**WASTE LANDS AMENDMENT AND PROCEDURE BILL 1869**

**House of Assembly, 25 November 1869, pages 977**

Second reading

**The COMMISSIONER of CROWN LANDS** **(Hon. W. Cavenagh),** in moving the second reading of this Bill, remarked that it was unnecessary to speak at any length on the subject. It was well known that from various causes the lessees of the Crown were in a depressed condition. This depression arose partly from the low price of wool and sheep, and from there having been two or three dry seasons. No doubt, if concessions were not given to this class by the House a large portion of the pastoral tenants would be utterly ruined, and not only so, but the community generally through them would suffer. This was a favourable time for submitting a Bill of this sort; for there was no political feeling against the pastoral lessees, and the cry of squatter and anti squatter was no longer held. There could no longer be jealousy between the squatters and the farmers, for last session a Bill was passed enabling farmers to go on the land, under which some 600,000 acres were reserved for them. There might be a difference of opinion as to whether the Bill was liberal enough or too liberal. To those who considered it too liberal he would remark that it would take two or three good years to enable the squatters to place themselves in a position they were in a few years ago. To those who did not think it sufficiently liberal he would point out that in 1858 the squatters, for a renewal of five years, consented to an assessment of 2d. per head. With regard to the valuation, the petition from pastoral lessees and others was in favour of it, and many squatters with whom he had conversed in the South-East had expressed themselves favourable to that system. The Government were in a better position to get at the value of the leases now than at the time of the last valuation, when everyone supposed that to engage in squatting was to become rich. Should the squatters think it necessary to communicate with the Government before the valuation was confirmed, every consideration would be given to their representations. The Bill, in the first place, fixed two schedules; under the one seven years’ renewal was allowed, and under the other ten years. The leases under the first schedule had been valued before; under the second they had not. Some of the pastoral boundaries would be changed. In the Port Lincoln District there were many runs in Class B which had been carried on at immense loss, and it was proposed to transfer them to Class C. To his knowledge the loss on some runs varied from £15,000 to £40.000. It was also intended to put that part of the South-East known as the Desert into Class C. Leases had been taken up there, and abandoned over and over again; but it was stated that a longer tenure would enable the holder to fence his run, and make it available for pastoral purposes. There was a clause requiring lessees to insure their improvements. When there were no improvements the provision was unnecessary, but it was only fair now that persons should be required to insure what in many cases was a valuable property. Another clause was intended finally to set at rest the idea that some lessees had held in favour of a five years’ renewal in perpetuity. Another was introduced with a view of settling the disputed annual lease question. Provision was also made that the proclamation of the Murray Hundreds might be cancelled, seeing that the land included in them would never be used for agricultural purposes. The second part of the Act applied principally to legal questions, and would enable the Government to recover rent and the leases themselves from the lessees. At present the holders of annual leases were able to set the Government at defiance. This Bill had been carefully looked through and agreed to by the Committee appointed to bring it in. He had pleasure in moving the second reading.

Resumed debate.

Mr. BAKER had great pleasure in supporting the Bill, but he considered clauses 19 to 22 very objectionable. He did not see why the Government should be in a better position in respect to actions than private persons, or why restrictions should be placed in the way of the lessees making their defence. He had no objection to the Commissioner of Crown Landa, or someone on behalf of the Government, issuing a writ against tenants for illegal occupation, but he did object to obstacles being placed in the way of the defendants, considering that the Government had the whole of the funds of the colony at their back. He believed the rest of the Bill would meet with the approval of the House. It gave no advantages to persons holding good runs, but only applied to runs shown by experience to be worth very little.

The Hon. R. B. ANDREWS could not agree with the last speaker in regard to the procedure, for care should be taken not to place restrictions in the way of recovering possession of the leases from the tenants of the Crown where it was necessary to do so. It was a dangerous argument that no restrictions should be placed upon persons putting in their defence because the Government had the whole of the public funds to fall back upon. These clauses were intended to prevent frivolous defences, as was done in regard to bills of exchange and other matters now. It was not unreasonable to require a tenant of the Crown to state what his defence was, and for a Judge to decide whether the defence was such as could be recognised.

Mr. BRIGHT supported the second reading, but he believed the Bill was scarcely so liberal towards the pastoral tenants as it ought to be. He had hoped that the lessees would be represented in any future valuation, and that it should not be left entirely to a Government officer—a policy that had before caused great discontent. He was very glad to see a provision inserted requiring the lessees to insure their improvements. He did not know whether the insurance would apply to fencing. (No.) He believed the country would gain if they allowed lessees the value of their improvements in regard to fences and wells, because it added to the market value of the run. The greater the facilities and encouragement given for taking up and improving the waste lands of the Crown the better it would be for the country. He certainly should not make allowances for outbuildings, for the buildings that suited one tenant might not suit another. He hoped that this Bill would be made so as to give satisfaction to all parties, and would obviate the necessity for altering pastoral legislation every session. He had hoped to have seen the whole of the legislation on the subject consolidated.

Mr. EVERARD expressed pleasure at the introduction of the Bill, although, like the last speaker, he should have been glad had it been a little more liberal. There were certain other provisions he should like to have seen in it. No one could doubt that the pastoral lessees had gone through a series of misfortunes, and that they were now in a very unsatisfactory position as regarded their holdings. Although this Bill did not altogether consolidate pastoral legislation, it removed sundry grounds of complaint that existed. He believed that the boundaries under it were more equitable and reasonable than those now in force. It was hardly desirable, however, to go into a discussion on details before the Bill was in Committee.

Mr. PEARCE fully concurred in the necessity for this measure, but he did not think the Hon. Mr. Andrews had shown sufficient ground why the provisions relating to the defence of actions brought by the Crown should stand. Any arguments that he had used would apply with equal force to actions between private persons. (Hear, hear.) The defendant under this Bill would have to obtain a Judge’s order, and be bound by all the conditions and forms of that order; and it must be remembered that if he entered a frivolous defence, the decision, with all the costs, would in all likelihood go against him. With regard to the boundaries, it struck him that on the west side of Spencer‘s Gulf it was needless to keep up distinctions there. All the country might be included in District C. A large portion of the land on the Port Lincoln Peninsula was either sold or included in hundreds, and available for sale. The other part of the land there consisted partly of swamps and partly of sand hummocks, on which no grass grew during a considerable portion of the year.

Mr. CHERITON agreed that the pastoral lessees were entitled to every consideration, but he objected to the principle of valuation in the Bill. The squatters, like the farmers and other classes, should compete at auction, or be able to take up the country at certain rates, according to the plan adopted in the agricultural areas. It was not fair nor satisfactory that the Commissioner of Crown Lands should have the arbitrary power as to valuation conferred on him by clause 4. Unless the rates fixed were very low. Indeed, the lessees would not be satisfied; for even supposing Mr. Goyder was not employed to value the runs, the action of the Valuator who was appointed would be objected to as much as his was. He perfectly agreed with the allegations of a petition presented to the House—that there were thousands of square miles that might beneficially be let to the squatters for nothing. With regard to improvements, he disputed the statement that the fencing put up by the pastoral lessees would be of benefit to the country. It had been found useless at Naracoorte; and although it might enable the tenant to keep more sheep, it became worthless when the squatters left the land. Private landlords letting their land would not think of compensating their tenants at the expiration of their lease for improvements they had made, and why should the Government do so beyond what the covenants of the leases required? The lessees had had the full value of the improvements, and they had no claim for remuneration. It would prevent a great deal of dissatisfaction if all the leases were surrendered and put up to auction, or left open to those ready to take them up at certain rates.

Mr. ROGERS supported the motion, but should have liked to have seen more explicit provision made with reference to the valuations. He could not agree with his hon. colleague as to offering the runs at auction, for the lessees had their sheep to dispose of, and at present they scarcely knew what to do with them. Many of them, in fact, were destroying their sheep to get rid of them. He could not approve of the provision regarding insurance, for the rough log huts on runs were not worth insuring. Either the expense of valuing them would be more than they were worth, or Insurance Companies would refuse to grant policies in respect to them, except at very high rates. He pointed out that notwithstanding the feeling against the valuations and the suffering resulting from them, none of the buildings had been destroyed, so that there was little likelihood of their being destroyed in the future. Clause 7, having reference to the renewal in perpetuity, seemed to imply that the Attorney-General had some doubt as to the effect of the Act of 1858. For himself he never had any. There was not much to complain of in the Bill, but he did not see why the terms should not have been made 10 and 14 years instead of 7 and 10. (Hear, hear.) This would have given increased stability to the pastoral interests without interfering with the right of resumption for agricultural purposes.

Mr. MORTLOCK! supported the second reading, but should have liked to have seen the New South Wales system of valuation by means of one Valuator appointed by the Government and another by the lessee, the two appointing an umpire, carried out. (Hear, hear.) He did not suppose the Government intended to have log huts insured, but only valuable stone buildings. He hoped the different boundaries of the district with which he was best acquainted would be extended down south, and then under the principle of assessment the tenants would be able to value for themselves by regulating the number of stock they kept. Unless something was done the two systems would sometimes be in force upon the same paddock. It was to the advantage of the whole community that the country should be occupied, so that the Bill could not be said to be merely for the benefit of a class. He hoped the Attorney- General would insert a clause to stop sheep travelling, as at present persons overstocked their holdings, and fed the surplus stock on their neighbours’ runs, where they generally managed to pick out the best pieces of grass land. He was pleased and surprised that the Attorney-General should propose to deal so liberally with the sheep-farmers. (Hear, hear.) A change had come over the spirit of his dream, and it was quite refreshing to see it. He was satisfied that through this Bill the exports of wool would be largely increased.

The ATTORNEY-GENERAL (Hon. H. B. T. Strangways) said he had always been the squatters’ best friend—(laughter)—although some did not think so. Eleven years ago, had he been able to carry the House with him, the Act of 1858 would not have been passed; but the squatters were sold and agreed to a compromise, many of them under the belief that they would obtain a right of perpetual renewal at the end of every five years. But for the ratting of three or four squatting members the Bill would never have been carried. He had been asked to put in a clause relating to travelling sheep. There were already several clauses on that subject in the Scab Act and other Acts, and he believed the squatters had it pretty well in their power to put a stop to the evil which now existed. It certainly was the case that certain wealthy proprietors fed their sheep on other persons’ runs, and of late flocks were being fed on the roadside not far from Adelaide. The question of insurance could only be dealt with by regulation; but it was not intended to include properties upon which the premiums would be monstrously high. With regard to valuation, he put it that the clause in the Bill properly met that question. In the largely-signed petition presented to the House in August last, the Drayer was that an extension of lease for 14 years should be granted upon such assessment as might be fixed by Valuators appointed by the Government. If the squatters were able to claim this renewal as a right they ought certainly to have advice in the valuation, but they had not; it was a pure concession. Practically under the 4th clause of the Bill the Executive fixed the upset price at which it would be fair to offer the leases at auction; and if any existing lessees chose to take them for the term stated in the Biil they could do so. He believed that a large number of the lessees who cried out against the valuations of 1865 had nobody but themselves to thank for them. They had run up the price of stock to a fictitious value—(Hear, hear)—until 50,000 sheep represented £50,000, and in selling squatting property all the old crawlers that could be got together were put on the run, and valued at the same rate. Mr. Goyder valued the runs at considerably less than the squatters themselves did. (Hear, hear.) He agreed with the hon. member Mr. Cheriton in respect to the fencing. It was of no use after the lessee had given to the run. A post-and-rail fence at the end of fourteen years was worth very little; and as to a brush fence, it was not to be expected that the Government should compensate persons for collecting together a lot of rotten timber and tree tops. (Laughter.) The question of fencing had been fully discussed, and it had been decided not to allow for it as an improvement. It was very easy to talk about consolidating the Acts, but there were a large number of them on this subject, and the consent of lessees would have to be obtained to the consolidation, or every care taken to keep alive provisions conferring rights on lessees. If this Bill passed the majority of the runs in the colony would be held either under it or under the Act No. 21 of 1867. (Hear, hear.) With regard to the procedure under the Bill, he had thought it within the bounds of possibility that objections would come from the directions they had come, but the necessity for this summary procedure was proved largely by the action of certain persons regarding the annual leases. Five years ago these leases were sold, but the claimants to them refused to deliver up

possession. The Government would not agree to is proposal to turn them out neck and crop, and proceedings were taken under the Act of 1853, under which it was thought that the holders could be ejected upon the order of two Justices. Technical objections were taken at every step, and this mode of procedure failed. Amongst those who had retained possession of the leases without paying rent was a person of the same name as the hon. member who had objected to the clauses. (A laugh.) He considered that where in the interests of the public steps were taken to dispossess a tenant, it was only reasonable that that tenant should be required to show he had a good defence. This principle was being largely introduced into the forms of legal proceeding, and already it applied to other cases besides those upon bills of exchange. The action taken under the Act of 1853 failed, because it was held that if a defendant showed he had a bona fide claim to the land, he ought not to be summarily turned out of occupation. It would be a cause of infinite trouble to them if they were placed in the same position in regard to the lease under this Bill as they had been in respect to the annual leases. They were provisions in this Bill to enable the Government to settle these annual lease disputes on a fair basis. When the present Government took office they found that negotiations have been proceeding with a view to a settlement; but they had been unable to find some letter—whether it was absolutely official or not he could not say—that had an important bearing on the subject. Then, the Bill would deal with the country in the old Murray Hundreds, comprised in a strip of land extending three miles from the river, which would probably never be needed for agriculture, but which, if included in fresh leases of the back country, would render the whole of the land included in the Murray Hundreds more valuable. It was quite refreshing to find general satisfaction expressed with one measure introduced by the Government—(a laugh)—and he hoped this satisfaction would be continued. (Hear, hear.)

The Hon. T. .REYNOLDS thought during the long recess which the Government had they might have made some attempt to consolidate the law relating to the pastoral lessees. As it was, he was afraid that the new conditions imposed would make still more confusion in dealing with the waste lands. As he understood, it was proposed to value leases that had ten or seven years to run. Did that mean the whole at so much per mile or merely the grazing power at so much per head? If the latter, that came into collision with the Act of 1867. He understood it was dealing only with those leases that were not dealt with by the Act of 1867. It was only fair that those persons whose leases fell in next year should know what was to be done in respect to their leases. He regretted the matter had not been taken up earlier in the session in order that lessees might have ample time to remove their stock if they could not make terms to remain. There was one respect in which the Government had not been so liberal as they might have been—that was in dealing with the Murray Scrub. It would be desirable to extend the lease even beyond 21 years: Year after year the land had been taken up, and led to failure; but there was an impression abroad that if long leases were given so as to make it worth their while to fence, the country might be turned to profitable account. If 20 years was not sufficient, the term might be extended to 30. The only other point on which he wished to have anything to say was the valuation clause. It was so loose in character that the Government might play ducks and drakes with the lessees if they liked. It would be necessary in Committee to alter that so as to place the lessees on a better footing. In New South Wales the plan was for the Government to nominate one valuator, the lessees another, and the two agreed upon an umpire. That was the way private properties were valued, and he thought that would be the best plan to adopt with regard to the lessees. It would be well to consider that provision in order to save the Government from any invidious action.

The motion was carried, and the Bill read a second time.