**IRRIGATION- ON PRIVATE PROPERTY ACT AMENDMENT BILL 1958**

**House of Assembly, 28 October 2958, pages 1414-6**

Second reading

**The Hon. C. S. HINCKS (Minister of Lands**), having obtained leave, introduced a Bill for an Act to amend the Irrigation on Private Property Act, 1939-1949. Read a first time.

The Hon. C. S. HINCKS—I move:—

*That this Bill be now read a second time.* The purpose of the Irrigation on Private Property Act, which was passed in 1939, is to allow the owners of reclaimed land adjacent to or near the River Murray to petition the Minister to proclaim the area as a private irrigation area. The petition must be signed by one-half or more of the owners of the reclaimed land within the proposed area and the area of reclaimed land owned by the petitioners must be more than one-half of the total of such reclaimed land. Provision is made for persons opposed to the scheme to present a counter-petition.

The Act provides that a proclaimed private irrigation area shall be administered by a board of management, the powers and restrictions of which are prescribed by the Act. Since the Act was passed five private irrigation areas have been constituted in the lower river reclaimed land areas, namely, River Glen, Toora, Woods Point, Yiddinga and Long Island. The Act in its present form applies only to land which is reclaimed or partly reclaimed from being swamp land and several requests have been made to the Government to amend the Act to allow the owners of other irrigable land near the River Murray to petition for the constitution of a private irrigation area. The lands included in past proclamations have been used almost exclusively for dairying and the main purposes of this Bill is to extend the scope of the Act to allow its provisions to apply to other lands which can be irrigated by the waters of the river and used for the production of fruit and vegetables.

The proposed amendments will permit a group of private owners of irrigable high lands who have reached full agreement amongst themselves to take advantage of the provisions of the Act to have an area constituted as a private irrigation area, and thereafter to manage their own affairs through a board of management. Other consequential amendments of the Act are necessary to provide for the differences between irrigation practice and control in the lower river reclaimed swamp lands which are used for dairying, and the high-lift irrigation areas which are envisaged in the amendments.

The explanation of the clauses of the Bill is as follows. Clause 3 inserts a new definition of “ratable land” which, as I will explain later, is a necessary consequential amendment to define the class of land within the proclaimed area which is subject to rating and other powers vested in a board of management. This clause also strikes out the definition of *“* reclaimed land” and substitutes a new definition of “irrigable lands” which includes reclaimed lands and other land which is, or capable of, being irrigated by waters from the River Murray. Clause 4 amends subsection (2) of section 5 of the principal Act, which provides that the Minister shall not consider any petition unless he is satisfied—

*(а)* that the petition is signed by one-half or more of the owners of reclaimed land within the part of the State proposed to be constituted a private irrigation area; and

(b) that the area of reclaimed land owned by the persons by whom the petition is signed is more than one-half of the total area of reclaimed land within the said part of the State.

The effect of the amendment is that the same provisions will apply in respect of irrigable land which is reclaimed or partly reclaimed from being swamp land, but that in respect of other irrigable land the petition must be signed by all the owners of such land within the proposed private irrigation area. Thus the provision in respect of reclaimed land which has worked successfully for nearly 20 years remains unaltered, but as the Bill embraces highlands in localities where pumping from the river is necessary to provide water for irrigation purposes, and as the only inquiries so far have come from persons who are unanimous in joining together to form a private irrigation area, the Government believes that it is desirable to provide that a petition in respect of irrigable land other than reclaimed land must be signed by all the owners of such land.

Another argument in favour of this amendment is that in private irrigation areas consisting of reclaimed land it is necessary for the good of all land owners therein that an embankment should be constructed to protect the whole of the area, and the views of a minority should not be allowed to endanger the whole scheme. In high-lift irrigation areas there is no comparable reason why a person should be compelled to have his land included m the private irrigation area; for example, a land owner may already have an adequate pumping plant and irrigation scheme and it is unreasonable to provide that a majority of adjacent land owners could compel that person to join with them in a private irrigation area. Clause 5 is a consequential amendment.

Clause 6 amends section 28 of the principal Act which deals with the appointment and powers of a committee appointed by a board of management. The board, which comprises all the owners of irrigable land within the area, has power to delegate to a committee such of its powers and duties under the Act as it thinks fit. The clause strikes out subsection 4) of that section which provides that, “In no case shall a committee authorize an expenditure or pay '.any sum of ' money exceeding twenty pounds.” This in the Government’s opinion is an unnecessary and unwieldy restriction on a committee, which is answerable to the board of management and is unlikely to act contrary to the wishes of the board.

Clause 7 amends section 34 of the principal Act which regulates the duties of all owners of irrigable lands within a private irrigation area. The effect of the amendment is to impose an additional duty to comply with any order by the board to install adequate pumping plant and irrigation equipment. Paragraph (b) of clause 7 makes a consequential amendment to paragraph (v) of section 34. This paragraph requires land owners to preserve in good order, repair, and condition all trees and plantations within a private irrigation area. The amendment makes it clear that the trees and plantations referred to do not include trees and plantations grown for the production of fruit and other produce. Paragraph (v) was obviously intended to apply to ornamental trees or trees planted for the purpose of a windbreak or for protecting the embankment. Clause 8 is a consequential amendment.

Clause 9 amends section 38 of the principal Act which regulates the powers of a board of management. The effect of the amendment is to give the board an additional power to determine from time to time the maximum area of ratable land which may be irrigated. This is a necessary power for any irrigation scheme. Clause 10 enacts a new section 38a which will allow the board to order the owner of ratable land to carry out works for draining his land or for the prevention of possible seepage injury to other land. An owner who receives such a notice is given the right to make representations to the board. The Government believes that this is a necessary and desirable power to be vested in a board of management as one owner’s holding could be damaged by the neglect of his neighbour to carry out necessary drainage works. Under section 38 of the principal Act the board has power to construct main drains into which seepage water from private land could be discharged. The powers in section 38 of this clause are similar in principle to the provisions of the Irrigation Act, 1930-1946, for dealing with the seepage problem in fruitgrowing areas. Clause 11 is a consequential amendment.

Clauses 12, 13, 14 and 15 increase the penalties provided for a. breach of sections 58, 60, 61 and 64 from a maximum of twenty pounds to a maximum of fifty pounds. It is almost twenty years since the present penalties were fixed and the offences affected are fairly serious breaches of an owner’s responsibilities under the Act not to act in a manner which is detrimental to the interests of the other owners within the scheme. Clause 16 enacts a new section 73 which will enable the Governor on the recommendation of a board of a private irrigation area to make regulations to assist in the administration and enforcement of the Act. This is a desirable provision which will enable the Government to assist a board to regulate any conduct or other matters causing concern or trouble in the irrigation area. The clause provides for a penalty not exceeding £25, and in the ease of a continuing breach an additional £5 for each day on which the breach continues. Clause 17 is a con­sequential amendment.

Clause 18 and the schedule make a number of consequential amendments to various sections of the principal Act. The power contained in section 39, which enables the board to declare and levy rates on reclaimed land, is limited to ratable land as defined in clause 3. Thus the owner of irrigable land within an area which is not being supplied with water or for which a supply of water has not been approved by the board would not be liable for the payment of rates.

As I explained earlier the purpose of the Bill is to enable persons mutually interested in the development of irrigable lands adjacent to or near the River Murray to join together in a petition to declare their lands to be a private irrigation area, and, if granted, to thereafter manage their own affairs within the framework of the Act.

Mr. BYWATERS secured the adjournment of the debate.