**PASTORAL ACT AMENDMENT BILL 1944**

**Legislative Council, 8 November 1944, pages 857-9**

Second reading

**The Hon. R. J. RUDALL (Midland—Commissioner of Crown Lands)—**This Bill contains a number of amendments of the Pastoral Act which have been brought down for the purpose of enabling the Government to administer the Act with more fairness to the settlers and to provide for a greater measure of flexibility. The clauses of the Bill are of a diverse character and I will explain them one by one.

Clauses 3 and 4 are purely drafting and consequential amendments. Clause 5 deals with the term for which land now held under a Crown lease may be in future let under a pastoral lease. There is at present a certain amount of land held under Crown leases which, in future, will probably be dealt with as pastoral land. Section 42a of the principal Act now requires that any pastoral lease of this land shall be for a term of 21 years. In other words, for the purpose of the Pastoral Acts, it is treated as unoccupied land, because it has not previously been held on a pastoral lease. It is, however, reasonable that any pastoral lease of this land should be for the same term as if it had previously been held on a pastoral lease and it is therefore proposed by clause 5 to provide that when land previously held on a Crown lease is let under the Pastoral Acts the term shall be the usual 42 years.

Clause 6 contains two new sections to be inserted in the principal Act. The first is section 42b. This section must be read in conjunction with the amendments proposed in the Bill to section 51 of the principal Act. It is proposed by these amendments to section 51 to enable the Government, where necessary, to allow pastoral lands to remain unoccupied upon the expiry of a lease, for the purpose of restoring or improving the vegetation on the land. By section 42b it is proposed that after land has been spelled in this way, the Pastoral Board may recommend that the land be leased on special terms, e.g., for a short period only, and with limitations on the number of stock which may be earned, the general object being to manage the land so as to prevent erosion and conserve the vegetation.

Clause 6 also contains another new section, namely 42c, which is similar to a provision in the Crown Lands Act. This deals with small areas of pastoral land which are of no use to anybody except the, adjoining lessee. Section 42c provides that such smaller areas of land may be allotted to the adjoining lessee and included in his lease by means of a certificate of alteration. By subsection (7) of the section, strict limitations are imposed on the amount of land which can be dealt with in this way. In class A land, the maximum is two square miles; in class B land, the maximum is ten square, miles; and in class C, fifty square miles.

Clause 7 contains a provision empowering the Commissioner of Crown Lands, on the

recommendation of the Pastoral Board, to exempt a lessee from compliance with any covenants or conditions of his lease, or to forego any right or remedy arising out of the breach of any covenant or condition. These powers have been found necessary for the administration of the laws relating to ordinary Crown lands and they are equally necessary for pastoral lands.

Clause 8 deals with the duty of the Government to re-offer the land comprised in a pas­toral lease, after the lease has expired. Under section 51 of the principal Act the Government is required on the expiry of a lease to obtain a report whether the land is suitable for subdivision into smaller holdings for grazing and cultivation purposes. If it is not suitable for such subdivision the land must be re-let. Under present conditions, however, it is not good policy to re-let land under the Pastoral Act in every case when it is not suitable for subdivision. For example, it may be necessary to allow the land to remain unoccupied in order to restore or improve the vegetation. Alternatively, the land may be of such a character that it ought to be allotted under the Crown Lands Act. In such cases the. Government should not be obliged to re-let the land under the Pastoral Act and it is proposed, therefore, to alter section 51 so as to provide ‘that the Commissioner must obtain reports not only on the possible subdivision of the land, but also on the questions whether the land should remain unoccupied and whether it should be allotted under any other Act. If, after considering these reports, the Commis­sioner decides that there is no reason for not re-letting the land, then it must be re-let on pastoral lease under the Act,.

Clause 9 deals with appeals against revaluations of rent. Under section 57 of the principal Act the rent of a pastoral lease granted for 42 years must be revalued by the board all the end of 21 years, and if the lessee appeals against the board’s revaluation, the rent must be referred to arbitrators for deter­mination under the Arbitration Act. The Pastoral Board has pointed out that before the rent is referred to arbitration by way of appeal the board itself should be required to reconsider the revalued rent. This might save long and costly proceedings. It is proposed, therefore, to alter section 57 so as to provide that a lessee will not be entitled to have the rent referred to arbitration unless the board has first reconsidered the proposed rent and given a decision on such reconsideration. If the lessee is still dissatisfied with the board’s decision he can take the matter on to arbitration.

Clauses 10 and 11 deal with the valuation of improvements at the expiration of a pas­toral lease. The present law gives an outgoing pastoral lessee the right to receive from the incoming lessee or from the Government the value of the improvements which the outgoing lessee has purchased or made on the leased land. The provisions in the principal Act as to the time for making the valuation are somewhat inconvenient. In the first place section 62 of the Act says that the improvements shall be valued at any time within 12 months before the expiration of the lease; but it also says that if the Commissioner and the lessee do not agree as to the value and position of the improvements "within nine months before the expiration of the lease the matter shall be referred to arbitration.” Then section 65 of the principal Act says that the arbitrators must be appointed not later than six months before the expiration of the lease. These provisions are not altogether clear; but their practical effect is to cut down the 12 months which section 62 of the principal Act allows for making the valuation either to six months or three months. Either of these periods is too short. The effect of the amendments in clauses 10 and 11 are as follows:—The Government’s valuation of the improvements may be begun two years before the end of the lease and must be completed by the commencement of the ninth month before the end of the lease. If, during that period of valuation, the Government and outgoing lessee do not agree on the value, the matter may during the next three months be referred to arbitration; and the arbitrators must give their valuation within three months before the expiration of the lease or at any later date agreed on by the Commissioner and the lessee.

Clause 12 deals with the payment to an outgoing lessee for his improvements. Subsection (2) of section 66 of the principal Act provides that if any pastoral lease is not offered for lease within six months after the expiration of a lease the value of the improvements must be paid by the Commissioner to the outgoing lessee. This provision at present only applies when the land is not offered for lease under the Pastoral Act. If, however, the land is offered under the Crown Lands Act or any other Act, then notwithstanding the offer it would appear that the Commissioner is still liable to pay the outgoing lessee the value of the improvements. It appears fair and logical that, if land is offered for leas­ing under any Act within six months after the expiration of the lease, the arrangements for paying compensation should be the same as if it were offered under the Pastoral Act—that is to say, that the Commissioner should not be liable to pay the outgoing lessee, but that the latter should look to the incoming lessee for payment.

Clause 13 amends section 70 of the principal Act. This deals with payment by an incoming lessee of the price of improvements belonging to the Crown. Under the present law, when the price of these improvements and the instalments and times of payment have been fixed, they cannot be altered. It is proposed by the amendment of section 70 to give the Commissioner power to, reduce or grant other concessions in relation to the purchase money. The reduction or concession can only be granted if recommended by the board on the ground of a restriction on the number of stock which may be depastured on the leased land, or some other relevant circumstances.

Clauses 14 and 15 deal with pastoral lands which have been resumed but are no longer required for the purpose for which they were resumed. Section 81 of the Act provides that if land is resumed for intense culture but no portion of the land is used for intense culture for two years after the notice of, resumption was given the lessee or his successor in title is entitled to get the land back. Section 86 of the Apt provides that if land is resumed for mining and is not afterwards used for that purpose the lessee from whom it was resumed shall have a preferential right to re-occupy the land. These provisions do not cover all the contingencies. First, they do not deal with land which may be resumed for public works or town sites or park lands, and secondly, the provision for giving back lands resumed for intense culture if cultivation does not begin within two years does not allow sufficient time. It is proposed in the Bill to enact a more general section which will cover all cases and will give the Government sufficient time to proceed with developmental work on any land which may be resumed. The provision in clause 14 of the Bill is to the effect that if land resumed out of a pastoral lease is at any time not. required for any purpose for which land may be resumed, the lessee or his successor in title shall have the first right to a lease of the land. If, how­ever, the lessee has received compensation on the resumption of the land he must, when the land is given back to him, repay the amount received as compensation or such part of it as the Commissioner on the recommendation of the board deems just.

Clause 16 deals with what might be called consolidation of pastoral leases. Under section 95 of the principal Act where a lessee holds several blocks under leases expiring at different dates the leases may be surrendered and one or more new leases may be issued expiring at or about the average time of expiry of the sur­rendered leases. The Pastoral Board has interpreted this provision to mean that the new lease must be for a term equal to the crude average of all the unexpired terms, and no doubt this interpretation is right. This rule, however, does not work justly because a lessee may have a large area with a long term to run and a small area with a short term. In such a case it is desirable that in fixing the average term, some weight should be given to the respective areas of the leases. It is proposed by clause 16 to amend the law to provide that the average date of expiry of leases will be fixed by the board and that in fixing the average the board will take into account the respective areas of the leases as well as the length of the unexpired portions of their terms.

Clause 17 makes two amendments, the first of which is consequential on clause 8. The other one relates to the rent payable by an outgoing lessee who remains in occupation of his land after the expiry of his lease. Under the present law, such a lessee is required to pay rent at the rate at which the land was last "offered for lease." In some cases, however, the rent at which the land was last offered for lease is quite different from the rent which was payable by the lessee at the time when his term expired, and it is just that if the lessee remains in possession of his land he should continue to pay rent at the rate payable when his lease expired. Clause 17 provides for this.

Clause 18 deals with minor , alterations in the boundaries of leases . Under section 137 of the principal Act the Commissioner of Crown Lands has power to alter the boundary between two pastoral leases. It has been found desirable in some cases to alter the boundary between a pastoral lease and an ordinary Crown lease or between a pastoral lease and Crown lands, and it is proposed to extend section 137 to cover these cases. Clauses 19 and 20 contain merely drafting and consequential amend­ments. I move the second reading.

The Hon. E. A. OATES secured the adjournment of the debate