**VERMIN ACT AMENDMENT BILL 1960**

**House of Assembly, 12 October 1960, pages 1324-5**

Second reading

**The Hon. Sir CECIL HINCKS (Minister of Lands)** obtained leave and introduced a Bill for an Act to amend the Vermin Act, 1931- 1959. Read a first time.

The Hon. Sir CECIL HINCKS—I move— *That this BilI* be *now read a second time.*

Its objects are to amend the Vermin Act so as to increase the penalties for damage to and removal of any part of a vermin fence, dog- proof fence or wire-netting fence and to render both the person causing the damage or removal and his employer liable therefor, and to place upon the owner of any vehicle, the driver of which causes the damage or removal, the onus of proving that the driver was not at the material time engaged upon his ordinary employment or acting within the course and scope thereof.

The damage caused to vermin fences from time to time is causing sheep owners throughout the pastoral areas some concern, and representation has been made to the chairman of the Pastoral and Dog Fence Boards by the Stockowners’ Association of South Australia expressing the difficulties in experienced in recovering penalties and compensation for such vehicles. These representations were referred to the Crown Solicitor for advice. The Crown Solicitor considered that Section 229 of the Vermin Act required attention, and recommended that provision be made for the employer’s liability for damage caused by his employee in the course of his employment and for placing upon the owner of a vehicle, the driver which causes damage to a fence, the onus of proving that he was not, at the material time, engaged his ordinary employment or acting within the course and scope thereof. The Goveernment agrees with these recommendations.

Section 229 prohibits the destruction of injury to any vermin fence, dog-proof and wire-netting fence, for which the penalty is a fine not exceeding twenty pounds orimprisonment for a term not exceeding 6 months. The penalty for a similar offence under section 44 of the Dog Fence Act is fine not exceeding one hundred pounds. The Government feels that the penalties under both Acts should be uniform and should be a fine not exceeding one hundred pounds or imprisonment for a term not exceeding six months. Clause 3 substitutes for section 229 of the principal Act a new section 229.

Subsection (1) of the new section makes it an offence for a person without lawful excuse, the onus of proving which lies on him, to damage or remove any part of a vermin fence, dog-proof fence or wire-netting fence. The penalty for the offence is a fine not exceeding one hundred pounds or imprisonment for a term not exceeding six months. Subsection (2) empowers the court, in addition to or in lieu of any penalty imposable under the section, to order a convicted person to compensate the person responsible for the repair or renewal of the damaged

or removed fence. Subsection (3) makes the employer of a person who in the course of his employment damages or removes any part of a fence liable for the necessary expenses incurred in repairing or renewing it.

Subsection (4) provides for the recovery of those expenses in any court of competentjurisdiction. Subsection (5) provides that where damage to or removal of any part of a fence is caused by the driver of a vehicle the owner of the vehicle shall be deemed to the employer of the driver unless the owner proves that at the material time the driver was not in the ordinary employment of the owner or acting within the course and scope thereof. Subsection (6) contains an interpretation which places beyond doubt that any gate or ramp pertaining to any fence shall, for the purpose of that section, be deemed to be part of that fence.

Mr. LOVEDAY secured the adjournment of the debate.