# HOUSE OF ASSEMBLY

Tuesday 24 October 1989

**The SPEAKER (Hon. J.P. Trainer)** took the Chair at 2 p.m. and read prayers.

## PETITION: GLENELG TRAIN LINE

A petition signed by 15 residents of South Australia praying that the House urge the Government not to establish an O-Bahn busway or arterial road along the former Glenelg train line was presented by Mr Becker.

Petition received.

## PETITION: MARINELAND

A petition signed by 201 residents of South Australia praying that the House urge the Government to reconsider the closure of Marineland was presented by Mr Becker.

Petition received.

## PETITION: HALLETT COVE AND KARRARA BOUNDARY

A petition signed by 222 residents of South Australia praying that the House urge the Government to amend the common boundary of the suburbs of Hallett Cove and Karrara was presented by Mr Lewis.

Petition received.

# QUESTIONS

**The SPEAKER:** I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 39, 75, 147 to 149, 151, 156, 158, 172, 175 to 178, 182, 185 and 189 to 191; and I direct that the following answer to a question without notice be distributed and printed in *Hansard.*

## RURAL ASSISTANCE/LOANS TO PRODUCERS ACT

In reply to **Hon. P.B. ARNOLD (Chaffey)** 23 August and **Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition)** 24 August.

**The Hon. LYNN ARNOLD:** The Loans to Producers Act empowers the Government to make loans to cooperative societies principally or projects associated with the processing and storage of primary products. The funds required for these purposes must be either—

- voted by Parliament (section 4), or
- borrowed by the State Bank under the guarantee of the Treasurer (section 3a).

Appropriations by the bank for LPA lending were once a regular part of the capital works program as were repayments to Consolidated Account of loans previously made. The last such allocation was made in 1983-84 when the nature of the arrangement was changed to a revolving fund, with the bank financing new lending from repayments of existing loans.

LPA lending has in fact increased by over $4 million (almost 20 per cent) in 1988-89, and the bank has now requested an extra $6 million in order to meet anticipated demand for LPA lending in 1989-90. With commercial rates at 20 per cent and the LPA rate at 16 per cent the reason for demand is not hard to find. The Government could move to restrain demand for these loans by raising the interest rate to commercial levels. However, it is reluctant to take this action. At the same time it is constantly advised to restrain its own borrowing activities in order to relieve pressure on its budget and on interest rates, and to make borrowing easier for the private sector. Nevertheless, the Government is keen to assist cooperatives and is looking at options to assist them. One possibility is to make advances at comparable rates from the Rural Industry Adjustment Fund. This option, which is still being evaluated, would, however, be used to assist a range of rural enterprises and not just cooperatives.

## OMBUDSMAN'S REPORT

**The SPEAKER** laid on the table the Ombudsman's Report for 1988-89.

Ordered that report be printed.

## PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. J.C. Bannon)—

South Australian Superannuation Fund Investment Trust—Report, 1988-89.

By the Minister of Community Welfare (Hon. D.J. Hopgood)—

Department for Community Welfare—Report, 1988-89.

By the Minister of Education (Hon. G.J. Crafter)—

Attorney-General's Department—Report, 1988-89.
Corporate Affairs Commission—Report, 1988-89.
Court Services Department—Report, 1988-89.
Electoral Department—Report on the Operations of the, 1988-89.
Legal Services Commission—Report, 1988-89.
Legal Practitioners Act 1981—Regulations—
Certificate Fee.
Indemnity Insurance Scheme.

By the Minister of Children's Services (Hon. G.J. Crafter)—

Children's Services Office—Report, 1988-89.

By the Minister of Housing and Construction (Hon. T.H. Hemmings)—

State Supply Board—Report, 1988-89.

By the Minister of Transport (Hon. Frank Blevins)—

Motor Vehicles Act 1959—Regulations—Graduated Drivers Licences.
Summary Offences Act 1953—Regulations—Infringement Notices.
District Council of Warooka—By-laws—
No. 1—Permits and Penalties.
No. 8—Caravans.
No. 11—Camping Reserves.
Bookmakers Licensing Board—Report, 1988-89.
Racecourses Development Board—Report, 1988-89.

## PUBLIC WORKS COMMITTEE REPORTS

**The SPEAKER** laid on the table the following reports, together with minutes of evidence, of the Parliamentary Standing Committee on Public Works:

Port Augusta-Port Wakefield Road Realignment—5.3 km Merriton Section—Final Report,

Salisbury Highway Extension.

Ordered that reports be printed.

## QUESTION TIME

**The SPEAKER:** Before calling on questions, I advise that questions which would otherwise be directed to the Minister of Employment and Further Education will be taken by the Minister of Education.

### ST JOHN AMBULANCE VOLUNTEERS

**Mr OLSEN (Leader of the Opposition):** Will the Minister of Health take immediate steps to halt the no-warning removals of volunteer St John Ambulance officers, given the comments of senior St John management at a public meeting last night that any removal of these volunteers in less than the three years set down will result in disruption to Adelaide's ambulance services with only a scaled down emergency service capable of being provided? Without any notice, volunteers attached to the Stirling and Salisbury Heights Brigades of St John were told last night that they were no longer required by the service. From today, these areas are to be served, 24 hours a day, seven days a week, by professional officers, even though the volunteers were prepared to go on contributing to the service.

In at least one other large part of the metropolitan area (Noarlunga), volunteers, under continuing union intimidation, have withdrawn their services. The Opposition has been advised that a senior St John management officer said at a meeting last night that if volunteers are lost to the service in less than the three year transition period currently agreed, emergency services only will be able to be maintained as the service needs time to hire and train enough professional officers.

Without volunteers, other services such as hospital transfers and entry and exit to hospitals will have to be rescheduled in accordance with available professional staff. I understand that the only alternative is for the Government to pay overtime to the paid staff to maintain that level of service. I am also advised by people within the service that current developments now represent the biggest threat to the provision of prompt and efficient ambulance service in South Australia since brigade volunteers began providing regular services 37 years ago.

There are already estimates that the current call-out time of about 10 minutes will extend to more than 30 minutes if staffing of the ambulance service continues to deteriorate. The Minister has powers under the Ambulance Services Act to stipulate the manner in which an ambulance service should be provided, and his intervention must now be considered to avert a continuation of this threat to our ambulance service in South Australia.

**The Hon. D.J. HOPGOOD:** I think that this Government's commitment to voluntarism is extremely well documented. I need only point to the very positive role played by my predecessor in this portfolio (Hon. Frank Blevins) in relation to the value we place on voluntary effort in this, as we do in the Country Fire Services and such areas. I thank the Leader of the Opposition for his question and for bringing this to the attention of Parliament, since this is far too sensitive an issue to be a matter of Party political squabbling. I know that the Leader does not want it to be that any more than I do.

We will continue what we have been doing, which is to assure the Ambulance Board that we will give it every support in adhering to the common goals which have been adopted by St John, by the Ambulance Board and by this Government and, as I understand it, ratified by the vast majority of volunteers working in the system. Of course, we want to keep volunteers in the system. That is part of the arrangement entered into at the initiative of, originally, the Priory and then the St John Council.

We want to adhere to that as closely as we possibly can, and are meeting regularly with the Ambulance Board to ensure that that is the case. I thank the Leader of the Opposition for raising this: it is a sensive matter. I give him a commitment that this Government will not be playing politics with it, and hope that the Opposition will give a similar commitment.

### GREEN SPOT SCHEME

**Ms GAYLER (Newland):** Will the Minister for Environment and Planning inform the House what steps the Government is taking in relation to the labelling of environmentally sound products? In June I proposed a green spot program to identify environmentally friendly products and to help shoppers make informed purchases. A recent survey shows that 72 per cent of people would refuse to buy the products of companies which are not environmentally responsible, and 93 per cent agreed with the statement:

I think there should be a Government scheme to set standards and identify consumer products that are safer for the environment.

**The Hon. S.M. LENEHAN:** I thank the honourable member for her question and her ongoing interest in this important matter. I am delighted to tell the House that not only South Australia supports the promotion of labelling at a national level but also as recently as the Australian and New Zealand Environmental Council (ANZEC) conference held in Melbourne I was part of the push, if you like, to ensure that the whole of Australia moves towards a national environmental labelling scheme to label products which meet certain environmental standards. This scheme will be based on the green spot program, which has been established in Victoria and which will target paper products and plastics initially.

The program will involve evaluating products and rating their environmental acceptability to enable consumers to make more informed choices when making their purchases. Many people in both the retailing and manufacturing areas are keen to market environmentally friendly products, and I believe that the statistic which the honourable member has shared with the House indicates that there is certainly an ever increasing market for environmentally sound products. The green spot system will ensure that we will have a national system whereby consumers can identify what products are environmentally sound. It is anticipated that the scheme will be operational in early 1990.

### SEXUAL HARASSMENT

**The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition):** Will the Minister of Health investigate why serious complaints of sexual harassment lodged by a female St John Ambulance volunteer in May have not been investigated or acted upon? In recent weeks we have received numerous complaints by ambulance volunteers of harassment and intimidation by paid ambulance staff. Brigade Commissioner, Dr Brian Fotheringham, says these complaints are 'absolutely true'. I now have a copy of a letter written by a young female volunteer to the Superintendent

of the Hindmarsh Ambulance Division, Mr J. Lamprell, dated 15 May 1989. In the letter the female volunteer claims that she was subjected to a range of sexual innuendoes by a chief training officer of the Ambulance Training School. The suggestive remarks, which included offers to have sex with the young woman, were made during a routine test to assess a volunteer's lifting ability.

The officer involved holds an influential position within the ambulance service and on his word and signature depends the success or failure of any new volunteer. In the young woman's letter of complaint to Mr Lamprell, she claims the officer asked whether he could 'kiss her all over', offered to have sex with her prior to assessing another volunteer, suggested she should return after other assessments had finished to share a few beers with him, and repeatedly touched the woman's shoulder, back and wrist as he escorted her to her parked car.

I am advised that, although Mr Lamprell reported the young woman's complaint to management, it is refusing to do anything about the report. We have been informed that among female volunteers this chief training officer has a reputation for this type of behaviour and it poses the question how many potential recruits he might have turned away.

**The Hon. D.J. HOPGOOD:** It is this Government that has given people in this alleged position right of redress. I just wonder whether the honourable member—

*The Hon. E.R. Goldsworthy interjecting:*

**The SPEAKER:** Order!

**The Hon. D.J. HOPGOOD:** —has taken any initiative to follow this up on behalf of the person who wrote to him. I would have thought it was perfectly proper for any member of Parliament to place such a complaint before the Commissioner for Equal Opportunity or the Superintendent to whom the letter was written. Naturally, I will have the matter thoroughly investigated as quickly as possible and, if it is seen as appropriate, charges will be laid.

I would encourage members when they receive such complaints to act on them immediately. I do not see why it is necessary to keep such a complaint in the satchel for three or four days simply to make the reading of *Hansard* a little more interesting from the point of view of certain minds. I will certainly have the matter thoroughly investigated.

## DRIVERS LICENCES

**The Hon. R.G. PAYNE (Mitchell):** My question is to the Minister of Transport. Are national driver licensing standards a step nearer with the completion of the *Australian Truck Drivers Manual?* An article on page 16 of the spring edition of the *Australian Road Transport Federation Journal News* under a headline 'New Manual Will be Basis for all Driver Training', states:

> The manual will be the basis of all driver licence training and testing under the new graduated licensing system. It will complement State driving handbooks which explain local road rules and driving requirements.

**The Hon. FRANK BLEVINS:** The short answer is 'Yes.' This manual will be distributed in South Australia. We will use the Department of Road Transport, the Vehicle Engineering Branch of the Registrar of Motor Vehicles, or any other outlet that we can find to see that drivers get this manual. I foresee a time in the not too distant future when many more regulations will be introduced into the road transport industry. In some respects I regret that this has become necessary, but there is no question that it has become necessary. I think that that is to the shame of those few drivers on our roads who create a real problem for the whole community. Driving is a great skill. From talking to truck drivers and riding in trucks, I can assure those who have driven nothing more exciting than a Holden that the degree of skill required to manage a rig is quite exceptional.

Of course, most drivers do it very competently indeed; one wonders how other drivers got their licences. I believe that national standards and eventually national licensing standards will have to be introduced for this particular industry, because many truck drivers travel interstate. The licensing conditions and standards that apply in one State do not necessarily apply in another State, so it is most important that people who are moving these heavy rigs across our State do so in the safest possible manner.

I believe that this was a very good initiative of the Federal Government's Office of Road Safety. It is to be commended for that. This State will do everything it can to see that the material is distributed to the people who will find it most useful.

## NORTHFIELD WOMEN'S PRISON

**Mr BECKER (Hanson):** Will the Minister of Correctional Services confirm that three inmates of Northfield Women's Prison attempted to commit suicide on Sunday night and that these incidents may be related to the smuggling of drugs into the prison? I have received information from a number of sources that there were three suicide attempts at Northfield on Sunday night—an institution which has an average daily number of prisoners of about 60—and that it is believed these incidents may be related to the smuggling into the prison of drugs containing impurities which affected the behaviour of these three women.

**The Hon. FRANK BLEVINS:** No, I cannot confirm that. What happened over the weekend was quite regrettable. Three women did injure themselves, very slightly I am told—it was no more than scratches. Two women initially were taken to the infirmary, and another one followed later. I understand that the injuries were nothing more than superficial scratches.

I regret any incident in the prisons system but, as anyone who has anything to do with it would know, there are much more serious incidents of self-injury than this: some people mutilate themselves in quite horrific ways. I am not quite sure why and neither is anyone else. It is a feature of all prisons systems. Some people go to the extent of swallowing quite incredible things—pieces of wire, etc—and are constantly having to have operations. I really cannot say why. No-one has been able to give me a satisfactory explanation.

As regards drugs, I have no knowledge that drugs were involved. For what it is worth, I understand that the self-injury was the result of an argument or a disagreement between two of the inmates. Nobody is quite sure why the other inmate chose to follow them to the infirmary. It may well be that, if any drugs were involved, any examination they had later would find that out. I will get the report on the incident for the member for Hanson and he can do with it as he wishes.

## ROAD TRANSPORT ACCIDENTS

**Mr ROBERTSON (Bright):** Will the Minister of Transport say what specific measures are being considered in South Australia to minimise the likelihood of road accidents involving interstate truck drivers? I am aware that the reply will probably partly overlap with the answer given to the member for Mitchell; but I draw the Minister's attention to

an article in today's *News* which states that in relation to the recent bus crash near Cowper in northern New South Wales, the interstate truck driver involved had been booked for at least 29 offences throughout three States since 1985. The article further states that since 1980 the driver had been charged with a further 32 offences and that he had held licences in three States and had been found guilty of speeding, driving on the wrong side of the road and breaching requirements in relation to maintenance of his log book.

**The Hon. FRANK BLEVINS:** I know nothing about the accident other than what I have read in the papers. However, there is no doubt that there are a few drivers on our roads who do not have a very good record. I point out that most of the drivers, particularly those who drive for the reputable companies, are seldom, if ever, involved in accidents or in speeding, or indeed in any other anti-social behaviour on the roads. It is only a very small number of truck drivers who cause the problems.

I have advocated to all the State Ministers and the Federal Minister that at the next meeting of Transport Ministers in March we should all agree to legislate to provide that all new vehicles coming into the showroom have speed limiters fitted to them, or that new vehicles be manufactured so that a certain speed cannot be exceeded. I believe that that is probably the single most important thing that we can do.

I was heartened to read in today's paper that the New South Wales Minister of Transport has agreed with this proposal. He has stated that he expects this measure to be introduced in New South Wales next year. We will have no problem in doing that here. I was also pleased to read that the Minister in New South Wales has dropped his proposal for an extension of driving hours. In New South Wales a request was made for an increase in driving hours from, I think, 12 to 15. While drivers might have some problems on the Melbourne to Sydney run with the span of hours that they have at the moment, I believe it would have been a retrograde step. There is no way that this Government would agree to any extension of driving hours for the heavy transport industry.

We have also introduced, as I have announced, a system of random inspections of heavy vehicles. This will commence either next month or in December. We are waiting for the necessary equipment to come from New South Wales. We will then be in a position to pull over trucks on the road, quite at random, and test them there and then, in about 15 to 20 minutes. The equipment now available is very sophisticated and will, I believe, indicate very clearly to those few truck drivers on our roads whose trucks are in a dangerous condition that they will not get away with it.

An argument has been advanced that we ought to reduce the maximum speed limit for heavy vehicles. As members would know, recently it was increased from 80 km/h to 100 km/h. I am not convinced that a reduction in speed at this stage is appropriate. I am still open to argument on that. However, I believe that the proposal to mechanically prevent vehicles from exceeding 100 km/h should be given a trial, because in a stream of traffic if there are vehicles limited to travelling at less than 100 km/h (limited to travelling at 80 km/h, for example), the necessity to overtake these vehicles increases. So, it is a trade-off as to whether it is more dangerous to have more vehicle overtaking than to allow the extra 20 km/h. That debate has a fair way to go but I have yet to be persuaded that 100 km/h is not the appropriate maximum speed, provided that the vehicles in question are mechanically incapable of doing anything more.

There is just one issue that I will be taking up on behalf of the State, and that is the question of uniform legislation. We all ought to remember the truck blockades that occurred around the country 18 months to two years ago. One of the complaints, with which I had a great deal of sympathy, from the truck drivers was the question of different standards in different States. It seemed to me that they had a point when it was being stated that behaviour that is quite lawful in one State becomes unlawful in another State; that is not fair on the truck drivers.

I believe in uniformity, but not uniformity at any cost. I will agree to uniformity for this State only on the basis that it is a safer uniformity. I will not agree, for example, to increased hours or increased speeds for the sake of uniformity. If people want to come down to the safe standards that we have in this State, I will argue very strongly for that uniformity. The issue is a complex one. It is not a simple issue that legislation alone can correct: it is one in which the whole community will eventually have to become involved. This Government takes the matter very seriously indeed, and we will ensure that that small section of the road transport industry that brings the whole of the industry into disrepute will be dealt with, and dealt with very strongly.

## NORTHFIELD WOMEN'S PRISON

**Mr S.J. BAKER (Mitcham):** In view of recent events at Northfield Women's Prison, will the Minister of Correctional Services immediately initiate an independent inquiry into the management of that institution? Following the question I asked on 29 September about fraternisation between prison officers and prisoners at Northfield, further information has been provided to the Opposition by prison staff, inmates, former inmates and relatives of inmates which not only confirms that sexual improprieties have occurred but that many more problems at Northfield need to be addressed as a matter of urgency. The member for Hanson has referred to a spate of attempted suicides on Saturday night. During the previous weekend, there was a 28-hour sit-in protest. After this incident, the Minister said that the problems had been resolved through discussion with prison management. However, the Opposition has received further information:

> There have been instances of sexual intimidation of prisoners by certain officers; management personnel have been drunk on duty and, on one occasion, viewed on the security scanner sexually interfering with a prisoner; allegations of abuse, both sexual and intimidatory, have not been fully investigated; there is inadequate medical diagnosis and treatment of prisoners; letters to inmates have been delayed for weeks; there is a lack of appropriate drug treatment programs; one officer with a serious drug abuse problem retained her job for a considerable time after the problem became evident to management; and there are inadequate exercise programs for the prisoners since the gymnasium was closed.

The Minister promised to make available to any member of Parliament, on a confidential basis, the departmental file on the investigation of the original allegations relating to Northfield. I subsequently asked the Minister for the briefing minute only to be provided, because access to the remainder of the file could prejudice the Opposition's right to pursue other allegations raised with us. To date, this briefing minute has not been provided.

**The Hon. FRANK BLEVINS:** Perhaps in answering the question, I could first ask one. Has the member for Mitcham ever been in any of our prisons just to have a look? I would think not.

*Mr S.J. Baker interjecting:*

**The Hon. FRANK BLEVINS:** You can't have been more than I have.

**The SPEAKER:** Order!

*Mr S.J. Baker interjecting:*

**The SPEAKER:** Order!

**The Hon. FRANK BLEVINS:** I do, and again I ask the member for Mitcham whether he has ever been in the Northfield Prison Complex.

**An honourable member:** Many times.

**The Hon. FRANK BLEVINS:** Many times. Have you been in the Northfield Prison Complex—of course you haven't. Have you been in the women's—

**The SPEAKER:** Order! I cannot allow the Minister to reverse the normal procedures of Question Time.

**The Hon. FRANK BLEVINS:** I would have thought that if the member for Mitcham were to come into this place asking for all sorts of inquiries then, at the very least, he should have taken five minutes to visit the place himself, to talk to the staff. To come into this place with these allegations of sexual impropriety, without any evidence whatsoever, is quite outrageous and scandalous.

*Members interjecting:*

**The SPEAKER:** Order! I call the member for Murray-Mallee to order.

**The Hon. FRANK BLEVINS:** It is a quite scandalous allegation and grossly unfair to those officers of Northfield Prison Complex. Prison officers have an extremely difficult job and they deserve better than having the member for Mitcham coming into this place accusing them of sexual impropriety without the slightest bit of evidence. On the question of the allegations made earlier, I brought the file into this Parliament on the day that I made the ministerial statement in response to the honourable member's question. I gave him the file. For some reason or other the member for Mitcham did not want that file. It is not necessarily confidential, one can do with it what one wishes. However, you should take care not to blacken the name of people who have done nothing wrong. That investigation was very thorough, the file is about an inch and a half thick; there are transcripts of questions and answers and investigations that were carried out with prison officers and prisoners. It is all there on the file. It is available to you. If you choose to make it public, you can do that.

**The SPEAKER:** Order! The Minister must direct his remarks through the Chair.

**The Hon. FRANK BLEVINS:** If the member for Mitcham chooses to make those things public, he is perfectly free to do so. I deny completely the other allegations. Again, the question of medical treatment in prisons is a gross slur on the Modbury Hospital. That hospital is in charge of the Prison Medical Service, not the Department of Correctional Services. That hospital does a first class job. About 12 months ago there was a complaint about the Prison Medical Service, which I believe was dealt with by the Ombudsman. He said that the medical services available to prisoners in this State were better than those available to the general community. That was the result of that investigation and that is correct.

Any member is entitled to go into the prisons at any time to talk to anyone they wish to talk to and to publish what they like. The prisoners in this State have more contact with people outside the prison walls than those in any other State. We all remember the Clarkson Royal Commission into the prison system in this State, which was carried out in the late 1970s and early 1980s. The allegations against the management of the institution and against the Government—and I point out that it was a Liberal Government—were very serious indeed. I do not believe that the Clarkson Royal Commission found anything very startling. I can guarantee that, if any member here, or anyone else, wants to investigate any of our prisons, they will find a prison and a prison is not a happy place. I have some respect for the member for Hanson, because he does go into the prisons from time to time and confesses quite freely that they are dreadful places—they are prisons. We have 900 people incarcerated in those places who do not want to be there. They do not like it; they are not supposed to like it; prisons are not likeable places. However—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. FRANK BLEVINS:** The test is how many people want to come into this prison system from interstate. If it is so awful why do they keep bothering me to come here? And why do so few opt to go interstate? We are always on the receiving end of the interstate transfer system. Quite frankly, I believe that some of the requests are absolute cons. I have accommodated some of them—those that are genuine—including cases put forward by members opposite for prisoners to come back to this State. The difference between this prison system and every other prison system in Australia is that it is a totally open and accountable system.

Prisoners have access to telephones, to the Ombudsman, to their lawyers, to members of Parliament and to talkback radio. Half of them love seeing themselves on TV and we allow them to go on television and complain. They do not do that in any other State. The open nature of this system is the greatest protection for prisoners and prison officers in this State. It gives the Minister a few headaches, because any prisoner can ring the newest and rawest reporter and say how dreadful the prison system is and, bang, we have a page three story. We can have one every day.

If the member for Mitcham has any evidence about these outrageous claims that he has made, he ought to give me that evidence and we will have it thoroughly investigated, if necessary bound by Crown Law, to see whether any further investigation is required, and the results of all those inquiries and investigations will be made available to the member for Mitcham.

## STURT DESERT PEA

**Mr DUIGAN (Adelaide):** Is the South Australian Department of Agriculture funding research to change the colour of South Australia's floral emblem, the Sturt Desert Pea, and, if so, why? There have been a number of stories in the *Advertiser* in recent months giving details of a number of research programs. In the *Advertiser* of 21 August there was a story about research being undertaken at the Northfield Agricultural Research Station into ways of adapting some of South Australia's wild flowers, and in particular South Australia's wild floral emblem, to make them acceptable for export. That story indicated that trials were being undertaken to see whether a more acceptable and bountiful cut flower could be produced. Earlier this month, in another article in the *Advertiser*, there was a story about research being undertaken at the Black Hill Flora Centre, again under a program that was being funded by a Federal Government research grant.

There have been a number of letters to the Editor of the *Advertiser* commenting on these stories, and I have been approached by a number of electors in Adelaide asking for the reasons and the background for some of this research which has taken place.

**The Hon. LYNN ARNOLD:** The research work that is partly going on within the auspices of the State and Federal

Governments, but more particularly within the auspices of the private sector, is aimed at developing new varieties of the Sturt Desert Pea, not at changing or eliminating the basic variety. If there were ever any suggestion that the State emblem were to be subject to a colour change, it is absolutely untrue. There is no suggestion that the classic blood red and black of the Sturt Desert Pea, as we know it, is to be subject to any change.

It is true that some varietal work has been done with respect to the Sturt Desert Pea to determine whether or not there are extra commercial opportunities for that flower in the domestic and overseas markets. The facts are that it is a stunningly beautiful flower and it has a great many opportunities both within Australia and overseas in terms of being commercialised. That is not so unusual. We are perhaps behind the international eight ball in the commercialising of flowers inasmuch as many other countries have done this for a much longer period and better than we have. Some work is going on by the Department of Agriculture at the Northfield site, and that will be relocated to other sites in years to come. I note that the member for Eyre says that that is one of the reasons why we should have kept Northfield: apparently somehow or other research on the Sturt Desert Pea can only be done at Northfield; it cannot be done at Waite or at other sites in South Australia. I cannot quite see the logic of that.

Nevertheless, that is about as logical as the rest of the arguments for the keeping of Northfield and for the opposition to the relocation of many of the facilities to the Waite Institute. The other point is that, of the varieties and colours that have been looked at, pink is one of the possibilities. Another possibility is to change the black core to white so that there would be a blood red and white. I am well aware, Mr Speaker, that the symbol is displayed before us in the red sword line of the carpet of the House.

Another matter being investigated is with respect to the way in which the Sturt Desert Pea grows. Normally, it is a plant with limited creeping characteristics in a circular pattern. What is being looked at is the possibility of extending it in one plane rather than in all planes, to make it more suitable for bonsai use, which has great possibilities within the Japanese market. If people are complaining that the State emblem is being commercialised in this way, I do not think that that is a serious problem, especially when we know that the State emblem itself is not to be changed.

I point out that the English rose, the national flower of England, has been the subject of significant varietal change and development over many centuries, as has the chrysanthemum, the national flower of Japan. The work which is going on is very interesting, and I will bring back a more detailed report on the research programs under way within government and those under way in the private sector to the extent that the information is available to me.

## HEALTH AND LIFE CARE LTD

**The Hon. JENNIFER CASHMORE (Coles):** Following the Premier's answer to my question last Wednesday, will he give an assurance that he has asked the management of the State Bank to state immediately and publicly that it will not ask the board of Health and Life Care Ltd to enforce the liabilities of almost 40 former and current employees of Health and Life Care, many of whom are now employed by SGIC—which purchased HLC's hospitals in South Australia—and who face personal bankruptcy if they are required to pay the remaining 90c in the dollar for employee participation shares they purchased for 10c in 1986?

The *Advertiser* of 20 October reported that Mr Len Harper, General Manager of Health and Life Care, had denied my statement that the State Bank would place Health and Life Care in liquidation if it cancelled the remaining call on partly paid employees' shares. However, I have a statutory declaration from Mr Michael Collins, one of those who holds employee shares, confirming that Mr Harper advised him earlier this year that this course of action would be taken. I will read to the House paragraph 9 of that statutory declaration, as follows:

> In late September 1989 I was informed by Len Harper that he had been told by John Heard—

and I interpolate here that Mr Heard is a prominent accountant and receiver who has been appointed as a consultant to Health and Life Care—

> on 3 August 1989 that, if a proposal for the cancellation of the employee share scheme was brought before the annual general meeting of Health and Life Care Limited in October 1989, State Bank of South Australia would immediately move to wind up Health and Life Care Limited. I have received legal advice that, if Health and Life Care Limited is wound up before the employee share scheme is cancelled, a liquidator of Health and Life Care Limited would be under a duty to call up the balance due on the employees' shares and to pursue the employees or ex-employees for payment.

Paragraph 10 states:

> I have also been advised that, in order to have the cancellation of the employee share scheme dealt with at a meeting of members of the company, express notice of the resolution would have to be given prior to the meeting. Attached hereto is a notice of the annual general meeting of Health and Life Care Limited, to be held on 25 October 1989. No notice has been given relating to employees' shares.

In the same report in the *Advertiser* of 20 October it was stated that HLC directors had 'no intention of calling on funds from employee shareholders'. However, it was also stated that the 1.4 million partly paid shares were not due for call-up until 1991. The evidence confirms that a call-up will in fact occur, either in 1991 or before, unless the board of HLC, with the concurrence of the State Bank, forgives the liability in accordance with Stock Exchange approval.

**The Hon. J.C. BANNON:** I had hoped to be able to provide a report as promised to the honourable member following her question last week. I understand that that is in an advanced state of preparation but was not available for me to deliver oday. However, I undertake that I will be able to respond tomorrow.

## CHILD-CARE POLICIES

**Ms GAYLER (Newland):** Will the Minister of Children's Services inform the House what effect the Federal Opposition's child-care policies would have on South Australian families if they were ever implemented? I was contacted yesterday by several of my constituents who are very concerned about reports of the Federal Opposition's plans for child-care. They are very worried that the Liberals' plans would mean that their children would lose their existing places—

**Mr GUNN:** Mr Speaker, I rise on a point of order. The honourable member is obviously commenting and, further, is raising a question in this House for which none of the Ministers have responsibility. It refers only to policy and therefore the question is obviously out of order.

*Members interjecting:*

**The SPEAKER:** Order! I do not uphold the point of order regarding comment. However, in comparison with other questions of this nature, the link that the honourable member drew to the Minister's responsibility was somewhat more tenuous than is usually the case. In accordance with

the past custom of this House over many years, I will allow the question. The honourable Minister.

**The Hon. G.J. CRAFTER:** I thank the honourable member for raising this important matter. I was interested to hear the interjection of the member for Mount Gambier that this was not really policy. I am not sure what standing the Federal Opposition Leader's economic statement has. I, and I guess many thousands of Australians, were concerned to read or hear on the radio comments which were attributed to the Opposition spokesperson on welfare, Mr Connolly, and which were reported in yesterday's *Sydney Morning Herald.* The article states:

> ... under a Coalition Government, extra places would be provided by 'an expansion in work-based and employer-based centres', not by the Government. 'With our better targeting of Commonwealth funding of child-care, we'll leave 90 per cent of child-care to the private sector and business,' he said. 'There will be no more money spent [by the Government]. It's a case of rejigging the system.'

He went on to say:

> I am not going to be held to the Government's proposal of 30 000 new public places.

We in this State have entered into an agreement with the Commonwealth Government with respect to those 30 000 child-care places, so it is a matter of great moment and importance that there is some degree of accuracy with regard to the statements emanating from the Federal Opposition on this matter, given that the State Opposition is saying nothing about this issue.

Either it is a matter of incredible bungling, that there could be conflicting comments of this type coming from the spokesperson and the Leader of the Opposition at the Federal level, or it is simply a matter of deceipt and deception, and we as a community have to make that decision. I would suggest that that is of great concern to all those people who are trying to access child-care and provide affordable, accessible high quality child-care in this State. The only interpretation that one could place on this new policy of the Federal Opposition is that it is a Robin Hood policy in reverse: it seeks to take from the poor and give to the rich. It would simply not create one new child-care place in this country, but it would dispossess many thousands of families of their existing access to child-care. I suggest that that is a matter of great concern to many people in the community.

One can only now question many other aspects of the recent economic statement that emanated from the Federal Opposition. Mr Connolly has revealed that under a Coalition Government middle income families would no longer be allowed into Government funded child-care centres. I think that this is something that requires not only further explanation but also a great deal—

**Mr S.J. BAKER:** On a point of order, Mr Speaker, given the doubtful nature of the original question and, indeed, the prolixity of the Minister, I ask that he be prevented from continuing.

*Members interjecting:*

**The SPEAKER:** Order! In the course of debate on the report of the Standing Orders Committee, the honourable member for Morphett drew the attention of the House to the fact that the Chair, neither here nor in other Parliaments, has been granted the power by the House to direct Ministers to conclude their answers, although on occasions I have, for the sake of the House, taken the liberty of doing just that. I do not intend to direct Ministers to conclude their answers—

*Mr S.G. Evans interjecting:*

**The SPEAKER:** Order! If Ministers have information they wish to put before the House in response to a question, I merely ask that the Minister—

*Mr S.G. Evans interjecting:*

**The SPEAKER:** Order! If the honourable member for Davenport continues to interject on the Chair in these circumstances he will be named without warning. I have no intention of directing the Minister to conclude. However, I ask him to take cognisance of the fact that a couple of complicated questions and replies have resulted in our being on only our tenth question after 47 minutes. The honourable Minister.

*Members interjecting:*

**The SPEAKER:** Order! The honourable Minister.

**The Hon. G.J. CRAFTER:** Thank you, Mr Speaker. I can understand the Opposition's sensitivity towards this matter. My reply has taken only half the length of time of the member for Coles' question. It is important that there be some comment in this Parliament about this matter which directly affects the attitudes of people in this State towards such an important issue. Simply, I am explaining to the House the effect that this would have on people in South Australia.

Clearly, there is an attempt by the Opposition to dismantle the current Commonwealth-State agreement for the provision of child-care services in this State and in other States. By contrast, that agreement—and the agreements that it follows—has brought an enormous fillip in child-care services in the provision of additional family day care, occasional day care and after school hours care in this State. Recent statements have indicated how that care is targeted across this State to those most in need. Clearly, that will continue only under the present Government arrangements.

## STATE BANK GROUP SUPPORT

**The Hon. D.C. WOTTON (Heysen):** Is the Premier aware of recent action taken by the State Bank Group which has caused hardship to several South Australian companies? In August this year, the State Bank, at very short notice, withdrew support from the Adelaide-based laser company, Laserex Pty Ltd, sending the company into receivership at a time when it was beginning to trade profitably in export-oriented technology. I am advised that the bank decided to foreclose on a $2 million overdraft even though, on 24 May this year, it had given an assurance to Continental Venture Capital Limited, Laserex's lead investor, that adequate notice would be given if the bank's support were to change. Ultimately, Laserex received only a few hours notice of the bank's decision.

I also refer to the financing by Beneficial Finance of the Henry Waymouth Centre project for which a receiver-manager has been appointed following the collapse of the Hooker Corporation. In this case I am advised that, while the building has now been leased as a result of initiatives by local property and marketing consultants, those consultants have not been paid for their efforts, despite the fact that the receiver-manager, under instructions from Beneficial Finance, has paid a number of other suppliers on a preferential basis. As a result, while the building is now estimated to be worth more than Beneficial's exposure, a number of small South Australian businesses owed some hundreds of thousands of dollars have been told they will not be paid because their contributions to the project were not considered essential to its completion.

**The Hon. J.C. BANNON:** I do not know whether the honourable member actually took part in the debate, but I

think he was present when legislation was before this House to establish the State Bank in 1983-84. The commercial charter of the bank was clearly written in that legislation. The bank must observe appropriate banking practices and it must be commercial. Also, obviously the honourable member has not consulted with some of his colleagues in asking his question in this way. The member for Coles, in particular, has on many occasions risen in this place to denounce the bank for, what I suppose one would interpret her as meaning, practices which have not resulted in sufficiently protecting the commercial aspects of the bank and its portfolios.

I am not in a position, and nor should I be, to go into the details of individual accounts and loan portfolios with the bank or Beneficial Finance. All I can say is that there would be hundreds of thousands of them. I also say that the universal and ringing endorsement of businesses in this town is that the advent of the State Bank has given them access to finance on better terms and more readily and rapidly than they have ever had before. One will find business after business in this State extremely satisfied customers of the State Bank of South Australia. It has done a fantastic job in assisting in the revival of the commercial, industrial and manufacturing sectors.

To single out of all those many businesses one particular portfolio, and not knowing the facts in the case and not having studied the bank's files on the matter (and it would not be appropriate if the honourable member did, either) and simply to ask the question in this way, to me (being in no better position and nor should I be, than the honourable member, in relation to this matter) that is quite inappropriate.

If, in fact, a commercial bank had closed an account or called up a loan in similar circumstances, I doubt that we would have the honourable member on his feet asking me a question about what we are going to do about it: it is something as between the bank and its client. If the honourable member wishes to represent Laserex, he can communicate directly with the bank, and I invite him to do so—as a member of Parliament representing constituents, or in whatever context he has raised the question. It is not for me to delve into the client-bank relationship on an individual basis, and nor is it for the Parliament.

In talking about the hundreds of companies involved, I might refer to the homeowners of this State, who also receive a fantastic deal and service from the State Bank of South Australia. In 1988-89 the bank lent $661.9 million to 12 300 home buyers. Over the past few years some $2.2 billion has gone to some 70 000 home buyers. I am sure that among those 70 000 people one could find a handful of dissatisfied or disgruntled customers—but it would be very much only a handful.

I think one would find that in nearly all cases, whether business, commercial or home mortgage customers of the bank, the clients believe that the bank is providing a very good service indeed. Thank goodness we have had the bank over the past few years. It has provided splendid and tangible benefits. No member of this House should seek to undermine its commercial viability nor interfere with its commercial operations.

## *ISLAND SEAWAY*

**Mr De LAINE (Price):** Will the Minister of Marine say what is the feasibility of the *Island Seaway* using berth No. 25 at Port Adelaide? It has been put to me that, with some modifications, the virtually unused roll-on, roll-off berthing facilities at No. 25 berth could be used by the *Island Seaway*, to save time and to avoid having to open the Birkenhead Bridge.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. R.J. GREGORY:** This matter has been raised with me on a number of occasions since I have been the Minister of Marine. At this stage, the department has no plans to move the berthing of the *Island Seaway* from Princes Wharf to berth No. 25 for two principal reasons: first, the move would cost a considerable sum of money. It is estimated that it would cost between $300 000 and $350 000 to modify the bridge at berth No. 25 so it would be suitable for loading on to the *Island Seaway*. This is because the *Island Seaway* has two levels whereas the bridge at berth No. 25 is only suitable for one level on a vessel. Further, a cabin would have to be built.

Secondly, we are currently having discussions with a shipping service for a direct shipping service between Adelaide and New Zealand. It is hoped that shortly we will have this vessel operating on this service, and it will be an important service. We would not be able to have two vessels that run on very tight schedules using the one berth. For example, if the *Island Seaway* was in port, and the New Zealand vessel was waiting to call, the hours it might have to wait would be detrimental to its cargo. On the other hand, we could not have the *Island Seaway* waiting while the New Zealand vessel was there, particularly as the *Island Seaway* carries passengers. We are hopeful that we will secure this service and upgrade the facilities at Port Adelaide for South Australian shippers who will be shipping cargo to and from New Zealand.

## BLACK POINT SHACKS

**Mr MEIER (Goyder):** Why has the Minister for Environment and Planning overruled the District Council of Central Yorke Peninsula and ratepayers of Central Yorke Peninsula and forced the district council to amend its supplementary development plan which sought to postpone any development behind the Black Point shack area until 1995?

There are 148 shacks at Black Point enjoyed by thousands of people annually. The Minister has stated she wants to get rid of these shacks and force the owners to buy land some distance behind the current shack sites. People associated with the area are outraged that the wishes of the locals and the District Council of Central Yorke Peninsula have been ignored by the Minister and that in mid-September she requested the council to amend the SDP 'within one month' to her wishes so that it could be presented to Cabinet and rushed through the Parliamentary Joint Committee on Subordinate Legislation before the coming State election. As one shack owner has said in a newspaper comment:

> For years people using shacks have sought refuge from the 'rat race'—now they're planning to bring the 'rat race' to Black Point.

Or, as another shack owner said in a letter to me:

> You would surely be interested in what appears to be a 'bulldozer like' approach by the Planning and Lands Departments and their Minister, Susan Lenehan. Democracy takes a holiday when these three are combined.

**The Hon. S.M. LENEHAN:** I am not sure of the point of the honourable member's question. I thought he said things such as I want to get rid of the shacks and that I want to rush things through. I can assure the House that I will not be rushing anything through. The honourable member has raised a matter relating to planning. In terms of my ability under the Act to seek amendments to SDP's, that is

the right and proper thing for the Minister for Environment and Planning to do. This question highlights the fact that the honourable member is trying to grandstand on this issue. I acknowledge that it is a sensitive and complex issue, and I believe that all members of this Parliament who have any understanding of the whole question of the preservation of our environment acknowledge that there are no easy solutions to this problem. I am certainly looking very sensitively at the whole question, and I reject totally the assertions made by the honourable member that I am trying to get rid of people and rush things through.

## SITTINGS AND BUSINESS

**The Hon. D.J. HOPGOOD (Deputy Premier):** I move:

The the time allotted for—

*(a)* completion of all stages of the following Bills:
Marine Environment Protection,
Water Resources,
Road Traffic Act Amendment (No. 3),
Long Service Leave (Building Industry) Act Amendment,
Equal Opportunity Act Amendment (No. 2),
Legal Practitioners Act Amendment,
State Opera of South Australia Act Amendment, and

*(b)* consideration of the amendments of the Legislative Council in the Soil Conservation and Land Care Bill,

be until 6 p.m. on Thursday 26 October.

## EQUAL OPPORTUNITY ACT AMENDMENT BILL (No. 2)

Second reading.

**The Hon. G.J. CRAFTER (Minister of Education):** I move:

*That this Bill be now read a second time.*

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

Leave granted.

### Explanation of Bill

This Bill (among other things) seeks to amend the Equal Opportunity Act 1984 by extending the ambit of its protection and rights to those who have an intellectual impairment. During the course of preparation of the Bill for the principal Act it became apparent there was an emerging groundswell of opinion that the benefits it would confer should be extended to the intellectually disabled. However, the momentum of opinion gathered very late in the process of drafting the original Bill and, it was considered, if the Act was to proceed without further or inordinate delay, the position of the intellectually disabled should receive separate and mature consideration. To this end, in November 1984 (that is, even before the principal Act itself was assented to) the Government established a working party whose primary term of reference was:

To formulate and prepare guidelines for legislation:

*(a)* that will proscribe discrimination and discriminatory practices against people who have intellectual disabilities; [and]

*(b)* that will promote equal opportunity for people who have intellectual disabilities.

The working party was convened by the Disability Adviser to the Premier and comprised representatives of the Intellectually Disabled Services Council, the Commissioner for Equal Opportunity, the Department for Community Welfare, the Health Commission and the Department of Technical and Further Education. It was charged with the task of inviting comments and submissions from interested persons and organisations. In May 1985 the working party issued a discussion paper canvassing proposals for reform. A substantial number of persons and organisations made submissions to the working party as well as comments on the discussion paper itself. The working party prepared its final report in August 1985 and, again, consultation has continued both with regard to that and an early draft of this Bill.

As can be readily seen, the amendments have the effect of extending the protections afforded by Part V of the Act to the intellectually impaired. Thus, with respect to all matters that are the subject of proscription, the adjective 'physical' is deleted and the word 'impairment' is left to do the work because it is now defined to mean both intellectual and physical impairment. In turn, 'intellectual impairment' is defined by reference to an imperfect development or permanent or temporary loss of mental faculties resulting in a reduced intellectual capacity, otherwise than by reason of mental illness. Such a definition appears better to reflect current thinking on, and terminology in the area of, intellectual disability. It was also considered important to distinguish such persons from those who suffer from mental illnesses in the strict sense. The working party considered it inappropriate to treat discrimination, in these two contexts, in the same way.

The advisory, assistance and research functions of the Commissioner for Equal Opportunity are commensurately extended and the Bill also enhances the capacity or facility for the making of complaints under the Act, with regard to the intellectually impaired. In this context, the working party's report observed (at page 57):

> The success of the legislation will depend on several factors including:
>
> There must be a provision enabling someone else to file a complaint on behalf of an intellectually disabled person.
>
> We suggest that anyone who can satisfy the Commissioner for Equal Opportunity that he or she has a proper interest in the care and protection of the disabled person should be able to lay the complaint. This category of complainant is provided for in the Mental Health Act and has proved successful there.

The Government believes these reforms are both necessary and desirable and, given their period of gestation, ripe for implementation. As the working party noted, 'there is definitely a momentum which has not existed before'. This Bill is a sensible and timely response to gathering community expectations that are legitimate and reasonable. It is time they found expression in the statute law of this State. It should be noted that substantially similar objectives have already been achieved in the relevant legislation of both New South Wales and Victoria.

The Bill also contains an amendment to the principal Act to enable a temporary acting appointment (to the Office of Commissioner for Equal Opportunity) to be made in respect of a public servant. Presently no such appointment can be made and that fact gives rise to some administrative difficulties. The Bill is also designed to achieve several other important reforms relating both to substance and procedure:

(i) to extend to 'unpaid workers'—as opposed merely to remunerated employees—the protections afforded by the Act against discrimination in employment;

(ii) to deal with discrimination by certain associations on the grounds of marital status or pregnancy, in addition to sex, and to cover expulsion of members on these grounds;

(iii) to amend section 34 of the Act to refer to 'work' as opposed to 'position', which is considered too narrow. In short, the amendment will have the effect of an employer being required, before dismissing a woman on the ground

of her pregnancy, not merely to satisfy himself or herself that no formal vacant 'position' exists, but also that no other duties are available, regardless of whether they are attached to any single, identifiable position. This will therefore enhance the protective ambit of the Act for pregnant women. Employers will need to do more than merely see if an alternative position is available; they will need to see if other duties cannot be performed by a pregnant woman;

(iv) to enact a new section which will make it unlawful for employer bodies and trade unions to discriminate on the basis of sexuality. It is considered by the Government that exclusion from such bodies on that ground ('sexuality' means heterosexuality, homosexuality, bisexuality or transsexuality) is not uncommon and compounds the difficulties a person may have in social adjustment especially via the enhancement of his or her chances for gainful employment;

(v) to amend section 66 of the Act which defines the criteria for establishing discrimination on the ground of 'impairment'. A further ground is sought to be added, that is, that discrimination on the basis of physical or intellectual impairment will be established if the discriminator fails to provide special assistance or equipment required by the other person and the failure is unreasonable in the circumstances of the case. In section 66 there is already special accommodation for blind or deaf people who rely on their guide dogs;

(vi) to amend the Act to widen the class of potential complainants. It is in similar terms to section 50 of the Commonwealth Sex Discrimination Act 1984. In short, it will allow for representative complaints to be lodged with the Commissioner;

(vii) to enact a new section which will allow the Commissioner to conduct inquiries. There are checks and balances on the exercise of that power:

(i) it can only be exercised pursuant to a reference by the Equal Opportunity Tribunal; and

(ii) a reference can only arise after the Minister has approved the Commissioner making an application to the tribunal.

Section 52 of the Commonwealth Sex Discrimination Act 1984 is in somewhat similar terms. At present, the Commissioner can only act when a complaint is lodged. There are many cases, where persons are not prepared for a variety of reasons to lodge complaints, that could usefully be the subject of inquiry.

Finally, the schedule to the Bill effects formal changes to the principal Act to ensure that the language of the Act is, in all appropriate places, gender neutral in accordance with Government policy on good drafting principles.

Clause 1 is formal. Clause 2 provides for commencement on one or more proclaimed days. Clause 3 amends the long title to the Equal Opportunity Act 1984 ('the principal Act'), so that this general statement of the principal Act's purposes covers intellectual, as well as physical, impairment.

Clause 4 amends section 5 of the principal Act which is the interpretation provision. 'Employment' is extended to include unpaid work. 'Impairment' is defined to mean intellectual impairment or physical impairment and is the term that will generally be used in the principal Act. 'Intellectual impairment' is defined to mean imperfect development or loss of mental faculties, otherwise than by reason of mental illness, resulting in reduced intellectual capacity. 'Physical impairment' is redefined in consequence of the definition of 'intellectual impairment' and is also extended to cover loss of any part of the body and not just loss of a limb. The definition of 'services to which the Act applies' is expanded to include umpiring services.

Clause 5 amends the general interpretative provision by spelling out that 'treating a person unfavourably' on the basis of a characteristic means treating that person less favourably than some other person who does not have that characteristic is treated. This provision saves considerable repetition in the three later provisions that define discrimination.

Clause 6 amends section 8 of the principal Act; first, to permit the appointment of a public servant as Acting Commissioner for Equal Opportunity, and, secondly to make this section consistent with the provisions of the Government Management and Employment Act 1985.

Clause 7 substitutes section 9 of the principal Act. This section, which provides for the appointment of the staff of the Commissioner for Equal Opportunity, has been redrafted in accordance with the Government Management and Employment Act 1985.

Clause 8 amends section 11 of the principal Act which sets out the Commissioner's functions in relation to fostering informed and unprejudiced public attitudes, undertaking research, discriminating information and recommending legislative reforms. As amended, this section will apply in respect of intellectual impairment as well as in respect of other possible grounds for discrimination.

Clause 9 amends section 12 of the principal Act so that the Commissioner will give advice and assistance to persons who are intellectually impaired in the same way as advice and assistance is now provided for persons with physical impairments.

Clause 10 repeals section 13 of the principal Act. This amendment is consequential to the amendment of section 11.

Clause 11 amends section 14 of the principal Act. This amendment is consequential on the repeal of section 13.

Clause 12 amends section 28 of the principal Act which provides for the appointment of the Registrar of the Equal Opportunity Tribunal. The amendments conform to the provisions of the Government Management and Employment Act 1985.

Clause 13 amends the exemption given to employers in respect of pregnant women. It is provided that an employer will not be guilty of discrimination on dismissing a pregnant woman on the ground of safety if there is no other work that the employer could reasonably be expected to offer the woman.

Clause 14 provides that associations with male and female members must not discriminate on the ground of marital status or pregnancy and must not discriminate against a member of the association by expelling the member or subjecting him or her to any other detriment.

Clause 15 inserts a new provision making it unlawful for a trade union or employer organisation to discriminate on the ground of sexuality.

Clause 16 removes from the section dealing with the provision of services the limitation that the services must be provided to the public or a section of the public.

Clause 17 provides that associations must not discriminate against a member of the association on the ground of his or her race by expelling the member from the association or by subjecting him or her to any other detriment.

Clause 18 is a similar amendment to that effected by clause 16.

Clause 19 amends the heading to Part V of the principal Act. This amendment, together with the amendments to be made by subsequent clauses, will have the effect of extending the application of Part V to persons who are intellectually impaired. (Section 84, however, is not to be amended

since it relates to the inaccessibility of premises to persons with physical impairments.)

Clause 20 substitutes section 66 of the principal Act and this new section sets out the criteria for establishing unlawful discrimination on the ground of physical or intellectual impairment. It is made clear that impairment includes a past impairment. It is also provided that discrimination occurs where a person treats another unfavourably because the other person requires special equipment or assistance and it is unreasonable for the person to fail to provide that assistance or equipment.

Clauses 21 and 22 remove references to physical impairment from various sections of the Act so that those provisions will apply to intellectual as well as physical impairment.

Clause 23 provides that an association must not discriminate against a member of the association on the ground of his or her impairment by expelling the member from the association or by subjecting him or her to any other detriment.

Clauses 24 to 33 (inclusive) effect consequential amendments.

Clause 34 repeals the section that exempted discrimination on the ground that a person with a physical impairment needed special assistance or equipment. This section has now been incorporated in new section 66.

Clause 35 is a consequential amendment.

Clause 36 redrafts those provisions in section 87 (sexual harassment) that refer to voluntary workers. References to voluntary workers are deleted as the definition of 'employee' now includes a voluntary worker, or, as now referred to under the amendments, an 'unpaid worker'.

Clause 37 amends the heading to the enforcement provisions so that it encompasses inquiries as well as complaints.

Clause 38 sets out a wider range of persons who may lodge complaints with the Commissioner. Representative complaints are allowed for.

Clause 39 inserts a new provision empowering the Commissioner to apply (with the Minister's consent) to the Equal Opportunity Tribunal for permission to institute an inquiry into suspected discrimination.

Clauses 40 and 41 are consequential upon clause 39. It is also provided in clause 41 that a complainant who wishes the Commissioner to refer a complaint to the tribunal must do so within three months of being notified that the Commissioner will not be taking action on the complaint.

Clause 42 is consequential on clause 39.

Clause 43 is a consequential amendment.

Clause 44 provides that this Act does not derogate from the operation of other Acts.

The Schedule makes a series of amendments to the principal Act to render the language of the Act 'gender-neutral'. The amendments are not intended to alter the substance of the Act, except in relation to sections 18 and 19 where the opportunity has been taken to delete spent transitional provisions relating to the initial constitution of the Equal Opportunity Tribunal.

**Mr OSWALD** secured the adjournment of the debate.

## SOIL CONSERVATION AND LAND CARE BILL

Consideration in Committee of the Legislative Council's amendments:

No. 1. Page 1, line 27 (clause 3)—Leave out 'human activities' and insert 'over-grazing, excessive tillage, over-clearing, mineral extraction, development of towns, disposal of wastes, road construction, failure to control plant and animal pests or any other human activity'.

No. 2. Page 2 (clause 3)—After line 10 insert the following definition:

'pastoral land' means land of the Crown that is subject to a pastoral lease.

No. 3. Page 3, line 12 (clause 9)—Leave out paragraph *(a)*.

No. 4. Page 3, line 27 (clause 10)—After 'Part' insert 'and section 35'.

No. 5. Page 4, lines 31 and 32 (clause 14)—Leave out 'one or more organisations representative of pastoralists' and insert 'the United Farmers and Stockowners Association of S.A. Incorporated'.

No. 6. Page 4, lines 35 and 36 (clause 14)—Leave out 'one or more organisations representative of horticulturists' and insert 'the United Farmers and Stockowners Association of S.A. Incorporated'.

No. 7. Page 5, lines 2 and 3 (clause 14)—Leave out 'one or more organisations representative of farmers' and insert 'the United Farmers and Stockowners Association of S.A. Incorporated'.

No. 8. Page 5, lines 10 and 11 (clause 14)—Leave out 'one or more organisations formed to promote conservation and environmental issues' and insert 'the Conservation Council of South Australia Incorporated'.

No. 9. Page 6 (clause 17)—After line 20 insert new subclauses as follows:

(5a) Meetings of the council must, subject to subsection (5b), be held in a place that is open to the public.

(5b) The council may order that the public be excluded from a meeting in order to enable the council to consider in confidence any matter that it considers to be confidential.

No. 10. Page 6 (clause 18)—After line 32 insert the following:

, not being a benefit or detriment that would be enjoyed or suffered by the member in common with a substantial class or group within the community.

No. 11. Page 8, line 3 (clause 20)—After 'other than' insert 'its functions under sections 12, 19 (2), 35 (1) and 36 (4) and'.

No. 12. Page 9 (clause 24)—After line 41 insert new paragraph *(ab)* as follows:

*(ab)* that at least three members are owners of land used for agricultural, pastoral, horticultural or other similar purposes.

No. 13. Page 11 (clause 28)—After line 4 insert the following:

, not being a benefit or detriment that would be enjoyed or suffered by the member in common with a substantial class or group within the community.

No. 14. Page 12, line 22 (clause 30)—Leave out '(except the power to make and enforce conservation orders)' and insert '(other than its functions under sections 36, 38, 39 and 42)'.

No. 15. Page 13 (clause 32)—After line 5 insert new subclause (3) as follows:

(3) It is an essential requirement for appointment to the position of Soil Conservator that the appointee has had experience in the field of soil conservation or land management,

No. 16. Page 13, line 18 (clause 34)—After 'in relation to' insert 'pastoral'.

No. 17. Page 13, lines 22 to 24 (clause 34)—Leave out subclause (3) and insert subclauses as follow:

(3) A board the district of which includes any pastoral land must—

*(a)* in developing or revising a district plan (but before making it available for public inspection and comment); or

*(b)* before taking any action under Division III in relation to any such pastoral land,

consult with the Pastoral Board and give due consideration to the board's views on the matter.

(4) Before the council approves any such district plan or revised district plan, it must consult with the Pastoral Board and give due consideration to the board's views on the matter.

No. 18. Page 13, line 27 (clause 35)—After 'such land' insert '(not being pastoral land)'.

No. 19. Page 13 (clause 35)—After line 34 insert new subclause (3) as follows:

(3) The information resulting from the assessment of pastoral land by the Minister of Lands must be furnished by that Minister to the council and to each relevant board.

No. 20. Page 16, line 27 (clause 40)—After 'the Conservator may' insert ', with the approval of the Minister'.

No. 21. Page 17, lines 11 to 17 (clause 42)—Leave out subclause (1) and insert subclauses as follow:

(1) A person who contravenes or fails to comply with a soil conservation order is guilty of an offence.

Penalty: Division 4 fine.

(1a) If a board is satisfied that a person has contravened or failed to comply with a soil conservation order, the board may cause such work to be carried out on the land referred to in the order as full compliance with the order may require.

No. 22. Page 17, lines 18 and 19 (clause 42)—Leave out '(1) *(b)*' and insert '(1a)'.

No. 23. Page 17, lines 25 to 28 (clause 42)—Leave out subclause (3).

No. 24. Page 17, line 35 (clause 43)—After 'a copy of the' insert 'variation or'.

No. 25. Page 17, line 36 (clause 43)—Leave out 'cause the' and insert 'or on varying or revoking a soil conservation order, cause the variation or'.

No. 26. Page 18, line 33 (clause 46)—Leave out 'land within the jurisdiction of the Pastoral Board' and insert 'pastoral land'.

No. 27. Page 18, lines 34 and 35 (clause 46)—Leave out 'land within its jurisdiction' and insert 'pastoral land'.

No. 28. Page 19, line 11 (clause 47)—Leave out 'a farmer' and insert 'an owner of land used for agricultural, pastoral, horticultural or other similar purposes'.

No. 29. Page 19, lines 24 and 25 (clause 49)—Leave out ', bank statements or banking records'.

No. 30. Page 20, line 30 (clause 49)—Leave out 'the Minister,'.

No. 31. Page 21, line 6 (clause 51)—After 'make' insert 'or vary'.

No. 32. Page 21, line 8 (clause 51)—Leave out paragraph *(c)* and insert the following:

*(c)* to cause work to be carried out on land pursuant to section 42,.

No. 33. Page 22, line 24 (clause 53)—Leave out 'Division 7 fine' and insert the following:

*(a)* for an offence against paragraph *(a)* or *(b)*—a division 7 fine;

*(b)* for an offence against paragraph *(c)*—a division 7 fine or division 7 imprisonment.

No. 34. Page 22, line 34 (clause 54)—After 'Division 7 fine' insert 'or division 7 imprisonment'.

No. 35. Page 23, line 22 (clause 57)—Leave out 'or' and insert 'and'.

**The Hon. LYNN ARNOLD:** I move:

That the Legislative Council's amendments be agreed to.

I wish to thank members of the other place for the consideration that has been given and for the effort they have put into this very important piece of legislation. From the Government's point of view some of the amendments are not ideal. Nevertheless, it is more important that this legislation be proceeded with as quickly as possible and be in place without any further delay. However, some of the amendments to the legislation significantly advance its nature. Indeed, some of those amendments are amendments that I indicated that the Government would introduce in another place following consideration of the legislation in this House. Of course, some amendments have not been accepted. Clearly, that has been a function of the members of that place considering them and not accepting them. In one situation, an amendment was accepted that was not supported by the Government.

With respect to some issues put before various members of Parliament in relation to this legislation, the Government has endeavoured to take into account all concerns of all groups, recognising that this is community legislation. Once again, I want to place on record my personal appreciation of the considerable work done by a number of people within the Department of Agriculture—Roger Wickes, Andrew Johnson and others—by officers of the Parliamentary Counsel and, of course, by those involved in the community. The UF&S played a very positive and constructive role in relation to this legislation. The work of Peter Rehn and Denis Slee of the UF&S deserves particular and praiseworthy note.

I also pay a tribute to the Australian Conservation Foundation and the work that it has done in supporting the development of this legislation. In the final stages of the matter some propositions were put forward by the foundation that we have not accepted. There is good reason not to have accepted the propositions, but that does not take away from the important points that the foundation was arguing for. Clearly, the foundation had a strong argument to put with respect to pastoral lands. There are adequate protections available within clause 33 which enshrine or protect the very principles that the foundation has been arguing for. Further amendment was not necessary to the legislation to build upon those principles; in fact, further amendment may have caused other consequential problems that neither the foundation nor other groups in the community would have wanted in the efficacy of this legislation.

I indicate to all members my appreciation for their serious consideration of the matter. I think we should also note the Government's willingness to listen to and take into serious consideration all propositions put before it. I am therefore pleased to move that the amendments be agreed to and hope that all members will see fit to do likewise so that this legislation can be assented to at the earliest possible time.

**Mr GUNN:** I thank the Minister for accepting the amendments because they make a number of substantial improvements to the legislation. It is a pity that the attitude displayed by the Minister during the debate has not been followed by some of his colleagues in relation to other legislation. It is interesting to note that this Minister has probably agreed to more amendments in this House than I have seen agreed to by any Minister in nearly 20 years. We have seen some interesting spectacles from time to time in Committee stages when everyone knows that a mistake has been made in legislation but the Minister has not been prepared to accept an amendment to put it right. I am pleased that the Minister has adopted a flexible attitude, and I hope that it will be continued in other measures today.

This is a very important matter. The manner in which it is implemented will determine whether it is successful or not, because it has to be implemented with cooperation, commonsense and a clear understanding that the ultimate goals and objectives of the legislation will be achieved only if we have that necessary cooperation from the farming community and those associated with it. Everyone recognises that agriculture is one of the most significant industries in this State and nation. Therefore, we have to protect that resource through sound, reliable and sensible farming practices. There are two ways of doing that. One is by care and cooperation and the other is by ignoring the needs and wishes of that section of the community. The best and most effective soil conservation measure is to ensure that we have sound and viable agricultural enterprises and an economic and taxation system which does not force people to over-farm their properties. No matter what legislation we pass, if we have a taxation and economic system which brings unnecessary pressure upon those enterprises, all this good work will have gone down the drain.

I look forward to the legislation coming into effect and seeing its objectives and goals achieved so that we can improve the care of land and protect it for future generations in order that all South Australians will benefit from its better management. This State has been one of the leading agricultural States in Australia. Our dry land farming methods have been recognised throughout the world as amongst the most successful. Many people are involved in new industries and they have put forward new initiatives. That must and will continue if the Government understands the very nature of agriculture. As one of the few people in this Parliament directly involved in the wheat industry, I can say that that industry continues to have a great role to play for the well-being of all South Australians. The only thing which will deter people in that industry from playing that important role is economic pressure, because that will override legislation of this nature.

I look forward to seeing the boards set up around South Australia. I recognise that the matter has not only attracted a great deal of public interest, but many people have shown interest in the legislation. In the next few months it is important that that same degree of cooperation and commonsense should take place. I thank the Minister for adopting a conciliatory and reasonable attitude to these amendments because they improve the legislation. That is the manner in which legislation should be handled and that is the way in which the public would expect Ministers to conduct themselves. The Minister has made an enlightened move and I commend him for it. I look forward to seeing the legislation implemented.

Motion carried.

## PERSONAL EXPLANATION: HEALTH AND LIFE CARE LTD

**The Hon. JENNIFER CASHMORE (Coles):** I seek leave to make a personal explanation.

Leave granted.

**The Hon. JENNIFER CASHMORE:** In a question to the Premier last Wednesday I stated that Health and Life Care Ltd, financed by the State Bank to the level of more than $60 million, was in receivership. Although in my subsequent adjournment speech I made clear that Health and Life Care was insolvent in May 1988 and that a prominent receiver, Mr John Heard, had subsequently been appointed as a consultant to the company, it is not in fact in receivership. I am pleased to correct this fact for the record.

## WATER RESOURCES BILL

Adjourned debate on second reading.

(Continued from 18 October. Page 1262.)

**The Hon. P.B. ARNOLD (Chaffey):** In 1976 this House passed legislation creating the Water Resources Act which, if I remember correctly, superseded the old Control of Waters Act and the Underground Waters Preservation Act. It was generally agreed at that time by both sides of Parliament that it was much improved legislation. It could readily be read and understood by anyone in the community. By and large, in the 13 years of its existence, I believe that it has tended to serve the community well. It is fair to say that other States have tended to follow in a similar direction. But, as the Minister has said, there are a number of areas in the legislation where it was felt that improvements could be made. Therefore, a decision was taken to review the whole of the legislation.

That resulted in a green paper being published in October last year which was issued for discussion. It is again fair to say that there was a reasonable response to that green paper, and the legislation has now been prepared and is before the House. Unfortunately, the people who made responses to the green paper have not had the opportunity of seeing the legislation that we have before us. That is unfortunate. Although the people who have been involved during the past 13 years, particularly the members of the various water resources advisory committees who play an important part in the successful operation of the Water Resources Act, had the opportunity to contribute and comment at the time of the green paper, they have not yet seen the Bill. That makes life difficult for them and for us, inasmuch as any amendments to the legislation should be constructive and should improve it.

They are not in a position to make any comment to us or support or otherwise any amendments we might propose because, unfortunately, they have just not seen the legislation. Certainly, the water resources committees that I have approached have not seen it and are somewhat concerned about that. The United Farmers and Stockowners of South Australia Incorporated, which is one of the organisations affected and which represents farmer interests across South Australia, was surprised that such a Bill was before the House. Consequently, the UF&S is not in a position to comment.

I should like to see this Bill proceed through the second reading stage and then deferred or delayed until the interested parties have had the opportunity to comment. That opportunity has not been available to them. I do not think there is anything very contentious in the legislation. It is bad management or a lack of consideration on the part of the Government not to take these organisations fully into its confidence, particularly the water resources advisory committees which will contribute to the effective management and operation of this legislation. After all, the water resources advisory committees across South Australia are really, in many respects, managing the resource in their areas. For them not to know exactly what are their new responsibilities until, virtually, after the legislation has been passed in Parliament is not a reasonable approach to this matter.

By and large, I do not have a great deal of argument with the points made in the second reading explanation. Many of the concepts of the existing Water Resources Act have been retained, as the Minister said. At present, in addition to the Water Resources Council, there are nine advisory committees across this State, the role and responsibilities of which will be significantly expanded. I am aware that many of the committees would welcome additional responsibilities, but I am not altogether sure that all nine committees are of the same view. They will be forced to accept this additional responsibility. Many of the committees have been irritated and frustrated for quite a long period because they have to report back through the Water Resources Council, a procedure to which they have long objected. They are more than capable of making decisions rather than having them rubber stamped by the Water Resources Council. In the main, the advisory committees probably support what is being done by the Government, but I have no clear indication that that is so, because the committees, once again, do not have a copy of the Bill in order to know what will be placed on their shoulders.

The Minister's role has been expanded. The Minister will take on a wider range of authority and responsibility. That has been balanced to some degree by the fact that greater areas of appeal have been provided when people feel aggrieved by any action of the Minister.

I refer now to the areas on which I should like the Minister to respond at the conclusion of the second reading stage. Division II, 'The South Australian Water Resources Council', clause 12, 'Establishment of Council', goes into great detail setting out the composition of the council as follows:

(2) The council consists of—
  *(a)* the chief executive officers for the time being of the following departments:
    (i) the Engineering and Water Supply Department;
    (ii) the Department of Lands;
    (iii) the Department of Agriculture;
    (iv) the Department of Environment and Planning; and
    (v) the Department of Mines and Energy.

The following members are appointed by the Governor: one selected by the Minister from a panel put forward by the

district councils or the Local Government Association; commercial and industrial interests; organisations representing farmers; and so on. That is fine: we have no real objection to that. However, Division III, 'Water Resources Committees', clause 19, 'Establishment of water resources committees', provides:

(1) The Minister must, by notice published in the *Gazette*, establish a water resources committee in relation to each proclaimed watercourse and lake and each part of the State in which proclaimed wells are situated.
(2) The notice must set out—
*(a)* The watercourse, lake or part of the State in relation to which the committee is established;
and
*(b)* the name of the committee.

And so it goes on. It sets out basically what the committee will do, but clause 19 does not outline the composition of the committee. The water resources advisory committees are very much the working committees under this legislation, and the selection of members and the interests they represent are vitally important to the working of this legislation. As I said, the composition of the Water Resources Council is clearly set out and there is a good cross section of representation. It appears that the water resources advisory committees will be established purely on the nominations of the Minister, and there is no guidance as to where the members will come from or what sections of the community they will represent. Of course, the expertise required on each committee will be different, depending on whether it deals with the Murray River or underground water resource and also on which part of the State it operates in.

I should have thought it was essential, if we are to improve the legislation, that we clearly set out and define the composition of the various water resources advisory committees across South Australia. The Government is clearly giving the committees greater responsibility than they have had in the past, and the composition, in my view, is all important.

Clause 28 under Division V relates to authorised officers, and clause 29 deals with the powers of authorised officers. Clause 29 (4) provides:

An authorised officer may use force to enter land, a building on land or a vehicle or vessel . . .

That is fairly draconian legislation. The Minister might say that it is necessary but, if that is the case, I hope that the Minister will have the same attitude as did the Minister of Agriculture to the amendment moved by the member for Eyre during the debate on the Soil Conservation and Land Care Bill, which was recently before the House. The member for Eyre amended that provision, relating to the powers of authorised officers, to counter and to balance, so that not only the interests of the Government but also the interests of land-holders were looked after. The new provision inserted by the member for Eyre provides:

(6) An authorised officer, or person assisting an authorised officer, who, in the course of exercising powers under this section in relation to any land—
*(a)* unreasonably hinders or obstructs the landowner in the day-to-day running of his or her business on the land;
*(b)* addresses offensive language to the landowner or to any other person on the land;
or
*(c)* assaults the landowner or any other person on the land, is guilty of an offence.
Penalty: Division 7 fine.

The Minister of Agriculture saw fit to accept that amendment because of its balancing influence. In Committee, I will move an amendment in that direction, and I hope that the Minister will give it the same consideration as the Minister of Agriculture gave to the amendment to the Bill previously before the House. Clause 30 deals with hindering, persons engaged in the administration of this Act, and subclause (2) provides:

A person may not decline on grounds of self-incrimination to answer a question put by an authorised officer under this Act but the answer to any such question is not admissible except in proceedings for an offence against this section.

I have always believed that a fundamental right under British law was that one need not answer questions on the ground that one could incriminate oneself. However, the Bill clearly states that any such self-incrimination by a person on being challenged by an officer can be used against that person in proceedings before the court. Serious consideration should be given to that matter before the Bill passes in both Houses of Parliament.

Under the legislation the Minister's powers have been increased substantially, and that is indicated in Part IV relating to the rights of the Minister. Clause 31 (1) provides:

The Minister may take water from any watercourse, lake or well notwithstanding that the taking of the water prejudicially affects the right of any other person to take water from that or any other watercourse, lake or well.

Subclause (2) refers to riparian rights and provides:

Riparian rights in respect to surface and underground water (other than water in a proclaimed watercourse or lake or available from a proclaimed well) continue in existence subject to this Act.

Subclause (3) virtually takes away those rights again and provides:

A person is not entitled to take water in pursuance of a riparian right if the result of taking the water is that the Minister is unable to take the quantity of water that the Minister wishes to take under subsection (1).

It is probably necessary for the Minister to outline to the House to what extent riparian rights will be recognised and acknowleged in this Bill because, if riparian rights are to just go out the window, it will be a retrograde step. I do not intend to go right through the Bill. The Opposition has given an indication of the areas of concern. We support the second reading of the Bill and I trust that in Committee the Minister will be as responsive to my amendments as the Minister of Agriculture was in relation to the amendments to the Soil Conservation and Land Care Bill. The Opposition supports the second reading.

**Mr LEWIS (Murray-Mallee):** I have a number of concerns about this Bill, in addition to those raised by the member for Chaffey, and they are of a similar nature to the concerns I raised in the recent debate on the Soil Conservation and Land Care Bill. My concerns relate to the definitions, to specific terminology (although not as fundamentally as was the case with the measure to which I have just referred) and to certain provisions, for instance, those relating to the establishment of a council, to the establishment of a tribunal and to things which one may or may not do. I am anxious also that the legislation proposes to further qualify and restrict riparian rights of citizens up to this point, where it takes away riparian rights without specifying that it has done so. I am also concerned that there are no provisions in this legislation to indicate whether it or other legislation in conflict with it ought to take precedence.

Therefore, I wonder at the amount of time the Minister has provided for a personal analysis of the effects of the legislation. I also wonder at the capacity from personal experience of the Minister to do that. I have no doubt that the Minister will disabuse me of my curiosity in that regard (either with or without advice), but let me take some matters in sequence so that the House can understand what I am talking about in specific instances. I will not be prolix and pursue the matters that the member for Chaffey has raised: I simply say 'ditto' to them.

The first matter I want to raise relates to the interpretation clause, under which ambiguities arise. A 'watercourse' means:

*(a)* a river, creek or other natural watercourse (whether modified or not);
*(b)* an artificial channel (but not a channel declared by regulation to be excluded from the ambit of this definition).

I guess that under those terms the Minister will be able to get around awkward situations without reference to Parliament by simply changing regulations, copies of which we do not have: the regulations do not accompany this Bill. I presume that in the first instance the regulations would provide that a drain, under the terms of the legislation relevant to South-East drainage, would be provisionally defined by regulation as an artificial channel, one way or the other.

That is an important definition, because when one looks elsewhere in the legislation one finds that there are lots of things that one cannot do in a watercourse. The Minister should know that watercourses in the South-East of this State are up to seven or eight miles wide in places; indeed, as they are in the North. Accordingly, those things which are proscribed as being prohibited cannot be done within such watercourses, yet we see buildings erected and a whole lot of other improvements established on land which is clearly in natural watercourses; and these watercourses are not on a seasonal annual basis filled with water. From time to time there may be as many as 20 to 50 years between the occasions upon which water passes along those watercourses; but they are nonetheless watercourses. The Minister ought to take that into consideration. Whether or not she has done so to date I cannot say, but if that has been done then it has not been done in a well-advised manner.

The next problem relates to the definition of 'well'. The Bill provides the following definition:

'Well' means—
*(a)* an opening in the ground excavated for the purpose of obtaining access to underground water;
*(b)* an opening in the ground excavated for some other purpose but that gives access to underground water—

and, coincidentally, who knows where underground water will occur—

*(c)* a natural opening in the ground that gives access to underground water . . .

So, a water hole is a well, and nobody knows whether the water in the hole is there because it ran off the surface or because it seeped into that cavity by virtue of the presence of a pervious layer adjacent to and perhaps above the elevation of that cavity. So, it is a fairly wide definition of 'well', and the Bill also provides as follows:

and includes all casings, linings, screens and other structures or fittings that are used in relation to the taking of water from the well.

Presumably, that means a windlass and a bucket. What that means, of course, is that the Remm Myer development site between Rundle Mall and North Terrace is a well. The Minister ought to recognise that. It also means that, where highways are constructed in cuttings through the countryside to relieve the angle of radius on the curvature of the carriageway, where it goes up and over the top and down the other side of a hill so that the distance at which vehicles can be seen in the oncoming direction is reduced by increasing that radius, that can be, by definition, a 'well'. Indeed it is a well if it intercepts an aquifer.

Equally, where an individual citizen digs a post hole for the purpose of erecting, say, a strainer post, and the depth of the hole is two metres or so, and it happens to intercept a perched aquifer (or any sort of aquifer), it is a well. Under the terms of this legislation, since the Act binds the Crown, nobody may construct such a hole in the ground unless he has qualifications as a well driller and is registered and licensed as such. If that is not a can of worms, I do not know what is.

Think of a situation where a householder wishes to install a septic tank and happens to intercept a perched watertable; or where a landholder in the Hills sinks a hole to put in a strainer post; or where the Highways Department inadvertently intercepts a perched watertable; or a situation concerning Australian National—and I do not know what interesting connotations that has, how the State then tells Australian National where to get off.

But, all such people, in the course of doing what they thought was lawful, have become, inadvertently, offenders against the law. Nowhere has the Minister identified that a well has a minimum depth below which it is not a well; in other words, you can dig a hole in the ground. When I was a child I used to have to bury the bucket from the family toilet, and I know that on a number of occasions I intercepted perched watertables in the process of doing that.

**Mr S.G. Evans:** It was a terrible job.

**Mr LEWIS:** It was a terrible job, but it had to be done in the name of hygiene and good health. Under the terms of this Act I would be committing an offence to do so. I think the Minister ought to recognise the point I am illustrating when I say that there is no defined minimum depth; if it is shallower than a certain depth it ought not to fall into the category of being a well and it ought not to be the subject of this legislation in that context.

The second point I make about the well is, if we look at the next definition, it provides:

'Well driller's licence' means a licence granted under this Act entitling the holder to drill wells.

Elsewhere in the Act it says that nobody may drill a well or sink a well—that is, dig a hole—unless he has such a licence, and I think that is crook. Under other legislation, like the building legislation, it is possible for the individual citizen to construct his own dwelling or shed without having a licence so long as he complies with other provisions in the regulations and schedules and the Act itself.

However, that is not in this legislation. The Minister has either deliberately excluded it or has not given enough thought to it. I do not know which it is, and I would like the Minister to explain that to the House. I, along with my brothers, from time to time wherever necessary not only have sunk new wells but also have done service work and maintenance work on existing wells in our market garden. Now my activities in doing that under this legislation are forbidden because I do not have a licence and, even though I own the land, I am not allowed to do the maintenance work on my own well in future—and no-one else is either, unless he has a licence. I would like the Minister to explain how that oversight has been made or whether it is deliberate on her part to prevent private landholders from either constructing their own wells or doing maintenance work on existing wells. The legislation clearly precludes it at this time.

The next matter to which I wish to address the House's attention is that of the conflict between this legislation and the soil conservation and land care legislation. Quite clearly, on occasions, this legislation refers to situations in which it will come into direct conflict with the soil conservation and land care legislation, the Mining Act, the legislation establishing the South-East Drainage Board and, I daresay, parts of the Local Government Act and other legislation.

Nowhere in this legislation does it say which Act shall take precedence—this one or one of the other measures. I want the Minister to explain what she intends. Is she delib-

erately creating a great deal of income prospectively to lawyers who will argue this as barristers before the Supreme Court in order to establish which of the Acts takes precedence in each instance? I do not know; the Minister must. I am not going to try to solve the dilemma for her. I have been counselled otherwise and invited not to move amendments to the legislation in this place but to leave it to the Minister to accept the wisdom of doing so and/or otherwise advising her colleagues in the other place to do so.

I now refer to the anomaly that exists between clauses 12 and 22. As to the establishment of the South Australian Water Resources Council (clause 12), it is no bad thing to have such a council, but for the life of me I cannot imagine why we need the provision in subclause (2) *(b)* (iv):

> ... a member selected by the Minister from a panel of three persons nominated, at the invitation of the Minister, by one or more organisations that represent employees.

In other words, a union rep. What the hell does that have to do with running the Act? I guess there will be a fight as to which union it is that puts the numbers in—whether it be the Australian Workers Union, from amongst people who have experience in repairing or working on windmills, or whether the idea is to have some shop steward from an E&WS depot anywhere in the metropolitan area, who would not have a clue about the kinds of things to which I have already referred and to which, in the main, the Act addresses itself. I also do not know why the Minister has included the provision in subparagraph (vi), namely:

> ... a member nominated by the Minister to represent the public interest in relation to the domestic use of water.

Presumably, that is a member of the Housewives Association, or maybe it is a factory owner—or goodness knows. It is astonishing to me that such a person would be included on the Water Resources Council. That is a personal view. I do not necessarily speak on behalf of my colleagues in raising that query. I make no excuse for my own curiosity about it, but should the Minister find that my curiosity is both ill-advised and inane, then she should visit the contempt on me alone, and none of my colleagues. I myself accept responsibility for that. As to clause 31, it is curious to note that:

> Riparian rights in respect of surface and underground water—

and I did not know that riparian rights related to underground water—

> (other than water in a proclaimed watercourse or lake or available from a proclaimed well)—

and all such things have to be so proclaimed, as defined—

> continue in existence subject to this Act.

The clause, of course, is a bit of a *non sequitur*, because everything will be proclaimed. Because riparian rights are somewhat changed by the legislation, elsewhere in the legislation they do not really exist at all. I guess the Minister is trying to con the less well informed in the community that riparian rights are not really under attack at all. Clearly, this legislation does restrict them quite substantially, compared to what they were under common law. I guess the Minister knows that, too.

The next point I draw to the attention of the House relates to clause 22. When the time comes I want the Minister to clarify that clause 22, relating to the establishment of permanent members of the Water Resources Appeal Tribunal, which will hear matters of appeal. Under clause 22 (3):

> The Governor may appoint suitable persons—

the operative words being 'suitable persons'—

> to be deputies to the permanent members of the tribunal.

In my judgment, we should have the same provisions here as exist in clause 12 (3):

> The Governor may, on the recommendation of the Minister, appoint members who have knowledge or experience that will, in the Minister's opinion, be of value to the council in carrying out its functions.

Subclause (6) provides for the appointment of deputies, under the same provisions. Deputies should be appointed under the same sort of provisions, and the legislation ought to specify that. The provision in clause 22 (3), that the Governor may appoint suitable persons to be deputies, in effect means the Government, because the Governor in Executive Council will be told whom to appoint. The Government of the day ought to appoint the deputies from the same categories as the permanent members. For example, the deputy of the senior judge ought to be another senior judge, another engineer should be deputy to the existing engineer on the tribunal, and another person from the field of science ought to be the deputy to the scientific representative, and so on.

The final point I want to draw to the attention of the House illustrates and reinforces the remarks that I made earlier relating to the definition of 'well'. The anomalies to which I have already referred concern me. I do not deny that there is some point in this legislation, and God knows there are enough problems in my electorate that this legislation will address, which hitherto have not been possible. To that extent this legislation is commendable, but to the extent that I have qualified my support of it, things need to be addressed in a fashion which sorts out the problems that are otherwise going to be created and provide a veritable fortune and a lifetime of work for lawyers in litigation, if these matters are not sorted out before the Bill goes through the legislature.

**The Hon. JENNIFER CASHMORE (Coles):** I support the contention by my colleagues that this Bill should be supported to the second reading stage and that then it should be deferred pending consultation with those people who are to be affected by it. I speak particularly on behalf of local government bodies in my electorate, and specifically on behalf of the Campbelltown council. Throughout my years as the member for Coles, and particularly since 1981 at the time of the Torrens River flood, I have tried to keep in close contact with Campbelltown council in relation to any alterations whatsoever to legislation that might affect that council, which has heavy responsibility for flood mitigation works in relation to Third, Fourth and Fifth Creeks.

Since 1981, Campbelltown council has spent $5.6 million on flood mitigation works, mainly in respect of Fourth Creek. Work on Third Creek is yet to be done and will be very costly. Whatever the provisions of this Bill—and I acknowledge that a green paper was circulated for comment before the Bill was prepared—or the merits of this Bill, it is surely intolerable that the Bill, which has such an impact on local government, should be brought into this House without any prior consultation with local government. I regard that as being completely unacceptable.

I speak in a very limited way in this debate simply to express my protest on behalf of my constituents and the ratepayers, elected representatives and staff of Campbelltown council that such a thing should occur. While I do not withdraw any support for the second reading, I certainly urge the House to adopt the proposition recommended by the Opposition, namely, that before the Bill goes to the Committee stage debate should be deferred pending consultation with interested parties.

**Mr S.G. EVANS (Davenport):** I also support the concept of the Bill, but I believe it should be deferred until certain matters are clarified. If the definition of 'well' in the Bill

referred only to drilling (which means that one is using an auger of some type) that might be acceptable, although not totally acceptable. Digging is referred to. Many of us have dug wells, and there is some danger involved. Perhaps we have not been involved in digging wells, perhaps not to 150ft, but we have dug, cleaned and worked in them to over 100ft, or 30-odd metres. If an individual is denied the right to do that on his own land, it could be an expensive process. A well at Scotts Creek had accumulated infill over the years of some 20ft and the new owner decided to use the well as a water resource for the household. What would the depth of that well be considered to be? Would it be the original depth of some 50 or 60 years ago or the depth as it stands with the silt in it—or at least it was there until a few weeks ago?

Is that person committing an offence by taking out that five or six metres of sludge and solidified material from that well? At the moment, I believe that undeclared water courses are under the control of local councils. Regardless of whose control it is, there has never been any major effort, especially in the Hills, to clear the water courses of obstructions. One reason that flooding occurs is that these days we have become lazy. Years ago, the old timers knew that if a stream was partly blocked—be it the Onkaparinga River or other streams of less significance—and it was not cleaned of obstructions such as fallen trees, there could be major flooding of properties. I see the day coming when the department or councils will be sued for a lack of vigilance in this respect.

I believe that councils could presently say to owners of property, 'Clean it up or we will do it and charge you for it.' It is just as important as fire protection. I know it is expensive but, if we are to have the laws, let us apply them. If we are to try to protect neighbours or, in some cases Government assets, let us apply the law and make sure that we do so fairly. I invite any honourable member, the Minister or her officers to look at the streams and see how much they are cluttered up.

Willow trees that have been planted along rivers are of great benefit, and I like them, but they are susceptible to dropping limbs and they also tend to build up a lot of root structure that sometimes causes a blockage of the stream or falsely give the impression that they are polluting the stream. For example, about 12 years ago a high school teacher decided he would take his students to show them a situation which he believed involved pollution of the Sturt Creek. A red rust-like material was in the creek and the students were taken to a position below a motor wrecking yard which, incidentally, happened to be owned by my brother, and the teacher explained how the creek was polluted with this rust-like material. Two of the students had the courage to write to me and ask why the Government or somebody should not do something about this terrible rust in the creek.

I had looked at the pollution in the stream which the schoolteacher had so fairly, it appears, but without logic, explained to them and shown them. I invited the students to meet me and I took them above the wrecking yard and said, 'Here is the material; it is still in the creek. Does water flow uphill?' So the teacher then telephoned me and said that he did not realise that the rust-like material was something that grew around willow roots and was really not a harmful thing at all. That is an example of how people can be misled.

I use the water from that same stream, and I do not mind, but the department puts out its effluents and, at certain times of the year a lot of froth appears, as if detergents are getting through the system. I do not know what causes it, although that situation does not prevail later in the summer. I use the water and I am happy with it: it makes my plants grow brilliantly, and I am one of the lucky ones who have the first draw on it. However, people further downstream get a bit excited, so I have to write to the Minister and ask for a guarantee that there is no problem with it. I have had replies stating that it will not kill the marine life, and I admit that it makes the watercress grow brilliantly.

If we cleaned our streams properly, just once, we would not have to do so again to any great extent for perhaps another 10 to 15 years, although there may be just one or two larger trees to take out. We have to be cautious that we do not clean out the watercourses to the extent that we get a rapid flow, which would hit into the corners so hard that it would erode the banks moreso than occurs at present. We must get a balance between the two. To clean up and make the watercourses fast flowing, without slight restrictions now and again, would create other problems, and much soil would be washed out to sea. In some streams, a part blockage does not hurt, as long as it does not flood out other land, because it tends to hold back some of the silt that is washed from the hillsides. The silt tends to build up and the stream will find another course, so the soil is not lost to the sea. There is a benefit at times, and it takes careful judgment as to the degree that streams are cleaned up.

A person by the name of Davison owns a property at Coromandel Valley immediately below an Engineering and Water Supply holding tank, which has been very well screened by the department, which pushed all the excavated material back against the tank. As the area is planted with grasses, it fits into the environment quite well. Not a lot of shrubs were planted, as that would have cost a lot in maintenance. The department laid an overflow pipe 300 mm in diameter. When the department drains the tank of the sludge that has accumulated, it tends to flood the neighbour's property, not just with water but also with the sludge. Earlier this year the department paid the owner $240 in compensation because the sludge went into his well used for his drinking water. However, nothing has been done about the pipe that discharges just outside the boundary of the property in question onto the unmade Driscoll Road.

As the tank would be about 80ft above the valley, the head of water is about 80ft in a 1ft diameter pipe, so it comes out very rapidly if allowed. The department has agreed that it will let it out at only a trickle, but the owner does not agree to that—and I do not blame him—because what happens will depend on the officers involved at the time. If the water can come out from that pipe at such a fast rate, somebody may decide that a quick draining will restore the service. I am not referring just to this particular site: all these tanks end up with a considerable amount of sludge, and it is simple to drain them straight out into a major stream which runs out to the sea. In the main, it is soil that we are losing—soil that it is of some benefit for us to maintain over 100, 500 or 1 000 years. It would be simple to put in a sludge tank just below the main tank so that the sludge, the heavier material, is not lost to the ocean, and just the water is drained off.

If we are to talk about environmental aspects, we should be thinking about that. In doing that, the neighbours will not be offended by muddy water and it can be let out at a slower rate. The irony is that, along the boundary of that property, there is an easement that goes right down to the main council drain and, over the years, the department has chosen not to lay the drain down that easement. The reason is that it is difficult, steep, the going is tough and it is expensive. This matter has been brought to my attention

only recently and the Minister will receive a letter about it later this week. I suggested to the owner of the land that the ideal solution would be to put in a sludge tank and a four inch pipe. One does not need to dig up the old pipe, the four inch pipe can be slipped inside the foot pipe. That is less likely to offend the neighbours, and it would not be a very expensive exercise.

The department has some responsibilities and I know that, in this Act, we are binding the Crown, but some huge costs will be involved by the time we implement it. Therefore, the points made by the member for Murray-Mallee and supported in some areas by the member for Coles, in addition to what the member for Chaffey raised, suggest that we should take this slowly and ensure that we define things correctly. What do we mean by digging a well? The term 'well digger' is currently confined to a person who generally uses percussion drills to construct what we old timers called a bore, whether it be from four inches up to a foot in diameter to a depth of perhaps 25 metres or more. That was a well as we knew it and as dug by a licensed well digger.

However, we now have the big borers that are used by, for example, the Electricity Trust and the big foundation contractors. That machinery can drill a hole up to a metre in diameter—it may be larger, but I have seen them up to a metre. Those holes can be dug to a considerable depth. Most people would know that in the opal fields miners use them as a tool to find deposits. I imagine that they can dig to a depth of 30 metres, but I am not sure; however, it is a considerable depth. If a person moves into that area, what do we define as a well? For example, I know of people who do not have a garbage collection service, who drill a hole on a hillside in steep country or in country where there is no water—and there are some areas of the hills, in particular, where one could not even get a drink from a hole in the middle of winter—and who use the hole as a repository for other than food stuffs. Will the Act exempt those people; will it say that that is not a well? The Minister stated that we covered that in the Act. I have some grave doubts about the issue of wells and unless we define them more specifically we should leave the owner of the property, or the manager of the property, with the right to dig the well if he so desires, subject to obtaining a permit if the department believes that there is a need to protect water quality or to look at some other aspect. That is a different argument from having a licence to drill a hole.

I am conscious of the need to protect water quality, but we have a long way to go. Some people on the northern plains and other places where there are a declared water areas, know of the restrictions that have been placed on them. When it comes to water courses, it appears that anything that places a burden on councils or Government, which legislation in the past has done and which the existing legislation does, very little has been done except to go along to people and say to them, 'You do that.' But, the authorities do very little themselves. However, those same authorities are quite happy to point the finger at the owner or the occupier of a particular property. There is a responsibility for all: nobody should be exempt. If anything, councils and Government departments should set an example. If they did so, people who are then approached or challenged to rectify a perceived problem are more likely to accept a direction or instruction because they see it as fair. In supporting the Bill through the second reading stage, I hope that before we go through the Committee stage, the Minister considers providing an opportunity for those who perhaps have not had the chance to make a representation—and we all know about green papers—and also for individual concerns to be raised by members.

**The Hon. S.M. LENEHAN (Minister of Water Resources):** I thank members for their contributions. I will attempt to answer the majority of the points raised by members and those matters that I do not deal with in my response will be dealt with in the Committee stage. The member for Chaffey raised a number of points, the first of which was a point that was subsequently picked up by the member for Coles and, I think, by the member for Davenport; that is, that there has not been adequate consultation. I place very clearly on the public record that I do not share that view. There has been extensive and adequate consultation.

But, let us set this issue in its proper context. First, we are talking about a Bill, the great bulk of which is a retention of previous legislation, and which dates back to 1976. The member for Chaffey acknowledged that in his second reading speech. I point out very clearly to the House the sort of consultation that has been undertaken. First, this legislation has been considered in great detail by a subcommittee established by the Water Resources Council, which is charged with that specific task. In fact, that body is responsible for advising on policy and legislative matters. The nature of the changes have been seen by all advisory committees and they have supported the direction of those changes. In addition, support has been forthcoming from the Water Resources Council and from most of the advisory committees. It has certainly come from—

*Members interjecting:*

**The Hon. S.M. LENEHAN:** It has certainly come from the United Farmers and Stockowners. And, in spite of what the member for Coles says, it has also come from the Local Government Association and many individuals. Therefore, it is a nonsense to suggest that widespread community consultation has not taken place.

*An honourable member interjecting:*

**The Hon. S.M. LENEHAN:** Well, I am telling you that that is the case. I understand the political sensitivities of this time, as do members opposite. In fact, I do not think they believe there has not been consultation when, in fact, there has been wide consultation. I would like to point out one contradiction made by the member for Chaffey. On the one hand, he asked the question:

> Are all nine committees prepared to accept the expanded role that has been clearly laid out in this particular Bill?

He then went on to say that advisory committees have, for some period of time, been very unhappy with their restricted roles in terms of the fact that they have to make their reports through the council. Therefore, in answering the honourable member's question, I refer him to the report which is clearly stated in *Hansard*. I tabled the report in my second reading explanation, and it states:

> Two of the most important changes are—

and this relates to the expanded role of the advisory committees—

> *(a)* stipulation that they should, as part of their function, have closer liaison with the community;
>
> and
>
> *(b)* have the capacity to delegate to them some executive functions.

I went on to explain:

> It is important to recognise that such delegation of powers will occur after full consultation with the committee concerned; executive powers will not be forced on unwilling committees.

I then said:

> Quite a lot has happened in the regulation of the quantity of water taken particularly for irrigation purposes.

That clearly states that nothing will be foisted on the advisory committees. Each committee making up the nine committees will be consulted individually as to its expanded role and function and whether it wants some of the delegated powers conferred upon it. The honourable member for Chaffey was contradicting his own point in asking that question. He did not read the second reading speech to obtain an answer.

*The Hon. P.B. Arnold interjecting:*

**The DEPUTY SPEAKER:** Order!

**The Hon. S.M. LENEHAN:** I listened in absolute silence and took some time to respond to the honourable member. I would appreciate his giving me that same courtesy and consideration.

The next point raised by the honourable member for Chaffey was that there was no delineation in the Act of the characteristics, qualities, and so on, that are needed for the selection of members to be appointed to the advisory committees. If I remember correctly, he probably welcomed clause 12 in which there is a detailed delineation of the criteria and of the people who would be appointed to the new South Australian Water Resources Council.

I want to take some time to answer the honourable member for Chaffey because, on the surface, that seems to be a relevant point. The honourable member then referred to clause 19, which deals with the appointment of the committees. The reason why there has not been an accurate and detailed specification of the qualities, qualifications, experience and interests of members to be appointed to the water resources advisory committees is simple. Because each of these committees will have a degree of self management, because they will look specifically at a particular region in South Australia and will require different skills, abilities and experience, it would not be possible in one covering clause to delineate clearly all those qualities, experience and characteristics. The skills will be specific to specific committees. Therefore, it would seem more appropriate to have those general characteristics or criteria laid out in the regulations. That certainly will be done. I believe that answers that particular query.

As regards clause 29 (4), authorised officers, the honourable member suggested that he would be moving an amendment. Not having had the chance to read the amendment, at this stage I would be disposed to accepting it. However, that is subject to my reading it and to the amendment reflecting some of the points that he raised. Therefore, I have no problem with that.

The next point he raised related to clause 30 (2). The reason for what might seem to be a small digression from what has become standard legal practice was to enable information to be gathered very quickly. In some cases that information is critical to the fundamental goals and principles of this legislation. To delay the whole process may cause irreparable damage to sections of various watercourses and so on.

I note that a number of members, including the member for Murray-Mallee, have asked: to what extent will riparian rights be restricted? The short and simple answer is that riparian rights will be retained as they are under the current legislation. I give the honourable member an assurance that no attempt will be made to undermine or to restrict these particular rights. When we come to the Committee stage, we can further explore that aspect.

The member for Murray-Mallee referred to a number of definitions. I am happy to deal specifically with the definition of a watercourse in the Committee stage, and I am sure that the honourable member would wish to pursue it there. As a number of members, including the member for Davenport, have asked about the definition of 'well' and as this seems to be causing consternation, I am happy to pursue that in greater detail in the Committee stage. However, I have to put on the public record at this point that there are some fundamental reasons for the definition of 'well'. I draw the attention of members to the fundamental definition of 'well' in paragraphs *(a)*, *(b)* and *(c)* on page 3. I will read the first one:

> An opening in the ground excavated for the purpose of obtaining access to underground water.

Each of these definitions clearly concludes with the statement that, whether it is an opening, an excavation or a natural opening, it must be looked upon for the purpose of obtaining access to underground water. The point made by the member for Davenport about digging holes and burying garbage is just a little off the track. The reason why we are so strict in this Bill with respect to wells is that the fundamental principle of the Act is to protect the underground aquifers. In some areas it would not be appropriate to allow private landholders to dig wells at their own discretion or to extend wells or to make repairs without recourse to the expertise of a person who holds a well driller's licence.

There are exemptions which the Governor can make through gazettal. That happens now and it will certainly happen under the new Act. In the present legislation there is an exemption for any well that is dug to a depth of two metres. It is my intention to maintain that standard. However, it might be appropriate in future and in particular areas to increase that depth by which certain areas are exempt or to restrict it, because we have to look at specific areas where there is a danger, a threat or a risk to a particularly sensitive aquifer. It is not a matter of being able to have a Bill that in the main can cover every part of South Australia, protect every fragile aquifer and cover every circumstance. That is why Parliament has moved to having regulations and why, in a number of areas, we have given power to the Governor to exempt particular situations so that commonsense can be the ruler of the day in terms of ensuring that private landholders who are doing the right thing and going about their business correctly and properly will be able to do so. I am sure that members opposite will agree that that is the way to proceed. I am sorry if the member for Murray-Mallee is not interested in talking about commonsense.

*Mr Lewis interjecting:*

**The Hon. S.M. LENEHAN:** I have not deliberately done anything. The honourable member should not impute motives to people. I have gone about answering what I think are very positive and constructive contributions in a very detailed way, and for the honourable member to make personally derogatory comments does not help the business of the Parliament. The appointment of deputies is one subject we could explore during the Committee stage in terms of whether we need to move to a standardised format in the use of language in this Bill for the appointment of deputies to both, and I thank the honourable member for raising that. I am prepared to look in a very open way at any suggestion or amendment which will clarify the Act's intentions. I believe that any other points raised by the member for Murray-Mallee can be dealt with during the Committee stage, and I will be pleased to do so.

I turn to the contribution of the member for Coles. Quite obviously, the member for Coles is completely inaccurate: there is very positive support from the Local Government Association. I do not believe that we need to consult with every individual council. There is a mechanism for consulting with local government, and that has been undertaken in a positive and constructive way.

Moving to the comments of the member for Davenport, I do not think it appropriate, in a Bill encompassing such wide-ranging areas which will protect the water resources of South Australia, to start addressing individual constituent problems. The honourable member has indicated that he will write to me personally this week, and I look forward to receiving his correspondence. Any other specific points that relate to the clauses in the Bill can be taken up by the honourable member quite properly in Committee, and I look forward to his doing so. It is not appropriate to pursue individual constituent concerns in this way.

I have just had placed before me an amendment to be moved by the member for Chaffey to which I will give detailed attention. I wish to conclude my remarks by thanking members opposite for their contributions and for their support for this legislation.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Interpretation.'

**Mr LEWIS:** I trust I do not offend the Chair, but there are a number of matters needing further clarification within this definitions clause (which goes on for one and a half pages with several definitions). The first matter is watercourses. Has the Minister understood that the watercourses in this State in some areas are not simply small ravines (which may vary from one or two metres to 300 metres or even a kilometre wide, as in the case of the Murray River) but that there are watercourses in the South-East of the State which are miles wide? If the Minister has understood that, why in this definition has she not excluded such watercourses when elsewhere in the Act she has referred to things that people may or may not do regarding those watercourses?

Clearly, this will be a minefield. There are entire properties of several thousand hectares in a watercourse within my electorate which floods from time to time. The water moves across the ground; it is very flat with very low angles of repose. Nonetheless, it is a watercourse as defined in this Bill, and everything that is done on that grazing property will become subject to this legislation. No tree can be planted, no fence erected, no building modified, no vegetation removed without approval under this Bill. That is my first anxiety and I should like the Minister to clarify that.

For instance, we have the Tatiara watercourse which comes across through the hundred of Connell to Duck Island.

**The CHAIRMAN:** Before the Minister answers that question, and in relation to the preliminary remarks of the member for Murray-Mallee; we are dealing with a long clause here, but I am still constrained by the Standing Orders, allowing the honourable member to speak only three times to each clause. The honourable member has a time limit of 15 minutes each time he speaks, so if he wishes to include several questions each time he speaks, that may overcome the problem. However, I am constrained by the Standing Orders.

**The Hon. S.M. LENEHAN:** I certainly do have an understanding that watercourses are not just streams and rivers and can be very large areas. I have flown over (at a safe, very low level) the flood areas in the upper South-East, so I am very aware of the point the honourable member has raised. I refer the honourable member to clause 80, 'Exemption from Act'. That, in fact, answers his question. Clause 80 (1) *(b)* provides:

> The Governor may, by regulation, declare that this Act, or any provision of this Act, does not apply to, or in relation to, a watercourse, lake or well, or a watercourse, lake or well of a class, specified in the proclamation.

Of course, where it is appropriate, as in some of the cases the honourable member has raised it may well be, these would be exempt under clause 80 and, therefore, I do not believe that it will become a minefield. Quite obviously, as I said during my second reading explanation, commonsense will rule the day. It is not the intention of this Bill to prevent landowners legitimately putting up their fences or planting their trees, or doing whatever it is they need to do on their land. That clause answers the honourable member's concern about the definition of 'watercourse'.

**Mr LEWIS:** That causes me even greater concern, because there are problems in those watercourses that must be addressed. The provisions of this legislation and the way it is drafted, however, do not set about doing that in an appropriate way. Notwithstanding the Minister's reply and my grasp earlier, in my reading of the measure, that clause 80 provided the Governor with the capacity to exempt those things from the legislation, we must address the problems arising.

It is not good enough, every time the water comes across the Victorian border on a several kilometre front and spreads out, that people start pitching up banks and diverting the water into a narrower channel, even down the Cannowigara Road, where it should be spreading out to something like 2.5 kilometres wide. It is tearing the guts out of the road. We must stop that. It is not good enough to allow people to go out and belt each other over the head with shovels in the middle of the mud and darkness and say the next day that they inadvertently ran into the bar door in a hurry to get a bucket and not acknowledge the violence that took place the night before.

That is just not good enough. If we are to fix these problems, the kind of consultation to which the member for Chaffey and other members referred—and to which I said 'ditto' earlier—must be undertaken in that regard. I remind the Minister of the point I made in my second reading speech: I do this not unkindly, gratuitously or in an insulting way but because of my genuine concern that we address this problem. Under clause 80, people can be exempted from the Act. Why does not schedule 1 list the other Acts to which this legislation should be subject? The Tatiara Drainage Trust could be abolished and incorporated under the South-Eastern Drainage Act, and this legislation could be subject to the provisions of that Act. As it stands now, we have traded one horrendous nightmare for another in terms of legislation. I cannot see how this Bill will help me or any other member, such as the member for Victoria or the Hon Mr Irwin from another place, who has had personal and first-hand experience of the problems that arise in that specific instance to which I have referred.

We have introduced legislation to solve problems and, frankly, the Bill will be incapable of doing that because of the way in which it will operate. It is not appropriate to proscribe so many activities from being conducted within a watercourse and then exempt some watercourses from the application of the legislation. That is why the legislation is something like the first edition of Ridley's stripper, where the horses were behind the outfit and not in front of it, and the wheels were upside down. It will not work. I have made my point and I will leave it with the Minister. I do not know how to sort it out. I will not try to redraft the legislation. I do not know how we can go about improving the Bill, but it should have been sent out for further consultation to get rid of these bugs, and/or referred to a select committee for further evidence. I do not believe that the Minister knows how complicated it is and how badly this measure will fail to address those problems.

That is just one instance: there are other watercourses, such as the one that flows westward from Wudinna to Ceduna. If what the Minister said elsewhere does apply and the greenhouse effect results in nullifications to our climatic pattern to something of the kind that has prevailed in the recent past (in the past few million years), water will start to flow along those watercourses and it may happen more quickly than we think. It may be in our own lifetime that large bodies of water move across this State creating problems because of the inadequacy of the processes that this legislation introduces. I will leave it at that and go on to another matter.

I want now to address the question of the definition of a 'well'. I direct the Minister's attention to this so that she may not misunderstand my grasp of the situation. The definition under clause 4 which will apply to all other parts of the legislation, except that part where it is explicitly changed—Part VII—provides that 'well' means an opening in the ground that may give access to water, inadvertently or otherwise. Wells are mentioned elsewhere than under Part VII. The definition under clause 4 will be the one that is taken, but it is in direct conflict with the definition under clause 61. One is not a subset of the other, so why are there two definitions of 'well'? Why is it confusing? Why does the Bill mention all those other things under clause 4 and not under clause 61 or elsewhere? I am sure it was not deliberate, but it creates an ambiguity as to which definition will apply. Accordingly, it will provide a few lawyers with a few hundred thousand dollars before it is all sorted out, unless the issue is sorted out before the Bill passes in this Parliament. A well is also referred to in clause 34. I will leave it at that, because I have made the point; I leave it to the Minister to explain how we can overcome this problem of duplicity in the definition of 'well'.

**The Hon. S.M. LENEHAN:** I go back to the point about watercourses. The definition in the Bill is less restrictive than in the current Act.

*Mr Lewis interjecting:*

**The Hon. S.M. LENEHAN:** I am glad. The exemptions will not be of a general nature: there can be specific exemptions. I am not sure of the point the honourable member was making about watercourses. It seems fairly clear to me, but it would probably be more appropriate to deal with that matter under the specific clause. The definition of 'well' under clause 4 has three parts, two of which (paragraphs *(a)* and *(b)*) are picked up absolutely under clause 61. Paragraph *(b)* provides that 'well' means an opening in the ground excavated for some other purpose but that gives access to underground water. Obviously, that refers to some sort of mining excavation. If we are talking about a mining well, it is not appropriate that that be covered under Part VII, 'Wells'. However, in terms of a mining well, it is appropriate that we should at least pick that up somewhere under the legislation, and that is what paragraph *(b)* would do. I do not see that the definition under clause 4 contradicts clause 61 and beyond. It seems to be a fairly sensible way to ensure that we cover all the excavations or openings that give rise to or have access to underground water. I imagine that the honourable member would not suggest that this legislation should cover mining operations. Mining operations are covered under a specific Acts.

**Mr LEWIS:** Will the Minister say which Act takes precedence where there is an obvious conflict—the Mining Act or this Act? Will this legislation conflict with other Acts, such as the Soil Conservation and Land Care Bill, the South-Eastern Drainage Act and the Building Act? Which Act will take precedence where a building site is being excavated and water is pumped out of a pit, where water is pumped from the hole for a septic tank or where an aquifer, perched or otherwise, is intersected when a core well is drilled? Why does the legislation not indicate which Act would take precedence?

**The Hon. S.M. LENEHAN:** Clause 6 relates to the application of the Act, and Schedule 1 lists the Acts that take precedence over this legislation.

**Mr Lewis:** None are those I have mentioned.

**The Hon. S.M. LENEHAN:** Obviously, when it comes to the management of water, this Act will take precedence over other Acts. If we are talking about mining for minerals, obviously the Mining Act would take precedence.

**Mr INGERSON:** I refer to the definition of 'owner'. The Bill sets out specific penalties relating to owners of land. I notice that the definition of 'owner' includes an occupier of the land. Where a person is the occupier and not the owner of the land, how will the penalties apply? If an owner is not using the land will that person be subject to any penalty? The Minister would understand that owners lease land. The Bill specifically states that the owner is the person to be penalised if there is a breach of the Act, so I can foresee many instances where it would be difficult to know who is to be penalised.

**The Hon. S.M. LENEHAN:** I point out that the definitions of 'occupier' and 'owner' are standard definitions in legislation where it is appropriate to define 'occupier' and 'owner'. Both are included to ensure that the appropriate person is caught. If the owner of the land is living on the land, he is responsible for actions to which the honourable member referred. However, if the land is leased, obviously the occupier of the land is the person who would bear responsibility for particular actions.

Clause passed.

Clause 5—'Act binds Crown.'

**The Hon. P.B. ARNOLD:** Since the Crown is the controller of waters and is likely to be one of the major polluters because of the fact that it is one of the major users of water in the State, who will keep an eye on the Government? An authorised person employed by the department will hardly lodge a complaint against the department. Who will actually carry out this job, or will it be left to the public at large to lodge a complaint?

**The Hon. S.M. LENEHAN:** I guess that that applies in a number of areas where we bind the Crown. This matter could be raised in relation to all the legislation that comes before this Parliament. However, it is the intention under this legislation to ensure that the Crown carries out the aims, objectives and conditions of the legislation in the same way as private individuals, companies, strata titles or whatever. If it were shown that there was not an impartial implementation of the provisions of this Act, the Ombudsman and the public processes and the processes of this Parliament could deal with the situation. I guess that will always be a difficult situation.

Is the honourable member suggesting that we should set up an independent authority outside the regulatory processes to implement the provisions and to check on Government agencies and departments? If he is suggesting that, I think he should look at the cost factors involved and, therefore, the levels of further independent bureaucracy that would be imposed on the whole system. I would have thought that that would be counter to the Opposition's philosophy in this whole area.

I feel comfortable that our system of Government is open enough, so that, if improper practices were taking place whereby Government departments were doing the wrong thing and were not being penalised properly and fully under the law, our system, particularly in South Australia, would

ensure that that kind of information came to light through a number of processes and would certainly be acted on, I imagine, by the Government of the day, be it either a Liberal or a Labor Government.

**The Hon. P.B. ARNOLD:** As the Minister has said, numerous measures have this provision that the legislation is binding on the Crown, but it is a very difficult situation to try to implement. In many instances the Government of the day is the biggest user, the biggest consumer, and possibly the biggest polluter. So what sort of watchdog structure is there. The Minister has suggested that perhaps it is the Ombudsman. I do not know. However, I raise the matter in a genuine sense. It is not much good putting this sort of clause into a Bill if it is there purely as window dressing. If it is not going to be acted on and the Government is all powerful, then, of course, it looks good but achieves very little. I think it is a serious situation. I do not know the answer to it, but the Government should seriously consider who the watchdog should be.

**The Hon. S.M. LENEHAN:** I think two points need to be addressed. I do not accept the honourable member's point that Government agencies are the biggest polluters.

**The Hon. P.B. Arnold:** I am not saying they are; I said they could be.

**The Hon. S.M. LENEHAN:** Of course they could be; so could the private sector. I do not think it furthers the debate to suggest that the Government is the biggest polluter. The Water Resources Council has a role to play in all this, as do the advisory committees. The fact that the advisory committees and the council will be very openly pursuing their roles and that this legislation will actually broaden the role and responsibility of advisory committees and of the council indicates that such situations are much less likely to occur. The honourable member cannot suggest any better system.

For example, the Engineering and Water Supply Department (for which the honourable member was responsible when he was a Minister) is moving with great haste to ensure that past practices are cleaned up. This relates to things like the way we dispose of sewage and effluent, and looking at adjusting a whole range of what in the past might well have been accepted as reasonable environmental practices but which are no longer acceptable. The department and its personnel are working feverishly to ensure that many relevant issues are addressed and that we implement better methods of fulfilling the responsibilities of Government departments. This is not a window dressing exercise, and I can assure the honourable member that in introducing this Bill (and this also applies to the next Bill I will be introducing), the Government is making a genuine attempt to come to grips with the real issues and environmental concerns, and with the fundamental and underlying principles of protecting and preserving our entire water system in South Australia.

It would be a nonsense to apply a double standard and to suggest that all these regulations and criteria were being applied to just one section of the community, that is, the private sector. That will never happen while I am Minister (and I guess this would also be the case if the member for Chaffey were Minister). Through increasing the responsibilities and power of the council and the advisory committees, I believe that we will have enough safeguards and, if you like, watchdogs ensuring that Government departments do the right thing, along with every other section of the community.

**The Hon. P.B. ARNOLD:** In line with the Minister's comments, I suggest that our concerns should be brought to the attention of the Water Resources Council and the advisory committees so that it is understood and accepted by them that perhaps there should be an extension of their responsibility in that regard.

**The Hon. S.M. LENEHAN:** I shall be very happy to ensure that this information is conveyed to the new council and the advisory committees.

Clause passed.

Clauses 6 to 11 passed.

Clause 12—'Establishment of council.'

**The Hon. P.B. ARNOLD:** During discussion on the green paper, were any submissions received that any other groups in the community ought to be represented on the Water Resources Council? If so, what were the organisations suggested and did the Government consider their inclusion?

**The Hon. S.M. LENEHAN:** Recommendations were made for a number of other groups or organisations. The honourable member would appreciate that having more than 14 representatives on the Water Resources Council could make it unwieldy. It has been my experience that sometimes the larger the committee the less chance there is of making hard decisions and decisions which are visionary and which actually address the problems.

It seems to me that 14 is a reasonable number. I draw the honourable member's attention to the fact that under clause 12 (2) *(c)* not more than four members are appointed by the Governor pursuant to subclause (3). That gives the opportunity from time to time to ensure that groups or organisations that feel that they should be represented on the council, and for whom there is not a specific place designated, are given the opportunity by the Minister through the Governor to be represented as they probably deserve. Unless we have a cast of thousands, people will always be disappointed and feel that they should be represented, when unfortunately they cannot always be represented. The way in which the advisory committees will function is such that their voices will be heard and they will have direct access and input into the role of the council.

Clause passed.

Clauses 13 to 18 passed.

Clause 19—'Establishment of water resources committees.'

**The Hon. P.B. ARNOLD:** The composition of water resources advisory committees is not contained in the legislation; they are appointed under regulation by the Minister. With the ever-increasing responsibility being given to the water resources advisory committees, they will have greater authority over the communities they represent. The fact that they are all appointed by the Minister rather than elected by the people who live in the area is of concern to me. What is the Minister's longer term intention with new regulations that will be brought in under the new Act? Does she intend to provide a situation where a percentage of the members of the various water resources advisory committees will involve elected positions from within the region that the committee represents?

**The Hon. S.M. LENEHAN:** In responding to members' second reading contributions, I picked up a number of those points. It is my intention in a general sense to list the criteria and requirements for the appointment of the committees. However, that will not be so specific that it will mean that there cannot be flexibility in appointing people with specific qualifications relating to an area. All of the nine areas have different problems and requirements as well as different degrees of self-management. Therefore, I think we will be looking for a range of qualifications, expertise and experience and it would be quite counter-productive to the aims of the whole Bill to be so specific that we restricted who could be appointed to the committees.

The honourable member has raised a valid point. It would be ridiculous for any Minister to appoint advisory committees consisting of people who have nothing to do with the area. Why would any Minister be so foolish as to do that? Certainly the current Minister will not in any way anticipate appointing a committee to give advice on an area which relates to the whole use of water, conservation, preservation, care and management of water without looking at getting the very best people appointed to that advisory committee and without looking at having a range of qualifications, experience and expertise. That is the way I will be implementing this section, and I will be doing so through the system of regulation.

**The Hon. P.B. ARNOLD:** As the Minister said, it is vitally important to have the best people. Of course, a number of people will be recommended to the Minister as having particular expertise within a given area but, by the same token, the people who live and work in that area and perhaps have done so for several generations also have a very clear knowledge of local expertise. I am suggesting that half the members of the advisory committee be elected from the area concerned, or be appointed on the recommendation of a broadly based group. If the total composition is purely by appointment of the Minister, that in itself is not a very democratic process given that the advisory committee will have significantly more power than it had previously. It would be much more acceptable to the public at large if it could be built into the regulations that a percentage (for example, half) of the members of the advisory committee were elected by the community it represents.

**The Hon. S.M. LENEHAN:** I make two points in answer to the honourable member. First, one of the roles and responsibilities of the Water Resources Council is to provide some of that broad-based advice and, I guess, experience of the local areas to the Minister of the day in terms of the appointment of the committees. However, I am happy in drawing up the regulations to look at the point raised by the honourable member.

Clause passed.

Clauses 20 to 28 passed.

Clause 29—'Powers of authorised officers.'

**The Hon. P.B. ARNOLD:** I move:

Page 12—After line 6 insert the following subsection—

(6) An authorised officer, or person assisting an authorised officer, who—

*(a)* unreasonably hinders or obstructs a landowner in the day to day running of his or her business on the land;

*(b)* addresses offensive language to a landowner or to any other person on the land;

or

*(c)* without lawful authority assaults a landowner or any other person on the land,

is guilty of an offence.

Penalty: Division 7 fine.

This clause provides significant powers to an authorised officer, and it is necessary for the officer to have those powers to undertake the duties required of him or her by this legislation. As in all pieces of legislation or areas of responsibility where officers enforce legislative requirements, 80 per cent or 90 per cent of the officers concerned carry out that duty in a very responsible manner but, human nature being what it is, there are always one or two officers who are in the job because they can wield a little bit of power and, as a result, become quite offensive. That is why I believe the Committee should support my amendment. It is directly in line with the Opposition's amendment to the Soil Conservation and Land Care Bill which was accepted by the Minister of Agriculture. It provides an officer with the necessary authority while reminding him that he also has a public responsibility to conduct himself in a proper manner. I believe that it will add to the sensible and smooth working of this legislation in the public arena.

**The Hon. S.M. LENEHAN:** I am pleased to accept this amendment. It provides some balance. I understand that a similar amendment was moved by the member for Eyre under the Soil Conservation and Land Care Bill and I am happy to accept it.

Amendment carried; clause as amended passed.

Clause 30—'Hindering, etc., persons engaged in the administration of this Act.'

**The Hon. P.B. ARNOLD:** I have a little difficulty in understanding exactly where subclause (2) leaves us. I always believed that without the presence of a lawyer one had a right to decline to make any statement that would tend to self-incriminate. This subclause provides that the answer to a question that may self-incriminate is not admissible except in proceedings for an offence against this provision. It is either acceptable or admissible or it is not. I am not too sure exactly where the person in this predicament is left.

**The Hon. S.M. LENEHAN:** As I explained previously, while this is not a standard clause in most legislation, it has been inserted for specific and, I believe, justifiable reasons. For example, if a toxic or highly poisonous chemical was released onto land and was leaching into the watercourse, and if it was imperative that officers find out exactly what the chemical was, the only person who would be able to provide that information may be the landowner or occupier. Without this clause, there is really no way of ensuring that we get that information quickly. That toxic spill, or highly poisonous chemical discharge, could have a serious affect on a major watercourse. It is important to include that provision. Of course, it would be used only in serious circumstances where there was potential for very serious water pollution that might have consequences for the supply of water to a township, to a community or, indeed, to a city.

**The Hon. P.B. ARNOLD:** I appreciate the Minister's concerns, but it comes back to a person's legal rights under our form of law. We are talking about large penalties. A division 1 fine is $60 000; we are not playing around with $50 or $200. It is a major concern that a person may be forced to answer a question, the answer may be used in a court of law to convict that person, and that person will then receive a $60 000 penalty.

**The Hon. S.M. LENEHAN:** As I understand it, there is no reason at law why this clause cannot be included. Quite obviously, it would be used only where there was a very serious threat to a water supply or where there was a very serious threat of contamination. Every time a piece of legislation is considered in this House, we weigh up the rights of individuals. Do we support the right of an individual to withhold this sort of information where that action could put people's lives at risk and risk the safety and security of the whole water supply?

I guess that at the end of the day I have to say that no individual has that extreme right when the greater good of the total community may be at risk. The provision is included for a specific purpose and it will cover only extreme situations. I hope that it will never need to be used, but, if we need to get information quickly in order to know what kind of remedial action is to be taken in an emergency, I feel that we need to retain it.

**Mr GUNN:** As a member of Parliament I have always taken an interest in the rights of the individual and I know that difficult cases make bad law. However, what happens to a person's common law rights under this provision? I have not yet had a chance to talk about this matter to some of my legal friends. I may do that directly, if I can get them

on the phone. I would be interested in what they have to say, because in recent years I have taken a great interest in clauses of this kind.

Like others, my response to a clause of this nature, if somebody asked me about it, would be that I do not know. That is the problem. It prevents people from being more forthcoming, because they believe that if they give the information they might have committed an offence. I understand that it is essential to protect our waterways from pollution and irresponsible acts, and we could all quote some of them, but I believe that we should seek the cooperation of people. Will the Minister consider having a provision inserted into this clause to the effect that if a person cooperates with the department, or whoever is to administer the Act, that will be taken into account in deciding whether a prosecution should be launched? I believe that, if we give people the opportunity to cooperate, we will get more out of them. One can lead a horse to water, but one cannot make it drink. The first reaction of a person who feels he might have committed an offence is to shut up the book and say, 'I do not know what the situation is.' Therefore, the officers from the department are further behind the eight ball. If they could say, 'We have a problem about what has gone into the water and if you cooperate it is unlikely you will be prosecuted,' they would probably get more cooperation. Has the Minister given any thought to that suggestion?

**The Hon. S.M. LENEHAN:** Before addressing that point, I should say that this is not unique. Many Acts—for example, the Barley Marketing Act and the Agricultural Chemicals Act—contain that clause. However, I take the point that has been made by the member for Eyre. We could look at that point when the Bill gets to the other place and, if appropriate, a rider could be added to the effect that, if people cooperate, that will be taken into account by the department when considering whether or not to prefer charges. That seems a reasonable and commonsense approach. I give the honourable member that undertaking.

**Mr S.G. EVANS:** I have tried to think through the practical applications of what the Minister has said. If something highly toxic is leaching into a stream, in all probability by the time the department found out that it was going to kill somebody, they would be dead. I suggest that there are very few chemicals that cannot readily be identified in a reasonable time. For example, if a chemical is released into a fast flowing stream, it will be several kilometres downstream before anybody can get around to asking the land-holder, if he is available.

If it is a slow running stream, it could still be some distance down. If it is on the edge of a reservoir it could have leached some distance into the reservoir by the time someone got to it so, in practical terms, it is not a very strong argument to say that we will be able to stop it quickly and save trouble downstream. If there is any doubt about the material being in the water resource, there is no doubt that we should stop using that resource, whether it is a tank or a reservoir. If there is any doubt at all, you would not wait to ask the land-holder: the land-holder might not know what is in there, or the person who does know might not be available. You would act immediately to stop the use of the resource.

If it is in a stream where it cannot be stopped readily, all one can do is attempt to stop it leaching. If that is a concern, one would set to work to stop it leaching, whether the land-holder is available or not, because one would not take the risk. I find it strange that that argument is used. The Minister and her departmental advisers are telling us that there are no worries, that it will only be used in extreme cases. Who says that?

We are all birds of passage, all here for a short term, whether in Government departments or here in Parliament. Some guy up there has some say in it, but we all move on. A guarantee given by a Minister means nothing in this Parliament except during the term of office of that Minister and her officers, should they remain in office. It only means something then if they remember that they said it and are honest about it. That is why a court interprets the legislation later.

If we use the extreme case the Minister has suggested, we say that if a toxic poison gets into the stream and could kill someone (or may already have killed someone), a person who is asked about the matter before having time to consult a lawyer may have some idea but may not be sure, may know exactly or may not know at all. If the person believes that there is a risk of his being charged and he refuses to answer, this legislation makes it a serious offence, and the person may be looking at a manslaughter charge, yet is placed in the position of having no advice from his lawyer but of having to make a statement; and he may not even be guilty. Just saying that we will put a rider on it does not cover it.

I have never agreed with all the Acts that have gone through this place. We have our disagreements, but when one side does not have the numbers it cannot put into law what it thinks is a safe practice for individuals. We can never protect the whole of society from the actions of others. If we could, we would have a pretty safe society. What we are saying here is quite dangerous, I think, and we can ignore any guarantee that it will only be used in extreme circumstances. That means nothing except while this Minister is in office, if she maintains her word. It does not mean anything in the future. We have learned that lesson, if I can refer to Standing Orders—promises mean nothing.

**The Hon. S.M. LENEHAN:** As I pointed out, this clause is contained in a number of other Acts of Parliament, but the suggested amendment of the member for Eyre would address the broad concerns that have been raised. I have given an undertaking that we will look at the suggested amendment when the Bill comes before the other place.

**The Hon. B.C. EASTICK:** I was interested to hear the Minister's earlier comments about the importance of making sure that there was an ability to get information quickly in relation to a leachant that might be causing trouble. The Minister used that as a legitimate example and indicated the need to take action to reduce the problems which might otherwise result. However, I wish to share with the Committee information about what arose in Los Angeles. In 1985 I had the opportunity of talking to a number of people directly associated with waste management and the circumstances which had arisen in respect of toxic waste that had been placed in sites in full accord with the ordinance of the day, with Government approval and assistance, and there was no dispute about the activities of the person who held the licence.

However, 35 years later, in about 1983-85, many of those companies (and many had been out of existence for 20 or 30 years) were suddenly having writs placed on them as they were held responsible for the cleaning up of the leachant, which was escaping from the original deposit site, notwithstanding, as I mentioned earlier, that the deposit had been placed with all of the powers and assistance of the Government of the day. I hope that that is not the intention of this Government.

I draw to the Committee's attention the fact that this matter will need further attention, if not here then in another place, to ensure that we do not create a situation which allows people to commit themselves to future legal action

when to all intents and purposes they are being asked to provide assistance to the Government and the community to provide necessary information to reduce further damage in that community. At this stage I do not seek to move an amendment, but I believe that it needs to be placed on record that the danger exists of people incriminating themselves in the future.

**The Hon. S.M. LENEHAN:** I am sure that my answer will explain clearly what the clause means. If someone is asked what they discharged into a drain or from a drum or whatever and the person answers honestly what that substance was, even if it is a prohibited substance, the fact that the person told the authorised officer of the substance cannot be used in legal proceedings to incriminate that person. In other words, by telling the truth, one cannot self-incriminate. I understand what it means, and I hope members opposite do as well.

It is important to understand that, because that is the concern raised by the member for Light. By telling the truth and saying what the chemical is, even if it is a completely prohibited chemical, the fact that the person says what the chemical is in itself cannot be used as the basis of a successful prosecution. Much other evidence may be used but, by identifying the substance so that the department or the Government can move quickly to do something about ameliorating the effects of that chemical, one will not self-incriminate. That answers some of the concerns raised.

**The Hon. B.C. EASTICK:** I accept the comments made by the Minister. I point out that legislators in this State and elsewhere have included retrospectivity in relation to a number of matters. At least in Los Angeles the fact that somebody can fulfil a commitment is being used against them and at their cost. This clause allows for such a situation to arise in the future. I appreciate that we are talking about hypothetical cases, but this possibility should be recorded, as it has been.

Clause passed.

Clause 31—'Right of Minister to water.'

**Mr INGERSON:** Riparian rights were raised during the second reading debate. Will the Minister provide an assurance that people who have riparian rights will not be affected adversely?

**The Hon. S.M. LENEHAN:** I give the honourable member an undertaking that riparian rights will continue, subject only to the right of the Crown to take water where necessary.

Clause passed.

Clause 32—'Proclamation of watercourses, lakes and wells.'

**Mr S.G. EVANS:** Subclause (2) provides:

> The Governor may, by proclamation, declare . . . wells situated in a specified part of the State . . .

Subclause (3) provides:

> A proclamation under this section may specify watercourses, lakes or wells individually or by class.

The following clause 33 refers to having control over whether people can take water from a declared watercourse, well, or whatever. I declare a personal interest in this matter, but I am concerned about situations where a person (and I refer to my situation) already takes water from the upper reaches of the Sturt Creek, where traditionally the water does not run but now effluent runs (and it is a great benefit to me) and when, for example, one family in Coromandel Valley has used the water from that stream since 1842. However, if that Sturt Creek is suddenly declared a watercourse over which the Minister then has the control as to whether or not the water can be used, such properties that use it for irrigation purposes, in particular those who are doing it on a full-time basis, could be placed at risk financially. I refer to the Sturt Creek, because I am close to it. The Minister or a future Minister may declare other streams to be a watercourse.

The same situation applies to wells. If I own a well (and I do) and I use water from that well, under this clause the Minister can declare my well and then tell me how much I can take from it. She can even prevent my using it. This situation would apply to many hundreds of other wells in areas that have not already been declared and where there is a risk of the underground water supply being exhausted such as in the Northern Adelaide Plains, etc.

A publicly available green paper has been mentioned. I would say that not one-tenth of the people who have a well (whether it be a steel-cased hole drilled originally by a percussion drill or a rotary air rig, or whether it was done by hand) would have any knowledge that this legislation was being debated and that their future right to use it, deepen it, or, more particularly, repair it without calling a licensed well driller might be jeopardised.

Will the Minister explain existing users rights to the water resources where they have built their income around it? When moves were made to control wells on the Northern Adelaide Plains some honest people who accurately stated how much water they had used for crops for the previous five years, and the department assessed how much water they were entitled to, were very angry, whereas others deliberately filled in false returns and, because there was no way of checking it, they received huge water allowance allocations. I can see that in this area the same problem will occur.

What is intended when declaring watercourses, lakes and wells individually or by class? I can visualise a departmental officer coming onto my land and saying, 'You have a steel-cased well about 45 metres deep. We will take control of it and tell you how much water you can take out of it,' and there may be a need for this in some areas. This legislation puts immense power in the hands of a few people, and Parliament needs to be cautious about that. Where does the Minister see we are going, and I accept that Ministers are not permanent?

**The Hon. S.M. LENEHAN:** I thank the honourable member for his timely reminder of my impermanence, but I think I will be here for quite some time yet. I assure the honourable member that existing users will have rights. I clearly spell out to the Committee that we will look at proclaiming a specified area or a watercourse only where there is a need to do so. I make that clear because I think that is an important point—

**Mr S.G. Evans:** Will you explain what the need will be?

**The Hon. S.M. LENEHAN:** I think that will be clearly spelt out. The advisory committees will play an integral role in terms of the advice that is given about the specific conditions that may well be set down to ensure that people maintain their right to water, and the conditions under which they maintain that right.

All present users will be consulted. They will not read about it in the local paper and it will not just be gazetted. I think that the fears that at the time of proclamation the whole system will change and that people will lose the rights they have had is, in my view, a groundless one. I would be grateful if the honourable member passed that on to his constituents. That will not occur. There will be wide consultation and consideration of people's current rights.

However, the underlying fundamental principle will be the preservation of a particular watercourse or of an underlying aquifer, if it is in any way at threat. That does not mean that people's rights are taken away. Those rights may need to be modified and specific conditions might need to

be set. I would think that this was the responsible way of doing it.

**Mr S.G. EVANS:** I asked the Minister how she saw it. I do not know how long she will be here; she said a long while, but she is a better judge of her constituents. I think that at times people make strange decisions, as do Parties. The Minister says that people will be consulted before proclamation, but people do not have any say over it.

This is legislation by the back door. A good example of this was with the proclamation of the Mitcham council boundaries and the Government then saying that it could not be reversed, that it was impossible and that it would not send an address to the Governor to change it. As to the matter before us, I think it should be done by regulation, as it is important for people whose income or lifestyle is affected to have an opportunity to put a point of view to their local member of Parliament or to the Joint Committee on Subordinate Legislation. The Bill provides:

> The Governor may by subsequent proclamation vary or revoke a proclamation under this section.

However, I think proclamation is dangerous in this regard, and I hope the Minister will express a view on this so that we might be able to get the members in the other place to consider the matter of regulations. This protects people and gives them more power, and less power to public servants and politicians.

**The Hon. S.M. LENEHAN:** A Water Resources Act has been in existence for the past 13 years. One changes things based on one's experience, and clearly the current situation is not adequate. In the past 13 years, three watercourses have been proclaimed, in some 15 regions. In that time I understand that there has been full consultation with the users in terms of preservation of rights and in terms of the objectives of the proclamation being achieved. I understand that this has not caused a great deal of upset.

**Mr S.G. Evans:** It did on the Northern Adelaide Plains.

**The Hon. S.M. LENEHAN:** I understand that this has not caused a great deal of upset and unrest. The system we have is working and it seems to me that we can refine it. I am sure that the honourable member could always find some little thing that did not work, but in taking an objective overview I think we should maintain this system. As I said, we will refine it, and I reiterate the undertakings that I gave in my previous answer.

**Mr GUNN:** This is an appropriate time to raise a concern that my constituents have about their existing rights to take water from the Great Artesian Basin. Concern has been expressed by some of them that, under these proposals, their rights may be impaired or restricted. As the Minister would be aware, there is a program of capping the artesian bores to restrict their flow. This has been an ongoing program. My constituents are concerned that some people might get rather enthusiastic and suddenly go about this in an aggressive manner. This might require them to put in very extensive water pipelines to take the place of these bore drains which have been flowing for many years.

Will the Minister briefly comment on what is envisaged? These people are a long way from the metropolitan area and they view with some concern proposals such as this. I want an assurance from the Minister that their views will be taken into consideration and that their existing rights will not be unduly overridden, to a degree which will make their operations unviable, particularly in the short term.

**The Hon. S.M. LENEHAN:** At the risk of being accused of being the honourable member's campaign director, I will answer the question. We do not plan to unduly take away rights and there is no intention of being over-enthusiastic. We respect people's existing rights. The honourable member knows my commitment to areas within his electorate. We would look at the whole question in a sensitive way so that people are fully consulted about changes. That does not mean that for many people there will be changes. People always fear something new or different and in many cases those fears are totally unsubstantiated and unjustified. At the end of the day they wonder why they worried. I give the honourable member a commitment that they will not have their rights 'unduly imposed upon'.

**Mr GUNN:** There was some controversy a few years ago about Purni Bore, in the north, where an attempt was made to shut down the bore completely. Many people were concerned about that decision and eventually commonsense prevailed through discussions with the Minister of Mines and Energy and the Minister of Water Resources. Obviously before any decisions are made in future, sensible ongoing discussions should take place to ensure that at the end of the day correct decisions are made.

Clause passed.

Clause 33—'Taking of water from proclaimed watercourse, etc.'

**Mr INGERSON:** On the matter of riparian rights, I ask what effect this measure will have on properties on proclaimed watercourses.

**The Hon. S.M. LENEHAN:** There is no difference.

Clause passed.

Clause 34—'Licences for taking water.'

**Mr S.G. EVANS:** Under the old Act licences were granted for 12 months. Here they remain in existence for a period not exceeding four years, although a person can surrender or it can be taken away from them if they do not abide by the rules. What is the reason for providing for four years? Does it apply to existing licences? Will, at the end of 12 months, an existing licence automatically be renewed to four years?

**The Hon. S.M. LENEHAN:** Not all licences will be automatically renewed and that is not what the clause says. The reason for the clause is to take account of the fact that in some cases there is no need for a 12-month licence and, in an attempt to give people with water rights greater security over their operations, we thought it appropriate to have that flexibility within the Act to be able to provide them with a licence for up to four years. It is a big improvement on the current situation where every year everyone must have their licence renewed. This allows for a flexibility to respond to particular situations. It is not to be read as being automatic and that is not how it should be read.

**Mr S.G. EVANS:** Can the Minister suggest (because I cannot fathom) why we would say that in one area one can have a licence for 12 months or up to four years? The department must have some thoughts on whether it can allow a licence for four years but not extend it to areas where 12 months applies. Some operators are very good and stay within the bounds. They do not try to get around the meters on top of the wells, claiming, for example, that they do not understand the English language (although they know how to count money).

There is a case for saying that, where there have been good operators (and I am not asking for one personally because I do not have an interest in this matter), it could be extended beyond 12 months. It might even be advisable to use this flexibility in respect of the individual operator's approach in how the water is used. The department has records of people who exceed their limit, but little action has been taken against them.

There is also room to move in this area and say that the quantities used are not limited to just one year. In other words, someone who under-uses their allowance in one year

because of illness or accident might want to go over by a small margin the following year. There would be no greater demand on the resource and the quota could be passed over if the licence exceeded 12 months. How will that flexibility be used and what are the circumstances in which the Minister or her officers visualise it might be used?

**The Hon. S.M. LENEHAN:** I do not think the member clearly understands the clause. We are talking about the flexibility to be able to provide for a range of licensing options to cater not for the actual management in human terms but for the management of the water resource itself. Where an aquifer is under threat or is under pressure, it would not be appropriate to grant a four-year licence. However, in looking at areas of the South-East, for example, it would be absolutely appropriate in some instances to grant a four-year licence. Obviously we are not looking so much at individuals but at regions and at preserving the water resource in particular areas.

It may be that we would want to review the conditions that prevail in terms of the amount of water used in any one year and the kind of threat that that poses to the aquifer so that we can control and, in a sense, fine tune the management of that aquifer or resource in that region. This is a very commonsense approach. I will quickly touch on the question of roll-over. Roll-over will be provided for in the regulations, but this is quite a separate thing from the question of regulation and the provision of licences with respect to the taking of water. The member is a bit confused with respect to that aspect.

**Mr S.G. EVANS:** I am not confused, because no-one has told us before that the roll-over might be applied in the case of regulation. It may have been done in some instances in the past but tonight we need to know the purpose, and the Minister stands up and says that one is confused. The place to make sure that we get the Minister's intentions recorded is here. There is an opportunity in the South-East to have an extended licence over 12 months. However, the Northern Adelaide Plains has been under threat at times and I believe there has been reasonable control over the past 13 to 15 years.

There has not been a lot of concern; maybe there will be now that people are moving into smaller glasshouse operations with a greater demand on the resource by people using bores or wells that had not been fully used, and the supply is being tested to the limit. If there is an opportunity to extend the licences to two years or three years, I believe we should do it. That is the point I am making. Up until now, there have been 12-month licences, and I am asking whether it is intended to extend some of those. The answer was 'No', and that is disappointing.

**The Hon. S.M. LENEHAN:** The answer was not 'No'; it was 'Yes'.

[*Sitting suspended from 6 to 7.30 p.m.*]

Clause passed.

Clauses 35 to 41 passed.

Clause 42—'Disposing, etc., of material into water.'

**Mr INGERSON:** During questioning about the interpretation clause, I questioned the definition of 'owner'. Clause 42 (2) provides:

> The owner of land from which any material is disposed of, or permitted to escape, in contravention of subsection (1) is guilty of an offence.

It seems to me that in this clause there may be some difficulty in identifying the culprit: whether it is the owner of the land specifically, or whether it is the occupier. How does the Minister envisage that area being split up and how does she see the guilty person being identified? For example, a landlord and tenant may not be talking to one another. The landlord, in fact, may be the person at fault, but when one goes on to the property it could appear that the tenant is at fault. There may be a very grey area. How would that situation be handled?

**The Hon. S.M. LENEHAN:** Any offence under any law in this State could have the same grey area. Obviously, proper investigation would indicate which of the two parties was guilty. One could quite easily talk about a whole range of areas where the same sort of situation might arise. However, Governments must legislate for the normal circumstance and ensure that we have proper and thorough investigation to ascertain that the right party is blamed for the offence and taken to court, or is the subject of whatever action is deemed reasonable.

Clause passed.

Clauses 43 to 45 passed.

Clause 46—'Evidentiary.'

**Mr INGERSON:** Will the Minister explain to the Committee how she sees this clause working? Again, it seems that the owner, or the person deemed to be guilty, has a difficulty in proving their innocence. It is a very difficult clause which seems to need further consideration.

**The Hon. S.M. LENEHAN:** As I interpret this clause, where a prosecution for an offence against these two sections is proved—that material escaped onto or from land or a vessel—it will be presumed, in the absence of proof to the contrary, that the material was permitted to escape by the owner of the land or vessel. That is saying that, unless evidence can be provided that the person took reasonable care or caution or took some kind of precautions, it will be deemed or presumed that the material was permitted to escape by the owner of the land or vessel. We are talking not about trivial things but about a major pollution potential which will have serious effects on the environment. The clause is perfectly reasonable. I can understand what it is saying. I do not get the point made by the honourable member.

**Mr INGERSON:** It seems to me to be a fairly harsh provision whereby a person is automatically deemed guilty (which is the way I read it) and has to prove their innocence. This seems again to be against the principles of common law where people are deemed to be innocent and are at least able to prove that they are not guilty.

**The Hon. S.M. LENEHAN:** I will explain it again. In circumstances where material is leaving a property, in the absence of any evidence of the owner of the property having taken precautions to ensure that the manufacturing process, or whatever it is, has been designed in such a way as to prevent that kind of spillage, the owner is responsible. If the honourable member thinks of the alternative, we will never have any onus of responsibility. A person will just say, 'It was an accident. I did not know.' Who will be responsible? It is probably a fundamental question whether the protection of the environment is paramount or whether we are going to absolute extremes.

*Mr Ingerson interjecting:*

**The Hon. S.M. LENEHAN:** The individual has many rights: the individual has rights under the Bill. Any responsible manufacturer, farmer, or anyone else who might be a potential polluter must take responsibility for the safe disposal of toxic waste and chemicals so that they do not pollute the watercourses. I would go so far as to say that they should not pollute anything—the land, the air, and so on. If the onus of responsibility is to be taken away from the owner, who will accept the onus of responsibility? Do we have an army of officers standing outside all premises in the State waiting for some kind of pollution to take

place? If I am a manufacturer producing a toxic substance, it is my responsibility to ensure that it does not leak or escape into a waterway, an aquifer or some other watercourse. That is perfectly reasonable and I think that the community in the real world will also think it is perfectly reasonable.

**Mr INGERSON:** The issue that I want to highlight is that the clause provides that, if there is no proof that material has been dropped onto that land, the owner of the land is guilty. It provides that the owner, which includes the occupier of the land, is guilty when there is no proof. My concern is that it might have been done by a third party. In this case the Bill provides that the owner of the land is guilty irrespective of whether a third party did it and it cannot be proved. In the absence of proof, it seems that the owner is always guilty.

It seems to me that that is an unfair position, because people do not have any rights to go to court to take further action. All I was questioning was whether this means that, if I am the owner of a property and if there is no question that illegal material has been disposed of and there has been a breach of those two sections (although I have not committed it), if I fail to produce any evidence I am guilty, under this clause I do not have any opportunity to go to court or to a tribunal to argue my position. That is fairly rough and goes against an individual's common law rights. I believe that people should be able at least to argue their case in some tribunal or court if they do not believe they are guilty.

**The Hon. S.M. LENEHAN:** I will explain again: if somebody is occupying a property and if there is a leak or a deliberate discharge or some form of pollution—and we are talking about serious pollution—the responsibility is on that person. If a third person has illegally dumped waste onto that property, that can be clearly demonstrated. The point is that we are talking about a court of law, not a tribunal, making a final decision. This will go to a court of law. That is quite justifiable in terms of the seriousness of what we are talking about, and if we do not include this provision we will have a system under which no-one will be responsible for any potential pollution problems.

Under the current legislation we must actually catch a person deliberately discharging waste into a drain, a sewerage outlet, a stream, a river or a watercourse. This is the reality. During the Estimates Committees, the Opposition asked how any prosecutions we had taken, and I acknowledged that we have not taken enough. That is the reason why this Bill is before the House tonight. The only way in which we will be able to ensure that polluters are actually made responsible for their actions is to have this clause in the legislation and I support the clause.

**The Hon. B.C. EASTICK:** Perhaps we could be allowed a little licence at this stage, because that will offset our raising the same arguments under another piece of legislation later. It has been put to me that one of the problems associated with slinging material over the side of a ship—whether off the wharf at Morgan or off the wharf at Port Adelaide—is that the sling may give way and toxic material which is being transferred from shore to ship or ship to shore may go into the water. What approach will the department take to that situation?

If we accept that it is normal to load by sling and that, to all intents and purposes, the equipment is in good order but that, occasionally, a rope may slip or fray and the material may go into the water (and whether or not it is sea water the argument is the same), how will the department deal with that set of circumstances? Will the owner of the material, the owner of a vessel on the wharf, the owner of the vessel on the water or the owner of the sling (if it is a stevedoring industry) be held responsible? I raise that issue genuinely, because it was the subject of some debate by the Chamber of Commerce and Industry in relation to another piece of legislation, but the purpose was exactly the same.

I am advised by the Chamber of Commerce and Industry that it finds nothing in the legislation that gives a satisfactory answer to the degree of responsibility or likelihood of prosecution. It is an accidental event, with everyone taking all precautions. I hope that commonsense will prevail, that they will not continue to sling it and that there will not be a secondary break-down in other than normal circumstances. I have raised this example so that it is on the record once and for all.

**The Hon. S.M. LENEHAN:** First, it would not be a permitted occurrence: no-one permitted the accident to happen; it was a genuine accident. The honourable member is right, commonsense does have to prevail, and that would be a normal situation.

*Mr Ingerson interjecting:*

**The Hon. S.M. LENEHAN:** I was asked by the member for Light what the approach would be, and I am giving the honest answer. If the honourable member does not like that, it is his problem. The member for Light who asked the question understands what I am saying. Clause 47 deals with defences, and provides:

> It is a defence . . . that there was nothing that the defendant could reasonably be expected to have done that would have prevented the disposal or escape of the material or reduced the quantity of material that was disposed of or that escaped.

If that provision does not give the honourable member sufficient comfort, I refer him to clause 76 which talks about a general defence and which refers to an offence that was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care. The circumstances outlined by the member for Light indicate that all due care was taken, that it was a genuine accident. We live in a real world where things are not perfect and where there are genuine accidents. If it could be clearly shown that the sling was properly tested and was in place and there was no irresponsibility by either party, then that situation is clearly covered.

The Bill is not intended to pick up genuine accidents where people have taken every precaution and where something has occurred where those precautions have not prevented what could be seen in a fair and reasonable way as being either an act of God or a genuine accident. The basis is that it was not permitted to happen: someone did not turn a blind eye or stand by idly and say, 'Bad luck, it is going down the drain and I do not want to know about it.' If someone is standing by idly and not ensuring that all the precautions are taken, that is a different set of circumstances. The circumstances that related to the case raised by the member for Light I can state categorically would not be covered by this Bill in terms of people being prosecuted for things that one could say quite morally they should not be prosecuted for.

Clause passed.

Clause 47 passed.

Clause 48—'Licence to release material, etc.'

**Mr INGERSON:** This clause provides:

> (4) A licensee may be required by a condition of the licence to pay to the Minister periodically and amount—
>
> *(a)* as compensation for costs . . .
>
> or
>
> *(b)* in the case of a licence authorising the disposal, escape or storage of material—as a penalty to encourage the licensee . . .

What is meant by 'compensation for costs' and what scale of money is envisaged in the regulations in terms of compensation for costs? Subclause (4) *(b)* refers to 'authorising the disposal, escape or storage of material'. What sort of penalties are envisaged by the Minister, because that is not mentioned in this clause?

**The Hon. S.M. LENEHAN:** The compensation envisaged would cover the costs of operating the scheme and also enable repair of any damage being caused to the environment by the action of the licensee. At this stage, no scale has been set because this will be a matter of policy determined under regulation. I would like to think there will be consultation with the industry and with other interested parties before a scale is set, but I understand that the matter of compensation was part of the discussion paper and that we have not received any adverse comment from industry. In fact, industry has welcomed these provisions, but I think it is important to recognise that, where there is damage to the environment, the licensee should, quite justifiably, contribute towards cleaning up or repairing that damage, rather than the general taxpayers' having to accept that responsibility.

This clause does not give licence to pollute and, if you put your money on the table, you can pollute—that is not the intention of the legislation. In fact, we are saying that where some damage, dislocation or whatever is caused, that will be paid for in a form of compensation that will cover the costs. It will not be a revenue-raising exercise.

**Mr INGERSON:** The clause states that this compensation will be part of the licence; in other words, as the licence is negotiated, an amount will be included to cover compensation. I have always believed that compensation should be paid after the event, but in this case the licence will be issued, I assume, on an ongoing basis, so the compensation will have to be worked out in advance. I believe that some method of dealing with this problem should be set out in the regulations. How soon does the Minister think the regulations will come into effect so that this part of the legislation can be implemented?

**The Hon. S.M. LENEHAN:** We have to get this Bill through the other place first, and that is not always an easy task. Without committing myself to a timetable, I would imagine that it would involve about a three-month period in which we can work out a scale of compensation. Members must also remember that some of the licences will be for a period of four years and renewed after that time, while others will involve periods of one, two or three years, depending upon the area and on the kind of stress that the particular aquifer or water resource is under in the area in which the licence is being granted. This matter will be worked out on a commonsense basis with licensees, who will have an input into this whole situation.

I take the point that compensation is generally paid after the event but, because this will be an ongoing situation, in my view it is not unreasonable to have that factored in. It will probably be in the best interest of the licensee to pay a small amount which is factored in rather than receiving a large bill at the end of the licensing period.

**Mr INGERSON:** Subclause (4) *(b)* refers to 'a penalty to encourage the licensee to adopt alternative methods of disposing of or storing the material'. What sort of scale would be involved in that penalty, which I presume will be a monetary penalty? Again, I believe that many people in the industry are concerned about the possible general scale of this penalty. I might add that we support that concept, but we are concerned about the way in which it might be levied.

**The Hon. S.M. LENEHAN:** I guess that I need to answer that question by, first, explaining the underlying philosophy of the clause, that is, that we are trying to strike a balance between the need to encourage industry to do the right thing in how it disposes of particular waste liquids and the way in which it treats the water resource generally. So, on the one hand, they must be encouraged but, on the other hand, we have an overriding responsibility to the community to protect the water resource. I guess one would have to call it, in a sense, a stick or a carrot approach. I think it will prove to be a balanced approach.

At this stage I cannot give the honourable member any monetary figures because, as I said in answer to the earlier part of the question, I have not sat down and looked at it at this stage. I think that is a little early. Let us see what sort of Bill we finish with at the end of the process—

*Mr Ingerson interjecting:*

**The Hon. S.M. LENEHAN:** No, I have not—and then we will sit down in consultation with industry and look at the situation we have come up with.

Clause passed.

Clauses 49 to 51 passed.

Clause 52—'Disposal, etc., of material authorised by regulation.'

**The Hon. P.B. ARNOLD:** During the Minister's second reading explanation she said:

> It is important that any system of management should have the flexibility to exempt certain types of wastes where beneficial uses of water resources are not jeopardised and to grant licences for the discharge of other pollutants subject to appropriate conditions.

I take it that that will be done under Division IV, where the Governor has the opportunity to make regulations. What type of waste are we talking about in relation to releasing material into a water resource? Obviously, we cannot let any pollutant into the resource, but some industrial wastes would be acceptable.

**The Hon. S.M. LENEHAN:** Without being too specific, there are a number of things, such as normal household waste water, which it might be appropriate to allow to be discharged, depending on the circumstances and conditions—

**The Hon. P.B. Arnold:** Depending on detergents and—

**The Hon. S.M. LENEHAN:** Yes. Obviously, one cannot be absolutely specific about this. There would be times when perhaps fertilisers that have been used in agriculture are shown not to contain toxins and so on that will affect a watercourse, or there is not an aquifer that is under the kind of pressure that some of the aquifers around the State are under. There are a number of specific examples. Even if we had this clause only to have the flexibility to be able to look at particular cases as they arose, it would seem to me that that would be a good enough reason, rather than bringing things back to Parliament to amend the legislation; I do not think that is a commonsense approach. We might well put people who have harmless discharges through an enormous amount of time delay and a whole lot of other bother that they should not be put through.

In a sense, we do not have specific things in mind that we will rush out and start exempting. As I said in the second reading explanation, it is designed to give a greater degree of flexibility to respond sensitively to issues that may well arise that will not have an adverse effect on the water supply or the watercourse, whatever it happens to be.

**The Hon. P.B. ARNOLD:** I think a number of industries, particularly in the country, have effluent that has no real detrimental effect and, if it does flow back into the watercourse and back into the Murray River, it will not ultimately be detrimental. I accept the explanation that fundamentally this provision is inserted to enable flexibility; and we have no argument about that. We wondered how it would be

controlled. The Minister is saying that each instance that is brought to the attention of the department can be assessed and, if it is regarded of little consequence, it is forgotten.

**The Hon. S.M. LENEHAN:** This involves a case by case commonsense approach, as I said. I thank the member for Chaffey for raising the matter. I hope that this has dispelled some of the concerns raised earlier by other members that perhaps some of these things are not clearly understood. This is intended to be based on commonsense, with the underlying principle of protecting the water resources.

Clause passed.

Clauses 53 to 60 passed.

Clause 61—'Wells—Interpretation.'

**Mr GUNN:** I refer to the matter of people constructing and maintaining their own wells and bores. Will the Minister give an assurance that the existing arrangements that are in place will continue? I always think that the greatest thing in this world is commonsense. We can make laws to deal with a few difficulties but we must be careful not to end up clobbering people who are going about their normal daily activities. As a farmer, I spend a considerable amount of time attempting to maintain bores and wells on very hot days, under fairly difficult conditions. I hope that the existing arrangements will continue and that people can carry out that sort of work free of hindrance and unnecessary red tape and form filling out. The one thing that is helping to grind the nation to a halt is the proliferation of the various forms of Government bureaucracy in their various unique ways. I seek from the Minister a clear undertaking that where farmers and pastoralists are involved in their normal operations they will not have to get permits or permission.

I point out to the Minister that they should be allowed to put down their own bores and wells without these licences. A case was brought to my attention some time ago in relation to a gentleman who constructs wells, a job that he was very good at. When someone asked what his licence number was he threw his hat in the air and said, 'What the bloody hell do I want that for? I am too busy trying to help these people; I have a list a mile long; there is no-one else to do it.'

I say to the Minister that I hope the existing arrangements will continue and that with the passing of this legislation the Government will not consider that this is a chance to bring in some more regulations. I am aware that there has been a degree of rivalry between the Mines Department and the Engineering and Water Supply Department in relation to this and other matters. I am being most charitable in my comments. I would appreciate the Minister's response.

**The Hon. S.M. LENEHAN:** Perhaps to defuse the situation I should refer members to sections 48 and 49 in the current Act. Although the wording in clause 62 is slightly different, there is really no change at all in the requirements in the Bill compared with those in the current Water Resources Act. If that does not give the honourable member sufficient comfort, I should like to refer to clause 80 (1) of the Bill, which provides:

> The Governor may, by regulation . . .
>
> *(b)* declare that this Act, or any provision of this Act, does not apply to, or in relation to, a watercourse, lake or well, or a watercourse, lake or well of a class specified in the proclamation.

The honourable member would be aware that currently, through the gazettal procedures, a number of wells are already exempt; for example, wells that are less than two metres deep. As I understand it, there are no significant differences between the Bill and the provisions under the present Act. That was the underlying question asked by the honourable member.

Clause passed.

Clause 62—'Restrictions in relation to the drilling, etc., of wells.'

**The Hon. E.R. GOLDSWORTHY:** What exemptions exist at the moment? I assume that the exemptions that currently exist, and as envisaged in clause 80, will be continued. Apropos the point raised by the member for Eyre, what exemptions currently exist in relation to wells on farms or on pastoral properties? It would be unrealistic to suggest that farmers, pastoralists and others do not service the wells themselves. They do not have access to well drillers with permits and so on.

What exemptions apply to people who have wells in their backyards to escape the high level of charges they have to pay for the E&WS water supply? A number of people have wells in their backyards. What sort of exemptions exist with regard to such people maintaining those wells for their own use?

**The Hon. S.M. LENEHAN:** We are not changing the Act.

**The Hon. E.R. Goldsworthy:** What are the exemptions?

**The Hon. S.M. LENEHAN:** I cannot give a full list of exemptions, but will obtain that information for the honourable member as soon as possible. It is important to realise that we are not changing exemptions at this stage, and that is not envisaged. It is the same as now exists in sections 48 and 49 of the current Act and as are contained in clause 62 of the Bill. With respect to wells in people's private backyards, surely from all the discussion we have had on the Bill today it would be apparent that one would have to look at the depth of the well, how it was structured and, most importantly, what is the situation with the aquifer into which the well is sunk. It is not appropriate to ask what will happen as a generalisation. We may be talking about a backyard in the city, in a country town or on a property. Obviously, what is happening now will happen in future under the new Act, by and large.

**The Hon. E.R. GOLDSWORTHY:** The member for Eyre raised a pertinent point. We are meant to be reassured by the Minister that the clause is similar to the provisions of the Act. She has no idea what will be in the regulations or what imposts will be placed on the rural community or on people with wells in their yards. This provision is absurd in a number of ways. To recount my own experience of recent days, I may have been breaking the law. If so, the law is an ass. I have a property at Victor Harbor and, to my surprise, I discovered that, beneath the high grass, I had a well on the property.

Apparently the well was constructed by the former owner of that property as an old farm well at about the turn of the century. The original property has been subdivided into housing blocks. The question was, 'What do I do with the well?' I had two options. The well had been disused over the years. There were some old railway sleepers over it. It is a 7 foot diameter well, which had been bricked up. My choices were to either fill in the well or try to get rid of some of the rubbish in it, because people had used it over the years as a dump, and it was full of building rubbish, concrete, bottles and dirt, etc. As the law currently stands, I should have obtained the services of a licensed well driller to tell me what to do with the well and supervise the work. At first I thought I would fill it in, because it was obviously a hazard.

**Mr Peterson:** I bet you changed your mind.

**The Hon. E.R. GOLDSWORTHY:** Well, I did change my mind. I always have to pay for excess water. I had made an arrangement with my neighbour to water the lawns because I am rarely down there. Whenever I did go there, the lawns would be green and about 2 foot high. I told my

neighbour that I no longer wanted the lawns watered. I cleaned out the well instead of filling it in. However, whatever I did would involve breaking the law in terms of the Bill and, I am told, in terms of the current Act.

The last thing I wanted to do was climb down the well and dig it out: that would be the lousiest job I could imagine. So, I tried every well-driller in the telephone book and every handyman in Victor Harbor, and asked if they were interested in digging out my well. I asked someone with a big machine whether he could do it but he said he could not get close enough. In the end, I told myself there was no option but to climb down the well, con one of my friends into working the windlass at the top and dig out the darn thing myself. I was obviously breaking the law, but the fact is that I could not get anyone else to undertake this job, so I did it myself. I was quite proud of myself: I lost half a stone in weight and felt a lot better for it. It was the hardest work I had done for years. Now, I have water. I had it tested by the Mines Department before I dug it out and found that it was far superior to E&WS water. That was the best Christmas present I had had for a long time.

The moral of the story is there: this law makes an absurdity of this sort of activity. We are told that we cannot 'maintain' the well but I am not sure what is meant by that. Having dug it out, I took off the top row of bricks because I wanted to put a heavy steel plate across it to stop children from falling in and drowning. Thus, having made some alterations to the well, I was breaking the law. Clause 68 provides:

> The owner of land on which a well is situated must ensure that the well is properly maintained.

However, clause 62 provides that I am not allowed to maintain a well. The Minister talks about commonsense. Commonsense dictates that a law as all-embracing as this is, quite frankly, an ass. I think that, if farmers and others who have had some experience in doing jobs for themselves are prohibited from doing those jobs, it would be an absurd situation. One of the regular jobs of a friend in Western Australia is to climb down his well and make sure that the pump at the bottom is working properly. That is part of his routine in running his property. The Minister tells us not to worry because the regulations will fix this up, but she does not have a clue what is contained in the regulations. It is hardly good enough.

All I have before me is this Bill. The provisions of clause 62 quite frankly are a nonsense. To suggest that you are forced by law to maintain a well, yet you are not allowed to maintain it, is ridiculous. Does it mean that, if I want to scoop off the rubbish from the water level and lift this heavy steel cover, I have to get a well-driller with a permit to maintain the well? It is an absurd provision. If I have inadvertently broken the law, that is too bad. All I can say, again, is that the law is an ass. If this is a continuation of that law, it is equally asinine.

**The Hon. S.M. LENEHAN:** Well, I am delighted that the honourable member felt so well after he had been down his well doing excavation work. I take the honourable member's point, but let us consider the alternative: is the honourable member suggesting that we could have any Tom, Dick or Roger around the State digging a well? What if, after hearing that story and reading *Hansard*, everyone in South Australia decided that they would like a well? Every true patriotic South Australian reads *Hansard* religiously and, as a result, because they do not want to pay excess water rates, they might decide to dig a well! What would happen to the underlying aquifers around the State? Soon we would not have any decent water resources at all.

Quite obviously, given the number of properties in this country and in this State, there must be a balance between having no regulations at all—where everyone has the God given right to sink a well on their property—and over-regulation. In the case of the honourable member, all is well that ends well. Now he obviously has access to, as he said, very clear water. However, in relation to the previous example I gave of anyone being able to dig a well without either having any authority or having the job done properly, I really cannot accept that as an alternative.

**The Hon. E.R. GOLDSWORTHY:** The Minister has taken a bit of licence with what I said. I was talking about an existing well and primary producers looking after their own wells. I would be very surprised if, as a result of my remarks tonight, we have everyone in their suburban backyards using a long handled shovel to dig a well. I would be more than surprised. I repeat: wells are part of the rural scene; farmers expect to maintain their own wells, and pastoralists expect to do the same. The Minister is suggesting that they will have to get someone with a licence to stand over them when they maintain the well. She cannot give us an assurance. Quite frankly, she has changed her tack. Originally, she said, 'Don't worry, Bob is your uncle.' Or, in this case, she is your aunty. The Minister says that the regulations will fix it all up, yet she does not have the faintest idea what is in the regulations or who is exempted. We are expected to swallow this. The member for Eyre was serious in his concern for those people who have wells on their property. To suggest that a farmer cannot—

*The Hon. S.M. Lenehan interjecting:*

**The Hon. E.R. GOLDSWORTHY:** We asked you whether they were exempted and you said that you do not know.

**The Hon. S.M. Lenehan:** I didn't say that.

**The Hon. E.R. GOLDSWORTHY:** You said you did not know. The Minister's first throw to the member for Eyre was, 'Don't worry, we have this regulating power that will grant exemptions.' We asked the Minister what was in the regulations and she does not have the faintest idea; and, obviously, neither do her advisers. She does not have any idea who is exempt. That explodes her first words of comfort: they simply disappear. The Minister then goes off on a tangent about people wanting to dig wells in their backyard; of course, that is a nonsense. We simply want to know who will be exempted under this legislation, particularly in relation to those in the rural community and in the pastoral and farming communities who will not require a licenced well driller to look over their shoulder every time they want to do something with their well.

**The Hon. S.M. LENEHAN:** We have had legislation for 13 years and careful scrutiny has discovered that there has been only one complaint to the appeals tribunal on the matter of wells. This is hardly the issue of the rural community. I have not seen them marching in the streets of Adelaide over this Bill and the provision of wells. The same provisions apply. I should be happy, if it gives the honourable member some further comfort, to assure him that in the regulations we will exempt his farmer mates and pastoral friends and everyone else. If the situation is working now and there has been only one complaint over the drilling of a new well in 13 years, it is hardly the issue of our time or an issue which will keep us here all night. However, stranger things have happened in this Parliament. I have been here long enough to know that we might be here all night over the complex issue of wells.

I have not received any correspondence on this matter and members of the rural community have not been up in arms. I am happy to look at it from a commonsense approach. If the member for Kavel wants to make a mon-

umental public and political stand on the issue, that is his right, but I do not think the rest of the community would see it as a major problem, given that we have the same provisions in this Bill as have existed in the old Act for 13 years.

**The Hon. E.R. GOLDSWORTHY:** There is nothing I like more than being patronised and being read a lecture by the Minister. It makes my night. I shall really go home delighted. I do not care whether there has been only one complaint in 13 years; I am interested in what is or what is not legal. Thank goodness, there is not an army of inspectors running around, but we are enmeshed in a whole host of petty-fogging regulations and restrictions. As time goes on, we shall probably have more and more petty-fogging regulations demanding that people have a licence to do everything under the sun in this day and age. I do not care what the situation is. People are probably not aware of the law. Fortunately, there is not an army of snoops going around seeing what is happening with regard to wells. As I said, I am interested in what is and what is not legal. I was probably inadvertently breaking the law, in which case the law is an ass and no lecture from the Minister will persuade me from that view.

**Mr S.G. EVANS:** I wish to challenge the Minister on the clauses being the same. I do not believe that they are the same. Under section 48 of the old Act—

**The Hon. R.G. Payne:** What about Mr Everyman?

**Mr S.G. EVANS:** He might take another view; I do not know. In sections 48 and 57 of the old Act there is no reference to maintaining a well. The old Act refers to repairing a well, but not to maintaining a well, so the two clauses are different. Clause 62 provides that a person must not maintain a well unless he or she is a licensed well driller or is supervised in carrying out the work by a licensed well driller.

The clauses are not the same, as I read them. There is no definition of 'maintain' in the Bill. I should like to know what 'maintain' is. In the fires legislation, one maintains a fire if one keeps it going. If one has a fire on one's property outside the burning regulations and it is still going, one is maintaining it because one has still got it. So, if one has a well, is the definition of maintaining it reflected in the fact that one has got it? I do not think that is intended. Does it mean that one must keep it in good order? Is it illegal for me to keep it in order or do I have to get a well driller to keep it in order? If a person says that he maintains his house or property in good order, I should imagine it means that he keeps it in good repair and can paint it or do things himself and does not have to employ a licensed builder.

I believe there is a difference. Regarding the Deputy Leader's concern, section 48 (3) of the Act provides that it shall be a defence to proceedings for an offence that is a contravention of subsection (1) of this section for the defendant to prove that, forthwith after the work was carried out, the Minister was informed of the nature of the work. The honourable member has done that, so he has clearly covered himself.

**The Hon. E.R. Goldsworthy:** It wasn't forthwith.

**Mr S.G. EVANS:** Yes, it was. He may get caught under paragraph *(d)*, which provides that it shall be a defence for the defendant to prove that the regulations, if any, relating to work carried out in these circumstances were complied with. I do not know whether or not he did that according to the regulations. Speaking mainly on behalf of the member for Murray-Mallee, who is unable to be here for the moment—

**The Hon. R.G. Payne:** Thank God for that!

**Mr S.G. EVANS:** I am pleased that the member for Mitchell likes me speaking, because he thanked God that I am talking. It is the first time he has said that in the 20-odd years I have been here. I am concerned, as is the member for Murray-Mallee, about the general provisions of clause 62. The Minister states that it will be covered later by regulation. I realise that each House has the chance to throw out regulations, but that can happen only if one side has the numbers. Very often minorities in the communities are trodden on.

I know that the Minister cannot tonight give us a clear indication of what the regulations will contain. We will just have to wait and see. With a bit of sound judgment by the community, of course, this Minister will not be here after Christmas to make the decision and we will have that opportunity.

**Mr BLACKER:** I see problems in the practical application of this clause, and more particularly in its interpretation in the field where it may or may not be used. I accept what the Minister has said: some concerns may well be covered by regulation. However, in reading this clause one could assume that every person who has a well or a number of wells may be required to become a licensed well driller in order to maintain the well or make any alterations to it. I support the view that, where a new well of over two metres in depth is being constructed, a person with some knowledge of aquifers and so forth should be consulted. It is not feasible that anyone should be able to go out and dig a well, because of the implications.

I declare my own interest: I have a property with a dozen or 15 wells, although I am not sure that even one of them would be two metres deep. They are naturally occurring wells, and we have to maintain them by getting in a backhoe every two or three years to clean up the edges, because the sheep break up the edges. The Minister has indicated that that situation may well be exempted from the two metre requirement under normal farming and stock watering proposals, and I accept that, but I am thinking of limestone country where wells are considerably deeper than two metres. Indeed, most of our pastoral country was opened up through that very process.

I am also aware of a number of people whose business is to maintain pumps, windmills and so on and who are actually operating with wells. People on the smaller station properties within my electorate—and there are only a few station properties—maintain those wells themselves. Those wells are more than two metres deep. Invariably, these wells have windmills servicing them and someone has to shore up or rebore those wells. On the surface, this legislation contains a requirement that that person should be a licensed well driller or should contract appropriately licensed outsiders to come in and do the work.

**The Hon. S.M. LENEHAN:** I hope that this is the last word on wells. As to the point raised by the member for Davenport, section 48 (1) *(b)* in my view (and I pride myself about knowing something about language) defines 'maintenance'.

**Mr S.G. Evans:** That's not the new legislation.

**The Hon. S.M. LENEHAN:** I am not suggesting that it is. I understand the difference between the old and the new legislation. To pick up the point raised by the honourable member, I point out that section 48 (1) *(b)* provides the definition of the word 'maintenance' in respect of both pieces of legislation. We do not need to get bogged down on that point.

As to the point raised by the member for Flinders, I remind him that the current Act has been in operation for 13 years and there has never been a query about an exemp-

tion under that Act in terms of the problem of maintenance. The honourable member has referred to the maintenance he carries out on his 15 wells, and it seems that he is not contravening any Act and is behaving responsibly as a landowner carrying out his responsibilities under several Acts.

To move from that, I have clearly stated—I am sorry if it has not been clear, but I thought I was making myself clear—that, if it is deemed to be a commonsense approach and if problems arise and people apply for exemptions, of course, we will exempt the day-to-day maintenance, the care of the water supply, of existing wells on properties and pastoral lands, and so on. Through regulation I would have those exemptions put in place. Commonsense has to be the order of the day. It could be argued one way or another whether theoretically the member for Kavel did or did not break the law. The fact that a well existed at the time is a different situation, and the member for Flinders is really the only member on the other side of the House who has highlighted that.

We have to have some control on the indiscriminate drilling of wells all over the State. There has to be control and, by using regulations in a commonsense way, we will meet the objective, certainly of this side of the House, to preserve and protect our water resources and to acknowledge the need of the constituents of members opposite to be able to maintain the wells on their own properties.

**Mr S.G. EVANS:** Doubtless the Minister expresses goodwill in what she says but, unfortunately, this Bill repeals the Water Resources Act 1976. If this Bill becomes law, that Act will be repealed. The definition referred to in section 48 (1) *(b)* of that 1976 Act describes 'maintenance'. My point is that the new Bill does not include that definition. I would be happy if the Minister gave an undertaking that in another place the Government will insert the definition from the Act in this Bill. I would have no complaint about that. The Minister said that the definitions in the Act and in this Bill were the same: they are not. The Minister is advised by officers, and it is easy to assume certain situations when one is in power.

That is a human trait and the Minister should not assume that, because the definition is in the Act that we are going to throw out, the department will automatically interpret the new legislation in a similar way. In the future, departmental officers will not be the same, nor will it be the same Minister or Government. Things change and we should be clear about what we mean.

**The Hon. E.R. Goldsworthy:** What the law says at the time is what prevails.

**Mr S.G. EVANS:** That is exactly right. I made the point—and the member for Murray-Mallee raised it earlier—that the two pieces of legislation relating to this matter are not the same in this respect. If the Minister will agree to include the same definition of 'maintain' as is contained in the old Act, or will agree to its inclusion in the other place, the member for Murray-Mallee and I will be happy with that.

**The Hon. S.M. LEHEHAN:** I hope that this is the last word on the matter. In clause 4 'well' is defined as including 'all casings, linings, screens and other structures or fittings that are used in relation to the taking of water from the well'. It does not say that 'maintain' means such-and-such, but I would have thought that anyone of basic intelligence would have been able to look at that definition and then refer to section 48 (1) *(b)* of the current Act and interpret that as almost identical wording. I understand that the honourable member obviously requires extra care and attention and I hope that I will be able to provide that.

Clause 62 (1) *(c)* refers to maintaining a well, but there is no absolute definition anywhere to provide that 'maintain will include' and then provide a list. If it provides the honourable member with some comfort and ensures that he understands all this, I would be delighted to have the Bill amended in the other place so that the word 'maintain' will have an 'equals' and, although there is no change in the wording under the word 'well', we will introduce 'maintain' so that everyone is quite clear about the intention of this Bill and the fact that it is the same as the current Act.

**Mr S.G. EVANS:** I thank the Minister, but she is not lady enough to admit that there is no definition of 'maintain' in the Bill (and there is not, and anybody who advises her otherwise is speaking an untruth). If in the future some poor sucker appears before a court because somebody defines 'maintain' in a different way from what is contained in the old legislation, and the Minister stands up here and tells us it is the same in the old legislation, that is of no help.

I do not care what is contained in clause 4: it does not define 'maintain'. When 'maintain' involves an offence—and the penalty for an individual is a term of imprisonment of one year or $4 000 maximum, and for a corporate body two years imprisonment or a fine of $8 000—definitions must be included. I acknowledge that those penalties are maximums, but if we are to make it an offence to maintain a well (excluding a licensed well driller), we must define what falls within the jurisdiction of the well driller and what falls within the jurisdiction of commonsense.

In relation to courts of law, it does not matter how much commonsense is supposed to prevail, because it never has and never will prevail. All that prevails is what is written on this paper. I am not a schoolteacher and I do not know the language, but I am one of those citizens who will have to suffer by it. I asked the Minister (and I thank her for agreeing to this) to include, in the other place, a definition of 'maintain'.

**Mr D.S. BAKER:** The definition of a 'well' under this Bill includes all casings, linings, and other structures or fittings that are used in relation to the taking of water from a well. I can understand why the Minister would want some control over that. However, as the member for Davenport pointed out, clause 62 uses the words 'maintain a well' but does not mention taking water from the well. That is why it is ridiculous, that is why it need not be there, and that is why someone should not be prosecuted for just repairing a hole in the ground when there was never any intention to take water from it.

The Minister wants control to stop people taking water from these wells, but clause 62 says nothing about that. Under the Bill people can be prosecuted for just maintaining a hole in the ground. Even if those on this side of the Chamber are in the lower end of the class, there are a few things that hit home, especially when some of us have had practical experience of digging these wells by hand. I believe that the Deputy Leader spent much of his youth digging wells by hand, and that is why he understands these things. Clause 62 says nothing about taking water out of the ground; it talks only about maintaining the hole in the ground.

Clause passed.

Remaining clauses (63 to 82), schedules and title passed.

Bill read a third time and passed.

## SOUTH AUSTRALIAN ETHNIC AFFAIRS COMMISSION ACT AMENDMENT BILL

Returned from the Legislative Council with amendments.

## DOG FENCE ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

## MOTOR VEHICLES ACT AMENDMENT BILL (No. 5)

Returned from the Legislative Council without amendment.

## STAMP DUTIES ACT AMENDMENT BILL (No. 4)

Returned from the Legislative Council without amendment.

## MARINE ENVIRONMENT PROTECTION BILL

Adjourned debate on second reading.
(Continued from 18 October. Page 1265.)

**The Hon. B.C. EASTICK (Light):** The Opposition supports this measure, although we have a number of questions on some quite vital issues, to enable us to come face to face with the reality of what is proposed and the likely consequences that the measure will have in the marketplace. I take the point made in the Minister's second reading explanation that the Government has been concerned about coastal waters since 1984. Many people in this State have been concerned about the coastal waters for a lot longer than that. Having been in opposition we have not been in a position to take the matter through to finality by way of legislation.

One can go back to the activities of Mr Sanders, at Virginia, who for very many years made known to the people of South Australia the concerns that he and others had (including marine biologists) about the outflow from Bolivar sewage treatment works. That material is quite well documented.

In an article published in the *Advertiser* of 4 March this year, under the headline 'Government casts a new line on marine pollution', Sylvia Kriven reports on some details that she obtained from the former Minister for Environment and Planning, Dr Hopgood. The report states:

> The Environment and Planning Minister, Dr Hopgood, has formed an interdepartmental committee to advise him on legislation needed to control marine pollution, before the budget session of Parliament in August.
>
> The committee is made up of officers from the departments of Environment and Planning, Marine and Harbors, Fisheries and Engineering and Water Supply, who met for the first time in December.

That was December 1988. The report continues:

> But an investigation by the *Advertiser* based on confidential State and Federal Government documents, has found that:
>
> Draft legislation specifically aimed at preventing and controlling marine pollution from land-based sources within the territorial seas was completed within the Environment Department nearly two years ago.

That was back in 1986, and the material in relation to that has been known to the Opposition. In fact, it was the basis of a series of questions that members of the Opposition asked in this House quite some time ago. The report and the action which had been taken was known about but was sat on by the previous Bannon Government. The report continues:

> The State Government made a commitment to the Federal Government to legislate against pollution in coastal waters nine years ago.

It is now 1989, and so this takes us back to a previous Administration in 1980. The previous Administration put into effect the necessary interdepartmental committees in relation to formulating legislation. An interdepartmental committee reported not to the previous Liberal Government but to the Labor Government, in 1983. So, the material has been available for a long time. The measure was initiated by the Liberal Party. However, it does not matter who initiated it in the broader sense: the important thing is that it is now before Parliament and we are able to debate the matter.

The Opposition has indicated its support, and it is necessary that we give support to it, but let us not believe that the present Government has been responsible for the generation of the information which has allowed us to proceed on the present basis. Let us not believe that this relates to an action which was suddenly taken in 1989, unmindful of the events in Tasmania and elsewhere, but which suddenly makes it convenient for the Government to act on information which has been in its possession for a long time.

A commitment had been given by the Government of South Australia to the Federal Government to undertake the necessary activity. The third point made in this expose is as follows:

> 3. This commitment was made to help fulfil a Federal Government commitment to an international agreement safeguarding against pollution, signed in London in 1972 by the then Prime Minister, Mr Fraser.
>
> 4. The State Cabinet on 14 October 1980 had approved the recommendation from the then Environment Minister, Mr Wotton, to allow the Environment and Planning Department the exclusive right to prepare the appropriate legislation.

We find therefore that this is a very delayed piece of legislation. The fact is also highlighted that the former Environment Minister undertook to have it before the Parliament before the August budget session. We suddenly find that we are running late again with this Government's action on this important issue. The article goes on to give worthwhile background information on the needs involved and on interdepartmental people who have taken part in discussions. In fact, the *Advertiser* of the same date, 8 March 1989, ran an editorial on the issue in which it drew attention to some of the important aspects of this measure.

The material before the House picks up a number of issues which impact upon Government and private activity. It is extremely important to note—and it is to be lauded—that the Crown will be bound. To do otherwise would be to make a farce of this whole piece of legislation. Let us not be unmindful of the fact that Governments of both political persuasions over a long period have been happy to continue to allow degradation of the marine waters without flinching an eyelid.

My colleague the member for Mount Gambier will quickly point out the situation with respect to Finger Point in relation to which a strong commitment was given to remove the degradation in that area. This would have occurred had Finger Point sewerage works been undertaken when it was first mooted, but it was stopped in its tracks by the present Government. It has now been instituted and, quite recently, the Premier opened that facility. People in the area were very mindful of the length of time they had to wait for that facility and made quite well known in local newspapers and broadly in the Mount Gambier area their dissatisfaction with the Government which had suddenly found an interest in this project but which had stalled it for a long time.

We have an identical situation in relation to raw sewage that is currently going into the sea near Port Lincoln. Evi-

dence has been placed on the public record of a number of representations to the Government by local government and other bodies pointing out the importance of controlling the escape of this material into the sea at Port Lincoln, particularly in close proximity to Lincoln Cove. Yet, the Government has refused to undertake anything other than a cursory investigation of the problem and has promised that something will be done in the future.

It is interesting to note that the Government is equally bound with private industry, as has been reported previously. This Government's activities, if it remains in office and is to be responsible for the management of this legislation, will be watched very closely, to ensure a total even-handedness in the control of this measure for both private and public use. There will not be an opportunity for a Government to get away with paying lip service to one group and turning its back on the other. I cite the situation, which is not dissimilar, involving the State helicopter problem, where the health and safety of people in Government employment has been in jeopardy at the same time as this Government has been prosecuting employers for failing to provide an adequate and safe environment for their workers. That is yet another instance of the hypocrisy of the present regime which frequently says 'Thou shalt' without being prepared to say 'We will.' This measure calls for both Parties to be involved, and when in Government, the present Opposition will ensure that even-handedness does apply.

This Bill is quite dramatically affected by the measure dealt with earlier this evening. Quite a number of the materials which foul the marine environment are run off from either industry or the streets. I am led to believe that, whilst it has not yet been finally determined how, there is a very determined undertaking by the Department of Environment and Planning that there will be consultation with local government towards making sure that the run off from streets polluted with debris and litter, as well as oil and grease emanating from motor vehicles, will be an integral part of this measure. It is recognised that the implementation of some aspects of that matter is some distance away.

There are in the South Australian community at present a number of people disillusioned about the Minister's lack of courtesy, in not making available a copy of this legislation to those involved. Whilst they had an opportunity to have an input to the white paper and an opportunity to discuss with officers of the department the generality of this legislation, it was introduced last Wednesday, and as late as yesterday three key organisations had not received a copy of it from the Government. I refer to the Chamber of Commerce and Industry, the Local Government Association and the Conservation Council of Australia, South Australian Division.

I have authority to read into *Hansard* a facsimile received this afternoon from the Local Government Association headed 'Urgent'. It states:

> The LGA is extremely concerned that there was no consultation with the association on either the Marine Environment Protection Bill or the Water Resources Bill after an initial consulation on the green paper. At that point in time, there was no mention of draft legislation. For your information, a copy of part of an article in the latest *Council and Community* is attached. Bearing in mind that there has only been a short amount of time to check proposed legislation, the LGA is not happy with either Bill. Concerned with numerous aspects: e.g. Water Resources Bill—the Minister's total power to control watercourses, as a watercourse includes an artificial channel.

The association goes no further than to ask that its view be made known. In the first section of lengthy accompanying material, a synopsis of the political promises of various Parties in connection with a questionnaire sent out by the Local Government Association picks up the attitude of the Labor Party, Liberal Party, National Party and the Australian Democrats. Indeed, in response to the first question, 'Will your Party consult in advance with the Local Government Association on all matters of significance affecting local government?', the Labor Party said, 'The Government recognises the importance of the Local Government Association, puts considerable effort into consultation with the association and will continue to do so.' At the very first opportunity, when that promise might have been fulfilled, we have a clear indication that it has not been.

Whilst I am the first to admit that the greatest impact on local government is not so much from this Bill as from the preceding Bill, there is an interaction between the two that puts local government in a very awkward and prominent position as regards the satisfactory implementation of any measures directly associated with these Bills.

The Chamber of Commerce and Industry, through Mr Kym Porter, an advocate, clearly indicated that it was unaware of the consequences of the Bill other than being involved in the preliminary discussion. The chamber did not know that the Bill had been introduced and did not know its final content. Earlier this evening I raised with the Minister the position that particularly worries members of the chamber after the cursory glance that they have been able to give the measure thus far; the situation involving material put over the side of a vessel in sea water, and or in freshwater such as in the River Murray.

The Australian Conservation Council tells me that it was unaware that this information was before the House; it had regular consultations with the Minister but there had been no indication to it that the measure was to be or had been introduced, and no copy of the legislation had been made available to it, so that it could not check the validity of the arguments concerning the measure in line with the discussions in which it had been involved. That aside, let us now consider one or two other aspects of the Bill.

The Opposition has no problem with the proposition that the polluter pays. This principle is clearly understood in this day and age. It is of considerable importance if the measures contemplated in the Bill are to be undertaken effectively, and it is also reflected in the size of the fines that will apply: $60 000 for an individual and $100 000 for a corporate body. In fact, the fine for a corporate body can be multiplied several times, because there is the opportunity for directors along with the management to be fined the same sum, up to $100 000 each, for any particular incident. We do not resile from that set of circumstances. It is a poor second cousin to what has taken place in New South Wales in recent times where the fine can be up to $1 million.

I am not suggesting that we should necessarily progress immediately to a fine of $1 million, but at least New South Wales has been prepared to go to that extent to highlight the importance of the proper and effective control of those who would despoil the environment, more particularly the marine environment. Members will be aware from recent articles in newspapers that some transgressors have been caught and have suffered the result of the legislation which is now in place in New South Wales. There is general accord with the fact that those people have been caught and are now severely restricted in their practices by the measures which are available.

In this Bill there is also the opportunity to exempt the unforeseen. To quote part of the Minister's second reading explanation:

> ... there is a necessary power to 'exempt the unforeseen, this would not extend to any regular industrial process in the public or private sectors.'

As has been debated earlier, it is a clear indication that accidents can and will happen and that, so long as they are

not regular occurrences, they have to be viewed with commonsense, and that that will be the case.

We find that the Bill does not override other legislation which is in place which relates to the marine environment, and I refer to dumping legislation and oil spillage legislation. Also, it will have no adverse effect on existing indentures. One thinks specifically of the indenture relative to the Santos operations at Port Bonython and Port Stanvac and the operation relating to the Apcel factory in the Millicent area. It is important to recognise that the Apcel indenture, which has been in place since 1964, places the responsibility upon the Government of the day for the material coming from Apcel once it gets to the factory or property fence.

To seek to suggest that it is industry's problem, which is directly associated with the contamination of Lake Bonney now, is to deny the fact that Governments of both political persuasions could have taken a more realistic approach to the contamination that they have permitted. Going back to 1964, let us not be unmindful of the fact that for 20 of the past 25 years that that indenture has been in place the Labor Party has been the Government of South Australia. Therefore, the degradation which has taken place and which has been allowed to continue, for whatever reason, is as much on the shoulders of this present Government as of any former Government which was responsible for the initial indenture.

A Government undertaking in 1964 placed a very important responsibility upon the shoulders of future Governments. It has not been picked up by Governments of either political persuasion, and certainly not by the one which has been in Government for 20 of the past 25 years since that indenture was created. We note that part V, containing clauses 40 to 54 inclusive, of the Water Resources Act 1989 has particular significance to this Bill, and that the contamination of surface water (or water in creeks or other areas) will inevitably move into the marine environment unless necessary action is taken.

It has, therefore, already been accepted by my colleagues that those clauses of the most recently passed Water Resources Bill are of considerable importance. We know from the Minister's statement that it was originally intended to utilise the Coast Protection Act as the vehicle to afford control of point source pollution but that, as a result of the propositions put to the Government over a period relative to responses to the white paper—and we refer to the white paper in one place and the green paper in another, although it is immaterial because it is all directly associated with the promulgation of this legislation—that has led to (and I quote from the Minister's second reading explanation) 'the view that it would be sensible to anticipate the need to manage more diffuse sources of pollution from such things as stormwater runoff.' As a result, the Bill provides the capacity to encompass a broader range of problems.

We are happy to accept that as a very sensible way of approaching this issue. The Minister also indicates that the Bill provides for action 'in addition to other legislation' and it is claimed that 'it complements that legislation. It does not displace any of the action plans or other controls which have been found quite effective in dealing with such emergencies as oil spills, but it does cover gaps in existing legislation.'

We agree that that ought to be the case and, having been in this environment for some considerable period, one would imagine that with the passage of time and with hindsight there may well be gaps which are still to be closed. The Opposition, as an alternative Government, would most certainly be responsible for taking up legislation which was necessary not simply to plug but to look seriously at the ramifications of any further gaps that might be determined and take positive action to correct that circumstance.

We find that all dischargers not covered by other legislation will be licensed annually, and we have no difficulty with that. By that means, rather than by giving a blanket licence for an extended period, there will be a review of the material likely to be discharged on an annual basis. We do not suggest that that should lead to a tremendous increase in management costs, but the existence and seriousness of pollutants are likely to be considered annually, at least, and that will be to the advantage of the State.

Existing dischargers—and this is quite important and is contained in the schedule relative to transitional phases—will obtain a licence without question, but deadlines will be set for the reduction of dischargers to bring them to levels in line with international water quality objectives. I am aware that a number of organisations, both Government and private, are already discussing with the department means of monitoring the material they put into the marine environment.

It is hoped that with the cooperation between both organisations—the polluter and the department—those monitoring benefits will come on stream at the earliest possible moment. However, they are in unchartered waters to a degree in some areas, and it will be necessary for new technology relating to the particular operation to be determined effectively before it will be possible to finally put into place the necessary monitoring equipment.

I note that an onus or discretion is granted to the Minister in several places in the Bill. This is an area that is not infrequently a matter of some concern when all kinds of measures are debated in this House. Via the *Gazette* and under clause 3 (4) the Minister is able to exclude specific kinds of matter. Under clause 3 (3) *(a)* the Minister may declare which coastal land will be included, or under clause 3 (6) the Minister may declare any waters to be inland waters only with the concurrence of the Minister of Water Resources. This is cognisant of the importance of both ministries being fully aware of what is taking place. We acknowledge that at present it is the Minister talking to the same Minister, yet there are legislative or administrative actions that need to be taken between the two groups.

I have a concern about the manner in which fines are extracted, not about the size but about the fact that the Bill provides a $60 000 division 1 fine for a natural person but divisional fines can be changed by a simple amendment to the Acts Interpretation Act. For corporate bodies the fine will be $100 000. The idea of the Acts Interpretation Act being a blanket cover for all the Acts which have been so attended is a wise one which has been given the concurrence of this Parliament. It is a simple matter to apply to all of those pieces of legislation an effective change of divisional fine level.

The difficulty is that a special amendment of the Marine Pollution Act will be required to bring up the cost relative to a body corporate; in other words, unless there is a deliberate action to bring in two Acts at the one time, the relative balance which might exist between a $60 000 individual fine and a $100 000 body corporate fine could become out of kilter through no direct intention of the Government. I hope that this matter, which will probably not be resolved in this place, will receive the attention of members in another place when there is an opportunity to take further legal advice on the ramifications and the ease with which body corporate fines might be included under the Acts Interpretation Act so that they move in balance with any action taken in regard to that other enabling Act.

Of particular concern to members on this side of the House, and I believe to the public when they become fully aware of the situation, is the bold statement that the Government or the Minister will act within 90 days of receipt of an application. However, it is something of a Clayton's promise because, if the Minister decides that he or she requires further information, they can ask for that further information right up to the end of the 90 days. In that case, the period of 90 days will not be deemed to have started until the information is given to the Minister by the applicant.

The first information provided might have been inadequate. There are occasions when applicants do not understand what is required in the request for information. The legislation implies that a 90 day turnaround is guaranteed, but it can be extended for an unlimited period until the Minister is satisfied with the answers received from the applicant. Earlier this evening we discussed the application of commonsense and I certainly hope that that is the case in this area. However, that will not necessarily be so.

Let me provide some indication of the sort of problem that causes this type of concern to the Opposition and, I believe, members of the community. About three years ago five areas of South Australia were frozen in relation to planning, development and purchase. They were Virginia, Mount Barker, Roseworthy, Sandy Creek and Willunga-Aldinga. After the original promised period of the freeze was extended, a decision was finally made to release Virginia and Mount Barker from the freeze. However, the other three areas (Aldinga-Willunga, Sandy Creek and Roseworthy) continued to be freeze areas, and that is still the case today, despite the promise made publicly by the then Minister that decisions would be taken that would allow residents of those areas to understand their future.

Ministerial activity has denied justice to those people after a public announcement was made as to what was intended by the Government. Worse than that is the fact that the Government did not have the decency to indicate, other than on a very rare occasion, to the people in those three areas that delays had occurred, or that a decision was anticipated within a certain period. I know that in government, as is the case in business, one cannot always predetermine when a decision will be made, but there has been a singular lack of communication with the people who find themselves seriously affected by those three freezes.

It is on the basis of that sort of experience (and there have been others) that I raise the point in relation to this guaranteed 90 days, which is a Clayton's 90 days, because it can be extended continually at the whim of the Minister of the day on the basis that the applicant has not provided all the required information. Clauses 9 and 10 of the Bill contain these provisions.

Clause 17 provides for the suspension or cancellation of a licence for just reasons. The Opposition does not quibble with that being in the Bill, so long as there is adequate communication and public identification why such a decision has been taken. As we have seen on a number of occasions in a whole host of measures before this Parliament in the past 2½ to three years, because of a claim of commercial confidentiality, or, 'It would be improper to advise the member why', or, 'It is not the intention of the Government to divulge', and so on, the public is left in a vacuum about precisely what the Government is doing.

We believe that paragraph *(e)* requires a very positive and practical application. It provides that, where the activity authorised by the licence is having a significantly greater adverse effect on the environment than that anticipated, the licence will be cancelled, and we believe that it will require very close scrutiny so that rights given to individuals to expend large sums of money are not suddenly taken from them, and they are left high and dry with a capital expenditure, made with Government approval, without some form of compensation for the re-think that the Government and the community have had on that matter.

The Minister will recall that earlier this afternoon I briefly mentioned the experience in the Los Angeles area where, under Government ordinance and with Government officer approval in an activity associated with the depositing of those materials, some 30 to 35 years later they are prosecuting the people who put those toxic materials in certain areas without there being any charge against the Government being partly responsible for the damage that has occurred. Evenhandedness is absolutely essential, and this is the one area where I believe it is necessary. If there is a combined undertaking by Government and business that certain work can be done, and if that undertaking is to be withdrawn, there needs to be a very clear indication of how that body will be compensated for the otherwise devastating loss that might be suffered by it.

I am not suggesting that this will be done without just reason. We have said that we agree with it. I say once again it is important that, if the action is being taken with the concurrence of the Government, and if everything that ought to have been done has been done by the company involved and that opportunity to continue along those lines is withdrawn for good reason, then there has to be a recognition that there is a responsibility for some form of compensation for a Government decision that might destroy the company.

I am taking the opportunity of picking out the important points only so that the Minister can take them on board before she replies and get information that will be required during the Committee stage. We have some concern about clause 25 (10), which provides:

> No appeal lies against a decision of a District Court made on a review.

In other words, there is no further appeal—except, as the purists will advise, the right to go to the Supreme Court on a point of law. The money and the issues involved in this matter may well mean that the District Court is not a sufficiently high enough court to give due benefit to all parties concerned in the longer term. I do not intend to move an amendment to this clause. I simply highlight a matter on which we are seeking further advice and which may become an issue in the other place, namely, that an appeal should at least go to the Supreme Court and not just to the District Court. I simply refer to that matter at this point without saying positively what will transpire. It is likely that the matter will be debated in another place in due course.

The Opposition notes with some interest that clause 18 provides for exemptions at the Minister's discretion but that under clause 19 it is necessary that there be public disclosure so that community monitoring as to why an exemption has been granted can take place. In relation to this measure, and indeed to others, particularly the provisions in clause 17 (1) *(e)*, the communication process between the department and the community is all important if at all times people are going to be satisfied with the measures contained in the Bill.

Finally, I refer to clause 38, which provides for the regulations. Subclause (3) provides:

> A regulation under this Act. . .
>
> *(b)* may incorporate or operate by reference to any code, standard or other document prepared or approved by a body or authority referred to in the regulation and

as varied from time to time by that body or authority or the regulations.

Recently, this measure has been part of several pieces of legislation that have come before the House. Effectively, it takes away from parliamentary scrutiny a number of important issues directly associated with the regulation system, because it allows for the acceptance of a standard which has not been (and there is no way that it can be) considered by Parliament. This might be a standard which is set by a conference of Ministers of Environment, for example. It may be that it is a standard which is undertaken as a result of some reference from a Commonwealth Government department, so that it universally applies anywhere in Australia. Such a standard can be incorporated into a regulation and, as such, that part of it cannot be questioned on the floor of this Parliament.

We should all never forget the fact that we are making legislation in this Parliament for the people of this State and the opportunity should always remain for questioning all vital issues contained in any subordinate legislation which arises from passage of legislation through this place. We recently saw similar action taken in respect of the Building Act. We are all aware of the difficulties that have applied in South Australia for over two years as a result of a direction given by the Health Commission in relation to septic tanks and the manner in which septic tanks may be placed in a building site. Parliament did not have an opportunity to scrutinise this issue.

The Opposition is very concerned about the lack of proper scrutiny of all legislation that will affect the people of South Australia. It is an extremely important principle which I highlight at this stage as being a distinct deficiency, in our view, in the manner in which it is contained in this Bill. With the result and intent we have no argument at all. The fact that it is away from scrutiny is the issue of concern.

With those comments I am happy to reiterate that the Opposition supports the Bill. The Opposition will have a number of questions as we go through. We are also mindful that we are speaking somewhat in a vacuum because a number of people who intended to make representations on the content of the Bill have been denied the opportunity by a discourtesy of the Government in keeping them apprised of what is coming before the Parliament and on what impacts on their industry.

**Mr PETERSON (Semaphore):** I wish to make a few comments on this Bill as marine pollution is a concern of mine, my electorate being surrounded by the sea and river. I therefore have a deep concern about the future of the sea and river and the way in which we are polluting them. In the second reading explanation the Minister said that some of the problems we have with marine environment protection require solutions different from those that apply in other States because South Australian coastal waters include large gulfs and a few major rivers.

One of the problems we have in the gulfs is the turnaround of water. In Spencer Gulf the turnaround takes some 15 years or so. In Gulf St Vincent the turnaround time is something like seven or eight years. It is a considerable time for the waters of those gulfs to turn over or be renewed. So, any pollution from the metropolitan area is of considerable significance to the future of those gulfs and will hold there for some time. In the second reading explanation a few points were made about known pollution problems with the excessive growth of algae and loss of sea grasses, which are well documented in this State. Indeed, the loss of sea grass is getting worse. I refer also to ecological changes and to fish contamination.

Concern was expressed some years ago about cadmium and mercury poisoning in shellfish in this State. My information indicates no improvement in that situation, so that is an ongoing problem. Even the dumping of dredging waste out in the gulf causes problems. The Bill licenses the known identifiable outfalls or point sources, but we have a problem with non-point sources in this State. The Pollution Management Division of the Department of Environment and Planning produced in about 1987 a report written by Sarah Miller. I fully support the licensing and control of known outfalls, but we have a major problem with unidentifiable point sources. The summary of the report states:

The stormwater information collected in this survey corroborates findings from other non-point water pollution reports, namely, that there is a wide range of pollutants and their concentrations and mass loads are highly variant. There are stormwater systems which have known sources of pollutants and these sources may require the same controls as those discharging directly into the sea.

It is important that I read this into the record because it is the next problem in pollution control. The point sources are relatively easy. As stated in the second reading explanation, there are 80 known points. We will monitor and, hopefully, control them, but these non-point sources are significant. The report continues:

There are a number of possible source of marine pollution. Industrial or sewage effluents have been singled out as the sources of pollution, whereas in reality these 'point sources of pollution' by no means account for all water quality problems. In South Australia at least 90 per cent of land-based discharges contain 'non-point source pollutants'. These outfalls arise from residential, commercial or agricultural stormwater runoff or waterways which may contain a combination of these and point source outfalls.

Point sources of marine pollution are a result of a deliberate discharge. Usually a nutrient or other chemical substance will continually be a major component of the discharge and will remain so until there is a deliberate action to modify it.

That is what we are doing now: we are policing, controlling and regulating the outfall. The report continues:

Thermal pollution also requires deliberate action to alter the temperature of the discharge.

The outfall of thermal pollution, especially in the Port River, its environs, North Arm and Angas Reach is a significant factor. I will be interested to hear how the thermal pollution will be controlled in those areas, because there are many point sources of known thermal pollution in the Port River and the environs. The report continues:

Non-point source pollution discharges enter water bodies in a diffuse manner and at intermittent intervals . . .Because the pollutants arise over an extensive area, their exact source is not usually traceable and therefore their origin cannot be monitored . . . However, the pollution contribution from non-point sources can be significant in terms of mass loads . . . Non-point source effects on water quality begin with rainfall, which itself is impure and may vary widely in quality from one area to the next. Since land use has the greatest effect on water quality, non-point sources are usually classified as either rural or urban . . .

I do not want to start on rural matters at this stage, because the uses of fertiliser and other materials in farming are not in my area of knowledge, and I am sure that other speakers are better qualified to comment. Further:

Urban non-point sources may contain many polluting materials . . . The sources of these pollutants vary widely, ranging from 'city' birds such as pigeons to vehicle tyres, construction activities and domestic disposal of offensive wastes. They suggest that pollutants can consist of, among other things, solid waste litter, chemicals, air-deposited substances and vehicle pollutants, and that the polluting materials vary widely in both quantity and aerial distribution. Street surface contaminants consist of heavy metals, nutrients, pesticides, bacteria and dirt (including dust) with the inorganic materials in dirt making up the major portion of contaminants . . . Other factors affecting urban runoff are land uses, quality of street surfaces, time of year, rainfall frequency and quantity, management practices of buildings and quantities of air pollution fallout . . . The most alarming fact about urban

runoff is that heavy metal contaminations can be 10 to 100 times the concentrations of sanitary sewage.

We are well aware of the known outfalls—in particular, sewage—which are monitored, and this report includes about 50 outfalls which are well documented. Only a few weeks ago I asked the Minister a question about the outfall from the Port Adelaide sewerage works into the Port River, where the outfall is considerable, even today, with contaminants. There again is a source that must be looked at. The algae blooms in the river are very much contributed to by the outfall from that sewerage works. The report continues:

Industrial discharges into stormwater: the terms of reference have limited the inventory to discharges which enter the marine environment below the high tide mark. Thus discharges into the River Torrens, Patawalonga, West Lakes, Onkaparinga River and Murray River have not been recorded.

There are significant flows into the watercourses in those areas. Many drains run into the River Torrens. We are well aware of the known and visible pollution in the Patawalonga—solid plastics and that type of thing. There was oil pollution there recently, and that had to be rectified. These pollutants are coming into the system from non-point sources.

This Bill is good: it recognises the known points, and they will be policed. We must look at the non-points: there must be legislation or some way of policing those. It is well known that there are great areas of leachates coming out of the pollutants in the soil in Port Adelaide. A couple of years ago there was a major spill of poisons that are still in the sediment of the creeks running into the river. There are old dumps at Wingfield and adjacent to the river, where products are leaching in. The dredging dump out in the gulf is a significant pollutant in its own right. It is invisible pollution; the silt is dumped out in the gulf and it is building up. Indeed, I noticed in the *Government Gazette* this morning that a shoal is forming in the gulf. I did not have time to relate the bearings to a chart, but it seems to me that it could be in the dumping area; that is, the silt grounds, where they dump the dredgings.

The fishermen tell me that that silt drifts northwards and significantly affects fishing and seagrasses and may even be a contributing factor regarding the problem with the mangroves. There is also the problem of fouling the water. I recently read an article on anti-fouling being used on yachts and causing a pollution problem. Use of plastic bags should be banned on small boats because they also can be pollutants. Sewage from the Port Adelaide treatment works runs into the river and is also a problem, as is the raw sewage running from Marine and Harbors Department toilets on the waterfront. None of those facilities are on a deep drainage system—they run straight into the river.

Marine pollution is unseen, it is a hidden pollution. If this rubbish were dumped on the roadside, there would be calls for it to be removed tomorrow. Pollution in the sea is unseen, and this matter must be taken much more seriously. I congratulate the Minister. I did not think that we would see this legislation before Christmas—or before the election—but we have it, although I doubt that we will get it through both Houses because of the time factor. However, it is a step in the right direction. I support the measure and look forward to the next stage where we can deal with the remaining matters.

**Mr GUNN (Eyre):** I have been approached by people involved in the oyster industry, the spokesperson for which is a constituent of mine. Oyster farmers are concerned about the provisions of this legislation and, in particular, a report compiled by the Department for Environment and Planning. I was advised this evening that the industry has had correspondence with the department but, unfortunately, it has not received a detailed response to its concerns. Obviously, members of the industry would not have seen this legislation. I seek an assurance from the Minister that their operations will not be jeopardised or that the conditions that will apply will not put them out of business. I am told that the New South Wales legislation makes special arrangements for the oyster industry.

They are concerned that the levels of protection which will apply, based on this report (about which they are not happy as to the way in which it was put together), are such as could jeopardise their current and future operations. As the Minister knows, the oyster industry is relatively new to South Australia. Many of the people involved on Eyre Peninsula have only just gone into it. They have made a substantial investment but had little return to date. It is the kind of industry that we should look after and encourage. Therefore, I am concerned about their apprehension with regard to this proposal.

Everyone would agree that we should take every reasonable step to protect the marine environment and to ensure that commonsense prevails. Therefore, I seek from the Minister an assurance that before the Act is proclaimed and the regulations are drawn the views of the oyster farming industry will be taken into consideration and that people will not be put out of business. I understand that the requirements in this report could make it difficult for them to operate. Some of the reports compiled in the past by this particular person caused considerable hassle and controversy in the fishing industry. I sincerely hope that we are not starting on that road again, because it would be an unfortunate course of events. The Minister graciously accepted an amendment proposed by the member for Chaffey in relation to inspectors appointed under the Water Resources Bill. I hope that she will accept a similar amendment during the Committee stage. I look forward to the Minister's response.

**Mr BLACKER (Flinders):** I support the Bill. It is a landmark inasmuch as it is endeavouring to set up legislation to control point source pollution of our waterways. I do not believe that any member of the House would have any concern about what it claims to achieve. However, some areas need to be mentioned. The member for Eyre referred to oyster farmers. The oyster farming industry is still relatively new and is only just starting to pave the way for agriculture industries which no doubt could be a fairly significant part of the South Australian fishing industry. Those agriculture industries may in themselves be a form of pollutant in some way. They are a natural fish form, but they could be a form of pollutant.

Oysters and perhaps scallops, if farmed in an agricultre situation, could be pollutants. I should like to pose a question about the extent of the legislation. I note that it is sticking specifically to the obvious forms of pollution that we now have, but we could take it further, particularly in cases where there could be run-off from farmland to the sea, such run-off containing minute amounts of chemical. Probably the greatest danger would be the leaching of superphosphate into the sea. That can change the marine environment. It may be very minute, probably not perceivable by the eye, but it is there. In other parts of the world it has become a significant factor. It is not a significant factor now, but it may be at a later time.

The real issue is the pollution which comes from industries, sewage proposals, fish factories, and so on. I refer specifically to Port Lincoln where there are fish factories and abattoirs. Another factor that is of concern is storm-

water run-off from industrial areas. I refer specifically to fertiliser depots where acid-type run-off could be a problem.

I wish to mention briefly the Government's announcement of the preliminary sewage investigations: I believe that this legislation was the very reason why the Government granted that preliminary investigation. It needs to be stated that that is the case, because the Government could hardly talk about this type of legislation when it or a local government instrumentality is putting raw sewage into the sea. The raw sewage problem was first identified in an Engineering & Water Supply Department report of 1973 which indicated that the area around the Porter Bay outfall was the most polluted area of Spencer Gulf. Of course, at that time we were looking at potential pollution from a proposed petro-chemical plant at Redcliff. In view of the time, I support the Bill and hope that it passes both Houses before the next election.

**The Hon. S.M. LENEHAN (Minister for Environment and Planning):** I wish to thank members opposite, and particularly the member for Semaphore, for their contributions. The member for Semaphore has long shown a passionate commitment to the marine environment, particularly in his own area, and tonight he demonstrated a thorough understanding and knowledge of not only the problems in his area but of some of the literature and research that has been done in this field. I will pick up a couple of points the member for Light made, although I will not go over the history. I guess that the member for Light felt that he needed to get that on the record and, given the political timing, that is fine.

However, I must take him to task on one particular aspect—his analysis of the question of Apcel and the fact that there was an indenture for 25 years. I do not think it furthers the whole question of cleaning up our marine environment or the general environment for him to say, on the one hand, that he supports a polluter-pays principle (which, of course, is contained in this Bill) but, on the other hand, that the responsibility of the polluter is only to the factory gate, virtually, and once it passes that—

*The Hon. B.C. Eastick interjecting:*

**The Hon. S.M. LENEHAN:** Still, by supporting the indenture, in the sense of saying that the indenture only said that the company could do whatever it liked until it got to its factory gate and once it got through the drains and waterways of the State it then became the responsibility of the people of South Australia, is, to my mind, a total contradiction of the polluter-pays philosophy. The philosophy contained in this Bill is predicated on the person who produces the pollution having to implement a range of technologies which will ensure that whatever leaves the factory gate—and I use that term in the colloquial sense—will not pollute the environment. I will take up that point during the Committee stage tomorrow. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

## ADJOURNMENT

**The Hon. S.M. LENEHAN (Minister for Environment and Planning):** I move:

That the House do now adjourn.

**Mr S.G. EVANS (Davenport):** I wish to raise a matter which is of some concern to me and, I believe, to the many people in the State who have an interest in South Australia's history, the pioneering spirit and articles relating to the pioneering spirit of South Australia. Back in the early 1970s a village, referred to as the Pioneer Village, was developed near the junction of Beach Road and Main South Road.

It was originally established by a group of enthusiasts, and the Labor Government of the day under the Hon. D.A. Dunstan decided that there was some merit in the State's owning that historic Pioneer Village. Associated with Pioneer Village are some valuable articles, some inside the homestead, some in the sheds and some outside being damaged by the weather because no one is looking after them.

I doubt that the vast majority of people driving past Pioneer Village realise the extent of the neglect that has been allowed to occur to these valuable items—perhaps not valuable in monetary terms but certainly valuable in historic significance to the people of this and future generations. In other States, sometimes local government, communities, individuals or the State itself have gone to great effort to preserve historic items. I refer to the massive Outback Hall of Fame project at Longreach. Our Pioneer Village bears no comparison to that massive project, nor would I expect it to. However, I ask through you, Mr Acting Chairman, a question of the Minister of Education. Pioneer Village is close to your district of Fisher, Mr Acting Chairman. The member who represents the area has had some interest in education as a tutor, yet Government members have done nothing about raising the issue to ensure that Pioneer Village is preserved and properly maintained. When I use the word 'maintained' it is not in the sense of the argument I used earlier today in respect of the Water Resources Bill; I mean being cared for in a proper manner.

Why has nothing been done for so long? I refer to the Jacobs Family Heritage Association. This family, one of the first to land in South Australia, first settled at Reedy Creek, down around Lockleys, and then they moved to Cherry Gardens. This family has at Cherry Gardens probably the only slab kitchen remaining in this State.

The kitchen walls are made of timber slabs, and they are still there. The kitchen was erected at Scott Creek, but the E&WS Department had different ideas about land use and vandals caused further troubles. The family has been waiting three years for the Education Department to decide whether it will leave Pioneer Village where it is or relocate it. I challenge any honourable member to look at Pioneer Village and see what has happened to that project. It is a disgrace, but the three-year delay is a bigger disgrace. In fact, it has been more than three years since the Education Department first considered relocating Pioneer Village. I do not know whether the intention is to allow Pioneer Village to decay to a point where the department and the Minister say that it is beyond repair and that they will have to forget about it.

It is not something created by the Aborigines, but it has as much importance as something created by any other section of our society in relation to the pioneering history of this State and this country. I believe that in all instances we should try to preserve as much of the past as we can. We impose conditions on people who develop the Myer-Remm site in terms of saving the North Terrace facade. We take all sorts of actions to preserve buildings which are conspicuous and which the Government see as point scorers, but when something is hidden behind a few bushes and is not conspicuous to the community, and nobody has bothered to raise the topic for a while, it is ignored or, even worse, it is neglected.

I wonder why that is so. If it is to be maintained in its present location, it will not involve a huge expense. Some additional cost would be involved in relocating it elsewhere, but it would not involve a huge expense. Through this

House I ask the Minister to provide an answer to the question: what does the Government intend to do with the Pioneer Village?

Another matter I want to raise briefly relates to the CFS. The regulations are before the Joint Committee on Subordinate Legislation and there is no doubt that some of the volunteers are frightened to speak out. Mr H. Magarey of the Coromandel Valley unit gave evidence to the committee. Mr Meier asked:

> There is no suggestion in your comment of any threats to the brigade if you did not comply with certain requests made?

Mr Magarey answered:

> We were threatened that if we did not comply with the standards of fire cover recommendation, Mr Peter Muir—

I believe that that should be Mr Mew—

> our board representative, might not talk to the Director and talk him into letting us stay. We were blackmailed over that. The Act provides that the CFS Board is responsible in consultation with the appropriate authorities to determine the amount of fire-fighting resources required for fighting fires. The standards of fire cover under the Act are seen as a document which is the basis for consultation. The standards of fire cover were issued as if it were a vey strong directive that must be complied with. Unless one could strongly justify not having the standards of fire cover, it would be put to us by Government policy.
>
> So, there is very strong pressure on us to comply. Furthermore, since the CFS Board is having so much to say about things these days (whether resources are required and what subsidy is to be paid to brigades, which they have changed without consultation), there is a very strong sense that if you disagree with the board it could work out badly for you. I believe that the reason why this committee has not seen letters to the editor in the *Advertiser* or other written comment is because people have a certain amount of fear of criticising the organisation.

It is quite clear that Mr Magarey, like a lot of other people, is frightened of the board; people are told that, if they speak out, they will be last on the line to get a truck.

**The ACTING SPEAKER (Mr Tyler):** Order! The honourable member's time has expired. The honourable member for Price.

**Mr De LAINE (Price):** Tonight we debated the Marine Environment Protection Bill, which of course is vitally important to me, because the Port River is located in my electorate and major drains run into that river. However, this evening I wish to speak about a slightly different type of pollution and that is industrial pollution and its impact on residential areas in my electorate, namely, areas such as Wingfield, Port Adelaide, Rosewater, Alberton, Queenstown and Athol Park.

These problems are real problems of noise, air, soil, drainage and visual pollution, and a combination of some or all of these types of pollution. I guess that the problem is no-one's fault in particular; it has grown with the colony of South Australia. In the early days Port Adelaide was the base of the colony and, because of circumstances at that time, with people being quite poor and not having the forms of transport they presently have, most working men had to either walk or, at best, ride a pushbike to their employment. Therefore, factories and other industries intermingled with residential houses.

In the early days it was compatible and convenient for them to be together, because industries were labour intensive and caused virtually no problems to the people who lived nearby. However, over the years the methods of production and processes in certain industries have changed; they now use different types of chemicals, machinery and so on and, to allow for extra production, perhaps one, two or three shifts have been added. This makes the location of these places in residential areas very undesirable because of noisy machines belching smoke, working perhaps two and three shifts.

I guess that the problem has been made worse by 'existing use' rights in regard to the tenure and use of land. While some of these industries are manufacturing the same goods, because of changes in methods or processes where there was no problem years ago there is a problem today. Gradually, over time, it got to the stage where processes started to change and new chemicals and substances were introduced but, because the pollution and ill-health that this caused was not obvious to people and Governments, who did not have the knowledge they have today, there was still no perceived problem. Now that we have that knowledge and have learned a lot about these matters, we can see that there are real problems. So, something must be done about it.

I believe that we have a once in a lifetime opportunity to solve the problems in these areas, especially in the electorate of Price and other such electorates; these industries can be relocated from residential areas into new industrial estates, such as the Regency Park and Wingfield estates. They are wonderful places with fully serviced blocks, right away from residential areas. I know that the Wingfield industrial estate will not be completed until about 1997, but the Regency Park industrial estate is almost filled up. It is a delight to drive around that estate and see the beautiful way it is laid out. It has well built factories and office blocks, and fully landscaped car parks with proper plantings. It is an attractive place.

In fact, quite a few industries in this area have won awards from local governments and Kesab. The other advantage is that these estates are close to major residential areas from where local employment can be generated; people can get to their place of employment without the need for motor vehicles. They are far enough away not to be a problem in relation to noise, visual and other pollution. However, air pollution is still a problem, and tighter legislation needs to be enacted to combat that. With increasing technology the ways and means in which to combat this sort of pollution are becoming available.

Industries can be encouraged to move by means of financial incentives, and possibly legislative incentives. The State Government, and even local government, can provide financial incentives through low cost land, on which industry can relocate, and they can be provided by means of reduced rates for so many years or reduced electricity charges, and so on, while they re-establish.

There would be a snowball effect, in that if we get these industries out of residential areas and relocated in these areas that I have referred to we can build more homes in the older residential areas. Some of the older and run-down dwellings could be demolished and new homes built. In some of these areas there are a lot of beautiful old homes. Some of these have already been refurbished and restored to their former beauty and I think a lot more of that would happen if the incentives were there to redevelop and rejuvenate these areas.

The other thing I want to refer to is the redevelopment of the virgin land east of the Port River in the North Arm and Gillman area. This whole area has been purchased by the State Government. The Dean Rifle Range and other parcels of land have been bought from the Federal Government in the past year or so. These areas are the subject of a supplementary development plan for the greater Port Adelaide area and have been earmarked for future urban and industrial development.

It is a very exciting concept and for the first time in the history of South Australia there is an opportunity—and it is a once only opportunity—to develop this whole area in a proper way and, hopefully, to avoid mistakes that have been made in the past. Development of the area first occurred

in the 1830s when the colony of South Australia was established. We can perhaps use the best principles of settlement in the early days, where people lived close to where they were employed. We can perhaps still use that concept, but having learnt from the mistakes of the past we can do a better job of it and have residential areas separated from industrial areas.

This can be achieved by having a green belt, with things like golf courses and other sporting facilities and there can be rows of all types of trees. On the other side of that we can have warehousing, which will screen out the industrial development, both visually and noise-wise. We can then have light industry, general industry and then heavy industry.

The eastern side of any such industrial development would be naturally screened by the saltpans and that type of thing out there, which would distance it from other developments in the eastern and northern areas. The whole area could be planned to enable people to live, work and play in the immediate area, which would provide a massive boost to their standard of living due to the saving of fuel and time in travelling to other places.

**The ACTING SPEAKER (Mr Tyler):** Order! The honourable member's time has expired.

**Mr HAMILTON (Albert Park):** When I sought ALP preselection for the seat of Albert Park, one of the principles I stood on was the question of equality of opportunity in education. Since becoming a member I have pursued that matter very actively. I believe very strongly that all children, irrespective of their socio-economic background, should be provided with such equality of opportunity. My family has certainly benefited from child care centres and from the people who work in those centres.

I believe that it has given my children a very solid foundation in the formative years of their life to not only become involved but also to be able to share and communicate with people of their own age. That leads me to what I want to talk about tonight—the Seaton Community Child Care Centre. Yesterday I wrote to the Minister of Education and the Minister of Children's Services. I raised an issue affecting constituents both within and without my electorate in relation to this centre. For some four years this centre has been trying to negotiate with the Education Department to obtain a strip of land 8 metres wide, currently part of the grounds of the Seaton North Primary School adjacent to this centre.

This strip of land is intended to be used to enlarge the outside playing area of the centre, an improvement which, I am advised, is desperately needed. I understand that the Seaton North Primary School council some time ago was agreeable to this piece of land being taken over by the centre. Currently on the land in question is an old shed as well as a portable building. Arrangements have reached the stage where the centre would lease the above-mentioned land for 21 years at a cost of $10 per annum. Negotiations have now reached a deadlock as allegedly the Education Department is seeking $250 000 from the Children's Service Office as payment for the land as well as an added charge of between $10 000 to $20 000 for moving the portable buildings. Four years have now elapsed.

My constituents and the people from the centre are at a loss to understand why the matter has not been resolved. I have spoken to the Minister of the day privately and appealed to him to investigate the issue. It is of fundamental and basic importance to those children, who should be given every opportunity to have all the space necessary to become involved in all activities and projects required for the 32 toddlers and children in the area. I know that the Minister is sympathetic to the needs of the children in my patch. He has indicated that clearly in the past, and again I ask him to view the matter favourably in an endeavour to resolve the matter quickly.

That leads me to the next matter of problems associated with the Peacock plan. I was deeply concerned when I read the Peacock plan and the manner in which the Liberal Party has tried to con the people of Australia in terms of the cost of child care centres. I do not wish to labour the point. Suffice to say that the women of this country will not be snowed by the Peacock plan in terms of child care centres. Women and families in particular will have to bear the brunt of this plan. It is an outrageous attack on working women in this country and one which will not be supported by the average clear thinking person in the community. The proposals by the Federal Opposition to fund tax cuts at the expense of disadvantaged families is quite irresponsible. The coalition is prepared to cut assistance for needy families and that should be seriously questioned.

These words are not mine: they are the words of the Executive Director of the Brotherhood of St Laurence, Bishop Peter Hollingworth. Anyone who has read any of his works would know that Bishop Hollingworth is a very compassionate man who has written many articles in relation to the disdvantaged and unemployed in this country. Hollingworth attacks the Liberal Party plan, and I am pleased that people of his calibre are prepared to come out as he did many years ago to launch attacks on the Fraser Government in terms of the problems with the unemployed.

The Liberal Party is trying to snow the electorate. It is directing its attack on the middle class, if you like, in this country, in a greedy grab for power. It says that it is a fair go for the Australian community, but is it a fair go? I do not believe it is. We only have to look at some of its intentions, including the dismantling of Medicare, voluntary unionism, its so-called wages policy and the effects that will have on education. One only has to look at New South Wales: what an example of people being snowed by a conservative Government.

Let us look at another disadvantaged group in the community—the Aborigines. I know that the Minister on the front bench has a deep and vested interest in this area. With the attacks upon these people, the Opposition has been strangely quiet, both tonight and last Thursday. I must mention the attacks on those ethnic groups who will be strongly disadvantaged by the Liberal Party's policy. One has only to look at the article that appeared in the *Age* on 23 October, headed, 'Liberals' benefit plan criticised' which stated:

> A Greek community group will complain to the Human Rights and Equal Opportunities Commission about the Federal Opposition's plan to deny some social security benefits to migrants during their first year in Australia.
>
> The Opposition's economic and tax policy says that, under a coalition Government, migrants would not qualify for unemployment benefits, sickness benefits or invalid pensions until 12 months after arrival.
>
> The federation's president, Mr Nicholas Niarchos, said that, under the proposal, Italians, Britons and New Zealanders would get benefits in their first year, but other migrants would not. 'It is unfair and discriminatory,' he said.

So much for the Liberal Party's policy! I listened with a great deal of interest, as one who comes from a disadvantaged family, to what the Liberal Party policy plan did not say when Peacock announced it. The savage cuts in training programs in this State would mean that South Australia could lose up to $30 million on a per capita basis, leaving thousands of young people and older people with little hope for future employment. Imaginative programs such as Job-

start and Skillshare will be wiped out overnight. So much for the compassion demonstrated by members opposite.

I recall the member for Heysen last week standing up in this House justifying and supporting that view 100 per cent, and that reflects clearly the support demonstrated by the Opposition in this State to Peacock's plan. I believe that the South Australian people will not support that proposition. They can see that it is a greedy grab for power, not only by Peacock but also by members opposite. In my view they stand condemned because, when you are down and out, that is the time when you want support.

**The ACTING SPEAKER:** Order! The honourable member's time has expired.

Motion carried.

At 10.29 p.m. the House adjourned until Wednesday 25 October at 2 p.m.

## HOUSE OF ASSEMBLY

Tuesday 24 October 1989

## QUESTIONS ON NOTICE

### PARA DISTRICT COURT

39. **Mr BECKER (Hanson)**, on notice, asked the Minister of Emergency Services:

1. How often are the holding cells at Para District Court cleaned and what does the cleaning involve?

2. What legal representation is offered to detainees at Para District Court cells particularly at weekends and, if none at any time, why not?

3. How long are detainees usually held at these cells and what has been the longest period of detention?

**The Hon. J.H.C. KLUNDER:** The replies are as follows:

1. There are two areas which could be considered as holding cells for the Para District Court. One area is better described as a room than a cell and is attached to court room 3. The cleaning arrangements for this room are supervised by the Courts Department. The other area is the police cell block at the rear of the Elizabeth Police Station. On a weekly basis, the entire area is hosed with a high pressure gun that has a disinfectant additive and the floors and walls are scrubbed. In addition, blankets are changed on alternate days and if a prisoner is sick, or soils the cell in some way, the police personnel on duty at the time clean it up.

2. The Legal Services Commission supplies a duty solicitor on a daily basis, Monday to Friday. This person is allowed access to the cell complex to visit the prisoners. Generally, there is no legal aid available on weekends; however, police endeavour to contact lawyers at the prisoners' request.

3. Under normal circumstances the room attached to court room 3 is only used for a few minutes by prisoners when they have been remanded in custody. Prisoners at the Elizabeth police cells can be held for up to 12 hours depending on the reason for the detention. Those eligible for bail could be held for up to two hours and prisoners awaiting court could be held for up to six hours. Prisoners detained on warrants could be held for up to 12 hours pending reception at the Adelaide Remand Centre or Yatala Labour Prison. The longest period of detention at the Elizabeth police cells was for four days but this was during the strike by Correctional Services officers.

### ZHEN YUN PTY LTD

75. **Mr BECKER (Hanson)**, on notice, asked the Minister of State Development and Technology: When was Zhen Yun Pty Ltd introduced to the Government and by whom?

**The Hon. LYNN ARNOLD:** Zhen Yun Pty Ltd was introduced to the Department of State Development and Technology by Mr Peter Ellen of Elspan International during November 1988.

### URBAN CONSOLIDATION

147. **The Hon. D.C. WOTTON (Heysen)**, on notice, asked the Minister for Environment and Planning: Which councils have endorsed the Government's urban consolidation policy and which have taken steps to implement the policy?

**The Hon. S.M. LENEHAN:** The following councils have either undertaken or are undertaking comprehensive residential reviews which will ultimately lead to supplementary development plans:

Unley, Marion, Campbelltown, Enfield, Salisbury, West Torrens, Prospect, Burnside, Kensington and Norwood, Thebarton and Tea Tree Gully.

Some other councils, such as Noarlunga in conjunction with Seaford and Munno Para in conjunction with Smithfield East and West, have introduced partial reviews, particularly aimed at a more innovative approach to residential subdivision.

### PLANNING ACT

148. **The Hon. D.C. WOTTON (Heysen)**, on notice, asked the Minister for Environment and Planning: How many times has section 50 of the Planning Act 1982 been invoked in the previous five years and what was the justification for the use of this section in each case?

**The Hon. S.M. LENEHAN:** The reply is as follows:

Section 50 of the Planning Act has to date been used on seven occasions. These are detailed as follows:

1. Long Term Development of Adelaide
   Made: 13.2.86
   Revoked: 14.8.86

Used to control land division in five nominated areas with potential for long term growth of the metropolitan area. The declaration prevented speculative land division. Revoked concurrently with a supplementary development plan being given interim effect.

2. Adelaide Hills Watershed
   Made: 25.6.87
   Revoked: 24.9.87

Used to control land division and a range of potentially polluting land use activities during the period a supplementary development plan was before the Joint Committee on Subordinate Legislation. Revoked concurrently with authorisation of the Watershed SDP.

3. Stony Point
   Made: 24.9.87
   Revoked: Still current

Used to control establishment of an oil refinery at Stony Point (near Whyalla). Following recognition of an EIS, approval was granted by the Governor for the refinery.

4. Craigburn Farm
   Made: 26.11.87
   Revoked: Still current

Made to control a major urban development (subdivision of around 2 000 allotments) on land owned by Minda Inc. in the Blackwood/Coromandel Valley area. The declaration is holding the position while investigations and negotiations on future development are under way.

5. Gawler River Floodplain
   Made: 23.12.87 and 24.11.88
   Revoked: Still current

Made to control creation of additional rural living allotments in a large area of Mallala/Light councils subject to flooding by the Gawler River. A supplementary development plan is currently being forwarded by the council for authorisation.

6. Salisbury North Noisecone
   Made: 10.3.88 and 22.9.88
   Revoked: Still current

Made to control urban development on around 30 hectares of residentially zoned land at Salisbury North, which is subject to aircraft noise generated by Edinburgh airbase,

and isolated from urban services. A supplementary development plan is currently being submitted by the council for authorisation.

7. Unley

Made: 1.3.88

Revoked: 24.3.88

Made to control erection of a church/meeting hall in Unley.

## SUPPLEMENTARY DEVELOPMENT PLANS

149. **The Hon. D.C. WOTTON (Heysen)**, on notice, asked the Minister for Environment and Planning: How many supplementary development plans are currently under consideration, what percentage of the plans were initiated by the Minister and what percentage were initiated by councils?

**The Hon. S.M. LENEHAN:** As of 29 September 1989 there are 69 supplementary development plans currently under consideration by the Department of Environment and Planning, 9 per cent of which were initiated by the Minister and 91 per cent initiated by councils.

## HOUSING TRUST HOME

151. **The Hon. B.C. EASTICK (Light)**, on notice, asked the Minister of Housing and Construction:

1. When was the South Australian Housing Trust home at 23 Longford Street, Evanston built?

2. Who have been the tenants of the premises in the five years commencing 1 July 1984?

3. When did the most recent tenants enter and leave the premises?

4. What repairs, cleanup and restoration work have been necessary as a result of this most recent tenancy?

5. What rental and/or other appropriate costs have been or will be recovered from the last tenant and what are the details?

6. What screening or inquiry was made of the last tenant before entry was granted?

**The Hon. T.H. HEMMINGS:** As it is not considered appropriate to name individuals in Parliament, the tenants who have occupied the property at 23 Longford Street, Evanston have been referred to as tenant A, B, etc., in line with their order of occupancy. The replies are as follows:

1. The South Australian Housing Trust home at 23 Longford Street, Evanston was completed on 1 October 1963.

2. Tenant A occupied the premises on 1 July 1984 and terminated her tenancy in December 1987. Tenant B occupied the above premises on 12 December 1987 and terminated her tenancy on or about 3 March 1989. On 4 March 1989 the above property was leased to tenant C under the Trust Direct Lease Scheme. This tenancy terminated on 18 August 1989. The trust re-let this property to tenant D on 9 September 1989, tenant D being the current tenant.

3. It is assumed that, as tenant D is the current tenant, the Hon. B.C. Eastick's question refers to tenant C's tenancy. As stated above, this tenancy ceased on 18 August 1989.

4. Total cost in preparing the above property for the incoming tenant was $1 863.

5. On vacancy, tenant C owed the Trust $498 outstanding rent, $1 165 maintenance charges, less their deposit paid of $38.50, leaving a total outstanding debt to the trust of $1 624.50. These costs have been charged against the ex-tenants and the trust will pursue recovery through the normal legal channels.

6. Tenant C was, in the first instance, referred to the trust for the Direct Lease Scheme by the Gawler Crisis Accommodation Program. Tenant C was interviewed by a trust officer and met the criteria, primarily relating to low income and having crisis, for this scheme.

## POLICE HEADQUARTERS

156. **Mr BECKER (Hanson)**, on notice, asked the Minister of Emergency Services:

1. What was the total cost of erecting the access ramp for disabled people visiting Police Headquarters?

2. How long did the ramp take to build?

3. Has it been modified since completion because it was too slippery?

4. What problems were experienced with the access door to the ramp and has it been closed at any time since completion of the ramp because the doorway creates a draught and, if so, has this problem been rectified and, if not, why not?

**The Hon. J.H.C. KLUNDER:** The replies are as follows:

1. The total cost for the access ramp for the disabled at Police Headquarters was $66 750.

2. The ramp took 18 weeks to build.

3. Included in this project was the provision of an 'anti-slip' substance to the surface of the ramp. Although the surface was considered to be quite satisfactory by users, technical advice received from Sacon stated that the surface was not of a required standard and it was relaid.

4. The sliding access door to the building at the top of the ramp was originally triggered to open via movement sensors both inside and outside the building. This caused a problem with persons moving within the building, causing the sliding door to open unnecessarily and create draughts. For a brief period, the door was locked until such time as a push button was installed to allow egress from the building and overcome the problem. The movement sensor is still used to gain access into the building.

## TENANT RENTAL PURCHASES

158. **Mr BECKER (Hanson)**, on notice, asked the Minister of Housing and Construction: What incentive is the South Australian Housing Trust offering long-standing tenants to purchase their rental accommodation which may require some modification and, if none, why not?

**The Hon. T.H. HEMMINGS:** The trust does not offer incentives to any groups of tenants wishing to purchase their homes. Under the terms of the Commonwealth/State Housing Agreement, the trust is obliged to sell its properties at a sale price based on the current market value. The current market value is determined by an independent licensed valuer and the value of improvements made at the expense of the tenant is deducted from the valuation. There are no discounts for length of tenancy or any other reason.

An incentive is offered to tenants who complete an Application to Purchase form within 30 days from the date the letter advising them of the sale price of the property they are purchasing is sent: in these cases the trust waives its administration fee. The trust also assists with bridging finance which is available while tenants await settlement.

The trust has also developed a number of strategies to increase the level of home ownership including the introduction of a progressive ownership scheme which enables tenants to purchase their home in affordable stages.

The trust cannot offer discounts under the Commonwealth/State Housing Agreement nor would doing so be consistent with the objective of obtaining capital for the construction and purchase of additional rental dwellings.

## OFFICE OF GOVERNMENT EMPLOYEE HOUSING

172. **Mr BECKER (Hanson)**, on notice, asked the Minister of Housing and Construction: How many properties is it necessary for the Government Employee Housing Authority to acquire this financial year and how many of the existing stock are to be refurbished?

**The Hon. T.H. HEMMINGS:** The number of properties it will be necessary for the Office of Government Employee Housing to acquire this financial year is 23. It is estimated that 354 Office of Government Employee Housing residences will be upgraded to some extent this financial year.

## HOMELESSNESS

175. **Mr BECKER (Hanson)**, on notice, asked the Minister of Housing and Construction: Will the Government establish a permanent committee of interested volunteers to ensure the elimination of homelessness by continuing work begun through International Year of Shelter for the Homeless grants and, if not, why not?

**The Hon. T.H. HEMMINGS:** The International Year of Shelter for the Homeless was a good example of government, community and industry organisations working together to assist people in housing need. However, the advisory structures set up for that year had a specific and limited purpose. Community groups are closely involved in work with the Government on a range of housing issues. For example, the Community Committee of the Housing Advisory Council meets regularly to provide advice on housing issues and programs, and involves a wide range of community groups. Similarly, the advisory committees for the Local Government and Community Housing Program and the Crisis Accommodation Program involve community representation.

Under the proposed new Commonwealth/State Housing Agreement there are provisions for the development of State plans for housing provision. Under this process, there will be extensive consultations with community organisations concerning housing priorities and program objectives.

## STOCK MANAGEMENT PROGRAM

176. **Mr BECKER (Hanson)**, on notice, asked the Minister of Housing and Construction: How will the South Australian Housing Trust continue refinement of the trust stock management program with a sustainable building and acquisition program?

**The Hon. T.H. HEMMINGS:** Funds for the building and purchase program are provided by the Federal and State Governments through the Commonwealth-State Housing Agreement, from internal revenue generated such as rents and sales of properties to tenants and, in the past, through loans. While the size of the trust's building and purchase program is determined by the level of funds available, its sustainability is greatly influenced by the cost effectiveness of the strategies employed to acquire rental stock. As the trust's 'Corporate Strategy 1989-1993' states, the trust has developed cost efficient strategies aimed at maximising sustainability of the building and purchase program. The strategy states:

> The trust will each year design its stock acquisition and stock release policies to improve the match between the distribution and house type of the public housing stock and the needs of current and prospective tenants. The primary tools to be used in rationalising the distribution of public housing will be:
>
> The construction and purchase of dwellings in locations of high demand and with relatively lower concentrations of public housing.
>
> Sensitive and selective redevelopment and infill, including the creation of opportunities for private investment and home ownership within existing large trust estates.
>
> The continued marketing of sales to tenants who can afford to purchase. (SAHT Corporate Strategy 1989-1993, p. 7)

More specifically, these tools are sustainable for the following reasons:

> The redevelopment of existing public housing estates creates infill opportunities, that is, the new construction of smaller housing forms on land already owned by the trust (therefore land purchase costs are minimal). The redevelopment process maximises land utilisation and offers opportunities for private investment and home ownership within existing estates and generates funds for the building and acquisition programs;
>
> The purchase of established properties also offers redevelopment and infill opportunities as most houses purchased have a land component. The efficient use of this land for the construction of smaller housing is also complemented by the conversion of established dwellings to two or three smaller units;
>
> The sale of trust properties to tenants generates funds which the trust is committed to re-directing back into the building and purchase program;
>
> In addition, the trust is seeking to ensure all surplus Government land in the central metropolitan area is offered for sale to the trust. The acquisition of land parcels in this manner ensures the trust pays a fair price for the land which can be used to construct smaller forms of housing in the most cost efficient manner.

The trust has adopted these strategies as a result of increased demand for smaller housing forms predominantly in the central metropolitan area of Adelaide. The corporate strategy also states:

> The trust will continue to balance the expectations of customers, in terms of the design and amenity of new housing, with the need to ensure that public housing is cost effective.
>
> The trust will strive to ensure its long term financial viability is not prejudiced by embarking on development programs substantially funded by capital at rates of interest which cannot be afforded by trust tenants.

These objectives and the strategies adopted to rationalise the trust's rental stock combine to ensure stock acquisition programs, both new construction and purchased housing are sustainable.

## HOUSING TRUST RENTS

177. **Mr BECKER (Hanson)**, on notice, asked the Minister of Housing and Construction: Did the Government meet all of its 1988-89 Specific Targets/Objectives of Concessions and, in particular, what was the outcome of the major review of the rent relief and rent rebate scheme as outlined on page 229 of the Program Estimates?

**The Hon. T.H. HEMMINGS:** The reply is as follows:

1. Although access to housing continues to be difficult for many low to middle income earners and high interest rates have led to difficulties for some households in meeting interest repayments, the Government's commitments have been maintained across the program to provide assistance to these people.

2. To address these problems, an extensive review of the relative benefits provided by rebates to public tenants and rent relief to private tenants was commenced in February 1989. However, this work was suspended in May 1989 following the announcement of the Commonwealth's inten-