**PYAP IRRIGATION TRUST ACT AMENDMENT BILL 1974**

**House of Assembly, 9 October 1076, pages 1376-7**

Second reading

 **Mr. NANKIVELL (Mallee) obtained** leave and introduced a Bill for an Act to amend the Pyap Irrigation Trusts Acts, 1923 and 1926. Read a first time..

NANKIVELL: I move:

*That this Bill be now read a second time.*

It may help members if I briefly outline some of the history of the Pyap Irrigation Trust. In 1921, the Pyap Proprietary Company was registered in Victoria to carry on the business of fruitgrowing and packing at Pyap. The company presumably got into financial difficulties during 1921 and mortgaged Crown Lease P/L 8669 to the Bank of Victoria Limited. In August, 1921, it subdivided the subject land into 15 blocks and offered them for sale by public auction. Of the blocks sold, nine were sold at the sale and the others were sold privately by private treaty but under the same terms and conditions of sale.

Because it seemed that the company would have to go into liquidation in order to protect the settlers and to enable them to carry on the irrigation of their blocks, it was decided to vest the whole of the irrigation plant, channels, implements, and equipment in a trust consisting of the settlers. By doing this the vendor was released from its undertaking to regulate and distribute water to the settlers and, in so doing, the long-term interests of the settlers were protected. By setting up such a trust the settlers believed they were protected in perpetuity.

The original private Bill introduced to establish this trust was presented to Parliament on September 4, 1923, was drafted along similar lines to that of the Renmark Irrigation Trust Act, and was designed to enable the trust to be formed to take over the regulation and distribution of the water supply. In 1926 a further Act enabled the trust to borrow money on long term against the rate income of the trust. The trust continued to operate for 50 years, but changing circumstances, such as the change in ownership of properties and perhaps, in particular, the metering of water pumped from the Murray River, caused dissension to creep in. This dissension was principally brought about by the poor condition of the distribution channels, most of which were earthen and unlined. This meant that the volume of water delivered against a fixed pumping allocation into the channels was reduced greatly because of seepage losses by the time the water reached members of the trust on the ends of those channels.

As a result, some people preferred to take a water allotment from the trust’s licence and to install their own pumps, rather than take a supply from the trust’s system. However, when they sought to do this, they discovered that the Act would not permit them to withdraw from the trust and act independently, and this is the reason behind the introduction of the amending Bill. These people, who were dissatisfied with the distribution of water under the trust’s distribution system, decided that they wanted to cease being members of the trust, and to operate independently, but they were prevented from doing so by the Act.

Yesterday, I again visited Pyap, where I met the Chairman of the trust, who reaffirmed that it was still the unanimous wish of all members of the trust that I should proceed to have their private Act amended in the form agreed to at a meeting held on Friday, June 29, 1973, to discuss the question. Following that meeting, I received a letter from the Secretary of the trust setting out the form that the amendments should take and asking me to have them properly drafted. The form of the amendments they wish to be made to the Act is as follows:

 (1) That the trust shall consist of ratepayers only and not lessees of all land within the area.

(2) That ratepayers shall be defined as those persons whether owners, lessees or occupiers of land within the area to which water is supplied by the trust’s system.

(3) That only ratepayers, as above defined, shall be assessed for rates by the trust, and the trust shall not be obliged to supply water to any owner, lessee or occupier of any land within the area if the owner, lessee or occupier shall have ceased to be a member of the trust or if at any time the trust has ceased to supply the land with water for a continuous period of one year.

(4) That a ratepayer shall cease to be a member of the trust if he shall give to the trust six calendar months notice of his intention to supply his land with water by means other than the trust’s system, provided that if a ratepayer shall fail to give six months notice as aforesaid he shall be regarded as a ratepayer and liable to payment of rates for a period of six months after the receipt by the trust of a notice of intention to use another supply or of having done so.

I am grateful to Mr. Hackett-Jones (Parliamentary Counsel) for helping me with the drafting of the Bill: in fact, it would be fair to say that he drafted the Bill. A copy of the draft amendments has been sent to the Minister of Lands for his information and comment. The Minister obviously had the proposals fully investigated because, on January 29, 1974, he wrote to the trust drawing attention to what appeared to be restrictive provisions in the proposed amendments and asking for the comments and assurance of the trust that it did not wish to amend the Bill any further. In due course, the members of the trust held another meeting, and I am told that they agreed unanimously not to change the form of the Bill but to proceed with the draft legislation without any changes.

 It is the approved draft that I am now presenting to the House in the form of a Bill. The intention of the Bill is to permit any member who wishes to cease to be a member of the trust to have the right to do so by giving in writing to the trust six calendar months notice of his intention to supply his land with water by means other than the trust’s system. Clause 1 simply consolidates two previous Acts. Clause 2 provides for such land to be exempted from rating—that is, land occupied by people who have opted out of the trust. Clause 3, the major amendment, provides for a new definition of membership of the trust by repealing clause 7 of the principal Act and replacing it with the new sections contained in clause 3. Clauses 4 and 5 are consequential amendments.

As this is a private Bill, it will need to be referred to a Select Committee of members of this Chamber and, because of the urgency to have the Bill passed before private members’ time terminates on October 30, I ask for the co-operation of all members in permitting the speedy passage of the Bill so that the Select Committee can be set up without delay. I thank the Minister for his co-operation in promising that the Bill will be passed speedily.

The Hon. HUGH HUDSON (Acting Minister of Works): I support the Bill. Bill read a second time and referred to a Select Committee consisting of Messrs. Arnold, Crimes, Groth, Hudson, and Nankivell; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on October 23.