**VERMIN ACT AMENDMENT BILL 1944**

**Legislative Assemby, 23 November 1944, pages 1102-3**

Second reading

**The Hon. G. F. JENKINS (Newcastle—Minister of Agriculture)-—**Section 56 of the Vermin Act,, 1931-1943, provides for the vesting of the property of a vermin board upon the abolition of the district of the board. There are some. important deficiencies in the section and it is proposed by the Bill to re-enact the provision of the section with some amendments which .will make good those deficiencies. Under Part III. of the Vermin Act a vermin board is given power to erect fences and, notwithstanding that any such fence may be erected on the land of any person and that contributions may be re­quired towards the cost of the fence, the fence remains the property of the board. Section 56 provides that, on the abolition of a vermin board, any fence of the board which is situated on the land of any lessee is to become the property of the lessee upon payment to the Crown of the then value of the fence. The sec­tion only refers to lessees of land, but in instances the fences are situated upon land held upon freehold tenure and in other instances land situated on land of the Crown which is not held under lease or agreement, and it follows that no provision is made by the section for such eases. In addition, no specific provision is made to deal with the case of a dividing fence.

The section provides that the amounts received from lessees in payment of the fences on their land, are to be divided in proportion to the ratable land held among ratepayers of the district who in the year prior to the abolition of the board were required to pay rates to the board. But instances have occurred where prior to the abolition of a board, no rates had been imposed for some years and, in such case it follows that, under the present provisions of the section, no person has any right to receive any part of the amounts paid by lessees for the fences. It is therefore proposed by clause 2 of the Bill to re-enact section 56 and, whilst following the principle of the present section, to make provision to deal with the various circumstances which may arise and which are not dealt with in the section as now enacted.

A definition of landholder is provided in the Clause. The term will include freeholders, Crown lessees, holders of Crown agreements for sale and purchase, and mortgagees in possession. As regards land of the Crown which is not subject to any lease or agreement, the Director of Lands is to be regarded as the landholder. Land held under licence will be regarded as land of the Crown for this purpose. Upon the abolition of a vermin board, if any fence of the board is situated on the land of any landholder, including a fence which is the boundary between any such land and a road, it is pro­vided that the fence is to become the property of the landholder upon payment to the Crown of the then value of the fence. If the fence separates the land of two landholders, each is to pay one-half of the then value, and the fence will then become their joint property. In instances, it may occur that it is difficult to ascertain whether a fence is on the exact boundary of any land, and cases may arise where, although a fence is not actually on the boundary, the fence serves the purpose of a boundary fence. This matter is dealt with in sections 202, 203, and 209 of the Act, and provision is made whereby the occupier of land on which such a fence is situated may recover a proportion of the cost of the fence from the occupier of any adjoining land for which the fence serves as a boundary fence. It is provided by clause 2 of the Bill that these sections will apply to a fence taken over by a land-holder under the clause.

As regards land of the Crown, the provisions of the clause relating to the vesting of property in a fence of the board will apply in the same manner as in the ease of land privately held, except that provision is made for the amount representing the then value of the fence, which becomes the property of the Crown, to be provided from moneys voted by Parliament for distribution among the persons entitled. The amounts contributed in payment for the fences of the board taken over by landholders and the Crown are to be divided ratably among landholders, including the Crown, of land within the vermin district at the time of its abolition and upon which rates could have been imposed at that time. New subsection (2) is similar to the existing subsection (2) of section 56 and provides that the landholders entitled to share in the distribution of the payments to be made for any fence of the board may waive their claims to share in the distribution, in which case the landholders will not be required to make the payments. The property in the fences will nevertheless vest in the landholders on whose land they are situated. It is provided by subclause (2) of the clause that the amendments made by the clause are to be given retrospective effect as from January 1, 1943. Since that date, the Vermin Districts of Elliston and Streaky Bay have been abolished. In the case of each district no rates had been declared for some years prior to its abolition and it follows that because of the deficiencies of the present section, there is no power to dis­tribute among ratepayers any amounts paid for the fences of the boards. It is therefore considered that the provisions of the Bill should be made retrospective so as to enable these eases to be dealt with. The legislation is necessary because for many years it has been found extremely difficult to wind up a vermin board, although there is ample provision for creating them. More such difficulties have arisen on Eyre Peninsula than in any other portion of the State. When I was Commissioner of Crown Lands about 15 years ago the question of winding up the Flinders Vermin Board came up for consideration, and at that time there were serious difficulties associated with it. It took a considerable time before a decision could be arrived at. I move the second reading.

The Hon. R. S RICHARDS secured the adjournment of the debate.