**SAND DRIFT BILL 1923**

**Legislative Assembly, 25 October 1923, pages 1063-6**

Second reading

The MINISTER of AGRICULTURE (Hon. G. F. Jenkins)—The necessity for this Bill has been felt by the officers administering the Local Government Department and by local governing bodies in different parts of the State for many years. It is the outcome of representations made from time to time with the object of giving power to prevent sand from drifting on to public roads, public works, and the property of adjoining owners. The report of the Parliamentary Draftsman states:—

This Bill is introduced in order to invest local governing bodies and the Government with the necessary power for dealing with the sand drift nuisance. The necessity of controlling sand drift has for long been recognised by the Government, and there are at present provisions in the District Councils Act (section 298) which confer upon district councils the power to deal with sand drifts, including the power to require private owners of land to plant or clear their land, as the case may require, in order to prevent sand drift. These powers, however, do not extend to land outside district councils, and are not designed to protect public works other than roads. The Bill deals with the question in a much more comprehensive fashion. It may be mentioned at the outset that the administration of the Bill is not calculated to involve the Government in any great expenditure. Although there is power in the Bill for the Governor to appoint inspectors, the men appointed will in practice be persons who are already in the service of the Crown. Moreover, the most important part of the Bill, namely, that dealing with sand drift on to public roads, will not, except in the case of roads outside district councils, directly involve the Government in any expenditure at all, since under this drifts within the limits of their own particular districts. In the case of sand drift from private part of the Bill district councils will be the proper authorities to deal with sand land on to roads outside district councils, or on to public works other than roads, the Government is given power to require the owners of such land to take steps to prevent sand drift, and the cost of so doing will fall upon these owners. It will be clear, therefore, that the Bill is not likely to entail any substantial addition to the Public Service or to the cost of government.

The Bill deals with four different aspects of the sand drift problem.

(1) There is first of all the question of sand drift from Crown lands on to public roads, public works, and private lands. The power to deal with this problem is contained in Part. II., which is headed “Breakwind reserves.” Under this part the Governor is invested with power to reserve any Crown lands to be a breakwind reserve for the purpose of abating or preventing sand drift. Land already reserved or dedicated to any public purpose may also be declared to be a breakwind reserve, and in addition land may be acquired by the Crown with a view to its being created a breakwind reserve. The Minister is empowered to take certain steps on any breakwind reserve in order to prevent sand drift. He may plant the land with marram or other grass or plants, or bush the land, or cover it with seaweed or any other substance, or take any other action permitted by regulations. Moreover, when land becomes a breakwind reserve no licence to remove timber, bark, stone, gravel, or sand from that land can be granted under section 289 of the District Councils Act, 1914. This part of the Bill will serve a twofold purpose. It will, on the one hand, enable the Government to deal with sand drift on lands which are now Crown lands. On the other hand, it will confer power on the Crown to acquire lands, in any place where the seriousness of the sand drift nuisance warrants it in so doing for the purpose of creating a barrier against the progress of the drift.

(2) Part III. is more particularly concerned with the measures which private owners of land may be called upon to take in order to prevent sand from drifting from their property on to public roads and works. Two cases are separately dealt with in this part, namely, cases of sand drift on to public roads, and sand drift on to public works. With regard to sand drift on to public roads, the Bill distinguishes between roads which are within a district council district and roads which are not. If sand is drifting or is likely to drift on to any road within a district council district, the matter will fall within the province of the local council, and such council may act under clauses 8, 9, and 10 according as it sees fit. By clause 8 the council is empowered to serve the owner or occupier of the land from which the sand is drifting or likely to drift, with a notice requiring him to plant such land with marram or other grass or with any specified plants, or to bush his land or cover it with seaweed or any other substance, or to do any other thing prescribed. Failure to comply with such a notice will (in addition to giving the council the right to do the work itself and recover the cost from the owner or occupier) render such owner or occupier liable to a penalty of not more than £1 for every day on which the notice is not complied with. By clause 9 the council is given power, if it is of opinion that the clearing, fallowing, cultivating, or grazing of any particular land is likely to cause sand to drift in greater quantities on to any public road, to require the owner or occupier to refrain or cease from clearing, fallowing, cultivating, or grazing that land. By clause 10 any owner or occupier to whom a notice under clauses 8 or 9 has been given may, in addition to being required to take the other steps mentioned in the notice, be required to fence the land with respect to which the notice has been given so as to keep out stock and preserve the vegetation thereon. With respect to sand drifts on to roads outside district councils the Minister is granted the same powers as district councils have as regards the roads inside their districts. With a view to preventing any unreasonable or unduly expensive requisitions being made, the right of appeal against any requisition is given to every owner or occupier on whom a notice is served. The appeal will be to the Minister whose decision will be absolutely final, and pending the hearing of the appeal the Minister may direct that the operation of the notice containing the requisition appealed against shall be suspended.

(3) With regard to sand drifts affecting public works other than roads, the whole matter of control is left with the Minister irrespective of whether the public works are within or outside a district council district. Power is conferred upon the Minister, in any case where he thinks public works are threatened by sand drifting from private lands, to act in the same manner as a district council might act in order to prevent sand from drifting on to its roads.

(4) Division III. of Part III. of the Bill contains the necessary machinery for enforcing compliance with the requisition of councils or the Minister. Upon failure on the part of the owner or occupier on whom a notice has been served, to comply therewith, the district council or the Minister may, through its authorised inspectors, enter upon the land and do all the work necessary to carry out the requisitions contained in the notice. The cost of doing the work is made a debt due from the owner or occupier of the land to the council or the Minister as the case may be. If such cost is not paid within three months the council or the Minister may give notice that, unless the amount owing is paid within one month from the date of the notice the land will be let or sold in order to discharge the liability. If the money is not paid within the month the land may be let forthwith, or may be sold, by order of the Court, after the expiration of six months from the publication of the notice in the "Gazette," as required by clause 21 of the Bill. These provisions for recovery of the cost incurred by the council or the Minister in dealing with sand drifts, are on the same lines as those contained in the Vermin Act for recovery of the cost of destroying vermin, and are also analogous to the provisions of the District Councils Act regarding recovery of unpaid rates.

(5) The other usual machinery clauses are included in the Bill. In addition, by clause 28 any land with respect to which requisitions have been made by the council or the Minister, is put under the care, control, and management of the council or Minister, as the case may be, in order that such council or Minister may be in a position to maintain and preserve any planting, bushing, covering, fencing, or other works carried out with a view to dealing with sand drifts. The council or the Minister is also invested with certain powers to make by-laws with a view to maintaining such works. (6) Part IV. of the Bill is directed to the problem of sand drifting from private lands on to other private lands. This part of the Bill will not apply universally throughout the State, but only to such parts thereof as are proclaimed. The general scheme of this part of the Bill is as follows:—Any occupier of land whose land is threatened with sand drift from the land of any other Person may apply to the council or the Minister (according as the land is within or outside a district council) for relief. Upon the making of such application the council or the Minister may, if it or he thinks that some benefit can be achieved at reasonable cost, act as if the land threatened by the sand drift were a public road. That is to say, a notice requiring the land from which the sand is alleged to be drifting to be planted, bushed, or dealt with in any other way mentioned in clause 8, may be served upon the occupier of such land. If such occupier does not comply with the notice, the council or the Minister may do the work, and the cost must be borne, half by the occupier who applied for relief, and half by the occupier on the land from which the sand was drifting. If the occupier served with a notice does not comply with it, he is entitled to be repaid by the applicant occupier half the cost and expense incurred in so complying. An additional remedy is given by this part of the Bill to the occupier of the land threatened or affected by sand drift in that he may, if the occupier of the land from which the sand drift arises does not comply with the notice, sue him for damages as for nuisance. Parts V. and VI. of the Bill need no special comment. They contain the usual machinery clauses and regulation-making power, and create certain offences with a view to securing the proper working of the Bill, and include the necessary provisions regarding evidence and legal procedure.

There have been several serious cases recently brought under my notice with regard to the nuisance that has been created through the drifting of sand on to public roads. Only this year one district council was faced with the possibility of a road which ran through its district being absolutely ruined, after considerable expense had been incurred in making it, through the drifting of sand from the adjoining land, if the adjoining land were broken up; and the council viewed the position with such seriousness that they took the necessary steps to purchase the land to prevent it from being broken up and drifting over the road. There was a metal road covered over already with 4ft. of sand, and the council had made an additional road on top of that. The House will realise that whereby reasonable means a nuisance of that kind can be abated, the adjoining owners should be asked to prevent the drift of sand on to public roads or adjoining owners’ private property. It is proposed that certain strips of land adjoining public roads in districts liable to drift shall be compulsorily protected; that is to say, if through overstocking of such land the natural bush and herbage is eaten off, and sand caused to drift, the owner can be compelled to fence off a certain strip of land so that the natural bush and herbage shall act as a binder, and prevent sand drifting on to the public roads. It is much wiser in such cases that a certain strip of land adjacent to the roads should not be cultivated . One of the objects of the Bill is to prevent the cultivation of such lands immediately adjoining public works and roads, and another is to protect private owners who suffer material damage through the neglect of an adjoining owner to adequately protect the sand drifting from his property.

Mr. Gunn—If a little more mallee were left on the roads people would not have had to sell their property two or three times.

The MINISTER of AGRICULTURE—I agree with that, but unfortunately mallee does not always grow in sandy districts. At Brighton for instance, trouble has been caused by the drifting of sand after considerable expense has been incurred in making roads, such drift proving a great detriment to the property of adjoining landholders.

Mr. Allen—Does that apply to all settled districts?

The MINISTER of AGRICULTURE—It would apply in the case of public roads and public works in all districts of the State. In the case of private lands it would apply only in such districts as are proclaimed from time to time.

Mr. Nicholls—The Bill is not designed for any particular trouble in any one district?

The MINISTER of AGRICULTURE—No, but because of representation that has been made from time to time by local governing bodies in different parts of the State, and in order to give some protection to works which have been carried out at considerable expense to the public. I move the second reading.

Mr. GUNN secured the adjournment of the debate until October 30.