

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Council**

**WEDNESDAY, 1 JULY 1874**

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## LEGISLATIVE COUNCIL.

*Wednesday, 1 July, 1874.*

Assent to Bill.—Parliamentary Librarian.—Admission of Barristers.—Gold Fields Bill.—Elections Bill.

## ASSENT TO BILL.

A message was received from His Excellency the Governor informing the Council that the Royal Assent had been given to—  
The Civil List Amendment Act.

## PARLIAMENTARY LIBRARIAN.

The PRESIDENT said: I have to make to the House an announcement in reference to the Librarianship, which has now been for some time vacant. I have, in accord with the Speaker of the Legislative Assembly, made a recommendation that the vacancy shall be filled up by a Mr. O'Donovan,

of Melbourne, whose testimonials, amongst those laid before us, seemed to be those which promised by his election to provide for us the best person applying for the office. Whilst making this announcement, I may state to the House that I have not acted upon my own judgment in the matter, because I have been induced to comply with the request made to me in a letter signed by sixteen members of this House, that I would not, as representing the Council on the Library Committee, recommend the appointment of Mr. T. P. Pugh.

HONORABLE MEMBERS: Hear, hear.

The PRESIDENT: I say that, in accordance with my own judgment, I should have recommended Mr. Pugh to the office. He was, for some time, a member of the other House, representing the metropolis, and he held the office of Chairman of Committees of the Legislative Assembly; and he is qualified, I think, to fulfil all the duties of the office of Librarian. But, it having been brought to my notice that such an appointment was personally disagreeable to a large number of members of this Council—

HONORABLE MEMBERS: Hear, hear.

The PRESIDENT: I felt it my duty to withdraw what personal feeling I had in the matter, and to turn my consideration towards the selection of the apparently most fit person submitted to our approval by the various testimonials we had received from the other colonies as well as from this colony. Therefore, from the best opinions which the Speaker and myself have formed upon the subject, we have recommended Mr. D. O'Donovan to be appointed Parliamentary Librarian.

#### ADMISSION OF BARRISTERS.

The Hon. H. G. SIMPSON called attention to what appeared to him to be a notable and very considerable discrepancy between the second of the new *Regula Generales* of the Supreme Court of Queensland, laid on the table on the 24th June, and the 23rd clause of the Supreme Court Act, providing certain facilities for the admission of barristers, which Act had just been passed by both Houses of Parliament and received the Royal Assent only yesterday. He gave formal notice of a motion for the next day.

#### GOLD FIELDS BILL.

The POSTMASTER-GENERAL, in moving the second reading of a Bill for the Management of the Gold Fields, said it was most extraordinary that this colony should have gone so long without an improved law for the gold-mining interest. The law in force at present was passed by the Legislature of New South Wales in 1857. The Act was a crude piece of legislation; and he might inform honorable gentlemen that, meantime, it had been twice amended, and, in fact, the law had been entirely changed in the neighboring colony. That being the case, it might be held to be undesirable that such an Act

should remain on the statute book of Queensland, seeing that the gold fields of this colony were as productive as those of New South Wales. No one would deny that the gold-mining interest demanded attention at the hands of the Legislature, with the view of setting at rest the insecurity of tenure that existed, and of curtailing the somewhat despotic powers now exercised by commissioners. Those officers at present decided disputes involving thousands of pounds, and their decisions could not be gainsaid. In the Bill before the House, the Government endeavored to do what was long acknowledged to be necessary at their hands. He recollected that in 1867 or 1868 a comprehensive Gold Mining Bill was introduced in another place by the then Minister for Works; but that measure never reached the Council. Subsequently, the Hon. Ratcliffe Pring was appointed a commissioner to report upon the gold fields, and to draw up a Bill for their management; but that measure, also, was shelved before reaching the Council. The Bill which was now under consideration was passed almost unanimously by the other House of Legislature. The great objects the Government had in view were, to give miners a reasonable security of tenure during the time they were carrying on their mining operations, and to provide means of administering justice on the gold fields. As honorable members were aware, the commissioner's judgment was final under the present law—there was no appeal. If the Bill should pass, that would be the case no longer. The Bill contemplated substituting wardens in the place of commissioners, and establishing wardens' courts, on the gold fields. The wardens' powers would be somewhat more extended than those now exercised by commissioners, and by police magistrates also. The Bill provided further, that there should be an appeal from the wardens' courts to the District Courts, and from those courts to the Supreme Court, on points of law only, not on facts; also that parties to a dispute involving an amount exceeding fifty pounds might go direct to the District Court to have it tried. Assessors would be appointed every year by the warden of any gold field, who would have to make out a list of two hundred of the most respectable persons in his neighborhood; and from such list one hundred persons would be selected by ballot, and they would constitute the roll of assessors for both the warden's court and the District Court, for the current year. A warden could adjudicate either alone or with two assessors; and the District Court judge could sit alone upon appeals, unless assessors were required by the parties interested. Power was given to wardens to settle disputes summarily, by consent; to amend any summons, so that complaints should not be dismissed for informality; and to adjourn the hearing of any case before their courts to prevent injustice being done. The Bill provided that, after a gold field had

been proclaimed two years, land on that gold field might be leased. The miners had a great objection to the leasing of land. However, it was believed that all alluvial diggings were pretty well worked out in two years, and that after the expiration of that time, the land might be leased in areas not exceeding twenty-five acres. There was provision in the Bill for the issuing of miners' rights for any term not exceeding ten years, and of "consolidated miners' rights," which might be in force for any number of years also not exceeding ten; and in that respect it gave the holders of claims, or their trustees, security of tenure. It was, he (the Postmaster-General) believed, copied from the Victorian law. The eighth clause enacted that—

"The said consolidated miner's right shall be in lieu of and represent and be of the same force and effect as a number of miners' rights granted for the same period of time equal to the number of the miner's rights by virtue of which the said claim or claims shall have originally been taken possession of and the same shall be granted to any such person as aforesaid so applying on payment of a sum at the rate aforesaid multiplied by the number of miners' rights which the same is to represent."

The Bill provided also for business licenses to be granted at any time, to be in force for any period not more than ten years, at the rate of four pounds for every year for which the same would be in force; and such a license would entitle the holder thereof to occupy a quarter of an acre of land. That provision was now in operation in Queensland. A gold field might be provisionally proclaimed, and if it should not turn out payable or permanent, the proclamation might be revoked or cancelled. The warden could act on such a gold field without assessors; and, of course, upon the cancellation of the proclamation, the warden would be taken away. Power was given to the Governor in Council to make regulations necessary for giving effect to the Bill and for the management of the gold fields generally. Honorable members could not object to the Bill, which was really a good measure, and such a one as had been needed for years; indeed, those best acquainted with the gold fields held that the miners could not get on without an amendment of the law. The diggers, in all directions, had clamored for it. The Bill further embodied the best regulations now in force on the gold fields of the colony, with some highly approved provisions from the Victorian mining law. If passed, it would be the means of developing the gold fields of Queensland to a much greater extent than was known in the past history of this colony. He (the Postmaster-General) hoped to have the strongest support of the House in passing the Bill. As the close of the session was at hand, he was very anxious not to lose the Bill; and, after the second reading of the Bill, he should ask honorable members—seeing an absolute ma-

jority of the Council present—to consent to the suspension of the Standing Orders in order to allow of its being passed through Committee of the Whole at this sitting. The Bill was approved of by the press of the gold fields, and by the mining representatives; and it would be a great satisfaction to give the country the advantage of what promised to be beneficial legislation. If the House allowed him to take the Bill into committee, this evening, he should be happy to postpone any particular clause that honorable members might think required further consideration.

The Hon. F. T. GREGORY remarked that the measure before the House was one which, he at once candidly confessed, he had a very limited knowledge of. Perhaps it might seem an anomaly that he should be the only member inclined to rise to speak to the question; but he should explain the reason why he spoke. He never had any transactions on the gold fields of Australia—he never worked on the diggings. When the Bill was placed in his hands he took the trouble to see whether, as a stranger, he could comprehend it. He had put himself in the position of a stranger arriving in this province, desiring to go into gold mining, and, as the first reasonable proceeding, to inquire what legislation had taken place on the subject; and in that light he had read the Bill through. All that he could find in the measure, with one or two very limited exceptions, were provisions as to the mode of conducting the wardens' courts. Indeed, if he had been asked for a title to the Bill, he should have called it "a Bill to provide for the Regulation of the Wardens' Courts under a Gold Fields Act." He did not propose to launch out into a sweeping condemnation of the measure, because it had been passed by the other House of Legislature; and honorable gentlemen knew that there were a good many members there well versed in mining matters, who would hardly have passed the Bill unless they were satisfied with it. Perhaps, a few were so thoroughly cognisant of the principles of gold mining that they read those clauses only which threw an additional light on the working of the gold-fields system; but, certainly, the Bill was not one to provide facilities for parties who had no previous knowledge to guide them in their transactions connected with gold mining. Personally, he did not find in the Bill the information he wanted; but he was going to vote for the second reading, because it was quite possible, in committee, that the honorable gentleman who had charge of it might point out that it was a complete measure, and give information upon its details as they came under consideration. In his view, it was an incomplete and an inefficient measure; and he said this after having spent a good deal of time in going through it, and with an understanding of the phraseology of Acts of Parliament.

The Hon. W. D. BOX said he had tried to make out the Bill, which professed to make

provision for the management of gold fields; but it seemed to him either to go too far or not far enough. The ninety-ninth and last clause of the Bill contained nearly everything relating to the management of the gold fields, as it gave power to the Governor in Council to make all necessary regulations, particular or general, therefor. He had not been on the gold fields, and he did not know what might be necessary; but he was inclined to agree with the Honorable Mr. Gregory, as, except for the clauses mentioned, the Bill was simply to establish wardens' courts. In fact, the ninety-ninth clause was all the House had to consider; as in it consisted the whole force of the measure—

"It shall be lawful for the Governor in Council from time to time to make such regulations not being contrary to the provisions of this Act as may be necessary for the purpose of giving effect to this Act and for the management of the gold fields generally.

"Such regulations may be made for the whole colony or for any particular part thereof.

"Such regulations shall be published in the *Gazette* and after publication therein shall have the force and effect of law and shall be judicially noticed in any court of justice." —

and so on. The Bill ought, to his mind, to contain a great deal of information on the management of the gold fields. He could not even find the size of the land that a miner would hold in virtue of his miner's right. He hoped that honorable members who knew more of the subject than he did would watch the Bill carefully through committee, and see that it provided all that was necessary on such an important subject as the management of the gold fields.

Question put and passed.

The POSTMASTER-GENERAL observed that the Bill was framed upon and embodied regulations already in operation on Gympie and other gold fields of this colony, with some borrowed from the other colonies. The twin measure to the Bill was passed by the Council only a short time ago—the Mining Companies Bill, which was now under consideration in another place. Unless the present Bill was passed, the Mining Companies Bill would be worthless. The Honorable Mr. Gregory had not pointed out any specific objections in the Bill; and no reason had been urged why it should not pass. It would give the miners what they had not now—an appeal; and it would enable them to obtain justice. The honorable member would have an opportunity of picking the Bill to pieces in committee. He (the Postmaster-General) moved, without notice, and there being a majority of the Council present—

That so much of the Standing Orders be suspended as will allow of this Bill being passed through all its stages in one day.

The motion was objected to by the Hon. G. SANDEMAN, on the ground that the Bill

came into his hands only to-day, and that it behoved honorable members to look into the question.

The Hon. T. L. MURRAY-PRIOR also objected.

The PRESIDENT ruled that the motion could not be put.

The committal of the Bill was made an order for next day.

#### ELECTIONS BILL.

Amendments of the Legislative Assembly on the amendments of the Council in this Bill were considered in committee and adopted, and the Bill was ordered to be returned to the Lower House.