**ANIMAL AND PLANT CONTROL (AGRICULTURAL PROTECTION AND OTHER PURPOSES) ACT AMENDMENT BILL 1989**

**House of Assembly, 22 February 1989, pages 2064-5**

Second reading

**The Hon. M.K. MAYES (Minister of Agriculture)** obtained leave and introduced a Bill for an Act to amend the Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986. Read a first time.

The Hon. M.K. MAYES: I move: That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it. Leave granted. -

Explanation of Bill

Its objects are to make several amendments which have been shown to be desirable since the Act was introduced to provide an integrated system for the control of proclaimed plants and animals under the guidance and direction of the single authority, the Animal and Plant Control Commission.

There are two major changes which have been found to be needed to safeguard a landholder or a board and its officers in the proper discharge of their responsibilities and two minor alterations which will improve the budget performance of boards and allow the commission to exempt a landholder from controlling a proclaimed plant.

Boards have been concerned that under the Act they are exposed to claims for professional negligence. Currently in the event of a significant claim a board would have insufficient resources and the Crown would be required to accept liability for the additional funding to allow the board to discharge its functions. Under the financing provisions of the Act extra annual costs of approximately $45 000 to be borne partly by Local Government but largely by the State would be incurred for professional indemnity insurance to cover all the boards. It is relevant to note that no claims have been made against any control board during the 12 years in which a similar provision to the proposed amendment operated under the Pest Plants Act and it is anticipated that a considerable saving will be effected.

The Bill also provides the opportunity to assist with more accurate budgeting by requiring boards to submit their estimates to the commission at the end of October rather than in June as is currently the case. This will allow negotiations between the commission and the member councils of a board before adopting the board’s budget and provide greater relevance to its impending financial year which is concurrent with the calendar year. There are also occasions where a person may need an exemption from the duty to control a proclaimed plant and an amendment has been included to provide the commission with the power to grant this subject to appropriate conditions. The most common case in which an exemption will be granted will be to enable plants to be kept for the purposes of research.

There has been some concern expressed by some landholders and authorised officers that they could be prosecuted under provisions of the Criminal Law Consolidation Act 1935, or the Summary Offences Act 1953, for complying with provisions of the Animal and Plant Control Act 1986, for the control of feral goats. The Government considers that such lawful action should be clearly seen to be protected and the amendment has been drafted accordingly.

Clause 1 is formal. Clause 2 changes the date for submission of a board’s budget to the commission. Clause 3 provides the commission with the power to exempt a person from the duty of controlling a proclaimed plant. Clause 4 makes an amendment consequential on the amendment made by clause 5. Clause 5 inserts a new section which states that a landowner or any other person taking measures to destroy or control animals or plants pursuant to the Act is not subject to any civil or criminal liability. A landowner who destroys feral animals on his land is performing a public service and in view of the fact that the Act requires him to perform this service the Government believes that the Act should clearly state that he is not liable if he has acted pursuant to the Act and regulations under the Act. It is proposed to make regulations that will require a landowner who knows, or believes, that another person claims ownership of animals, to give that person an opportunity of removing the animals before the landowner proceeds to destroy them.

Clause 6 provides protection from civil liability for members of the commission or its staff or persons acting at the direction of the commission and also for local control boards, their members, staff or contractors. This clause attaches such liability to the Crown. The section has been repealed and re-enacted for convenience. The new section gives immunity to the control board itself as well as the members of the board and also gives immunity to a person who assists an authorised officer (see section 27 (4) of the Act). The other difference is that the Crown and not control boards pick up the liability of those exempted by the section.

Mr GUNN secured the adjournment of the debate.