

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Council**

**THURSDAY, 7 MAY 1874**

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## LEGISLATIVE COUNCIL.

Thursday, 7 May, 1874.

Mining Companies Bill.—Navigation Bill.—Adjournment.

## MINING COMPANIES BILL.

On the reading of the Order of the Day, for the adoption of the report on the Gold Mining Companies Bill—

The Hon. A. B. BUCHANAN moved the recommission of the Bill, for the reconsideration of clauses 32, 36, 37, 76, and 80.

Question put and passed, and the House resolved into Committee of the Whole.

Clause 36.—Shares may be transferred to the company.

The POSTMASTER-GENERAL, in moving that the 36th clause stand part of the Bill, observed that he knew that the Honorable Mr. Buchanan had an objection to it, because it might allow certain persons to get rid of their liability unfairly. If the honorable gentleman looked at the seventy-sixth clause, he would find that it defined who were to be considered contributories if the assets of a company to be wound up should not be sufficient for the payment of its debts and liabilities. For the information of the honorable gentleman, he might state that the 36th clause had been the law in Victoria for the past seven years. To his mind, it seemed a provision which would enable persons of limited means, who were not of a speculative character, to embark in mining pursuits; and, when they had got the length of their tether, if they did not like their investment, to draw back without incurring further liability in connection with a company. Some persons who went into mining companies thought that the gold could be got on the surface of the ground; and when they found out their mistake, they desired to back out of the enterprise. The clause was a good one, and should be retained in the Bill.

The Hon. A. B. BUCHANAN moved, as an amendment—

That clause 36 be struck out.

He presumed that one of the main objects of the Bill was to protect the public. He was quite aware that it was very difficult to frame any Act of Parliament which could not in some way or other be driven through. But it was the duty of this House, if they saw gaps that could be driven through, to stop them. He could see plainly how the clause

could be worked very greatly to the disadvantage and loss of the public, more particularly by the directors and friends of the directors of a company. The clause provided that no share could be transferred to the company whilst a call was due and payable on it; but, after the call was paid, no one but the directors knew the position of the company. The directors were behind the scenes, and they knew the position of the company, and if it would necessitate further calls, and they were free to make use of that knowledge, if the mine was about to fail. The Postmaster-General had referred to the existence of such a provision in the law of Victoria. That was nothing to the point; as he (Mr. Buchanan) knew of many bad Acts in that colony. If the honorable gentleman would take the trouble to read the 76th clause over again, he would see that it applied to persons at the commencement of the winding-up of a company; whilst the 36th clause enabled shareholders to clear out of a company long before the beginning of the winding-up. The 76th clause did not bear upon the 36th clause at all.

The POSTMASTER-GENERAL: The 36th clause applied only to those shareholders whose calls were all paid up, not to those whose calls were in arrear. The honorable member's remarks did not bear upon the clause. Directors in all companies had privileged information. No doubt the honorable gentleman had great experience, and he was the director of a bank; but that which he had objected to as against directors of gold-mining companies might take place in any company.

The Hon. J. GIBBON said he was quite disposed to agree with the honorable gentleman, that the clause was a very wholesome and useful one. It would enable gentlemen who had been unfortunately entrapped into mining affairs, to withdraw upon losing the money already paid; and would not subject them to the ruinous course of continuing liable for a large amount of calls for a perfectly hopeless mine. Such a clause was very much wanted, indeed. He knew several cases in which persons were compelled to continue to pay calls, though they despaired of any favorable issue from the mine.

The Hon. F. T. GREGORY said he was under the same impression as the Postmaster-General, that the clause was a useful one and likely to be of benefit; but he confessed that, after looking into the whole question, and after what had fallen from the Honorable Mr. Buchanan, he believed it was quite true that the clause laid it open to those who were in possession of information to use it for their own interest, and to withdraw from the company. As far as shareholders were concerned who had entered into such undertakings, and, as the Honorable Mr. Gibbon had suggested, who wished to withdraw, for any cause, their withdrawal would place the remainder of the proprietors in a safer position than they would be in under the operation of the clause if it

was effected by their placing their shares on the market and disposing of them altogether. If the shares were depreciated, he could not see why the burden should fall upon those shareholders who remained in the company, which would be the case if shares were allowed to be transferred to the company. It would be best, for the protection of the gold miners and the public generally, to expunge the clause.

The Hon. W. D. Box said he should support the amendment. He was of opinion that the clause, though bearing on its face the appearance of an intention to benefit the public, might yet induce the public to go more fully into speculation than would be beneficial. The Act that protected limited liability companies should, he thought, be sufficient to protect persons who chose to go in for speculation in gold mining. The reasons given by the Honorable Mr. Buchanan were most potent against the clause, and he should support the motion to expunge it from the Bill. The responsibility should be thrown upon the general body of the shareholders, and none in the position of directors should be able to take such advantage as the clause gave by transferring their shares to the company, because of any opportunity they might have of gaining special knowledge.

Question—That the clause stand part of the Bill—put; and the committee divided:—

Contents, 4.	Non-Contents, 7.
Hon. G. Thorn	Hon. H. B. Fitz
"   W. Thornton	"   W. D. Box
"   J. Gibbon	"   J. F. McDougall
"   W. Hobbs.	"   F. H. Hart
	"   A. B. Buchanan
	"   F. T. Gregory
	"   W. Wilson.

Resolved in the negative.

Clause 37, which was consequent upon the foregoing, was omitted on the motion of the POSTMASTER-GENERAL.

Clause 76—Who are to be contributories.

The POSTMASTER-GENERAL, in moving that this clause stand part of the Bill, observed that he could not see the necessity for altering the fifth sub-section, to which some honorable members had objections. The property of a woman, except it was vested in trustees, became, upon marriage, the property of her husband; and the husband was liable for her debts contracted before her marriage.

The Hon. W. D. Box: This legislation seemed to be a return to the old and obsolete rule of law, that if a man married a woman who had contracted debts before her marriage, he was liable for those debts. It would not be wise to introduce that provision; and he hoped honorable members would bear out his view.

The POSTMASTER-GENERAL: The Married Woman's Property Bill, which had been introduced in another place, was not yet law. When it was the law, the honorable member's objection to the sub-section would be tenable.

The Hon. W. D. Box: He did not know about the law of Queensland, but he knew that in England, at the present moment, if a man married, he was not obliged to pay his wife's debts contracted before marriage. Should the clause pass, if a man married a woman in Queensland, he would have to pay her mining debts, and all calls on the scrip in her name.

The POSTMASTER-GENERAL: By marrying, the man might come into an enormous fortune.

The Hon. F. T. GREGORY objected to the composition of the sub-section; and if it was not to be eliminated altogether, he had an amendment to move in it. The Postmaster-General should have asked his learned friends as to the wording of it. He (Mr. Gregory) did not set himself up as a grammarian of any very deep research; but the sub-section had puzzled him and a good many other honorable members. As the clause stood, he held it to mean that the "husband" was "the holder of a share," though the intention was to refer to the "woman" as the "holder" at the time of her marriage, and to the husband as the contributory, after marriage, on account of her share. He moved the substitution of the following, for sub-section 5 of the clause:—

"The husband of any woman who at the time of her marriage with him was the holder of a share in the company notwithstanding that such share shall not have been transferred in the register of the company from her name to that of her husband to the same extent as though she had been liable if she had not been married."

The POSTMASTER-GENERAL said he should like the honorable member to explain the real difference between his amendment and the sub-section.

The Hon. F. T. GREGORY: His authority was Lindley Murray, and according to that he proposed the amendment. Acts of Parliament were not punctuated, so that the sense should be taken as the words ran.

The question was put and the amendment was affirmed.

The other clauses referred to the committee were amended without discussion.

Upon the resumption of the House, the Chairman reported the Bill with amendments.

#### NAVIGATION BILL.

The House resolved into a Committee of the Whole for the consideration of this Bill.

In reference to part I.—Marine Board and its functions—

The Hon. W. D. Box raised the question as to the term of office of members of the Marine Board. Did a man cease, he asked, from serving on the Board after a course of six months, or after five or six years' service? Did he continue in office until his death? The Bill made the Board a close corporation, which was not a good thing for this colony.

He (Mr. Box) submitted that some time for the retirement of members ought to be fixed.

The POSTMASTER-GENERAL observed that the Governor in Council made the appointments and filled up vacancies. Clause 8 specified the disqualifications—insolvency or absence from the meetings of the Board for six months.

The Hon. W. D. Box was aware of all that. It would be best if the members retired periodically, as a matter of fact; and a tenure of office should be fixed by the Bill—say, three or five years.

The Hon. W. THORNTON: Two members of the Marine Board were *ex officio* members, the Portmaster and the Collector of Customs; the other members were not. The suggestion was a good one.

The POSTMASTER-GENERAL: The Board had peculiar functions to perform, and it was not every day that the Governor in Council could procure persons competent to discharge them. Up to the present time, the members of the Board deserved great praise for the manner in which they discharged the duties committed to them, at a very slight cost to the country. He did not think things would be any better for limiting the appointments.

The Hon. W. D. Box said he had no intention of reflecting upon the Marine Board.

The Hon. W. THORNTON: The Governor in Council had power to remove members of the Board. If the tenure of office was fixed, members would go out, and would be re-appointed, which would place them in the same position as now. The Board was composed of gentlemen competent to give opinions upon questions of navigation and all nautical and mercantile matters.

The Hon. W. D. Box expressed his intention to move an amendment on the fourth clause, to give effect to his views; when

The Hon. W. THORNTON said that, with a view to give honorable members an opportunity to consider the subject, he should consent to the postponement of the clause.

Clause 4 postponed accordingly.

Clause 26—Steamships to carry certificated engineers.

The Hon. L. HOPE asked if sub-section 5 was meant to apply to steam launches and other small vessels.

The Hon. W. THORNTON: Yes; he thought so.

The Hon. L. HOPE: It would be rather onerous. He referred to such small vessels as plied about Sydney Harbor. Surely any mechanic could manage the engine of a steam launch. He feared that, as there must be a great amount of carrying traffic, the provision to compel such men to take out certificates would be an obstruction to trade.

The Hon. W. THORNTON did not see it would be such an obstruction as the honorable member imagined. He did not suppose that the examination for a third-class certificate would be a very severe one; and he thought

that every person who had charge of an engine on shore or afloat should be able to manage it. No doubt many accidents had occurred, more especially in America, from the ignorance of persons in charge of steam engines. He thought that every person in charge of a steamer, however small, should have some knowledge of his duty in connection with the engine. There was generally a second person with him, and he should be able to offer some guarantee for the safety of life. The little steamboats running about Sydney harbor, to which the Honorable Mr. Hope had referred, would be found subject to some restrictions similar to what were proposed in the Bill.

The Hon. L. HOPE: About a year ago, when he was in Sydney, he asked the Collector of Customs about those steamers, and the answer was that no notice was taken of them.

The Hon. F. H. HART observed that the clause was very desirable. He did not think it would be regarded as a restriction; because the examination that men of the class referred to would have to pass would be very light indeed. At present, small steam engines were not in charge of engineers, but of engine drivers. It was only the other day that a lamentable accident happened in Tasmania, where a small steamer, the "Little Nell," about forty feet long, was blown up, and about a dozen lives were lost; all through the ignorance or carelessness of the man in charge, who could not have known what he was doing. Upon inquiry into the matter, he had been informed that the man in charge had screwed down a nut on the safety valve; and, when the piston-rod broke, he did not release it while making repairs, having forgotten all about the valve. When he asked, had the man a certificate, he was answered—"Oh! no; we have no such thing here."

The Hon. L. HOPE: The men in charge of locomotives were not engineers, but only engine drivers. They could not pass the third-class examination.

The Hon. F. H. HART: He had spoken to many of the men in charge of small steamers and steam engines on the subject, and they had said they should pass the examination; they would not hesitate to go up. No doubt, when they commenced, they could not have passed an examination; but they had qualified themselves by long service.

The POSTMASTER-GENERAL: Men were going round the country who never had done more than put a shovel-full of coals on a fire, and who called themselves engineers; and, in America, a similar state of things was the cause of the many blow-ups that occurred there. On the stations in this country something dangerous would occur if precautions were not taken in time. Every man that could start an engine called himself an engineer.

The Hon. L. HOPE said he should have no objection to the clause, if the Government would insist that men should not work on shore without such a certificate as they

required afloat, because more accidents had occurred on shore than on the water.

Question put and passed.

The Bill was advanced to the 81st clause inclusive; when the Chairman was moved out of the chair. On the resumption of the House, progress was reported, and leave was given for the committee to sit again.

#### ADJOURNMENT.

The POSTMASTER-GENERAL moved the adjournment of the House until Wednesday next.

The Hon. H. B. FITZ moved—

That the House adjourn until Wednesday, the 20th instant.

The Hon. W. THORNTON, having regard to his Bill, wished the honorable member would assign some reason for desiring to postpone business until the time named. He had charge of a very important Bill, which he wished to get through the House so that it might come before the Assembly as early as possible in the session; and he could not conceive why it should be postponed. There was nothing but the Oyster Fisheries Bill down for next Wednesday, so that he might be able to advance the Navigation Bill through committee.

The Hon. H. B. FITZ said, one reason for wishing to put off the Bill was, that the Honorable Captain Simpson, who took a great interest in the Bill, had had to leave town for Stanthorpe, and could not be back; and another reason was, that it would be perfectly useless to call honorable members from home next week, when there was little likelihood of a quorum. All honorable members knew that the Pastoral and Agricultural Show was to come off next week at Ipswich; and that many desired to attend it. There would be a call of the House on the 20th, when every honorable member would attend, and when there would be business to do which required attention.

The POSTMASTER-GENERAL knew that honorable members were anxious to be at the show next week. There was not, certainly, much business on the paper; but, for himself, he could not vote for the long adjournment. It was, however, for honorable members to say whether they would come down next week. He thought there was little likelihood of getting a quorum. If honorable members wished to adjourn for the show and the races, he had no objection; but it was not, he thought, the intention of the Government to adjourn next week, if the House could be kept together to deal with the important questions that were to be brought forward; and he was not one of those who thought that the House ought to adjourn.

Question put and amendment carried. The House accordingly adjourned until Wednesday, 20th May instant.