**VOLUNTEER FIRE FIGHTERS FUND BILL 1949**

**Legislative Council, 23 November 1949, Page 1540**

Second reading

The Hon. R. J. RUDALL (Midland— Attorney-General)—The purpose of this Bill is to establish a fund from which payments may be made to volunteer fire fighters who suffer injury whilst combating fires or to dependants in the case of death. The matter of making some provision of this nature has been under the consideration of the Government for some time, and discussions have taken place with the Fire and Accident Underwriters Association of South Australia with a view to framing a practicable scheme for such a purpose.

It is common practice throughout the country that, on the outbreak of a bush fire, many men will volunteer to act as fire fighters and the efforts of these volunteers have been of great assistance in combating bush fires and preventing their spread. If a volunteer fire fighter is injured, he has no legal right to compensation and, on occasions when this has occurred, it has been left to private subscriptions to make good some of the expenses incurred.

If a person fights a fire in the course of his employment, for example, as a district council employee, he is, of course, covered by the Workmen’s Compensation Act in the event of injury or death. In the case of a fire control officer or a member of the crew of a trailer pump under the control of a council, he is required by the Bush Fires Act to be insured by the council.

The volunteer, however, is not covered by any form of insurance by a council or other responsible authority and, in view of the circumstances associated with the matter, any form of direct insurance is extremely difficult to devise. T his difficulty arises by reason of the fact that a volunteer fire fighter offers his services more or less on the spur of the moment. If there were a list of volunteers they could, of course, be covered by specific insurance but, on any given occasion, it may happen that others, not included in any official list, may offer their services and it is obvious that any scheme, to be fair and equitable, should embrace volunteers of this kind. The Government has, therefore, in consultation with the Fire and Accident Underwriters’ Association, devised a scheme whereby a fund may be established which can be used for the purpose of making payments to volunteers who are injured at fires. The Fire and Accident Underwriters’ Association has, of course, an interest in this matter, as the efforts of volunteer fire fighters can materially affect the liabilities of insurers in this State.

The Bill, accordingly, provides that there shall be established a fund called the Volunteer Fire Fighters Fund. Contributions will be made to the fund as follows:—The Treasurer is to contribute an amount not exceeding £1,000 in any financial year and a similar amount to that contributed by the Treasurer will be contributed in total by insurers carrying on business in the State. The contributions to be made by individual insurers will be calculated in the following manner. Every company or person carrying on insurance business in South Australia is required to take out an annual licence under the Stamp Duties Act and the duty payable on such a licence is based upon the premium income of the insurer. The Bill provides that the individual contribution of each insurer is to be proportionate to the duty payable by the insurer for the last annual licence, exclusive of duty which is attributable to life assurance.

It is provided that so long as the amount in the fund exceeds £10,000 no further contributions are to be required and it is also provided that, if such is necessary, the Treasurer may make advances to the fund which will be set off against future contributions of the Treasurer. The fund is to be administered by a board of three trustees to be appointed by the Governor. One of the trustees is to be a special magistrate who will act as chairman and another is to be appointed from a panel nominated by the Fire and Accident Underwriters’ Association. Trustees will be appointed for five years and two trustees will form a quorum. It is provided that the Treasurer may direct that the services of any public officer may be made available to the trustees and it is intended that officers of the Agricultural Department will provide any necessary clerical services required by the Trustees. The accounts of the trustees are to be audited by the Auditor General and are to be laid before both Houses of Parliament. Thus, the scheme for the fund is that the Fund will be built up by total contributions of £2,000 a year until the fund reaches £10,000, when further contributions will not be required unless the fund is diminished below that amount. The fund will be under the control of the trustees, who will have power to invest any moneys in the fund.

The trustees are given power to make payments to volunteer fire fighters who are injured whilst combating any fire or doing any act connected with or arising from that activity. In the case of the death of a volunteer firefighter payment may be made to his dependents. The trustees are given a discretion, firstly, as to whether any payment should be made, and secondly, as to the amount of the payment, although as regards this latter point the Bill provides that the trustees may have regard to the scale of compensation provided by the Workmen’s Compensation Act. It is provided, however, that no payment is to be made in respect of any injury or death for which compensation is payable under the Workmen’s Compensation Act and that no payment is to be made where the injury or death of the fire fighter occurs by reason of the fire fighter wilfully and knowingly acting contrary to any direction of a fire control officer. It is also provided that no payment is to be made in respect of an injury occurring at a fire within any part of the State to which the Fire Brigades Act applies unless the trustees consider that special circumstances exist which justify the making of the payment.

Thus, the Bill gives no definite legal rights to any fire fighter to demand payment for compensation and it is obvious that it is impracticable to create legal rights of this kind by a statute of this nature. The purpose of the provision in question is that a board of trustees possessing discretionary powers will be authorized by Parliament to make such payments as the trustees think proper to persons who are injured whilst carrying out a public duty. In assessing the amount of payment to be made the trustees will have regard to all the circumstances of the case. I think members will agree that the Bill will go a long way to ease the position which has been causing anxiety to a number of members of this place who are closely associated with the combating of bush fires. They will be glad to think that volunteer fire fighters, to whom this State owes a great deal, will be able to be compensated from the fund in the event of their suffering injury.

The Hon. A. J. Melrose—Will payment be made direct to the councils?

The Hon. B. J. RUDALL—I presume any claim will be made to the trustees, but experience has shown that the number suffering injury whilst fighting bush fires is very small. I move the second reading.

The Hon. N. L. JUDE (Southern)—Among others I have striven to make the landholders realize their responsibility in the matter of organizing against bush fires, and members will agree that in many districts tremendous strides have been made in the last few years, despite the difficulties of the war period. Today, with Government assistance, many districts are highly organized, and now have been further supported by what are termed the Emergency Fire Fighting Services of the State. They are distinct from voluntary fire fighting associations of landholders. They represent what the Government has done in providing equipment, and they form the spearhead, in the shape of heavy equipment which is manned, in the main, by personnel drawn from all walks of life in country towns. This emergency service is not made up of landholders’ employees using Government plant, but by groups of young men who realize they have an interest in the country although they live in the townships. It is as a result of this formation of volunteer bodies that the major fire fighting organizations of the State and many district councils have realized that something must be done in a businesslike manner to cover the danger of personal injury to such people. It will be realized that, where a man may be burnt to death or suffer serious injury—fortunately a rare occurrence—it is not sufficient to pass around the hat, because others, too, may suffer loss in the shape of damage to their vehicles, and so forth, and look for compensation, so the thing could quickly get out of hand. I propose to trace the recent history of this action by the Government. Councils and fire fighting organizations were beginning to exert pressure upon their members to get something done, and, as President of the South-Eastern Fire Fighting Association, following an interview with the chairman and secretary of the Fire Under­writers’ Association, I addressed a letter, under date of September 13, to them. It was as follows:—

Re Compensation of Volunteer Personnel Acting Under Direction of Fire Control Officers at Bush Fires.

Following upon our discussion last week relating to the above, I am setting down, for your further consideration, the main points which the South-Eastern Fire Fighting Association and other kindred organizations consider relevant to the matter.

It has long been felt desirable that persons who volunteer to assist in combating or pre­venting the spread of bush fires under the immediate direction of the fire control officer, should be entitled to some compensation in the event of their suffering physical injury or damage to their personal effects.

It is, of course, generally recognized by land owners that insurance companies are naturally reluctant to issue any sort of cover over persons or effects unspecified, and at first consideration this would appear quite reasonable.

In the past, of course, the arguments which pertain today didn’t exist.

Under the Fire Brigades Act the companies contribute heavily to the maintenance of the brigade, which cost is, of course, passed on in the premium, but so also does the Government contribute very heavily. Under the Bush Fires Act, although district councils may provide suitable equipment in country districts which is to some extent being done, apart from that maintained by land holders, the Government now provides quite an extensive amount of material controlled either directly or indirectly by the emergency fire services.

The foregoing factor was probably the reason for the introduction into the Victorian Fire Authority of 1945-46, Part II., sections 14 to 26, which provides for a compensation fund. Your kindred associations interstate can probably advise you on the details of this matter.

One of the factors that obviously limited your support in the past would appear to have been the magnitude of the risk involved. My association wishes to point out that as a practical and statistical fact very little risk would be undertaken by insurance companies in view of the fact that many accidents such as loss of motor cars, injury to third party, etc., are already fully covered.

Even admitted that some personal damage or damage to effects may occur in a serious bush fire, it must be apparent to your organization that the tremendous assistance given by properly controlled volunteers has in the past few years, time and time again, saved your companies many hundreds of thousands of pounds.

The attitude we adopt, therefore, is that where efficient organizations handling large amounts of personally owned equipment are available to defend the companies’ liabilities then we should at least get some *quid pro quo.* You are well aware that no consideration has been given by any company by way of reduction of premium based on the amount of equipment or provision of a land holder. In other words, both the Government and the land holders are fighting the fires on behalf of the companies and yet it is costing them approximately the same amount in insurance as previously.

It is admitted that reduction of premiums is a difficult matter in view of rising costs, but my association has not asked for this. It does feel, however, that some consideration should be given in return for the vast amount of work done in a purely honorary capacity by these organizations. They spend large amounts of money in erecting signs, advertising, and other means of prevention, and this is all contributed by the land holder himself.

Personally, I do not believe that it is desirable to add further cumbersome legislation to the present Act and I am somewhat reluctant to press the matter with the Government when I believe that this is solely your reasonable consideration whereby the whole problem can be overcome.

My organization will assist you with any facts or figures at its disposal regarding possible claims, and furthermore would readilyagree to a fairly restricted outlook regarding personnel involved, namely, persons for example might have to be directly under the fire control officer ’s orders and not merely proceeding to a fire. Such details, of course, could be considered after you have discussed the matter.

Of course, I received an answer that the letter would receive consideration, but I feel now that the Government, realizing that the session was drawing to a close and that nothing definite had come out of these moves, which had the support of the Bushfires Advisory Committee, conferred with the Underwriters’ Association and this Bill was the outcome. I say emphatically that this is a most generous measure.

The Hon. Sir Wallace Sandford—Who is being generous?

The Hon. N. L. JUDE—The Government is J being most generous, and I feel that this generosity is in some measure due to the Government’s confidence in the organizations that have been built up, and because of what they are doing for themselves. The Bill is tangible evidence of the Government’s interest, and I can assure the Attorney-General that it will meet with the greatest satisfaction throughout the country.

The Hon. F. J. Condon—I think the Bill should be considered next year.

The Hon. N. L. JUDE—If the hon. member had been in the South-East recently, he would realize that now is the time for its consideration and not next year. I have striven for this proposal for many years, but probably our previous claim for assistance was not as worthy as it is today. Little comment is necessary on the individual clauses. The amendment forecast by the Minister is a sound one, as it provides for a let-out for bona fide cases. I approve of the power proposed to be nested in the trustees of the fund, who will actually handle the contributions. They will be accountable to the Government for what is done with the money.

The Hon. F. J. Condon—Will this measureon a par with the Workmen’s Compensation Act?

The Hon. N. L. JUDE—When considering claims, the trustees will have in mind the basis of that Act. I am glad to notice that the Victorian Country Fire Fighting Authority is not to be closely followed, because in that State one third of the fund is contributed by shire councils. Councils will be faced with the responsibility of replacing heavy plant, part of which, in the form of heavy pumps, was supplied by the Government. The chairman of the District Council of Naracoorte said recently that he was worried about his council having to replace in a few years the truck used for fire fighting at a possible cost of £2,000, so I am glad the Government has seen fit to omit contributions by district councils. The New South Wales legislation follows somewhat along the lines of the Workmen’s Compensation Act, and also covers equipment. There is little or no need for equipment to be covered by this Bill. The main object is to cover volunteers against injury or death. These volunteers are drawn from the townships and use Government equipment, or equipment supplied by landholders. A man who is working for a landholder will be under his direction and covered by the Workmen’s Compensation Act. Under the Bill, the landholder himself will be covered if he is a volunteer fire fighter. That is reasonable and just. It is the job of the fire fighting organization to provide equipment.

If any adverse comment could be made against the measure, it is that the insurance companies will be on the best wicket. However, I would be reluctant to see the Government interfere in insurance companies’ private business affairs. In view of the considerable assistance given by the Government and landholders they are getting a good deal.

The Hon. F. J. Condon—Why should the Government come into it at all?

The Hon. N. L. JUDE—Because of its desire to help people who are prepared to help themselves. Apart from the volunteer fire fighters, the time will come when fire control officers will have to be protected against any accidental act of theirs resulting in loss. Any amendment in this direction will probably have to be considered when the Bush Fires Act is reviewed. If it can be shown that one of these officers has caused damage, he cannot be prosecuted for disobeying the law, although he may be liable to civil damage. I hope this matter will in due course receive attention from the Government.

The Hon. W. W. ROBINSON (Northern)— On behalf of the Northern Fire Fighting Association I express my appreciation of the measures taken by the Government and the Fire and Accident Underwriters’ Association to provide for compensation of voluntary fire fighters injured whilst combating fires. For a number of years our association has endeavoured to get insurance companies to accept responsibility in this respect, because it was contended that these volunteers arerendering a service to the companies by protecting the properties they have insured. It has been asked why the Government should come into this, but I consider it a national question. Councils have always been confronted by the possibility that, in going to the assistance of other districts, they may be involved in expenditure in providing compensation for any of their volunteer fighters who have taken part in fighting fires.

Last year there was a fire in a neighbouring district and when a call was made for fire fighters the Crystal Brook equipment was made available and the district council arranged to convey fire fighters to the scene. During operations one of the fighters, a man employed on the permanent way in the railways department at Crystal Brook, fell off the lorry and was in hospital for 15 weeks, thereby incurring liabilities in hospital fees and falling into arrears with his rent. Although a subscription was taken up and about £90 collected, it was not quite sufficient to meet the costs, and the last time I was in Crystal Brook he informed me that he still owed portion of the rent. We have felt for many years, and this emphasizes it, that something should be done to provide for people who voluntarily fight fires, not only in their own locality, but in other districts. Some may contend it is the responsibility of the insurance companies, but a fire may occur on an uninsured property, and, therefore, it is hardly fair that a company should be saddled with the whole responsibility. If fire fighters are willing to combat; fires in the national interests, it is the responsibility of the Government and the companies to make this provision, and I very strongly express my appreciation of the Government’s action in introducing this Bill.

The Hon. F. J. CONDON secured the adjournment of the debate.