levels were low, with only 60 million litres produced for fuel each year. Of these 60 million litres of fuel—ethanol—90 per cent was sold in New South Wales and most of it ended up in Sydney. The topic of ethanol content in fuel attracted significant media attention in October 2002, when Labor released the results of a Caltex survey of independent service stations in Sydney and Wollongong. The survey found that 14 of the 21 sites surveyed sold petrol that included more than 10 per cent ethanol, with one concentration showing a 28 per cent ethanol content. At that time the federal government refused to mandate an upper limit for ethanol in fuel, and there were all sorts of allegations as to why that would occur. But it is clear that ethanol in fuel has been something, whether known or unknown, that consumers in Australia have been accepting.

Ethanol in fuel has been put forward as an opportunity to support the sugar industry and the grain industry. I am sure that everybody in this House would look very positively at any initiative which would give industries like the sugar industry, which has suffered significantly in recent years, a boost. There is a lot of research and development being done in terms of bagasse, sugar and other by-products of industry and ways that that biomass can be used productively.

One of the major objections to this bill was led by the minister in relation to its constitutional validity. The minister stated that he had Crown Law advice, but I do not believe it has ever been tabled. My concern and my desire to see the Crown Law advice stems from the fact that in the *Alert Digest* in relation to this piece of legislation the report does not give concrete information about the constitutional invalidity of the proposal. I spent some time on the Legal, Constitutional and Administrative Review Committee and also on the Scrutiny of Legislation Committee prior to the current committee that I am on, and each of the committees has a very important role to play in terms of providing advice to this parliament. The committees are bipartisan. Part of their charter is to provide objective and informed advice.

In the report the committee refers to clause 5 of the bill, which introduces a statutory requirement that operators of oil refineries blend into their petrol to be sold in Queensland a 10 per cent ethanol content and that they purchase from Queensland ethanol suppliers sufficient ethanol for that purpose. I believe the Leader of the Opposition will sum up some of the concerns. There has been some debate about whether there is a desire to mandate that all of the purchases of ethanol come from Queensland suppliers. However, he advised the committee that clause 5 of the bill introduces a statutory requirement that operators of oil refineries blend into their petrol sold in Queensland a 10 per cent ethanol content and that they purchase from Queensland ethanol suppliers sufficient ethanol for that purpose. So the member quoted back to the committee the point which it wrote to him about. The Opposition Leader states—

This is not correct. Cl.5 of the Bill actually requires that motor spirits sold in Queensland by a prescribed person, as per the definition in clause 5, must contain a minimum 10 per cent ethanol content. Nor does it stipulate that ethanol used for this purpose must be purchased from Queensland ethanol suppliers.

The Bill is silent on where the ethanol should be sourced from. However, after extensive industry consultation, and in line with continuing developments within the biofuels industry, I am confident that Queensland is optimally placed to supply the state's ethanol needs and expect that this would be the case.

The committee report goes on to question section 92 of the Commonwealth Constitution. It states in the notes leading up to comments again by the Leader of the Opposition that the Scrutiny of Legislation Committee noted that during debate on an identical 2002 bill the issue of the constitutional validity of the bill by reason of inconsistency with section 92 of the Commonwealth Constitution was raised. The Leader of the Opposition responded by saying—

The Committee ... points out the concerns expressed by the Government during the debate on the identical bill introduced in 2002 on the constitutional validity of the bill, in line with s.92 of the Commonwealth Constitution. It is the sovereign prerogative of this state to legislate its own standards and this occurs across a number of industries, most recently as I mentioned, with the State Government's introduction of new fuel regulations in July 2000. On technical grounds, Ethanol was blended in motor spirits in Queensland for many years and this bill is seeking to amend legislation that is still in place that could be triggered by Executive Council to again mandate its use in petrol sold in Queensland.

He then goes on to explain another element. My concern is this: I have a great deal of regard for the secretariats of our committees. They work very hard, they are very diligent people, and they are well qualified and very competent. I would have expected that, if the proposal in this legislation clearly contravened constitutional requirements, the committee would have stated very clearly that it was inconsistent with the Commonwealth Constitution and would have given us detailed advice as to why that contravention occurs.

If the minister does have definitive information on the way that this bill is alleged to contravene the Constitution, I would ask that he table that advice to clarify this point. At the moment we have a blue across the chamber—two different points of view—and on the basis of the report from *Alert Digest No. 6*, I am inclined to support the opposition's bill. I do not believe clear and objective information has been provided to this parliament to show that the constitutional contravention has occurred.

I support the principles of this legislation. There is plenty of technical information around to show that vehicles can operate, particularly newer vehicles, with low levels of ethanol in the fuel. If that was not the case, there would have been scientific evidence to the contrary. Indeed, members of the government have already said that if people who have a very deep interest and knowledge of the fuel industry—the icon, I believe they call him—had concerns about—

An honourable member: Sir Jack Brabham.

Mrs LIZ CUNNINGHAM: If Jack Brabham had concerns, he would have articulated those concerns. The use of ethanol in fuel does not appear to be an issue where it is limited to 10 per cent. There has not been tabled definitive information in relation to the constitutional contravention. To the contrary, one of the committees that I would rely on for that information has only put a question to the Leader of the Opposition. On that basis, I will be supporting the private member's bill.