

clear that the Act will apply to wild-life reserves. Clause 5 alters the title of the commissioners for a similar purpose. It also provides that, in addition to the Minister of Lands, an officer of the Department of Lands nominated by the Minister will be one of the commissioners. It is not always possible for the Minister to attend meetings and for this reason and because of the possibility that further Crown lands may be placed under the control of the commissioners it is desirable that the department should have another representative. Clause 6 provides that the Governor may by proclamation declare that land vested in the commissioners, or of which the commissioners are lessees, or which is under the care, control and management of the commissioners, shall be a wild-life reserve within the meaning of the Act. It is contemplated that any land which is to be established as a wild-life reserve will be dedicated and placed under the care, control and management of the commissioners by appropriate action under the Crown Lands Act, and thereafter dealt with under the National Park and Wild-Life Reserves Act.

Clauses 7 to 12 are all consequential amendments. Clause 13 extends the powers of the commissioner to accept grants and gifts of land and personal property and exempts them from stamp duty and succession duty on such gifts. Clause 14 provides that wild-life reserves or other lands under the control and management of the commissioners will be exempt from rates and taxes, as the National Park now is. Clause 15 makes it clear that wild-life reserves cannot be mortgaged or made security for debts of the commissioners and clause 16 enables the commissioners to expend their revenue on wild-life reserves as well as the National Park.

The Hon. Sir WALLACE SANDFORD secured the adjournment of the debate.

AGRICULTURAL CHEMICALS BILL.

Received from the House of Assembly and read a first time

Second reading.

The Hon. Sir LYELL McEWIN (Chief Secretary)—I move—

That this Bill be now read a second time.

Its object is to regulate the sale of agricultural chemicals. At present the sale of fertilizers is regulated by the Fertilizer Act, and the sale of fungicides, insecticides and vermin destroyers by the Pest Destroyers Act. These are no longer adequate for present day requirements.

First, the number of agricultural chemicals on the market multiplies almost daily and the present legislation does not apply to many of the new products. Thus, the present legislation does not apply to trace elements, plant hormones or weedkillers. In the interests of the public it is desirable that the sale of these substances should be regulated. Trace elements are used for the purpose of correcting soil deficiencies and their importance is well known. The plant hormones are used principally for the prevention of fruit drop and for the promotion of fruit setting and are of increasing importance. Weedkillers are becoming very widely used in agriculture. Crop spraying in particular is becoming a common practice. It is important for both farmers and the general public that these agricultural chemicals should be of proper quality and efficacious for the purposes for which it is claimed they can be used. For example, it is desirable that trace elements should be properly mixed with the substances with which they are to be spread. The Government's attention has been drawn to the fact that trace elements are in instances not properly compounded with the substances with which they are sold. Also it is doubtful whether the Fertilizers Act applies to foliar fertilizers. It is desirable that foliar fertilizers should be under the same control as other fertilizers, and that doubt about the matter should be removed.

Second, the present Acts do not make adequate provision to prevent the sale of substances under misleading names, or false, misleading or indefinite descriptions. The Fertilizers Act provides for the licensing of fertilizers, and the Pest Destroyers Act for the registration of pest destroyers. The procedure in both cases which, for convenience, I will refer to as registration, is automatic. On the making of an application in due form registration cannot be refused. This means that an application may be made for the registration of a substance under a name which indicates that it contains specified ingredients, when, in fact, it does not contain them. Thus, substance which are not bordeaux powder are registered as "Bordeaux" and "Bordacide," and substances which are not copper carbonate are registered as "Copper Carbonate." A substance was also at one time registered as "Derridust" which did not, in fact, contain any derris. ("Derridust" now in fact contains derris.) Similarly, if a false description of the composition of a substance is given on an application for registration, registration

must still be granted. It is true that a person who sold the substance could be prosecuted for giving a false description of the substance if he repeated the description on a label under which he sold the substance, but it is unsatisfactory that registration should be granted in the first place. A further difficulty arises under the Pest Destroyers Act. While under the Fertilizers Act particulars of the quantities of the chemicals specifically mentioned in the Act must be furnished, the Pest Destroyers Act merely requires percentages of the substances which are claimed to be active constituents to be set out. The manner in which the active constituents must be stated is not regulated. This means that there is no way of preventing indefinite descriptions which have no specific chemical meaning from being supplied and used. Thus the expressions "chlorinated benzene," "hydrocarbon oils" and "essential oils" are expressions in use which have no specific meaning. Descriptions may also be inadequate. Thus there is no necessity to disclose the isomer content of B.H.C. or D.D.T. The isomer content is relevant to the effectiveness of those chemicals.

Third, there is no method under the present Acts of preventing the marketing of substances the use of which might cause injury to health, or substances which are not really effective for the uses to which it is claimed they can be put. The many new developments in agricultural chemicals make it necessary that measures should be taken for the protection of public health and to prevent substantially useless substances being passed off on the public.

Fourthly, there is no power under existing legislation to cancel the registration of any substance. The whole subject has been carefully investigated by a departmental committee which has recommended that the existing Acts be repealed and replaced by a single Act.

This would have two advantages. First, it would simplify the administration of the legislation, and second, it would avoid the necessity of registering a substance under more than one Act. There are a number of substances which serve more than one purpose and at present have to be registered under both Acts. The Government has decided, after giving the matter full consideration, to adopt the recommendation of the Committee that the existing legislation should be repealed and replaced by a single Act under which the sale of all types of agricultural chemicals would be controlled. The Government is accordingly introducing this Bill.

The Bill provides for the registration of labels to be used on packages containing agricultural chemicals. The registration of labels is made the responsibility of the Minister of Agriculture, who is empowered to refuse registration on various grounds set out in the Bill, namely, that the substance intended to be sold under the label is substantially ineffective for any purposes for which it is claimed it can be used. Power is given to the Minister to cancel the registration of a label in certain circumstances. As a general rule, the label must state particulars of the substances which are claimed to be active constituents of the agricultural chemical. A detailed description of the composition is not required to be given on the label. However, a detailed description is required to be furnished with the application as "additional particulars." In certain cases, particulars of active constituents may be furnished as additional particulars. The Bill provides that where an applicant can establish that a secret process or formula might be disclosed if he were required to state any active constituents of a substance in a label, he may register the particulars of the active constituents as additional particulars.

The Bill makes it an offence to sell an agricultural chemical except in a package with a copy of a registered label affixed to it, and also makes it an offence to sell a substance in a package with a copy of a registered label affixed to it, if the substance does not comply in every respect with the particulars stated in the copy and the registered additional particulars. Both the Fertilizers Act and the Pest Destroyers Act contain provisions affecting civil rights arising out of the sale of fertilizers and pest destroyers. Thus there are provisions creating warranties and enabling purchasers to refuse delivery. This Bill omits these provisions altogether. It is considered that it is better to leave these matters to be decided by the ordinary law of contract.

The details of the Bill are as follow:— Clause 2 provides for the Bill to come into operation on a day to be fixed by proclamation. Clause 3 repeals the Fertilizers Act and the Pest Destroyers Act. Clause 4 is an interpretation clause. The only definitions which call for comment are those of "active constituent" and "agricultural chemical." The Bill defines agricultural chemical as a substance commonly used, or represented by the seller as capable of being used, for any of four purposes. These purposes are as follows: for preventing, regulating or promot-

ing the growth of any vegetation; for improving the fertility or structures of soil in any way; for protecting vegetation or fruit or other products of any vegetation from attack by insects, animal fungi, parasitic plants, bacteria or virus and for destroying vermin.

The Bill also provides that the Governor may declare a substance to be an agricultural chemical by proclamation. This definition is wide enough to include all forms of fertilizers, plant hormones and weedkillers. Provision is made for substances to be excluded from the operation of the Act by proclamation. It is at present proposed to exempt certain natural products which have some value as fertilizers, for example, farmyard manure, crude night soil, crude offal and seaweed, and also substances which can be used both for agricultural purposes and for other purposes when they are sold for use for such other purposes, namely copper sulphate, sulphur, lime and zinc oxide. This matter is left to be dealt with by proclamation because it is considered that to attempt to deal with it in the Bill would lead to too great rigidity. It is almost certain that the list of exemptions will from time to time require amendments and additions, and these can be made readily by proclamation. The Bill defines "active constituent" to mean a constituent substance which is effective for any of the purposes mentioned in the definition of "agricultural chemical" or which materially influences the effectiveness for any of those purposes of any constituent substance.

Clause 5 provides for the appointment of inspectors and analysts for the purpose of the legislation. Clause 6 provides, in effect, that a label attached to a package containing an agricultural chemical need not be a facsimile of the registered label, although it must contain particulars identical in all material respects with those stated in the registered label. It is unnecessary to insist on the use of exact copies of registered labels.

Clause 7 sets out the circumstances under which a substance shall for the purposes of the Bill be deemed not to comply with the particulars shown in the label and the additional particulars. A substance will be deemed not to comply with such particulars only where the quantity of any claimed active constituent is greater or less than the quantity indicated in the particulars by more than the prescribed tolerance, or where the constituent substances are not properly mixed or where the substance is deemed not to comply with the particulars

by virtue of the regulations. It is desired that the circumstances in which a substance will be regarded as not complying with particulars of composition should be limited, but that at the same time it is neither practical or desirable to set out all the circumstances in the Bill. Hence the Bill provides for the matter to be dealt with for the most part by regulation.

Clause 9 makes it an offence to sell, offer for sale, expose for sale, or have in possession for the purpose of sale a substance in a package with a registered label affixed to it unless the substance complies with the particulars shown in the label and the registered additional particulars. It is a defence to a charge under clause 9 if the defendant obtained the substance already packed and labelled and the defendant believed on reasonable grounds that the substance complied with the particulars. Thus a person who manufactures and packs an agricultural chemical will be placed under a strict liability for any deficiency in the product marketed by him, while a dealer who purchases an agricultural chemical manufactured and packed by another will not be responsible for any deficiency in the agricultural chemical so long as he can show that he had reasonable grounds to believe that the agricultural chemical complied with the particulars.

Clause 10 makes it an offence for a person who sells an agricultural chemical in the course of his business to make any false or misleading claim in respect of the agricultural chemical. This clause is principally designed to prevent false or misleading advertising, examples of which have come to the notice of the Government. It will also prevent the inclusion of false or misleading matter in a label other than a registered label attached to a package containing an agricultural chemical.

Clause 11 makes it an offence to sell, offer for sale, expose for sale or have in possession for the purpose of sale any agricultural chemical which does not comply with the prescribed standard. A defence to a charge of this offence somewhat similar to the defence provided for the offence created by clause 9 is provided. The Pest Destroyers Act provides for the fixing of standards. Only one standard has in fact been fixed, namely a standard for copper carbonate. This standard will be enforced by clause 11. It is proposed that, if possible, other standards should be fixed in the future, as standards are regarded as a valuable means of regulating the sale of agricultural chemicals. However, there will be some delay

before any further standards are fixed. Work recently done on the subject has revealed that the fixing of standards is a complex matter.

Clause 12 deals with applications for registration of labels and additional particulars. The clause sets out the particulars which are to be included in a label, and provides for the use of abbreviations and symbols. Particulars of the composition of a substance must be given in compliance with the regulations and any directions given by the Minister. This provision will ensure that the particulars given have a definite chemical meaning. Clause 12 provides for the payment of a registration fee of 5s.

Clause 13 enables an application to be made for the registration of a label which does not disclose the active constituents of the substance intended to be sold under the label. The clause provides that on such an application particulars of the active constituent of the substance must be supplied as additional particulars. The clause provides that the Minister shall not deal with the application unless he is satisfied that the disclosure of the particulars might lead to the disclosure of a secret process or formula and that some person might thereby suffer loss. Provision is made elsewhere in the Bill to prevent as far as possible the disclosure of particulars supplied to the Minister under this clause.

Clause 14 sets out the grounds on which the Minister may refuse the registration of a label. They are as follows:

(a) that the substance intended to be sold under the label is substantially ineffective for any purpose mentioned therein or in additional particulars as a purpose for which the applicant claims or intends the substance may be used;

(b) that if the substance is used for any such purpose, there may be a substantial risk of injury to health of members of the public;

(c) that the distinctive name of the substance is misleading;

(d) that any statement in the application or in the label is false or misleading in a material particular;

(e) that in any respect the substance does not comply with the particulars stated in the label or the additional particulars;

(f) that a standard having been prescribed which applies to the substance, the substance does not comply with that standard; or

(g) that a constituent substance which is not claimed as an active constituent of the substance ought to be so claimed.

The clause provides that the Minister must not register a label unless he is satisfied that the substance if sold under the label would not be sold in contravention of the Poison Reg-

ulations. An application for registration must otherwise be granted as of right unless the Minister is satisfied that a ground exists for the refusal of registration.

Clause 15 enables one label to be registered for a number of packages containing different quantities of the same substance. Clauses 16 to 22 enact various machinery provisions. Among other things they deal with such matters as the annual renewal of registration, the alteration of a registered label or registered additional particulars and the keeping of a register of labels and additional particulars. Clause 21 enables the Minister to refer any matter arising out of an application to the Central Board of Health for the report of the Board.

Clause 23 provides for the cancellation of registration. Two grounds of cancellation are provided, namely, that the person who obtained the registration has sold, offered for sale, exposed for sale or had in his possession for the purpose of sale, any substance in a package with a copy of a registered label affixed to it and the substance has not complied with the particulars contained in the copy and the registered additional particulars or the person has been convicted of an offence against the Bill. The first of the grounds mentioned in this clause is included mainly in order to facilitate the enforcement of the provisions of the Bill against interstate manufacturers. Many agricultural chemicals are manufactured and packed in other States and it is expected that difficulty would be experienced in prosecuting such persons for offences against the Bill.

Clauses 24 to 28 provide for the taking of samples by inspectors and by private purchasers, for the analysis of such samples, for the publication of the result of an analysis, and other matters incidental to the taking of samples and the analysis of samples. Clause 29 enables a court, on convicting a person of an offence against the Act by means of evidence of an analysis to order the person to pay the costs of the analysis. Clause 30 makes it an offence to obstruct the Minister or any inspector or analyst in the execution of his powers and duties under the Bill. The provisions of clauses 24 to 30 are substantially similar to provisions contained in the Fertilizers Act and the Pest Destroyers Act.

Clause 31 requires the Minister to take all reasonable steps to ensure that information supplied to him under the Act concerning the composition of substances is not unnecessarily

disclosed to the public. Clause 32 provides for the making of regulations. The clause provides, in particular, for the making of regulations for the taking of grab samples. The purpose of this provision is to enable samples to be taken by which the proper mixing of an agricultural chemical can be determined. In order to obviate any injustice arising from the method of taking samples provision is made that different tolerances may be prescribed to apply where grab samples are taken. The clause also enables regulations to be made requiring packages containing agricultural chemicals to be labelled with a brand where ordinary labels are not suitable for use.

Clauses 33, 34, and 35 deal with legal procedure. Clause 34 enables a complaint for an offence against the Bill to be laid within 12 months of the matter of the complaint arising. Normally, by virtue of the Justices Act, a complaint must be laid within six months. The object of clause 34 is to facilitate the prosecution of the person who originally packs and labels an agricultural chemical in contravention of the Bill, by giving more time for the offence to be discovered.

Clause 36 is a transitional provision in effect providing for the continuance of a registration under the Fertilizers Act or the Pest Destroyers Act until the normal expiry date. The clause enables any substance not registered under either of those Acts to be packed in packages not labelled with a label registered under this Bill for three months after the commencement of the Bill. Clause 37 amends the Stock Medicines Act. The effect of clause 37 is to bring within the scope of that Act substances used for preventing insects or other pests from attacking stock. The sale of such substances is at present controlled by the Pest Destroyers Act. Clause 37 also provides that the Stock Medicines Act shall not apply to any agricultural chemical within the meaning of the Bill. Clause 37 is designed to make a convenient division of work in the Department of Agriculture.

The Hon. S. C. BEVAN secured the adjournment of the debate.

ADJOURNMENT.

At 10.20 p.m. the Council adjourned until Thursday, November 17, at 2 p.m.