**LOANS FOR FENCING AND WATER PIPING ACT AMENDMENT BILL 1940**

**House of Assembly, 12 November 1940, pages1322-4**

Second reading

His Excellency the Governor, by message, recommended the House to make provision by Bill for appropriation of £11,144 4s. 4d. for the purposes mentioned in the Loans for Fencing and Water Piping Act Amendment Bill, 1940.

**The Hon. T. PLAYFORD (Premier and Treasurer)** moved—

That the Speaker do now leave the Chair andthe House resolve itself into a Committee of the Whole for the purpose of consider­ing the following resolution:—"That it is desirable to introduce a Bill for an Act to amend the Loans for Fencing and Water Piping Act, 1938.’'

Motion carried. Resolution agreed to in Committee and adopted by the House.

Bill introduced by the Treasurer and read a first time.

The Hon. T. PLAYFORD—I thank members for their courtesy in allowing me to move the second reading to-day. It is not proposed to take the Bill beyond that stage this afternoon. When the Loans for Fencing and Water Piping Act, 1938, was passed various alterations in the then existing legislation were made and the machinery relating to collection of instalments due under the various Acts radically altered. At the time it was the practice to make loans to district councils for fencing and water piping, the district councils in turn letting out the money to the owners and occupiers of the land upon which the fencing was to be erected. The State Bank, which operates this loan activity on behalf of the Government, endeavoured to collect the instalments due from the district councils, which in turn were expected to collect the amounts from the respective occupiers or owners of the land. Very similar provisions were in force under Part V. of the Vermin Act, 1931-1936, but in that case certain vermin boards took the place of the district councils, the former being responsible to the State Bank for the repayment of the loans. The Loans for Fencing and Water Piping Act, 1938, altered the system, the district councils and vermin boards concerned ceased to be intermediaries in the matter, and the various occupiers and owners of the land became directly responsible to the State Bank for repayment of the periodical loan instalments. As certain district councils had drawn upon their own revenue to make good the instalments due to the State Bank for loans made under the Vermin Acts and the Loans for Fencing and Water Piping Acts, a section was inserted in the 1938 Act which provided, in effect, that when the State Bank had collected from the individual owners and occupiers of the land all loans due, together with interest thereon, the State Bank would refund to the district councils or vermin boards concerned the amounts which had been overpaid to it.

The State Bank took over the loans from the district councils and vermin boards con­cerned as from February 1, 1939, and more than 12 months was occupied in obtaining a reconciliation between the loan accounts in the books of the State Bank and the individual loan accounts in the books of the district councils and vermin boards concerned. When a reconciliation was finally made, it was shown that certain amounts might be deemed to be due by the bank to the various district councils and vermin boards, while in other cases certain amounts were deemed to be due to the bank by the district councils and vermin boards. It appears that, in cases where amounts were deemed to be due to the State Bank, it was mainly because of different bookkeeping methods adopted by the bank and the district councils, more particularly in connection with the charging of penalty interest and administration costs. It seems clear that under present conditions there is no prospect whatever of the State Bank recovering such amounts from the district councils, and it is not proposed to make any claim against them in this connection. About five councils are concerned, but in most instances the amount is offset by a corresponding credit on other lines. In certain cases moneys are deemed to be due to a district council under one of the Acts, while under the other Act the same council is deemed to be indebted to the State Bank. In cases such as this, the amounts due to the bank have been offset against the amounts which may be deemed to be payable to the district council concerned, and the net amount is shown as the amount due to the district coun­cil or vermin board concerned. Full details of the amounts due to the various district councils and vermin boards are set out in the second schedule in the Bill, and it is unnecessary for me to refer in detail thereto.

If members will refer to section 22 of the Loans for Fencing and Water Piping Act, 1938, which made provision for a recoup to district councils and vermin boards, they will see that the carrying out of those provisions would involve the keeping of an additional set of books for many years, and a long time must elapse before any recoups to district councils or vermin boards would be paid over. To avoid the keeping of this extra set of books, to which I have referred, and to avoid undue delay in paying over to the district councils or vermin boards any amounts which may possibly be due to them under the Loans for Fencing and Water Piping Act, 1938, the present legislation has been introduced. In many instances Parliament has had occasion to relieve persons with heavy financial obligations. Under the 1938 Act two types of councils were dealt with. One sanctioned advances but did not take any responsibility for the collection of money advanced, whereas the other type sanctioned the advances and accepted the responsibility of collection, but when not able to collect the money paid it out of its finances. This latter type was victimized. If it had not paid the money out of its finances it would have been relieved of its obligations.

The Hon. R. S. Richards—All councils were in the same position under that Act.

The Hon. T. PLAYFORD—Yes.

The Hon. R. S. Richards—The point is that some councils attempted to collect the money whereas others did not.

The Hon. T. PLAYFORD—The councils covered by the Bill are those who paid money out of their own funds when they could not collect the advances from the settlers. We should not victimize those who did honest work and at the same time relieve others of their obligations.

The Hon. R. S. Richards—The purpose of the legislation is to wipe out all liabilities.

The Hon. T. PLAYFORD—The necessity for the legislation arose from the fact that some councils approached me, pointing out that they were adversely affected in comparison with the consideration meted out to other councils by Parliament.

The Hon. R. S. Richards—In testing the equity of the matter we must get back to the responsibility under the original Act

The Hon. T. PLAYFORD—Under that Act all councils were responsible, but Parliament decided to relieve certain of them of their responsibilities.

The Hon. J. Mclnnes—That was where the mistake was made.

The Hon. T. PLAYFORD—That may be, but the councils who have done a fair job have been penalized. If they had made no attempt to collect the money they, would have been relieved of their responsibilities.

The Hon. J. Mclnnes—The argument used is "Brown did not pay, so why should I?"

The Hon. T. PLAYFORD—The point is that the councils paid the money out of their general revenue. All councils must be treated with an equal measure of justice.

The Hon. J. Mclnnes—You mean an equal measure of generosity.

The Hon. T. PLAYFORD—No, an equal measure of justice. The merits of the legislation are open to debate and I am only putting the matter before members in the way it presents itself to me. Those who stood up to their obligations 100 per cent should not be treated less generously than others.

Mr. Thompson—What about the man who borrowed money and went short of necessities in order to repay it? Others did not go short of necessities and so did not repay money advanced.

The Hon. T. PLAYFORD—The debt will still be due to the Government. The councils concerned in the Bill are spread over the State.

Mr. Thompson—Is there any possibility of the Government’s collecting the money from settlers ?

The Hon. T. PLAYFORD—Yes. In many cases the debt will be good, and it will be collected. Clause 3 provides that section 22 of the Loans for Fencing and Water Piping Act, 1938, will be repealed and a new section enacted in lieu thereof. Under the new section 22, subsection 1 provides that the Treasurer, without any further appropriation than this Act, shall pay to each of the district councils and vermin boards mentioned in the second schedule the amount shown in the said schedule opposite the name of each district council or vermin board. Subsection 2 provides that all claims of the Treasurer or the State Bank against any district council or vermin board in respect of any advances made under the repealed Acts are now determined, and subsection 3 provides that all claims of any district council or vermin board against the Treasurer or the State Bank in respect of such advances are also determined.

Mr. Thompson!—Has the Government the money available to make the payments to the councils?

The Hon. T. PLAYFORD—It will be paid out of the principal account. Upon the passing of the new legislation certain amounts totalling £11,144 will be paid over to the district councils and vermin boards mentioned in the second schedule, and the payment of that amount will definitely close the transactions between the Treasurer and the district councils and vermin boards concerned, as regards the advances made under the Loans for Fencing and Water Piping Acts and Part Y. of the Vermin Act.

There is one other matter which is dealt with in the amending Bill, to which I shall now refer. Some doubt has arisen as to the nature of the security the State Bank is entitled to receive pursuant to the terms of the Loans for Fencing and Water Piping Act, 1938. Under that legislation the bank has to register a charge on the land in respect of the advances already made, but it appears that this charge only becomes a first charge when the yearly instalment payable actually falls due. Provision is made in the amending Bill that, where a loan was made before the passing of the amending Bill, the 1938 legislation shall apply, but any loan made after the passing of the amending legislation, and the interest thereon, shall be, and until paid shall remain, a charge on the land in respect of which the loan is made. Certain clauses in the 1938 legislation provide that where there is a mortgage registered on the land the bank must get the consent of the mortgagee to the granting of the loan before it can secure a first charge on the land in connection with the loan granted under the Loans for Fencing and Water Piping Act. These provisions will still remain in force so that the rights of the mortgagee are fully preserved. The other clauses in the Bill are merely consequential amendments following on the enactment of the new legislation, and it is unnecessary for me to refer thereto. I commend the Bill to the favourable consideration of members and I move the second reading.

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