**SOIL CONSERVATION ACT AMENDMENT BILL 1978**

**Legislative Council, 1 August 1978, pages 157-8**

Second reading

**The Hon. B. A. CHATTERTON (Minister of Agriculture)** obtained leave and introduced a Bill for an Act to amend the Soil Conservation Act, 1939-1975. Read a first time.

The Hon. B. A. CHATTERTON: I move: That this Bill be now read a second time. The extended drought that we have experienced in this State over the past few years has highlighted the need to institute vigorous programmes of soil conservation in order to protect our agricultural industries. The present Soil Conservation Act contains many of the necessary controls, but the application of the Act is dependent on the creation of soil conservation districts. The present mechanism for creating such districts is cumbersome and unwieldy. At present, soil conservation districts are created at the request of occupiers of land in a given area, who may petition the Minister to constitute that area a soil conservation district. The petition must be signed by three-fifths of the occupiers of the proposed district. If this condition can be met, the petition is referred in due course to the Advisory Committee on Soil Conservation appointed under the Act. The committee, in turn, is empowered to recommend that the area that is the subject of the petition, or another area, be declared a soil conservation district, and, provided that three-fifths of the occupiers of land in the recommended area consent, the Governor may then declare the area to be a soil conservation district.

In districts that contain a large number of small landholders, it has proved difficult in the past to obtain the consent of the required three-fifths; this difficulty arises not so much from opposition of the landholders as it does from the difficulty in ascertaining exactly who are the potential petitioners within a given area. It is proposed that the procedure be modified, first, to place initiative for the creation of soil conservation districts more directly in the hands of the Minister and, secondly, to enable the Minister to obtain consent to soil conservation proposals through local government bodies, as well as by direct reference to the landholders.

The Bill also provides for registration of orders requiring the preservation of vegetation. At present, such orders are binding only on the owners and occupiers of the land as at the time of the making of the order. Thus, if there is a change of ownership or occupation, the successor in title, or the subsequent occupier, may ignore the order with impunity. The Bill provides that where the order is registered it is to be binding not only on the original owner and occupier but also on their successors. The Bill also increases the penalties prescribed by the principal Act. The increase is necessary in view of the decline in the value of money since the penalties were originally fixed. It also facilitates proof of service of notices under the principal Act.

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

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 inserts definitions of “council” and “local government area” in section 2 of the principal Act. The former means a municipal or district council within the meaning of the Local Government Act, 1934-1978, and includes a body corporate vested with the powers of a municipal or district council. The latter means the whole or a part of a municipality or district as defined in the Local Government Act and includes the whole or any part of an area in relation to which a body corporate is vested with the powers of a municipality or district council. These definitions are made necessary by the new procedures for creating soil conservation districts discussed above.

Clause 4 removes an obsolete reference to the Compulsory Acquisition of Land Act, 1925, in section 3 of the principal Act, and substitutes a reference to the Land Acquisition Act, 1969-1972. Clause 5 deletes subsection (4a) of section 4 of the principal Act. This subsection became obsolete in 1946. A reference to the old Public Service Act of 1936 is also amended.

Clause 6 repeals sections 6a, 6b and 6c of the principal Act and enacts, in substitution, a new section 6a. This amendment establishes the new procedure for creating soil conservation districts. Under the new section, the Governor is empowered to constitute, divide or abolish a soil conservation district on the recommendation of the Minister. The Minister’s recommendation must be supported by the Advisory Committee on Soil Conservation, and, in addition, be approved by either the council or councils of the area in question or a majority of the owners or occupiers. Where the approval of the owners or occupiers is sought, provision is made for the Minister to conduct a poll. Clause 7 effects an amendment to section 6d of the principal Act consequential on the amendments to sections 2 and 6a.

Clause 8 amends section 6h of the principal Act, which relates to the powers of district soil conservation boards to secure evidence. This is the first of several penalty provisions in the principal Act in which the amount of the penalty is converted to decimal currency and increased, in this case, from the equivalent of $100 to $500. A reference to the old Public Service Act of 1936 is also amended. Clause 9 amends the penalty provisions of section 6j of the principal Act, which creates an offence of causing sand to drift from one area of land to another. The penalty of £50 is increased to $500.

Clause 10 amends section 7 of the principal Act which sets out certain powers of entry upon land. The penalty of £50 is increased to $500 and reference to the Land Acquisition Act, 1969-1972, is substituted for reference to the Compulsory Acquisition of Land Act, 1925. Clauses 11, 12 and 13 amend the penalty provisions of sections 9, 12 and 12a, respectively, of the principal Act. These in turn relate to the power to declare soil conservation reserves, the control of roads and stock routes and notice of intention to clear land. In section 9, a penalty of £50 is increased to $500, and in the case of the other sections a penalty of £100 is increased to $1 000.

Clause 14 amends section 13 of the principal Act, which provides for the protection of trees and other plants. The penalties prescribed by this section are increased to $1 000. In addition, new subsections numbered (8), (9) and (10) are enacted providing that orders for the protection of trees and other plants are to be registrable upon the titles to the relevant land and thereupon become binding on successors in title to, or subsequent occupiers of, that land. Clause 15 effects essentially formal amendments to section 13h of the principal Act. This section provides that soil conservation orders shall be registrable and binding on successors in title to the land which is the subject of the order. This amendment brings section 13h into conformity with the new provisions enacted by clause 14.

Clause 16 of the Bill amends section 13j of the principal Act, which deals with the enforcement of orders. The penalties are increased to $1 000. Clause 17 amends section 13k of the principal Act, which provides that fines resulting from contraventions of soil conservation orders, and expenses incurred by the committee in the carrying out of works specified in an order, shall be a charge on the relevant land. The section also provides that interest fixed by the committee and approved by the Minister at a rate not exceeding 4 per cent a year shall accrue on the amount owing in respect of such charges. This amendment removes the percentage limitation, which is considered to be both inflexible and out of touch with prevailing monetary values.

Clause 18 enacts a new subsection (3) to section 17 of the principal Act. This subsection provides that a statement in writing under the hand of an officer of the Public Service certifying that a notice or order has been duly served for the purposes of the Act shall, if tendered in legal proceedings, be evidence of service, in the absence of proof to the contrary. As section 17 presently stands, it is necessary to call the person who actually served the notice or order. This has proved inconvenient at times, and, in at least one instance, impossible. Clause 19 increases the penalty that may be imposed by regulation from £50 to $500.

The Hon. R. A. GEDDES secured the adjournment of the debate.