**TATIARA DRAINAGE TRUST BILL 1949**

**Legislative Assembly, 20 October 19949, pages 1033-5**

Second reading

The Hon. M. McINTOSH (Albert—Minister of Works)—I think this Bill, copies of which are now available, will commend itself to the House. I do not propose to go further than the second reading today as, being in the nature of a private Bill, it will have to be referred to a Select Committee for inquiry. The Bill has been introduced at the request of a number of landholders in the country surrounding Bordertown. Its object is to create a locally elected body which will have power to license and control the construction by landholders of embankments, drains, and other similar works for the prevention and regulation of floods.

Although the Tatiara area has not been troubled with floods this year, none the less the flooding of the Tatiara Creek has in the past been a constantly recurring source of trouble. The district council of Tatiara has built a drain in Bordertown to control the flow of the water through the town, but there is no systematic system of drains or banks to control the water in the farming country surrounding the town. The floods have for many years been a source of annoyance and loss to the landholders, and a number have built banks and drains to protect their holdings, but the unregulated building of such works tends to aggravate the problem because the water which is kept off or run off one man’s land often injures the land of someone else

The landholders have had numerous meetings and conferences on this subject and have discussed all aspects of it. They have sought the advice of the Government engineers who are familiar with drainage problems, and after full consideration have arrived at the conclusion that it is essential to control the construction of private banks and drains for regulating the flow of water. They do not consider that any public system of drainage works is desirable at present, whether constructed by the Government or a local authority. It is possible that as the years go on and more land is brought into production the water may ultimately prove to be rather an advantage than a disadvantage, but the immediate problem is to regulate the construction of private drainage, works so that landholders by taking action to protect their own land, will not cause injury to that of others.

The Bill, therefore, is for the purpose of establishing a locally elected drainage trust which will control the construction of private drainage works by means of a licensing system and will have power to order the removal of any existing banks and drains which cause injury to persons other than those who constructed them. The trust will only have a small amount of administrative work to do and no construction work, and its expenditure will be small; but because of the necessity of providing for elections and a rating system the Bill is necessarily a fairly long one.

In clause 4, which deals with interpretation, the important thing is the definition of "Tatiara Creek.” This term will include not only the Tatiara Creek in the strict sense of that term, but also the other creeks and lagoons which are connected with the Tatiara Creek, one of the principal of them being the Nalang Creek.

Part II. provides for the constitution of the trust. It creates the trust a body corporate under the name of the Tatiara Drainage Trust and provides for the constitution of the trust district by proclamations to be made by the Governor. The trust district will, in the first instance, be proclaimed by the Governor after consulting with the local residents; and when members of the trust have been elected, it will be possible to alter the district in any manner recommended by the trust. There will be four wards to begin with, but these also can be altered later on if the trust so desires.

Part III. deals with the members of the trust. It provides that there will be two members for each ward and a chairman. The qualification for membership will be that a member must be an owner or occupier of ratable property as defined in the Local Government Act, and situated in the trust’s area Members will retire biennially, but retirements in each ward will be staggered. The first chairman will be appointed by the Governor and every subsequent chairman will be appointed by the Governor on the recommendation of the trust. The chairman will hold office for two years. The usual ancillary provisions relating to casual vacancies, disqualification of members, and settling disputes as to membership are included.

Part IV. deals with the management of the trust and sets out the rules governing such matters as the office of the trust, appointment of its staff, meetings and quorum, and borrow­ing powers. In connection with this last mentioned matter the Government realizes that the trust may require some preliminary finance and has included in the Bill a clause enabling the Treasurer to make an initial advance.

Part V, deals with the control of drainage works and contains the most important powers of the trust. By clause 43 it is provided that no works for diverting, controlling or effecting the flow of water in or from the Tatiara Creek are to be constructed in future except under a licence granted by the trust. When a person applies for a licence to construct any such works his application will be advertised and any person objecting to the proposed works is given the right of lodging an objection with the trust against the grant of the licence. Before deciding an application for a licence the trust must give both the applicant and the objectors opportunities of stating their cases. An objector may claim that he will suffer damage if the proposed works are constructed in accordance with the application; and the trust is empowered, when granting the licence, to insert a condition that the applicant shall pay compensation to the person who will be injured by the construction of the work.

Clause 49 empowers the trust to order the removal of any works constructed in the future without a licence, and of any works constructed in the past which in the trust’s opinion cause injury to the land of persons other than the man who constructed them. If a person fails to comply with an order for removal of any works the trust may itself effect the removal and charge the cost against the person in default.

Part VI. deals with the levying of rates by the trust. The rating system is simple. The trust will not make an assessment of its own but will declare rates based on the ratable

Value of land as assessed under the Local Government Act. Generally speaking, the provisions of the Bill as to liability to pay rates and the power of the trust to recover them are similar to the corresponding provisions in the Local Government Act. It is, of course, contemplated that the rates will be small.

art VII. sets out the details as to the holding of elections. The procedure prescribed by the Bill for nominations and elections is similar to that applying to local government elections; and in drafting the Bill the Government has done its best to ensure that the trust’s elections can be conducted concurrently with the council elections without serious differences in method.

Part VIII. contains miscellaneous provisions as to the penalties for breaches of the Act, and as to the service of notices. Clause 100 enables the Governor to make proclamations giving directions as to what is to be done in any ease of doubt or difficulty arising under the Bill. A similar provision has been previously passed by Parliament in connection with local government areas and has been found useful.

Copies of the Bill have been submitted to 13 representative local committee at Border- town. The members of this committee considered the Bill carefully at some length, and the Government Engineer for Drainage, Col. Tolley, and the Parliamentary Draftsman have conferred with the committee. The Government therefore has reason to believe that if the Bill is passed in substantially its present form it will meet with the desires of the local landholders. On passing the second reading the Bill will be referred to a Select Committee. I move the second reading.

Mr. O’HALLORAN secured the adjournment of the debate.