

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

FRIDAY, 17 DECEMBER 1909

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LEGISLATIVE COUNCIL.

FRIDAY, 17 DECEMBER, 1909.

The PRESIDENT (Hon. Sir Arthur Morgan) took the chair at half-past 3 o'clock.

PAPERS.

The following papers, laid on the table, were ordered to be printed:—Reports of the Commissioner for Railways upon—Port Alma Branch Railway; Proposed Extension, Isis Branch, from Cordalba to Dallarnil; Proposed Extension, Boyne Valley Railway, from Nevertire to Many Peaks; Proposed Railway from Rosewood to Marburg; and Proposed Extension from Talwood to the Moonie River.

WORKERS' DWELLINGS BILL.**MESSAGE FROM ASSEMBLY.**

The PRESIDENT announced the receipt of a message from the Assembly, intimating that they agreed to the Council's amendments in this Bill.

JUSTICES ACT AMENDMENT BILL.**MESSAGE FROM ASSEMBLY No. 2.**

The PRESIDENT announced the receipt of a message from the Assembly, intimating that they did not insist on their amendment in clause 2, to which the Council had disagreed.

METROPOLITAN WATER AND SEWERAGE BILL.**MESSAGE FROM ASSEMBLY.**

The PRESIDENT announced the receipt of a message from the Assembly, intimating that they agreed to the Council's amendments in this Bill.

TALWOOD TO MOONIE RIVER RAILWAY.**REFERENCE TO SELECT COMMITTEE.**

The PRESIDENT announced the receipt of the following message from the Legislative Assembly:—

Mr. PRESIDENT.—The Legislative Assembly having this day agreed to the following resolutions:—

1. That the House approves of the plan, section, and book of reference of the proposed extension from Talwood to the Moonie River, in length 38 miles 55 chains, as laid upon the table of the House on Thursday, 2nd December.

2. That the plan, section, and book of reference be forwarded to the Legislative Council for their approval, by message in the usual form;

beg now to transmit the said plan, section, and book of reference to the Legislative Council for their approval.

The ATTORNEY-GENERAL (Hon. T. O'Sullivan) moved, by leave, without notice—

1. That the plan, section, and book of reference of the proposed extension from Talwood to the Moonie River, in length 38 miles 55 chains, as received by message from the Legislative Assembly this day, be referred to a Select Committee.

2. That such Committee have power to send for persons and papers, and leave to sit during any adjournment of the Council, and that it consist of Mr. Carter, Mr. Deane, Mr. Hall, Mr. Davey, and the mover.

Question put and passed.

WORKERS' COMPENSATION ACT
AMENDMENT BILL.

THIRD READING.

On the motion of the ATTORNEY-GENERAL, this Bill was read a third time.

TITLE.

The ATTORNEY-GENERAL: I move that the title be amended by the omission of the words—
and making provision for unavoidable failure to give notice of injury.

The amendment is necessitated by the omission of subclause (2) of clause 2, which is intended to remedy a supposed defect in section 9 of the principal Act, which deals with failure to give notice of injury.

Question put and passed.

Title, as amended, put and passed.

The Bill was ordered to be returned to the Assembly, by message in the usual form.

LAND ACTS AMENDMENT BILL.

RESUMPTION OF COMMITTEE.

On postponed clause II—"Amendment of section 103"—

HON. A. H. BARLOW said he was informed by the Under Secretary that the principal provision regarding selection, to which this clause applied, was that of resumption for road purposes. The power was undoubtedly exercisable during the term of a license, but there was a doubt as to it being exercisable in the case of a lease, and this was introduced to put the matter beyond doubt.

HON. W. V. BROWN asked whether this was the proper place to move the amendment of which he had given notice.

HON. A. H. BARLOW: He was dead against the idea of mortgaging a license, which afforded no security; but if the hon. gentleman desired to test the question he should move an amendment of section 103 of the principal Act. That section provided that the license "shall not be capable of being mortgaged"; and the hon. member might move that the section be amended by the addition of the words "without the consent of the Minister." The object in view could be attained by the licensee going to the Agricultural Bank, where he could mortgage his license, because that bank was specially protected. That would be putting business in the way of the Agricultural Bank.

HON. W. V. BROWN said he would rather not press the amendment. If insisted on it would require a new clause in another part of the Bill, which would have to be recommitted for the purpose.

Clause put and passed.

On clause 26, the 1st paragraph of which read as follows:—

Notwithstanding that by the provisions, covenants, or conditions of any lease of Crown lands subsisting at the date of the passing of this Act or hereafter to be granted the lessee is not bound to eradicate or destroy prickly pear on the land comprised in such lease, the Minister may at any time give notice in writing to the lessee requiring him to entirely eradicate and destroy the prickly pear on the land comprised in such lease within such period not exceeding ten years from the date of such notice as the Land Court shall allow as sufficient for the purpose.

HON. W. V. BROWN moved the omission of the words "Notwithstanding that" at the commencement of the clause, with the view of in-

serting the word "Where." He intended to follow that up by moving the omission of the word "not" before the word "bound," in the 4th line. On behalf of the lessees

[4 p.m.] he contended that a condition of that sort should not find a place in the Bill, because it imposed an entirely new and onerous condition upon the lessees in many instances. If they wanted to eradicate prickly pear, they should deal with it in a measure applying to all leaseholders, as had been done in the case of the rabbit plague. To single out certain lessees, and say that they should do certain things in ten years, or else their leases would be forfeited, was a very unfair position to take up. He had no doubt the officials who administered the Lands Department were very much opposed to the amendment. While the State was particularly fortunate in the officers who directed the department, this was more a question of policy which should be decided by Parliament. The question was whether it was right to impose new and onerous conditions in contracts which had been already made with pastoral lessees. He did not think it was, particularly as the question of compensation would arise. He would no doubt be told that, if the Government resumed runs in the terms of the Act, the lessees would be entitled to compensation from incoming tenants; but he contended that they would not get compensation because it was very improbable that thickly infested prickly pear country would be taken up by selectors.

HON. A. H. BARLOW: This brought up again the question they had parted on last night, which was whether Parliament had the right, for the public good, to import into leases a new condition. That they did so under the Act of 1905 was undeniable.

HON. W. V. BROWN: With limitations.

HON. A. H. BARLOW: Well, there was a limitation here—that the rent should be reduced, and so on. When the leases were originally granted the country was clean so far as prickly pear was concerned. The provisions of the Act of 1905 were very insufficient. They only provided, on a rental of £1 10s. per square mile, for an expenditure on prickly pear eradication of 2½d. an acre, which was farcical. The effect of the amendment would be to create two classes of leases: one of which would be subject to the old conditions and would leave the lessees at liberty to grow as much pear as they liked, and the other class which contained specific provisions for the destruction of the pear by the lessees. Did the Committee hold that, for the public good, Parliament should interfere to the extent that the Crown should have power to resume part of a prickly-pear infested area not exceeding one-fourth of the area where the lessee would not keep it clean, and that the lessee should receive a proportionate abatement of rent? If Parliament could do anything it pleased, then it was within their competence to make such a resumption on the understanding that the lessee would receive a corresponding abatement in his rent. What the hon. member said about improvements was probably true to a large extent; but there were badly infested areas which would never be taken up as prickly-pear selections.

HON. G. W. GRAY: Is it a condition of the lease that the lessee is bound to keep the land clear?

HON. A. H. BARLOW: He admitted that it was not. Prickly pear did not exist when many of the leases were granted. The accused person who first brought prickly pear into the State in a little garden plot was the man who was to blame for all their troubles; and he deserved to

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be held up to public execration. Would the Committee consent to exercise the paramount power of Parliament and vary leases in the manner proposed?

HON. W. V. BROWN pointed out that in almost all cases the leases recently issued were subject to prickly pear conditions, and a very substantial difference had been made in the rent. He heard of a case in the West the other day where a lessee had taken up country at 5s. 6d. a mile, subject to prickly pear conditions. Other lessees had to pay a very much higher rent, but they had no prickly pear conditions to fulfil; so that there was a great difference between leases issued recently under section 15A and the leases which were issued when there was no prickly pear to be taken into consideration. He did not object to the Crown resuming a portion of a lease. Parliament could do anything, although hon. members had to consider whether what Parliament did was right. What he objected to was that there was no provision for the lessees getting fair compensation for improvements.

HON. T. M. HALL: It appeared to him that the condition was very much like that which occurred in connection with plague some years ago. Those whose premises were closed for the purpose of stamping out the plague considered at the time that an injustice was being inflicted upon them; but the ultimate result of the efforts that were made to stamp out the disease was only another proof that desperate evils demanded drastic remedies. The introduction of a clause of the character of the one they were now discussing would probably be followed by more drastic measures to compel everybody to comply with the same conditions. Under the old leases provision was made by setting apart a sum of money for the eradication of prickly pear; and, if that sum had been expended, and the lessees had allowed the pear to increase to such an extent that the infested land would have to be resumed by the Crown, and was in a worse position than when it was handed over to the leaseholder, the drastic remedies which must be adopted to deal with such a serious state of affairs must hurt somebody; and if a few lessees suffered to some extent, it was in order that the general public might benefit.

HON. W. V. BROWN: The general public should compensate those few lessees.

HON. T. M. HALL: The general public would probably be called upon directly to submit themselves to the same conditions as those leaseholders. The menace to Queensland from prickly pear was such that something far more drastic than was proposed in the Bill would have to be initiated by the Government, and it would probably follow very closely upon the heels of the Bill. It was only right that in such a Bill the evil should be recognised. Those hon. members who had experience of prickly pear must be satisfied with the step that was being taken to ensure the eradication of the pest, and should give their support to any measure that might hereafter be introduced for the purpose of assisting to eradicate it.

HON. A. H. BARLOW: The experienced officers of the department pointed out that there would be an indirect reduction of rent. It would be seen from paragraph (ii.) of subclause (3) that upon surrender the rent would be reduced proportionately to acreage. Supposing there were three-fourths of a run that were tolerably clear, and one-fourth was heavily infested so that it was good for nothing, the latter portion would be amputated from the holding, and the lessee would only pay rent at the same rate as before for the good part, so that he would gain

an indirect advantage through being excused from paying a considerable rental for country which was useless to him. That view never occurred to him until it was pointed out by the officers of the department that the words "proportionately to acreage" covered that phase of the question.

HON. W. H. CAMPBELL: It was not quite clear whether the Government proposed to give compensation to lessees when they resumed the infested part.

HON. A. H. BARLOW: There is nothing about compensation here.

HON. W. H. CAMPBELL: Then it would work in the same way as an ordinary resumption—that was, that if it was selected, the incoming selector would pay the value of the improvements to the lessee?

HON. A. H. BARLOW: Certainly.

HON. W. H. CAMPBELL: Under those circumstances he did not think the pastoral lessees had anything at all to complain about. The country which was resumed would be perfectly useless to them, and he supposed there would be very few improvements on it of any value. If the incoming tenant was to pay the value of the improvements, the pastoral lessee was very well treated. He had no sympathy with a man who allowed noxious weeds to grow all over the country. In his part of the country they did not allow so much as a blade of prickly pear or a seed of Bathurst burr to remain on the ground when once it was noticed. They kept their land clear; and it was disgraceful that the lessees of large areas in Southern Queensland should allow prickly pear to spread all over their runs. He was glad to think that the Government had introduced this Bill. If the lessees would not clear the pear themselves, then Parliament should allow people to get possession of the land who would do it.

HON. G. W. GRAY: Is that leased land you are speaking of or freehold?

HON. W. H. CAMPBELL: Leased land.

HON. B. FAHEY: The question raised by the Hon. Mr. Brown was a very important one—namely, the violation of the conditions of the contract entered into by the Government with the lessee. In the abstract, the proposed alteration of the law was very unfair and unjust to the lessee; but it must not be forgotten that since the contract was entered into circumstances of a very serious nature had arisen—a pest had appeared to which the rabbit pest was only a circumstance. The first principle of good government was that the interests of the individual must give way to the interests of the general public, and that principle applied to the eradication of the prickly pear. That the lessee should receive compensation was a question that would depend on circumstances. If it could be proved that he had done what he could under the law to cope with the pest he might receive consideration, but the spread of pear was due to the neglect of the lessees.

HON. W. V. BROWN: What about Government land?

HON. B. FAHEY: The infested Government land was land thrown upon the hands of the Government by the lessees; and if the lessees had done their duty, the country would not be in its present plight as far as prickly pear was concerned.

HON. W. V. BROWN: All lessees under the 1905 Act were required to keep down prickly pear, and he contended that those lessees who

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had complied with the conditions should not be penalised by having new conditions imposed on them.

HON. H. TURNER: If he had the honour of being present next session he would move for a return of the lands abandoned on account of the prickly pear. In many instances land had been allowed to be overrun with pear owing to the carelessness or neglect of the lessees; and there was no reason why measures should not be brought forward to deal with them now. In his opinion, it would be necessary in the near future to bring in a measure that would compel everybody concerned to deal with the pest in a vigorous way.

HON. W. V. BROWN: Let the Government deal with those who are not complying with the law now.

Question—That the words proposed to be omitted (*Hon. W. V. Brown's amendment*) stand part of the clause—put; and the Committee divided:—

CONTENTS, 13.

Hon. A. H. Barlow	Hon. M. Jensen
„ T. C. Beirne	„ C. F. Marks
„ W. H. Campbell	„ T. O'Sullivan
„ A. A. Davey	„ E. H. T. Plant
„ J. Deane	„ R. H. Smith
„ B. Fahey	„ H. Turner
„ T. M. Hall	

Teller: Hon. M. Jensen.

NOT-CONTENTS, 7.

Hon. F. T. Brentnall	Hon. G. W. Gray
„ W. V. Brown	„ F. H. Hart
„ A. J. Carter	„ W. F. Taylor
„ F. Clewett	

Teller: Hon. F. Clewett.

Resolved in the affirmative.

Clause put and passed.

Clause 29—“Amendment of section 39 of Act of 1905”—put and passed.

The Council resumed. The CHAIRMAN reported the Bill with amendments, and the report was adopted.

The third reading was made an Order of the Day for a later hour of the sitting.

MINING ON PRIVATE LAND BILL.

RECOMMITTAL.

The Order of the Day for the third reading of this Bill was discharged from the paper for the purpose of recommitting the Bill to consider clause 15.

On clause 15—“Rights of owners and their assigns; private agreements”—

The ATTORNEY-GENERAL said that hon. members would remember that an amendment had been made on the motion of the Hon. Mr. Plant, adding to subclause (2), after the word “application,” the words—

“such goldmining lease or claim shall not be subject to the labour conditions imposed by the Mining Acts and Regulations for a period of five years or such extended time as the Governor in Council may determine.

The effect of the amendment was to give the purchaser of a mining right priority of application over all others, including even the owner of the land. The Hon. Mr. Plant had explained that in Charters Towers the owners of freehold allotments had parted with their mining rights, and he stated that it would be a hardship to the purchasers of those mining rights if they were not exempted from the performance of the labour conditions. The amendment had not been circulated, and he (Mr. O'Sullivan) had only consented to accept the amendment after consultation with the Under Secretary during the dinner hour yesterday. He had had no opportunity of consulting

with the Secretary for Mines, who was in charge of the Bill in another place. He had consulted his colleague, however, that afternoon, and he found that the Minister objected to the amendment on the ground that, first of all, it would put the purchaser of a mining right in a better position than the owner of the land. The owner of the land would not be able to secure an exemption from the performance of the labour conditions; but the mere fact that he had sold the mining right to somebody else would entitle the purchaser of that mining right to exemption from the labour conditions. That was a fatal objection to the amendment. Further than that, his colleague held that it would be a mistake to exempt a mining tenement from the performance of labour conditions for five years. He had explained the position to the Hon. Mr. Plant, who recognised that under the circumstances it would be better not to press the retention of the amendment, and he, therefore, moved that the clause be amended by the omission of all the words after the word “application,” in line 34, subclause (2).

HON. E. H. T. PLANT: After talking the matter over with the Attorney-General and the Secretary for Mines, and on the Minister's promise that every consideration would be given to cases of hardship, he was quite willing that his amendment should not be retained in the clause.

Amendment agreed to.

Clause, as amended, put and passed.

The Council resumed. The CHAIRMAN reported the Bill with an amendment; and the report was adopted.

The third reading was made an Order of the Day for a later hour of the sitting.

STATE OF BUSINESS.

HON. A. H. BARLOW: I ask the Council to continue sitting for about a quarter of an hour, in order that we may pass the third readings of the two Bills with which we have been dealing, and send the Bills back to the Assembly. I am personally indebted to hon. members for their attendance. We are now hard at work in taking evidence on the Port Alma Railway; and I have requested that the evidence be submitted every day to every member of the Council, so that next Tuesday every hon. member will have had an opportunity of reading it. The pressure upon the reporting staff has been so great that I have had to ask the assistance of gentlemen belonging to various departments. There may be some few slight errors in the report of these shorthand writers. I intend on Tuesday to bring up the report on the railway, and I shall ask permission then to move its adoption at once without notice, after the Companies Act Amendment Bill has been considered in Committee. Upon that motion hangs the fate of the Port Alma Railway Bill, which stands last on the business-paper for Tuesday.

At twenty minutes to 5 o'clock,

The PRESIDENT said: I shall resume the chair at 5 o'clock.

The PRESIDENT resumed the chair at the hour named.

LAND ACTS AMENDMENT BILL.

THIRD READING.

On the motion of HON. A. H. BARLOW, this Bill was read a third time, passed, and ordered to be returned to the Assembly, by message in the usual form.

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MINING ON PRIVATE LAND BILL.

THIRD READING.

On the motion of the ATTORNEY-GENERAL, this Bill was read a third time, passed, and ordered to be returned to the Assembly, by message in the usual form.

ADJOURNMENT.

HON. A. H. BARLOW: I beg to move that the Council do now adjourn.

Question put and passed.

The Council adjourned at five minutes past 5 o'clock.
