**COUNTRY FIRES ACT AMENDMENT BILL 1984**

**Legislative Assembly, 19 September 1984, pages 984-5**

Second reading

 **The Hon. B.C. EASTICK (Light):** I move: That the Country Fires Act Amendment Bill, 1984, be restored to the Notice Paper as a lapsed Bill, pursuant to section 57 of the Constitution Act, 1934. Motion carried.

The Hon. B.C. EASTICK: I move: That this Bill be now read a second time.

It was received from another place on 9 May this year, having been passed unanimously by that place. The Bill was initiated in the other place by the Hon. Mr Griffin, who reported that for some time there had been concern that the penalties awarded by the courts for arson and breaches of the Country Fires Act had been inadequate. There are two possible solutions: the first is for the Crown to appeal when penalties are inadequate and where the penalty is manifestly lenient; the second is to increase the penalties where appropriate.

Arson is the major offence under the Criminal Law Consolidation Act, and in certain cases the penalty is life imprisonment and in other cases a maximum of 14 years. Although there is concern about the law of arson, particularly within the insurance industry, this Bill does not deal with that crime, although it should be said that a Liberal Government will undertake a comprehensive review of the law relating to arson. Concern about low penalties being imposed for arson and for offences under the Country Fires Act have been expressed by many people in the community, including the District Council of Spalding and northern councils and ratepayers. The Country Fires Act was passed in 1976 and the penalties have not been reviewed since that time. Recent bush fires throughout South Australia, particularly the Ash Wednesday fires of February 1983, have focused community concern upon the devastation, loss of life, injury and damage which can result from either accidental or deliberate breaches of the law or carelessness with fire.

In view of that community concern, it is now appropriate to review the penalties imposed by the Country Fires Act and to increase them, not just by the amount of inflation since 1976 but by a sufficient degree to focus greater attention on the offences, to express the community’s concern at irresponsible or illegal activity involving fires and to act more as a deterrent. It is for these reasons that this Bill generally increases penalties by 10 times. Section 39 of the Act, for example, makes it an offence to light or maintain a fire in the open during the fire danger season and imposes a maximum penalty of $500 for the first offence and $1 000 for a subsequent offence. Under the proposal in this Bill that maximum penalty for a first offence will be increased to $5 000 and for a subsequent offence to $10 000.

Section 41 makes it an offence to light or maintain fires in the open in a portion of the State specified in an order of the Country Fire Services, Board during the fire danger season except in certain circumstances specified in the order. Again, the penalty of $500 maximum fine for a first offence is increased to $5 000, and the maximum fine of $1 000 for a subsequent offence is increased to $10 000. On days of extreme fire danger, section 42 makes it an offence to light or maintain a fire in the open contrary to a warning broadcast under that section. The present penalty is $1 000 maximum fine for a first offence and $2 000 for a subsequent offence. This is to be increased to $10 000 maximum fine for a first offence and $20 000 for a subsequent offence.

Section 48 prescribes a maximum penalty of $200 for throwing any burning material from a vehicle during a fire danger season. How often have people travelling on the road seen others flicking the ash from a cigarette out the window rather than using the ash tray provided in the vehicle? There is no excuse for that blatant disregard of common sense of other people and the law. The present penalty is $200 maximum. This Bill provides an increase to $2 000. The only penalty which is not increased tenfold is that relating to the maximum penalty which may be imposed by regulations. This is increased from $500 in section 68 to $1 000 on the basis that where any offence is created by regulation only modest penalties should be imposed because of the lack of Parliamentary scrutiny of the offence which is created by the regulations.

Any major offence should be established by the Statute itself and the penalty fixed for that offence in the Statute by Parliament. By increasing the penalties under the Country Fires Act the real concern of the community for breaches of the Act will be more clearly expressed by the Parliament, and there will be a clear direction to the courts to impose higher penalties as punishment as well as acting as a greater deterrent to would-be offenders. Of course, the courts will still retain discretion as to the penalty which should be imposed in any particular case. The Bill only seeks to increase the maximum penalties which may be imposed by a court.

Following the passage of this measure in another place there was a considerable amount of community interest in the matter. A number of country newspapers—indeed the press Statewide—indicated that this measure had been introduced, and it was lauded as a tangible, sensible and reasonable course of action. However, it should not be regarded as the only action that is necessary for the future. In introducing this Bill in another place my colleague indicated very clearly that the committing of the offence of arson was a particularly damaging and unfortunate action on the Statute Book and that it was a matter that should receive the attention of Parliament to bring it out of the early twentieth century into the latter part of the twentieth century.

A number of deaths have occurred in recent times in bush fires with which an element of arson has been associated. As members of the House would know, at times this has even led to the laying of a charge of murder, subsequently reduced to manslaughter, in relation to a person who had admitted to lighting a fire on Ash Wednesday. It is because of the potential fear and therefore the nervousness generated within families or within a community, more particularly in the country regions, that the matter is yet to be addressed. Together with my colleagues I am giving that matter attention at the moment. However, as a first step the measure currently before the House has been accepted by members of all political persuasions in the other place. It was passed on 9 May this year, but, regrettably, because of Standing Orders and House procedures, the measure did not progress to this place. I trust that members will now give the Bill ready passage. I seek leave to have the explanation of the clauses inserted in Hansard without my reading it. Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 amends section 32 of the principal Act, increasing the penalty provided to $5 000. Clause 3 amends section 39 of the principal Act, increasing the penalty provided in subsection (1) to $5 000 for a first offence and $10 000 for a subsequent offence. Clause 4 amends section 40 of the principal Act, increasing the penalty provided in subsection (1) to $5 000 for a first offence and $10 000 for a subsequent offence. Clause 5 amends section 41 of the principal Act, increasing the penalty provided in subsection (4) to $5 000 for a first offence and $10 000 for a subsequent offence.

Clause 6 amends section 42 of the principal Act, increasing the penalty provided in subsection (3) to $10 000 for a first offence and $20 000 for a subsequent offence. Clause 7 amends section 43 of the principal Act, increasing the penalty provided to $2 000 for a first offence and $4 000 for a subsequent offence. Clause 8 amends section 44 of the principal Act, increasing the penalty provided to $2 000 for a first offence and $4 000 for a subsequent offence. Clause 9 amends section 46 of the principal Act, increasing the penalty provided in subsection (1) to $1 000.

Clause 10 amends section 47 of the principal Act, increasing the penalty provided in subsection (1) to $1 000. Clause 11 amends section 48 of the principal Act, increasing the penalty provided to $2 000. Clause 12 amends section 49 of the principal Act, increasing the penalty provided in subsection (4) to $10 000.

Clause 13 amends section 50 of the principal Act, increasing the penalty provided in subsection (1) to $5 000. Clause 14 amends section 51 of the principal Act, increasing the penalty provided in subsection (6) to $2 000. Clause 15 amends section 53 of the principal Act, increasing the penalty provided in subsection (3) to $5 000 for a first offence and $10 000 for a subsequent offence.

Clause 16 amends section 54 of the principal Act, increasing the penalty provided in subsection (3) to $5 000 for a first offence and $10 000 for a subsequent offence. Clause 17 amends section 55 of the principal Act, increasing the penalty provided in subsection (2) to $5 000. Clause 18 amends section 57 of the principal Act, increasing the penalty provided in subsections (1) and (2) to $5 000 in each case. Clause 19 amends section 58 of the principal Act, increasing the penalty provided in subsection (2) to $5 000. Clause 20 amends section 61 of the principal Act, increasing the penalty provided to $5 000.

Clause 21 amends section 62 of the principal Act, increasing the penalty provided in subsections (1) and (3) to $10 000 in each case. Clause 22 amends section 68 of the principal Act, increasing the penalty that may be prescribed for breach of any regulation to $1 000.

The Hon. G.J. CRAFTER secured the adjournment of the debate.