**PASTORAL ACT AMENDMENT BILL 1939**

**Legislative Assembly, 21 September 1939, pages 929-33**

Second reading

**The Hon. R. J. RUDALL (Angas—Com­missioner of Crown Lands)—**This Bill makes a number of amendments to the Pastoral Act, 1936. It has been brought down on the recom­mendation of the Pastoral Board for the purpose of enabling it to handle in a more satisfactory manner than is possible at present, some of the problems arising in connection with the working and development of pastoral areas. There are no major alterations in matters of policy. I will give honourable members a short explanation of the clauses in their order. Clause 3 is consequential on a proposal (carried into effect by clause 13) that Part XI. of the principal Act be repealed. Part XI. deals with the allotment of lands which were unoccupied on December 12, 1929, and provides that these lands must be allotted on leases carrying a term of twenty-one years, and that a nominal rent only can be charged for them. The object of enacting Part XI. in this form was to encourage new settlement of pastoral lands in the remoter areas.

The Pastoral Board has pointed out that when Part XI. was enacted it was not anticipated that unoccupied lands close to settled areas would be offered on pastoral lease. There is now a likelihood of some new lands on the West Coast and north of the Murray being allotted and the board considers it unreasonable that they, should be granted at a peppercorn rent when C class country in the Far North is carrying more than a nominal rent. The board recommends that the whole of Part XI. should be repealed, so that unoccupied lands may be dealt with under the general provisions of the Act and the rent for them fixed in accordance with their carrying capacity, and other relevant factors. Under these general provisions the board has ample power to fix such rent and conditions of tenure as are appropriate in each case.

Clauses 4 and 5 deal with the sections of the Act which enable persons holding Crown leases to surrender them for pastoral leases. Under section 49 provision was made for proclaiming certain hundreds within which lessees were entitled to change their titles from Crown leases to pastoral leases without the necessity of gazetting the land concerned and thus throwing it open to general application. The Pastoral Board has now received a number of applications from persons holding Crown leases of land outside hundreds to surrender their leases in exchange for pastoral leases. The board is of opinion that if the Act permitted it, these applications should be granted so as to give the lessees the benefit of the tenure provided for in the Pastoral Act. It is accord­ingly proposed to amend the principal Act so as to provide that Crown leases of land outside hundreds may be surrendered for pastoral leases of the same land, in proper cases.

Mr. Christian—What would be the difference?

The Hon. R. J. RUDALL—The conditions under which pastoral leases are held are much lighter than those of leases under the Crown Lands Act.

Mr. Christian—But there are certain provisions limiting the use to which the land can be put.

The Hon. R. J. RUDALL—-Yes, but where it can be used only for pastoral purposes it seems only proper that the lessee should get the benefit of the conditions under the Pastoral Act. That can be done already, by proclamation, in respect of land within hundreds, but—

Mr. Christian—That has not been availed of to any extent.

The Hon. R. J. RUDALL—It has to a degree, but it is outside of hundreds where it is far more likely to be of assistance. Clause 5 of the Bill also makes it clear that any improvements constructed by the lessee or his predecessors on the land surrendered will be dealt with as if they had been made under the Pastoral Act, so that at the end of the term of any lease of the land, the lessee will be entitled to compensation for them.

Clause 6 deals with the obligations of pastoral lessees in relation to erecting improvements on their land. Under section 61 of the principal Act, it is enacted that every pastoral lessee must undertake to erect on his land improvements to the value of ten pounds a mile by the end of the fifth year, fifteen pounds a mile by the end of the thirteenth year, and twenty pounds a mile by the end of the twenty-first year. The Pastoral Board is of the opinion that in many cases these amounts are too high, and that if they were expended the land would be over-capitilized. The board takes the view that it should have power to vary the amounts, required to be spent on improvements according to the nature of the country. It therefore recommends that the Act should be amended so that the board will have power to indicate, in the “Gazette,” notice offering pastoral land on lease, the amount to be spent in each case on improvements. The amounts at present prescribed by the Act should be the maximum which the board can prescribe, but should not be the actual amount to be spent by each lessee. Clause 6 also contains a further provision about expenditure on improvements. Under the present law the amount to be expended in the first five years need not be spread over the whole of that period. It is sufficient if it is all spent in the fifth year. The board thinks it proper that this expenditure should be spread over the first five years so as to compel lessees to commence development of their land as soon as possible after allotment. Under the present rule no action to compel the lessee to develop his land can be taken for five years. Clause 6 therefore provides that every pastoral lease will contain a covenant binding the lessee to expend in each of the first five years of the term of his lease, approximately one-fifth of the total amount to be spent during these five years.

Clause 7 deals with the power of the Governor to resume lands allotted under pastoral lease. Under Part VII. of the principal Act the Governor is empowered to resume pastoral lands, upon payment of compensation to the lessee, for a number of public purposes set out in section 81. It has now become necessary to add to those purposes. Some relatively small areas of pastoral land will be required in the future for conducting experiments into problems affecting the pastoral industry, such as soil erosion, regeneration of native flora, rabbits, blowflies, and grasshoppers; and there are isolated cases where it is desired to create reserves around natural features or other objects of scientific interest. Clause 7, therefore, provides that pastoral lands may be resumed for these purposes. Clauses 8, 9, and 10 all deal with one and the same matter, namely, the acquisition of pastoral lands for allotment to existing lessees. Sections 88 to 90 of the principal Act at present enable the Commissioner of Crown Lands to acquire pastoral land by agreement for subdivision into blocks to promote closer settlement, but these blocks cannot at present be allotted to any person who already holds land on pastoral lease.

The Hon. R. S. Richards—Does "person” include "company” within the meaning of the Act ?

The Hon. R. J. RUDALL—As far as I am aware it does. The Pastoral Board is from time to time confronted with a different problem necessitating the acquisition of land, namely, the problem of increasing the holdings of those lessees whose blocks are too small to provide a reasonable living without overstocking. The board considers that the claims of these lessees for additional land should be met so far as that can be done without prejudicially effecting the working of other lands. It is suggested, therefore, that the Government should have power to acquire land for subdivision and allotment to existing lessees. There is an additional provision enabling a block of acquired land to be allotted to an exist­ing lessee for a term ending on the same date as any other lease held by that lessee.

Clause 11 deals with the right of a lessee to surrender his lease in certain circumstances. Section 94 of the principal Act provides that if a lease of any land is terminated by effluxion of time or by resumption, and the lessee holds other contiguous land, the lease of which expires within one year of the expiration of the terminated lease, he may surrender the lease of the contiguous land and receive payment for the improvements thereon as if that lease had also expired. This is, of course, only just to the lessee, since if he loses one part of his total holding the balance may be valueless to him, and he ought to be allowed to surrender it. A difficulty, however, arises because of the use of the word "contiguous.” It sometimes happens that two blocks not contiguous are worked together as one run; and if the lessee is deprived of one block the other becomes of little or no value by itself. The Pastoral Board has recommended that a lessee should on the expiration of one lease have the right to sur­render any other lease held by him (whether of contiguous land or not) so that the whole of his holding may be dealt with, at the same time, and he may know with certainty what his future position will be in relation to the whole of his land. The object of the amendment is that where separate holdings are not contiguous the board can deal with the matter now. It is known that a pastoral lessee may be working one block separated from another block which he is also working, yet both blocks are essential to the working of the holding. Owing to the presence of the word "contiguous’' in the present Act that lessee cannot have the same advantage as a man who has two blocks con­tiguous to one another.

The Hon. R. S. Richards—Is this a recommendation of the Pastoral Board as the result of its experiences whilst administering the Act, or does it come from certain interests?

The Hon. R. J. RUDALL—I think every one of the amendments has comefrom the board as the result of its experiences. Clause 12 deals with a somewhat similar problem. Section 95 of the principal Act provides that where a lessee holds contiguous blocks of pastoral land under leases expiring on different dates, he can surrender all the leases and obtain one or more new leases in lieu thereof expiring on a day repre­senting the average date of expiry of the surrendered leases. A difficulty has arisen in this section also from the use of the word "contiguous.” As mentioned before, blocks of land worked together are sometimes not contiguous, but there seems to be no reason why a lessee should not have an average date fixed for the expiration of all his leases even if they are not of contiguous land. Serious disadvantages arise when the lease of part of a lessee’s total holding expires by effluxion of time and is dealt with separately from the rest of his holding. The lessee does not know what policy will be adopted in relation to the balance of his holding and this leaves him in doubt as to whether he should apply for a renewal of the lease of the whole or any part of the land, the lease of which has expired. It is therefore advantageous to fix, where it can be done with justice, the same date for expiration of all leases of the same lessee.

Clause 13 repeals Part XI. of the principal Act. The reasons for this repeal were explained in connection with clause 3. Clause 14 is an amendment for the purpose of clearing up a possible ambiguity. In Part III., dealing with the Tenants’ Relief Board, there may be some confusion as to whether the word "board” means the Tenants’ Relief Board or the pastoral Board, and it is proposed to remove any doubt on this point.

Clause 15 deals with section 136 of the principal Act. Under this section land used as a travelling stock route or reserve cannot be appropriated for any other purpose except with the approval of both Houses of Parliament. It follows that a travelling stock route cannot be dedicated as a public road without such a resolution, even if, in fact, it is commonly used as a road by traffic. If a travelling stock route is not dedicated as a road, local governing bodies are not empowered to spend any money on it. There seems to be no reason why the Governor, in the exercise of his general powers to dedicate Crown lands as roads, should not be entitled to create a road over a travelling stock route without having to refer the matter to Parliament in each case. It would simplify procedure and facilitate the mainten­ance and construction of roads if any part of a travelling stock route or reserve could be created a public highway without having to wait until Parliament is sitting. It is, therefore, suggested in clause 15 that section 136 of the principal Act shall not apply to the dedication of a travelling stock route or reserve as a public road under section. 5 of the Crown Lands Act, 1929.

The Hon. R. S. Richards—Will there not be some conflict of interests if this is given effect to? What would be the position of stock camping at night on a public road?

The Hon. R. J. BUDALL—Earlier in this session it was necessary to get the approval of both Houses of Parliament to enable the Meningie Council to spend money on a certain portion of a stock route so as to connect up two roads in that district. The use of the travelling .stock route would not be affected. The provision will simplify the procedure under which part of the stock route can be gazetted as a public road and the district council can spend money on it.

The Hon. R. S. Richards—Then you would have a travelling stock route and a public road, and stock would be on both.

The Hon. R. J. BUDALL—All the stock route would not be used as a public road.

The Hon. R. S. Richards—Stock and the travelling public may be on the road at the same time.

The Hon. R. J. BUDALL—I can see the point to which the member is referring, but I do not think circumstances would arise under which the present cumbersome procedure would have to be gone through in order to give effect to the desire of a district council concerning a road. If there is any danger I will not press the amendment.

Mr. Christian—Who would be liable if travelling stock on such a public roadway were killed or injured?

### Increase of Rent Bill. [September 21, 1939.] Increase of Rent Bill. 933

The Hon. R. J. BUDALL—The law of the land would apply then.

The Hon. R S. Richards—Take the other line. What would be the position if a member of the traveling public were killed as the result of travelling stock loitering on the road?

The Hon. R. J. BUDALL—Speaking offhand, I do not think the position would be altered one iota by the construction of a road, but I will go into the matter. Clause 16 deals with the covenants contained in pastoral leases. It makes three amendments to these covenants. The first one deals with stocking pastoral land. Under covenant (b) in the prescribed form of pastoral lease, the lessee is required to carry at least five sheep or one head of cattle per mile on the leased land for the first seven years of the lease, and thereafter to carry twenty sheep or four head of cattle per mile for the rest of the term. The Pastoral Board has recom­mended that the provision for the increased stocking after the first seven years should be deleted. Efforts are now being made to induce lessees to reduce the stock on their leases to numbers likely to be safe at all times. It is, of course, well known that overstocking has contributed largely to soil erosion and the destruction of edible bushes, and in many instances land would be heavily overstocked if called upon to carry 20 sheep or four head of cattle per mile. The board’s opinion is that provided a lessee is called upon to stock his land with not less than five sheep or one head of cattle per mile there is no need to insist on this number being increased. An amendment is accordingly made for this purpose.

The Hon. R. S. Richards—It is difficult to fix a maximum or minimum number of stock to be carried. I should prefer the maximum num­ber, rather than the minimum, to be stated.

The Hon. R. J. BUDALL—Provided that the minimum was not fixed too high. We are not enforcing the lessee to keep more than the minimum.

The Hon. R. S. Richards—But you are not controlling the overstocking problem.

The Hon. R. J. BUDALL—Under the Soil Erosion Bill provision is made to prevent over­stocking. Under the present legislation the board is called upon to compel a lessee actually to overstock his land in certain specific instances. Members will agree that that is wrong. The Pastoral Board considers that, provided we insist upon what is now the recognized number for the first seven years, that will be ample. I presume that in making the recommendation the board considered that the minimum will not make overstocking a practice.

The next amendment deals with covenant (c) of the prescribed form of lease. This covenant prescribes that the lessee is not to overstock his land during the last three years of the term of the lease. It is proposed to strike out the reference to the last three years of the term of the lease, so that the covenant against overstocking will operate throughout the full term of the lease. The other amendment made to the form of the lease relates to covenant (g). This covenant at present allows a lessee to cut either green or dead timber for improvements or firewood without any control by the Government. In view of the rapid destruction: of timber in the pastoral areas it

now appears necessary for the Government to have a general power of controlling the cutting of green timber in the future. It is therefore proposed to amend the covenant relating to cutting of timber, so that a licence from the Commissioner of Crown Lands will be required for the cutting of any timber on pastoral land except dead timber required for improvements or firewood. I move the second reading.

The Hon. R. S. RICHARDS secured the adjournment of the debate.