CROWN LANDS ACT AMENDMENT BILL 1974

House of Assembly, 26 March 1974, page 2723

Second reading

**The Hon. J. D. CORCORAN (Minister of Works)** obtained leave and introduced a Bill for an Act to amend the Crown Lands Act, 1929-1973. Read a first time.

The Hon. J. D. CORCORAN: I move:

*That this Bill be now read a second time.*

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Mr. Gunn: No!

The SPEAKER: Leave is refused. The honourable Minister of Works.

The Hon. J. D. CORCORAN: This Bill makes miscellaneous amendments to the Crown Lands Act, and it will be convenient to explain it in terms of its various clauses. Clauses 1 and 2 are formal. Clause 3 makes various amendments to the definition section of the principal Act. The first set of amendments relates to the definition of Crown lands. At present Crown lands are defined as all lands in the State except—

(a) lands reserved for or dedicated to a public purpose;

(b) lands lawfully granted or contracted to be granted in fee simple by the Crown; or

(c) land subject to any agreement, lease or licence granted by the Crown, but includes land which, having been alienated, is subsequently acquired by the Crown.

It is not intended, however, that lands subject to a lease or licence granted under the Mining Act should cease to be Crown lands by virtue only of that lease or licence. An amendment is therefore made to the definition accordingly. The amendments also exclude from the definition land that has reverted to, or has been acquired by, the Crown where the lands are comprised in a certificate, grant, or other muniment of title that has not been cancelled in pursuance of the principal Act. Some lands, which are technically Crown lands within the meaning of the definition, are in fact administered by other authorities. A practice of long standing has existed under which such lands continue to be comprised in the old certificate or grant, with a notation showing that the lands have reverted to the Crown.

The discretionary power to cancel the certificate was not always exercised. It is not intended that these lands should be subject to the administration of the Crown Lands Act. The effect of the amendment therefore is to exclude these lands from the provisions of the Crown Lands Act. The definition of “public map” is amended to provide that only maps deposited in the Lands Department as public maps shall come within the definition. A new definition of “vermin” is inserted in order to make the Crown Lands Act consistent with the Vermin Act. Clause 4 makes a metric conversion to the principal Act.

Clause 5 amends section 9 of the principal Act. This section empowers the Minister to withdraw Crown lands from sale or lease, and re-offer those lands for sale or lease after advertisement in the Gazette. At present paragraph (c) of section 9 provides that the lands must be advertised for one month in the Gazette. This limitation of time is considered to be inappropriate. The Government believes that the extent of advertising should depend on the value of, or demand for, the land. Clause 6 repeals the present section 19 of the principal Act and enacts sections in its place. Under these new sections the board is granted more extended powers of entering land and of examining documents for the purposes of making surveys and of inspections and obtaining information in relation to the land.

These clauses together with clause 7 which follows reflects the Government’s decision that the Land Board should control and co-ordinate valuations in regard to the acquisition of land and buildings required by Government departments, and to arrange for the disposal of land and buildings no longer required by Government departments. The provisions are roughly comparable to existing provisions of the Valuation of Land Act. Clause 8 makes a drafting amendment to section 27 of the principal Act which is complementary to amendments made to the Act by the amending Act of 1969.

Clause 9 is to be read in association with clause 14. The new subsection inserted by clause 9 does not actually involve the grant of any new power, but it does draw attention to the fact that the Government may in appropriate cases issue a perpetual lease on terms limiting the lessee’s right of compensation in the event of resumption of the land. The amendments made by clauses 9 and 14 are proposed in relation to the issue of leases to sporting bodies and the like. Provided that the lease is issued subject to more limited rights of compensation than are included in the standard form of lease, it will be possible to make the land available at rentals related to the use to which the land is put.

Clause 10 amends section 41d of the principal Act. This section deals with the purchase of town lands at Whyalla. The first amendment repeals a provision dealing with personal residence. It is consequential on amendments that were previously made in 1969. The second amendment does away with the condition that plans and specifications of building work on those lands should be approved by the Minister. It is felt that the Corporation of the City of Whyalla now has adequate power to deal with the building work that may be carried out on the Whyalla town lands. Clause 11 makes amendments that are consequential on metric conversion of the principal Act. Clause 12 amends the provision relating to minimum rental under a lease or agreement. It is felt that a minimum rent or instalment of an amount less than $5 cannot be economically justified when the cost of administration is considerable. Clause 13 amends section 50 of the principal Act. This section enables the Minister to reduce the purchase money or rent payable under an agreement to purchase or a lease. The present provision provides that where reduction is granted any amount overpaid shall be credited against future commitments. It is considered equitable that, in cases where a substantial sum is involved, the money overpaid should be returned.

Clause 14 is complementary to clause 9. Clause 15 repeals section 54 of the principal Act. This section deals with the reservation of minerals and is inconsistent with the Mining Act. 1971. Clause 16 repeals section 55 of the principal Act. This section also is redundant in view of the provisions of the Mining Act. Clause 17 amends section 64 of the principal Act. This section deals with the service of notices, and the effect of the amendment is to make the procedure for serving notices on Licensees the same as for lessees. Clause 18 amends section 66a of the principal Act. This section empowers the Minister to add small areas of Crown land (not exceeding $2 000 in value) to the land comprised in a lease. It is felt that the restriction of $2 000 is too limiting and the amendment therefore raises that amount to $4 000.

Clause 19 makes a corresponding amendment to section 66b of the principal Act which deals with the addition of Crown land to land granted in fee simple. A further amendment is made to subsection (4) of this section for the purpose of facilitating administration. Clauses 20, 21 and 22 make metric conversions. Clause 23 amends section 102 of the principal Act. The amendment exempts the irrigation works under the control of the Lyrup Village Association from statutory rates and taxes. This exemption is similar to exemptions available to similar bodies such as the Renmark Irrigation Trust. Clause 24 makes a metric amendment. Clause 25 makes amendments consequential on the metrication of the principal Act. Clause 26 amends section 206 of the principal Act. This section deals with the conditions of a new lease issued on the surrender of an old lease. The effect of the amendment is to clarify the obligation of lessees under these leases. It is not appropriate in all cases that the conditions should be those governing the old lease, and amendments are made accordingly. Clause 27 amends section 225 of the principal Act. This section deals with the transfer of Crown leases. The provision that the notice of application for consent to transfer must be published for two weeks in the Gazette is deleted and a provision that consent shall not be granted before the expiration of one week from the publication of the notice in the Gazette is inserted in lieu thereof.

Clause 28 amends section 228 of the principal Act. This section deals with the sale of Crown lands. The present provision providing for the sale of any land not exceeding $400 in value is unnecessarily restrictive, and the sum is therefore increased to $4 000. Clause 29 amends section 228a of the principal Act. This section provides that any town lands may, if the Minister so determines, be offered at auction on terms that the buyer may at his option purchase the lands for cash or on agreement for sale and purchase This provision is expanded to cover any lands offered for auction pursuant to Part XIII of the principal Act. Clause 30 amends section 228b of the principal Act. The right of the Governor to sell Crown lands for cash to certain statutory bodies is expanded to cover the State Planning Authority and the Monarto Development Commission. Clause 31 enacts section 228c of the principal Act. This section enables the Governor to sell to the holder of the licence lands that have previously been held under licence. On occasions it is desirable to grant the fee simple to the licensee where he has erected substantial improvements or proposes to make substantial improvements to the land. Clause 32 amends section 230 of the principal Act. This section provides for the publication of a notice of an auction to be made in the Gazette for not less than four consecutive weeks. The reference to “four consecutive weeks” is deleted for reasons to which I have previously referred in relation to corresponding amendments.

Clause 33 amends section 232h of the principal Act. These amendments correspond to previous amendments made by the Bill and are inserted because the Corporation of the City of Whyalla now has adequate power to deal with building development within the city. Clause 34 deals with the conditions subject to which town land may be sold. The conditions that the Minister may impose consist of a condition that the purchaser shall make improvements of a specified kind on the land, or a condition regulating or restricting the manner in which the land may be used. Clause 35 enacts section 234b of the principal Act. This section deals with the forfeiture of land to the Crown where a purchaser has failed to comply with a condition subject to which it was purchased. In case of such forfeiture, it may be just that the Government should make some refund of purchase moneys, and this section accordingly empowers the Minister to do so. Clauses 36 and 37 make metric amendments to the principal Act. Clause 38 provides for the annual renewal of a licence. At present, if the Act is strictly interpreted, a new licence should be granted in each year. This would be administratively very cumbersome.

Clauses 39 and 40 make metric amendments to the principal Act. Clause 41 deals with the case where land has previously been granted in fee simple and reverts to the Crown In such a case the certificate of title may be cancelled under section 268. It would be administratively convenient to be able to revive the certificate if the land is subsequently granted again. The amendment enables this to be done. Clause 42 makes metric amendments to the principal Act. Clause 43 enables the Governor to make regulations in relation to the survey of land subject to the provisions of the principal Act. Clause 44 makes a drafting amendment to the principal Act. Clauses 45 to 50 amend the schedules to the principal Act. These amendments are consequential on the metrication of the principal Act and on certain previous amendments thereto.

Mr. NANKIVELL secured the adjournment of the debate.

*Later:*

Mr. NANKIVELL (Mallee). The debate on this Bill was left on motion at my request, because the Crown Lands Act is a complicated one which involves examining many volumes to ascertain the amendments made to it. I am grateful to the honourable member who made a reprint available to me. It helps one to understand the amendments being made by the Bill now before us. Having spent the limited time I had available in studying the legislation. I realize that three main issues are covered by the Bill, apart from the fact that certain amendments have been made to bring the legislation more into line, such as the redefinition of “Crown lands”, and in the definition of “vermin” to bring it into line with the Vermin Act.

The main clauses are 9 and 14, which will permit the Minister to issue leases to sporting, and other bodies at reduced rental. This provides a restricted lease at a reduced rental to enable people such as sporting bodies to have use of the land at low cost on the understanding that if it is resumed, they will be compensated only for what improvements they may have made or for what the Minister decides. They will be able to recover nothing for any increased value of the land.

The second aspect is clause 23. which relates specifically to the Lyrup Village Association. I am pleased to see this clause, because I received correspondence from the Minister only a couple of months ago in reply to a letter from me agreeing to the irrigation easements in the association being exempt from rates and taxes. Clause 23 validates that exemption and makes it proper for any of the irrigation easements to be exempted specifically from the Act for the purposes of rates and taxes. The third thing the Bill does is to effect metrication changes. In many of the clauses the amendment is basically that of changing from acres to hectares and from other forms of standard measurement to metrication.

One or two other matters contained in the Bill facilitate its administration. Clause 28 provides for the sale of land. Previously there was a restriction of $400 on the value of land that could be auctioned, this sum has now been increased to $4 000, which is considered reasonable. Clause 29 is much the same as clause 28, because it also amends section 228 of the principal Act. Clause 30 also amends section 228 of the principal Act to enable statutory bodies, such as the State Planning Authority and the Monarto Development Commission, to be included, together with a number of other statutory bodies that may hold Crown lands.

The important provision to my colleague, the member for Eyre, is clause 31, which provides that a person holding land under licence may have his licence converted to fee simple if he has carried out sufficient improvements to the land for the Minister to be satisfied that they are substantial and that the holder has reasonable grounds for seeking a more permanent tenure. Instead of having to go through the cumbersome procedure of applying for an agreement to purchase, then finally being granted fee simple, the Minister may transfer the land directly from a licence to a fee simple title.

The next important area is clauses 34 and 35. Clause 34 changes the condition under which town blocks may be sold. In many cases it imposes the requirement that a purchaser must undertake certain improvements within a prescribed time. Hitherto, if the purchaser has been able to carry out the conditions of the lease or purchase, he may be called on to surrender the lease and whatever capital improvements he has made or whatever money he has spent on the block. Under clause 35, which amends section 238 of the principal Act, in the event of such a sale or purchase breaking down, it is now possible for the licensee or lessee to obtain a refund from the Minister, which would be considered to be just compensation for the surrender of the block and just compensation for whatever had been spent by that licensee or lessee in developing the block. That is a reasonable proposal. It is a good amendment. As I said at the beginning of my speech, most of the amendments, other than those dealing with restricted compensation for land under special Lease with respect to the provision to exempt from rates certain land under the control of the Lyrup Village Association, are to assist in facilitating the administration. They are the principal clauses and principal amendments in this Bill. In the time I have had to look at it, I have discovered no objections to the Bill. I believe the amendments to be advantageous and I support the Bill.

Bill read a second time and taken through Committee without amendment.

The Hon J. D. CORCORAN (Minister of Works) moved:

*That this Bill be now read a third time.*

Mr NANKIVELL (Mallee): The House has just passed 50 amendments to consolidate the Act. I suggest to the Government that it might be appropriate to have a new look at the Crown Lands Act and, if possible, to bring it up to date, as many of its terms and conditions are ancient and not applicable to today’s situation.

Bill read a third time and passed.