**NOXIOUS WEEDS ACT AMENDMENT BILL 1935**

**House of Assembly,**

Introduced by the Commissioner of Crown Lands and read a first time.

Second reading

**The Hon. M. McIntosh (Albert - Commissioner of Crown Lands)** – This Bill is introduced for the purpose of making a number of administrative amendments to the Noxious Weeds Act, 1931, which experience has shown to be necessary. Clause 2 inserts a definition of “Crown lands” in the principal Act. The term is used in sections 11 and 27 of the principal Act. Under these sections owners and occupiers of land are obliged to clear noxious weeds from their land and the adjoining roads, breakwind reserves, and drainage lands. Where however, the land adjoins Crown Lands this liability to clear does not become operational until the noxious weeds upon the adjoining Crown lands are destroyed. It is, therefore, of some importance that it be made clear what lands are Crown lands for the purpose of the Act. The definition provides that Crown lands are to consist of lands dedicated or reserved for any Government department or instrumentality and all other lands of the Crown which are not granted, leased, or licensed to any person other than a Government department or instrumentality. This will make it clear that, if the adjoining land is unallotted Crown lands or is land used for a Government purpose, the land owner will not be obliged to destroy noxious weeds unless the Government land is clear of the noxious weeds. Clause resolves a difficulty under section 14 of the principal Act. Under than section, if an inspector discovers noxious weeds on any land, he may give notice to the owner or occupier to destroy the weeds on the land and on the half the width of any adjoining road. If, however, he discovers noxious weeds on the road, but none on the land, he is powerless to act under the section. This omission is accordingly provided for by clause 3.

Section 15 of the principal Act provides that if after the giving of notice to destroy noxious weeds, the landholder does not, within the prescribed time, comply with the notice, he is guilty of an offence. If he satisfies the court that he used all reasonable exertion to destroy the weeds, the court may convict without penalty. In the case of a persistent offender, it is necessary to repeat the notice. Clause 4 therefore provides that, in effect, the notice will hold good for six months, and that failure to comply with the notice during any part of the six months after the giving of the notice will be an offence subject, of course, to the right of the court to convict without penalty when satisfied that all reasonable attempts to destroy the weeds have been made. Clause 5 remedies another difficulty which has arisen in practice. Section 16 of the principal Act provides that, in addition to proceeding against an offender for the offence of neglecting to destroy noxious weeds, the council may itself carry out the work and recover the cost from the owner or occupier. This provision is open to the construction that the council can destroy the weeds only if the land­holder has been prosecuted. It is, of course, desirable that a council should have power to act under section 16 without necessarily prosecuting the landholder, and clause 5 there­fore makes it plain that this course can be followed.

Section 18 of the principal Act provides that, in the event of a council destroying noxious weeds on land, its powers of recovery from the owner or occupier are to be limited to the amount which would be brought from a sale of the land. This provision is extremely difficult to administer, and the section may be read limiting the amount recoverable to the value of the land on which the noxious weeds were actually growing. This, obviously, creates an impossible position. Clause 6 accordingly provides that the council may recover an amount equal to the amount which would be derived from the sale of the piece of land on which or any portion of which the noxious weeds were destroyed. I move the second reading.

Mr.LACEY secured the adjournment of the debate