**PEST PLANT’S BILL 1975**

**HOUSE OF ASSEMBLY, 30 SEPTEMBER, 1975, PAGE 928**

**Second Reading**

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

**The Hon. J. D. CORCORAN (Minister of Works)** obtained leave and introduced a Bill for an Act to provide for the control of pest plants within the State; to repeal the Weeds, Act, 1956-1969; and for other purposes. Read a first time.

**The Hon. J. D. CORCORAN: I move**:

That this Bill be now read a second time.

Its objects are to repeal the Weeds Act and to provide a more effective and workable system for weed control in this State. It has long been apparent to those concerned with weed control that the present Act is quite inadequate as a basis for achieving effective weed control or for carrying out co-ordinated control programmes throughout the State. Whilst the major responsibility for these matters remains with individual councils, there will always be the problem of piecemeal action. In some instances, various councils have been lax in discharging their duties under the present Act and there is little that anyone can do to remedy such an unsatisfactory state of affairs.

Furthermore, the present Act was, and still is, framed as primarily an agricultural measure and has accordingly hampered the efforts of the Weeds Advisory Committee to initiate control measures in respect of plants that are not necessarily harmful to agriculture but nevertheless ought to, and could, be eradicated or kept down to harmless proportions. It is time indeed to move into the area of plants that are harmful to the health of the community or detrimental to the environment, and for this reason the phrase “pest plant” replaces the word “weed” (the latter is felt to have rather limiting connotations).

Accordingly, when the Weeds Advisory Committee was reappointed under the present Act in 1972, it was charged with the specific task of reviewing the whole subject of weed control in this State and of reporting to the Minister on the measures, legislative or otherwise, that ought, in its opinion, to be taken to improve the situation. The committee carried out its task very effectively, and, during the course of its investigations, consulted the councils, various farmer organisations, and other Government departments, and examined similar oversea and interstate legislation. This Bill is the culmination of the committee’s work and the report subsequently made to the Minister.

The Bill basically provides for the creation of boards by the grouping together of various councils, and these boards will be responsible for discharging the various functions and duties that presently rest with individual councils. Thus, weed control will still be a matter for local government which is, in my opinion and in the opinion of the committee, best suited and equipped for such work. The system of boards provided in the Bill will be flexible and will ensure that councils will reinforce each other in effecting co-ordinated weed control programmes.

An independent commission will replace the present Weeds Advisory Committee and will have the task of initiating and supervising State-wide control programmes and of generally ensuring that each control board is a workable and effective unit. Many functions that are now Ministerial will be discharged by the commission. The commission will year by year determine the amount of general rate revenue that each council must contribute to board funds, and it is intended that this will be achieved largely by negotiation between the councils and the commission. It is proposed that the Government will subsidise each board fund to the extent of 50 per cent of the amount contributed by the councils. The Government will also make special grants in certain circumstances, and so boards with an unavoidably low revenue will receive financial aid that will prevent them from being totally ineffectual.

The province of weed control is no longer delimited by simple agricultural needs. World markets are demanding top quality produce free of any contamination whatsoever. In the future increasing population will demand that all available food-producing land be put to the best and most efficient use. Even now certain plants constitute hazards to health and to the preservation of the environment, and, as we are only too well aware, such hazards can so easily get out of hand. I commend this Bill to members as a step that can be taken to equip ourselves to deal with such present and future problems.

I ask that the explanation of the formal provisions in the Bill be inserted in Hansard without my reading it.

Leave granted.

**Explanation of Clauses**

Clause 1, 2, 3 and 4 are formal. Clause 5 sets out the various necessary definitions. It will be seen that there are, for the purposes of the Act, three different types of pest plant—primary, agricultural and community. Primary pest plants are those that the commission believes ought to be destroyed; agricultural pest plants are those that the commission believes are detrimental to any primary industry and ought to be controlled; and community pest plants are those that the commission believes are detrimental to the community or the environment and ought to be controlled. I ought perhaps to refer to the definition of “member council”—this means a council that forms, either alone or with another council or other councils, a control board.

Clause 6 provides the usual transitional and vesting provisions. Clause 7 constitutes the Pest Plants Commission as a corporate body. Clause 8 provides that the commission will be comprised of six members. The Chairman will come from the Agriculture Department. Two members will come from the Public Service, and it is contemplated at the moment that one will be from the Agriculture Department, and one from the Environment and Conservation Department. Two members will come from the councils. One member will represent farmers and graziers and other similar groups. Members will hold office for terms of three years with eligibility for re-appointment.

Clause 9 empowers the Governor to appoint deputies of members of the commission. Clause 10 empowers the Governor to remove members from office on certain grounds. Provision is made for vacation of office and the filling of casual vacancies. Clause 11 provides for the remuneration of members. Clause 12 validates any acts of the commission done whilst there is any vacancy in its membership, etc.

Clause 13 makes the usual provision for the conduct of business by the commission. Clause 14 provides for the appointment of an Executive Officer of the commission and other necessary officers. The commission may itself employ persons who will not be subject to the Public Service Act in such employment. Clause 15 sets out the general functions of the commission and provides a power of delegation. Clause 16 empowers the commission to act as a control board with respect to pest plant control in those areas of the State that are not under the jurisdiction of any council.

Clause 17 provides for the creation of control boards and their areas. The Commission will recommend the grouping together of the whole, or part, of the areas of various councils on a “geographical” basis. Such a recommendation will be made only after consultation with the councils involved. The areas and boards will then be proclaimed. Subclause (3) provides for the situation where one council only will constitute a control board, the area of the board being either the whole, or part, of the council’s area.

In such a case, the council itself constitutes the board, and no control is sought over the manner in which the council executes its business as a board. It will be possible therefore for a council to have its area divided between two or more boards. A council that has mostly urban land may well be constituted as a board in respect of that land and its rural land may form part of the area of another board, of which the council will of course be a member council. Subclause (4) provides for boards comprised of more than one council. The proclamation creating such a board will contain provisions for the appointment of members of the board by the member councils. Subclause (5) empowers the Governor to repeal or vary any proclamation creating a board and its area. Thus, it will be possible, as experience demands, to reconstitute boards in order to achieve a fully workable system.

Clause 19 provides the corporate status and powers of all boards constituted under this Act. Clause 19 to 23 inclusive relate to those boards that will be comprised of more than one member council. These clauses provide for the appointment of members of the board, the Chairman and deputies; for the removal of members from office and the filling of casual vacancies; and for the appointment of a Secretary to a board. Clause 24 makes provision for the keeping and auditing of accounts by boards. Copies of these accounts must be sent to the Commission at the end of each year.

Clause 25 provides for the conduct of business by boards. A board must hold its first meeting within two months of being established, must hold at least four meetings a year and must permit an authorised officer from the Agriculture Department to attend its meetings. Clause 26 relates to the appointment of an authorised officer for the purposes of exercising the various powers of inspection and investigation under this Act throughout the whole of the State. This officer will act at the direction of the commission. Clause 27 relates to local authorised officers. Each board must appoint at least one such officer to operate within its area. Local authorised officers must have the qualifications or experience in pest plant control prescribed in the regulations.

Clause 28 sets out the powers that may be exercised by any authorised officer, State or local. An authorised officer may, in addition to the usual powers of search and investigation, advise any person as to that person’s obligations under this Act. Most importantly, an authorised officer may take possession of any livestock, produce, etc., that he believes to be contaminated with any pest plant and take measures to destroy any pest plant found thereon. This power is most necessary in relation to inspections at the State borders and in towns near to such borders. Prompt action is needed where evidence is found of such dreaded plants as noogoora burr, which is frequently carried by sheep coming from certain other States.

Clause 29 appropriates moneys for the purposes of this Act in the usual manner. Clause 30 provides for the establishment of a fund by the commission, to be kept at the Treasury. The commission may invest any surplus not immediately required. Clause 31 provides for the establishment of a fund by each control board, consisting mainly of contributions from the member councils and subsidies and grants from the commission. A board may invest any surplus, or borrow any moneys, with the consent of the commission.

Clause 32 provides for the determination by the commission each year of the amount to be contributed by each member council of a board into the board fund. The total contributions will be based upon the work estimates of a board for the ensuing year. Individual contributions will be based upon that part of the member council’s area that lies within the board area'. The contribution in respect of rural land will be a percentage of the general rate revenue to be derived in respect of such land during the current financial year. The percentage may not exceed 3 per cent and is to be determined by the commission after hearing any representations of the board or member councils.

The contribution in respect of urban land will also be determined by the commission by negotiation. Payment of the contributions into the board funds must be made by the councils by the end of the month of February next following, by which time most of a council’s rate revenue has been received. There is, of course, nothing to prevent member councils from voluntarily paying into the board fund a greater sum than the amount determined by the commission. Any such extra payment will not, however, attract the commission’s subsidy.

Clause 33 requires the commission to pay a subsidy to each control board of 50 cents for every $1 paid into the board fund by the member councils. Therefore, if a member council fails to pay its contribution, the Government subsidy is reduced accordingly. Provision is made for the making of special grants to any board, at the discretion of the commission. Clause 34 empowers the Governor to proclaim any plant as a pest plant of a specified classification A proclamation declaring a plant to be a primary pest plant must also declare the plant to be a primary pest plant throughout the whole State. Agricultural and community pest plants may be declared to be such pest plants in any part, or the whole, of the State.

Clause 35 requires the owner of land to notify his control board if he finds any primary pest plant or other notifiable plant on his land. A control board may declare an agricultural pest plant to be notifiable for a specified time. A control board must notify the commission if it becomes aware of the existence of any primary pest plant on land within its area. Clause 36 requires control boards to publish annual lists of plants that are pest plants within its area, and also to publish any alteration made during the year to such a list. Clause 37 sets out the general functions of control boards under this Act. Clause 38 requires boards to destroy primary pest plants and control agricultural and community pest plants on certain lands and all public roads within its area.

Clause 39 empowers a control board to recover from owners of land adjacent to a public road upon which the board has destroyed or controlled pest plants, the cost of carrying out such measures upon the section of road abutting the property, up to the middle of the road (“public road” has earlier been defined as including all land lying between the boundary of the property and the edge of the constructed carriageway). A board may fix a charge for doing this work. The usual recovery procedures are provided. It should be noted at this point that the cost of controlling community pest plants upon public roads cannot be recovered from adjacent landowners. Subclause (6) provides for reimbursement of a landowner in certain situations—such as where he has cleared community pest plants from his side of the road at his own cost, and this is later covered by a grant from the commission to the board.

Clause 40 provides for the making of grants by the commission to boards for approved pest plant control measures taken by the board on certain lands, and, in relation to community pest plants, on public roads. Subclause (2) provides for the present intention that the commission will bear the cost of all pest plant control upon the “shoulders” of certain roads (that is, the strips of land 5 metres wide that edge the constructed carriageway). Clause 41 requires boards to co-operate with any directions or assistance given by a State authorised officer or the Executive Officer of the commission.

Clause 42 sets out the general duty of a landowner to destroy all primary pest plants and control all other pest plants found upon his land. Clause 43 empowers a control board to require a landowner, by notice, to take certain pest plant control measures if that owner is in default under the Act, or for the purposes of a coordinatedcontrol programme. A right of appeal to the commission is given to such a landowner. Clause 44 empowers a board to step in and carry out pest plant control measures on any land, where the owner of the land has failed to comply with a notice. The cost of such measures may be recovered by the board from the owner of the land. Clause 45 empowers the Minister to exempt any person, or class of persons, from any obligation or liability under this Division.

Clause 46 empowers the commission to declare that certain areas of the State be quarantine areas from which it will be an offence to move any livestock, soil, plants, etc. A defence is given to a person who obtains the prior approval of an authorised officer and moves the livestock, etc., in accordance with the terms of that approval. Clause 47 prohibits the selling of any livestock, plants, soil, etc., that are carrying any pest plant. A defence is given to a person who takes certain precautions before the sale or who believes on reasonable grounds that the goods were free of pest plants.

Clause 48 similarly prohibits the moving of any contaminated livestock, etc., from land on to a public road, or along a public road. A similar defence is given. Clause 49 requires a person to take reasonable care that roadside trees are not unduly damaged during the course of pest plant control. Clause 50 empowers certain persons in authority to enter any land for the purpose of any research programme, or any investigation under this Act. Clause 51 gives a control board a right to appeal to the Minister from any direction or decision of the commission. Clause 52 provides that any moneys owed by a landowner under this Act become a charge on the land and may therefore be recovered, if necessary, from a subsequent owner.

Clause 53 requires the commission to submit an annual report of its business to the Minister for tabling in Parliament. Clause 54 requires a control board to submit similar reports to the commission. Clause 55 provides the usual immunity for persons in authority acting in good faith under this Act. Clause 56 provides for the execution of certain documents by the commission and the control boards. Clause 57 is the usual evidentiary provision.

Clause 58 provides for the issue and service of notices by control boards. Clause 59 relates to proceedings under this Act. Clause 60 provides that penalties for offences prosecuted by a control board shall be paid to that board and penalties for offences prosecuted in any other manner be paid to the commission. I should perhaps refer at this point to the fact that all penalties in the Bill have a specified minimum as well as a maximum. The highest minimum penalty is $50 and the power of a court under the Justices Act to go below any specified minimum has not been abrogated. Clause 61 provides a regulation- making power.

Mr. GUNN secured the adjournment of the debate.