CROWN LANDS ACT AMENDMENT BILL 1965

House of Assembly, 19 October 1965, page 2215

Second reading

**The Hon. G. A. BYWATERS (Minister of Lands)** obtained leave and introduced a Bill for an Act to amend the Crown Lands Act, 1929-1960. Read a first time.

The Hon. G. A. BYWATERS: I move:

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

Its object is to amend the Crown Lands Act, 1929-1960, by making three major amendments thereto as follows: first, by clause 5, a new section 6b is inserted in the principal Act and provides that where an agreement is to be entered into between the State and the Commonwealth for the acquisition by the Commonwealth of Crown lands, a land grant or lease, etc., executed by the Governor shall be valid and effectual to vest the land in the Commonwealth. This procedure, if adopted, would simplify the issue of titles where land is purchased or acquired by the Commonwealth. It would also enable Crown lands to be sold to the Commonwealth without first being offered at auction, and for leases to be issued to the Commonwealth without the need to call for general application by the public. At present only miscellaneous leases for grazing and cultivation may be allotted without gazettal, but the Commonwealth does not require this kind of lease. The method mostly used when Crown lands are being transferred to the Commonwealth is that of compulsory acquisition, though sometimes the methods of transfer as surplus lands under section 262a, and dedication and issue of a grant for Commonwealth purposes, are employed. These methods are, however, cumbersome and unsatisfactory. The proposed new section 6b is modelled on section 8 of the Commonwealth Lands Acquisition Act. By sections 8 and 54 of the Crown Lands Act, all minerals, etc., are reserved to the Crown. This clause accordingly negatives the effect of those sections by conferring the power to transfer mineral rights.

Secondly, by clause 22 a new section 228b is inserted in the principal Act, and provision is made for Crown lands to be sold at reasonable prices to certain corporate bodies, such as the War Service Homes Commission and the South Australian Housing Trust. This would avoid the necessity of offering the land for sale by public auction, which must be done as the law how stands. A provision similar to the instant one is to be found in section 35a (1) of the Irrigation Act, 1930-1946. Thirdly, clause 24 inserts a new subsection in section 232 (h) of the principal Act, and provides that the Minister, when selling any Crown land in the Town of Whyalla and other towns (by virtue of section 234a (3)), has power wholly or partially to remit or vary any of the conditions, including the power to extend a condition as to the time in which a purchaser must erect premises on the land. It is felt that such a power is necessary and desirable in cases where purchasers who have every intention of fulfilling the conditions are prevented from erecting their premises by circumstances beyond their control. Provision is also made to ensure that the grant of an extension of time for the foregoing purpose does not prejudice the right of the Crown to cancel the land grant.

Apart from these major amendments, the following clauses, which are principally designed to remove anomalies and improve the administration of the Act, deserve comment. Clause 4 amends section 5 (e) of the principal Act and provides for the resumption of the land without necessarily cancelling the grant. When lands dedicated and granted for school purposes and other public purposes are no longer required, no simple method exists whereby these lands may be disposed of, and it is desired to obtain the necessary power to dispose of lands of this nature as surplus lands similar to provisions of section 262a of the principal Act. There does not appear to be any necessity to cancel the existing land grant which could be transferred and the trust extinguished and a new title issued by the Registrar-General. As regards the insertion of a new paragraph (e1) in section 5, this confers power upon the Governor by proclamation to free from the trusts and where necessary cancel the grant of any lands set apart for a particular purpose where the lands are not used for that purpose. It is considered that such a power is necessary to enable the Crown to deal with reserves no longer required for the purpose for which the land was set apart. There are many cases where lands have been set apart for some particular purpose and granted but such lands have not been dedicated by proclamation. If such lands have been dedicated by proclamation, power is contained in section 5 (e) to cancel the grant and resume dedicated lands which are not used or required for the dedicated purpose, etc. Prior to 1875 there was no power in the State legislation to dedicate by proclamation, and often land was granted on trust to trustees for a public and charitable purpose. In course of time trustees died or moved out of the State, and if it was desired to transfer title the only possible method open was to invoke section 5 (b), but this was useful only if the land was required for the public benefit and use. Section 37 of the Trustee Act could not be used if the personal representatives of the last surviving trustee could not be traced. The provision in clause 28 is also material in this connection.

The amendment proposed by clause 6 is to insert a new paragraph (v) in section 9 of the principal Act to enable the Minister to authorize any officer to enter upon lands held from the Crown. Clause 7 repeals section 14 of the principal Act, and substitutes a new section 14 which provides for the appointment by the Minister of a deputy chairman. Clause 8 amends section 15 of the principal Act by deleting the provision that the chairman of the board shall have a casting as well as a deliberative vote. It is not considered necessary or desirable that the chairman should retain this additional voting power. Clause 9 repeals sections 23a and 23b of the principal Act, since the Crown Lands Development Act, 1943, now provides for arrangements for the clearing and cultivation of Crown lands for purposes of pasture. The repealed sections cover the same ground and are no longer necessary.

Clause 10, which repeals section 25 of the Act, deals with the lodging of deposits on an application for a perpetual lease. The lodging of a deposit serves no useful purpose: the amount is almost always small. It creates unnecessary work in issuing receipts or following up cases where deposits are not received so as to enable applications to be dealt with, and in drawing cheques and returning deposits to unsuccessful applicants. It is considered further that such a provision is a needless inconvenience to applicants. Clause 18, which repeals section 180, and clause 23, which repeals section 232b (2), achieve a similar purpose. Clause 11 amends section 41e of the principal Act by deleting the reference therein to “section 34”. This section was repealed in 1939. Clause 12 amends section 42 (1) (b) of the principal Act, which provides that agreements under Part IV of the principal Act are to be for a term of 30 years. The proposed amendment enables agreements for less than 30 years to be entered into. Such a power is considered desirable. Clause 13 amends section 47 of the principal Act, and substitutes “a pound” for “five shillings” as the minimum annual rental under a perpetual lease or half-yearly instalment under an agreement. Such an increase is necessary to make the minimum rental more realistic in present day conditions.

Clause 14 amends section 66 (a) of the principal Act by increasing the value of small areas of land that can be sold by the Minister from £100 to £200. An increase is desirable in view of changed land values. By clause 15, a new section 66b is inserted in the principal Act, which confers power upon the Minister to sell for cash small parcels of land not exceeding in value £200, to adjacent registered proprietors of freehold land, and to consolidate the title of such small parcels of land with the land of the registered proprietor who has purchased the same from the Minister. A similar procedure is followed under the Roads (Opening and Closing) Act, 1932-1946. By clause 16, sections 67 to 73a of the principal Act are repealed. These sections relate to leases with a right of purchase granted under repealed Acts. All such leases have now expired or have been surrendered for other tenure or the purchase of the land has been completed. There is no provision in the Act for issuing further leases of this nature. Clause 17 repeals section 80 of the principal Act, as the control of forest lands and the issue of leases over forest reserves is now provided for in the Forestry Act, 1950, which supersedes the Woods and Forests Act, 1882.

Clause 18 repeals section 180 of the principal Act for the same reasons that section 20 of the principal Act is repealed, namely, that the lodging of a deposit for every application for an agreement to purchase acquired land is considered unnecessary and inconvenient. Clause 19 amends section 211 of the principal Act by striking out subsection (5). This subsection is no longer needed, as no right of purchase leases remain in existence nor is there any provision in the Act for the issue of new ones. By clause 20, section 211a of the principal Act is repealed. This section, which extends the right to freehold in terms of section 211 (5) until one year after the end of the Second World War, has become obsolete by effluxion of time Clause 21 amends section 228 of the principal Act principally by adding a new paragraph v, enabling land to be sold at auction for cash. This amendment is considered desirable since it will assist the department in finding a simpler method of disposing of small areas that have reverted back to the department by various means. The minor amendment in paragraph I is designed to improve the administration of the Act.

Clause 23 amends section 232b for the same reasons as are given in clauses 10 and 18. Clause 25 repeals section 233 of the principal Act. This section, which provides for purchase moneys for the sale of lands under Part XIII to be applied primarily to payment of public liabilities is never used, as the purchase moneys from the sale of such lands are paid into consolidated revenue. By clause 26, section 253 of the principal Act is amended by providing that all police officers shall be Crown lands rangers. This provision is necessary, as, because of resignations, transfers and promotions, etc., of police officers, it has been found that the practice of merely appointing mounted police as rangers in country districts is unsatisfactory.

Clause 27 corrects a printing error in section 261 of the principal Act. By clause 28 a new section 262aa is inserted in the principal Act, and provides that the Minister may sell, on the recommendation of the board, lands formerly dedicated or reserved for any purpose (other than by dedication by proclamation) which have been resumed, etc., by the Crown. Power is also conferred on the Minister to execute the transfer and register such transfer without production of the duplicate land grant.

Clause 29 amends section 262b of the principal Act and clarifies the position as regards disposal of improvements on Crown lands or lands which have reverted to the Crown. Clause 30 makes a drafting amendment to section 263b. Clause 31 amends section 263b of the principal Act to provide that an interest element should be added to costs incurred by the Minister in insuring improvements where the lessee has failed himself to insure them. Clause 32 inserts a new section 271(d) in the principal Act along the lines of section 65 of the Land Tax Act, to enable freehold land to be transferred to the Minister. At present leasehold land or land held under an agreement to purchase may be surrendered absolutely and thus become Crown lands, but for freehold land it is necessary to invoke section 65 of the Land Tax Act. Though section 271(c) of the Crown Lands Act enables the Minister to accept a gift of land this only applies to an allotment to an ex-serviceman from the Second World War, or his dependants. Clause 33 repeals section 272 of the principal Act and enacts a new section that more specifically defines unlawful occupation of Crown lands, etc., and enables the Minister to remove or destroy any structures or materials on the land at the expense of the person who unlawfully erected or deposited them thereon. A penalty of £50 is provided.

Clauses 34, 35 and 36 amend sections 273, 274 and 275 respectively, of the principal Act by increasing the penalties therein so as to bring them into line with present day values. The present penalties have not been changed since 1915. Clause 37 amends section 278(1) of the principal Act to bring it into line with section 9(n) of Act No. 26 of 1944. This Act authorized the Minister to give permission for persons to construct and maintain grids and ramps, as well as gates, on such lands. I commend the Bill to honourable members.

Mr. QUIRKE secured the adjournment of the debate.