Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

TUESDAY, 24 AUGUST 1886

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LEGISLATIVE ASSEMBLY.

Tuesday, 24 *August*, 1886.

Absence of the Speaker.—Petitions.—Motion for Adjournment—Distribution of American Seed Corn.—Formal Motions.—Acting Chairman of Committees.—Patents, Designs, and Trade Marks (Amendment) Bill—consideration of Council's Amendments.—Pacific Island Labourers Bill—consideration of Legislative Council's amendments.—Settled Land Bill—second reading.—Goldfields Act Amendment Bill—second reading.—Opium Bill—committee.—Adjournment.

The House met at half-past 3 o'clock.

ABSENCE OF THE SPEAKER.

The CLERK said: I have the honour to inform the House that the Speaker is unavoidably absent to-day.

Whereupon Mr. SIMON FRASER, Chairman of Committees, took the chair as Deputy Speaker.

PETITIONS.

Mr. MURPHY presented a petition signed by about 400 residents in the neighbourhood of Blackall, praying for an extension of tenure for the pastoral tenants, and for a fixed limit to their rents; and moved that the petition be read.

Question put and passed, and petition read by the Clerk.

On the motion of Mr. MURPHY, the petition was received.

Mr. SHERIDAN presented a petition from the Primitive Methodists of Maryborough, praying for the repeal of the Contagious Diseases Act; and moved that it be read.

Question put and passed, and petition read by the Clerk.

On the motion of Mr. SHERIDAN, the petition was received.

Mr. FERGUSON presented a petition from the Baptist Association of Rockhampton, praying for the repeal of the Contagious Diseases Act; and moved that it be read.

Question put and passed, and petition read by the Clerk.

On the motion of Mr. FERGUSON, the petition was received.

Mr. ALAND presented a petition from the pastor and office-bearers of the Baptist Church, Toowoomba, praying for the repeal of the Contagious Diseases Act; and moved that it be read.

Question put and passed, and petition read by the Clerk.

On the motion of Mr. ALAND, the petition was received.

Mr. PATTISON presented a petition from the session of the Presbyterian Church, Rockhampton, praying for the repeal of the Contagious Diseases Act; and moved that it be read.

Question put.

Mr. BAILEY said: Mr. Speaker,—It would be as well, seeing that we are likely to have a large number of these petitions from almost every little church in the colony, that they should be received without being read. We have already consented to receive them, and they are almost all worded in the same manner, and it is a great tax upon our Clerk to read them, and a great tax upon the time of the House to have them read over and over again. I think members presenting these petitions in future might as well at once move that they be received, as we have consented to receive them; but there is not the least necessity for a constant repetition of the same wording. I am not speaking now as to the effect of these petitions, for they will have equal effect now if received without being read, seeing that we have heard so many read already. I move that the petition be not read.

Mr. ALAND said: Mr. Speaker,—I do not see the point of the hon. member's remarks. The petitions presented this afternoon have each been differently worded. They certainly relate to the same subject, but the petitions read by the Clerk this afternoon have been differently drawn up. It is really nothing to say that the Clerk is tired of reading them, and that members are tired of hearing them. That is no argument to use, and the petitions being presented by hon. members should be read.

The DEPUTY SPEAKER said: I will point out to the hon. member for Wide Bay before putting his amendment that there is a motion before the House, "That the petition be read," and it will be competent for the hon. member to negative that motion if he thinks fit. I will put the motion that the petition be read.

Mr. NORTON said: With regard to what has fallen from the hon. member, I may say that only a short time ago a petition was presented upon this very subject that was very differently worded from any of the others, and that after it was read and received, the Speaker found out that it ought not to have been received. I think that if petitions are received without being read at all it may be found that many of them contain expressions that the House would not allow to pass if read.

Question put and passed, and petition read by the Clerk.

On the motion of Mr. PATTISON, the petition was received.

Mr. WALLACE presented a petition from residents of the town and districts of Clermont and Peak Downs stating that to enable pastoral lessees to make necessary improvements, and for the efficient working of the same, the Land Act of 1884 should be amended, and suggesting amendments therein to give a lease of thirty years for runs in the unsettled districts at the present rents for the first ten years, and the increase of rents at the end of the ten years not to exceed 10 per cent. He moved that the petition be read.

Question put and passed, and petition read by the Clerk.

On the motion of Mr. WALLACE, the petition was received.

MOTION FOR ADJOURNMENT.

DISTRIBUTION OF AMERICAN SEED CORN.

Mr. ADAMS said: Mr. Speaker,—I have a few remarks to make, and I will conclude with the usual motion for the adjournment of the House. The remarks I am about to make have reference to a statement made in this House on the 11th August by the Colonial Secretary. I may as well read that statement first. In reply to myself, the Colonial Secretary said:—

"In reply to the hon. member, I may say that Mr. Hogan's name came down for seed corn, and that gentleman said he applied for himself and others."

I have known the hon. gentleman for many years, and I am perfectly satisfied, and my constituents are also perfectly satisfied, that he would never have made that statement if he had not believed it to be true. The hon. member must have believed the statement was true when he made it, but the moment *Hansard* got as far as Bundaberg I received an urgent telegram to this effect:—

"Mr. Hogan applied for seed maize as secretary for association and did not say a word about himself and others Copy of letter posted."

I should not have called the attention of the House to this subject had I not been requested to do so by several of my constituents. The moment they saw the statement I refer to they thought it might, perhaps, injure the gentleman holding the position of secretary to that society, as it might be thought that he made the error, and not the hon. gentleman. I will read the letter applying for the maize; it is dated May 21st, 1886, and is as follows:—

"SIR,—I am directed by resolution, passed at a committee meeting of the Mulgrave Pastoral, Agricultural, and Horticultural Society, held yesterday, to apply for a quantity of the seed maize at the disposal of the Government, and which will arrive shortly from America. This is an extensive maize-growing district, and already a large number of applications have been received here from the farmers by the society to procure some of it."

It will be seen that there was not one word about Hogan and others; he has just sent the resolution as it was passed. As I said before, I do not wish the Colonial Secretary to believe that I myself or my constituents think he would make such a statement unless he believed it was a positive fact. With these few remarks, sir, I move the adjournment of the House.

The COLONIAL SECRETARY (Hon. B. B. Moreton) said: Mr. Speaker,—On going to my office the morning after this matter was last

before the House, I looked at Mr. Hogan's letter and found that I had made a mistake in saying that he had not stated he was secretary of the Agricultural Society at Bundaberg; and I am very glad to have this opportunity of correcting myself so far as that is concerned. But when the hon. gentleman came to see me he told me, I believe, that there were 300 people in his district applying for the corn; and I told him it was perfectly impossible for me to supply the corn to the secretary of any institution without he gave me some idea of the number of people likely to require it. It was in reference to that remark that I denied his right to make the assertion he made in the House, and which the hon. member for Port Curtis took up—that I was disinclined to allow any agricultural society to get corn. That is not the fact. I believe everybody who applied for it has got it, and I do not believe there is a bushel left. I am very sorry if any of the hon. member's constituents have been left out in the cold, but I do not think they have.

Mr. NORTON said: Mr. Speaker,—I asked the question with regard to this matter myself, because I understood from the hon. member for Mulgrave that he had been told at the Colonial Secretary's office that every application made by a society was treated as an application from one person. When I heard the Colonial Secretary's remarks in the House I never gave the matter another thought. I had sent in an application from a society in my district; I knew they had applied on behalf of a number of persons there, and I expected they would receive something like a reasonable quantity of maize; but on Saturday I got a telegram to say that they had been supplied with half-a-bushel. I called at the hon. gentleman's office this morning, but he had not arrived; so I left the telegram with his Under Secretary, who promised to see if he could get any more and send it up. I hope it has been sent up, because half-a-bushel is not very much.

Mr. ADAMS said: Mr. Speaker,—I can only repeat that the Colonial Secretary distinctly said to me in his office that he could not supply the corn to agricultural societies; he must supply it to the persons who made the application. I beg leave to withdraw the motion.

Motion, by leave, withdrawn.

FORMAL MOTIONS.

The following motions were agreed to:—

By Mr. ALAND, for Mr. Fraser—

1. That the South Brisbane Mechanics' Institute Bill be referred for the consideration and report of a Select Committee.

2. That such committee have power to send for persons and papers, and to sit during any adjournment of the House, and that it consist of the following members, namely:—Mr. Palmer, Mr. Foxton, Mr. Aland, Mr. Stevens, and the mover.

By Mr. BAILEY—

That there be laid upon the table of the House, a return showing the number of remanded cases during the twelve months ended the 30th June, 1886, in the police courts of Townsville, Rockhampton, Maryborough, and Brisbane, classifying the respective terms of remand of persons convicted and not convicted.

ACTING CHAIRMAN OF COMMITTEES.

The PREMIER (Hon. Sir S. W. Griffith) said: Mr. Fraser,—Before the House passes to the Orders of the Day, it will be necessary, as you are in the chair, to appoint a Chairman of Committees. I therefore beg to move—I am sure no objection will be made—that Mr. Aland act as Chairman of Committees for this day.

Question put and passed.

PATENTS, DESIGNS, AND TRADE MARKS (AMENDMENT) BILL—CONSIDERATION OF COUNCIL'S AMENDMENTS.

On the motion of the PREMIER, the Speaker left the chair, and the House resolved itself into Committee of the Whole to consider the Legislative Council's amendments in this Bill.

The PREMIER moved that the verbal amendment made by the Legislative Council in section 2 be agreed to.

Question put and passed.

The PREMIER said the Legislative Council had inserted a new clause—clause 6—in order to remove a difficulty that at present existed as to whether the assignee of an inventor out of the colony might apply in his own name in the colony. That doubt arose also upon the construction of the English Act on which the Queensland Act was based, and it was just as well that it should be removed. The new clause was as follows:—

"When an inventor is out of the colony, an application for a patent may be made by an assignee of the inventor, either alone or, if the whole right to the invention is not assigned, jointly with the inventor.

"In any such case the following rules shall be observed:—

1. The application must be accompanied by the instrument by which the invention is assigned by the inventor to the sole applicant, or the applicant who is not the inventor, as the case may be.
2. The provisional specification or complete specification may be signed either by the first inventor, or by the assignee, or by both.
3. The form prescribed in the second schedule to the principal Act for making applications for patents shall be modified, so far as may be necessary, so as to set forth that the applicant, or one of the applicants, is the assignee of the inventor, and also, if the assignee is the sole applicant, that the inventor is in possession of the invention, and is the first and true inventor thereof."

As far as the principle of the clause was concerned, no possible exception could be taken to it, but in the last two lines there were two verbal errors which it was desirable to correct. He moved that the new clause be amended by the substitution of the word "assignee" for the word "inventor" in the phrase "that the inventor is in possession of the invention."

Mr. NORTON said he had no objection to offer to the amendment, or to the new clause itself. He merely wished to point out that when the Bill passed through the House it was considered largely as a lawyers' Bill, and the amendments now to be made showed the importance which attached to members reading over Bills before they went through the House. Hon. members were very apt to take Bills on trust when it was pointed out to them that they were lawyers' Bills; but even in those Bills, if private members looked through them, they would often observe faults which even lawyers themselves had overlooked. He did not know whether that was one of them, but it showed that lawyers could not always draft Bills correctly.

The PREMIER said it was impossible for private members to have seen that particular clause while the Bill was passing through that House, because it had been inserted afterwards by the Legislative Council.

Amendment put and passed.

The PREMIER moved that the clause be further amended by the insertion of the words "that the inventor" after the word "and" in the last line of the clause.

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

The House resumed; the CHAIRMAN reported that the Committee had agreed to one amendment, and had agreed to the other amendment with amendments.

The report was adopted, and the Bill was ordered to be transmitted to the Legislative Council with a message inviting their concurrence in the amendments.

PACIFIC ISLAND LABOURERS BILL—CONSIDERATION OF LEGISLATIVE COUNCIL'S AMENDMENTS.

On the motion of the PREMIER, the House went into Committee of the Whole to consider the amendments of the Legislative Council in this Bill.

The PREMIER said the amendment proposed by the Legislative Council in the Bill was in the 5th clause, which provided that the cost of burial of any islander dying while under engagement should be paid by his employer. The amendment made by the Legislative Council was that the cost "shall be paid out of the personal property, if any, of such islander, and in the case of the property being insufficient to defray such cost, then the balance," etc. By that provision the burial would have to be done by the officers of police, and then if the personal property of the islander was insufficient the inspector would have to recover the balance from the employer. The result of that would be that while they were inquiring whether the islander had any personal property, the time during which the employer might be proceeded against before justices—namely, six months—might expire, and he would escape scot-free. He did not wish to insist upon any objection to the principle set up by the Legislative Council, that if an islander left £2 or £3 the money should go towards defraying his funeral expenses. He had no objection to give effect to that, but it was not clearly stated in the amendment. In scarcely any case under the clause as it stood would the employer ever be liable. He proposed to meet the Legislative Council, as far as he understood their wishes; and intended, therefore, to move that their amendment be disagreed to and the following be substituted therefor, and added at the end of the clause—namely, "but the employer shall be entitled to be recouped the reasonable amount of such cost out of the personal estate, if any, of the islander." That would make it the duty of the employer to bury the islander and not throw the burden on the police, and if the islander left a few pounds the employer would be recouped the amount. As the clause was now amended the result would be that in all cases the expense of burial would have to be paid by the police, because before it could be ascertained whether there was a balance—and in any case it would cost too much to prove that, as it could only be ascertained here or where the accounts were kept—the employer would cease to be liable. He therefore moved that the Legislative Council's amendment be disagreed to.

Mr. BLACK said he believed the object of the amendment proposed by the Council was to provide that islanders whose time had expired, and who had money, should pay their own funeral expenses. There were a great many in the country who held exemption tickets, and who were earning considerable increase of wages over what they received when originally introduced, and it was thought that there was some injustice in making an employer pay the cost of the burial of an islander when he had been earning 15s. or £1 a week, and at his death left money in the savings bank. It was well known that many of them had a large amount of money deposited in the savings bank, and it seemed rather an anomaly that an employer should be liable to pay the expense of burial in such cases. He did not see any objection to employers being called upon to pay that cost if an islander died during his first three years of service; but it was certainly objectionable that they should have to pay for the burial of islanders who were in a good position at the time of their death. It seemed to him, however, that the difficulty which the Premier had pointed out might arise if the Council's amendment was adopted, as the police would have in the first instance to pay the cost of burial, and there might be some difficulty perhaps in recovering it from the employer. The new clause which the hon. gentleman intended to propose was an equitable one, and there wa s no reason for objecting to it.

Question put and passed.

The PREMIER moved that the following amendment be substituted for the one disagreed to:—

But the employer shall be entitled to be recouped the reasonable amount of such cost out of the personal estate, if any, of the islander.

Mr. SCOTT said many islanders possessed a good sum of money. He had known some to have as much as £40 or £50, and one as much as £80 in the savings bank, and he did not see why they should not be made to pay their funeral expenses the same as a white man. Would the amendment now proposed meet such cases?

The PREMIER: This will cover all ordinary funeral expenses.

Amendment put and passed.

On the motion of the PREMIER, the CHAIRMAN left the chair, and reported to the House that the Committee had disagreed to the amendment of the Legislative Council, and proposed to substitute another instead thereof.

The report was adopted.

The PREMIER said: I beg to move—

That the Bill be returned to the Legislative Council with a message intimating that this House has disagreed to their amendments, because it is desirable that the immediate duty of defraying the cost of the burial of islanders should be imposed upon their employers, and the delay that would frequently arise under the proposed amendment in ascertaining whether the islander left any personal estate would render the provision of this clause inoperative, and proposes to substitute another amendment instead thereof, in which they invite the concurrence of the Legislative Council.

Question put and passed.

SETTLED LAND BILL—SECOND READING.

The ATTORNEY-GENERAL (Hon. A. Rutledge) said: Mr. Speaker,—Of all the innovations upon the existing law which have marked modern legislation in the mother-country, I think there is none of quite so striking a character as that which is contained in the Bill, the second reading of which I now move. This Bill, sir, except as to the method of arrangement and the provisions of Part IX., is substantially identical with the measure passed by the House of Lords in 1882, at the instance of Earl Cairns, a very eminent lawyer and statesman who filled the office of Lord Chancellor in the Administration of the late Lord Beaconsfield. That a measure of so comparatively radical a character and so totally opposed to all the venerable traditions of so intensely conservative a body as the House of Lords, should have passed that House, not only without a semblance of opposition, but almost without debate, is, I think, sir, to be taken as one of the best evidences that could be furnished of the pressing necessity for

the enactment of a law of this kind; and if that venerable body considered that the time had come for passing a measure of this description, I think, sir, that we, in this comparatively democratic community of ours, will be very safe if we follow in their footsteps. The leading principle of this Bill is to provide that there shall be always some person in existence who shall have power to dispose of or otherwise deal with settled land. Hitherto it has been in the power of settlors and testators to lock up land to the utmost limit allowed by law or for any lesser term, and during the period which it was possible for the land to be so locked up it was impossible for the owners of the limited estate in this land to either sell, lease, mortgage, or in any other way deal with it so as to make it productive to the parties concerned, and promotive of the welfare, both of the limited owners and of the beneficiaries under the will or the settlement. It must have occurred to hon. gentlemen in the course of their experience that grievous hardships have resulted from the existence of such a condition of things. Instances are by no means uncommon in which families have been brought to a condition bordering upon destitution as a result of the arbitrary terms and conditions imposed by wills, and cases have occurred in which persons who have been tenants for life and trustees for beneficiaries under wills have been unable to deal with properties that have been left or settled in such a way as to promote the advantage of all parties, so that they have actually had to come down to this House and ask that special legislation might be enacted for the benefit of those persons. If a Bill of this kind had been in existence years ago there would have been no necessity for several of the private Acts which now find a place upon the Statute-book of this colony, and there would have been no necessity for the continuance of a condition of suffering into which many families have been plunged by reason of the inability of the limited owners of estates, or the trustees for the beneficiaries, to deal with the lands that have been left by will in such a manner as to most advantageously affect all parties. Now, by the common law a tenant for life has neither power to sell any of the settled land, nor to mortgage, lease, or deal with it in any way other than as directed by the settlor or testator; but by this Bill, if it become law, that disability will be done away with, and the tenant for life of an estate, and all parties interested, will derive advantages such as could not possibly have existed without its provisions. The Bill, sir, is divided into nine parts. I do not intend to deal in detail with the provisions which will be found scattered throughout these various parts, but it may be convenient if I refer generally, first of all, to the powers which are conferred upon tenants for life, and then direct the attention of hon. members more particularly to the safeguards provided against improper exercise of those powers. Hon. gentlemen will observe that by section 10, and following sections, it is proposed to confer upon tenants for life power to sell, or to make an exchange of settled land, or of any part thereof; or, where the settlement comprises an undivided share in the land, to concur in making partition of the entirety. Then, in the next place, power is given to the tenant for life to make leases of settled land. Building leases and mining leases can be made. He may also accept surrenders of previous leases and make new leases, and he may also make leases of the surface apart from the minerals which are to be found under the surface. He may also mortgage all or any part of it. A series of elaborate provisions has been made indicating the terms and conditions on which these leases may be made. It is provided that leases of settled land may be made in the case of building leases for sixty years, and of mining leases for forty years, and other leases for twenty-one years. I may say, with reference to these periods that are fixed as the limits of the leases that may be made under this Bill, that a difference of opinion exists as to whether the periods fixed are not altogether too long. In England the period fixed as the outside term of a building lease is ninety-nine years, and in the case of a mining lease sixty years. Those periods are very probably applicable to the condition of things existing in the old country, but they would hardly be found to be applicable in the case of a colony like this, and I do not know that the Government will have any particular objection to consent to a reduction of the limits which have been fixed by the Legislative Council. The tenant for life is empowered, as I said before, to make these building and mining leases, accept surrenders, and make mortgages, and he is also empowered with reference to the settled land to devote so much as may be necessary to the opening of roads and streets. But in this he will be subject to the provisions of section 42 of the Bill, to which I shall draw attention a little further on. Now, provision is made also for cases where tenants for life may be under disability—either the disability of infancy, or that of being a married woman, or the disability of lunacy—and a series of provisions has been made by which the power which is vested in the tenant for life may be exercised, notwithstanding that he or she may be a person under one or the other of these disabilities. Now, not only are these extensive powers conferred upon the tenant for life, but, in order to guard against the abuse of the powers, or an improper exercise of them, a series of elaborate provisions has been framed in order that those abuses may be rendered practically impossible. Hon. gentlemen will find in section 31 a provision of a very elaborate character providing for the manner in which capital money—which may be roughly defined as the pecuniary product arising from the exercise of any of these powers conferred by the Bill—may be utilised. Supposing any part of the land has been sold, or supposing some of the land has been leased, or in any other way disposed of, then the clause provides that the income arising from it shall be treated as capital money which must be appropriated for the purposes of the settlement, just in the same way as the land of which it is the product was directed by the will or settlement to be appropriated. Now, by section 31 it is enacted that capital money arising under the Act, subject to payment of claims properly payable thereout and to application thereof for any special authorised object for which the same was raised, shall, when received, be invested or otherwise applied wholly in one, or partly in one, and partly in another or others of the following modes—namely, in investment in Government securities of the United Kingdom, or any one of the Australasian colonies; in discharge, purchase, or redemption of incumbrances; in payment for any improvement, in payment for equality of exchange, in purchase of the reversion or freehold, in fee of any part of the settled land, in purchase of land in fee-simple or of leasehold land, in purchase of mines or minerals convenient to be held or worked with the settled land, in payment to any person becoming absolutely entitled or empowered to give an absolute discharge, and so forth, and in any other manner in which the money produced by the exercise of the powers of the settlement is applicable therein. A very large margin is provided for the exercise of discretion by the tenant for life in the appropriation of the capital money the proceeds of the exercise of the powers

conferred by the Bill; and having such a wide margin of investment, it is hardly likely that a case can arise in which a really good and profitable investment could not be made. Then provision is made in section 32 with respect to the person to whom capital money arising under the Act is to be paid and the manner in which it is to be applied. That is a very important section, and declares that—

"Capital money arising under this Act shall, in order to its being invested or applied as aforesaid, be paid either to the trustees of the settlement or into court, at the option of the tenant for life, and shall be invested or applied by the trustees, or under the direction of the court, as the case may be, accordingly."

So that if the tenant for life has exercised the powers which have been conferred upon him by the Bill the capital itself has to be paid to the trustees or paid into court, and then the investment will be made either by the trustees or subject to the direction of the court in the best possible manner and to the best possible advantage. There is a provision in section 33 which prohibits the application of capital money received under the Act from settled land in Queensland to the purchase of land outside of Queensland unless the settlement expressly authorises it. Then in section 35 there is a provision made as to the nature of the improvements, to the carrying out of which some of the capital money received under the Act may be devoted. Not only is it provided that capital money shall be invested in one or other of the ways indicated, but here we have provision in section 35 as to the kind of improvements that by section 31 are sanctioned; and hon. members in reading through the list will find every kind of improvement that it is possible to conceive as likely to be of advantage to the estate. Now, another safeguard which the Bill provides against the improper exercise of the powers conferred by it, is to be found in section 36. It provides that, where the tenant for life is desirous that capital money arising under the Act shall be applied in or towards payment for an improvement authorised by the Act, he may submit for approval to the trustees of the settlement, or to the court, as the case may require, a scheme for the execution of the improvement, showing the proposed expenditure thereon. So that in the carrying out of improvements every guarantee is provided against the money it is proposed to expend being wastefully or unprofitably expended. There must be a plan of the proposed improvements and a statement of the proposed expenditure, and these must all be fully investigated and duly authorised before the money for those intended improvements can be laid out. In section 40 there is a valuable provision—namely, that when the tenant for life is the sole trustee of a settlement—it may sometimes occur that the tenant for life is the sole trustee—or the tenants for life, being two or more, are the sole trustees of the settlement, or there is no trustee of the settlement, the powers conferred by the Act on a tenant for life shall not be exercised without the sanction of the court. Section 42 is a section to which I have made reference more than once. It is the section by which a most effective safeguard is provided against the proceeds of a sale which is capital money arising under the Act, and which is to be invested afterwards for the purposes of settlement, being either improperly kept by the tenant for life or improperly disposed of by him. It provides that—

"A tenant for life, when intending to make a sale, exchange, partition, lease, mortgage, or charge, or a contract for a sale, exchange, partition, lease, mortgage, or charge, shall give notice of his intention in that behalf to each of the trustees of the settlement."

In this way, though power is given in the first part of the Act to the tenant for life to act in the sale or disposal of settled land, by section 42 a check is provided by which he is prevented from exercising the power so conferred on him injudiciously or improperly. He must, under the provisions of the section, give notice of the fact that he proposes to exercise his powers to the trustees. Elaborate provisions follow, pointing out how notice is to be given; and then by section 43 it is provided that if at any time a difference arises between the tenant for life and the trustees of the settlement, to whom notice is to be given according to the requirements of the preceding section as to the intended sale or other disposition of the settled land, a reference shall be made to the court, and the court shall decide as to what is to be done under the circumstances, and as to how the intention with regard to the disposal of the land is to be carried out. Under the old law sometimes settlors and testators have made provisions in their settlements and wills for sales of settled land subject to the approval of the trustees; and in such cases as that it is nearly always requisite that the concurrence of the trustees should be obtained before the disposal of land could take place, but difficulties have frequently arisen by reason of the fact of a difference of opinion between the tenant for life and trustees, or between the trustees themselves; and in consequence of this difference of opinion it has often been utterly impossible to do anything at all to carry out the intentions of the settlor or the testator. Here if there should be any difference between the tenant for life and the trustee, then by a very simple process the difficulty may be got over, and the authority of the court obtained for effecting the intention of the settlement in the most expeditious and satisfactory manner. Another valuable provision is contained in section 47, which says that the capital money arising under the Act from the exercise of the powers conferred shall not be paid to fewer than two persons as trustees of a settlement, unless the settlement authorises the receipt by one trustee, or unless the court makes an order to that effect. This is an additional guarantee against the possibility of capital money arising under the Act being misappropriated or improperly expended or wasted. These safeguards having been provided, other provisions are made with respect to trustees. Section 46 provides that where there are no trustees the court may appoint a fit person or persons to be trustees under the settlement. That is an important provision. Then in the sections from 49 to 52 there are provisions which are new and also very useful with regard to the protection afforded to trustees in the exercise of their duties under the provisions of this Bill. Trustees are a class of persons whose conduct has always been the subject of the most jealous and rigid scrutiny by courts of equity, and it has not infrequently happened that trustees, even in the vigilant exercise of their duties, have been rendered subject to very serious disadvantage, and have been made to suffer in the discharge of their duties in regard to settlements of which they have been trustees. Now, sections 49 and 50 provide for the protection of each trustee individually, and for the protection of trustees generally; and sections 51 and 52 contain these very useful provisions: 1st, that the trustees of a settlement may reimburse themselves or pay and discharge out of the trust property all expenses properly incurred by them; and, 2nd, that the court may authorise the trustees to retain for their own use out of the income of the trust property, or in case of a sale by the trustees out of the proceeds of the trust property, a reasonable sum by way of commission for their pains and trouble. But the limit of 5 per cent. is fixed as the

maximum amount which they shall be entitled to receive, an amount which no one will regard as either too high or too low. Then there are several miscellaneous provisions of an advantageous character, the most important of which is contained in section 54. It has been anticipated by the framers of the Bill that there are testators and settlors who will endeavour to defeat the object of the Legislature in the passing of a measure of this kind, as there always will be persons who will try to defeat the operation of the most beneficial law passed by any legislature. It is contemplated here as possible that persons of this kind who desire to settle land may so frame their dispositions of land as to declare that certain things shall or shall not happen, accordingly as the provisions of this Bill are or are not observed. Section 54 provides for the prohibition of any limitation of the exercise of the powers which are conferred by the Bill. For instance, it can be imagined that a testator may make a devise of his land to some person subject to the condition that he should not exercise any of the powers conferred by the Bill, and that in the event of his exercising those powers he should not take the land specifically devised, but that in such events the devise should go over to some other person. This Bill takes away the power of a testator to do that, and declares, in regard to settled lands, that any provisions of that kind made by a testator or settlor, by which the provisions of the Bill shall be sought to be defeated, shall be altogether void. And so with regard to forfeitures which the settlor or testator may declare shall follow in certain events. This section and the one following put it out of the power of any person who is settling or devising land to render the very valuable provisions of this Bill inoperative. So that it is not possible, if this Bill becomes law, for any persons to settle or devise land in such a manner that the tenants for life shall not be able to exercise the clearly defined powers that are here conferred upon them. The provisions of any settlement of land must be, by the operation of this Bill, subject to the provisions of the Bill, and unless such provisions are inserted in the Bill it is quite easy to understand how, in many instances, the beneficial objects the Imperial Legislature contemplated in passing the Bill, and which this Legislature contemplates also in passing it, may be altogether rendered nugatory. There are certain provisions found in sections 56 and 57 by which a tenant for life is declared to be the trustee for all parties interested, and by which protection is ensured to persons who have dealings with the tenant for life in the exercise of his powers under the Bill. Then we come to the last part of the Bill, in which, by a series of elaborately and carefully framed provisions, the enactments of this measure are to be made applicable to the particular condition of things existing in this colony with reference to the Real Property Act of 1861. Unfortunately in the old country they have not gone so far as to pass a measure of the beneficial character of the kind we and some other of the Australian colonies enjoy in the shape of a Real Property Act. It was therefore necessary to make provisions by which the Bill as passed by the English Legislature should be brought into harmony with the special provisions of our own law in regard to real property. I do not know that I need take up the time of the House in referring at any greater length to any other features that are presented by this Bill. As I said before, it passed readily—almost unanimously—through the House of Lords, and almost as unanimously through the House of Commons, and it has passed through the Upper House in the colony more than once, and it is now brought forward for the first time for the consideration of this branch of the Legislature. I have no doubt all hon. gentlemen who have given the necessary attention and consideration to the measure, and have carefully studied it, have come to the conclusion that it will be an important step in advance of any legislation of this kind that we at present enjoy, and will be productive of immeasurable benefit to a large number of persons at present in the colony, and to others who may come after them. I move that the Bill be now read a second time.

Mr. CHUBB said: Mr. Speaker,—I wish to say a few words upon this Bill, although I have nothing to say in opposition to it. The Bill has been before Parliament on promise for some years. I had a Bill drafted on the lines of the English Act with some modifications, which was announced in the Governor's Speech of 1883, and before that my predecessor, the Attorney-General, had a Bill in draft also, and last session the present Government introduced a measure upon this matter, but it did not pass. The Bill has been wanted here for many years, and I am glad that an opportunity has occurred in which we may have in this colony a law based upon the legislation of the Imperial Parliament. I am not going to follow the hon. mover of this Bill through all the details that he went into. He gave us a very elaborate account of the provisions of the Bill, and briefly they are these: they enable a tenant for life to make a free disposition of the land which has been locked up either under deed of settlement or under the will of the person from whom he takes it. This is a step in the same lines and on the same subject, and almost in the same direction, as the Bill which was introduced in the Imperial Parliament for preventing persons from locking up land for a long period—an enormous scheme by which a testator endeavoured to lock up his land for a tremendous time—some hundreds of years—so that his ultimate descendant could obtain an enormous fortune, much larger than the National Debt of England. That was stopped by legislation, and this also is a step in the right direction. I believe that this Bill will enable persons to obtain real benefits. We have recently had to pass in this House Bills to enable tenants for life to dispose of freehold. Several cases have occurred in my recollection. We had the Noble Enabling Bill last session, and the Pettigrew Enabling Bill the session before, and before that the Tooth Enabling Bill, all of which were Bills passed by this House to enable tenants for life to deal with property which had been locked up by the testator. This Act will enable persons of that kind, instead of coming to this House, either to act in concert with the trustees, or, if they are not agreeable, to go to the court. The great safeguard of this Bill is that there is a court behind it to exercise a careful supervision of the acts of the parties; and if we have the Act administered in an intelligent manner, as I have every reason to believe it will be, we have no reason to fear that any abuse will be committed. It is a Bill, as the Attorney-General says, of a radical character, and what surprises me is that it should have been ultimately passed in the House of Lords, which we know is eminently of an aristocratic character, and where everyone is a large landed proprietor of estates which have been handed down for generations. Still the march of progress and of civilisation shows that the time has come, or is coming, when we shall have freetrade in land as in many other things, when land is not to be dealt with in the obsolete fashion it used to be, even so recently as the days of our forefathers, to say nothing of going back several hundred years. I do not think it necessary to say much more upon the Bill,

which is of a highly technical character, though hon. members will understand that the main principle of it is, as stated by the Attorney-General, to allow estates which are not bringing in incomes to be put to use, so that the tenants for life may enjoy the benefit of them. I am glad the hon. gentleman stated that the Government were not wedded to the terms specified in the 13th section with regard to the length of leases. They are certainly shorter in this Bill than they are in the English Act, but it is a question well worthy the consideration of hon. members who are not lawyers, but who have a good knowledge of business, to say whether in a progressive colony like this sixty years is not too long for building leases. I know of a building lease in this city for only eight years, and which the tenant says will pay him very well. If we give the tenant for life power to give a lease for sixty years, it puts it out of the power of those coming after him to interfere with the tenant for that period. Hon. members will do well when the measure is passing through committee to consider whether the time proposed in the Bill is not too long. I am inclined to suggest for consideration that we might make the term a good deal shorter, giving power to the court to renew the lease or grant leases from time to time. In that case the difficulty I speak of might be obviated. The Attorney-General referred, I think, to all the salient points of the Bill, but I do not think he noticed the 63rd section, which certainly confers a benefit on the tenant for life. The tenant for life in common law, and before the passing of the several remedial statutes of England, was limited very much as to his rights. He was only allowed to cut timber for firewood and for repairs to houses, hedges, and so on, but he could not cut timber for sale, even though it was going to destruction on the ground; he must leave it alone. Under some settlements provision was made for that being done. I see that under this Bill a provision is made whereby a tenant for life may, with the consent of the trustees of the settlement or an order of the court, cut down timber ripe and fit for cutting and sell it, and one-fourth of the proceeds of the sale comes to the tenant for life and the rest goes to the capital. I think that a fair and equitable provision. Without a provision of that sort the timber could not be cut at all, and would have to be let go on growing until the estate of the tenant for life came to an end, or until some Act was passed to allow it to be cut. A very curious case arose on the construction of this Act not long ago, where a storm blew down a large forest of timber, and the question arose whether that was capital or income. However, the court gave an equitable decision and did justice to all parties. With regard to the provisions of the Bill contained in Part IX., they are necessary, but will require a good deal of consideration. That is the part that deals with land under the Real Property Act which we have here, but which, as the Attorney-General stated, they have not got in England. By the Real Property Act hon. gentlemen will remember that trusts are not recognised, but I see that in subsection 5 of section 70 of the Bill it is stated that—

"Where under this Act it is provided that land shall be conveyed to any uses or trusts, that expression shall be taken to mean that the land shall be transferred to trustees and shall be held by them as trustees upon such uses or trusts."

That section must mean that, so far as regards settled land, trusts are to be recognised. These are all the remarks I have to offer on the Bill, which I have no doubt has been very carefully considered. It is a Bill much wanted as an addition to our statute law, and I hope the hon gentleman will succeed during this session in carrying it into law.

Mr. BROWN said: Mr. Speaker,—I think this is a very good Bill, and one which is very much required. I have had a little to do with business such as that provided for here, and know the difficulties which trustees have sometimes to deal with. I think that the Bill requires a little amendment in the matter of the leases, because I am inclined to believe that the leases provided under the Bill are too long. I would like to ask the Attorney-General a question in reference to the Bill. I observe that certain powers are conferred upon tenants for life. In the case of an infant obtaining property on arriving at the age of twenty-one, is that infant the tenant for life? At first I could not see very clearly how in such a case the property is to be dealt with, but I think in clause 28 the trustees have power—have, in fact, the powers of tenants for life. I want to ask the Attorney-General what power the trustees have in a case of this sort? I will put a case to explain better what I mean. A case came under my notice the other day of a testator who had made a will stating that his property was to be leased until the infant became of age. Two trustees were nominated in the will, and they were to lease the property and pay over the income to the family during the child's minority. I would like to know whether under clause 28 the trustees would have the power to deal with the property?

The ATTORNEY-GENERAL: Who was the tenant for life?

Mr. BROWN: I assume the infant was.

The ATTORNEY-GENERAL: The trustees could act on his behalf if he was tenant for life.

Mr. BROWN: The fact of their being nominated under the will as trustees to lease this property gives them the power to deal with it.

The ATTORNEY-GENERAL: Assuming that the infant was tenant for life of the property.

Mr. BROWN: I understand the infant is tenant for life.

The ATTORNEY-GENERAL: Then the trustees can act on his behalf.

Mr. BROWN: The infant would have the property on arriving at the age of twenty-one.

The ATTORNEY-GENERAL: It may be devised to him in fee-simple on attaining his majority.

Mr. BROWN: Would not the infant be tenant for life in that case?

The ATTORNEY-GENERAL: No; there would be no tenant for life if the infant was to have the property in fee-simple on attaining his majority.

Mr. BROWN: Then assuming the trustees want to sell or lease that property, who is the tenant for life?

The ATTORNEY-GENERAL: The provisions of this section would not apply to that. There is no tenant for life there. There is a tenant in fee-simple on arriving at a certain age.

Mr. BROWN: Have the trustees under this Bill no power to deal with that property? I thought the trustees in such a case would have the powers of a tenant for life.

Question—That the Bill be now read a second time—put and passed.

Committal of the Bill made an Order of the Day for to-morrow.

GOLD FIELDS ACT AMENDMENT BILL —SECOND READING.

The MINISTER FOR WORKS (Hon. W. Miles) said: Mr. Speaker,—The object of this Bill is to make provision for the granting of leases for the purpose of mining under reserves. Miners are constantly making application for permission to mine under reserves, but under the present Act the Government have no power to grant that permission; hence the necessity for bringing in this small Bill. Some eighteen months or two years ago the railway reserve at Gympie was thrown open, and there was a dispute between three applicants. I came to the conclusion that the best way to settle the matter would be to put up the right to mine under this reserve to auction; but the moment that was announced the cry was raised that the Government wanted to blackmail the miners: so I had to abandon that project and refuse the applications. In this Bill a "reserve" is defined to be—

"Any street or road, or any lands upon a goldfield which are for the time being set apart as a reserve for public purposes, or which for the time being are vested in the Secretary for Public Instruction in Queensland, or vested in another corporation or person upon trust for public purposes, or which are for the time being excepted from occupation for mining purposes under the provisions of the twenty-sixth or twenty-seventh section of the principal Act or otherwise."

I am quite sure that hon. members will agree with me that wherever gold is, it is better that it should be brought to the surface. On most goldfields the miners know pretty well where the reefs run, and there is a great desire for permission to mine under reserves. The 3rd section provides that—

"1. The lease shall, so far as regards any land comprised in a reserve, be deemed to be of the minerals under such land only and not of the surface of the land."

That is to say, that whoever gets a lease to mine under a reserve must have some land outside the reserve on which to sink a shaft to enable him to work it. He will not be allowed to disturb the surface. The 2nd subsection of clause 3 says—

"The lessee shall not be entitled to disturb the surface of the reserve, or to do any act which will affect or disturb the beneficial enjoyment of the surface."

The 3rd subsection provides that—

"No such lease shall be granted unless it also comprises some land not within a reserve, and from which sufficient and convenient access can be obtained to the minerals under the surface of the land comprised within the reserve, or unless the applicant is entitled to possession of some lands from which such access can be obtained to the minerals."

Therefore, the surface of any reserve granted for public purposes will not be disturbed. The 4th subsection provides that, should the lessee disturb the surface, or do anything affecting or disturbing the beneficial enjoyment of the surface, he shall make compensation to the trustees or other persons who are charged with the care and management of it. The 4th clause is, I think, the only one on which there may be some difference of opinion. It provides the mode in which applications will be received and dealt with. The 1st subsection of the clause states that—

"Before any reserve shall be open to be applied for to be held under a gold-mining lease, a notice shall be published by the Minister in the *Gazette*, and in some newspaper generally circulating on the goldfield, notifying a day, not being less than two months after the last publication of such notice, on which the reserve will be so open, and the reserve shall be so open on that day accordingly."

As I said before, miners are perfectly aware where the reefs run, and very probably there will be keen competition for them. This subsection notifies the time at which reserves will be open for application. The 2nd and 3rd subsections provide that—

"If two or more applications are lodged for the same land on that day, within one hour after the opening of the warden's office, they shall be deemed to be lodged at the same time.

"When two or more applications are lodged at the same time, the applicants shall within the two days next following lodge with the warden sealed tenders, specifying the rent per acre which they are willing to pay for the land comprised in the application. Such tenders shall be opened by the warden in open court on the next day on which he sits in open court, and the highest tenderer shall be deemed to be the first applicant, and the rent tendered by him, not being less than £1 per acre, shall be the rent to be reserved by the lease."

This appears to me to be the best way of dealing with those applications. The Government has given a good deal of attention to this clause, but if any better proposition can be made there will be no objection to its being accepted. The trouble I have always had in dealing with matters of this kind at Gympie has been in the mode of dealing with applications, and this appears to me to be the most practicable thing to do. The 4th and 5th subsections provide that—

"When two or more applications lodged at the same time comprise part only of the same land, the warden shall, if practicable, allot the land fairly between them; but if such allotment is not practicable, all the applications shall be rejected.

"The land shall not be again open to application until a day to be appointed by the warden, being not less than four weeks from the date of such rejection, and to be notified by the warden in open court at the time of such rejection."

This seems the simplest and best way of dealing with applications; and, as I said before, it is very desirable that access should be had not only under the reserves but under the streets as well. I beg to move that the Bill be read a second time.

Mr. SMYTH said: Mr. Speaker,—I have looked very carefully through this Bill and I can see some very useful legislation in it. I also see that there is room for a good deal of alteration and improvement in it. Commencing with the preamble, we find it referring to lands "set apart as reserves for public purposes, which are or may be excepted from occupation for mining purposes." These may be reserved for mining purposes, school lands, church lands, cricket grounds, recreation grounds, cemeteries, and so on; and may also include what were once reserves and have afterwards become freeholds. At Gympie the Presbyterian Church have a freehold of their land, and so have the Church of England at One-Mile, and the Roman Catholic Church, all of which are in mining localities; and there is a gold-bearing reef running through the land of the Church of England. When it was proposed to work under that land at a depth of 400 feet the trustees, or someone connected with the church, lodged an objection against it, and caused a lot of trouble which I do not believe is settled yet. A reef at that depth might easily be worked without injuring the surface, and I do not see why those people who have acquired the land for a special purpose should object to it. The Bill should therefore be made to apply to all land on a goldfield that has been reserved for public purposes, whether held in trust or as freehold. While amending the Gold Fields Act we might make a fresh start now, and include in it not only gold but all minerals associated with gold. That is the Victorian style of doing it. Mining on private property there means mining for gold and silver, but there are other minerals associated with gold. It is well known that the ores on the Northern goldfields are very refractory, and have sometimes to be sent out of the colony

for treatment. The 2nd clause gives, among other definitions of "reserve," any street or road. At the present time we do get the streets, but when approached on the subject the municipal council has asked for terms; but I fail to see why they should do that, seeing that they only hold the surface. But there is something else that should be included in this Bill. It should include residence areas, business areas, and land held under the Goldfields Homestead Act. There are some clauses in the Goldfields Act that are very conflicting and cause a great deal of annoyance and trouble. Clause 10 of that Act states that—

"It shall be lawful for the Government to grant to any person, subject to the provisions of this Act and the regulations, a lease of any Crown land not occupied by the owner of a miner's right or business license, unless with the consent of such holder, for mining purposes, or for cutting and constructing thereon races, drains, dams, reservoirs, roads, or tramways to be used in connection with any such mining, or for erecting thereon any buildings or machinery to be used for mining purposes," etc.

Therefore, if we ask for a lease of land for mining purposes and there are twenty or thirty dwellings on the land, the people living there can object; and it is well known that people generally crowd round about the mines on goldfields. The matter has never been properly adjusted yet, but I have it on the best authority that those people residing on the property can object, and legally object, to the granting of the lease. Then, in the regulations in the paragraph relating to compensation, it is stated that—

"Any business, residence, or machine area or site occupied by any dam, water-race, reservoir, tramway, and for stacking tailings, or any other authorised holding in actual occupation, may be mined upon, provided the miners intending to mine thereon shall, before commencing work, compensate the owner thereof for any loss, damage, or injury to the improvements thereon that may be sustained by him in consequence thereof."

If there are twenty or thirty owners on the land they are to be paid compensation. The miners do not object to paying compensation; they are quite agreeable to do that; they have to do it, and they do do it. But what they wish is that residence areas, business areas, and land held under the Gold Fields Homestead Act, should be included in such provisions as are contained in the Bill. We may not have to shift those people, or destroy the residence area or business places. We may be able to mine under the land at a reasonable depth—such a depth as the inspector may consider a sufficient distance from the surface to cause no injury to the property thereon. Gold-mining is not the same as mining for coal, where the mineral beds are horizontal; and it is very seldom the ground gives in at the surface. The 1st subsection of clause 3 in this Bill provides that when a lease is granted under the principal Act of any land in a reserve—

"The lease shall, so far as regards any land comprised in a reserve, be deemed to be of the minerals under such land only and not of the surface of the land."

This provision will almost be an impediment to us. We want the minerals under the land and we also want the right to go on the surface to get those minerals. That is the best place to go. A capital reef may be found running up through some land, and under this provision it might be locked up if it was on a reserve. When a reef runs through a reserve miners want to get as near to it as possible, and provision should be made in this section for permission to be granted to them to make an entry on the land for the purpose of sinking a shaft. The erection of machinery, or smelting works, or anything that would be objectionable as regards the remaining portion of the land, should not, however, be allowed. For instance, I do not think permission should be given to erect crushing machinery along side the hospital at Charters Towers. Nor would it be right to allow such machinery to be placed alongside the school there, as it would be very annoying to the teachers, and almost stop the work of the school. Still I think the miners should have the right to enter the land and occupy a small portion, say a quarter of an acre, or any other reasonable area, for the purpose of sinking a shaft, and that would meet the case properly. One objection to the present law is that we cannot go on reserves, and we want that altered. Further on it is stated that—

"No such lease shall be granted unless it also comprises some land not within a reserve, and from which sufficient and convenient access can be obtained to the minerals under the surface of the land comprised within the reserve, or unless the applicant is entitled to possession of some land from which such access can be obtained to the minerals."

If this is carried there will be only one way of getting at gold on a reserve—a man must be the holder or owner of the adjoining piece of ground. I know a case where the owner of the piece of land adjoining a reserve has a little narrow strip which is just enough to fence in the whole reserve of ten acres, and yet he has the full complement of land allowed to be leased—namely, twenty-five acres. It would do that reserve, which is a school reserve, no injury if a quarter or half an acre was taken for sinking a shaft on, and why should the man who fenced in the land, by a little bit of good judgment on his part, perhaps, having twenty-five acres already, have the exclusive right to the reserve and so increase the area over which he can mine to thirty-five acres? The 4th subsection of the clause provides that—

"If the lessee does any injury to the surface of the reserve, or does any act affecting or disturbing the beneficial enjoyment of such surface, he shall make compensation to the persons entitled to the surface or charged with the care and management thereof, for all such damage."

That is only fair. We always like to pay for any damage we do, and always have done so—we generally pay a little more. But I think a provision should be inserted here to the effect that compensation should be claimed within twenty-one days, as is the case in the Mining on Private Property Act of Victoria. I do not think people should be allowed to start mining, and claims for compensation remain in abeyance for two or three years. The claims should be made within twenty-one days or some other reasonable time. Clause 4 contains temporary provisions dealing with the way in which the land is to be obtained. I think that, on the whole, that is a very objectionable feature of the Bill. The best claim to land is by pegging—that the first person who pegs gets the land; but under the system here proposed, where a number of applications were received in one day you might find a dozen shareholders in the same company put in separate applications, so that when they came to ballot they would have a better chance of securing the land. It is quite a common thing for that to be done now in the case of timber selections, and in other matters under the Land Act. I know that system has been carried out extensively by some people in the Wide Bay district, and they have obtained timber selections in that way. To the 5th section there can be no reasonable objection on the part of miners. They will quite agree to it, and also to the 6th section. We may very well do away with the temporary provisions and give the man who first pegs the ground the prior right to it, balloting for it when there are several applicants. Where there is a reserve, the same as the railway reserve at Gympie, and it is applied for, let the Government make a charge per acre the same as is done now for the use of the land, and not allow anything to be done that would injure the railway station, or that would be detrimental to the public interest.

But, on the whole, I think the system of pegging will be most satisfactory to the colony generally. As to putting up the land to auction, I do not approve of that. If that is done, the capitalist will be the man who will get the ground. A person who has not got capital but contributes his labour is as good as the capitalist. The labourer now might perhaps be the capitalist next year, and therefore he should have as good a chance as the capitalist. I think that when the Bill is going through committee the Minister for Works will see that the remarks I have made in reference to some of the clauses of the Bill are worthy of consideration, and I hope my suggestions will meet with his approval.

Mr. NORTON said: Mr Speaker,—I think some of the remarks that have fallen from the hon. member for Gympie are very apt. It appeared to me to be an objection, on looking over the Bill in the first instance, that miners who wished to mine in a reserve should be unable to get at it without they had property adjoining. I believe that will give rise to great objection, because the Bill does not apply merely to places like Gympie and Charters Towers, but to the whole colony, and we know there are large reserves which could not be worked except from the surface, which it would not be desirable to work in that way, while there may be others which there would be no objection to work from the surface; and in such cases I think provision should be made for working in that way. That is what the hon. member for Gympie pointed out as an objection to the Bill; and as it is drafted at present, it appears to me that it would give to those who have vested interests almost the exclusive right to work reserves in towns such as Gympie and Charters Towers. Why the matter occurred to me first was because I remembered a case that happened when I was at Charters Towers, in which one of the partners in a powerful company there was speaking of the great desire they had to get some reserved lands, so as to be able to work under them. That company had certainly as much property of their own as would last them their lifetime, and why they should expect the right to be given to them to work under that adjoining land I never could see. It appears to me that, if it could be done, provision should be made to allow those who have not large properties to get the benefit of those reserves which are not being worked. At any rate I think the Bill wants amending in regard to this matter. Of course, making an amendment of that kind raises a difficulty in case there may be many reserves that cannot be worked from the surface. "Reserve" here is made to include "any street or road," and of course streets could not be worked from the surface. The only way would be to work them from some property adjoining; so that although the objection to that part of the Bill might not apply under some circumstances, there are others in which it would be very inconvenient. I think if we pass a Bill to enable miners to work under reserves it would be better to make it so elastic that it would apply to one goldfield as well as another. In the 3rd section I notice the term "minerals" is used. That word is not given in any case, I think, in the Goldfields Act, and as this is an amendment of that Act, I cannot understand why the term has been introduced. It would appear as if the clause has been taken from some Act in force in some other place——

The PREMIER: It is the usual term to distinguish between what is the surface and what is below.

Mr. NORTON: It is not in the Gold Fields Act. Of course, the word "minerals" applies to a great many other minerals than gold, and as this is a Bill amending the Gold Fields Act, which professes to deal only with goldfields, it cannot, so far as I can see, apply to any other minerals than gold. Then these temporary provisions, Mr. Speaker, appear to me to be rather objectionable. I do not see the object of passing an Act containing provisions which are only to be worked for twelve months. What action is to be taken after the twelve months have passed? No provision is made in the Bill for the extension of these provisions, therefore I presume, at the end of that period, another measure will have to be passed giving effect to them for a further period. Then subsection 3 of clause 4 provides that in case two persons apply for the same land they shall have to apply again and send in separate tenders specifying the rent they are willing to pay. I think that is rather an undesirable provision. I do not see why such cases should not be settled by ballot in the same way as similar cases that occur under the provisions of the Land Act are settled. I do not see why, in the event of two applications, they should be required to send in separate tenders. That is simply extracting as much out of them as you can. The Government ought to be satisfied to get the price fixed at which a single applicant could get the land. Then subsection 4 of the same clause provides that in cases where two applicants apply for pieces of land, portions of which overlap, the warden shall, if practicable, allot the land fairly between them; but if he finds that he cannot do so, all the applications are to be rejected and the land thrown open to selection again, when everybody shall have a chance of getting it. The objection to that is that a couple of men may happen to know a good piece of land; they may have very good reasons for believing that there is good gold to be got at that particular spot, and may put in applications under that impression. Nobody else may have any idea that it is a likely spot until these men—who are probably sharp fellows who can be trusted by other miners—have put in their applications, and it would be hardly fair to attract public attention to the matter by throwing the land open to selection again and allowing everyone who chose to put in an application to have as much right to do so as these men. I think it would be better in a case like that that some provision should be made by which in the event of the land being thrown open a second time it should be only open to the men who applied in the first instance. Of course, Mr. Speaker, in speaking on the Bill, I do not want to hamper the Government in any way. I think it is very desirable that the Bill should be passed, and my object is to pass it in such a form that it will give no dissatisfaction to the men who are most concerned in its operation.

The MINISTER FOR WORKS: That is the object of the Bill.

Mr. NORTON: I know it is the object of the Bill. I give the hon. gentleman all credit for that; and that is the reason why I have pointed out that, as they now stand, some of its provisions will be likely to cause dissatisfaction. Although a Bill of this kind looks very simple when you read it, all sorts of difficulties and objections are likely to arise when it is put into practical operation, and probably that is the reason why such a measure has not been passed before, because it has been required for a considerable time. However, I shall be glad to give the Government any assistance I can to get it through. I think both sides of the House desire to make it a measure that will give the utmost satisfaction to the mining community generally.

The PREMIER said: Mr. Speaker,—I am obliged to the hon. gentleman for the offer he has made to assist the Government in passing a Bill upon this subject, which is undoubtedly a very difficult one to deal with. It has been a source of trouble and difficulty to the present Government ever since they have been in office, and perhaps this attempt at a remedy is the best that could be made. Hon. members will, I have no doubt, see the difficulties surrounding the question. One has been pointed out by the hon. member—that it might be unfair to applicants who were rejected, simply because their applications overlapped, that other persons should be allowed to make application for the same land. I think the hon. member is right in that respect, and that on the land being again offered applications should be limited to the first applicants. With regard to the temporary provisions, the hon. member says he does not see why they should be necessary for twelve months and not afterwards, but the principle of the Bill is that land in reserves shall be open in exactly the same way that Crown lands are—that is, that the first applicant shall get it. That is the principle of the measure. But we know that there is a number of reserves in which gold is known to exist in large quantities and of very great value, and if that land were thrown open to the first applicant what would be the result the day after the Act came into operation? It would be of no use declaring that at 10 o'clock on a certain morning that land would be open to the first applicant. How many people would be there? Why, a crowd would be there at midnight watching the land. That sort of case must be amply provided for. There are one or two cases we know of where, if such a notification were made, people would be watching the different clocks, and when the time arrived there would be a row as to which clock was right. We have got to face that difficulty. I think myself that twelve months, which is, of course, an arbitrary time, is perhaps too long, and that six months would suit the purpose equally well, but we must deal specially with those cases where the land is known to contain valuable reefs of gold. I do not think it is fair that in cases of that kind persons should be put in exactly the same position as if they were prospectors and were risking their labour and money in finding gold. These places are absolutely known to be of enormous value, and if we put them up to auction to-morrow the revenue would be very considerably increased. Now, the question is, what is the best way to deal with them; whether by ballot, tender, or auction? and that is a matter that may fairly be discussed. As the hon. member for Gympie pointed out, if we decide upon ballot large parties will very likely put in a great number of applications in different names so as to obtain a greater number of chances. There are many objections to that course. The simplest course is to decide by auction among the applicants, but whenever that has been suggested very strong objections have been urged against it. That has been suggested more than once as the best way to deal with applicants for permission to mine under reserves. But the principle of tender seems to be a fairer way than either; but whether it is really the best is matter for consideration. You cannot say there is any principle involved in this. It is simply what is the most convenient course? And the Government have thought that the principle of tender is the most convenient on the whole. The hon. member for Gympie suggested that compensation should be claimed within a short period, which should be fixed, and I entirely agree with him that a provision of that kind should be included in the Bill. He also suggested that the definition of reserves should be made more flexible or more extensive in its application, and I quite agree with him that that is desirable as applied to homestead leaseholds, and residence or business areas, but with respect to freeholds I think that question must be reserved until we are dealing generally with the question of mining under private property. This Bill deals entirely with land that belongs to the Crown, and the question of mining under private property is a large one and will have to be dealt with in a Bill by itself. With respect to the provisions of the 3rd section of this Bill, that the lease shall not be granted unless the applicant has the means of getting access underneath the land, that requires very serious consideration. In the case of many reserves that is an essential. It would never do to make a shaft in a street or in a hospital reserve. There are many reserves in which there would be no harm in doing that, but you cannot make a provision of that kind flexible without entrusting power to somebody. Well, who would be the best person to trust: the warden or the Governor in Council—one of the two? If we could only settle who was the best person to trust that power to, the question could easily be settled. The reserves really belong to the public, although they are nominally placed under trustees, and probably the Governor in Council would be the best person to trust. I am disposed to think, on the whole, that the matter can be dealt with, but it will have to be done with considerable care. I hope hon. members will endeavour to make the Bill as good as they can, because it is badly wanted, and the Government will be glad to accept any suggestions for the improvement of the measure.

The HON. J. M. MACROSSAN said: The Bill as framed seems to suit only one or two particular cases where the reserves are small and the lodes are very deep—a long distance under the surface. I believe the Bill will suit persons at Charters Towers and at Gympie, but it will not suit any other parts of the colony where gold is found at a very short distance from the surface. I think myself that power should be given to the Governor in Council to make regulations by which the surface of the ground can be broken where it is found necessary to do so. In New South Wales and Victoria miners have the right to break the surface. The reserves being large and the gold being shallow it would be almost impossible to abstract it when breaking the surface; so that I think the suggestion that the Governor in Council should be allowed to make regulations for that purpose is a very good one. I would not be inclined to leave the matter in the hands of the warden, although, of course, the Ministry will take the warden's advice on the subject, but I think they should also take the advice of other persons. The other details of the Bill can be settled in committee, but that portion of it contained in clause 3, which provides that an applicant must have the means of getting at the reserve outside of it, should be amended in such a way as to allow ordinary miners—poor-men miners, as I may call them—to be able to get at the gold by breaking the surface. In such a place as Charters Towers it is utterly beyond the reach of any poor man to get the gold, because the real lodes very likely are from 600 feet to 1,000 feet in depth, but in other parts of the colony it is not so, especially further north, where the lodes are not placed at such great depths.

Mr. HAMILTON said: Mr. Speaker,—I am very glad to see a Bill of this kind being introduced, and I fully believe it will receive the support of all the mining members. At the same time there are some matters of detail which I think should be

referred to. Firstly, in subsection 3 of clause 3 it is stated that no lease shall be granted unless it also comprises some land not within a reserve. I do not see why any man who happened to have land adjoining a reserve should have a special right to mine in that reserve. I think this clause as it stands would be a very useful one for the monopolist; and therefore I quite agree with the suggestions that have been made, that the Governor in Council should have power to make regulations, so that the surface may be broken where required, because in many cases no possible harm can accrue in breaking the surface of these reserves. In subsection 4 of clause 3 it provides that, where any harm does accrue, the person who disturbs the surface shall make compensation to those persons who are entitled to the surface. Now, I was inclined to disapprove very strongly of subsection 3 of clause 4 when I first looked at it. It provides for the manner in which the applicants are to be treated. I was inclined to think at first that this principle of competition was unfair, as it appeared to me that it was another method of screwing a little more taxation out of the miner; but after the explanation given by the Premier, that there are certain lands in the Towers of very great value, it is only right that in cases of that kind a fair price should be got for that land, and therefore I consider the provision a good one. At the same time I do not approve of the manner in which this land is to be disposed of. It is proposed that the applicants shall within two days after the application has been made send in to the warden sealed tenders to be opened by the warden, and that would give satisfaction. Every mining member of the House knows that in many instances the wardens have an interest, *sub rosâ*, in claims on the goldfields, and the fairest way in such cases would be to put the land up to auction. Although the system of competition is a very good one with regard to determining the ownership of disputed ground which is known to be valuable, as at Charters Towers, still I think it desirable to shorten the time from twelve to six months after the passing of the Bill, as within that time all such land referred to can be disposed of. The principle of the Government should be to have the land worked and the gold extracted—not to extract an additional paltry £2 or £3 from the miners for the purpose of increasing the revenue. The 4th section of the 4th clause provides that when two or more applications are lodged at the same time, comprising part only of the same land, the warden shall, if practicable, allot the land between the disputants. That is not a fair way of dealing with the question, because, according to the same clause, it is stated that if two applications be lodged for the same land within an hour they shall be deemed to be lodged at the same time. That being the case, if one person pegs out a claim, half or three-quarters of an hour after another person, knowing that he has no right to that claim, can peg out another comprising half of the claim which he has seen pegged out. Another individual might peg off another claim in which he would include the remaining half—the first pegged out. They would do this, although knowing they were far later than the first claimant, and that they had no right to the ground; because if they do this within an hour their applications, according to clause 3, will be deemed to have been lodged at the same time, and they will probably have one-third each, to which neither of the later persons would have the slightest right. I think that in all cases priority should be decided by time of application, provided the ground has been properly pegged. At present the registrar in some cases notes the minute and hour when the application is received, and priority is so determined. If one person applies a little earlier provided the conditions are carried out with regard to pegging, he gets the ground. As the Bill is to apply to the whole of the colony, it is desirable that leases should not only be granted; in some cases it might be desirable to allow miners to occupy the reserves by taking up claims. I consider the Bill a necessary one, and one that contains some very useful provisions; and no doubt after we deal with it in committee we shall be able to materially improve it, and make it a boon to the miners.

Mr. LISSNER said: Mr. Speaker,—After looking over the Bill I have no doubt that the Minister tried to bring in a measure that will be a great help to the miners in many cases. I know that there are many difficulties surrounding the question of mining on Government reserves in the place I come from; but I do not think it matters very much there what law is passed in favour of the poor man, or any other man. It would cost £10,000 or £20,000 to sink a shaft on some of those reserves, and of course the measure will be in favour of the capitalist. I do not see how the Government can get away from the large capitalist who can give the largest amount of money for the ground. I do not see why the Bill should apply to one or two reserves; I think it should apply generally all over the colony, and that different conditions should apply to different reserves. I am also in favour of the measure applying to mining where gold is combined with other minerals such as silver or tin. However, knowing the difficulties that surround the question I cannot say that the Government have not done their best in bringing in the Bill as it is, but I think that in committee, with the united wisdom of the members belonging to the different mining districts, we may make a good many improvements. The condition that no shaft is to be sunk within a reserve unless the miner has a property adjacent to the reserve, might not always be found to be suitable. It would apply to the different pieces of ground at Charters Towers, but might not answer everywhere else in the same degree. In some instances it may be necessary to allow other persons to sink a shaft inside a reserve; and where it would not damage anything in the reserve it should be optional for the Governor in Council to grant leave, or where the miner can pay for compensation if any injury is caused. As the Bill stands now anyone who has not a piece of land belonging to himself has no chance of working the ground inside a reserve. I know that where people are anxious to have the Bill passed they nearly all have properties to utilise, and wish to get into the reserves. With regard to the conditions in regard to deep sinking, I think the power placed in the hands of the Governor in Council should be sufficiently elastic to deal with cases according to their requirements. I do not know whether it is better that miners who make application on the same day shall be considered to have applied at the same time, or whether, as the hon. member for Gympie said, we should allow the right of first pegging. That is the one principle of mining, I know—if the ground belongs to nobody at first, it ought to belong to the man who puts his peg in first. I should not like to be along with the hon. member for Gympie when a reserve was thrown open, for he would shove me on one side and put his pegs in first. I have had a little experience of these extraordinary rushes where land has been thrown open for mining purposes, and I know that a man of my stature could not get a show when opposed to the larger-sized member for Gympie. I think there should be a better mode of allowing people to get on the ground. The next plan proposed is the ballot,

and this is a very good thing if worked fairly, but when thousands of pounds are at stake it is a question whether it will be worked fairly or whether all sorts of dodges will not be resorted to in many cases. I think they will. The proprietor of an adjoining mine might want to mine under a reserve lying alongside of him—a school reserve, or a court-house reserve, or a school of arts reserve, under which there was supposed to be a reef; as in the case of the Day Dawn claim, a portion of which was sold for half-a-million the other day. Human nature always likes that sort of thing, and it will be a difficult matter to make a law so that nobody will get the worst of it. I cannot suggest any scheme by which nobody will suffer and everybody will get the best of it. I think the ballot might be abused, although it is the fairest thing. Suppose I was an employer of labour, and had a hundred men working with me, I could tell all the men to make applications for the same land. All the applications could go in at the same time, and when the day came to decide who was the proprietor, I should have a hundred chances to five *bonâ fide* ones, and probably get the land. I object to auction sales, as they offer very few chances to the poor miner, and it is very well known that the poor man who cannot have the slightest show in working a claim himself will always attach himself to someone who has money—to the people who are called syndicates. If it is a question between one syndicate and another, when they are all upon an equality as regards wealth, it will be a syndicate all the same, and the poor miner will be nowhere. I am inclined to think the Government should have the best of the syndicate business and make a revenue of it. If the land were put up to auction between them all the revenue should be considerably improved by it, and the men could get a reasonable amount of what was really known to be valuable land. There would be no robbery committed by it, although there would be a great deal of argument. I think it is the intention of the Government to make the Bill so that these reserves shall not be waste lands, but that the gold and other metals in them should be got at in the best way possible. Under these circumstances I will leave it an open question just now as to the manner in which the land should be distributed. I would like the Bill to go further than it does, and apply to alluvial ground as well as quartz reefs. Men working quartz reefs should be given more in proportion to the depth. A great deal more power should be given to the Governor in Council, so that he could judge every case according to its merits, and I believe the Government will do the best they can; but we cannot lay down any hard-and-fast rules. I will leave any further remarks I have to make until the Bill is in committee, and I hope that, with the united efforts of the different mining members, we may make it a better Bill than it is now, although the Government have done very well in bringing it in so far as it goes now.

Mr. SHERIDAN said: Mr. Speaker,—It seems to me that this matter can be very easily settled by having sealed applications sent in on one office day, between the hours of 10 and 4 o'clock, and supposing there are more than one or two applications, the land could be put up to auction, and no one allowed to bid except those who attended upon that day. That would be an effective solution of the difficulty; it would give all persons a chance, and do away with all sorts of evils.

Mr. ISAMBERT said: Mr. Speaker,—I have to propose a way out of the difficulty, and I believe my remedy will suit the Colonial Treasurer very well now that there is a deficit in the Treasury, and he will be able to look forward with pleasant thoughts to a great acquisition. Instead of receiving tenders at auction, as proposed by several hon. members, for what was known to be a rich claim, which would confine it only to moneyed men, and exclude the poor man altogether, and to put all upon an equal footing I think it would be a far better system that offers should be made at auction, at which only those could tender who have sent in applications within a certain time, as suggested by the hon. member for Maryborough. But instead of giving so much per acre, the payment ought to consist of so much per cent. upon all moneys which might be divided as a dividend, which would be tendering upon results; and if a claim turned out rich it would be a continual source of revenue for the Government, and if it turned out poor the men undertaking it would not be mulcted in such a heavy sum.

Question—That the Bill be now read a second time—put and passed.

The committal of the Bill was made an Order of the Day for to-morrow.

OPIUM BILL—COMMITTEE.

On the motion of the COLONIAL SECRETARY, the Deputy Speaker left the chair, and the House went into committee to consider the Bill in detail.

Clause 1—"Short title"—put and passed.

On clause 2, as follows:—

"It shall not be lawful for any person to sell opium or keep opium for sale, unless he—

(1) Is a pharmaceutical chemist; or

(2) Has obtained from a police magistrate a license under this Act to sell opium at the place at which it is sold or kept for sale."

Mr. HAMILTON said he believed the Bill was introduced for the purpose of restricting the sale of opium to blackfellows for smoking purposes; that being the case, it was undesirable to restrict the sale of any preparation of opium which was not used for smoking purposes. The clause as it stood would have that effect, though it would not have the effect of restricting persons indulging in opium-eating, or at least eating substances obtained from opium, which were quite as deleterious as opium itself. Morphia, for instance, was sometimes eaten. It was not exactly a preparation of opium, but was one of the active principles contained in opium. Opium was composed of fourteen or fifteen substances, some of them being of value therapeutically and others being inert. The only authority they had as to what were preparations of opium was the "British Pharmacopœia," which mentioned about twenty or thirty official preparations.

The CHAIRMAN: I shall resume the chair in a quarter of an hour.

On the resumption of the Committee,

The PREMIER moved that the Chairman leave the chair, report progress, and ask leave to sit again.

Question put and passed, and leave given to sit again to-morrow.

ADJOURNMENT.

The PREMIER said: Mr. Speaker,—I beg to move that this House do now adjourn. As arranged, the first business to-morrow will be the resumption of the debate on the Financial Statement in Committee of Ways and Means.

The House adjourned at fourteen minutes to 8 o'clock.