

## PLANT HEALTH BILL – 13 Nov 08

Adjourned debate on second reading.

(Continued from 29 October 2008. Page 665.)

**Mr PEDERICK (Hammond) (16:21):** I rise as lead speaker for the opposition to speak to this bill. I note that it is a bill for an act to provide for the protection of plants from pests, the regulation of the movement of plants into, within and out of the state, and the controlled destruction and suppression of pests, to repeal the Fruit and Plant Protection Act 1992 and the Noxious Insects Act 1934, and to make related amendments to other acts and for other purposes.

I acknowledge that this bill is a strengthening of the other acts. It upgrades our protections for our fruit, grain and winegrape growing industries worth over \$1.5 billion and, from my reading of the bill, it provides the protections required to keep South Australian industry alive and well. Industry, as we know, especially in areas reliant on irrigation, is suffering a fairly tough time at the moment, so we do not need anything to get in the way to upset that situation.

I will refer to the bill in the way it relates to taking over the Noxious Insects Act 1934. This relates to locust plagues or gregarious grasshoppers and, as a former practising farmer, locust plagues were at the forefront of my mind, and I believe the Hon. Rob Kerin, who has only just left this place, had to move quickly one year and push his department along when he was the minister to make sure that the appropriate actions were taken with the local councils up north around Orroroo, working with all the agencies to get the spraying done to get ahead of the locusts. Certainly, I am well aware that in the last five years I have had to spray for locusts as far south as Tintinara. They can just tear crops apart, so we do not want to see any dilution of this protection.

I want to make some comments on locusts. I looked up the 2008 forecast for locusts, and this relates to some of the things they have seen in New South Wales. They found a widespread nymphal infestation with many small bands developed in the Riverina and central west of New South Wales during October. They had some spring hatching in September, and over 1,500 reports were confirmed by the Rural Lands Protection Board in that state. Bands of high density nymphs developed in many areas. While the majority of bands have been less than 200 metres long, some have been up to a kilometre in length. They have had hatchings since early October in the Hume, Riverina and southern parts of the Murray and Wagga, where there have been over 200 reports. In northern Victoria there have also been reports of hatchings.

The APLC has carried out aerial control over 2,600 hectares of high density bands in eastern Narrandera and southern Condobolin during late October. The overall scale of their control operations is approaching 25,000 hectares. This is very similar to what happens here if work needs to be carried out against locusts, primarily through the efforts of landholders with the assistance and coordination from rural land protection boards, the New South Wales version, and the New South Wales Department of Primary Industries. It is also noted that fledging of residual nymphs will continue in early November, and adult population density will continue to increase during that month. There is a potential for numerous swarms to develop during November with the risk of crop damage.

I now move on to Victoria, where there have been over 200 reports of hatchings recorded through the areas of Wodonga, Wangaratta, Rushworth, Echuca and the River Murray. Most of these reports have been to the north and north-east of Shepparton. Landholders and local government authorities are carrying out controls in some of these locations.

I note that there have been some September surveys in northern South Australia, and, thankfully, they have identified a very low density adult population in the Far North and around the southern Flinders Ranges. Conditions are unsuitable for locust breeding, and populations are therefore unlikely to have increased. That is very good in the first instance, but I do commend everyone—all the volunteers, landholders, councils, government departments, and

ministers who have been involved—because locusts can cause multi millions of dollars damage to our cropping areas.

To get back to the main thrust of the Plant Health Bill, having read the many submissions that came in (I think there were about 26) there was general agreement that responsibility to report was widened by this bill, and that was well supported. I do note (and I should have made this comment at the start of my remarks) that the Liberal Party will support this bill. I hope the minister can address any questions I may bring up in my remarks, as it may save us going into committee; if I do need some more investigation we may go into committee, but it may not be necessary.

Inspection powers are strengthened. Control and prevention powers give the state better management of pests, and there is some discretion for the minister to pay compensation. Most commentators express concern about how fees will be calculated and kept to a reasonable level so as not to add to producers' costs.

The bill states that a horticultural industry charges panel is being established to provide recommendations to the minister on the future level of fees. I am very pleased that they have already had two or three meetings, and I hope that the minister takes heed of their recommendations. There is certainly a concern about any increase in costs to anyone in the sector.

Matters of concern include those from apple and pear growers and the Horticultural Plant Health Consultative Committee, and the Virginia Horticulture Centre and Adelaide Produce Market Ltd had similar concerns in their submissions. Issues were raised about malicious reporting, prevention, penalties and the suitable training of inspectors and others to facilitate the pursuit of alleged breaches. Concern has also been expressed that action has rarely been taken and that success is unlikely.

I note that the bill certainly institutes quite a wide range of packaging and labelling issues that will be taken up, such as controls on identification. There needs to be enforceability against interstate consignors, with the return or destruction of noncompliant goods. Another issue about packaging and labelling, which was brought to me through the submissions, was how accurate those could be at farmers markets.

There is concern about whether there will be sufficiently trained auditors, whether unannounced audits will be sprung on people involved in the industry, how the reporting mechanisms will work for the auditors and what the process will be for appointing third-party auditors. The issue was raised about whether the audits could be coordinated and aligned with other required audits in order to increase efficiency and minimise cost.

The submissions also expressed concern about whether the 24-hour notice inspection was too long and involved; however, we believe that this has been overcome by clause 10(1) and 10(2). It seems as though the penalties are sufficient and will act as a deterrent, and I note that they have been increased significantly, especially for body corporates (up to \$100,000). There will be on-the-spot fines, but we wonder about the department's willingness to impose fines. It has been noted that it has been extremely difficult in the past to achieve convictions.

It is believed that all producers and importers should be registered and that appropriate resources should be allocated to manage compliance. There is certainly a firm belief throughout industry that fines collected in this way should go back to bio security and quarantine activities and not into general revenue. There certainly needs to be a clearly defined communication strategy to raise awareness of the bill, especially when it becomes an act, and diagnostic tools and guidelines should be provided in relation to potential risks. It is believed that the new labelling laws will work as long as existing labelling procedures are used to minimise the additional cost.

There is certainly an issue for growers who have properties or industries, especially the horticultural industry I represent in the Southern Mallee, around Pinnaroo, Parilla, up towards Peebinga and working in with the Victorian Mallee. There will obviously be a lot of cross movement of goods across the border, and there are certainly issues surrounding how much manifest paperwork will need to be involved. I recognise that manifest will need to be completed in this legislation for those either sending produce into or through the state. The

point has been made to me that we should perhaps consider the regional status of the Mallee to counter this, but I know that the state border gets in the way and that that could cause some issues.

In relation to integration and minimisation of costs, we can integrate the different required accreditation and audits to minimise duplication and cost, and perhaps that may mean single audit visits. I am certainly interested in the clear policy guidelines regarding emergency situations. A lot of the emergency situation sections of the bill are mirrored in the former act, where people can use powers under a warrant process to access properties or information.

I am also interested in what modelling has been done by the department to demonstrate that the penalties will encourage compliance. I am certainly heartened that the penalties, especially for body corporate, have risen significantly. We need compliance to make sure that we have plant health to protect the horticulture and permanent plantings in this state, apart from the grains industry. The money should be used throughout the industry.

There is another concern about the on-cost to purchase to producers. As I mentioned, I hope that that money will go back to the industry. It is more of a sideline, but it works in conjunction with the bill, but I would like to see greater control and inspection of produce imported from outside of Australia, although I know that goes outside our jurisdiction.

I have talked about the effect on Mallee potato growers. Obviously, there is a concern that any extra costs for packaging and labelling are likely to be borne by growers and packers. There are also concerns about quarantine signage and whether that becomes a too high business cost for industry. There is also the issue about corrective assistance being provided before any changes are made. This focuses on the ultimate objective of the legislation, which is to keep South Australia pest free, rather than spend time and money pursuing errant producers and importers.

One submission mentioned the possibility of phasing in changes to allow industry to manage the increased costs over time, rather than imposing all changes and fees at once. The minister may be able to ease that pain in his reply and let the industry know how much the extra costs may be as we move forward.

Another submission queried whether there was an opportunity to promote a diagnostic service so that people could identify something that is not familiar to them that could be a risk to plant health in this state; and, as far as the manifests are concerned with carting produce into or through the state, whether there could be electronic lodgement, which obviously would be searchable for quick and easy access to the information.

There have been questions raised with me about whether the bill covers all the ornamental nursery stock and grapevine cuttings that are currently not labelled. I know that we had an issue not long ago with a certain business in South Australia which had the wrong gear on board and was put out in the marketplace. Certainly, as far as a major issue—

*The Hon. R.J. McEwen interjecting:*

**Mr PEDERICK:** Yes, that's it. The issue of branched broomrape in the Murraylands is an issue that is near and dear to me. Concerns have been raised around that. People may be aware that there are a lot of requirements for visitors to paddocks that are quarantined to wash their boots in a tray filled with a liquid, as well as cleaning down equipment as you move from property to property. There are some concerns that the legislation is either a feather or a big stick. It was put to me that we must maintain long-term working relationships with people and businesses. I have been given an example of persistent non-compliance with transport paperwork—such as movement of stock to sale—with respect to branch broomrape, and this can be from an infested or non-infested property within the whole quarantine area. Some of these people are not complying with the administration of the quarantine area as opposed to non-compliance that places the integrity of the quarantine at risk. It is almost another stage in the whole quarantine story.

It was put to me that if these people do not fit the definition of 'minor offence' they must be put through the penalty process. It has been put to me that this is too severe and difficult to police and manage, because, obviously, as I indicated, stock will be coming off infested or non-infested property within the quarantine area, and there may be a minor

offence enabling application of an expiation fee in that regard. In regard to warrants being issued, there was a concern on Kangaroo Island about the requirement of a magistrate to approve warrants to give inspectors the power of entry rather than a JP.

Evidently, no magistrates are resident on Kangaroo Island. It appears to me that that concern has been fixed up in the bill; and, under clause 47, it can be done by phone or fax. The local NRM/APC officer over there does not see this as a problem. The transport industry, which is one of the main bodies that carries a lot of produce through and into this state, believes that checking stations on main arterial roads should be manned 24 hours a day to police the laws fully if we really want to be serious about our plant health (this happens in Western Australia). It is suggested that consigners can easily avoid detection by falsely or incorrectly describing goods.

If a pallet is stretch wrapped for safety and security, there is no examination of goods to confirm the description because it is hidden under the stretch wrapping. This industry believes that freight personnel are not trained to inspect goods: they consider only temperature and loading requirements. As I mentioned earlier, there was concern about manifests and whether that would put undue time controls on freight companies and incur cost to these companies. As far as codes relevant to the bill are concerned, some people believe there should be an annual review of the codes to ensure currency and ongoing appropriateness.

Questions have been asked (and, I guess, the minister can address this later) about how consistent this will be with the other state and federal government legislation. Some people from interstate have commented on the bill, and they indicate that they do not see any major problems. It would seem that they are generally compatible. With respect to phylloxera—and I note the member for Schubert in the chamber—

*An honourable member interjecting:*

**Mr PEDERICK:** I do not know that he has got a dose of phylloxera. He might have had a grape! As far as phylloxera control in the grape industry is concerned, the changes are certainly supported. However, people are keen to see additional resourcing to facilitate the program, a specific education and awareness program and sufficient and appropriately trained plant health operation staff to meet increased workload and annual audit reports for the South Australian Plant Health Consultative Committee. They want to ensure that there are additional resources to ensure inspectors are adequately trained and equipped to collect evidence and take statements regarding any reporting of any problems.

They recommend a system of enforceable undertakings be established to provide an avenue for those breaching the act to make immediate changes to comply. They believe that further breaches will result in court action. The benefit is that there will be less cost and less risk of failed court action. Earlier I mentioned the alleged import into South Australia of affected vines. That could have been resolved in weeks by an enforceable undertaking, instead of moving forward through the courts.

The Citrus Growers of South Australia are keen to see reporting of breaches to include all parties to improve surveillance and control of the outbreak, and again they mention the concern about farmers markets, roadside stalls and backyard produce. I do understand why people go into these arrangements, especially on almost a semi commercial basis, with the tough times in horticulture at the moment.

Plant Health Australia believes that this bill is compatible with Plant Health Australia's emergency plant pest response deed, but they certainly have a question about the definition of 'supply' and how gifts come in under the legislation. There are several references to supply and control, and prevention and prohibition on sale where this may become important. They raise the issue of the status and liability of an individual who has been given or gives affected plant material. The word 'supply' needs to be defined and the meaning clarified.

A submission from the Queensland Department of Primary Industries and Fisheries indicated that there was no particular conflict with Queensland legislation. One interesting comparison is that Queensland has the ability to take action in relation to some pest infestations before a confirmed diagnosis is obtained. It has been an important feature of their act and was utilised to take quick action on the citrus canker outbreak at Emerald in 2004. I

wonder whether we have the facility to do this. It may come under the emergency response part of the legislation. My question is: does an inspector have the legal right to take assistance, vehicles, equipment, etc., to assist the investigation? That may have been addressed under the general powers.

One of the supermarket groups which has discussed this issue with me is concerned that it might result in increased cost of imported product, so becoming an impost on non-South Australian product. I mean, we certainly have plenty of good produce here and I believe that, in the Mallee, we probably produce about 80 per cent of the country's washed potatoes at the minute, especially with the stress on the river. I am also interested in traceability. Obviously with manifest there should be plenty of traceability through the bill.

I am very keen to see that consistency with packaging and labelling meets the requirements in other states and that, when this legislation is enacted, the fees should be nationally consistent across the board. I refer to the second reading of the bill which states:

*Stakeholders also forwarded their own proposals, including the establishment of a register of importers, which has been strongly supported by the Horticulture Plant Health Consultative Committee, representing key South Australian horticulture industry groups and the Adelaide Produce Market Limited. This proposal and a number of other minor proposed changes have been incorporated into the bill.*

We on this side certainly do support the bill. It is quite broad. It will protect growers in this state. I believe it does strengthen how we manage the transport into and through this state of goods from interstate.

We are certainly concerned about increased costs—not just money-wise, but time is money with transport—and that they do not put an onerous burden on transport companies. I know that now in the modern world most would have very up-to-date manifests and it is just a part of business, but that can be clarified in the reply. We on this side of the house support the bill and I commend the bill to the house.

**The Hon. R.J. McEWEN (Mount Gambier—Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development) (17:25):** Before I spend a little time on the response from the shadow minister and the lead speaker, I thank the members for Unley, Kavel, Goyder, Schubert and Mawson for their comments. In relation to the lead speaker (the shadow minister), I point out that, in terms of his first presentation in this place, he has shown how this parliament should work. There was not one political quip or one single attempt to pointscore through the whole presentation. The shadow minister demonstrated why this place, when it is working properly, works so well.

What happens is an agency works in terms of what we believe best practice to be. That agency then asks those people who draft the laws of the day (parliamentary counsel) to put that in a form that is enforceable by law. Then we have to see whether that truly reflects what we want because, from time to time in trying to capture what we want in a form that is legally enforceable, we sometimes miss some of the nuances etc.

The shadow minister went through the bill in some detail and, equally, I compliment him in terms of going through all the responses we made available to him. It was good to see that he said, 'You called for responses, can I also have a look at them?' Again, we gave them to him because we knew he was doing nothing more than wanting to convince himself and be satisfied that we had properly addressed all the issues which were raised. There is quite a list of them.

From this point on, we can do one of two things. I seek through you, Mr Speaker, the guidance of the shadow minister in terms of how we might proceed. One opportunity is that, before the close of business on Monday, I ask our senior officers to go through his second reading contribution and respond to each of the issues in writing. As a consequence of that, the shadow minister may wish us to put some things on the record or give further guarantees before proceeding with the bill. We would then do that in the second reading response in the other house. However, as a consequence of now reflecting on the issues raised by the shadow minister and having had another look at the bill, although it is unlikely, it may

transpire that the bill could be amended to better reflect the intent or be better balanced in terms of addressing those issues.

Again, I would then be happy to work through that with the shadow minister, and if as a consequence of that the bill can be refined, either we will do that by volunteering an amendment or negotiating an amendment with the shadow minister. Noticing the late hour, the alternative would be to go into committee and work through each of the issues to the best of our ability. I feel, quite frankly, that some of them require a little more reflection and some more work. I think that, if I gave a commitment on the record that every one of those issues in the honourable member's second reading contribution will be responded to in writing by close of business on Monday, we would have time to deal with that and then obviously be prepared to deal with the bill in the other place.

That again would be a very good example of best practice in terms of how the two houses of parliament can work to ensure that, when we turn bills into law, they are the best possible bills, because once they are law, they have serious impacts on individuals who breach them in any way, shape or form. We can move from this point in my closing remarks now. Based on those remarks, obviously it is then the shadow minister's call whether we go into committee today or whether we deal with it between the houses, which, I might add, is consistent with what we have done on other occasions. I am not putting to the shadow minister something that we would not otherwise do.

In closing, I thank David Cartwright, John Hannay and Sally Fearn, who I understand have worked very well over the years not only putting this together but also ensuring that all the comments we received were adequately addressed and all briefings that were required were made available. With those remarks, obviously I will close the second reading speech and seek through you, Mr Speaker, the guidance of the shadow minister in terms of how he wishes to proceed.

Bill read a second time.

**The Hon. R.J. McEWEN (Mount Gambier—Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development) (17:30):** I move:

That this bill be now read a third time.

**Mr PEDERICK (Hammond) (17:30):** I appreciate the frankness of the Minister for Agriculture, Food and Fisheries and I think I will go down the path he advocates of bringing a detailed response back to me by the end of business Monday, and, if there is anything that needs to be sorted out before we move to the other place, we can do it between the houses.

It was remiss of me earlier not to acknowledge the work of the department and the minister's officers in supplying me with briefings and any other information I required. It was certainly very helpful in putting together my response to the bill that we have debated today.

I believe the bill will certainly keep South Australia's disease status right up there, and I believe that it does strengthen our plant health status. I also acknowledge that it is the instrument with which we will combat future locust plagues. I commend the bill.

Bill read a third time and passed.