EIGHT MILE CREEK SETTLEMENT (DRAINAGE MAINTENANCE) ACT AMENDMENT BILL 1976

House of Assembly, 18 August 1976, page 726

Second reading

**The Hon. J. D. CORCORAN (Minister of Works)** obtained leave and introduced a Bill for an Act to amend the Eight Mile Creek Settlement (Drainage Maintenance) Act, 1959-1970. Read a first time.

The Hon. J. D. CORCORAN: I move:

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

It amends the principal Act, the Eight Mile Creek Settlement (Drainage Maintenance) Act, 1959, as amended. The principal Act casts a duty on the Minister of Lands to maintain a system of drains and drainage works in the area defined in the Act and, at the same time, provides for the declaration and levying of a special rate on the landholders in the area. The proceeds of the rate are required to be used to make a sufficient contribution towards the cost of the maintenance of the works that the Minister is obliged to carry out.

The reasons for adopting this scheme of rating were canvassed by the then Minister of Lands in his speech moving the second reading of the Bill for the principal Act (see 1959 Hansard, Vol. II at pp. 1850 and 1851). In its present form, the principal Act adopts a five-yearly rating period. Before the commencement of each such period:

(a) all ratable properties are valued and, after a suitable period for appeals, the valuation remains fixed for the five years of the rating period;

(b) an estimate is made of the total maintenance costs in relation to the five-year period; this estimate is then reduced to an annual average cost, and the rates for each year of the period are fixed in relation to that cost.

The substantial change proposed by this measure is that the estimate of costs will be done on an annual basis instead of on a five-yearly basis. To some extent this will reduce the impact of inflation on the rates. No change of substance is proposed in relation to the valuation provisions. The only other change of importance proposed is to remove references to the Director of Lands in the measure. Aside from the fact that the title of this office has changed to the Director-General of Lands, it is clear that his functions were formal ones that could be better discharged by the Minister.

Clause 1 is formal. Clause 2 amends section 2 of the principal Act by inserting a definition of “rating year”. The insertion of this definition will facilitate the annual estimation of expenditure upon the drainage works. Clause 3 substitutes in section 3 of the principal Act a reference to “the Minister” for a reference to “the Director”. Clause 4 performs a similar function in relation to section 4 of the principal Act. Clause 5 repeals section 4a of the principal Act, which is an exhausted provision.

Clause 6 amends section 5 of the principal Act, first, by providing for annual estimates of expenditure; and, secondly, by substituting in appropriate circumstances references to “the Minister” in lieu of references to “the Director”. In addition, proposed new subsection (3) has been inserted from an abundance of caution to ensure that the substitution of references to “the Minister” do not affect the validity of previous actions by the Director. Clause 7 amends section 8 of the principal Act, and is a consequential amendment. Clause 8 amends section 11 of the principal Act and is again consequential on the amendments previously made by this measure, as are clauses 9, 10, 11 and 12.

I might add that another reason for the amendments relating to the Director and Minister is that, now that the Water Resources Act is on the Statute Book, it is intended that, along with the responsibility for the South-Eastern Drainage Board, responsibility for this legislation will be transferred from the Minister of Lands to the Minister of Works. Therefore, anything to do with water, whether it relates to drainage, control of water, or management of water resources, will come under the aegis of the one Minister.

Also, a certain problem has arisen in relation to the maintenance rates obtaining in these areas because of the need, under the present Act, for a rate to be struck for the next five years. It is obvious that, with the inflation that has occurred in the last few years, it is not practical or sensible for a five-year rate to be struck. It is much more sensible for a rate to be struck annually. I take this opportunity of assuring the House that the recommendation made to Cabinet to have this Bill drafted also contained a recommendation, which was approved by Cabinet, that the maintenance rate applied to the Eight Mile Creek drainage area for the year to May 1, 1977, will be the same as the maintenance rate struck for the past five years.

Mr. RODDA (Victoria): The Opposition supports the Bill. Indeed, its members were grateful to discuss with the Minister the need for passing this Bill, which we realise needs to be passed speedily. As the Minister said, the principal Act casts a duty on the Minister of Lands to maintain a system of drains and drainage works in the area defined in the Act, which is known as Eight Mile Creek. This area, which was developed for war service land settlers, was formerly a deep, heavy, peat swamp. There are now about 24 properties in the area. I was associated with this matter as a Lands Department officer about 25 years ago.

The drains involved have done much valuable work, having brought into production some high-class dairy country. Of course, much valuable water runs through the drains into the sea, and this is a part of the mystery that attaches to the Blue Lake system. I do not think the phenomenon attached to this area has ever been properly understood. It is the policy of the Opposition that, when it assumes office, it will abolish drainage rates. I emphasise that for the benefit of the people of the South-East and of the State generally.

As the Minister said, there is a need to pass this Bill quickly. The enactment of this legislation will enable rates to be struck annually. In Committee, the Opposition will seek assurances from the Minister regarding changing to the one-year rating period. An examination of the rates paid indicates that the average rate imposed on these properties is between $350 and $400 annually. As the Minister also said in his second reading explanation, inflation is imposing a burden on people who engage in dairy farming. An estimate is made of all maintenance costs over a five-year period, and it is then reduced to an average annual cost for the period involved. It is important that these people be charged on a basis that will reduce the impact of inflation on the rates.

The only other important change is to remove references to the Director of Lands in the legislation. Apart from the fact that the title of the office has been changed to the Director-General of Lands, I point out that the officer really made recommendations to the Minister. So, this is merely a machinery provision that streamlines the legislation. The Opposition supports the Bill. I hope that in the ensuing years these people will not face excessive charges. I support this Bill, which provides that the estimate of costs will be done on an annual basis instead of a five yearly basis, which would be disastrous for the settlers.

Mr. VANDEPEER (Millicent): I, too, support the Bill, which is necessary to relieve the financial burdens of settlers in the Eight Mile Creek area. This Bill is being rushed through the House partly because of some lack of organisation on the part of the Government in connection with this matter, which has concerned the settlers for a considerable time. I would have hoped that, if legislation was to be introduced concerning these settlers, it could offer more relief than is provided for in this Bill. The Eight Mile Creek settlers are in a soldier settlement area that has proved to be extremely difficult to work since it has been drained. The area has some of the richest soil in South Australia, possibly the richest soil in Australia. However, the area has experienced, and is still experiencing, many difficulties.

When soldier settlers on such properties encounter such severe difficulties, the Government’s charges seem somewhat iniquitous. The Government should therefore be considering the complete removal of this drainage rate; or, rather than being charged a rate, the settlers should be allowed to take over the maintenance of the drains. They claim that this would be possible with the equipment that they have on their farms and that they could do it very much more cheaply than can the Government department involved. The water resources legislation transfers the operation of the maintenance crew to the Engineering and Water Supply Department, but it will still be a costly venture for the settlers.

The passing of this Bill will not mean that the charges for the drains cannot be raised in the future: The Bill simply relieves the financial pressure at present experienced. As the Minister has said, the rate for the ensuing year will be no greater than it was in the previous year but there is nothing in the Bill that prevents the Government from increasing the charges in future years; considering the small proportion of the total cost that is now raised I feel this is a possibility. I support the Bill because it provides some measure of relief to the settlers, but I hope that in the future the Government will reconsider the financial situation of the settlers.

Mr. ALLISON (Mount Gambier): I am a little surprised that this matter has been brought up so quickly, partly because there was a meeting only this morning at Eight Mile Creek regarding the drainage rates and also because I received a letter from the Minister of Lands only last Monday saying that the matter was currently under review, with no intimation that a Bill was imminent.

Mr. Millhouse: But you are not complaining, are you?

Mr. ALLISON: Not really; it is par for the course.

The Hon. J. D. Corcoran: What was the date of the letter?

Mr. ALLISON: I received it on Monday. In 1948 or 1949, Mr. Shepherd, a former member of this House, took a deputation to Eight Mile Creek to look at the area for soldier settlement purposes. He took with him members of the Victorian Government. It is on record in the Border Watch and the Advertiser at that time that the Eight Mile Creek land would prove to be some of the richest dairying land anywhere in Australia. For seven or eight years after that, the farmers made a struggling go of it, because of drainage problems and because they had difficulty in finding adequate pasture. The area became waterlogged in winter, and it was dry in summer. During the 1956 floods, the whole area was under water to the extent that 14 or 15 farmers had to row across their paddocks to inspect their cattle. It was impossible for the farmers to milk their cows or manage their farms. By the end of that winter, eight or nine farmers cut their losses, walked off their farms, and left the Government to dispose of the farms. Since then, a number of farmers (not all of them were soldier settlers) have gone on to the properties and some have left the properties. A succession of men have tried to make a go of it.

These people need some concessions in so far as they have a highland plot, to which they take their cattle in the winter, and a lowland plot, which is peat and extremely heavy and badly drained; this applies to 14 or 15 farmers, and it means that they have to be provided with two dairies, and they now have to have two sets of refrigeration plant. This will break many farmers, who will not be capable of continuing in dairying. Some farmers bought in, in the knowledge that this might happen, although they had a commitment from a local cheese manufacturer that he would take canned milk for 10 years. However, shortly afterwards he moved into Mount Gambier where he will manufacture his cheese, instead of at Eight Mile Creek. So, that move by the cheese manufacturer compounded the problem.

The drains are shallow, and there is a slight fall moving toward the coast, where the land rises slightly and impounds the water on the coastal, low-lying peat lands. The heavy winter rains are not necessary to flood the land, because the whole of the coastal area is a natural spring area. So, water flows into the swamp lands in winter even if the rainfall is moderate. Therefore, there is a consistent annual problem. If this Bill is designed to help the farmers (having read the Minister’s second reading explanation, I have no doubt that it is), I ask the Minister and his department to consider the method of draining the whole area at the lowest possible cost; at present, that is not so.

Men employed are not necessarily fully active all the year. Further, fairly expensive vehicles, such as utilities and land rovers, and heavy equipment are lying there for most of the year not being used. If that material was placed at the disposal of another department and the men were employed by another department, with their work being put into the drainage scheme for part of the year and the rest of their labour charged to a department elsewhere, that would be one way to drain the area at the lowest possible cost.

I say that because, with so few farms and the fairly high cost, if we divide the cost among those farmers every year and say they have to pay that money every year, they will be paying a high annual drainage charge. The other alternative is to allow the farmers or a private contractor to move into the area and find out whether that would enable drainage to be done at low cost. This is not a political issue; it is a matter of helping these people drain the land at the lowest possible cost. I have pleasure in supporting the Bill, if the Government intends to find some way to lower the annual drainage cost and keep the farmers there on a competitive basis, because it is a rich area, with the problem of the highland, lowland drainage.

Mr. MILLHOUSE (Mitcham): This Bill took me by surprise. I did not know until it was introduced that it was coming in but the Minister has since explained to me the reasons for the Government’s action, and I accept them. I do not castigate the Minister for not having let me know about the Bill in advance. I support the measure. The only matter that worries me is the fact that the administration of the Act is to be transferred from the Minister of Lands to the Minister of Works. In other words, the Minister who has introduced the Bill here is adding to his empire at the expense of one of his valued colleagues in another place, and I am afraid that soon the poor old Minister of Lands will not have anything to do. He has been consistently stripped of the administration of Acts, one after the other, and the Minister of Works has given no reason for changing the administration of this Act, except to say that all things connected with water should be under his Ministerial control. I do not know whether he regards himself as being wet.

The Hon. J. D. Corcoran: You know I am, don’t you?

Mr. MILLHOUSE: I did not say so, though. When the Minister replies to the debate, as I hope he will, I should like an assurance that the Minister of Lands does not mind losing the administration of this Act, and I hope that the Minister will say why the Government has found it necessary to transfer its administration.

The Hon. J. D. CORCORAN (Minister of Works): First, I express my appreciation to the Opposition members for their co-operation and assistance, and I also express it to the member for Mitcham.

Dr. Tonkin: He is in the Opposition, too.

The Hon. J. D. CORCORAN: Yes, but I single him out for special mention because he sits on the cross benches and we are never quite certain which way he will jump. Of course, we know that he will jump.

Mr. Millhouse: But if I jump your way, that’s all right.

The Hon. J. D. CORCORAN: Yes, and if the honourable member jumps the other way, he is wrong. Be that as it may, I appreciate the co-operation that I have received. True, the Bill has been introduced hastily, and I point out for the benefit of the member for Mount Gambier that the recommendations to draft the legislation were decided on in Cabinet only last Monday, so that shows how quickly we can move when we have to do so. Regarding the Minister of Lands, I will put the mind of the member for Mitcham at rest. I do not want to take anything away from my colleague. I would prefer to leave the administration with him and discard some matters that I control if I could do that, but it is good sense and wise administration to place this Act under the Minister who is responsible for the Water Resources Act. I do not think the honourable member will argue about that.

The Minister of Lands is not being stripped of all his responsibility, because the reorganisation of his department (and he now has a Director-General, Mr. Taeuber, who has been appointed recently) now involves the Valuer General’s Department, the Lands Titles Office and all matters dealing with land in that sense. The departments concerned are fairly large and they are additional to his other administrations, so, whilst he is losing in one direction, he is gaining in another. He is like the member for Mitcham, who loses in one sense and gains in another, but always seems to be around.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—“Interpretation.”

Mr. RODDA: The estimate of costs will now be done on an annual basis instead of a five-yearly basis. In his explanation, the Minister states:

Clause 2 amends section 2 of the principal Act by inserting a definition of “rating year”. The insertion of this definition will facilitate the annual estimation of expenditure on the drainage works.

This is the gravamen of the Bill, and it is what is concerning the settlers and the member for Mount Gambier. I think that appeals are being heard on this matter, and the valuation over the five-year period gave a rate that the settlers will pay in that quinquennial period. I ask the Minister what will be the situation at this time in this current year regarding rates.

The Hon. J. D. CORCORAN (Minister of Works): I again state categorically that the rate that was paid for the last rating year will not be increased. Even though new valuations have been struck in this area (and they are subject to appeal at the moment), and have a bearing on the rate that may be struck in any year, this year they will be ignored. The amount of money paid for rates will be the equivalent of that paid last year. Nevertheless, it is important that the people concerned continue with their appeals on valuations, because that could have a bearing on the rate struck in future, even though it will not have any effect this year. It may be the basis of rating for 1978-79, and so on.

The reason why we have not changed the five-year period of valuation is that that is the period set down for valuation anyway, and that is consistent with other Acts. The important thing regarding payment of rates is that it is not only a matter of the valuation: it is the amount that the Government is prepared to bear towards the total cost of the maintenance. Whilst various percentages were borne by the Government in previous five-year rating periods, I think the Government is bearing now about 80 per cent of the total cost. That factor is always considered when the Government is setting the rate. That has always been the case since I have been associated with the Eight Mile Creek area, and I have no reason to believe the position will change. The base on which the rate is struck is the valuation referred to by the honourable member, and that is what is subject to appeal at present.

Mr. RODDA: Is the Minister saying that the rate this year will remain unaltered? He seemed to suggest that in future a settler’s ability to pay would be considered. Is that the position?

The Hon. J. D. Corcoran: That has been the case, and it is the present position.

Mr. RODDA: It has not been so in many instances.

The Hon. J. D. Corcoran: I would not be amending the Act, if they had the ability to pay under the old Act.

Mr. RODDA: Will the settler’s ability to pay be a prime factor in future considerations?

The Hon. J. D. CORCORAN: The reason for these amendments being introduced has been stated by the honourable member. We are aware that people in the Eight Mile Creek area could not afford to pay the rate struck under the existing Act, as the formula applying would mean about a 350 per cent increase. We are aware of the problems these people are facing, as it is a severe time for them. If the Act is to mean anything in future, there has to be a basis on which to rate, and that is the valuation to which we are referring. It is a base that is used in almost every rate. It has been my experience, especially when I was the member for Millicent (and this problem was centred in my district), that Governments of both political complexions have considered the ability of the settlers to pay. That has not been ignored. In each case the Government has made a substantial contribution, and clearly this contribution has been made by the Government and not by the settlers.

Dr. TONKIN (Leader of the Opposition): First, subclause (b) strikes out the definitions of “the Director” and “the Minister”, and there is continued reference to these definitions throughout the remainder of the Bill. In his second reading explanation the Minister said that the position of Director is being replaced by that of Director-General. He also made the bland statement that the duties could be better carried out by the Minister rather than by the Director-General. The emphasis that has been creeping into legislation in the past four or five years, certainly, during the term of this Government, means that Ministers are being given more and more power in almost every jurisdiction.

The Hon. J. D. Corcoran: The Minister has always had it.

Dr. TONKIN: I agree with the Minister, but in this case, why is it necessary to make a change? Why should the substitution not be “Director-General” instead of “the Minister”? Secondly, and I do not wish to cause the Minister any embarrassment, why are we considering this Bill on August 18, 1976, when the rating year ended on April 30? The Minister did not explain the point adequately in his explanation.

The Hon. J. D. CORCORAN: I explained that to the Leader when I approached him on this matter. The rate should have been struck in accordance with the Act on May 1. I do not want to hide the position. The Auditor-General has already questioned the department on this aspect, and doubtless will make an observation on it. This position should not have arisen, but it has. Regarding the question from the Leader, if he had listened to the added explanation of why the Director had been replaced by the Minister, he would know that the Director is superfluous because he merely makes a recommendation to the Minister for his approval. Moreover, this Act will move from the jurisdiction of the Minister of Lands to the control of the Minister of Works under the Water Resources Act.

Mr. VANDEPEER: Can the Minister say why the Lands Department will not supply settlers appealing against the amount of maintenance to be paid, based on their valuation, with the criteria used to determine the valuation?

The Hon. J. D. CORCORAN: I cannot tell the honourable member because, without being rude, it has nothing to do with this Bill. The valuation is a fact when we consider rating, and the rate is based on that valuation. If the honourable member wants the valuer’s formula given to these people, he will have to approach the matter at another time and in a different way.

Clause passed.

Clauses 3 to 6 passed.

Clause 7—“Appeals to Minister.”

Mr. RODDA: With the transfer of control to the Minister’s department, and its specialists with expertise in water use, will the department be examining how additional and proper use can be made of this water? Many megalitres of water that run into the sea could be used: for instance, the dairying industry could use much of this valuable water.

The Hon. J. D. CORCORAN: I assure the honourable member that the present assessment has been continuing for some years. The assessment by the Engineering and Water Supply Department into the water resources of the whole State involves an examination of the matter raised by the honourable member. With much respect, it is a matter that has nothing to do with rating. However, I know the honourable member’s interest in this subject, and assure him that it is being investigated, and that eventually, when assessments are completed, recommendations will flow to me that will probably be referred for examination to the South Australian Water Resources Council. True, thousands of megalitres of high-quality water flow out to sea each year. As the honourable member would appreciate, because of the topography of the South-East, surface water storage is difficult to achieve, and whether water could be stored underground is another matter.

Clause passed.

Clause 8—“The annual drainage rate.”

Mr. ALLISON: When the Minister declares an annual drainage rate will he avail himself of the rather extensive correspondence that has passed between residents of Eight Mile Creek and the Minister of Lands, and to a petition that questions not so much the rate but the basis of rating—the valuation? Mount Schank land, which is only a few kilometres away from the area concerned, is fetching double the price that land at Eight Mile Creek is fetching, and settlers are questioning the basis of the valuation.

Clause passed.

Remaining clauses (9 to 12) and title passed.

Bill read a third time and passed.