# STATUTES AMENDMENT (DOG FENCE AND VERMIN) BILL 1964

**Legislative Council, 1 September 1964, page 658**

## Second reading

Received from the House of Assembly and read a first time.

The Hon. C. D. ROWE (Attorney-General): I move:

That this Bill be now read a second time.

It seeks, to amend the Dog Fence Act and the Vermin Act by providing a means for arbitration where, upon a variation in the site of the dog fence, the owner of the fence proposed to be made part of the dog fence and the owner of the fence ceasing to be part thereof fail to conclude satisfactory financial arrangements as provided by section 21 of the Dog Fence Act.

Section 21 provides that, on the recommendations of the Dog Fence Board, the site of the dog fence may be varied by proclamation, but the board must not make its recommendation unless it is satisfied that the owner of the fence proposed to be made part of the dog fence and the owner of the fence ceasing to be part thereof have made proper arrangements for payment to the latter owner of a reasonable part of his expenditure on the fence. Accordingly the board is not competent to make its recommendation for a variation in the site of the dog fence if the owners fail to agree on the amount to be made under section 21. The matter is further complicated by section 202 of the Vermin Act which imposes a liability on an owner of land to contribute towards the cost of a vermin or dog-proof fence erected by the owner of adjoining land on the boundary of their land to the extent of half the value of the fence. The purpose of this Bill is to provide for these matters to be referred to arbitration in default of agreement by the owners, and for the board to make its recommendation for a variation of the site of the dog fence when satisfactory arrangements have been made between the owners or when the matters in dispute have been referred to arbitration. Recently, when the site of the dog fence was varied, the two parties concerned failed to agree on satisfactory arrangements and the deficiency in the legislation was brought to the notice of the Government.

Clauses 1 and 2 of the Bill are formal provisions. Clause 3 repeals and re-enacts section 21 of the Dog Fence Act. Subsection (1) of the new section contains the first part of the repealed section without change. Subsection (2) enables the Dog Board to recommend a variation in the site of the dog fence if the owners have concluded satisfactory arrangements or if, upon default of agreement, the matter has been referred to arbitration. Subsection (3) provides that, where the owners fail to agree, the Minister may, at the request of both or either of them, refer the matter to arbitration by one or more arbitrators appointed by the Minister. Subsection (4) is a machinery clause incorporating the Arbitration Act.

Clause 4 is a formal provision dealing with a consequential amendment to the Vermin Act. Clause 5 adds a new subsection to section 202 of the Vermin Act providing that any payment of an amount awarded by arbitration is contribution to the cost of the fence under section 202 shall be a discharge of liability to pay that amount under the section.

The Hon. S. C. BEVAN secured the adjournment of the debate.