

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

TUESDAY, 7 OCTOBER 1913

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LEGISLATIVE COUNCIL.

TUESDAY, 7 OCTOBER, 1913.

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

AUDITOR-GENERAL'S REPORT.

The PRESIDENT announced the receipt from the Auditor-General of his report upon the public accounts for the financial year 1912-13, together with a statement showing the public debt of the State and other financial information for the year ended 30th June, 1913.

Ordered to be printed.

RABBIT BILL.

ASSENT.

The PRESIDENT announced the receipt of a message from the Governor, conveying His Excellency's assent to this Bill.

PAPERS.

The following papers, laid on the table, were ordered to be printed:—

Annual Report of the Chief Inspector of Machinery and Scaffolding.

Annual Report of the Department of Public Works.

PANEL OF TEMPORARY CHAIRMEN OF COMMITTEES.

APPOINTMENT OF HON. T. M. HALL.

The PRESIDENT: In compliance with the provisions of Standing Order No. 13, I lay upon the table my minute appointing the Hon. Thomas Murray Hall to fill the vacancy in the panel of Temporary Chairmen caused by the appointment of the Hon. William Frederick Taylor to the office of Chairman of Committees.

SOUTHERN DOWNS RAILWAY
TRAFFIC STATISTICS.

On the motion of the HON. E. B. FORREST, it was resolved—

“That there be laid upon the table of the Council a return showing—

(1.) The amounts paid in freights and fares (showing coaching and goods separately) on traffic inwards and outwards from the following sections of railway during the periods stated:—

- (a) Warwick Station—from 1884 to 1912, inclusive;
- (b) Main Southern Line—all stations from Millhill to Clifton, inclusive, during the same period;
- (c) Killarney Branch Line—all stations during the same period;
- (d) Main Southern Line—all stations from Morgan Park to Wallangarra during the same period;

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- (e) South-western Line—all stations from Allan to 230 miles, from 1904 to 1912;
- (f) Maryvale Branch Line—all stations, from opening to 1912.
- (2.) What proportion the through traffic—that is, traffic to Brisbane, or beyond, and vice versa—bore approximately to the total traffic."

HON. A. H. BARLOW laid on the table the return asked for, and moved that the paper be printed.

Question put and passed.

FRIENDLY SOCIETIES BILL.

FURTHER CONSIDERATION IN COMMITTEE OF THE ASSEMBLY'S AMENDMENTS.

(Hon. W. F. Taylor in the chair.)

Clause 34—"Loans to trustees"—

HON. F. McDONNELL: When the Bill was last under consideration, he suggested that an injustice would be done if they prevented the secretary or treasurer or the wife or partner of those officials from borrowing from the branch or central body of which they were officials. It was right that trustees, who had the money, should be restricted, but the secretary or the treasurer or the wife or partner of either should not be debarred. He mentioned the matter to the Attorney-General, who did not quite agree with him; but, in order to minimise the drastic effect of the clause, he moved the insertion, after the word "branch," in line 34, of the words—

"but this disqualification does not apply to any secretary or treasurer in respect of any loan to him or his wife or partner subsisting at the commencement of this Act."

That would prevent the clause being retrospective in its operation. He did not see why a secretary or treasurer should be obliged to disclose his business. It might be a business transaction, and there was no more reason why it should be divulged than if he obtained a loan from a trustee company or a building society.

HON. P. J. LEAHY thought that the disqualification was probably well meant, but, at the same time, if the amendment was not carried, considerable injustice might be inflicted upon certain individuals. Men who were at present secretaries or treasurers who borrowed from a friendly society or a branch did something which was perfectly legal at the time it was done, but, if the amendment were passed, those men would either have to give up their positions or raise the money elsewhere, which probably might not be easy.

HON. P. MURPHY: If the security is good, they can raise money elsewhere.

HON. P. J. LEAHY: Even when the security was good, it was not always possible to raise money. In the past there had been men with securities worth thousands of pounds who could not raise 50 per cent. of the value of the securities by way of a loan.

HON. P. MURPHY: Do you mean to say a person with good security cannot get a loan equal to 50 per cent. of that security?

HON. P. J. LEAHY: He knew men with £5,000 worth of security who were not able to get an advance of £1,500 a few months ago—in fact, they could not get money at all. He had much pleasure in supporting the amendment.

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The ATTORNEY-GENERAL did not see anything objectionable in the amendment, nor did the Registrar of Friendly Societies, whom he had consulted in the matter. He would like to say, however, that he had not had an opportunity of consulting the Minister in charge of the Bill in another place, and he did not want any expression of opinion on his part to prejudice his colleague in the attitude he might adopt when the amendment came before him. He thought the hon. member who had moved the amendment had made out a very fair case for it.

Amendment (Hon. F. McDonnell's) agreed to.

The Council resumed.

The CHAIRMAN reported that the Committee had agreed to the Assembly's amendments in clause 34, conditional on the Assembly agreeing to the following amendment being added to the clause:—

"but this disqualification does not apply to any secretary or treasurer in respect of any loan to him or his wife or partner subsisting at the commencement of this Act,"

and agreed to all the other amendments in the Bill.

The report was adopted; and the Bill was ordered to be returned to the Assembly by message in the usual form.

PEARL-SHELL AND BECHE-DE-MER FISHERY ACTS AMENDMENT BILL.

SECOND READING.

HON. A. H. BARLOW: This Bill is intended to protect the rights of persons who pay the Government a considerable sum of money for pearl oyster beds. At present the license fee to deal in pearls is £25, and it is proposed to reduce it to £5. It is sought to stop illicit pearl-dealing by making the license fee lower. In clause 3 there is a consequential amendment. In clause 4 the rights of lessees are more stringently defined than they have been in previous enactments. There are powers of objection to leases, powers of inspection, and the usual forfeitures. Then, a ship must be registered, marked, and numbered. That is a new procedure. Then there is a special provision that—

"No person other than the lessee shall be entitled to take, gather, collect, or remove pearls, pearl-shell, béche-de-mer, sponges, or any other marine animal life or product of the sea in or from any demised area."

Any person who, without the permission of the lessee, collects such marine matter is liable to a penalty not exceeding £50. Then, subsection (7) declares that all these marine matters shall be capable of being stolen. If hon. members refer to section 390 of the Criminal Code, they will find a very instructive and amusing definition of wild beasts. It will be found that under no circumstances are you allowed to steal a lion; and with regard to pearl oysters, unless the oyster has been under restraint, and is running away and is being pursued by the owner, you are at liberty to steal it; and a learned judge, I believe, held that the oyster was a wild beast and was incapable of being stolen unless under those very limited circumstances. Then, difficulties arose in prosecu-

tions as to the identification of the shell. Unless a person was actually caught stealing it off the beds, he could not be prosecuted. It is very amusing. Section 390 of the Code, it is true, contains a paragraph relating to oysters and oyster spat, but that does not appear to have been considered by the draftsman to be sufficient, so it has been enacted that all pearls and marine matters shall be considered as capable of being stolen, and in any prosecution the property may be laid in the lessee. Then, there is an important provision prohibiting any person from being on a leased area in a boat or otherwise unless driven there by stress of weather. All the shell pirates are warned off by this clause. They have no excuse to be there unless driven on to a leased area by stress of weather, and any person who contravenes this provision shall be liable to a penalty not exceeding £50. Under clause 5 the hospital contribution is altered. At the present time the hospital contribution is 1s. per month, which is deducted from the wages of the men, and under the Bill, it will be 9d. a month from the wages of the men, and 9d. a month from the employers, making a total of 1s. 6d. Then, it is found that the scientific name *Meleagrina margaritifera* is not the name of the North Queensland oyster, and it is repealed in order to avoid complications in any prosecutions. Then we have a provision with regard to coloured men holding licenses or leases. A coloured alien is not allowed to hold a license or a lease in respect of any ship or boat unless he passes a reading test. The Governor in Council may from time to time make regulations for the examination, and he may grant relief in certain cases. Subclause (2) of clause 7 is really a copy of a similar clause in the Sugar Workers Act which we passed the other day. There is nothing further to be said about the Bill. I move that the Bill be read a second time.

HON. A. G. C. HAWTHORN: I am sorry that the Bill does not go considerably further than it does. Hon. members will probably remember that in 1908 a Royal Commission was appointed to go fully into the question of the pearl-shell and bêche-de-mer fisheries, and they brought up a very long and exhaustive report after going up to Torres Strait and taking evidence at Thursday Island, and down the coast; and they made certain recommendations. This Bill contains only a scintilla of their recommendations, and, in view of the fact that the Federal Government have decided that no more permits shall be allowed after December, 1914, for the employment of black labour, it seems to me the State Government should do something to keep the pearl-shell industry alive. We must remember that at the present time this trade is very considerable indeed. Last year the declared value of pearl-shell, at £205 a ton, was about £92,000. The Government Resident at Thursday Island said that the declared value was only within 25 per cent. of the real value obtained on the market at home, so that the industry is worth £115,000 a year. Seeing that pearl-shell is now fetching a better price than it has done for the last twenty-five years, it is certainly advisable to do all we can to foster the industry. One of the recommendations of the Royal Commission was that the Government should

appoint a marine biologist, who should be supplied with a staff, laboratory, an area for cultivation purposes, and a vessel for stocking that area. That recommendation does not seem to have been carried out, nor does there appear to be any inclination on the part of the Government to carry it out. Mr. Hockings, a private owner, I understand, is employing Mr. Tosh, who is looked upon as the best authority of the pearl-shell business in Australia, or possibly in the world. Some years ago Mr. Sairle Kent made experiments with regard to the cultivation of oysters, and I understand Mr. Tosh took up the work he abandoned. I think the Government should go further than giving private owners a lease of cultivation areas. They should themselves experiment, and show private owners how best to cultivate pearl-shell. We must remember that, when the Japanese are taken away—as they will be within a very short period—the industry will die out for want of men to work it. At present there is not sufficient inducement for white workers to carry on the industry, and another recommendation of the Pearl-shell Commission was that the Government should buy two luggers, fit them up properly, and instruct white men in diving. That sort of thing would be unnecessary if cultivation were carried on, but until cultivation is carried on we should have men to take the place of the Japanese and other coloured aliens who at present collect the pearl-shell, and I think the Government might very well set apart a sum of money for that purpose. The Bill deals with two or three points. One is in connection with the stealing of pearls. I notice there is a considerable reduction in the license fees, and that may give protection and lead to greater honesty in the pearl traffic. At any rate, it is worth trying. Another feature in the Bill is the alteration of the levy for the hospital. At present, as the Hon. Mr. Barlow said, the money is levied entirely from the employees, who contribute 1s. a month. Now the employers are to be compelled to assist, and they are to be saddled with half the cost. That is a good innovation, and one that the employers can well afford. The question of restricting anybody with a boat or otherwise from going over these cultivation areas has to be considered in the light of whether the provision is not too stringent. The clause absolutely prohibits anybody with a boat going over those areas at all unless he is driven there by stress of weather.

HON. P. J. LEAHY: He cannot go there for pleasure.

HON. A. G. C. HAWTHORN: He cannot go for pleasure, or for anything else. The provision contained in the present Oyster Act is very much better than the one in the Bill.

It prevents boats from going over [4 p.m.] oyster leases, but it is not nearly so stringent as the provision in the Bill. So long as they are there for any reasonable purpose connected with navigation they are entitled to be there, and the onus is on the person who has the dredging area to show that they were there for the purpose of interfering with the oyster beds. It is just a question whether that is not quite stringent enough to be applied to the pearl-shell beds in the North. I certainly think that the present clause is altogether too severe. However, it can be passed and, if it is found to be too harsh, it can be

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amended. I am sorry the Bill does not go further and endeavour to cope with the difficulty we are likely to be placed in in connection with the pearl-shell industry. It will be a very great pity if the industry is wiped out, and there is every prospect of that unless the pearl oyster can be cultivated in such a way that we shall be able to obviate the necessity for deep diving. In cultivation areas no diving will be required beyond swimming diving. It is the diving at great depths that is dangerous. If we render the business less arduous and less dangerous, white men will be more likely to engage in it.

HON. E. B. FORREST: The deep water is where the shell comes from, all the same.

HON. A. G. C. HAWTHORN: That may be so, but it seems to be that by means of cultivation good shell may be obtained just as well as in the deep waters. The mortality amongst the Japanese from diving in deep water is alarming. The beds at Darnley Island and other places are supposed to be closed on account of the depth of the water, but in spite of that the Japanese take the risk, with the result that they get diver's paralysis and die. The present mortality is very great. That would all be done away with if we had pearl-shell cultivated close to the shore. I am glad to see this instalment, and I hope it will be a benefit to the industry; but the Government might have gone a great deal further, and made provision for the time when coloured aliens will not be allowed to work in the industry at all.

HON. E. B. FORREST: There is no doubt that the amendments in the law which are proposed by this Bill, are in the proper direction, and will give people who have leases—whether cultivation leases or any other sort of leases—the protection that they are entitled to. At the same time, the Bill does not affect to any great extent the question of the continuation of the pearling industry. Just now it appears to be entirely hung up awaiting the report that is expected by the Federal Government. Hon. members are aware that a Royal Commission has been appointed by the Commonwealth Government, and we are now invited to wait two years for the report of the commission. What the nature of the report will be we cannot tell until we see it, and in the meantime the people who have carried on the industry in this part of the world in the past are making their fortunes elsewhere, but not to the benefit of Queensland. (Hear, hear!) The Commonwealth claim that this can be made a white man's industry. I hope they are right, but I very much doubt whether they are. So far as Federal interference is concerned, I am inclined to think that their proposals with regard to the cultivation of shell will be of no earthly use, so far as we can judge of their probable nature at the present time. Despite what my hon. friend said about the value of the shell last year amounting to £92,000, the whole industry is simply bleeding to death for the want of determined action somewhere. With regard to making it a white man's industry, the Government Resident at Thursday Island, in his last report, dated 7th July last, says—

“No definite announcement has been made by the Commonwealth Government regarding the question of indent coloured labour. The period of their employment has been extended until 31st December, 1914, and, should it be decided to pro-

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hibit them after that date, there does not appear to be any prospect of procuring other labour of a suitable type to man the fleets. As this question has formed the subject of extensive reports by previous Government Residents and Royal Commissions, it is not necessary to again go into details. I merely desire to place on record my opinion that employment as divers or crew on the type of boats suitable for these waters is not a class of labour likely to attract competent and reliable white men.”

I do not say whether it is due to the want of action on the part of the State Government or on the part of the Federal Government, but there is no question that the industry, so far as Queensland is concerned, is simply to be allowed to bleed to death. The sooner we get the report of the Royal Commission the better, and I hope that, when we do get it, it will be of some use, because anyone who knows anything about the pearl-shelling business at the present time must deplore the state of the industry.

HON. P. J. LEAHY: I have no doubt that the object of this Bill is a good one. Still, an object may be excellent, but people may go the wrong way about realising it. I feel very much like the Hon. Mr. Hawthorn—that there is something that is good and something that is bad in the Bill. If the object is further to develop the industry, no doubt, it is a commendable object; but there are some things in the Bill which seem to me rather harsh, and some things which will not tend to carry out the object in view. There is a clause which provides that, in the case of non-payment of rent for a lease, forfeiture shall take place. In connection with a lease of land—whether it is a lease for an agricultural farm or a lease for a grazing farm—some time is given within which the lessee may defeat the forfeiture by paying the rent which is due, together with some monetary penalty. I do not see why there should be this great difference between the two cases. Owing to stress of weather a man may not be able to get into port and communicate with his agents, and yet his license may be forfeited because he has failed to pay within the prescribed time. I submit to the hon. gentleman in charge of the Bill that that is a matter that might well engage his attention, to see if something cannot be done to prevent any possible injustice being done under the clause. There is another clause to which the Hon. Mr. Hawthorn referred which I think is exceedingly drastic. A man cannot enter or remain in a leasehold area without rendering himself liable to a heavy penalty. He may go there in a pleasure yacht, but it is an offence under the Bill.

HON. W. V. BROWN: He can get permission.

HON. P. J. LEAHY: Who is going to give him permission?

HON. W. V. BROWN: The lessee.

HON. P. J. LEAHY: And how long will it take to obtain that permission? If a man is cruising about, he may not know that he is encroaching upon a lease and that he is breaking the law. He may not carry a chart explaining where all the leases are. He may have no nefarious intention, and yet, under this clause, he will be liable to a penalty. Then there is a provision which is good in

a way, but I cannot see that there is very much logic in it. That is the provision that employers shall contribute to the hospital an amount equal to the amount paid by the men. There is no particular objection to that. It is a form of charity, but it is compulsory charity. However, I do not object to it further than to say that I do not see that there is any particular reason why it should be done. At the same time, I do not think it will cause any hardship.

AN HONOURABLE MEMBER: Isn't it better that the hospitals should get the money than the pubs?

HON. P. J. LEAHY: My attitude when the Licensing Bill was under consideration should convince hon. members that I do not hold any brief for public-houses. If I had my way, I would have everyone temperate, like my hon. friend; but I do not think all the money would find its way into the public-house. In any case, this is a free country, and I do not think we ought to take it upon ourselves to say in what particular way a man shall spend his money. However, the object of the clause is laudable, and I think it may be allowed to pass. There is something more serious in the Bill, and that is the provision with regard to the language test. When the Hon. Mr. Barlow was speaking, I had not read the clause, and, as the hon. gentleman was in a somewhat humorous vein, I was under the impression that he held the view that the language of the men engaged in this industry should be something like the language of men engaged in driving bullocks. (Laughter.) I thought that possibly some qualification of that kind would be necessary. But I presume, after looking at the clause, that what is referred to is the Commonwealth language test.

HON. A. H. BARLOW: The language is to be prescribed.

HON. P. J. LEAHY: Who is going to prescribe it?

HON. A. H. BARLOW: The Governor in Council.

HON. P. J. LEAHY: Is it to be the English language, or any particular language?

HON. A. H. BARLOW: It may be Hungarian, or Coptic, or any other language.

HON. P. J. LEAHY: Then that is another way of saying that, if we do not want a man to come in, he shall not come in.

HON. A. H. BARLOW: Precisely; that is what the clause is for.

HON. P. J. LEAHY: Now what effect is that going to have on the industry? Is it going to have the effect of increasing the number of boats, or of increasing the output of pearl-shell?

HON. E. B. FORREST: It will help to kill the industry.

HON. P. J. LEAHY: If it will help to kill the industry we ought to consider seriously whether we shall pass the clause.

HON. E. B. FORREST: It has been passed so often in connection with other matters that you cannot resist it now.

HON. P. J. LEAHY: Possibly that may be so; but, while I do not say that there is not something to be said for it, I am not prepared to admit that because a thing has been done a number of times it must always be done. It does not follow that, because a man has committed a crime a number of times, he must keep on committing crimes. It does not follow that, because a thing has been done for years, it should be allowed to continue. The question is whether it is a good thing or whether it is a bad thing. If it is bad, I do not think it should be allowed to continue. However, I suppose the Bill will be an advantage to the industry, and, as I do not claim to have any special knowledge of the subject, I shall not say any more.

HON. A. H. BARLOW (in reply) said: I am very much obliged to hon. members for their criticisms. With regard to forfeiture for non-payment of rent, we are a long way from the scene of action, and it is quite possible that, after a man's lease was liable to forfeiture, he might clear out pearl-shell wholesale and carry it off. It is true that in the case of both land and mining leases warning is given before forfeiture takes place; but you cannot carry off a mine or land, and under the circumstances I do not think this is too drastic. With regard to trespassing upon a lease, it all depends on who the trespasser is. I am sure my hon. friend opposite would not be prosecuted if he was there in a steam launch; but where you have to deal with thieves you have to be very strict. With regard to the Commonwealth business, I need hardly say that the present position of the Commonwealth Legislature is really like comic opera. I do not know whether we shall get anything from it for a long time to come. The legislative goose-step that is going on appears likely to go on for months.

HON. E. B. FORREST: They are hanging on very well, though.

HON. A. H. BARLOW: They are; and I hope they will hang on with their teeth and claws.

HONOURABLE MEMBERS: Hear, hear!

HON. A. H. BARLOW: At any rate, if they are not doing any good, they are not allowing the other side to do any mischief, and that is a very good thing in itself. The dictation test is the only way in which the British Government will allow us to deal with aliens. That has been tested over and over again. If we carried out our own wish, we would say in blunt English that such people will not be allowed to engage in the industry. However, the British Government will not let us say that, and we have to adopt this round-about way of doing it. If there are any amendments moved in Committee, I shall give them every consideration and do my best to make it a good Bill. With regard to what the Hon. Mr. Hawthorn said in connection with fostering the industry, it is impossible to do everything. You have to be very careful, and we cannot afford to go in for any of these fancy things at present. I recollect when I was a little lad at the Bank of Australasia, that I used to go round collecting money, and amongst other people I used to call on was Mr. J. H. Challis. I was told that, when any young man came to New South Wales with

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money, Mr. Challis would say, "Let me recommend one thing to you. Do not attempt to develop resources." Now, we have not an unlimited amount of money to develop anything, and we have to go slow and be careful. At the same time, I have to thank hon. members who have spoken for the light they have thrown on the subject.

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 the next sitting of the Council.

MINERS' HOMESTEAD LEASES BILL.

SECOND READING.

The ATTORNEY-GENERAL (Hon. T. O'Sullivan): This Bill is for the purpose of recasting the law dealing with miners' homestead leases. The present law will be found in Part VIII. of the Mining Act of 1898. It is proposed to repeal Part VIII., and re-enact it with alterations which are considered desirable. I might first draw attention to the fact that the tenure of a miners' homestead lease is a rather peculiar one. If hon. members will consult section 84 of the Mining Act of 1898, they will see that the tenure is a perpetual lease with a fixed rent. In some cases the rent lasts while the lease is in force, whilst in other cases the rent ceases after thirty years. That puts the lessee practically in the position of a freeholder except in one respect, and that is that by virtue of section 94 of the Act of 1898 any holder of a miner's right may take up for mining purposes land comprised in a miner's homestead, and the holder of the miner's homestead is only entitled to compensation for improvements and not for the land. But with the exception of that particular disadvantage, the holder of a miner's homestead is in at least as good a position, so far as title is concerned, as a freeholder. Hon. members would expect that the necessary corollary to such a tenure would be some effective provision for residence or occupation of the holding by the lessee, and when we look at section 83 of the Act, we find that this necessity is recognised in form at any rate—because that section contains a provision that the lessee is at liberty forthwith to enter upon and occupy the land applied for, and there is a further provision that, if he does not occupy the land within four months, he shall be taken to have abandoned the holding. However, when we come to look more closely into the section, we find that the methods of occupation are specified, and some of the methods specified are—by cultivation, by enclosing the land with a substantial fence, or by erecting substantial improvements. If it was the desire of the Legislature to require effective occupation of these holdings, that section could not have been drawn more favourably for having the proverbial coach and four driven through it, because a provision that occupation may consist of putting a substantial fence round the property simply means that no effective occupation is required at all. Under these circumstances it is very probable that a good many of these holdings have got into the hands of speculators who have what is almost as good as a freehold title. Under the Bill now under consideration this blemish has been removed, and

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provision is made to secure effective occupation. The immediate cause for bringing in the Bill was that representations were made to the Secretary for Mines and to the Premier in respect of some of the mining fields, notably Charters Towers. On some of the old mining fields mining has fallen off considerably. I suppose that is sure to happen on all mining fields, because the metal in the ground is always a diminishing quantity. At any rate, it has been found that that is so on several of the fields, and the residents of the Charters Towers district have to look round for some way of making a living other than mining. Owing to the representations made by residents of Charters Towers, an officer of the Agricultural Department visited that district, and he considered that the present maximum area for miners' homesteads is too small to allow of the dairying industry or any form of agriculture being carried on, because in that particular district the soil is very poor. The question was also considered whether any part of the Charters Towers goldfield—which is a very large goldfield—could be released to the Lands Department for the purpose of ordinary settlement, and a geologist visited the field for that purpose. The result was that a very large portion of the reserve has been released to the Lands Department, and will be subject to the provisions of the Land Act. However, the area still left within the goldfield is a very large one—more than 500 square miles—and it is thought advisable to have legislation passed enabling the residents of that field who contemplate going in for dairying or agriculture to get larger areas than 80 acres. That is the main purpose of the Bill—to extend the areas on goldfields, particularly on Charters Towers. In making the necessary alterations, some important innovations have been made in the law, which I shall refer to more particularly in dealing with the Bill. The Bill itself is divided into three Parts. The principal Part is Part II., which includes clauses 5 to 22, and Division III. of Part II.—which makes land available by tender or at auction—is entirely new. Part I. is preliminary, and contains certain definitions, all of which, except the definitions of "Miners' homestead" and "Miners' homestead lease," are new. Those two definitions are contained in the Act of 1898, but, as they refer entirely to Part VIII., which is now being repealed, it is thought advisable to reproduce them in this Bill, and they are reproduced in a slightly altered form. Part VIII. of the principal Act is repealed with the usual proviso saving existing rights. Then we come to the most important part of the Bill—Part II.—which deals with miners' homestead leases. The principal alteration which is made in the law is contained in clause 6, and hon. members will notice that by that clause three zones are provided for. The first zone is "within the boundaries of a city, town, or township," where the maximum area allowed is 1 acre; the second zone is "not more than 1 mile from the nearest boundary of a city, town, or township," where the maximum area is 20 acres; and the third zone is "more than 1 mile from the nearest boundary of a city, town, or township," where the maximum area allowed may be 640 acres. That is a very considerable alteration in the present law, under which the zones are different, and the maximum area cannot exceed 80 acres. The provisions as to the boundary and shape of

the land are re-enactments of the present law. Dealing with Division II.—“Land available by application”—clauses 8 to 14 are practically a re-enactment of the existing law, and they deal with applications, rent, and survey fees, objections to applications, and other matters which are to be found in Part VIII. of the present Act. Then we come to Division III., which deals with land available by tender or at auction. As I have pointed out already, that is entirely new, and is adapted from the Land Act. The object of this new Division is to enable the State to get some adequate return from the land which is taken up under this form of tenure. It has been found in the past that nothing like an adequate return has been obtained. The provisions dealing with tendering for homesteads and sales by auction do not require any special reference at this stage. Division IV. of Part II. is, to a large extent, a re-enactment of the present law, but some new provisions are necessarily introduced on account of the introduction of the system of tender and sale by auction. One of the most important innovations is found in clause 21, which provides for *bonâ fide* residence. A distinction is drawn between a lease not exceeding 20 acres, and a lease exceeding 20 acres. In cases where the holding does not exceed 20 acres, the condition of residence depends on whether the proclamation makes it necessary; that is, residence may be made a condition or it may not; but, if the holding is over 20 acres, then residence is a necessary condition, and the residence must be continuous and *bonâ fide* by the lessee himself, or by some qualified person. In addition to residence, improvements are necessary also, and the mistake of the existing law is avoided, which allows improvements to be substituted for residence. Clause 22 is new.

It provides for maintaining im-
[4.30 p.m.]provements once they have been made. Under the present law it is very questionable whether a lessee, having put up his fence and complied with the conditions of the lease, cannot remove it again. This clause makes it clear that he must maintain his improvements. Clause 23 deals with rent. It is similar to the existing law, with the difference that under the existing law a man in some cases has to pay rent as long as the lease continues; and in other cases he has only to pay it for thirty years. Under clause 23 he has only to pay rent for thirty years, and after that he is liable to pay a rent of 1s. per annum and no more, if demanded. That really amounts to no rent at all. Whether it is a desirable innovation or not, I express no opinion. Part III. contains a provision for sub-letting which is new. The provisions for mortgaging are a re-enactment of the existing law. Clause 30 is new in form. It deals with forfeiture for fraud. In Part VIII. of the Act there is no expressed provision dealing with forfeiture for fraud or evasion, but the Under Secretary for Mines informs me that the construction has always been put upon the Act that forfeiture in such cases is implied from the terms of the Act. To remove any doubt on the subject, the express power is given in this Bill. Dealing with resumptions generally, I would draw the attention of hon. members to clauses 35 and 37. Clause 35 is a re-enactment of the existing law. It enables any holder of a miner's right to take up land as a miner's homestead lease on payment only of compensation for improvements. Clause 37 provides for re-

sumption by the Government. It alters the existing law in a rather important particular. At present, if resumption is made by the Government, they have to pay full compensation—that is, they practically have to pay compensation on a freehold basis, although they have never parted with the freehold. Under clause 37, if the Government decide to resume a minor's homestead lease in future, they will have to pay compensation for improvements, and nothing more. Clause 38 makes the provisions of the Fencing Act applicable to all miners' homesteads. It is a re-enactment of the present law. Clause 39 is new. It deals with the transmission of a lease in the case of the death of the lessee, and has been suggested by the Under Secretary of Mines to get over administrative difficulties which have arisen in the past. I need hardly point out to hon. members that the Bill is very largely a Committee Bill. Its main object is to extend the area of miners' homestead leases from 80 acres to 640 acres, so as to give the residents of the different mining fields an opportunity of turning to some thing outside mining, to enable them to remain in a district where they have lived for many years, many of them for the whole of their lives. I beg to move that the Bill be now read a second time.

HON. A. G. C. HAWTHORN: I think the Bill is a commendable one, and I hope that the object in view will be achieved, and that it will be the means of inducing a great deal of settlement in and around decadent mining fields. I quite recognise that a man who has lived with his family on a mining field for many years is often very sorely put to it to find employment for his family, and he does not like to leave the place where he has lived for years and where his family have been brought up. I have no doubt the provisions of the Bill will be availed of by many people in that position. It seems absurd that a mining field like Charters Towers should have 500 square miles of land locked up and not available for settlement. That should be remedied. I have no doubt that land closely adjoining mining fields is good for many purposes. I know that a good deal of fruit-growing can be engaged in around Charters Towers, and that there are other uses to which the land could be put which would assist materially in the development of the district. There is one thing that should be made more definite, and that is what constitutes a resident. I would like to see him defined as a person who is qualified by, say three or six months' residence, otherwise an outsider may come in who has not resided on a field at all, and be on as good a footing with regard to an application for a miner's homestead lease as the miner who has lived there for many years and has become part and parcel of the district.

The ATTORNEY-GENERAL: The present holder gets priority under clause 15.

HON. A. G. C. HAWTHORN: That only applies to the present holder of a miner's homestead lease. A person who is the holder of a homestead lease at present can surrender it and get all the advantages conferred by this Bill, and he is given priority in an application for a lease comprising the land included in his subsisting lease and adjoining land. But that does not apply to

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the resident who is not the holder of a homestead lease at the present time. I consider that he should be given priority over a newcomer. The Bill seems to be a good one. The object is certainly good, and I hope that in its operation it will have the effect that is desired.

Question put and passed.

The committal of the Bill was made an Order of the Day for the next sitting of the Council.

SPECIAL ADJOURNMENT.

HON. A. H. BARLOW: I beg to move that the Council, at its rising, do adjourn until Tuesday next. On Tuesday we will take the Committee stages of the Pearl-shell and Bêche-de-Mer Fishery Acts Amendment Bill and of the Miners' Homestead Leases Bill, and I think we will get the Elections Bill for the first reading. If so, I propose to take the second reading on Wednesday.

HON. A. G. C. HAWTHORN: I noticed some criticism the other day by Judge Macnaughton of the present District Court Act, and emphasising the necessity that the Act should be amended and brought up to date. Hon. members of this Chamber can absolve themselves from any blame in the matter, and I think the public should know that last year we passed a District Court Bill, which would have made the District Courts a very much better means of litigation than they are at the present time. I understand that Judge Macnaughton approved of that Bill, and was largely concerned in making it as complete a measure as it was. I regret that the Bill has not been brought in again this session, but I hope that we shall be given an early opportunity of discussing it, and of showing that we, at any rate, are not negligent in the discharge of our duties and in our endeavour to bring the law up to date.

The ATTORNEY-GENERAL: I share the regret of the hon. member who has just spoken that the District Courts Bill has not been passed into law. As the hon. member has pointed out, it was passed last session by the Council. The present District Courts Act was passed in 1891, and the working of the Act has revealed many defects. It was a very good Act and up to date when it was passed, but it is quite time that it was amended. The new Bill is ready, but hon. members can understand that I am entirely in the hands of my colleagues in the matter, and, as it has been decided that Parliament is to rise about the middle of next month, it was thought impossible to get the Bill through both Houses this session, and that is the reason why it has not been introduced. I regret very much that that is so, but I am afraid it is unavoidable this session.

Question put and passed.

ADJOURNMENT.

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

Question put and passed.

The Council adjourned at eighteen minutes to 5 o'clock.

[*Hon. A. G. C. Hawthorn.*]