**IRRIGATION AND RECLAIMED LANDS ACT FURTHER AMENDMENT BILL 1921**

**Legislative Council, 30 November 1921, pages 1643-1646**

Second reading

**The MINISTER of AGRICULTURE (Hon. T. Pascoe)—**This Bill is of such a technical character, and so little time is at the disposal of members for its consideration, that on the second reading I shall content myself with presenting the detailed report of the Parliamentary Draftsman on the measure, which, with few exceptions, is a machinery Bill. The report is as follows:— This Bill may be considered in two sections, the first comprising clauses 3 to 14, in which a number of amendments are made to the Irrigation and Reclaimed Lands Acts of an administrative character, and the second, comprising clauses 15 to 26, which makes special provisions with respect to the offering and leasing of town allotments in irrigation areas. Clause 3 amends section 8 of the principal Act in three respects. That section provides that moneys expended (amongst other things) in improving and maintaining embankments is to be paid out of loan moneys which are provided by Parliament for the purpose. It was suggested as long ago as 1908, by the late Mr. Strawbridge, who was then Surveyor-General, that the main embankments along the river should be maintained by the State out of general revenue, in the same manner as the embankments are maintained in Holland. The suggestion was then approved, but has never been given effect to. The amendment made by subdivision (a) of this clause will strike out the requirement that the moneys required for the maintenance of embankments should be paid out of loan moneys. Subdivision (e) inserts a new subclause, which provides that the moneys required for this purpose are to be paid out of revenue. It is provided in subsection (2) of the same section that the moneys expended on irrigation works (which are to be paid out of loans) are to be repaid to the loan fund. The repayment to loan fund will result in the actual costs of the work being eventually paid off, and the lessees of blocks would then have a moral right to ask for a reduction of their rentals to peppercorn rentals. The repayment will also result in the next few generations of lessees paying for the cost of reclamation and the irrigation works, to the advantage of future generations of lessees. The expenditure of loan money is reflected in increased value of the land, and indirectly results in increased revenue from land tax, railway freights and other similar sources. The requirement for repayment in the case of irrigation works is practically unique. There is no such requirement in the case of waterworks and other reproductive works of the same nature. Subdivision (b) of this clause will amend section 8 by striking out the provision which necessitates repayment to the loan fund. Clause 4 amends subsection (2) of section 10 of the principal Act. That section provides for the setting apart of irrigation areas. It is specifically provided in subsection (2) that an area so set apart must not include any embankment. This provision is a relic of the times when Boards were appointed for the management of irrigation areas. It was not thought desirable that the care of main embankments should be left with the Boards, and so it was left with the Crown. The provision however, has led to some very undesirable results. The Minister has little more power with regard to the management of an area than the Board had; but he has practically none to prevent interference with embankments and sluice-gates and other works which are so incorporated with the embankments themselves as to be incapable of being regarded apart from them. An attempt has been made by regulation to control the improper use of sluice-gates, and when a case recently arose where a settler had flagrantly disregarded the regulation it was sought to prosecute him. But the Crown Solicitor advised that it was of no use to proceed against the offender, because the pipe from which he took the water was part of the embankment, and as the Irrigation Board had no jurisdiction over embankments, the regulation did not extend to such a case. The effect of this amendment will be to enable embankments to be included in irrigation areas, and the proper power of care and supervision will thus be given to the managing authority, whether the Minister or the Board. Clause 5 amends section 18 of the principal Act so as to make leases of blocks in irrigation areas subject to revaluation every 14 years in the same manner as other perpetual leases are subject to revaluation under the Crown Lands Act. The rent for a block is fixed by the Land Board, subject to the limitation im­posed by section 21 that it must not be less than 4 per cent, on the unimproved value of the land and the cost of reclamation. In some cases, after the rent has been fixed, and a block let, it is found necessary to carry out extra work on the block. This runs up the capital cost of reclamation, and if the rent has been fixed at a bare 4 per cent, on the original cost, it necessarily falls below that percentage when the cost is added to. There is no provision in the Act to meet such a case. It is proposed by the present clause to make the rents of irrigation leases subject to revaluation every period of 14 years. The provisions which govern the revaluation are those set out in the Crown Lands Act, 1915. Improvements made by the lessee are not to be taken into consideration in making the revaluation of rent. This is provided by section 39 of the Crown Lands Act, 1915. Clause 6 repeals and re-enacts section 20 of the principal Act. The object of this is to incorporate in the old section certain necessary amendments. The amendments are these:—The provisions of the Crown Lands Act, 1915, which regulate the fixing of rents apply to leases under the principal Act. As the principle of revaluation is introduced into these leases for the first time by clause 5, it is now necessary that the principles and procedure laid down for revaluation of rents by the Crown Lands Act should also apply to leases under the principal Act. This is provided for by the new clause. In the result, exactly the same conditions will govern the revaluation of rents of irrigation leases as now apply in the case of ordinary perpetual leases. A further alteration is to make applicable to leases of irrigation lands the provisions of the Crown Lands Act, 1915, which enable rents to be reduced where they are too high . Section 53 of the Crown Lands Act confers this power upon the Commissioner of Crown Lands in the case of a perpetual lease or agreement for purchase where he considers that the rent or the purchase-money is too high. In view of the provisions of section 21 of the principal Act, which says that the rent for a block shall not be less than 4 per cent, of the unimproved value of the block and the cost of reclamation there is little doubt that there is no corresponding power to reduce rents under the principal Act which may be availed of by the Minister of Irrigation. This power has been recently sought so that a smaller rent than that stipulated by the Act might be charged for land which was so poor as to be practically unproductive. This clause will expressly give that power to the Minister. It will be convenient to notice at the same time that clause 7 of the Bill repeals section 21 of the Act. It is obvious that a power to reduce rents cannot consistently stand side by side with a provision which fixes an irreducible minimum for rentals. The only other amendment made by this clause is to ensure that the same provisions which apply to leases of blocks shall apply to leases of town allotments. This is in conformity with the principle to which Parliament last session gave expression by the amending Irrigation Bill, which provided for town allotments being alienated from the Crown only on perpetual lease. Clause 7, which repeals section 21 of the Act, has already been referred to in connection with clause 6. Clause 8 adds a new subsection to section 22 of the principal Act. That section provides for the rent of a block for the first three years of the lease to be paid in increasing amounts according to the scale set out in the section. The lessee pays for the first year one quarter of the rent, for the second year one-half, and for the third year three-quarters. The object of this provision was to give the lessee a chance to get his block into a condition when it would be giving him some return before charging him the full rental. In some cases, however, a block is allotted which is already in full bearing, and producing up to its utmost capacity. Clearly in such a case the lessee should not be entitled to claim the benefit of the sliding scale. Nevertheless, there is nothing in the Act to prevent him; and nothing to enable the Department to dispense with the application of the clause. Clause 8 is intended to provide this power. It says that if the Minister, after obtaining a report from the Land Board, is of opinion that a block is in a complete state of cultivation and in full bearing, he may direct that the sliding scale shall not apply to the lease of the block. In such a case the lessee will take the lease with the knowledge that he will be obliged to pay the full amount of the rental from the commencement of his term. The object of clause 9 is to alter the basis upon which water is supplied to lessees of blocks. At present, by virtue of section 31, the Min­ister can supply water to owners, lessees and occupiers of blocks, town allotments, and factory sites, upon terms and conditions prescribed. This, however, does not permit of his attaching different conditions in the ease of allotments and blocks. The conditions must be the same in both cases. This state of affairs is most undesirable, because the very difference in the nature of the blocks and town allotments demands that a different set of conditions should apply to each. For instance, it is logical to regulate the supply of water to a block according to the area of irrigable land, but in the case of a town allotment that method would not be possible even if it were logical. The amendment made by the clause will enable different bases for water supply to be adopted in the case of town allotments and factory sites on the one hand, and blocks on the other hand. Clause 10 repeals and re-enacts section 32 of the principal Act. The object is to carry further the policy underlying the previous clause, and apply it to the system of rating, as well as to the supply of water. According to the provisions of section 32 as it now stands, the Minister may declare a water rate on any lands within an irrigation area, which must be a certain amount in the pound of the unimproved value of the land. This applies without qualification to all lands within an area, whether blocks, factory sites, or town allotments. It is obvious that whilst a water rate in the case of factory sites and town allotments should have as its basis the unimproved value of the land, that is not the appropriate basis for the rating of blocks. In the case of blocks it should be the area of the block, because the amount of water used by a block depends not upon its value, but upon its area. That is the principal amendment which is made by this clause in the re-enactment. Subclause (1) repeats what is really the effect of the present subsection (1). Subclauses (2) and (3) set out what are the bases of rating in the case of blocks on the one hand, and in the case of factory sites, town allotments, and other lands in the area, on the other hand. In the case of blocks it is the area, and in the case of the other lands it is the unimproved value. Subclause (4) is a somewhat different provision from the original subsection (2), in place of which it is inserted. The original provision was that the rate should be of an amount sufficient to recoup the proportion of interest on the cost of the works which was debitable to the land in question, but there was a minimum in any case of one pound. The cost of channeling and other works in irrigation areas has recently increased to such an extent that the requirements of this section would, if complied with, result in exceedingly high water rates. If this position is to be avoided, the Minister must not be bound down to a rigid minimum, but must be allowed a discretion to impose a lower rate if he thinks fit. In subclause (4) therefore the old requirement as to the minimum is dispensed with. The rate to be imposed is of such amount as the Minister determines. The subclause retains the minimum of one pound which is in the original section. Subclauses (5) and (6) merely repeat the existing provisions of subsections (3) and (4). Subclause (7) is new. It provides for the payment of interest on overdue water rates. The persons are, in effect, allowed one month in which to pay. If the rate is not then paid, interest at the rateof ten per centis added to it. The same principle is to be found in the Taxation Act and other Acts of similar nature. In the absence of some sort of penalty for non-payment there is a tendency to laxity on the part of many people. It is expected that the present provision will go far to mitigate that tendency. Clause 11 makes some amendments to section 33 of the Act, which are purely administrative in nature. The section provides for the keeping of a water rates assessment book. There is what appears to be an omission in subdivision (a), which says that the book must contain the names of the owners and occupiers of lands. The first amendment made by this clause is to provide that the names of lessees must be included. It is possible that the term “occupier” would include a lessee; but all through the Act lessees are referred to as “lessees”, and for the sake of consistency this amendment should be made. The two other amendments are consequential upon the amendments made in the two preceding clauses of the Bill. The present provision is that the book shall set out the unimproved value of the lands in the area. This should apply to town allotments and factory sites; but in the case of blocks, the information which is required is not the value but the area. The amendments necessary to effect this are made by subdivisions (b) and (c). Clause 12 is also a machinery provision. It amends section 37 of the Act, which deals with the keeping of accounts with respect to individual irrigation areas. It provides that in the debit side of the account are to be included the moneys spent by the Minister in maintaining embankments. It has already been provided by clause 3 that the cost of maintaining embankments is to be paid out of revenue. Therefore the requirement of the section becomes unnecessary, and is struck out. The second part of section 37 sets out what moneys are to be credited in the account. Amongst these are all moneys received from lessees of town allotments in the area. As a matter of fact, before the passing of the amending Act of 1919 many town allotments were granted in freehold. It should, then, be provided that any moneys received from the owners of these allotments should be credited to the fund. This is the amendment made by subdivision (b) of this clause. Subdivision (c) adds a new paragraph at the end of the section. The effect will be that there must be credited to the account all other moneys (not specifically mentioned) received from any other source within the area which the Minister determines should be credited. An instance of this would be moneys received on account of licences to take sand. There may also be other receipts in the future not at present contemplated by the section. Any such receipts could be properly dealt with under the new provision. Clause 13 makes several amendments to section 85 of the Act. These are mainly in the direction of giving the Minister wider powers in the matter of assisting lessees in the construction of improvements. He is at present authorised to expand not more than £15 per acre in improvements. This at the present time is inadequate. It is amended by subdivision (a) to £20 per acre. The improvements which may be constructed by the Minister under the section are specified; they include channels, but not drains and tanks, although these have always been regarded as part of the channel system. Subdivision (b) is intended to include drains and tanks amongst the authorised improvements. Subdivisions (c) and (d) are consequential upon the latter amendment. Subclause (2) adds a proviso to subsection (2) of the section. It is stipulated in this subsection that the moneys spent by the Minister in improving a lessee’s block are to be secured by a first mortgage over the block. Frequently it happens that the block is already mortgaged to one or other of the departments of the Government, and in such a case it would be impossible, if the section is to be complied with strictly, for the lessee to have the benefit of the section. This proviso says that the mortgage need not be a first mortgage if the block is encumbered only by a mortgage or charge in favor of the Crown. Clause 14 amends section 3 of the amending Act of 1919. That section stipulates that town allotments are to be let on perpetual lease (subject to revaluation of rent) at rentals to be fixed by the Land Board and approved by the Commissioner. It is thought more appropriate that the approval of the rents should be with the Minister of Irrigation than with the Commissioner of Crown Lands. This clause accordingly substitutes the Minister for the Commissioner. Clause 15 gives the Minister authority to require the holder of a block to line his channels with concrete, or by some other means to render them impervious to water. In the event of the lessee failing to carry out the required work the Minister can carry out the work at the lessee’s cost. Clauses 16 to 26 deal with the offering of town allotments, and the methods of revaluation of rent. In 1919 an amending Act was passed providing that town allotments should be let on perpetual lease subject to revaluation of rent. These provisions are intended to take the matter further, and prescribe the mode of offering these leases. Clause 16 establishes the rule that perpetual leases of town allotments must be offered at public auction at an upset price, which must be fixed by the Land Board, and sold to the highest bidder at or above the upset price.m Subclause (2) makes provision for eases where an allotment has been occupied under licence, and the occupier has made improvements on the land. In such a case a perpetual lease must be offered to him first. Clause 17 provides for the advertising of forthcoming auction sales in the “Gazette”. A similar provision is to be found in the Crown Lands Act. Clause 18 deals with rent. The rent for the first period of 21 years is the sum offered by the highest bidder. The rent for each subsequent period of 21 years is that fixed by the Land Board upon revaluation. In making the revaluation, the Board is not entitled to consider improvements of any kind made by the lessee himself, or paid for by him. Clause 19 provides the machinery for revaluation. These provisions are almost identical with the corresponding provisions of the Crown Lands Act, 1915. Clause 20 sets out what improvements are to be made by a lessee. He must within the first 18 months of his lease, carry out improvements on each allotment not less in value than 10 times the amount of his annual rental. In the case of a residential allotment the amount must be at least £150, and if the allotment is set apart for any other purpose, it must be not less than £200. If the lease includes three or more allotments, the stipulated improvements must be made on at least two of the allotments. The lessee has the same benefit in respect of improvements paid for by him as if he had actually erected them himself. In the case of a residential allotment, all buildings must be set back at least 30 feet from the boundary; and in the case of business or manufacturing sites, the building must be built to the alignment of the boundary. Clause 21 contains the necessary power to set apart allotments for specific purposes. Clause 22 authorises the Minister to limit the number of allotments which may be held by any one person. The number must not exceed three in the case of residential allotments, and four in any other case. By the consent of the Minister the requirements of this clause may be waived. Clause 23, taken in conjunction with the schedule, provides the form of perpetual lease of allotments. Clause 24 empowers the Minister to grant licences to occupy allotments. A similar power is contained in the Crown Lands Act. Clause 25 validates the granting of all leases and licences prior to the passing of this Bill. There is considerable doubt whether there was power to grant licences at all, and some of the leases granted depend for their validity upon certain regulations which are themselves of doubtful validity. It is essential that the interests of these lessees and licensees should be properly safeguarded, and this can be done by saying that they are deemed to have been validly granted. Clause 26 validates the regulations just referred to. They made provision for most of the matters included in clauses 16 to 24 of this Bill, but it is open to question whether there was the necessary power to make them. When this Bill becomes law they will cease to operate by virtue of this clause.

That is the detailed report of the various amendments proposed in the measure, which will, I think, tend to the better administration of the department, and in many instances will give a better feeling of security, not only to the department, but to the lessees themselves. I move the second reading.

The Hon. D. J. GORDON secured the adjournment of the debate until December 1.