Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 21 NOVEMBER 1894

LEGISLATIVE COUNCIL.

WEDNESDAY, 21 NOVEMBER, 1894.

The PRESIDENT took the chair at half-past 3 o'clock.

RELATIONS BETWEEN RAILWAY COMMISSIONERS.

The HON. F. H. HART laid on the table the report of the Joint Committee appointed to inquire into the relations between the Railway Commissioners.

Ordered to be printed.

LEAVE OF ABSENCE.

On the motion of the HON. W. H. WILSON, leave of absence was granted to the Hon. J. Tyson for the remainder of the session.

NEW RAILWAYS.

The PRESIDENT announced the receipt of a message from the Assembly, forwarding for approval the plans, sections, and books of reference of the following new railways:—Childers to Cordalba, Boggo road and Yeerongpilly Junction, South Brisbane wharf to Victoria Bridge, and the proposed closing of certain level crossings at Ipswich.

SCHOOLS OF MINES BILL.

THIRD READING.

This Bill was read a third time, passed, and ordered to be returned to the Assembly.

RECONSTRUCTED COMPANIES BILL.

COMMITTEE.

Preamble postponed.

Clauses 1 and 2 passed as printed.

Clause 3, which vests the assets, etc., of the old company in the new, was amended by the omission of the words "and without payment of any fees or duties whatsoever," from lines 18 and 19; and, as amended, put and passed.

Clauses 4 to 7, inclusive, put and passed.

The schedule was amended so as to include the company known as "Goldsbrough, Mort, and Company."

Preamble put and passed.

The House resumed; and the CHAIRMAN reported the Bill with amendments. The report was adopted, and the third reading made an order for to-morrow.

MINERAL LANDS (SALES) ACT AMENDMENT BILL.

SECOND READING.

The POSTMASTER-GENERAL: Hon. gentlemen are aware that in some parts of the colony we have had very burning questions with regard to mining rights and the difficulties in the way of carrying out mining enterprise, owing to the intervention of small portions of freehold or leasehold between properties belonging to parties who are desirous of of working their properties as one property. In Charters Towers particularly there is a notable instance where very valuable gold discoveries have been made upon or adjacent to small holdings of freehold. Leases have been from time to time held by private individuals, and leases have also been granted giving the right to mine under the streets of Charters Towers; but the intervention between these different holdings of small blocks of freehold on the one side and the intervention of these leaseholds under streets separating freehold blocks on the other hand have combined to seriously obstruct mining development on that goldfield. This Bill is an attempt to remove the difficulties that have existed in the matter. It will provide a means by which freeholders who are separated or the owners of blocks separated by other holdings or

leaseholds can get, under proper conditions, a right to construct a wayleave—that is, a means of access underground—from one portion of their property to another; and freeholders will also be able, by complying with this Act, to secure for themselves similar privileges where they are now obstructed by the existence of leaseholds lying between their different blocks of property. This Bill is not a Mining on Private Property Bill; it is a Bill which enables the owners of freehold to surrender their freehold grant and obtain a fresh deed for their land; but concurrently with that surrender they have a prior right for a specified period of obtaining from the Crown a full legal right to extract the minerals from the soil. The law, as it stands, is not perhaps in the most satisfactory condition. It is generally recognised that by deeds of grant ordinarily issued in this colony—or independently of it, perhaps—the royal metals are reserved to the Crown. The owner of the freehold in general has no right to appropriate to himself the gold that is found in his freehold; at the same time the Crown has no authority to commit a trespass by entering, by itself or by its authorised agents or lessees, on that ground to remove that gold. The gold is held in a dog-in-the-manger fashion; no one has a right to take it out of the soil; the Crown cannot send anyone to extract it, and the freeholder, if he does, has no right to it. That difficulty is proposed to be settled by this Bill. The freeholder is not obliged to surrender his freehold; but, if he does do so, he can obtain in exchange an equally good title to his freehold in all respects, except that the Crown acquires the right of leasing the privileges of extracting that gold under the soil; but the freeholder has ample time after he surrenders his deed of grant to obtain, in priority to everybody else, a mining lease for the purpose of extracting gold or silver from under the surface. I think that is about as fair and satisfactory a way of settling an extremely vexed question as it is possible for us to devise. The proposals contained in the Bill have been carefully and thoroughly thrashed out by men who take a great interest in the matter, and who consider this will be a satisfactory remedy. The Bill contains provisions preserving the rights of those who have heretofore acquired the freeholds to extract gold. In exchange for the privileges granted by the Bill, the small royalty of 1s. per oz. is imposed. The other portions of the Bill are formal, and deal with matters of returns, examination of books, enforcement of royalty, penalties, and power to make regulations. I may state that in committee I propose to amend the 3rd clause, the first three lines of which limit the operation of the Bill to cases in which there are two or more mining leaseholds separated from each other by freehold land or mining leases. The scope of my amendment will be to enable a person who has one mining lease which is either wholly or partially divided by other holdings to obtain similar concessions to those given by the Bill to others. I would ask hon. gentlemen to suppose that within the boundaries of a mining lease a small portion of freehold or another lease intervenes. Instead of obliging the holder of one mining lease to surrender that lease and take out two separate leases so as to come within the Bill, I propose to alter the clause so that it will read—

> When one or more mining leaseholds in the occupation of the same person or persons is or are wholly or partially divided or separated by other land held in fee-simple, etc.

When hon. gentlemen consider the effect of these amendments they will see that they are improvements. I move that the Bill be now read a second time.

The HON. A. C. GREGORY: I think this Bill will to a certain extent be very suitable for such fields as Charters Towers, and it would have been better if the Bill had in the first case been limited in its operations to that field. Hon. members may not be aware that that goldfield is a totally different mining district from any other in the colony, and there is only one other like it in Australia. The mines there are worked on what are called "flats," while in other districts the mines are upon lodes, and which are nearly vertical, with occasional shoots. In England the mining laws vary according to the character of the deposits, and in districts where both formations exist they have a local court to decide the methods in which the mines shall be carried on. There is a further amendment that I must suggest, and that is to give power, such as is given in England, to go through a third party's land for the purpose of giving access from one mine to another. It frequently happens that a small freehold lies between two mines which could be worked at far less expense from one shaft, or where the ventilation might be improved or additional safety provided. I think that clause 3 should apply to cases where two different mines are open upon opposite sides of a freehold, because that would greatly improve the system of working in a district like Charters Towers. Unless some provision can be made for introducing something in the nature of the old English local courts, called by their Saxon name of "Wapentake" courts, it will be found hard to make the Bill effective. I mention these matters so that we may better understand the conditions of working on our different goldfields. The Bill may be very useful, but at the same time it is an experiment, and if it were brought into operation at Charters Towers at once we should gain some experience before the Bill is permitted to operate without limit. I do not propose that the Bill should be limited, but that the further extension of its operations should rest in the hands of the Executive Government.

Question put and passed; and the committal of the Bill made an Order of the Day for to-morrow.

CIVIL SERVICE ACTS AMENDMENT BILL.

FIRST READING.

This Bill, received from the Assembly, was read a first time, and the second reading made an Order of the Day for Tuesday next.

STANDARD OF TIME BILL.

The PRESIDENT announced the receipt of a message from the Assembly, returning this Bill with amendments.

The consideration of the message was made an Order of the Day for to-morrow.

MUSGRAVE WHARF EXTENSION BILL.

FIRST READING.

This Bill, received from the Assembly, was read a first time, and the second reading made an Order of the Day for Tuesday next.

RABBIT BOARDS ACT OF 1891 AMENDMENT BILL.

COMMITTEE.

Clauses 1 to 12, inclusive, put and passed.

On clause 13—"Retirement of members of the board"—

The POSTMASTER-GENERAL said clause 18 contained a provision which really belonged to clause 13, and he therefore moved that the words "but a retiring member shall be eligible for re-election or reappointment" be inserted after the word "re-election" in line 45.

Amendments agreed to; and clause, as amended, put and passed.

Clauses 14, 15, and 16 put and passed.

On clause 17, as follows :—

"The following enactments shall be added to section 31 of the principal Act, that is to say,—

"Any person who in a rabbit district leaves open a gate in a fence erected for the purpose of preventing the passage of rabbits, or removes, opens, or in any way tampers with any flood-gate or other barrier under the control or supervision of the board, shall be liable to a penalty not exceeding fifty pounds ; and

"Any person who offers or pays or causes to be offered or paid any bonus or scalp money as a reward for the destruction of any rabbit, or who sells or purchases or causes to be sold or purchased, or keeps, exposes, offers, or exports for sale, or causes to be kept, exposed, offered, or exported for sale, any rabbit or rabbit's skin shall be liable to a penalty not exceeding fifty pounds."

The HON. J. D. MACANSH said the last part of the clause was unnecessary. The object was to prevent people making a trade of killing rabbits. But if people destroyed rabbits for the sake of their skins it would rather help the destruction of the pest than otherwise. In the case of native bears, for instance, the skins had become so valuable that they were destroyed merely for the sake of their skins, and they were almost exterminated without any bonus being paid at all. The clause would not effect the object desired, and it would be an improvement to leave it out.

The POSTMASTER-GENERAL said it seemed a strange provision at first sight to have in the Bill, but it had been inserted at the express request of a rabbit conference held some time ago in this colony. That conference considered that without such a clause those portions of the colony that were free from the pest would run the danger of having it introduced wilfully by people who would look forward to gaining a livelihood by subsequently destroying them. Any person who would take steps to make a profit out of the sale of rabbits here would be false to the interests of the country.

The HON. J. D. MACANSH quite understood the object of the clause, but thought it would be a mistake to prevent the destruction of rabbits in any way.

The HON. SIR A. H. PALMER thought the object of the Bill was to destroy rabbits, but the effect of the clause would be to preserve them. The first part of the clause was very good, except that the fine was too heavy ; but the latter part of the clause was an absurdity.

The HON. A. C. GREGORY thought that the framer of the Bill must have overlooked the Act of 1885, which provided that it should be lawful for any person to destroy any live rabbit found in any place in the colony. The latter part of the clause was inconsistent with that provision. They knew that rabbit skins were an article of commerce in the southern colonies, and that rabbits were tinned and exported in considerable quantities ; and he did not see why this colony should be debarred from turning to account an element which would otherwise be a nuisance.

The POSTMASTER-GENERAL said the scheme of the Rabbit Act was to put the matter of the destruction of rabbits into the hands of the rabbit boards, and remove it from private enterprise, because individuals who might acquire a vested interest in the trade would be encouraged to perpetuate rather than destroy the pest. If, by a mistaken impression as to the practical operation of the clause, the latter part of the clause were omitted, it would be a great pity. The Rabbit Act of 1885 did not affect the Bill in the slightest degree. That prohibited the keeping of rabbits in captivity, and did not deal with the question as it now affected the colony. There was a considerable difference between dealing with the rabbit pest and dealing with the marsupial pest, because the marsupials never did increase proportionately so rapidly as the rabbits. If people were allowed to set up a trade in rabbits and rabbit skins, it might be reasonably anticipated that some persons would inoculate clean districts with the pest and cause it to spread from one end of the colony to the other. As to the amount of the penalty, he thought no penalty would be too high for a man who wilfully left open a barrier or a flood-gate for the purpose of allowing rabbits to get in. If a man left a gate open through carelessness, the bench could inflict a fine of £1 or £5 or whatever penalty they thought would meet the case ; and if the circumstances did not justify the extent of the fine it could be reduced or remitted by the Governor in Council.

The HON. SIR A. H. PALMER said the men who broke down a fence or wilfully left a gate open to allow rabbits to come in would be no more likely to be fined £50 than the skin would be likely to get back on a rabbit after it was once taken off, simply because he had not got the money. The only way to get a man fined £50 would be for an informer to leave a gate open and swear that the first man who went through had left it open. If a man ran the risk of being sent to gaol for three months he would be more careful, but if a man who wilfully left a gate open were boiled down it would be impossible to get £50 out of him. As to the latter part of the clause, he did not see why people should be prevented from destroying rabbits. The clause was not necessary, and would not prove useful in the least.

The HON. J. D. MACANSH moved the omission of the last paragraph of the clause.

The HON. W. G. POWER said there was nothing in the clause to prohibit anybody from killing rabbits or from giving powder and shot to other people to destroy rabbits ; but it provided that people were not to offer any payment or reward which would lead to the introduction of rabbits.

The HON. SIR A. H. PALMER said the object of the Bill was to get rid of the curse ; and he did not see why anyone should not be allowed to pay so much for every rabbit's scalp brought to him.

The HON. T. B. CRIBB said that if it would pay anyone to kill rabbits for the sake of their skins it would also pay to introduce rabbits to places where they did not already exist. It was desirable that every possible means should be taken to exterminate the pest ; and he would suggest that the local boards where rabbits existed should be empowered to take any steps they liked—by offering a bonus, or by any other means—to destroy rabbits. At the same time care must be taken to offer no inducement to people to encourage the spread of rabbits.

The HON. J. D. MACANSH said that as there appeared to be a good deal of opposition to the amendment he would withdraw it, with the view of inserting after "Any person who" the words "without the license of the board."

The HON. W. D. BOX objected to the withdrawal of the amendment, as he thought it was preferable to the one which the hon. gentleman proposed to move in its stead. By leaving out the last paragraph they would be furthering the object of the Bill, because people would shoot rabbits on account of the money they could get for the skins. If a man could get 9d. a dozen for skins he was to that extent assisted in carrying out the provisions of the Act.

The HON. R. BULCOCK said the clause had been inserted on the recommendation of the rabbit conference. There was no doubt there would be a great temptation to let rabbits in for the purpose of making money by killing them. It would answer the purpose if the clause were so worded that people desiring to kill rabbits

had to obtain licenses. If unprincipled men were to let rabbits in it would do more harm than passing the clause in its present form.

The HON. F. CLEWETT said the clause had been inserted at the instance of men who had experience of the locality in which rabbits existed, and it was always a safe principle to allow the people who would have the administration of an Act to suggest what their experience had taught them for the carrying on of the business in hand. He had some photographs of the rabbits as they existed in the districts where the Bill would operate, and he thought that no penalty that could be enforced would be severe enough to impose upon anyone who left open any barrier or fence intended to keep them out. The methods of destruction that were necessary were not such as they had been accustomed to, and the clauses in the original Act did not apply. The manner in which the rabbits were piled up on the New South Wales side of the fence would prove that some very extensive method of destruction would have to be adopted if once they got into Queensland. Shooting had been found altogether inadequate in the other colonies, even when a bonus was paid; but such methods might be effective where the numbers were limited. It had been proved in New South Wales that the effect of giving a bonus was simply to establish an industry and induce men to see that rabbits increased fast enough to make a profitable occupation for themselves. They wanted to prevent that here; and if it was a question whether the country was to be devoted to the breeding of rabbits or the breeding of stock, he preferred the latter. They had better pass the clause as it stood, and if any modification were found necessary they could be introduced at another time. In the mean time, any power they could put in the hands of the men who were trying to administer the law so as to protect the country, was worth a fair trial, and they should consider carefully before they took away from those men the authority which they asked to have placed in their hands.

The HON. W. D. BOX withdrew his opposition to the withdrawal of the proposed amendment.

Amendment, by leave, withdrawn.

The HON. J. D. MACANSH moved that the words "without a license from the central board" be inserted after the words "Any person who," at the beginning of the 2nd paragraph. He thought that would meet all objections, because the board would not grant licenses if they thought any damage likely to ensue.

The HON. SIR A. H. PALMER asked how they were keeping down the kangaroos but by paying a bonus for shooting them and getting the skins? It was all very well to say that the fence was keeping rabbits out, but if they got a start on the enormous plains they would not find enough timber for fencing, and it would be far better to offer a small bonus to anyone who would shoot them. He would support the amendment.

The HON. J. COWLISHAW thought it rather a roundabout way to compel people to get their licenses from the central board when the district boards would be more convenient. The district boards would probably know the applicants, and the central board would have to refer to them.

The POSTMASTER-GENERAL thought it would be better to leave the matter to the central board, although the district boards would have to be referred to. In the case of a prosecution it would be easier to find out from the central board if permission had been given than to inquire from all the district boards.

The HON. A. C. GREGORY thought they had better use the words "central board," because the district boards might issue licenses under different regulations. It would be better to accept the amendment than to leave out that part of the clause.

The HON. C. H. BUZACOTT did not think the amendment would do any harm, although he would prefer to leave the clause as it stood. In New South Wales they had spent hundreds of thousands of pounds in rewards and bonuses, and it had been remarked that the more money they paid, the faster the rabbits increased in the infested districts. He respected the opinions of practical men in the Committee, but still there was a feeling in favour of the clause, although it did seem Algerine and unreasonable. It was called forth by the peculiar conditions, and it did not follow that because the system of rewards was successful in regard to marsupials it would be successful in the case of rabbits. As to the penalty, he understood that in the case of a penalty exceeding £5 there was an alternative of six months' imprisonment if the offender chose to avail himself of it.

The HON. A. NORTON said, in regard to the argument that the payment of bonuses would encourage unprincipled men to keep up the supply of rabbits, the same argument might be used in respect to marsupials, but his experience of the latter was that men shot all they could, and did not leave any for the sake of getting a further supply, nor did they think of the future so much as of the present. He had not had an opportunity of visiting the rabbit-stricken country in the other colonies, but he noticed that in spite of the extraordinary devastation they heard of, the number of stock continued to increase. He could not help thinking that these statements were exaggerated, although the evidence came from sources they could not feel disposed to doubt; and he thought the clause rather too stringent. He had been fighting against statements which had been made that the cattle in Queensland were very largely affected by tuberculosis. That might or might not be true, but all the leading books on bacteriology he had been able to get hold of said that rabbits were peculiarly subject to that disease. If rabbits were spreading as had been said, let them send a few tuberculosis bullocks to the infested districts, and spread that disease amongst them instead of trying Pasteur's experiments, and it would kill off the rabbits quicker than anything else.

The HON. F. CLEWETT said the Hon. Mr. Norton had said that in spite of the rabbits stock increased in those districts in New South Wales; but would he say that the increase would not have been greater if the rabbits had not been there. The arguments of the hon. member were not at all convincing. He seemed to think that their best plan was to wait until the rabbits came, and then try tuberculosis experiments with bullocks. The contradiction of the hon. member's argument was carried on the face of it. If tuberculosis bullocks could live, tuberculosis rabbits could live also, and they would have the rabbits and not the bullocks.

The HON. A. NORTON said the stories he heard about the spread of rabbits reminded him of the stories of the great spread of cypress pine, which had spread from the ranges on to the plains, and had absolutely destroyed thousands of miles of country for pastoral purposes. But the number of cattle had not decreased. It was a very poor argument to say that because tuberculosis cattle lived rabbits similarly affected would live also; and if hon. members would study any books upon bacteriology by the leading men they would find that was not the case. Rabbits died far more readily than cattle and took the disease more readily. He was glad to have an opportunity of answering those people outside who talked so much about the prevalence

of tuberculosis amongst their cattle; it was like crying "stinking fish" so far as their own stock were concerned. The people who were always saying that the carcasses of Queensland cattle ought not to be taken away until reported upon by some expert knew nothing about it.

Amendment agreed to; and clause, as amended, put and passed.

The POSTMASTER-GENERAL moved a new clause to the effect that the expression "in each year," contained in the 17th section of the principal Act, should mean the period between the 1st of April in any year and the 31st of March in the next succeeding year, both such days being inclusive. Some of the boards had found a difficulty in ascertaining at what particular time they were at liberty to impose the rate, and when their successors were to commence operations, and the clause was introduced to remove doubt.

Clause put and passed.

Clause 18 passed with a consequential amendment.

Clause 19 put and passed.

The House resumed; the CHAIRMAN reported the Bill with amendments; and the third reading was made an order for to-morrow.

ADJOURNMENT.

The POSTMASTER-GENERAL: I move that this House do now adjourn, and in doing so I ask hon. gentlemen to attend to-morrow to facilitate the progress of business, because it is necessary that an absolute majority should be present to deal with the motion with regard to the suspension of the Standing Orders, of which I have given notice to-day.

Question put and passed.

The House adjourned at twenty minutes to 6 o'clock.