**CONTROL OF WATERS ACT AMENDMENT BILL 1925**

**House of Assembly, 20 August 1925, page 534**

Second reading

**The COMMISSIONER of PUBLIC WORKS (Hon. L. L. Hill)—**Section 8 of the Control of Waters Act, 1919, provides that no person is to divert or take any water at any time from any watercourse to which the Act applies, save in the exercise of the general rights of all persons to water for domestic purposes or, subject to certain conditions, in watering cattle or other stock, unless the person is licensed under the Act to take the water, or is otherwise authorised under the Act or some other Act. Many cases have come under the notice of the Engineer-in- Chief’s Department where, while it was reasonably certain that occupiers of land in the River Murray area have been taking and using water contrary to the provisions of section 8, it has been practically impossible to obtain the legal proof necessary to secure a conviction. The only evidence which would be admitted in a court to establish the fact that water had been illegally taken would be direct evidence on the part of an observer that the water was actually taken. Under these circumstances, it is hopeless to expect the section can be administered. Consequently, clause 2 of the Bill provides evidentiary provisions, whereby proceedings under the section may be facilitated. If a settler has irrigation channels on his land or has provided any other means for irrigating his land whereby water from the watercourse can be diverted on to his land, it is reasonable to suppose that the channels or other devices are on his land for the express purpose of diverting or using the water. Clause 2, therefore, provides that in any proceedings under section 8, proof of the existence on any land of any irrigation channels or other means whereby water is capable of being diverted, taken, or used for irrigation purposes from any watercourse to which the Act applies shall be conclusive evidence that water was diverted, taken, or used contrary to section 8 by the occupier of the land, unless the occupier gives proof:—(a) That he has a licence under -the Act in force at the time of the alleged offence in respect of the said land; or (b) that the ground does not exceed one acre in extent and is used as a garden in connection with the dwelling. A somewhat similar difficulty of proof is also met with in proceedings under section 17 of the principal Act. Section 17 deals with the case of an occupier of land who has been granted a licence to take and use water from a watercourse to which the Act applies. The section renders it lawful for a licensee to take and use water to the extent and in respect of land and in the manner specified in the licence. The section also provides that if the licensee diverts, takes, or uses any quantity of water in excess of the quantity expressly authorised by the licence, he shall be guilty of an offence against the Act. In proceedings under this section, it is practically impossible to prove that a licensee is taking water in excess of the quantity authorised by his licence. Consequently, while the department may have every reason to believe that an infringement of the section has taken place, it is not able, except in exceptional cases, to produce strict legal proof of an offence. Clause 3 therefore provides that in any proceedings for an offence under section 17, an allegation that the licensee has diverted, taken, or used any quantity of water in excess of the quantity expressly authorised by his licence shall be deemed proved in the absence of proof to the contrary. The Bill is necessary, and I hope the House will grant the provisions asked for. I move the second reading.

The Hon. Sir HENRY BARWELL secured the adjournment of the debate until August 25.

**CONTROL OF WATERS ACT AMENDMENT BILL 1925**

**House of Assembly, 30 September 1925, pages1010-1**

Adjourned debate on second reading. (Continued from August 20. Page 534.)

**The Hon. G. R. LAFFER**—I would point out to the Minister how far reaching the effect of clause 2 would be. I do not know whether he has looked carefully into this provision, but it imposes a condition which is entirely unsatisfactory. The clause reads:—

(3) In any proceedings for an offence against this section, proof of the existence on. any land of any irrigation channel or any other means whereby water is capable of being diverted, taken, or used for irrigation purposes from any watercourse to which this Act applies, shall be conclusive evidence that water was diverted, taken, or used contrary to this section by the occupier of the said land, unless the said occupier gives proof—

(a) that he had a licence under this Act in force at the time of the alleged offence in respect of the land aforesaid; or

(b) that the land aforesaid does not exceed one acre in extent and is used as a garden in connection with a dwelling.

The conditions imposed there are absolutely impossible as regards certain men. Every member who has travelled on the River Murray must know that all the way there is land which has been used for irrigation purposes. Some of those properties have changed hands and the irrigation schemes on them have been absolutely abandoned. There are irrigation channels on that land, but the owners would be put in an impossible position, because they would have no defence whatever though they might not have used the waters of the Murray for years. I suggested to the Minister that the word “conclusive” should be struck out of the fifth line of the clause, and “prima facie” inserted in lieu thereof, and also that all the words after “land” should be also struck out. If that is done it will give the occupier of such land a chance of a defence. The Minister will see that under the clause as it reads at present the occupier of the land would have no defence, even though he may not have used the channels for four or five years. The provision is altogether too stringent, and the House should not agree to it.

The Commissioner of Public Works—If you will let the Bill go into Committee I will report progress and go into that question.

The Hon.G. R. LAFFER—While the Irrigation Commission should have every power that Parliament thinks necessary, we should safeguard the interests of the men who do not come under the ambit of subclauses (a) and (b). The State has spent enormous sums of money in locking the river. That expenditure has been the means of considerably increasing the value of the land bordering the river, because it means an ample supply of water for use at all periods of the year. In one respect the Bill could go further than it does. I consider the Government should take power to themselves so that they could resume any land adjacent to the river for irrigation purposes. A good deal more than should have been has been said to depreciate the work on the river country, but I am as sure that in the future it will be a great source of wealth to this State, as I am sure that the sun will rise to morrow. If the waters of the river are not to be used for irrigation purposes, there is little justification for the expenditure of so much money on locks. On every portion of the river a survey should be made of all. the adjacent land which should give details as to the lift and the suitability of the land for irrigation purposes. Eventually, I am sure, it will be necessary to pass legislation to utilise the water stored in the locks for irrigation. Those members who have been on the river must have been impressed with the beauty of the timber. If that timber were destroyed it would for all time take away the beauty of that great river system. Unfortunately in the early days much of the land was alienated, and the rights of those who have perpetual leases extend to high water mark, and the Government have no control over the timber growing on the borders of the river. Every member must agree that it is desirable that they should have some control. When I was in control of the Lands Department, I had a report prepared showing what land had been alienated to high-water mark, and so far as the leases granted later are concerned they do not give the lessee the right to destroy the timber. The question of whether it would not be wise to resume the timber rights within a given distance of high-water mark, and pay the owners whatever compensation may be necessary, is one worthy of consideration.

Mr. Reidy—The Government could take away the timber rights and leave them in possession, of the land.

The Hon. G. R. LAFFER—Yes. Members, acquainted with the river country must know that much of the timber has been destroyed. We must look ahead, and I would be prepared to give the Government the fullest rights of resuming land for irrigation. It will be necessary in days to come to use the water supply we have in the locks for that purpose. Fortunately, the outlook for the products of the river country is much better than it was last year. Members must be pleased with the prices received in the Old Country for our dried fruit. With the propaganda going on for trade between different parts of the Empire, the markets for these products are going to increase very materially. Where we have spent large sums of money in locking the river we should also have provision to make it possible for the State to utilise that water for the purpose of settling people on the land. The provisions of this Bill do not go as far as I propose, but I took advantage of the opportunity to point out some things to the Government which I consider important.

I am prepared to give the Government the fullest power to deal with men who take water without remuneration to the Government. The previsions of the Bill, however, go further than what is absolutely fair.

Bill read a second time.