**IRRIGATION ACT AMENDMENT BILL 1945**

**Legislative Assembly, 23 October 1945, pages 584-5**

Second reading

**The Hon. G. P. JENKINS (Newcastle— Minister of Agriculture)—**Section 28 and the following sections of the Irrigation Act deal with the tenure of town allotments in irrigation areas and the conditions upon which these allot­ments may be held. It is provided by section 28 that perpetual leases of town allotments are to be offered at auction and the rent in such a case is to be the rent offered by the highest bidder at the auction. This system of disposing of leaseholds is not entirely satisfactory in the case of allotments suitable for purposes of residence only and it is proposed by clauses 1 to 4 to provide that, in any ease where the Minister so directs, town allotments may be offered for perpetual lease at rentals fixed by the Land Board. Section 31 of the Act provides that a lessee of any town allotment shall, within 18 months of the grant of his lease, carry out improvements on his allotment to the value of not less than ten times the annual rent with a minimum, in case of residential allotments, of £150 or other allotments of £200. These amounts are inadequate under present conditions to secure the erection of reasonably presentable buildings and it is proposed by clause 5 that, so far as future leases are concerned, the lessees will be required to carry out improvements to the value fixed by the Minister, prior to the allotment being offered on lease. This provision is similar to the provisions of the Crown Lands Act dealing with town allotments at Whyalla.

Mr. Macgillivray—Could not the local council fix these matters?

The Hon. G. P. JENKINS—No. The proper body to fix the rent of a Crown lease would obviously be the Crown, which would be the owner. We could not expect an outside body to fix the rent to be paid on Crown properties.

Mr. Macgillivray—The local council would know the type of house needed in a particular area better than the Minister of Irrigation.

The Hon. G. P. JENKINS—That is an entirely different provision. This clause has to do with the question of fixing the type of house to be built on an allotment which the Government proposes to sell. I do not expect for one moment that the Minister would act in opposition to the desires of the local council, or that the local council would be anxious that shacks should be built on allotments being sold or leased in its locality. A similar provision has worked very well at Whyalla. Clause 5 also provides that the Minister may, if he thinks proper, reduce the amount which is under a lease required to be expended upon improvements. At present, the Minister has this power only in respect of allotments set apart for business or manufacturing purposes. Section 32 provides that the Minister may, before town allotments are offered for lease, set apart any allotments for residential, business or manufacturing purposes or may prohibit the use of any allotments for any particular business or manufacture. Section 34 empowers the Minister to consent to the use for residential purposes of any allotment set apart for business or manufacturing purposes. Clause 6 extends the provisions of section 34 so that if a town allotment is set apart for any purpose the Minister may, on the recommendation of the Land Board, authorize the use of the allotment for any other purpose. It is obvious that, subsequent to the time land is leased conditions in the locality may change and that the provisions of section 34 should be expanded to enable the Minister to approve of the use of land in accordance with the changed conditions. Section 35 of the Act provides that a lessee of a town allotment may, on payment of such sum as is fixed by the Land Board, be granted the fee simple of the land comprised in the lease if the Minister is satisfied that permanent improvements have been made or will immediately on the grant of the fee simple be made on the land.

Clause 7 provides that the fee simple of town allotments may, on payment of the purchase price fixed by the Land Board, be granted to the Savings Bank, the State Bank or the Housing Trust without the prior issue of a lease in any ease where the Minister is satisfied that the institution in question will, within a reasonable time after the grant of the fee simple erect a dwelling house on the allotment. All these institutions have power to erect dwellings either for sale or for letting purposes and it is considered that there should be power to permit the grant of land to any of these insti­tutions for the- purpose of constructing dwellings without requiring the institution first to secure a lease of the town allotment in question.

Clause 8 makes a .drafting amendment to section 47, which deals with the surrender of leases. In 1941 the section was amended to provide that a surrender is to be accepted by the Minister instead of the Governor. Subsection (3) of section 47 should have been repealed as a necessary consequential amendment and this omission is provided for by clause 8. Clause 9 .deals with the basis upon which land may be re-allotted after the surrender of a lease comprising that land. Except for a ease such as provided for by section 48 where a lessee who surrenders takes a new lease of the land, the Act makes no provision for the payment for improvements by an incoming lessee to whom a surrendered block is allotted and, to secure payment for improvements, the rent must be fixed accordingly. The clause provides that, in every case in which the Minister so directs, the rent to be fixed under a new lease of a surrendered block, other than a new lease to the surrendering lessee, shall be fixed without regard to the improvements on the land but the lessee will be required to pay to the Minister the value of the improve­ments, as valued by the Land Board. This payment may be made in full at the time of allotment or, if so .directed by the Minister, may be made by a partial payment when a mortgage for the balance is to be executed in favour of the Minister by the lessee, or a mortgage may be given for the full value of the improvements.

It will be recalled that in 1941 new provisions were inserted in the Irrigation Act in order to provide for the drainage of irrigation blocks and a system for payment by lessees of the capital costs and annual maintenance charges involved in the carrying out of drainage works was evolved. Since 1941 the necessity for some amendments to these provisions has become apparent and clauses 10 to 15 provide accordingly. Section 80c provides that a block is to be deemed to have direct access to a drainage outlet and that direct access is to be presumed if the drain or work constituting the outlet is situated on the block or up to the boundary of the block or upon any road or Crown lands abutting the block. It is proposed by clause 10 to amend this provision and to provide that a block is deemed to have direct access to a permanent outlet if any part of the outlet is situated on the block or in such a position in the vicinity of the block as to permit the internal drainage of the block to be discharged into the outlet. A block is to be deemed to have direct access to a temporary outlet if a drain from the block is led to the outlet or if, in the opinion of the drainage committee, the block derives reasonable benefit from the outlet.

Sections 80f to 80j of the Act provide a general scheme for the payment by lessees of the capital cost and maintenance charges it incurred in the provision of drainage outlets. Lessees of blocks having direct access to outlets are required to pay the capital cost of the outlets and to meet the annual maintenance costs by means of drainage charges or rates. Clauses 11 to 14 make the following changes in the law. At present, lessees are required to make payments based upon the area of ratable land comprised in their blocks. It is proposed that the payments should be based upon the area of ratable land which is drained or is capable of being drained by the outlet in question.

Under’ section 80f the capital cost of an outlet is to be paid to the Minister by the lessees of blocks having direct access to the outlet. This amount is payable in ten equal annual instalments. In order to meet the request of some lessees to make immediate payment, it is provided by the Bill that any lessee may at any time pay all the amounts so payable by him. Other sections of .the Act provide that the drainage rate or charge to be levied for maintenance purposes is to include interest on the unpaid balance of the capital cost of the outlet concerned. If a lessee pays off all the capital liabilities, it is provided by clause 11 that the maintenance rates payable by him will, in an appropriate case, be reduced by an amount representing interest on the amount so paid.

The Act at present provides that, for the purpose of determining the amount of drainage rates or charges, interest at the fixed rate on the unpaid amount of the capital cost of the outlets is to be taken into account. The fixed rate is the rate of interest appropriate for advances under the Act and, as there is an allowance made in the fixed rate for prompt payment of interest, this rate of interest is not necessarily the appropriate rate to be taken into account for the purpose in question. The Act is therefore amended to provide that the rate of interest to be so taken into account is to be the rate, of interest fixed from time to time by the Treasurer. At present only lessees are made liable for drainage rates and charges. In instances, blocks are held under licence and it is obvious that these blocks should be charged with drainage rates and charges to the same extent as blocks held under lease. It is therefore, provided that occupiers of blocks will also be liable to payment of drainage rates and charges. They will not, however, be liable to make any capital payments towards the cost of drainage outlets.

Clause 15 deals with a case where a block having direct access to an outlet is subdivided and, instead of being comprised in one lease, is comprised in two or more leases. The clause provides that, in such a case, the liability for payment of the capital cost of any outlet or to payment of drainage charges or rates shall continue and that the Minister is to apportion that liability between the lessees concerned. Clause 16 makes amendments to the Irrigation Act consequential upon the change in Ministerial titles effected in 1944 and substitutes the term "Minister of Lands” for "Commissioner of Crown Lands,” and the term "Minister of Works” for "Commissioner of Waterworks” or “ Commissioner of Water Conservation”. Clause 17 makes a minor alteration in the form of lease of town allotments. At present this form of lease provides that a lessee is not to erect a brush fence on the land. This provision is now considered to be unnecessary and is deleted by the clause. I move the second reading.

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