**UNDERGROUND WATERS PRESERVATION BILL 1969**

**Legislative Council, 25 September 1969, page 1767**

Second reading

**The Hon. R. C. DeGARIS (Minister of Mines):** I move:

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

Its purpose is to repeal the Underground Waters Preservation Act, 1959-1966, and to enact new provisions relating to the preservation and protection of underground waters in its place. In most countries of the world, it has been found necessary to introduce legislation to control the use of underground water. This has been the case also in most States in Australia, but the need in South Australia to conserve and preserve water, of any kind, is recognized by all in this State. Most of South Australia has, unfortunately, a low annual rainfall, and in many areas we are almost completely dependent on the supply of underground water.

In some countries legislation to control the use of underground water has been delayed to the critical stage, and remedial measures, although very expensive to a country and often drastic in their impact on the rights of its citizens, have not always been successful. A very serious situation exists in this State in respect of the northern Adelaide Plains groundwaters and this area is receiving very close attention by the Government. It is extremely important, therefore, to ensure that a similar situation is not permitted to develop in other areas.

Over two years, extensive experience with the present legislation has clearly shown the need for considerable amendment. It is necessary to provide for more positive control in some spheres, to simplify administrative procedures for the benefit of landholders and drillers, and to provide more acceptable provisions for the examination and licensing of drillers. The advisory committee constituted under the existing Act has functioned most satisfactorily. Any question referred to it has resulted in pertinent advice being tendered to the Minister and, in particular, every application for a permit has been very carefully and most thoroughly investigated and considered. Under the Bill before the Council it is made mandatory for the Minister to refer all matters specifically affecting an individual in his use of underground water to this committee while retaining the power to review any recommendation made to him on such matters. The Government considers that this provision, in conjunction with a reconstituted appeal board, will adequately protect the rights of the individual. I will deal more fully with the proposed new appeal board, and the reasons for it, at a later stage.

I now turn to a brief explanation of the Bill as presented. Part I (clauses 1 to 6) is the preliminary Part containing the Short Title, date of commencement, repeal of the previous Acts, transitional provisions and the definitions. Part II (clauses 7 to 23) is concerned with wells and includes the permit system for the drilling, repairing and backfilling of wells, the last-mentioned being an important omission from the present Act, especially in relation to the prevention of the contamination of good quality underground water from saline waters. Other clauses in this Part require the forwarding of information to the Minister regarding existing wells.

Clause 10 sets out the limits of the discretion of the Minister in refusing a permit. A permit may only be refused if, in the opinion of the Minister, the work carried out under the permit would be likely to cause contamination or deterioration, inequitable distribution, undue loss or wastage or undue depletion of underground water. Clause 11 enables the Minister to review a permit after twelve months. If the permitted work has not been carried out in that time, it is considered advisable for this review to allow the circumstances to be subject to scrutiny.

Clause 16 re-enacts the basic provisions of section 17 of the present Act but sets them out more precisely. The previous wording proved in practice to be vague and impossible to enforce. One of the most important clauses of the Bill is clause 17 under which the Minister may issue certain directions in the form of a notice requiring the owner or occupier of land on which there is a well to take or refrain from certain action for the prevention of contamination, deterioration, inequitable distribution, loss, wastage or undue depletion of underground water. The addition to these directions of the requirement to repair or modify a well is very important as previously if the owner was not prepared voluntarily to rehabilitate a repairable well which came within any of the categories which I have listed, the only alternative was to order him to backfill the well. The clauses dealing with artesian wells contain essentially the same provisions as are in the present Act and are included in this Part.

In addition to these points, there have been a number of small, but quite important alterations to the machinery of a number of the provisions contained in the present Act. Part III (clauses 24 to 27) deals with the advisory committee. The first thing that honourable members will notice is that the title has been abbreviated by removing the words relating to contamination which gave a restrictive overtone when, in fact, the duties of the committee were and will be related to almost all facets of the administration of the Act. The membership of the committee is essentially the same as previously, and although the requirement for the appointment of an officer of the Department of Agriculture is now mandatory such an officer was, in fact, appointed under section 21 (2) (f) of the present Act. The quorum has been increased from three to five and, as mentioned previously, provision is made for it to be obligatory for the Minister to refer any question relating to wells, permits and notices to the committee for investigation and report.

Part IV (clauses 28 to 39) deals with the examination and licensing of water well drillers. In general, the types of licences provided for under the present Act have not been considered either by the Mines Department, or the well drillers themselves, as satisfactory. The classes “A” and “B” have proved controversial and shown to be too broad in their scope, and therefore inclined to be restrictive on individuals. It is proposed in clause 29, therefore, to provide for the regulations to set out the details of licence types which can then be varied more readily in the light of further experience in this matter. What is envisaged is simply a “well driller’s licence” which will contain conditions which in the main will set out the type of plant which may be used by the licensee and the area or areas in which he may operate and, if necessary, the types of wells which he is qualified to drill in those areas. Thus, a man experienced with only cable tool type drilling and who has gained his experience only in the Adelaide Plains (within which there is a defined area), and is considered competent, will be licensed to operate in this area only, using a cable tool rig only. If there exists a driller who has had many years experience in all parts of the State with all types of drilling rigs on all types of wells he could qualify for an unrestricted licence.

In the present Act the Director of Mines has to be satisfied that a driller was qualified for the licence required. This Bill sets up an examination committee to investigate all applications and to advise the Minister. It is considered that the composition of this committee will ensure a highly qualified group of men representative of all those connected with well drilling in this State and remove the main objections to the provisions of the present Act. I must mention, however, that from the very beginning a smaller but similar type committee has been advising the Director on these matters, and I know he is very grateful for the time, thought and effort applied to those problems by the members of that committee.

Part V—appeals (clauses 40 to 51)—in the Bill differs significantly from the provisions in the present Act in that the constitution and powers of the appeal board have been reviewed. This has been done after very careful consideration of legal and scientific advice. The composition of the proposed board varies according to the matter under appeal. A serious defect in the composition of the present board is that there is no member who is a scientist with geological background. The board proposed in this Bill will provide three members of professional standing who will sit on the hearing of all types of appeals. Additionally, there will be members who will sit only when their particular qualifications are applicable to the appeal being heard.

An important variation arises in respect of the well drillers’ appeals in that the description of the well drilling member is changed from “a member of the Licensed Well Drillers Association” to “a person widely experienced in well drilling”. It is considered extremely desirable that the choice of this member of the board should not be restricted to one particular organization within the well drilling industry or that only one organization should be invited to nominate persons to be considered for appointment to the board. The main concern should be to obtain the services of the most suitable person to make available his knowledge during the deliberations of the board and not to create the impression that the member is representing certain interests. All members of the board are appointed to apply their knowledge in a judicial capacity and not to act as representatives of any section of the community.

Under the existing Act such wide powers were vested in the appeal board that it could, in effect, dictate policy if it so desired and place the whole purpose of the Act in jeopardy. The powers permitted in this Bill are a curtailment of the present powers of the board but still allow ample latitude in the hearing and determination of an appeal.

Part VI (clauses 52 to 61) contains the general provisions and differs from that part of the present Act in that those portions dealing with permits which were previously included in this Part have, in this Bill, been included in “Part II—Wells”. The power to prescribe defined areas and depths has been included in the regulation clause; some clauses have been redrafted and the “powers of entry” clause (clause 52) has been extended. The last mentioned has been found necessary, as experience has shown that the previous provisions did not give the Minister or authorized person power to enter the land to obtain information as opposed to a straight out inspection. Clause 52 also gives the Minister power to carry out such operations on a well as may be necessary to investigate the condition of the well. This provision is designed to enable headworks of wells to be modified to allow the insertion of instruments, such as electric probes, to determine the condition and position of casing and the site and extent of subsurface loss of flow in artesian wells . The latter has particular application at present in artesian wells in the South-East defined areas.

An additional provision is also made in the regulation clause (clause 61) to allow the proclamation of areas in which it is not considered necessary or practicable at that stage to be subject to all the provisions of the Act but which warrant a measure of preliminary control to ensure that only competent drillers operate therein. In such areas only licensed drillers would be permitted to engage in work on wells deeper than the prescribed depth for the particular area. It is not at present proposed to prescribe such areas, but the provision is included in case it should become necessary in the future to do so. The Bill, as with the present legislation, is designed not to be essentially restrictive but to provide the means whereby the State’s groundwater resources can be used to best advantage, both now and in the future. Its intention is merely to provide for control and remedial action when sufficient evidence is available that a particular resource is being or could be over-exploited or contaminated.

The Hon. A. F. KNEEBONE secured the adjournment of the debate.