**VERMIN ACT AMENDMENT BILL 1907**

**Legislative Assembly, 20 November 1907, pages 884-8**

Second reading

The COMMISSIONER of CROWN LANDS, in moving the second reading or the Vermin Act Amendment Bill, said that in 1895 they passed a consolidating Vermin Act, and recently some of the prosecutions under that Act had failed. Under that Act it was provided that where vermin were on a man’s land, and he had notice to destroy, but did not commence to destroy within 14 days, he was liable to a fine of not less than £5 or more than £20. Then after a lapse of two months the very fact that a rabbit was seen on his land was regarded as conclusive proof that he had not complied with the Act, and accordingly he had to be fined. That was so stringent that in the Council a proviso was inserted to the effect that after a man had received 14 days’ notice to destroy the matter had to be again referred to the district council before any prosecution could take place. In these circumstances it was found very difficult to get a prosecution. Recently a case broke down at Petersburg because the minutes of the council meeting had not been confirmed, lie proposed in the amending Bill to wipe out that proviso altogether, and to enact that prosecutions should not break down because of trifling technicalities. The great increase of rabbits of late made the need for an amending Bill more and more apparent. The amendments he had introduced had been most carefully prepared by the draftsman. If that proviso had not been inserted in the 1905 Act by the Legislative Council - no doubt with the best intention - the Act would have been much more workable. Since these amendments had been introduced he had received further advice, and intended to bring in some additional amendments in order to make the Bill thoroughly practical. As the amendments could be fully dealt with in committee he would reserve any further remarks till they reached that stage.

Mr. WARREN said great interest was felt in the Bill, and many enquiries in respect to it had been made from all parts of the country by farmers and pastoralists. It was a question on which legislation was never likely to be entirely successful, owing to the vast area of unoccupied country, for which, so far as vermin was concerned, no one seemed responsible. That the inside man, subjected to periodical invasions from millions of rabbits bred on his land, should be appalled and give up in despair was not to be wondered at. Another reason why the war with the vermin was not successful was the strange apathy of the people in not protecting themselves. It was not unusual to see numerous rabbit

burrows in the midst of the wheatfields. Sometimes there was no excuse, but, on the other hand, if the wheatfield adjoined unoccupied land or careless landowners, the rabbits would dig out during the night the •burrows filled in during the day. The rabbit preferred the softer land and shelter of the crop for nesting. In breeding vermin the Crown lands had much to answer for. In regard to much outside lands the first consideration might well be one of occupancy, with conditions for the destruction of vermin. Rental was a secondary consideration altogether. The Crown had some liability in the destruction of vermin within district councils, though possibly that was not so much appreciated by district councils as it might be. Cause 8 of the Act of 1905 stated that the council, by resolution, might declare Crown lands vermin infested, and subsection 4 read:—“When any Crown lands have been declared vermin infested under subsection 3 of this section the council may declare a rate, to be approved by the Commissioner, but not to exceed £1 per square mile or fractional part of a square mile, or such other additional sum as may be recommended by the Surveyor-General and approved by the Commissioner, of such lands per annum, which amount shall be paid by the Commissioner to the council, and expended by it in and upon the destruction of the vermin in such lands.” Subsection 8 read:—"Where the Commissioner does not approve of any rate declared, pusuant to subsection 4 hereof, he shall forthwith take all necessary and proper steps for the destruction of vermin upon such lands.” The Council should enforce the wise provisions of this eighth clause. The present Act was so unworkable that some councils did not attempt to enforce it. This was due more to the ingenuity of the legal profession than to any real blemish in the Act itself, although these words would not apply to the latter part of subsection B in clause 25. “And provided also that no information in respect of land within a district council shall be laid without a resolution of the council passed at a meeting held not less than 14 days after notice has been given to the person to be charged.” These words, which had been the cause of much trouble and expense to the district councils, ought properly to be excised. The council inspector would now be vested with more complete authority, time would be saved, and the inspector should have the moral support of the council without any resolution at all. Some inspectors were fearless men, who did their duty without partiality. It was said that some councillors were the most careless in keeping the Act, and had more rabbits than the people they prosecuted. It was also whispered that as the inspector was a- paid officer of the council gentle pressure was brought to bear upon him. Hence we had an agitation for a Government inspector. He had intended to move in that direction, but on consideration he found that clause 18 of the Act of 1905 provided that if any six rate payers are not satisfied with the council action in the destruction of vermin they may appeal to the Commissioner of Crown Lands, who can appoint a Government inspector, and if the finding of such inspector, if approved by the Commissioner, is not carried out by the council, it becomes liable to fines ranging from £5 to £50. To appoint a Government inspector might be regarded as an interference with the functions of local government. We might give the amended Act a further trial, and additional experience would prove the necessity or otherwise of appointing inspectors independent of the local governing bodies. The amendment of clause 25 (subsection 2) shortened the period from two months and 14 days, wherein the Council may- secure conviction without further notice, to one month and 14 days, thus arming the Council with a big discretionary power which would be wisely used. The alteration of clause 21 was approved by many Councils. It did away with the two periods of simultaneous destruction, and the provisions of the Act could be enforced all the year round. One of the most debatable points was whether or not the filling in of the burrows shall be compulsory. Some councils strongly favored this, while on the other hand it was asserted with equal force, that in some cases, to fill in the burrows would cost more than the land was worth. The Bill, if rightly administered, would enforce the destruction of the vermin, and the burrows were, with present appliances, a fine trap in which the rabbits can be located and smothered. For obvious reasons local justices were not anxious to try cases of breach of the Act. and wherever possible they should be heard before a special magistrate. Local justices had assured him they would be very pleased to have nothing to do with the hearing of such cases.

Mr.. PAECH was pleased that the Government had brought down the Bill, because it was absolutely necessary. The last Act had been tried and found wanting. It had been evaded in every possible way. Owners of property should be compelled to destroy their vermin, and the Government should be compelled to destroy the vermin on public lands and reserves. If the local inspectors did not do their duty, then the Government should appoint inspectors to see to it. (The Commissioner of Crown Lands—“Who would pay them?”) The district council in default should pay them. If the new Bill was properly enforced it would prove a great benefit to South Australia.

Mr. CAMPBELL said the requests for amending the previous Act had come from bodies who had not given existing legisla­tion a genuine chance to become operative. It would take a good deal to convince him that the difficulty in the destruction of vermin does not lie largely with those who should be foremost in taking action. In fact, the rabbit was a luxury which only the rich men could afford to keep. When it was realised how vast is the destruction brought about by the insignificant little animal there would not be much complaint as to the want of effective legislation. The Minister stated that the demand for amendment arose largely from the fact that the Act of 1905 had been tried and found wanting. He differed from the Minister, because, as far as his researches had shown him, only two cases under the Act of 1905 had come before the courts. In one case the prosecution failed, not because of any inherent weakness in the Act, but because the weird, incomprehensible legal gentlemen who had control of the prosecution charged the defendant with having in one day committed offences which under the Act it would take him two months and 19 days to commit. The magistrate failed to see that any landholder in South Australia was capable of this im­possibility. The other case failed because the district council which prosecuted placed before the court as evidence the minutes of a meeting signed at the meet­ing of which the minutes were a record. In that case the magistrate refused to ac­cept these minutes, as not being in compliance with the District Councils Act. Although he did not oppose it he did not think the amendment of clause 25 would have much effect on the district councils, because the provisions of the clause need not have caused any delay. That section provided that “no information in respect of land within a district council shall be laid without a resolution of the council passed at a meeting held not less than 14 days after notice has been given to the person to be charged.” The defect lay in the difficulty of knowing whether the word “notice” referred to the notice given by the ranger to the landholder to destroy rabbits or to the notice served upon him by the district council to attend the particular meeting called to hear him. He denied, however, that the clause caused any delay in the proceedings, because the council should decide within 14 days of the ranger giving notice whether it intends to prosecute the landlord or not. By that time it should be known to the ranger and the district council whether the landholders are attempting to carry out the Act, and the council could decide whether it would prosecute without the need of holding any special meeting. There was no necessity to delay proceedings, because there was sufficient time during the two months and 19 days to hear the cases of all Avho were charged with non- compliance with the Act. There was every good reason for putting that provision in the Act, because it safeguarded landholders against possible injustice. There was no more drastic Act on the Statute-book of the State, if its provisions were properly enforced and administered by district councils, than the Vermin Act. Section 25 provided that where a council gave notice to a landholder to destroy his rabbits, and had decided, upon a prosecution, the council, after a lapse of two months and 19 days had no need to take any more trouble whatever to prove that the owner had not attempted to destroy his rabbits. There was no need to go into any details whatever, but simply to inform the court. If the landholder had but one rabbit upon his land he was subject to a penalty which was duly enforced. It was suggested that the period of notice should be reduced to one month. Two months was surely not too long notice to give owners that they .must destroy the rabbits on their properties. Some justice was due to owners willing to comply with the Act. There were owners who would not destroy rabbits, and the fault in that case did not lie with the Act. Very largely it was due to the landowners’ want of appreciation of the danger of the spread of vermin. Supplementary to that was the lack of zeal or the sense of proper responsibility of district councils themselves to whom the Act was given to administer. There was an astonishing fear by some district councils that if they hurt the feelings of certain ratepayers their power would be wrested from them at election time. That kind of thing stood in the way of the proper administration of the Act. The amendments brought in by the Government would scarcely increase the effectiveness of the Act in that respect. No mention had been made of the powers conferred upon district councils by the Act of 1905t which absolutely ensured the destruction of rabbits within any district council. Section 26 of the Act stated that \*Where an owner or occupier neglects or fails to comply with a notice, pursuant to section 23 hereof, an authorised person, in addition to proceeding for, and notwithstanding the infliction of, a penalty under section 24 hereof, may (a) enter the land of such owner or occupier; (b) use all such means, and take all such measures, and do and perform all and every such acts or things as to him may appear proper or necessary to be done to ensure the destruction of vermin upon the land and roads or parts of roads mentioned in such notice; and (c), remain upon, and shall have free right of ingress, egress, and regress into, over, and across such land for such period as may be necessary for destroying such vermin.” Again. section 27 set out most clearly that—“For the purposes of section 26 hereof, an owner or occupier of land who — (a) does not forthwith after the service upon him of such notice commence to comply there-with; or (b) having so commenced, does not continue such compliance, shall be deemed to have neglected or failed to com[ly with such notice.” None of the district councils who raised so much trouble over the Act, and made such violent requests for an alteration of the statute, had ever attempted to put into operation the very sections that made the statute dealing with vermin effective. He supposed that a council that entered upon land upon which it had no right to be land upon which there were not enough rabbits to raise a rumpus about, was liable to action for trespass. But where a man had land not larger than a Chinese cemetery, upon which there were rabbits, if I the council wanted to prove that fact they would not run any serious risk if they took advantage of sections 26 and |27. One of the most serious sources of trouble with district councils was the application of the Act to three-chain Broads, which, according to a legal interpretation, were supposed to be stock roads or stock reserves. Seeing that these three-chain roads ran through vermin - infested districts, it would be well to make the position clear by amending section 20 of the 1905 Act. He would move that in committee. The Bill, generally speaking, would satisfy the clamouings of district councils for an amendment of the existing statute, and it would help to conceal their shortcomings in the matter of rabbit destruction.

Mr. MILLER said Mr. Campbell state that in place of giving two months and 19 days’ notice at Port Pirie they only gave three days. As a matter of fact the full time was given, but it was held by the court that the information was laid on the wrong day. Only last week, in the Carrieton council, there were number of cases tried, and solicitors were obtained from the city, but all the cases were lost. In another instance, where the minutes were legally confirmed by the District Council Act, 14 days' notice was given. It was held by the court that it would be necessary for the inspector to camp on the grounds for that 14 days. Attention has been drawn to court cases. Only last week the district council of Carrieton brought five or six cases before the court, but lost them all. That showed the Act ought to be altered, so that the councils could more easily enforce it. A month’s notice in addition to the 14 days specified ought to be ample. He was quite prepared to support the Bill, but would seek to amend it in committee. He hoped the Bill would be passed, because it was badly needed.

•

Mr. TRAVERS said people living in the outside districts were anxiously waiting for an amendment of the Act, because it was ineffective as it stood. It was absolutely useless to attempt to grow wheat where the country was overrun by vermin. If they had a workable Act the district councils by taking united action could do much to get rid of the vermin pest. If the councils were given ample power they would not abuse it to the disadvantage of the country. The errors committed by district councils were principally on the side of leniency. If they wished to deal effectively with the vermin pest they must Act firmly. Liberality by public bodies on the vermin question had resulted in the ruination of many farmers in the outside country. He wished to see power given to the councils to enforce the Act without fear. Two months’ notice to carry out the Act was too long. He was glad the Government intended to push on with the Bill, which he hoped would be made as effective as possible. He would support the second reading, but would endeavor to alter some clauses.

Mr. JACKSON said the members for Stanley had received a communication from the district council of Snowtown in favor of striking out the proviso to section 25 of the Act of 1905, that no information in respect of land within a district council should be laid without; a resolution of the council, passed at a meeting held not less than 14 days after notice had been given to the person charged. The clerk of the council was a vermin inspector, and was in a position of independence, whereas the councillors might be friends or neighbors, or have business connection with the persons against whom informations might be laid, consequently they had a certain amount of diffidence in taking action. If they gave the clerk or vermin inspector power to take action there would be more likelihood of the law being carried out. The Snowtown Council suggested that the following words should be inserted:—“Any authorised person shall have power, after 28 days of the service of a notice by him on any owner or occupier of land to destroy rabbits, and the owner or occupier- fails to do everything required by such notice for the destruction of vermin, to lay an information against the owner or occupier, and the onus of proving that all necessary and sufficient steps had been taken for the destruction of vermin shall be on the person so charged. Provided that a notice to destroy may be served on the owner or occupier of land, or put up on any part of the land, or posted in a registered letter to him at his usual or last-known place of abode, and such service shall be deemed sufficient in any court where proceedings may be taken against the person so charged.’’ The suggestion of that council was clearer than the course proposed in the Bill. It was amusing to remember that hon. members who, when the taxation proposals were being discussed, said the holders of land were putting it to the best use, now said they were not doing so. One of the worst evils they had to fight was the vermin pest, including rabbits, wild dogs, and foxes. It was singular that the rabbits and foxes were introduced by landowners for pleasure purposes. They must not admit the principle that because a man owned land he could do absolutely what he liked with it, because the vermin pest was a most serious one. He was glad to see that principle being knocked in the head. That was being done more by such measures as that under consideration than in any other way. He hoped the amending legislation would give the district councils all the power required.

The cases mentioned that evening were very frivolous, and Mr. Campbell was right in saying that those frivolous objections were largely brought about by the carelessness of the councils themselves. Having been in a council himself, he knew how easy it was for councillors not to serve notices in accordance with the law. He would support the second reading, but wanted the Government to look carefully into his suggestions.

The COMMISSIONER of PUBLIC WORKS. in reply, was very glad to receive the many useful suggestions from hon. members respecting different districts. It was an intricate and difficult matter to pass a measure that would be effective against the arguments of members of the legal profession. Mr. Campbell thought the present Act was all right, but the trouble was that justices of the peace and stipendiary magistrates could not be made to order. They wanted a measure which would be easily understood. He had a good many amendments ready to make the Bill more drastic and plainer. Those amendments would be referred to the draftsman for consideration. He would simply take the Bill into committee and report progress, with the object of securing the opinion of the draftsman and then dealing fully with it in committee next day.

The second reading was carried.