Queensland

Parliamentary Debates
[Hansard]

Legislative Council

TUESDAY, 13 DECEMBER 1898

Electronic reproduction of original hardcopy

LEGISLATIVE COUNCIL.

TUESDAY, 13 DECEMBER, 1898.

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

LOCAL WORKS LOANS ACT AMENDMENT BILL—BRITISH PROBATES BILL—TOWNSVILLE MUNICIPAL LOAN ACT REPEAL BILL.

ASSENT.

The PRESIDENT announced the receipt of messages from His Excellency the Governor, intimating that the Royal assent had been given to these Bills

MINING BILL.

COMMITTEE.

Clause 1 put and passed.

The POSTMASTER-GENERAL moved the insertion of the following new clause to follow clause 1:—

> This Act commences and takes effect on and from the 1st day of March, 1899, which date is hereinafter referred to as the commencement of this Act.

The object of the new clause was to give time for printing the forms and regulations, which would be very numerous and lengthy.

New clause put and passed.

On clause 2—"Interpretation"—

The HON. J. ARCHIBALD said that in the definition of "Agent" one or two words should

be added. Frequently on important goldfields there were works connected with a goldmine which might be a mile or two away, and the agent might have control over them as well as over the mine. He moved the addition of the words, at the end of the paragraph, "or of any works connected therewith."

The POSTMASTER-GENERAL said he saw no objection to the amendment.

Amendment agreed to.

The POSTMASTER-GENERAL said that in lines 48 and 49 it was provided that "no land comprised in any goldmining lease shall be deemed to be a claim." The word "gold" must have got in by mistake, because a goldmining lease could not be a claim.

The HON. A. NORTON said that when the Postmaster-General proposed the previous amendment he was in hopes that he had done so with the object of enabling hon. members to understand the Bill and all the amendments which had been introduced, which perhaps they could do by the 31st March next. They ought to know whether the words proposed to be inserted all through the Bill would have the same meaning when they were embodied in the Bill. He could not help complaining that they had not a parliamentary draftsman to put those things in order. The Bill was drafted on lines very misleading; it was drafted partly in a style fifty years old and partly on modern lines, which was very confusing. He did not intend to propose any amendments, but he would point out, in connection with the amendment before the Committee, that the definition of "claim" was as contorted as possible. What the hon. gentleman proposed seemed quite simple but when they struck out the word "gold" they must remember that it applied to other matters of an entirely different nature.

The POSTMASTER-GENERAL thought the word "gold" must be a clerical error. It was impossible that anyone could consider that a goldmining lease should be deemed a claim. The amendment merely made the meaning of the clause plain. It was important to make the Bill mean everything that was intended, and though the amendments of which he had given notice were largely formal, still they would make the measure a more complete addition to the statute-book.

The HON. A. NORTON: The hon. gentleman candidly admitted that some mistakes had been made in drafting. He believed a great many mistakes had been made. The fact that it was necessary to introduce such amendments to explain the Bill showed that there were probably a great many more errors of a similar nature. He thought the amendments should have been in the hands of members some time before, in order that they might study their effect on the Bill.

The POSTMASTER-GENERAL did not know how the word "gold" had crept in, but it undoubtedly was a mistake.

The HON. W. FORREST: Anyone who had watched the Bill going through the other House must know that a number of amendments were necessary. It was their duty to correct any ambiguity they might find.

The HON. J. DEANE thought the word "gold" was inserted intentionally to distinguish goldmining leases from other leases. It was quite possible to have a goldmine on a mineral lease.

The HON. J. ARCHIBALD: The word "gold" was purely surplusage, and he thought the amendment should be accepted.

Amendment agreed to.

The HON. A. C. GREGORY moved the omission, on lines 50 and 51, of the words "shale, stratified ironstone, and fireclay." Coal was a definite substance to be mined, but almost every brickyard in the Moreton district was worked upon shale, and if they required them to be worked as mines they would practically close them up. The term "shale" was misinterpreted. There was a particular kind of coal found in New South Wales which was called shale, but was really a kerosene coal.

The HON. J. ARCHIBALD said that in the matter of the term "shale" he was with the Hon. Mr. Gregory, but the word "kerosene" might be inserted before "shale." He saw no objection to the words "stratified ironstone," because iron ore was worked in the same manner as coal was worked. As for the word "fireclay," he was aware that there was almost invariably a band of fireclay immediately below every seam of coal, and frequently that band of fireclay was worked for profit.

The HON. A. C. GREGORY: With the consent of the Committee, he would withdraw the amendment and move the insertion of the word "kerosene" before "shale."

Amendment agreed to.

After further verbal amendments,

The HON. A. C. GREGORY moved the omission of the words "or fireclay." The only true fireclays were those that were got from the rotten granites, and were not associated with coal. The local bands of fireclay were very difficult to work, and were useless for the purposes for which the best fireclay was ordinarily used.

The HON. J. ARCHIBALD: He could assure the hon. gentleman that the fireclay strata of the colony was being worked to-day, and that the bricks made from fireclay found beneath the coal seams were the best Queensland bricks brought to Brisbane. He thought the words should be permitted to remain, because the fireclay strata would be worked, and there would otherwise be no regulations provided for the working of the beds.

The HON. A. C. GREGORY said that if the words were allowed to remain all the brickyards around Brisbane would be shut up; they were not worked in conjunction with coal. If not, the owners would have to commit breaches of the Act.

The POSTMASTER-GENERAL: He did not see that. What was now proposed had been the law for the last nine years without a single complaint. If fireclay was a substrata of coal it would be worked for its own intrinsic worth, and should be worked under regulations in the ordinary way.

The HON. J. T. SMITH: The clause only sought to give a definition of the word "colliery," and if a deposit of fireclay was found under coal it was only fair to include it. If making the clause more specific was an error it was an error in the right direction.

The HON. W. FORREST: The fact that it had been the law for the last nine years, as stated by the Postmaster-General, was no more argument against the amendment than it was against any other amendment in the Bill. With regard to fireclay under coal seams, he had had something to do with coalmines in another colony, as trustee under a will, and he could vouch for the fact that bands of fireclay were often most troublesome to miners, and the fireclay was utterly useless for making bricks.

Amendment put and negatived.

After verbal and consequential amendments,

The HON. J. ARCHIBALD moved the insertion on line 15, page 5, of the words "or animals" after "human beings."

Amendment agreed to.

On clause 3—"Repeal—Saving"—

The HON. J. ARCHIBALD moved the insertion of the following words at the end of

paragraph 2: "the owner of any such tenement shall be entitled to all the privileges conferred on holders of such lands and tenements under this Act." The fear he had was whether the rights and privileges conferred by that Act would be applicable to tenements and leases in the same manner as they were applicable under the present law.

The POSTMASTER-GENERAL had no objection to the amendment, and thought it would be an improvement.

Amendment agreed to.

The clause was further amended and agreed to.

Clauses 4 and 5 put and passed.

Clause 6 passed with a verbal amendment.

Clauses 7 to 11, inclusive, put and passed.

Clause 12 passed with a verbal amendment.

On clause 13—"Duplicate of miner's right in case of loss"—

The HON. J. ARCHIBALD moved the insertion of the words "upon the applicant giving satisfactory evidence to the warden or mining registrar of the loss," after the word "shilling," on line 23.

The HON. J. DEANE: He did not like to alter a clause unless anything was to be gained by it. The very fact of a miner applying to a warden for a new right, and paying 1s., ought to be a sufficient guarantee that he had lost his old one.

The HON. E. B. FORREST: If a man was entitled to a duplicate miner's right he should have it just the same as he should have his original right. Why should a man be put on his oath to explain a matter of that kind? The amendment would simply give wardens an opportunity of humbugging a man, and giving him fifty reasons, if he felt so disposed, that he was not satisfied with his explanation.

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

On clause 14—"Privileges conferred by a miner's right"—

The HON. J. ARCHIBALD said that subsection (*a*) provided that none of the rights and privileges conferred should be held by any alien who "by lineage belongs to any of the Asiatic, African, or Polynesian races." That would have the effect of depriving certain persons residing in the colony of privileges which they had enjoyed for many years. He particularly referred to children born in the colony, one of whose parents was of Asiatic, African, or Polynesian origin. He moved the omission of the words "by lineage."

The RIGHT HON. SIR H. M. NELSON: The question raised by the Hon. Mr. Archibald was a very important one. The Bill was a consolidated Bill. If they adhered to what the law in that respect was at present they ran no risk, but if they altered it they ran the risk of the Governor having to reserve the Bill for the Royal assent, with the certainty of the Bill being inoperative for a certain time, and a chance of its not coming into operation at all. During the history of the colony no less than eleven Bills had been reserved in the way he had mentioned, and nearly all of them in connection with that one subject. Out of those eleven Bills, eight had become law and three had been practically disallowed. For the honour of the colony it was their duty to show to the world that they could manage their affairs without any interference on the part of the Imperial Government; it should also be their ambition. Let hon. gentlemen have regard to what the present law touching aliens was. The Mineral Leases Act of 1882 provided that on certain conditions miners' rights should be issued to any person "not being an Asiatic or African alien." There had been no dispute, as far as he was aware, with regard to the interpretation of those words, and they had effected the object desired. Seeing that Asiatics on goldfields were now reduced almost to a minimum, it would be advisable to adhere to the words of an Act which had already received the Royal assent. In the Act of 1878 the section referring to miners' rights also provided that they should not be issued to "any Asiatic or African alien," and the very same words appeared in the Mining Act next in date. With regard to Polynesians, those who could possibly be employed on goldfields were the few who, under an Act passed as long ago as 1884, were allowed to get exemptions. Any Pacific Islander who at that time could satisfy the Minister that he had continuously resided for no less than five years in the colony, and who made application at a certain date, was granted an exemption which allowed him to go into any kind of employment he chose. But the total number on that date who were exempted was only 843; and as that was fourteen years ago, and as they knew that a great many of them had gone to the other colonies, notably to the Tweed River and other places in New South Wales, there could not be many still remaining in Queensland. Indeed, the department which looked strictly after Polynesians did not know of a single instance in which a Polynesian was ever employed on a goldfield. It was not the kind of work they took to, and all Polynesians coming into the colony now were strictly prohibited from anything but tropical agriculture. The remnant of those who were exempted in 1884 must now be extremely small. It seemed to him that putting such an amendment of the law into a Mining Bill was making the working miner look very small. It looked as if he were not able to take care of himself. If a Polynesian was employed on a goldfield they would very soon hear of it, and public opinion would probably not tolerate such a thing. But was it necessary to legislate for the very minute amount of employment possible to be afforded to Polynesians in the mines? He thought not. It was beneath the dignity of the colony to attempt to do so. For those reasons he thought it would be extremely wise on the part of the Committee to adhere strictly to the law as it stood at present. By doing so they would run no risk of having the Act disallowed, which he looked upon as a very serious matter for the colony, although recently hon members might have noticed that two Premiers of southern colonies had been moving the Secretary of State to disallow an Act or Ordinance of another colony. If, however, the Imperial Government disallowed an Act of their own colony they would sing a very different song. He thought, in their own interests, they ought to give the Home Government no occasion for interfering with their legislation. The Act dealing with aliens had carried out the full intentions for which it was passed. Originally there were some 13,000 Chinamen engaged on the goldfields, but they had been reduced to the merest fraction, and that fact alone showed that the present law was operating in the desired direction. If that were so, what was the use of fresh legislation, which was attended with a certain amount of risk?

The POSTMASTER-GENERAL: The amendment was a very important one seeing that there was such a long discussion on the subject in another place. The insertion of the words "by lineage" was really the result of a compromise. No doubt there was a great deal in what the President had said, but the great object after all was to keep Asiatics off the goldfields, and, although the provisions of the clause went further than the present law, yet they were such as to commend themselves to the Government. He could not accept the amendment.

The Government were anxious to keep Asiatics off the goldfields, and the other House, having responded to their desires, had adopted the provisions of the clause, which met with general acceptance in another place.

The HON. E. B. FORREST was glad the Postmaster-General intended to resist any alteration in the clause. It was what they might call one of the vital clauses of the Bill. He did not think there was much in the introduction of the words "by lineage," but his inclination was not to touch the clause. No clause was subject to more criticism in another place, and if any subject was ever hammered out properly that was. To attempt to raise the Asiatic question now was to raise the whole question as to whether the Bill should pass or not, and might result in its loss at that stage. He did not put that forward as a threat, but he was pleased that the amendment was to be resisted with a view of trying to save the Bill. He asked hon. gentlemen to recollect that the Bill was a most important one. It was recognised as a very great necessity, and as a great improvement on the existing law. There had been felt for some years the want of such a Bill, and now that they had got it it would be most unwise to risk it at the eleventh hour. He did not think the amendments that had been given notice of were of sufficient importance to warrant members in interfering with the measure at that stage.

The HON. A. C. GREGORY: The amendment was not an amendment of the existing law, but one which was designed for the purpose of adhering to the present law. The existing law had answered all purposes, and he saw no reason for grafting on to it words which might be regarded as obnoxious. He should support the amendment.

The HON. A. NORTON could not agree with the Hon. E. B. Forrest. By the law of Queensland they kept certain aliens off the goldfields, but if those men married white woman the children became British by birth. Why should those children be excluded? In passing the clause as it stood they would really be interfering with Imperial laws, and the hon. the President had pointed out that if they did that the Bill might be disallowed. Was it worth while to pass the Bill in such a form as might lead to that result? If hon. members wished to get the Bill passed at once their best plan was to avoid introducing any matter which would have the effect of causing the Bill to be reserved for Her Majesty's assent. The law as it now stood had led to no evil results, and he did not think the children of aliens had seriously affected the mining industry. Miners as a rule were very well able to protect themselves, and were not likely to submit to anything which they considered a serious menace. In a colony circumstanced as Queensland was miners were a class that should be encouraged in every possible way, and he did not think any discouragement was put in their way by allowing the law to stand as it was. He saw no reason why the amendment should not be accepted.

The HON. A. H. BARLOW: Confusion had arisen by supposing that the children of Chinese men and women would be shut out by the clause, but such children gained their British nationality by being born on British soil. The clause absolutely excluded aliens from all goldfields except those upon which they had previously been permitted to work at the time of the passing of the Act. Formerly it was the practice to proclaim goldfields every two years as not being fields upon which aliens could enter. The expression which it was sought to omit from the clause was used in an Act of the Federal Council which had received the approval of Her Majesty, and the clause would be so limited in its operation that he appealed to the Committee to let it stand as printed.

The RIGHT HON. SIR H. M. NELSON pointed out that those who supported the amendment were really trying to bring about the passage of the measure, because if they made any alteration in the law they ran the great risk of having the Bill reserved for Her Majesty's assent and perhaps disallowed; but if they adhered to legislation at present in force they avoided that risk. It was for that reason that he advised that the amendment should be accepted, and no alteration of the present law be allowed.

The HON. W. FORREST: In answer to the Hon. E. B. Forrest, he might say that the reasons advanced so ably by the President were never advanced in the other Chamber. If they had been he did not believe the clause would have been passed in its present form. In private conversation he had drawn the attention of several hon. members to the fact that the clause as it stood interfered with Imperial legislation. He saw no reason in altering a law which had proved so effective.

The HON. E. B. FORREST: Hon. members were under a misapprehension as to what was done in another place. It was all very well to say that the matter was never dealt with in another place. He understood that counsel's opinion was asked on the subject. Mr. Shand gave his opinion and suggested that the words should be put in. As the Postmaster-General had pointed out, the phraseology was a compromise, and a great effort was made to have the clause passed in a proper form. Notwithstanding what had fallen from the President, he was under the impression that the other Chamber fully understood the matter, and saw no danger, from an Imperial point of view, in passing the clause as they had it now before them.

The HON. J. DEANE was inclined to think that such an important alteration in the law should be the result of an agitation in the country, and it would have been necessary to show that some hardship had arisen under the existing law. Nothing of that kind had been shown, and as the number of aliens on goldfields had steadily decreased during the past ten years there was every indication that the law as it now stood was sufficient for all purposes. There had been no trouble over that question in any part of the country he had been through.

The HON. W. ALLAN: Although it had been said that the clause would not debar British subjects from working on goldfields, he very much doubted it. But apart from that, the Bill ran a great deal more risk of not coming into operation if they left in the words "by lineage" than if they left them out. There had been considerable trouble in the past with regard to "Asiatic and African aliens," but that had been assented to, and was now the law. If that phraseology was retained there would be no fear of the Bill being reserved. If not, the Governor would be perfectly justified in reserving it for the Royal assent. They would, therefore, be doing the miners a good turn by excising the words, because it would give the Bill a much better chance of becoming law.

The Hon. E. B. FORREST: And probably lose the Bill.

Question—That the words proposed to be omitted stand part of the clause—put; and the Committee divided:—

CONTENTS, 5.

The Hons. W. H. Wilson, A. H. Barlow, E. B. Forrest, G. W. Gray, and J. C. Heussler.

NOT-CONTENTS, 16.

The Right Hon. Sir H. M. Nelson, The Hons. J. Deane, J. Archibald, R. Bulcock, A. C. Gregory, A. H. Wilson, A. Norton, W. Forrest, W. Allan, H. C. Wood, W. Aplin, W. D. Box, J. Ferguson, J. T. Smith, J. C. Smyth, and F. H. Hart.

Resolved in the negative.

The HON. J. ARCHIBALD moved that the words "African or Polynesian" be omitted, with the view of inserting the words "or African."

The HON. A. HERON WILSON said he did not see any particularly grave reason for the amendment. The Polynesian race were very close to our shores, and yet, even under the existing Acts, they had never attempted to work on the goldfields, and it was unlikely they would do so even if they were omitted from the disabling clause now under consideration.

The RIGHT HON. SIR H. M. NELSON: There was no danger to be anticipated from Polynesians going on goldfields, because they would not go there. He doubted whether there was a single instance known to the department of a Polynesian being employed on a goldfield. The reason he objected to it was that it seemed to be undignified legislation—legislation unworthy of the Parliament. It seemed to be actuated by a strong kind of vigilance emanating from a morbid imagination, and not supported by fact. If hon. members could show where Polynesians were interfering with the rights of miners or attempting to interfere with them, he would willingly give way. There was no reason why they should go out of their way to prohibit a race of men who never attempted to go upon the goldfields. Moreover, it was important to consider that they were altering existing legislation, and nothing would give the Imperial authorities greater concern than to be compelled to disallow an Act of Parliament passed by a colony with responsible government. The clause as it stood was merely pandering to the prejudice of a few uneducated persons in the colony. The House ought to be above doing such a thing. It was preposterous to suppose that the miners of the colony could not take care of their own interests when opposed to a possible 700 Polynesians, who had probably by this time dwindled down from one cause or another to 250 or 300.

The HON. W. FORREST: If they left in the word "Polynesian" it could only possibly apply to a very few of those people, because those now coming into the colony were strictly confined to tropical agriculture. Under those circumstances, he quite agreed that the clause as it stood was undignified legislation, and utterly unnecessary. He never yet heard of a Polynesian at work upon a goldfield.

The HON. E. B. FORREST: It seemed to him that the very reasons urged in favour of the amendment were those which could be urged in favour of not touching the clause. If there was no danger, what was the use of interfering with the clause at all? If the clause was likely to be inoperative, it was not the only clause that had proved inoperative in the past. He did not want to see the clause interfered with, because he believed the Bill would be endangered, and that was the best of all possible reasons for making no alteration. Any contentious matter introduced at that stage was more than likely to defeat the Bill for this session.

The HON. A. H. BARLOW agreed that the words proposed to be omitted were likely to be inoperative, and for that reason there was no object in striking them out. They had already taken a big lump out of the Bill in the matter of lineage, and if the words now sought to be omitted were harmless, it would be wise to let them stand.

The HON. A. C. GREGORY: If the words were permitted to remain in the Bill, they authorised Polynesians to work on the goldfields, whereas under the existing law they could not.

The HON. J. ARCHIBALD quite agreed with the Hon. Mr. Gregory. He believed at the present moment Polynesians were practically debarred from mining on any of the goldfields. If they left the words in, they authorised those persons to go upon the goldfields. There had been threats used that if they did certain things certain other things would happen, but he did not think they should pay any attention to such threats. They had a perfect right to do what they thought best in the interests of the mining community.

Question—That the words proposed to be omitted stand part of the question—put; and the Committee divided:—

CONTENTS, 5.

The Hons. W. H. Wilson, G. W. Gray, A. H. Barlow, E. B. Forrest, and W. F. Taylor.

NOT-CONTENTS, 14.

The Right Hon. Sir H. M. Nelson and the Hons. A. C. Gregory, W. Forrest, J. Archibald, A. H. Wilson, A. Norton, H. C. Wood, W. D. Box, J. Ferguson, J. C. Smyth, W. Aplin, J. Deane, W. Allan, and R. Bulcock.

Resolved in the negative; and question put and passed.

Clause passed, as amended, with a further consequential amendment.

Clause 15 put and passed.

On clause 16—"Issue of business license"—

The HON. J. ARCHIBALD said that the holders of business licenses often put up expensive premises in which to carry on their businesses on their business areas, when they could not get lands in fee-simple. Clause 16, as it stood, only provided for business licenses remaining in force up to ten years, and he therefore proposed the addition of the following, to follow the word "force," on line 33:—

And the holder of such license shall, subject to the regulations, be entitled to a renewal thereof when and so often as he shall require.

Amendment agreed to.

The HON. A. H. BARLOW pointed out that there was a power to transfer a business license, and it might be contended that, though no Asiatic or African alien could have a business license issued to him, he might become possessed of one by transfer, and he therefore suggested to the Hon. Mr. Archibald the omission of the proviso, and the insertion of the following—which was similar to a provision in the Land Act:—

Provided that no alien who belongs to any of the Asiatic or African races, other than members of those races who, at the commencement of this Act, were holders of such licenses, shall have issued to him or become or be the holder of a business license.

The HON. J. ARCHIBALD was perfectly in accord with the hon. gentleman. He had pointed out on the second reading that the Bill seemed to be silent on the question of the transfer of a business license to an alien, and he therefore moved the omission of the proviso in the clause as printed, with the view of inserting the proviso read by the Hon. Mr. Barlow.

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

Clause 17 put and passed.

Clause 18 passed with a verbal amendment.

Clauses 19 and 20 put and passed.

Clause 21 passed with verbal amendments.

On clause 22—"Exemption of certain lands from occupation under miner's right or business license"—

The HON. J. ARCHIBALD said it would be noticed that lands which could only be occupied on payment of compensation were—land in lawful occupation as a yard, garden, or cultivated field;

land in actual occupation on which a house, shed, or other building had been erected; and land on which an artificial dam or reservoir had been made, or well or bore sunk. If land was not in lawful occupation there could be no compensation, and a person could take up the land and have all the improvements thereupon. That did not seem to be right with regard to land on which a dam or reservoir had been made, and he therefore moved that after "land" the words "in lawful occupation" be inserted.

The POSTMASTER-GENERAL did not agree with the amendment. The first two subsections required lawful occupation and actual occupation respectively; but it was very different when they came to land on which a dam or reservoir had been made. There might be nobody in occupation at all. The man who sunk the well or constructed the reservoir might have abandoned the land.

The HON. W. FORREST: In one of the Land Acts, he forgot which, it was provided that in the event of land being forfeited the improvements reverted to the Crown. If land on which a reservoir or dam had been made or a well sunk was forfeited, surely the person who took it up should pay compensation to the Crown. He was inclined to agree with the Postmaster-General that the amendment was unnecessary.

The HON. J. ARCHIBALD could not follow the Postmaster-General. The present regulations provided for applications for areas on which dams and reservoirs could be constructed for mining purposes. If the water in a dam which might have cost £300 was not being used for mining purposes, the Crown could claim compensation under that clause. The owner, he maintained, might continue to pay his rent from year to year and was entitled to the value of his improvements. He could see no possible harm that could arise from inserting the amendment. It might be contended that because a man had ceased to use a dam for mining purposes that he had abandoned it, and in that case the Government intended to claim compensation. The object of the amendment was merely to protect the working miner or company that might have constructed expensive works.

The HON. W. FORREST: The insertion of the words would not have the effect intended by the Hon. Mr. Archibald. If the hon. gentleman would draft a clause to convey what he wished to convey—namely, that the person who conserved water for any particular purpose should get compensation—then he would agree with it, but he protested that if those words were put in the hon. gentleman was repeating the very error he wished to correct.

The HON. R. BULCOCK: The words of the clause did not convey the idea that the place was abandoned, and it was because they did not convey that idea that the hon. gentleman wanted to make it clear that a man should receive compensation when he was in lawful occupation.

The HON. J. ARCHIBALD: It did not necessarily follow that the owner must reside on the land. It was sufficient that he was registered for that particular area. If he was in lawful registered occupation the Crown had no right to claim compensation.

The HON. W. FORREST agreed that the Crown had no right to take from a man that of which he was in lawful occupation on a goldfield. A man might make a reservoir on Crown lands and abandon it, and then he would not be in lawful occupation. He believed in everyone being treated alike, and if compensation was equitably due it should be paid.

The HON. A. NORTON: The difficulty arose because of the distinction which was made between the three paragraphs. The second paragraph referred to land in actual occupation. Did that mean land not lawfully occupied? So long as the occupier of land on which a dam was constructed used it for the purpose for which he obtained the land he ought to be protected. In any case if the dam ceased to be valuable to the man who constructed it it might be valuable to someone else.

The POSTMASTER-GENERAL did not think there was much in the amendment. It would make no difference one way or the other, but at the same time he did not think it at all necessary.

The HON. A. NORTON: Did the clause mean that anyone who held land on a goldfield for any of the three purposes mentioned must hold either a miner's right or a business license?

The HON. J. DEANE: Thought the clause had better be left as it stood. If they adopted the amendment they would have to define what "lawful occupation" meant.

The HON. A. NORTON did not see how the clause could mean anything else but what he said. It seemed that the object of the clause was to enable a man who held a miner's right or business license to hold one piece of land on which he resided and another on which he might construct a dam or tank.

The HON. A. H. BARLOW contended that the insertion of the words would narrow matters as against the owner of the dam, because the miner would demand proof of lawful occupation when compensation was asked for.

The HON. J. ARCHIBALD was aware that personal occupation was not necessary in the case of dams and reservoirs on goldfields; but, at the same time, the title to those things was registered, and that was really the occupation. As the sense of the Committee appeared to be against him, he would withdraw the amendment.

Amendment, by leave, withdrawn.

Clause put and passed.

On clause 23—"Power to grant goldmining leases"—after some consequential amendments had been made,

The HON. J. ARCHIBALD moved the insersertion in subsection 1, after the word "gold," of the words "and for all purposes necessary to effectually carry on such mining operations."

The HON. A. NORTON thought the word "such" unnecessary, as the clause only referred to gold-mining leases.

The HON. J. ARCHIBALD considered the word indispensable, as there was mining for minerals other than gold.

The HON. A. NORTON said that the word did not restrict it to mining operations for gold. The word "such" was distributed through the Bill in thousands. In one clause, containing twenty-three lines, it occurred twenty-two times, although towards the end of the clause the word "said" was used to vary the monotony. In the present case the word "such" did not affect the meaning in the slightest degree.

The POSTMASTER-GENERAL: The clause dealt only with goldmining leases, and the word "such" was necessary in order to limit the operations to goldmining. The word was necessary to make the clause common sense.

The HON. A. NORTON said that the clause dealt exclusively with goldmining leases, so that there was no necessity for the word.

The HON. W. FORREST thought it was tautology to insert the word "such."

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

Clause 24 put and passed.

On clause 25—"Rent, term, and area of goldmining lease"—

The HON. A. NORTON asked the Postmaster-General for some of the reasons which had led to

the area of goldmining leases being increased from twenty-five to fifty acres. When he had first read the Bill he had been strongly opposed to the increase. Since then he had heard arguments used outside the Committee which inclined him to support the fifty acres; but, before committing himself, he would like an explanation from the Postmaster-General.

The POSTMASTER-GENERAL said that the clause was one of those which had excited a great deal of attention in another place, and had also given rise to a great deal of criticism. The complaint had been made for a considerable time that twenty-five acres was insufficient to induce people in London and other places where they liked to have big things to invest in Queensland mines. Of course, in many instances six acres and twelve acres were quite sufficient, but it depended entirely on the goldfield, and it had been thought desirable by the Government to give extended areas on goldfields which had been almost deserted for want of capital. It would be noticed that the clause provided that the area should not exceed twelve acres until the expiration of seven years from the date of the original proclamation, or twenty-five acres until the expiration of fourteen years from the date of the original proclamation, while not more than twenty-five acres should be granted except where the depth of ground, difficulty of working, or the expense of erecting mining machinery was likely to be great, or the poverty of the ground warranted it, or the ground had been previously worked and abandoned for six months. That was a reasonable compromise.

The HON. E. B. FORREST thought it was really too bad of the Hon. Mr. Norton to ask for an explanation after the days which had been occupied in another place in discussing that very question. He was quite sure the hon. gentleman had read every word of what had been said elsewhere. If there was any further thirst for information, he would recommend the hon. gentleman to read the report of the Mining Commission. There were pages of evidence on the question which would satisfy anyone except his hon. friend. The question of the area had been so hammered out elsewhere that they need waste no time over it. Let them get the Bill through.

The HON. A. NORTON: Every recommendation of the Mining Commission had not been embodied in the Bill. With respect to what had been said in another place, he had not read it all, nor did he intend to. What had satisfied him that fifty acres was necessary was what he had heard outside Parliament. At the same time, before adopting an innovation, the Committee should have some official information as to the reason for introducing it.

The HON. W. FORREST: Anyone who had travelled over Queensland, and seen the enormous goldfields that were virtually deserted for lack of capital and sufficient security for the investment of capital, could read as he ran the reason for larger areas being granted. Unless that was done, and other concessions made, those fields would be undeveloped till doomsday.

The HON. J. ARCHIBALD: There was no doubt the provision with regard to holding not more than twenty-five acres was being evaded now by the amalgamation of leases. He would call attention to clause 41, which provided for the union of leases, no such amalgamation to be larger than fifty acres. According to the clause under discussion no person could take up more than twelve acres until the goldfield had been proclaimed seven years, nor twenty-five acres until the expiration of fourteen years from the date of the proclamation. Yet by clause 41, even after only seven years had expired a man might amalgamate with all his neighbours and have his fifty acres and work it from one shaft. It would be necessary to amend clause 41 when they came to it.

The HON. A. NORTON: One argument he had heard outside the House in favour of enlarging the area, which struck him very forcibly, was that at present certain twenty-five acre leases could not be worked profitably by themselves, and that it was advisable that two leases should be worked together with the same machinery. The law was, as the Hon. Mr. Archibald had said, at present evaded, and the effect of the clause would be to legalise what was now done illegally.

Clause put and passed.

On clause 26—"Reservation of portion of surface"—

The HON. J. ARCHIBALD said he did not like the clause as it stood. It provided that in every goldmining lease a portion of the surface not exceeding one-half should be reserved for residence purposes, but in no case should the portion so reserved be less than six acres. He, therefore, moved that the clause be omitted, with the view of inserting the following new clause;—

> In every goldmining lease of ten acres or under the surface rights thereto shall belong to the lessee or lessees; but where the areas of leases exceed ten acres all such surface rights above ten acres shall be reserved by the Crown for residence purposes, the lessee or lessees having priority to select for shaft, machinery, or other purposes such portion or portions of such area as in his or their discretion is most suitable.

The CHAIRMAN: The amendment cannot be submitted in the form proposed. It is in the option of the Committee to negative clause 26 and then for any hon. member to propose the insertion of a new clause.

The HON. J. ARCHIBALD: The best course would perhaps be to postpone the clause for further consideration.

The HON. W. FORREST: It appeared to him that the amendment would be very far-reaching in its effects. It gave a man with fifty acres no greater surface rights than the man who had twelve acres. That was surely not a right thing to do. The matter needed careful consideration, otherwise they might be making a very grave mistake.

The POSTMASTER-GENERAL considered the clause as it stood a very fair one. If a lease consisted of fifty acres, twenty-five acres would be reserved for surface rights; if twelve acres six acres, and so on; and in order that there might be a minimum area the portion so reserved should be in no case less than six acres.

The HON. J. DEANE: He could assure the Committee that six acres would be very little good to a lessee to erect his machinery and carry on the work of the mine. When a goldfield had been open fourteen years there would not be much spare land left in the neighbourhood of the town. People would have rights reserved to them as first occupants of the land. In times gone by a great deal of what were now known to be valuable tailings were allowed to be swept away by flood waters, and the object of all mine-owners now was to stack everything on the high ground for treatment later on, and in addition they required ample room for machinery, dams, etc. He thought the amendment would be desirable, because it gave the lessee the preference when it came to saying what his requirements were.

The CHAIRMAN: I must ask hon. gentlemen to confine their remarks to the question, which is, that the clause be postponed.

The HON. E. B. FORREST did not think any reason had been given for postponing the clause. Notice had been given of a very simple amendment which proposed to increase the area from six to ten acres. Another amendment had now

been sprung on the Committee which raised awkward questions between the Government and lessee. He looked upon six acres as quite sufficient. He certainly thought that the clause should not be postponed. At all events good reason should be given for adopting that course Other business would intervene to-morrow, and it was doubtful whether they would ever get at the Bill again if they did not seriously tackle it at once. It looked as if some hon. members were stonewalling when they wanted to postpone a clause at that stage.

The HON. J. FERGUSON was not in favour of postponing the clause. The Postmaster-General had explained that half the area of the lease was to be used by the lessee, but in any case not less than six acres. Less than that would, in a great majority of cases, be useless.

The HON. A. HERON WILSON was not in favour of postponing the clause. There was no doubt that six acres was not sufficient for machinery and the other purposes of the mine.

Question put and negatived.

The HON. J. ARCHIBALD would endeavour to modify his amendment. After the words "mining lease," on line 19, he moved the insertion of the words "not exceeding ten acres," and the latter part of the clause he would make read "the area over and above ten acres shall be reserved for residence purposes." All he wanted to provide was that on all goldmining leases there should be a sufficient area of the surface reserved to the lessee to enable him to place his machinery in a convenient position and to store his tailings, firewood, etc.

The POSTMASTER-GENERAL pointed out that the six acres was merely a minimum, but whatever the area was the lessee could get one-half.

The HON. J. DEANE: In the matter of surface rights the Bill was not as liberal as the old law, which enabled a person to hold the whole surface without dividing it. Probably no man who took up a twenty-five-acre lease knew the exact position in which to sink his shaft, and after working for a year or two he might desire to change its position and find he could only do so by paying heavy compensation to those who held the rest of the surface for residence purposes. Under that clause the Government practically gave a man an extension of ground and then took it away from him. He should like to see a provision that so long as the lease did not exceed ten acres the lessee should have the whole of the surface, and if the lease exceeded that area he would divide the balance among those who wanted residence areas.

The HON. A. NORTON believed there were numerous cases in which lessees, on account of not having a sufficient surface area, had to pay heavily for the use of adjoining land on which to stack tailings. He thought ten acres was as little as most mines could do with. The amendment would give them at least ten acres, while half the balance over and above ten acres would be reserved for residential purposes. That was reasonable.

Amendment agreed to.

The HON. J. ARCHIBALD moved the insertion, after the words "one-half," of the words "of the area over and above ten acres."

Amendment agreed to.

The HON. J. ARCHIBALD then moved the omission of the words "but in no case shall the portion of the surface not so reserved be less than six acres."

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

On clause 27—"Covenants and conditions of goldmining leases"—

The HON. J. ARCHIBALD did not propose to move the amendment he had foreshadowed, providing for the employment of one man to five acres, but he certainly objected to the 4th subsection as unnecessary. A leaseholder had certain rights and privileges, and he did not see why he should have to get the consent of the Minister or warden before he could assign, transfer, or mortgage his lease. The only reason for the inclusion of that provision that he could divine was that it was meant to protect his employees to whom wages might be due; but they were fully protected under another clause. He therefore moved the omission of the 4th subsection.

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

On clause 28—"Exemption"—

The HON. J. ARCHIBALD scarcely concurred in the proviso "Provided that the term of any total exemption shall not exceed six months continuously." There were cases in which leases which were believed to be very valuable did not pay even working expenses for a very long time, and total exemption for more than six months continuously was absolutely necessary. The Minister should be allowed to grant a further exemption in urgent cases. The regulations would cover it. He accordingly moved the omission of the proviso.

The HON. E. B. FORREST said that it was not a fair thing to place any such power in the hands of any man. He would divide the Committee rather than place such a dangerous power in the hands of the Minister.

The HON. J. DEANE did not believe in making a hard-and-fast rule. He would ask hon. members to imagine the case of a mine which had been granted total exemption for six months, and when the owner was called upon to work the mine the creeks flooded the whole area. Machinery might have to be provided before work could recommence, and it was only right that the Minister should have power in such a case to extend the period of exemption.

The HON. W. FORREST pointed out to the Hon. E. B. Forrest that under the first portion of the clause the Minister was not bound to grant any exemption at all.

The HON. E. B. FORREST did not care particularly whether the period was six months or not, but they should fix some limit.

The HON. A. H. BARLOW would point out that the clause was a most harmless one, even in a case like that cited by the Hon. Mr. Deane.

The HON. W. ALLAN agreed with the Hon. E. B. Forrest that there should be some limit, but it might be advisable to insert some such words as "unless good cause be shown for further exemption," when the exemption might be limited to a further period of six months.

The CHAIRMAN pointed out that there was nothing in the clause preventing partial exemption being given for a further six months.

The HON. J. ARCHIBALD: There was very little good or harm in the provision. He would leave all exemptions to be dealt with by the Minister on the report of the warden.

The HON. A. NORTON: The question of exemptions had always been a difficult one to deal with. The Minister had to approve of them, and he could only act on the advice of the warden, and in former days—it was not so now, he believed—it was sometimes a question whether the warden could be trusted or not. The Minister had to trust very much to his own judgment, and on what information he could gather from his officers. A good deal of wrong was done in some instances, and that was the reason why some were anxious now to limit the time; but it would be a farce to provide that at the end of six months a mineowner should put on a lot of men for a day or two in order that he might get another six months' exemption. Any extension should be decided on its

merits without compelling the owner to go to the expense of putting on a number of men for a few days.

The RIGHT HON. SIR H. M. NELSON: He took a somewhat different view of the clause. The first part of it provided that the Minister might grant exemptions, but his discretion was limited; he could only grant them on conditions prescribed by the regulations. The latter part of the clause limited the regulations, not, in his opinion, the discretion of the Minister, by providing that they should not grant total exemption for more than six months. If they left it to the Minister to make the necessary regulation they effected all that was required, and he could see no harm in the clause as it stood.

Amendment negatived; and clause, as printed, put and passed.

Clause 29 passed with verbal and consequential amendments.

Clause 30 put and passed.

On clause 31—"Exemption of lands from mineral leases"—after verbal amendments had been made,

The HON. A. NORTON asked whether they were to understand by the proviso that any residence or business area might be converted into a mineral lease? The clause was very badly worded, and he would move the omission of the words "any mineral may be made" and the insertion after the word "area," on the following line, of the words "may be converted into a mineral lease."

Amendment agreed to.

The clause was further verbally amended and agreed to.

Clauses 32, 33, and 34 passed as printed.

Clause 35 passed with a verbal amendment.

Clause 36 passed as printed.

The House resumed; the CHAIRMAN reported progress, and leave was given to sit again to-morrow.

BISHOPSBOURNE ESTATE AND SEE ENDOWMENT TRUSTS BILL.

FIRST READING.

This Bill, received from the Assembly, was read a first time and its second reading made an Order of the Day for to-morrow.

ADJOURNMENT.

The POSTMASTER-GENERAL: I move that this House do now adjourn. The first business to-morrow will be the Mining Bill in committee.

Question put and passed.

The House adjourned at five minutes past 10 o clock.