

DISEASES IN SHEEP ACTS AMENDMENT BILL.

Motion (by MR. A. CAMPBELL) proposed, That the report be now adopted.

MR. C. CAMPBELL said he did not wish to take up the time of the House if honorable members desired to adopt the report; but in justice to himself he felt bound to say that he was very much opposed to the adoption of the report. He was strongly under the impression that whereas it was now almost impossible to work the various acts recited, it would be utterly impossible to do so if this bill were passed.

Amendment (by MR. NORTON) agreed to,

That all the words after "That" be omitted with a view to insert the following words:—"the bill be recommitted with a view to the further consideration of clause 2."

In Committee,—

MR. A. CAMPBELL said it had been pointed out that seven days, the period within which prior to an election nominations had to be placed in the hands of the returning-officer, would not be sufficient in some of the remote country towns, and he, therefore, moved,—

That the words "or more" be inserted between "one" and "polling place," and "fourteen" (days) be substituted for "seven."

Amendment agreed to; words inserted; clause, as amended, agreed to.

Bill reported with further amendments; report adopted.

House adjourned at 8 o'clock p.m.

Legislative Assembly.

Thursday, 19 October, 1882.

Government Business—American Duty on Australian Wool—Crown Lands Bill—Bridge to connect Sydney and the North Shore—Congregational Union Incorporation Bill—Criminal Law Amendment Bill—Mining Act further Amendment Bill.

MR. SPEAKER took the chair.

GOVERNMENT BUSINESS.

MR. FORSTER asked the COLONIAL SECRETARY,—(1.) When is it probable that the second reading of the Forests Bill will be proceeded with? (2.) Do the Government intend going on with the Local Government Bill this session, or do they otherwise intend to follow the precedent of the two last sessions by abandoning it

at or near the close? (3.) Will the Local Government Bill be withdrawn, or not proceeded with, if the Colonial Secretary's health should not enable him to attend to it?

SIR HENRY PARKES answered,—Three weeks ago I made a statement to the House explaining the course the Government proposed to take with respect to the public business. At the time this question was on the paper, and the honorable gentleman being apparently satisfied with the statement withdrew it. I have nothing to add to that statement, which I think was clear and explicit on the subject.

AMERICAN DUTY ON AUSTRALIAN WOOL.

MR. REID asked the COLONIAL SECRETARY,—(1.) Was Sir Henry Parkes commissioned by the Government of this colony, and by the governments of some of the other Australasian colonies, to endeavour during his recent visit to the United States to bring about the repeal of the American duty upon Australian wool? (2.) If so, has Sir Henry Parkes made any report to the governments concerned as to the result of his efforts in that direction?

SIR HENRY PARKES answered,—(1.) In reply to question 1, I might simply say, "Yes." (2.) I can scarcely afford a reply to the second without making personal references to myself, which I certainly am not desirous of doing; and if I make these references I hope I shall be excused in my wish to give the information the honorable gentleman wants. When in America I spent about a week at Washington endeavouring to carry out these objects; I saw the Secretary of State, being accompanied on my visit by the British Minister. I also saw several senators, and represented the case as fully and as forcibly as I knew how. But I could not remain at Washington longer, and I could not remain in America much longer; but I arranged before I left New York to return to Australia by way of America, when I purposed again to visit Washington. While in London I had an assurance from the Secretary of State, the Earl of Kimberley, that as far as representations through the Foreign Office to Washington might serve the Government, the Government would do anything they

could to promote the objects I had in view. Until towards the end of June it was my purpose to return to Sydney by way of America, but sometime after the middle of that month the physician who attended me in England, Dr. Kidd, a very well-known man indeed, peremptorily forbade my return either by way of America or by the Red Sea, and acting on his advice I relinquished my intention. Of course, that disconcerted my arrangements for revisiting Washington. When my effects were packed in London some papers, among others copies of letters relating to this matter, were inadvertently packed in a case which was delivered in Sydney only last week. It was not, therefore, convenient to write to the Australian governments until I received these papers. This will explain why I have not offered any report to these governments. I might also say that during a portion of this time it was quite impossible for me to give attention to anything of the kind, but as soon as I can obtain the requisite leisure from other duties I shall write a circular letter describing what has been done in this matter.

CROWN LANDS BILL.

Mr. STUART said that several honorable members, more especially country members, had suggested to him that it would be convenient if the motion for the second reading of the Crown Lands Bill were not made until three weeks hence instead of a fortnight, as the Secretary for Lands had proposed.

Sir JOHN ROBERTSON : I am quite willing to allow it to be understood that the second reading of the bill shall be proceeded with on this day three weeks.

BRIDGE TO CONNECT SYDNEY AND THE NORTH SHORE.

Ordered (on motion by Mr. BYRNES).—

That there be laid upon the table of this House copies of all correspondence, letters, minutes, or agreements, written to, or received from, or made with, any person or persons, with reference to the erection of a bridge between Sydney and the North Shore.

CONGREGATIONAL UNION INCORPORATION BILL.

Bill received from the Legislative Council, and (on motion by Dr. RENWICK) read the first time.

[*Sir Henry Parkes.*

CRIMINAL LAW AMENDMENT BILL.

In Committee (consideration resumed from 18th October).—

Clause 341 (Affirmation by witnesses).

Mr. WISDOM : I propose to omit this clause and the subsequent one with a view to insert a new clause suggested by the honorable member for Gloucester.

Clause omitted.

Clause 342 (Declaration may be made in lieu of an oath in certain cases) omitted.

Clause 417 (Disabilities of felony).

Mr. WISDOM : When this clause was previously before the Committee the proviso was omitted. In order to enable women to maintain actions for wages during the time when their husbands may be in prison, it is necessary to reinsert that proviso. I therefore beg to move,—

That the clause be amended, by the addition of the following words :—“ And that for the maintenance of herself and her children or for enforcing the payment of wages earned by her or them or the recovery of property to which she may be entitled or of damages for any personal injury the wife of every such offender while under disability may maintain any suit or action and any property acquired by her since her husband's conviction may in an indictment be described as the property of the wife as if she were unmarried.

Amendment agreed to ; clause, as amended, agreed to.

Clause 439 (When appeal allowed &c.).

Mr. JACOB said that when this clause was last before the Committee he proposed an amendment, the effect of which was to give a right of appeal in all summary cases where the fine amounted to £5, or the term of imprisonment was one month or more. The Attorney-General seemed inclined to give way with regard to the term of imprisonment, but not with regard to the amount of the penalty. Both the Attorney-General and the Minister of Justice, however, admitted that there was a great deal of force in the arguments used by those who supported the amendment. He hoped, therefore, that the Attorney-General would accept it.

Mr. WISDOM admitted that there was great force in the arguments used by those who supported the amendment, and he would allow it to be made. No doubt an important question of principle might be involved in a case in which the penalty inflicted did not amount to £5.

Amendment (by Mr. JACOB) agreed to,—

That the words “where the sum adjudged to be paid on any summary conviction exceeds five pounds or where imprisonment is adjudged” be omitted with a view to insert in lieu thereof the words “of summary conviction.”

Words substituted.

Clause 469 (As to conducting defence at trial).

Mr. TRICKETT moved,—

That after the word “counsel” the words “or attorney” be inserted.

The clause gave authority to counsel to do certain things in conducting a trial; but the word “counsel” might not be held to include attorneys. It was necessary, therefore, to insert these words.

Amendment agreed to.

Amendment (by Mr. WISDOM) agreed to,

That the following words be added to clause 3:—“The word oath shall include affirmation and declaration in every case where by this or any other act an affirmation or declaration is allowed instead of an oath.”

Mr. WISDOM: When the original bill was before the Committee, clauses 75, 76, and 77 were negatived; but I propose to submit these three clauses to the Committee again. The first of these clauses was negatived without a division. It was pointed out at the time that hares would be likely to do a great deal of damage to the crops of settlers whose land adjoins the places where they are kept. I certainly think, however, that deer which are kept on enclosed land ought to be protected so long as they are on that enclosed land. I move, therefore,—

That the following stand as clause 75 of the bill:—“Whosoever unlawfully and wilfully courses hunts snares or kills or wounds or attempts to kill or wound any deer upon any enclosed land in the occupation of the owner of such deer shall be liable to imprisonment for any term not exceeding one year.”

I do not see why any one who chooses should not be allowed to keep deer on his own land. If they go off his land, then any one can hunt them.

Mr. FLETCHER thought that if we protected deer which were in a reserve we should also protect hares which were in a similar position. If the clause were passed as proposed, a poacher would be able with impunity to destroy hares upon enclosed land.

Mr. J. P. ABBOTT said that a poacher so acting could be severely dealt with for trespass under another act.

Mr. FLETCHER said that if the honorable member's remarks applied to the destruction of hares it would apply also to the destruction of deer; and according to the honorable member therefore, there was no necessity for the protection of deer in the manner proposed by this clause.

Mr. COPELAND thought the Committee should be careful in introducing into this country any law resembling the game laws which had wrought so much evil in the old country. It was almost impossible that either hares or deer could be kept upon enclosed land; they would be found feeding on various lands at different periods of the day; no one, therefore, should have an exclusive right to them. He admitted, however, that a deer preserve should to a certain extent be protected, and he suggested, therefore, that a proviso be added to the clause compelling the owners of deer preserves to erect a notice-board to the effect that the deer on the land were preserved, if they wished the animals to be brought under the operation of this bill. In many parts of Victoria deer had become so numerous as to be a perfect nuisance to farmers. They fed upon the farmers' crops during the night, and if this clause were law, and the farmer were to follow the deer on to his neighbour's enclosed land for the purpose of destroying them and thus of protecting his crops, he would render himself liable to heavy penalties. Who was to be considered the owner of wild deer or hare? Did the Government intend to insist upon the use of a brand?

Mr. W. J. FOSTER: Deer and hares change ownership as they change ground.

Mr. COPELAND thought any man should be allowed to follow and destroy an animal which derived part of its sustenance from Crown lands. Animals which had escaped from preserves and were virtually wild should not be regarded as the property of any particular person.

Mr. JACOB said that if a division were called for he would vote against the clause, for he was of opinion that clause 227 in the bill in its original form provided a punishment sufficiently severe for offences dealt with by this clause. At any rate, if the Committee were in favour of protecting deer in the manner proposed, it would be necessary to define what enclosed

lands were, because it was well known that nothing less than a substantial and high fence would suffice to confine deer.

Mr. FLETCHER was as much opposed as any one to the introduction of the English game laws into the colony, because he was well aware of the hardship and injustice of which they had been the cause; but it was not fair, after a man had enclosed his land with a substantial paling fence, that any person who pleased should be allowed to go upon his land to kill the hares.

Mr. KIDD hoped the Attorney-General would not press the clause. The farmers in different parts of the country had suffered from the ravages of both hares and deer, which it was impossible to keep within bounds however substantially a fence might be erected. If any provision at all were made with reference to the subject, it ought to be that those who kept deer or hares on enclosed land should be liable to penalties if they allowed them to stray. It was absurd that such an enactment as that proposed should be introduced in a colony where these animals were already a perfect pest.

Mr. POOLE hoped the clause would be withdrawn. Instead of protecting hares, we should very soon have to offer a premium for destroying them. No member who had had any experience in England would vote for such a clause. We did not want in this colony anything resembling the English game laws, and he did not think the Attorney-General could readily lay his hand upon any cases which justified such a provision as he had submitted.

Mr. FLETCHER: Poaching is going on at Rooty Hill now.

Mr. POOLE said the hares were a perfect pest to the farmers in the locality mentioned by the honorable member for Newcastle.

Mr. FLETCHER: The farmers can shoot them.

Mr. POOLE: Why should the farmers be put to the expense of keeping men and dogs and guns in order to destroy animals which were kept to furnish sport for their richer neighbours?

Mr. HUNGERFORD indorsed all that had been said as to the impossibility of keeping hares within bounds. At the present moment these animals were

[Mr. Jacob.

overrunning the land in the Upper Hunter district, and it was unfair that land-owners should be put to the expense of protecting themselves against them. He hoped the Attorney-General would not press the clause, which would make matters worse than they were now.

Mr. BURDEKIN said that he lived in a district where there were many hares kept in preserves—in fact his property at Rooty Hill was immediately under Mr. Lamb's preserves—and he had sustained no injury worth speaking of. He had no desire to see hares protected when they were outside the owner's property, but it did seem extraordinary that any one should be allowed to go upon the owner's property to destroy them.

Mr. McELHONE thought it was very unjust that a poor farmer, with a few acres of cultivated land, should be compelled to erect an expensive fence of galvanised iron wire simply because some gentleman with more money than he knew what to do with wished to keep hares for his amusement. He was informed the other day that the district around Lochinvar was overrun with hares, the progeny of a few pairs taken there a few years ago by Mr. George Loder. In England he believed that hares bred but once in the year, and then had no more than one or two young at a time; but here they bred nearly every month, and had four or five young at a time. They were fast becoming as great a nuisance as rabbits, and any legislation which would prevent their destruction would be most unwise.

Mr. FORSTER was surprised that the Attorney-General should wish to reintroduce a clause which was negatived after ample discussion. He had no objection to protect deer as property in the same way as he would protect sheep and cattle. It was a most mischievous principle to introduce—this making a distinction between deer and other animals; he had not heard a single valid reason why the distinction should be made. He did not know why a peculiar protection should be extended to wild animals in violation of the rights of property. We all professed to have a desire to encourage agriculture, and heaven knew that it wanted encouraging, where it could be encouraged without interfering with the rights of others; for if we depended on home-grown wheat

we should be badly off. By protecting animals which were known to be destructive of growing crops we should not be encouraging agriculture or horticulture. He had heard of an instance in Victoria where deer had travelled 12 miles from their common haunt and had entered a garden and destroyed the bark of English trees, which they seemed to have the peculiar faculty to distinguish. We were doing our utmost to destroy marsupials, yet, on the other hand, we were asked to protect deer which might become almost as destructive as marsupials. The clause threatened the best interests of the country, as it would introduce the principle of the game laws, and would endanger agricultural and horticultural interests in an eminent degree.

Mr. COPELAND said that the difficulty in the way of preventing the depredations of deer was that they fed at night; they would travel long distances to feed on young cereal crops. As a member of the Acclimatisation Society he hoped to see deer acclimatised in the colony on Crown lands, where they would be of some real service to the country and be a source of pleasure to sportsmen.

Clause negatived.

New clause 75. Whosoever steals any dog or has unlawfully in his possession or on his premises any stolen dog or the skin of any stolen dog knowing such dog to have been stolen the accused having been summarily convicted of any such offence as hereinafter provided shall be liable to imprisonment for any term not exceeding one year.

Mr. WISDOM: I think that this clause stands on a very different footing from the last clause, because some dogs are very valuable animals. It has been the law for many years.

Clause agreed to.

New clause 76. Whosoever corruptly takes any money or reward directly or indirectly under pretence or upon account of aiding any person to recover any dog which has been stolen or which is in the possession of any person not being its owner shall be liable to imprisonment for any term not exceeding one year.

Mr. WISDOM: This clause is a necessary corollary to the last clause. I am told that the offence is a common one. If the punishment be considered too heavy I shall be willing to reduce it to six months' imprisonment.

Clause agreed to

New clause 341. Whenever any person called as a witness or having to make a statement in an information complaint or proceeding in any court or before any justice objects to take an oath or is reasonably objected to as incompetent to take an oath or appears to the court or justice to be incompetent to take an oath he may make the following declaration instead of being sworn—I solemnly declare that the evidence now about to be given (or the statement now about to be made) by me shall be the truth the whole truth and nothing but the truth. And whosoever having made such declaration wilfully makes any false statement before such court or justice knowing the same to be false shall be deemed guilty of perjury if the statement had it been on oath would by law have been perjury or may be found guilty if the evidence warrants such finding under the two hundred and ninety-third section of this act and shall be liable to punishment accordingly.

Mr. WISDOM: This clause I propose to insert instead of clauses 341 and 342, which have been omitted; this clause will make the provision more clear.

Clause agreed to.

Mr. FORSTER moved the following new clause to stand as clause 471 of the bill:—

After the passing of this act there shall be no summary punishment for contempt of court but every person guilty thereof shall be liable to be tried and to incur the same penalties as in case of misdemeanour and when the contempt occurs in presence or in the precincts of the court or causes any interruption of or interference by comment or otherwise with the proceedings the judge or president or the court may order the person so offending to be removed and held in custody in any suitable place or to bail so as to prevent any further interruption or interference or to secure his appearance before any competent court.

He had no doubt that many besides himself had had their attention directed to this subject by an occurrence which took place in Sydney some time ago. Perhaps it was at one time necessary to give judges in our courts of law the enormous and extraordinary powers which they now possessed, to enable them to repress disorder, and to inspire the public with a higher reverence for the administration of justice than probably could be reckoned upon in early times, unless such inordinate powers were granted. The course of our legislation for a long time, however, had been to deprive all our authorities of powers which were not absolutely necessary to the preservation of order, and to take away the power to deal summarily with cases which could be tried in the ordinary way. The question arose: Why should contempt be dealt:

with in a manner different from that in which any other offence was dealt with? The answer it seemed depended altogether on the kind of contempt which was committed. We must all admit the necessity and the propriety of arming the judges with full power to prevent any interruption of the proceedings of the courts. Every court in the colony ought to be armed with such powers, and this House ought to have similar powers. It was obvious that the proceedings of a court of law, or of any other body, must stop at once if they were allowed to be interrupted. It was unnecessary, therefore, to argue in favour of the courts having these powers; but when he came to consider the offence he asked the House whether the judge against whom the offence was committed—who was a man like all of us, liable to have his temper ruffled, and who might consequently import a personal feeling into the matter—was not the last man to deal summarily with the case. He had no objection to his acting in conjunction with the other judges, or with a jury in the trial of the case. One would think that a sense of delicacy—if a case of contempt were once postponed—would prevent a judge from dealing with a case in which he knew his personal feelings to be greatly interested. No judge would adjudicate in a case in which any of his own relatives had a pecuniary interest, or in a case in which he or his relatives had any strong personal feeling. Why then should not the same rule apply to cases of contempt? Surely in the case of a judge against whom an offence was committed, the public interest could not be injured by another judge being allowed to adjudicate! It seemed to him that contempt ought to be placed in the category of ordinary offences. It could not be said to be out of that category except in the peculiar case to which he had referred, where an interruption of the proceedings of a court took place. It seemed to him that contempt required to be dealt with in the same way as any other offence. There was no peculiar element in it which rendered it necessary that it should be tried in a summary way, or by the judge who had a personal interest in the matter. It could not be shown that the proceedings in a court of law would be interfered with, or that any injury to justice would arise, because we proposed to

[*Mr. Forster.*

treat the offence of contempt like any other offence. He thought that if any person holding office was insulted by the use of gross language, or if comments were made in a newspaper which tended to bring the administration of justice into contempt, or to frustrate the ends of justice, a most severe punishment should be inflicted; but the more severe the punishment the stronger the reason for the cases to be fully inquired into by a court of law; the decision of which could not be called in question owing to any suspicion of personal feeling or bias. It was quite evident that the criminal offence of contempt itself could be much more satisfactorily dealt with as an ordinary offence than it was under the present system; and it was much more likely to be severely dealt with, because the fact of a judge dealing with a case in which he had a strong personal feeling might lead him to inflict a less severe punishment than he might otherwise consider necessary. We had a right to expect that if cases of contempt were tried like any other offences they would be dealt with more satisfactorily and more consistently in the interests of justice. Some comments had been made in a newspaper to the effect that his proposal, which simply made contempt of court a misdemeanour and removed it from summary jurisdiction, had not gone far enough, as he had not undertaken to define contempt. He confessed that he felt great difficulty in doing that. If the clause were passed we should not be in a worse position than we were in at present, because at present contempt was left to be defined by the judge who, as he had remarked, might have a personal feeling in the matter. It was better, therefore, that any definition should come from another quarter. If the law did not define contempt, all the circumstances would be taken into consideration, and the contempt would be held to be what a number of reasonable men might consider it to be, and the punishment would be made greater or less accordingly. As he remarked on a former occasion, he submitted the clause with considerable diffidence; but on looking at the clause drawn up by the Attorney-General, he confessed that he preferred his own. He could not see in what respect that clause was an improvement on his. It differed from his clause in this respect, that it proposed to retain the offence of contempt in

its present position, whether committed in the face of the court or in its precincts, and to allow the infliction of summary punishment. What he proposed was to give the judge the fullest power as to removing the offender and placing him in custody, or holding him to bail in order that he might be properly tried. The Attorney-General proposed that the summary power of dealing with the offence should be retained in cases of that sort, and in that respect they concurred. He submitted his clause to the judgment of the Committee.

Mr. W. J. FOSTER said it appeared to him that the matter was one which deserved the most careful consideration. It was difficult to say in how many ways a general provision of this kind might affect the administration of justice. There was certainly a great deal in the argument used by the honorable member that it was undesirable that the judge who had been offended should be called upon while smarting under the offence to punish the offender. He thought, however, that it would be difficult to deal with cases of contempt under the clause which the honorable member proposed. The honorable member would find that everything that he desired would be accomplished by the insertion of a provision empowering a judge to commit an offender for trial in the way which the magistrates do, instead of dealing summarily with the case. If that were done, the person charged with contempt would be placed in custody, and the judge who committed him would not inflict the ultimate penalty when the case was tried. A judge ought to have the same power to commit a man for trial for contempt that he had to commit a person for perjury.

Mr. FORSTER : Why not make it a misdemeanour ?

Mr. W. J. FOSTER : If it was made a misdemeanour it would be necessary to commence by summoning the offender before the magistrates.

Mr. BUCHANAN recollected introducing a bill dealing with this subject, and embodying the same principle as that to which the Minister of Justice had referred. He met with very little comfort, however, on his introduction of that measure. He urged it strongly at the time, and, he thought, forcibly ; and he was persuaded

that he was never met with any sort of reason by the opponents of the measure. The Attorney-General was one of its principal opponents. A clause in his bill proposed that the judge should not have the power to adjudicate in cases of contempt, he being the person who made the charge and who sent the offender to gaol. He proposed, when his measure was before the House, that the judge should simply have power to commit for trial any person charged with the offence of contempt of court. The judge was in the anomalous position of assuming the character of a prosecutor and having to condemn the accused. If the offender was committed for trial as his bill proposed he would then have an opportunity to defend himself. The whole subject of contempt of court was in a most lamentable position. If a witness was supposed to be prevaricating the judge might send him to gaol for a month or a year without any trial, and without any opportunity being allowed for the witness to give an explanation of his conduct ; but if a witness was guilty of the far more serious offence of perjury the judge could not do that ; he must commit the person for trial. But, surely, if prevarication was contempt perjury was a far greater and more outrageous contempt. The bill which he introduced was intended to remove these anomalies, and he dare say that he would live to see the principles which he had so often advocated embodied in legislation. A witness, on going into a court, might be so overcome with nervousness as to be unable to give his evidence properly, and the judge, thinking that he was prevaricating, might at once send him to gaol under the idea that he was prevaricating. The offence of contempt was sometimes committed outside the court. If a writer in a newspaper violently and unjustly assailed a judge the article might amount to contempt of court ; but how would the writer be dealt with ? The practice hitherto had been to bring up the offender and condemn him without a trial. In the case of the *Evening News*, where a fine of £250 was imposed, if the law had been what it was now proposed it should be, the proprietors would have been committed for trial. They could then have been defended by counsel ; the case would have been adjudicated upon by twelve jurors, whose duty it would have been to

say whether the parties were or were not guilty. As it was the proprietors of the paper were simply called up to receive sentence. They were only allowed an opportunity to say a few words as to why sentence should not be passed, and although they were ably defended they were heavily fined. That was the position in which we stood in regard to contempt at the present time; and now that the subject had been introduced it was to be hoped that steps would be taken to secure the public from the danger to which they were liable from the existence in the hands of the judges of such a sweeping power. He concurred with the views of the honorable member for Gundagai, and hoped that the Attorney-General would accept the amendment.

Mr. WISDOM : When the honorable member proposed this clause the other day I said that I entirely concurred in his object, and that I would endeavour to bring in a clause to give effect to it. I have had a clause prepared; but I quite concur in the spirit of the honorable member's clause, and I shall support it. It certainly seems an anomalous thing that this unlimited, undefined, and unquestioned power should now-a-days be possessed by judges. The proposal to give them such power certainly would not be tolerated if it were now made for the first time. It has been usurped by the judges of courts of record only. It is not possessed by other persons who, equally with those judges, have a necessity for the preservation of order in their courts. The power has been usurped at a time when the courts could do almost anything, and when there was no public opinion to control them. It seems to me that all that judges require for the preservation of the dignity and decorum of their courts is the power to remove offenders and to take such steps as shall secure their prosecution before a jury; and, as the honorable member's clause deals effectually with the subject from that point of view, I shall give it my cordial support. I think the Minister of Justice overlooked the provision in the latter part of the clause which enables the judges to hold to bail. I think the wording of the clause is sufficiently explicit without any addition as to commitment. There is, however, a certain class of contempts which the honorable member's clause did not meet, and for which it is

[Mr. Buchanan.

very desirable to make provision. I refer to improper comments by the press during the progress of a trial. Comments may interfere with the proceedings of a court of justice quite as much as any disorder in the court itself. When a case is actually *sub judice* no comments should be made by the press. I do not think the judges should be empowered to commit the publisher for contempt; but I think they should be empowered to hold him to bail and to send him to a jury for trial.

Mr. BUCHANAN : The press do not make comments when cases are *sub judice*.

Mr. W. J. FOSTER : It has been done.

Mr. WISDOM : Of course I refer to the publication of articles and not to the publication of reports of the proceedings. I think that with the addition of the words "by comment or otherwise" the clause may be made effectual for all the purposes for which it is intended.

Mr. FORSTER said he quite agreed with the desirableness of amending the clause in the manner suggested by the Attorney-General. It could not be denied that newspapers frequently made most improper comments during the progress of cases, and that they interfered in that way with the administration of justice.

Mr. BUCHANAN was under the impression that none of our newspapers had commented upon a case *sub judice*.

Mr. W. J. FOSTER : The leading journal of the colony has been punished for so doing.

Mr. BUCHANAN believed that on the occasion referred to the journal had been erroneously punished. A large public meeting, presided over by the President of the Legislative Council, was held, and the fine was paid back. The court had, however, assumed the extraordinary power of forbidding the publication in the press, during the progress of a case, of a report of the evidence; and it was not until the evidence of the celebrated Tichborne trial was published day by day by the English press that our newspapers followed suit. Let honorable members imagine the position of a newspaper which had to publish at one time the evidence of a trial which had extended over several weeks. He did not believe that the judges now interfered in this matter, although there could be no question but that they had at one time

done so. The Attorney-General thought that the press had evinced an anxiety to comment upon the proceedings of a case *sub judice*, taking up one side.

Mr. WISDOM: They might do so; but they should be prevented from doing so.

Mr. BUCHANAN thought the proposed amendment need not excite opposition, because the press were not at all likely to render themselves amenable to a charge of commenting upon cases *sub judice*.

Mr. O'CONNOR was delighted to hear that the Attorney-General had agreed to accept the clause of the honorable member for Gundagai. Men could assemble in any street corner in Sydney and could comment with impunity upon the conduct of any member of Parliament from the Premier downwards; but immediately the press took up a fair position and commented upon the conduct of the judges they were shut up at once, the judges apparently deeming themselves infallible. They arrogated to themselves the combined position of accusers, judge, and jury; and only the other day they had exercised that power in a most tyrannical manner. In England a short time ago the editor of *Freeman's Journal*, a gentleman by birth and education, a member of the House of Commons, and High Sheriff of Dublin, was called up for making comments upon a certain case. He was allowed no time in which to prepare a defence, and he was sentenced to three months' imprisonment; but the executive authority in London frustrated the tyranny of the judge by releasing the defendant from gaol. He was jubilant that the Attorney-General, as became his position as the first law officer of the Crown in this colony, should have accepted the proposed clause. The courts were open to any one who chose to attend, and he saw no reason, therefore, why the newspapers should not be allowed to publish evidence from day to day, especially when we considered that the publication of that evidence often accomplished a great deal of good. How could we expect to have a healthy and courageous press if we allowed the judges to exercise such arbitrary power? He quite agreed that judges should have every power necessary for the preservation of the dignity of their courts; but they should not be allowed to interfere with the public expression of honest opinion.

Mr. JACOB said that he should prefer the clause which had been circulated by the Attorney-General, and which he understood the honorable member intended to move. The clause proposed by the honorable member for Gundagai referred only to cases of contempt before judges. What about the inferior courts? He pointed out that under the Licensing Act and the Small Debts Act full power was given to the magistrates to deal with cases of contempt. It seemed rather a strange proposal that if a person grossly insulted a judge by (say) calling him a blackguard, or accusing him of partiality, the offender should be simply removed from the court, and afterwards be put on a sort of trial.

Mr. FORSTER said that the case just mentioned by the honorable member for Gloucester did not require to be dealt with summarily any more than did any other case of contempt. The objection to the present practice was that the judge against whom the offence was committed prosecuted, tried, and punished the offender. His intention was that the clause should apply to all courts.

Clause agreed to.

Bill reported with further amendments.

Motion (by Mr. LACKY) proposed,—
That the report be now adopted.

Amendment (by Mr. WISDOM) agreed to,
That the bill be recommitted for the reconsideration of clauses 374, 383, and 400.

In Committee,—

Clause 374 (Cattle-stealing—verdict of misdemeanour) amended (on motion by Mr. WISDOM) so as to apply to defacing or altering brands and ear-marks.

Clause 383 (Proceedings thereon).

Amendment (by Mr. YOUNG) agreed to,

That there be added to the clause the following words:—"Provided also that when under the preceding sections evidence has been taken which shows that the prisoner has been improperly convicted the court may order the conviction to be quashed, and a certificate shall be issued to the person so improperly convicted setting forth the grounds on which this has been done."

Clause, as amended, agreed to.

Clause 400 (Whipping juvenile offenders).

Mr. WISDOM: This clause was amended at the instance of the honorable member for Redfern (Mr. Fremlin) by the insertion of the words "above the age of ten," to prevent persons under that age

being whipped; but the effect of the amendment is to compel the court to pass sentence on offenders under that age, whereas the object of the clause was to give power to the court to order whipping instead of imprisonment. Persons under the age of seven are considered infants, and incapable of committing an offence; but persons between the ages of seven and fourteen can be convicted if it be shown on the trial that they are capable of distinguishing right from wrong. There cannot be any whipping of offenders under seven years of age. I beg to propose,—

That the clause be amended by the omission of the words "Above the age of ten and."

Amendment agreed to; clause, as amended, agreed to.

Bill reported with further amendments; report adopted.

MINING ACT FURTHER AMENDMENT BILL.

SECOND READING.

Dr. RENWICK: In rising to move the second reading of a bill to further amend the act 37 Vic. No. 13, I scarcely think that it is necessary that I should speak at any length. The principle which is involved in this short bill is one of great practical importance to the mining community, and it has on several occasions been brought under the consideration of the House. At an early period of the session the question was referred to in connection with the case of the Great Britain Tin-mining Company, and recently it was discussed on a motion for the adjournment of the House moved by the honorable member for Braidwood. On these occasions it was clearly proved that great difficulties had arisen in regard to titles to land under application for lease. Honorable members who are familiar with the subject are aware that until an application for a lease has been approved of and assented to by the Governor the land is open to conditional purchase; at any rate, this is the opinion of eminent legal authorities. It is to prevent the sale of land which has been applied for under lease that this bill is introduced. I observed the other day, in a report of some judicial proceedings which took place in the north, that Mr. Justice Windeyer, on the question as to the period when a lease was really issued by the Crown, decided that a lease is not

in the possession of a party applying for it until it has been signed by the Governor. Up to the present time the Department of Mines has held that as soon as the Executive Council approved of a lease being issued it was in the possession of the person who applied for it. The departmental rule is founded on the interpretation clause of the Mining Act, which makes the word "Governor" equivalent to the words "the Governor with the advice of the Executive Council." One object of the bill is to remove all doubts in connection with the matter. I am fully aware that honorable members have expected that, ere this, I would have brought forward a comprehensive measure to amend and consolidate the mining laws. I consider that such a measure is required, and I may inform the House that I have prepared a bill for the purpose; but up to the present time there has not been any opportunity to bring it forward. Even if it were introduced now, some considerable time would elapse before it could be maturely considered. The House has now before it the important bill to amend and consolidate the land laws, in which it is provided that land shall not be taken up under mineral conditional purchase. Even assuming that the bill were passed within a week after the second reading had been moved, as the Secretary for Lands sanguinely supposes, some time would have to elapse before it could be passed through the other Chamber. During all this time the defect in the law which this bill proposes to remedy would continue in existence. Under these circumstances, honorable members will see that in bringing forward this measure I am acting faithfully and honestly in regard to the department over which I have control. Of course I shall not get the "kudos" which would be associated with the passing of a comprehensive measure; but in introducing this bill I sincerely believe I am doing that which is right. I beg to move,—

That this bill be now read the second time.

Question proposed.

Mr. McELHONE: I was one of those honorable members who asked the Secretary for Mines to introduce a bill of this nature, to protect applicants for mineral leases; but since I did so I have become convinced that a measure of this sort may be made the means of entirely defeating

[Mr. Wisdom.

the ends and aims of the land law. A few years ago some large property holders in the Upper Hunter district thought that they would secure their holdings by means of mineral leases. It was thought that applications for mineral leases would bar selection. I know that on the runs of the Messrs. White and Mr. Andrew Loder, on the Upper Hunter, thousands of acres of land have been taken up under mineral leases, the deposit of 5s. being paid. A great outcry was raised about it. The selectors were very quickly hemmed in by means of these leases; but it was found from a decision by the Supreme Court that the applications for mineral leases did not exclude the land from free selection, and the Crown lessees then ceased to take up mineral leases. To show how the mining law has been taken advantage of to defeat the land law I have moved for a return which will give honorable members the particulars as to what has been taking place on the Bando Run of the Messrs. White. I have seen a plan of the Bando Estate showing where the Messrs. White's servants have taken up mineral conditional purchases so as completely to surround the selectors. They have to pay down 10s. an acre, and that secures them the use of the land for three years. If it is worth the while of squatters to pay 10s. an acre now, how much more readily will they pay 5s. an acre to accomplish the same object just as effectually! I say that if the bill is passed it will be another weapon in the hands of unscrupulous Crown lessees. It will enable them to harass the selectors off the land. I give the Minister credit for having introduced the bill to protect the *bond fide* miner; but the moment it becomes law the Crown lessees will use it against the selectors. I know that the Minister has no desire to play into the hands of any particular class; but I feel it my duty to show what serious consequences may result if the bill becomes law.

Mr. FERGUSSON: This bill has been brought in in consequence of the opinion given by the Attorney-General some time ago as to whether applications for mineral leases precluded the conditional purchase of land. The Attorney-General was of opinion that land under applications for leases pending approval by the Government were not protected from conditional purchase, and he based his opinion on the

interpretation clause of the Mining Act and also upon the Crown Lands Alienation Act. I have differed from the opinion expressed by the Attorney-General and other eminent counsel as to whether an application for a mineral lease does not bar conditional purchase under the 13th section of the Crown Lands Alienation Act of 1861. When the Crown Lands Alienation Act was passed there was no mining act in existence which provided for the granting of leases for mining for other minerals than gold. The whole tenor of the Mining Act, passed subsequently, is to grant such leases, and the intention of that act is to protect applicants for mineral leases until such time as they shall have had an opportunity to test the ground. What would be the use of this House passing an act to authorise the issue of such leases if the granting of them could be intercepted? According to the opinion of the Attorney-General and other eminent counsel, however, applicants for leases under the Mining Act are without any protection whatever. I think that a measure of this kind is absolutely necessary because of the action taken by the Lands Office and the Mines Office, which have come into conflict with each other. The Mines Office refuses to grant applications for mineral leases because the Lands Office says that an application for the same land under the Crown Lands Act gives the fee-simple. The Mines Department having given way to the Lands Department in this matter, it has become necessary to pass a measure of this kind to rectify that wrong. In my opinion applications for mineral leases are amply protected under the 56th section of the present act. It is clearly laid down in the 3rd sub-section that applications for leases are protected. I am also satisfied that under the 60th section of the Mining Act mineral leases are protected. The Minister has the power to make regulations for the purpose of regulating and marking out the mineral leases. It is provided that from the time of its being marked out the ground shall be protected against all other persons, and if any one encroaches upon it the lessee may bring an action for trespass against the person who makes the encroachment. We know that actions have been brought not only in the wardens' courts but also in the superior courts, and the lessees have maintained their rights against the wrong-doers. I

think that if the Mines Department had taken a proper stand there would have been no necessity for a bill of this kind ; but the Lands Department has put its back up, and declared that the conditional purchaser has a superior title ; and an opinion to that effect having been given by the Attorney-General, the Minister for Mines refuses applications for leases. He does that under powers given him under the regulations, but which are not conferred by the act. I am quite sure that under the act the Minister has no discretionary power to refuse applications for leases which are made in conformity with the act. The 56th section of the act says that the Governor may grant leases of Crown lands for the purposes of mining subject to certain conditions, and the 3rd sub-section embodies one of the principal conditions upon which they are to be granted. I say that the Minister cannot refuse the leases without some valid reason. This difficulty having arisen, however, the applicants for mineral leases are out of court entirely. While bringing in this bill I think the Minister might have gone a little further and have brought in a bill to legalise mining on reserves. There is no provision made in the Mining Act for the making of reserves for mining purposes.

Dr. RENWICK : Provision is made in the Lands Act.

Mr. FERGUSON : I submit that the Government have no power to make such reserves for mining purposes. At the time when the Crown Lands Alienation Act was passed the Mining Act was not in force ; it did not come into force for fourteen years afterwards. Provision was made for gold-mining leases ; but no other kind of mineral leases was at that time contemplated.

Dr. RENWICK : The Lands Act says "for public purposes."

Mr. FERGUSON : The 4th section of the act of 1861 says—

The Governor with the advice of the Executive Council may by notice in the *Gazette* declare what portions of Crown lands shall be set apart as the sites of new cities towns or villages and define the limits of the suburban lands to be attached thereto and to any existing city town or village and also the portions of town lands or suburban lands to be dedicated to public purposes and what lands shall be reserved from sale until surveyed for the preservation of water supply or other public purposes.

[Mr. Fergusson.]

The public purposes contemplated when that clause was passed could not have included mining purposes. Land was not reserved under the act of 1861 for mining for any minerals except gold. We had modes of securing land for mining purposes at that time, provision for that purpose having been made in the 19th section. "Crown Lands" are described in the interpretation section of the Mining Act as—

All lands vested in her Majesty which have not been dedicated to any public purpose or which have not been granted in fee or lawfully contracted to be so granted or which are not under lease for purposes other than pastoral purposes.

If, therefore, land has been dedicated to any public purpose, it is evident that the Minister cannot grant a lease of it. Hundreds of leases have been granted on many so-called reserves ; but I believe they are not worth the paper they are written on. The honorable member for The Upper Hunter (Mr. McElhone) said it would be a dangerous thing to pass a bill of this kind for the protection of applicants for mineral leases ; but the 56th section of the Mining Act says that the applicant for a lease shall pay 5s. per acre per annum, and spend at the rate of £5 per acre during the first three years for mining purposes. Squatters will go to great lengths for the purpose of securing land ; but I do not think that they will pay 5s. per acre rent. They have to pay 5s. an acre in advance, and if they are one month in arrear when the rent becomes due any one may call upon the Minister to cancel the lease forthwith. No difficulty may be apprehended, therefore, under that head. It is quite true, as the honorable member for The Upper Hunter said, that squatters have protected themselves against conditional purchasers by paying down 10s. per acre, and taking up mineral selections. I know a squatter who for thirteen Thursdays in succession has taken up 640 acres for the purpose of securing his run. He has the land secured for three years, and during that time he will take care to have it measured and sufficiently improved to completely bar selection. I think that the sooner the Minister for Lands gets the section of the act under which this practice is carried out, done away with, the better it will be. If there is no prospect of a land bill being passed this session, I think

it is the duty of the Minister for Lands or the Minister for Mines to bring in a bill to repeal that section. I know cases in which, when application has been made for leases on reserves, the Mines Department have applied to the Lands Department to cancel temporary water reserves, and they have positively refused to do it, and they have said that the leases granted by the Department of Mines were not worth the paper they were written on, and that they would not revoke the reserves to make the leases good. This shows the conflict which is going on between the two offices.

Dr. RENWICK : I have never heard of it.

Mr. FERGUSON : I can assure the honorable and learned gentleman that it is a fact. I have been informed of it by one of the principal officers of the Lands Department. We have the Mines Office giving directions for a certain thing to be done, and the Lands Office refusing to do it. I can see no objection to this bill. I think it ought to be passed as quickly as possible ; we ought to suspend our standing orders, if necessary, in order that it may be passed without delay, so that those unfortunate persons who have made application for mineral leases and have spent money in prospecting the land of which they have been put into possession may not suffer in consequence of the anomalous condition of things at present existing. I at one time made application for a lease, and I spent a sum of £400 in working the mine. Nine months afterwards, however, some one else made application for a mineral conditional purchase, and the Government simply say that that person has a superior title. It is not every one who can afford the luxury of an action in the Supreme Court. I do not think that such cases should arise, and I shall give this measure all the support I can. We have had the Mines Department well administered since the present Minister has taken office. I do not think that any man could have been more zealous or painstaking. He has done his best to administer the Mining Act in its integrity. I have had considerable experience in connection with the Mines Department, and I can say that the honorable gentleman puts through the applications for leases with an expedition which has never been equalled by any of his predecessors.

Mr. J. P. ABBOTT : I see great difficulty in voting either for or against this bill. By voting against it we should do great injury to a large mining population, which is not desirable ; and by voting for it we should do great injury to a large number of persons who may desire to obtain land by conditional purchase. Honorable members will agree that either of these difficulties is insuperable. The honorable member who preceded me has placed an interpretation on the 56th section and on the 3rd sub-section of the act which I think they will not bear. I find that applications for leases may be granted and made renewable for periods not exceeding twenty years, the rent to be 5s. per acre, payable in advance. Now comes the difficulty : the first payment is made at the time when the lease is applied for, and no further payment is required until twelve months after the granting of the lease. It may take two or three years for a lease to pass through the Mines Department. If the lease is dealt with very expeditiously, it cannot be issued in less than twelve months, and I have known leases to take upwards of three years. During the whole of the time occupied by the passing of the lease through the department the deposit of 5s. is sufficient to hold the lands. No one else can touch them. What does this mean ? It means practically that the applicant may hold the lease for a period of about two years on the deposit of the sum of 5s. per acre. If he is a *bona fide* applicant, who really requires the land for mining purposes, there can be no objection to it ; but we know well enough how the law has been abused. In my electorate it is being abused to a terrible extent. Every Thursday application is made at the various lands offices for mineral conditional purchases, although there are no minerals of any kind in the district. The land is not wanted for mining purposes ; then what are these applications for ? A man may take up 640 acres Thursday after Thursday, and if the bill is passed that land will all be held in suspense until the Governor signs the leases, after which a further payment of 5s. an acre will not be required for twelve months. The honorable member who spoke last says the land will only be taken up for *bona fide* purposes, because applicants are required to expend £5 an acre during a period of three years, and at

the first glance any one would imagine that that would have the effect of deterring any one from taking up the land for any other than mining purposes; but the clause says that there shall be an expenditure of £5 per acre within three years, and the lessee need not spend any of that money until the very last month of the very last year, so that he may possibly hold the land for five years without putting one farthing's worth of improvements upon it. In the western portion of the Liverpool Plains mineral selections have been taken up on Thursday after Thursday. What for? Is it for mining purposes?

Mr. WISDOM: For undermining purposes.

Mr. J. P. ABBOTT: Precisely: to undermine the Lands Act. I undertake to say that no land has been taken up on the western portion of the Liverpool Plains for the purpose of searching for minerals, and there are few places in the colony in which more mineral leases have been applied for. Why is this done if it is not to hem in selectors and to stop selection? Honorable members must feel great difficulty in determining how to vote on this question. If we refuse to pass the bill, we shall do an injustice to a large number of *bonâ fide* miners, while, on the other hand, if we pass it, we shall do a great injustice to *bonâ fide* selectors and persons who desire to occupy the land. I would suggest to the Minister that he should limit the operation of the bill to six months in order that the matter may be more comprehensively dealt with in the new Mining Bill which the honorable gentleman intends to introduce.

Dr. RENWICK: I will limit it until that bill is passed.

Mr. J. P. ABBOTT: I question whether the Minister for Lands has considered the effect which this bill will have upon the occupation of lands by *bonâ fide* settlers. I have done my best to point out the abuses to which I think the measure is liable. The mineral selections of which I have spoken are not imaginary; they are realities, and we shall, if we pass this bill, be legalising them for a period of three years from the date at which the lease may be signed.

Mr. GARRETT: With regard to the last remark of the honorable member for Gunnedah, that in passing this bill we are

[Mr. J. P. Abbott.

legalising mineral conditional purchases. I fail to see that it affects them at all.

Mr. J. P. ABBOTT: I did not say so.

Mr. GARRETT: It does not affect them to the extent of making them more valuable for those who exercise the right; nor does it make the temptation to use the right of mineral conditional purchase greater than it is at present. It rather lessens the temptation to persons to use mineral conditional purchases with a view to prevent legitimate settlement. With regard to the power of using mineral leases, that has always existed; it is not a new right created by this bill.

Mr. J. P. ABBOTT: They can be conditionally selected.

Mr. GARRETT: In how many cases is that done? How long has it been known that it can be done? It has not been known for more than five or six, or at the outside twelve months. How many mineral leases have been applied for in any part of the country in order to frustrate conditional purchase? When the old Mining Act was in force, when persons had authorities to select at the rate of 5s. per acre which they could use at any time within twelve months, it is true that a large number of those authorities were used to cover considerable areas of land. They were not used by the persons who took them up. The mining mania, during which they were taken up, subsided, the authorities were left in the hands of the persons who had taken them up, and they induced the Minister to give them a longer life than was originally intended. These authorities to select were afterwards sold at 6d., 9d., or 1s. per acre; and when they were so easily obtained, as in 1875 and 1876, there is no doubt that a great many of them were used by runholders for the purpose of frustrating conditional purchase. I have not the slightest doubt about it; but they cannot be obtained now; and I am convinced that there has not been 2,000 acres taken up by mineral lease in the whole country since these authorities expired and ceased to have legal effect, for the purpose of defeating conditional purchases. I am aware that a great deal is done in this direction by way of mineral conditional purchase, but not by way of mineral conditional lease.

Mr. J. P. ABBOTT: It will be done if you pass this bill.

Mr. GARRETT: Not at all. The value of mineral leases was not doubted until lately as protecting the area which they covered, and during the whole of the time it remained undoubted the right to take up land by mineral lease for the purpose of frustrating conditional purchase was never exercised, and will be no more exercised in the future than now. The fact that it will require a payment of 5s. per acre will not make it pay when we consider that the period is problematical—it may be only three, or it may be twelve months.

Mr. COPELAND: It must be twelve months; the payment covers the lease for one year.

Mr. GARRETT: It covers it for one year after the issue. It may possibly be two years; but I do not think it is likely that persons will pay 5s. an acre for the purpose. If they were inclined to do so, they would have done so in 1877, 1878, and 1879. It was not until the year 1881 that the weakness in the mineral lease applications was discovered, and the discovery was made in consequence of the action of the Crown itself. What did the Crown do with regard to the exercise of power over land which had been applied for under mineral lease? It exercised the power of making a reserve on that land, and immediately people observed that the Crown had the power to do that, they at once said, "If the Crown has that power, we have the power to make conditional purchases." It was the late Minister for Lands, Mr. Hoskins, who opened the eyes of people to this weakness. It was the action of that honorable gentleman which opened the door to the inroad which we are asked to close by this short bill. The words of the Mining Act are clear enough. If there is any doubt in the matter, it is the absence of any restriction in the Lands Act upon the power of selection on this description of land which creates it. When we passed the Mining Act it was intended to protect those persons who made application for land under mineral lease, and who went into possession of it. It was intended that they should hold the land until their application had been decided. One of the conditions was that the applicant should go into possession within so many days after the date of application. It is clear, therefore,

that it was intended to protect the area until the application had been finally dealt with as much as if the application had been granted. That being our intention when we passed the Mining Act, why should we now hesitate to give legal and full effect to that intention? That is all that this bill does. I think the difficulties which have been prognosticated are practically imaginary ones, and honorable members ought not to hesitate to do that which it was always intended should be done in regard to mineral leases—to make the holding as good from the date of application until the application had been decided, as any other holding or occupation under our law. If there is any fear in the matter, it might be well to limit the operation of the bill to twelve months. If it proves a good measure, it can be easily renewed; and if its operation is found to be in any way injurious it can be allowed to lapse. I for one do not fear any injurious results; I think we are almost bound to pass this bill for the protection of the interests of those who have taken up land under the Mining Act. It is an act of justice to them. Although I do not like retrospective legislation, I should be quite prepared to vote for a clause to protect those who have already made applications, and, if it were possible, also to put those applicants who have been interfered with in the position which the law intended that they should occupy.

Mr. COPELAND: I think the present debate is a peculiar comment upon our system of leasing Crown lands for grazing purposes. It seems a singular thing that land should be so valuable for grazing purposes that people would pay 5s. an acre for its use for two years. If those persons want to make use of the system for the purpose of blocking free selection, it must be shown not only that they are prepared to pay 5s. per acre, but other expenses. There are the survey fees, for instance: on an area of 80 acres these fees would amount to £6, adding an expense of 1s. 6d. per acre.

Mr. LEVIN: At Urana 10,000 acres were taken up in one day.

Mr. COPELAND: Does the honorable member mean by mineral lease or by mineral conditional purchase.

Mr. LEVIN: By mineral conditional purchase.

Mr. COPELAND : Then the title of 9,360 acres is not worth one straw. The honorable member for Gunnedah alluded to some large selections which have been made, and I understood him to say that thirteen 640 acres were taken up on succeeding Thursdays. I have no hesitation in saying that twelve of those selections were illegal, because it is perfectly clear that a person cannot take up a second area of 640 acres until the conditions which attach to the first selection have been fulfilled. I do not anticipate any difficulty whatever in the direction pointed out by the honorable member for Gunnedah. I do not think the squatters will make use of this bill to block selection, and I think the Minister for Mines is acting wisely in accepting the suggestion which was thrown out a few nights ago, that a short bill should be introduced with reference to this particular matter. If a larger measure had been introduced, we should have had an interminable debate. I hope that this bill will be speedily passed through the whole of its stages, because it is very much required for the protection of those who are making a *bona fide* use of their applications to lease. There is one feature, however, which I think has been lost sight of both by the Minister and the judge who has recently investigated the disputes in regard to this matter—I desire particularly to impress the fact upon the attention of the Minister for Lands. I think the Minister for Lands and his officers are in duty bound to set their feet upon all persons who attempt to jump applications for mineral leases. Nothing is more contemptible than the conduct of men who prowl about mineral fields waiting for other people to take up and develop the land. When the value of the land has been ascertained they pounce down upon it as a harbour shark seizes a man who has fallen overboard. A case was heard at Armidale a few days ago in which, as far as I could gather from the *Evening News*, for the details were not given in the local papers, a person took up a mineral conditional purchase on a piece of land the lease of which had been applied for for tin-mining. Judge Windeyer said that the mineral conditional purchase held good, because, although the lease had been made out by the Government it had not been executed, and that an application to lease was of no

[Mr. Copeland.]

avail against a mineral conditional purchase. I submit that under the provisions of the 5th section of the act of 1875 a mineral conditional purchase was barred in this particular case by the improvements. I contend that the expenditure made on mining on a mineral lease is as clearly an improvement within the meaning of the act as an expenditure upon the grubbing out of trees or any work of that kind.

Mr. FERGUSSON : The court has held that mining improvements do not bar selection.

Mr. COPELAND : I never heard of such a decision. If I were Minister for Lands, I should have no hesitation in acting upon the provisions of the section to which I have referred, and in accepting the consequences of so acting. The section says—

No improvements on any Crown lands shall exempt such lands from conditional sale or pre-emptive lease unless such improvements shall be of the value of forty pounds but subject thereto improvements on such lands shall be deemed sufficient for such exemption if they shall be of the value (to be determined by appraisal if disputed) of twenty shillings per acre.

It is clear that mineral conditional purchases are entirely subject to the operation of the 13th section, and therefore whatever applies to an ordinary conditional purchase will apply with equal force to a mineral conditional purchase, with the two exceptions that no residence is necessary and that a certain amount of money must be expended on mining. The other conditions in the two cases are identical. If an expenditure of £1 per acre is sufficient to bar an ordinary conditional purchase, it is sufficient to bar a mineral conditional purchase. I trust that the Minister will take that view of the case, and will put his foot upon the wholesale plundering which I have described. I believe that in the case at Armidale the area was 20 acres, and that an expenditure of £40 in mining operations had been made.

Mr. FERGUSSON : There were no improvements until after the mineral conditional purchase was made.

Mr. COPELAND : That was not mentioned in the report. I believe the honorable member is professionally engaged in the case, and he will, therefore, be acquainted with the circumstances. Another case was brought under our notice by the honorable member for Braidwood. It was as clear in that case as in this that a

considerable amount of money had been expended. Of course, when no work has been done the land can be treated as the land in an ordinary application to lease, and for that reason I think the Minister has acted wisely in dealing with the matter; and the thanks of the mining community are due to him for his prompt action. I pointed out the difficulty some eighteen months ago, and if action had then been taken we should have been saved a great deal of trouble. I trust that honorable members will allow the bill to pass speedily through all its stages. I do not anticipate that the provision will be used to block selection. It was only recently discovered that an application for a mineral lease would not bar selection. Very little use has been made of applications to lease to block selections. It has been done in some cases; but it is easy for the Minister to put a stop to that kind of thing.

DR. RENWICK: Hear, hear!

MR. COPELAND: The act says that a certain amount per acre shall be expended on mining operations in three years; but it also gives to the Government the power to make regulations. Those regulations have been made, and they render it necessary that an applicant for a mineral lease should state how many men will be employed. It should be remembered, too, that the Minister is not compelled to grant leases. If he thinks that the labour to be employed is insufficient, he can refuse the application. If the lease is granted, it of course rests with the department to ascertain that the conditions in regard to labour are fulfilled. Surely honorable members do not think that grazing lands have become so valuable that the squatter will not only pay 5s. per acre rent, but will go to considerable additional expense in the shape of survey fees and labour in order to obtain them! I have on several occasions within the past few years introduced a series of resolutions which would have cured a great many defects in gold-mining and other mineral leases. One of my suggestions was that as soon as the department announced their intention to grant a lease the applicant should be compelled to employ a certain amount of labour. The Mining Department could say within three months whether they did or did not intend to grant the lease, and

within (say) fourteen days the applicant should be compelled to put on to the land the number of men required for the purpose of legitimate mining. If this were done, there would be no cause to apprehend that the squatter would utilise this provision to bar selection. It will be necessary, however, for the Minister to amend the existing regulations if they are to be effective, because they do not at present compel the employment of labour until the lease is granted. I admit that a great deal of shepherding has been carried on under the regulations; but that only shows that the regulations themselves are defective. Had the late Minister for Mines taken my advice he would have amended the regulations in the interests of the miners long ago. It would be a gross injustice if valuable mineral property worth hundreds of thousands of pounds, if we include the copper-mines and gold-mines in different parts of the country, should be liable to be jumped by some loafing scoundrel who probably is looking only for blood money. It would be a scandalous shame to allow such a contingency longer to exist, and if it be possible for squatters to take advantage of the provision of the bill in order to prevent selection, that possibility can be removed by the imposition of labour conditions in the manner I have pointed out.

MR. FARNELL: I think we ought to pass the bill as quickly as possible, even if we should suspend the standing orders for that purpose. I do not see any reason to apprehend that the bill will be taken advantage of by pastoral tenants as some honorable members seem to imagine. Past experience is our best guide in matters of this kind, and in my experience very few mineral leases have been taken up for such a purpose, and every one acquainted with the system of dummyism knows that it is cheaper to take up a mineral conditional purchase than to take up a lease. But supposing that there is such a danger as has been pointed out, as has been explained by my honorable friend the member for New England (Mr. Copeland), it could easily be prevented by regulations. It was no doubt intended that the right of an applicant for a lease should be protected until the lease was either granted or refused, in the same manner as a miner's right or a mineral license protects the holder, and the real state of the law has

only recently become widely known, that is to say, within the last eighteen or twenty months, although, four years ago, the Supreme Court decided that a mineral conditional purchase does override an application for a lease. It is not my intention to discuss the merits of the Mining Act or the Lands Act; I have made these few observations simply for the purpose of commending the bill to honorable members as a measure necessary to protect miners who have proved the value of land from being unjustly deprived of it.

Mr. BEYERS: The bill is no doubt necessary to prevent the abuse which has been pointed out; but instead of the subject being dealt with in this way I would prefer to see a comprehensive mining bill introduced. Such a measure has long been promised, and I am surprised, seeing the time the Government have had at their command, that it has not been submitted before now. In my opinion the Mining Department is overburdened with the business which has been cast upon it from the Lands Department. Its time and energies could be fully occupied in attending solely to matters properly relating to mining. Abuses of the same character as those which have been complained of in connection with mineral conditional purchases have taken place on the gold-fields. Gold-mining leases have been taken up from time to time under the gold-fields regulations, not for purposes of legitimate mining but as a speculation. Miners engaged in prospecting are shepherded by a party of five or six individuals, and as often as the lease of adjoining ground held in the name of one of them is cancelled for non-fulfilment of the labour conditions each of the others takes it up in succession until such time as work done in adjoining leases shows whether it is worth while to hold the land. These people neither work the land themselves nor allow others to do so. That is a state of things which should not be permitted to continue. Valuable land is lying unused at this moment in consequence of bad regulations. I hope honorable members will support the bill; but, at the same time, I trust the Minister for Mines will not lose sight of the necessity for introducing as early as possible a measure dealing in a comprehensive manner with the mining interest.

[Mr. Farnell.

Mr. W. R. CAMPBELL: I hope the House will not pass the bill without fully considering the probable effect of it. I am inclined to think the evils will more than counterbalance any good which may result from it. The honorable member for Gunnedah showed very clearly how the bill could be taken advantage of in order to bar settlement. Land now applied for under lease at 5s. an acre can be selected at once, but if the bill should pass such land would be barred from selection for a year or two at least. The honorable member for St. Leonards is mistaken when he says that it would be cheaper for a squatter to take up a mineral conditional purchase at 10s. an acre. It is cheaper now, but it will not be cheaper after this bill becomes law. There can be no question that the man who settles upon the land and improves it by cultivation or otherwise is of greater value to the state than the miner, and if of two evils we should choose the least I think the House ought to reject the bill unless the Minister for Mines promises to attach to it such conditions in regard to the employment of labour as will prevent improper advantage being taken of it to the detriment of the public interests.

Dr. RENWICK: That can be done by regulation.

Mr. W. R. CAMPBELL: But the regulations do not apply until the lease has been granted, and in the meantime the squatter has succeeded in blocking selection for a year or two. The Minister for Lands has admitted that mineral conditional purchases were being taken up every day in order to block selection, and he has boasted that he has on his own responsibility, and as I believe in defiance of every law—although of course the honorable gentleman's opinion ought to be better than mine—refused to grant a pre-emptive lease in such cases, thereby compelling them, as it were, to pay £3 an acre for the land instead of 20s. or 25s. I fail to see what good the bill can do. It is notorious that hard cases make bad laws, and we should probably not have heard of this bill but for the case which the honorable member for Braidwood brought under the notice of the House. That was an isolated case, apparently —

Dr. RENWICK: There are a number of cases of the same kind.

Mr. W. R. CAMPBELL: I am sorry to hear it; but if the bill should pass in its present form the effect will be that instead of a squatter paying 10s. an acre in order to bar selection he will be able to do it for 5s. an acre.

Mr. R. BARTON: On behalf of the mining community I trust the bill will pass, and that quickly. There can be no doubt that there are many cases in which the protection here given is needed, and I am surprised that the bugbear of what the squatter may do has been raised on this as on other occasions. I am especially surprised at the remarks of the honorable member who last spoke, who must be well aware that a squatter would never think of protecting his run at the rate of 5s. an acre. I do not know an acre of squatting land in the whole country I would protect at that price, and I have been engaged in squatting all my life. But if we could let our grazing lands at 5s. an acre, I say let us let them, because we cannot do better with them. I know a good deal about squatting, and I am sure that the bill could not operate to any great extent in antagonism to mining. I am very largely interested in mining, more so than any honorable member who has spoken on the side of the Opposition, and on behalf of the miners I hope the bill will pass, and that honorable members will not allow themselves to be influenced by the bugbear which has been raised with reference to the squatter.

Mr. STUART: I unhesitatingly repudiate the statement made by the last speaker that honorable members on this side of the House are continually raising bugbears with a view to obstruct the business before the House, and I am surprised that an honorable member who knows so much about squatting should utter such nonsense as that to which he has just treated us. The remarks of the honorable member for The Gwydir are worthy of the greatest consideration, although I do not agree with his conclusion as to our duty in regard to the bill. I consider that in the mining interest the bill ought to pass—that is, the principle of the bill; but I think, also, that we are indebted to the honorable member for The Gwydir and the honorable member for Gunnedah for pointing out the great danger that lurks in the bill in its present form. The

discussion has shown that there is a great difficulty underlying the subject, and I would recommend the Minister for Mines to so amend the bill as to overcome as far as possible the difficulty which has been pointed out. The honorable member who preceded me said it would not pay a squatter to bar selection at the rate of 5s. an acre; but in the first place it is not 5s. an acre; it has been clearly shown that it would not amount to more than 2s. 6d. an acre per annum, because the 5s. covers a period of twelve months after the issue of the lease, and I defy the honorable member to point to a case in which a lease has been granted within twelve months from the time of application. In some cases the lease has not been issued for three years, so that in such cases, adding the year after the issue of the lease, the cost would be only 1s. 3d. an acre. Moreover, the object of the squatter is not to take up his whole run in this manner; but to get rid of one or more obnoxious selectors, or to secure a large area by a considerable expenditure upon a small area. It has been stated that the danger pointed out is not likely to occur, because mineral leases hitherto have not been used in this way. That has been because mineral leases used in this way have not been of sufficient value; but after the bill passes they will become valuable. They have been of no value hitherto, because they have always been liable to be overridden; but under the bill the application for a lease will bar selection, and that is the danger that lurks in the bill. The conclusion I come to is not to oppose the bill, but to ask the Minister in charge of it so to amend it in Committee as to prevent the abuse which has been pointed out. A little time may be required to consider how that can best be done; but it is clear from the discussion which has taken place that the point ought not to be overlooked, and if we pass the bill without some amendment, we shall simply raise another barrier in the way of peaceful settlement.

Sir JOHN ROBERTSON: I think that even if the bill would, as the honorable member says it will—and I entirely disagree with him,—put a barrier in the way of the free selector, still it would be right to protect the man who takes up land for the purpose of mining. I submit, with all respect to the honorable member's better

judgment, that the bill will not do anything of the kind which he supposes. How long does the bill propose to protect the person who pays down 5s. per acre? Until the Government decides. How long will that take? A minister who has his eyes open to the swindling dummifying proclivities of certain gentlemen will not take very long to decide the question. The honorable member for The Gwydir who has been complimented so highly by the honorable member for Illawarra on his knowledge of these matters has certainly not exhibited it in his speech. He had the hardihood to allege just now that I acted contrary to the law in refusing pre-emptive leases to mineral conditional purchasers. The law is as clear as a pike-staff that no man can have a pre-emptive lease without its issue being sanctioned by the Minister. Since I have been in office I have not granted a single pre-emptive lease to mineral conditional purchasers. I am aware that such leases were granted in a few instances before I took office. I have not only carried out the provisions of the law, but also the spirit of it, as it was never contemplated that people who took up land under mineral conditional purchase should have the right to a pre-emptive lease of three times the area. If land were taken up for *bond fide* mining purposes, and the purchasers were really mining on it, I should make no difficulty about allowing a pre-emptive right for the use of horses and stock which might be employed on the mine; but where it is unquestionable that the land is taken up with a view to defeat the law I have shown that the people who do this have burnt their fingers. How have they done this?

Mr. W. R. CAMPBELL: By ruining the selectors.

Sir JOHN ROBERTSON: The honorable member knows no more about it than a young baby; he has not the slightest conception of what he is talking about, or else he is trying to bamboozle the House. If the honorable member has taken up 640 acres on his run under mineral conditional purchase with the object of defeating the intention of the law, he has thrown open 1,960 acres of his run which can be used by any person travelling with stock in spite of anything that he can do.

Mr. WISDOM: Has the honorable member for The Gwydir done it?

[Sir John Robertson.

Sir JOHN ROBERTSON: The honorable member seems to be very angry with me because I will not allow this kind of thing; I do not know the reason of his anger; but I cannot help supposing that he has been dabbling somewhat in these mineral conditional purchases and has found that they do not pay.

Mr. W. R. CAMPBELL: I have never taken up a mineral conditional purchase or resorted to dummifying.

Sir JOHN ROBERTSON: I did not say that the honorable member had. The honorable member knows that it is not the practice of squatters to take up land in this way in their own names.

Mr. W. R. CAMPBELL: Neither directly nor indirectly have I done so.

Sir JOHN ROBERTSON: The honorable member is so angry that it is almost impossible to conceive that he has not fallen into the trap. As I have said, these gentlemen who take up mineral conditional purchases good-naturedly throw open three times the area of the purchase for the benefit of the owners of travelling stock.

Question put, whereupon the House divided with the following result:—

Ayes	48	} Majority, 44.
Noes	4	

AYES.

Mr. Andrews,	Mr. Holborow,
Mr. R. Barton,	Mr. Jacob,
Mr. Beyers,	Mr. Kerr,
Mr. Bodel,	Mr. Kidd,
Mr. J. Brown,	Mr. Lackey,
Mr. Burdekin,	Mr. Levin,
Mr. Burns,	Mr. G. A. Lloyd,
Mr. Cameron,	Sir Henry Parkes,
Mr. G. Campbell,	Mr. Proctor,
Mr. Carter,	Mr. Purves,
Mr. William Clarke,	Mr. Quin,
Mr. Copeland,	Dr. Renwick,
Mr. Cramsie,	Sir John Robertson,
Mr. H. C. Dangar,	Mr. Stuart,
Mr. Davies,	Mr. Suttor,
Mr. Douglas,	Mr. Tarrant,
Mr. Farnell,	Mr. Trickett,
Mr. Fawcett,	Mr. Wilkinson,
Mr. Fergusson,	Mr. Wilson,
Mr. W. J. Foster,	Mr. Wisdom,
Mr. Fraser,	Mr. Wright.
Mr. Fremlin,	
Mr. Garvan,	<i>Tellers,</i>
Mr. Hay,	Mr. Murray,
Mr. Hezlet,	Mr. Reid.

NOES.

	<i>Tellers,</i>
Mr. Day,	Mr. J. P. Abbott,
Mr. McElhone.	Mr. W. R. Campbell.

Question so resolved in the affirmative.

Bill read the second time.

In Committee,—

Clause 1. To obtain a lease for mining purposes of any kind provided for in the act thirty-seven Victoria number thirteen possession of the land shall be taken and application to lease made in the manner form and period prescribed by the regulations made under the said act Every portion of land open to lease of which possession shall have been taken as aforesaid shall be deemed to be held under promise of lease and to be exempt from sale unless or until default has occurred in making the prescribed application to lease or until the application has been abandoned or the Governor has refused the application and notice of such abandonment or refusal has been published in the *Gazette*.

Mr. J. P. ABBOTT suggested that the operation of the bill should be limited to a certain period—say six or twelve months—as in the meantime the whole question ought to be settled.

Dr. RENWICK: When I introduced the bill I explained that the object of it was to meet a pressing difficulty. The bill to amend and consolidate the mining laws will meet this and other difficulties which have arisen under the existing law. I think that it is undesirable to fix a specific time for the operation of the bill; but if it be fixed it must be longer than has been suggested by the honorable member. It would be unfortunate if the law became a nullity owing to its expiring, and if we limit its operation to a short period this may be possible. I do not say that it is probable. I know that the honorable member for Gunnedah is anxious that the Land Bill should be passed at once, and I am sure that he will give every assistance towards passing the Mining Bill, but other members may not be so reasonable. To prevent the possibility of any difficulty arising from the expiry of the law without other provision being made, I think that if the operation of the bill is to be limited to a certain time, it ought to be two years.

Mr. COPELAND objected to any limit of time being fixed. The bill was good in itself. If the Secretary for Mines acted on his advice in regard to the regulations, he was sure that no difficulties would arise under the bill. If the law expired without other provision being made, valuable mines would be “jumped” in all directions, and great evils would ensue.

Mr. FERGUSON said that the Minister could grant or refuse any application for a mineral lease; therefore, there

ought not to be any chance of people securing land in which there were not any minerals. When the lease was granted the labour covenants would have to be complied with, and he had known many cases in which leases had been forfeited for non-compliance with the labour conditions. There need not be any fear of the bill leading to any abuse.

Mr. PROCTOR thought that the difficulty suggested by the honorable member for Gunnedah might be met by adding this proviso to the clause—

Provided that such land shall be proved to contain minerals of commercial value at the time of such application or taking possession or within one month thereof.

Mr. STUART would like the honorable member to explain how it was to be proved that the land contained minerals.

Mr. PROCTOR: It will be discovered.

Mr. STUART: How are you going to discover it?

Mr. PROCTOR: By working.

Mr. STUART said that the honorable member seemed to misapprehend the object of the bill. No man would be foolish enough to spend money on a mine until he was sure that the lease would be granted. The object of the bill was to protect him, pending a decision respecting his application. How was it to be determined whether the land contained minerals?

Mr. WRIGHT: By the use of the divining-rod.

Mr. PROCTOR: A man does not wish to take up land unless he knows that it contains minerals.

Mr. STUART said that the honorable member must know that if a man discovered a rich mineral lode other men would take up land all round in the hope of discovering other lodes. The amendment would make the bill inoperative. There was very great danger of the bill being used as other measures had been, not merely for the protection of the *bond fide* selector, but for other purposes. If the Minister for Mines could not find a way to express that which he had suggested, it would, perhaps, be well to limit the duration of the bill to one year, during which period it would be seen how it would work.

Mr. J. P. ABBOTT thought that the proposal of the honorable member for New England (Mr. Proctor) was an absurd one. If the applicant was to actually obtain minerals before he applied for his license, he could only do that by working the land; and if he discovered any minerals, what protection would he have? Every one would know that he was working without a title, and the fact that he believed minerals to exist would be a sufficient inducement to other people to endeavour to obtain possession of the land. He would like to see something done to take away the possibility of any abuses arising under the bill. The Minister for Mines had said that he would limit its duration until the passing of a new mining bill, and now he suggested that it should be limited to a period of two years; but surely he did not suppose that it would take two years to pass a mining bill! Such a measure was most urgently called for by the circumstances of the country. The honorable member did not surely imagine that he was going to remain in office for ever! In two years he might not be in office. He gave the Minister credit for having brought in the bill for a good purpose, and his only objection to it was that it would lead to serious abuses. Its duration ought to be limited to a period of twelve months.

Dr. RENWICK: When the suggestion that I should limit the period of the duration of the bill was first made I was inclined to adopt that course, because I hoped to be able with the valuable assistance of the honorable member for Gunnedah and others, to pass a mining bill without much difficulty. I see, however, that the difficulties with regard to some of the clauses of a measure of that kind will be as great as the difficulty of dealing with this bill. I think, therefore, that it will be better not to limit the duration of this measure. I can give honorable members every assurance that a mining bill will be introduced. I am pledged to introduce one.

Mr. J. P. ABBOTT: But ministerial pledges are nothing.

Dr. RENWICK: I always endeavour to keep my word honestly. It has been pointed out, particularly by the honorable member for New England (Mr. Copeland), that the labour clauses can be made so

stringent as to prevent any of the evils arising which have been referred to by the honorable member for The Upper Hunter. It is altogether a matter of departmental action.

Mr. McELHONE said that every one would give the Minister credit for the very best intentions. The honorable and learned gentleman had said that the labour clauses could be made so stringent as to prevent the abuses from occurring to which he had referred; but the Minister might do anything he liked, and he could not prevent those abuses. Take the case of the selectors on White's Bando Run and others of a similar description: the land might be taken up by Crown lessees, but who was going to report to the Minister as to whether the labour conditions were being carried out?

Dr. RENWICK: The inspectors.

Mr. McELHONE said that the inspectors would not be able to find out where the land was. The Minister had gone through New England, a district which was well known, but let him go into the back country, and he would soon see that in such extensive areas of country it would be almost impossible for the inspectors to find out what was going on. He was surprised that the honorable member for New England (Mr. Copeland), who was supposed to be a friend of the selectors, should be found supporting a bill like this, which would simply enable the Crown lessees to torture the selectors until they got rid of them altogether. The very fact that the honorable member for Camden (Mr. Garrett) supported the bill was enough to condemn it. Some years ago that honorable member bought up a number of mineral permits for a mere song and sold them at a profit to the Crown lessees, thus enabling the Crown lessees to persecute the selectors. Large areas of country were taken up by means of those mineral permits. If the Minister or the honorable member for Glen Innes would go to the back country and try to ascertain what those mineral leaseholders were doing, he would soon find himself lost. Every squatter in the House was to be found voting for the bill, and he considered that he was only doing his duty in warning the Minister that the measure would hinder the working of the present land law as well as the new measure which the Minister for

Lands had introduced. If the Land Bill suited the pockets of the squatters, they would all be found voting for it; but if it did not suit their pockets they would all vote against it.

Mr. COPELAND thought that the honorable member for The Upper Hunter took a very extreme view in reference to the bill. He wished to point out that under the present law the land taken up for mineral conditional purchase need not be surveyed for two or three years, and that it might be blocked against any purchase until after the expiry of a period of three years. The bill would have the effect of preventing that sort of thing. It would be necessary for a surveyor to proceed to make a survey as soon as the leases were applied for. The applications would be sent to the warden of the district or to the land agent, and after the expiry of twenty-one days the warden or land agent must forward the applications to the Minister. If there were no minerals, the warden or land agent would have to report to that effect, and the survey had to be sent in with the report. If a surveyor sent in a report without stating that the leases were required to block selection; if such was the case, he would not be doing his duty, and would deserve to be dismissed. There would really be no danger of land being taken up for dummying purposes under the bill, and there was not the slightest reason to anticipate the evils predicted by the honorable member for The Upper Hunter.

Mr. GARVAN had no doubt that there was a possibility of some danger resulting from the passing of either this bill or any other; but he thought that a measure of good would result from it to a large section of the community. He had obtained from a bitter experience some knowledge of the difficulties under which miners laboured; and he felt a keen sympathy with that struggling body; he felt that if he could assist them by helping to pass a measure like this he would be rendering good service to the country. Active and vigilant intelligence on the part of the Minister for Mines would prevent most of the evils which had been anticipated by the honorable member for The Upper Hunter. A case had been referred to by the honorable member for Braidwood in which eleven miners were to have been

robbed through the shortcomings of the law, after they had been labouring for two years. He would consider himself fully justified in supporting a measure of this sort if it would prevent that sort of thing from occurring in the future.

Mr. W. R. CAMPBELL wished to ask the Minister whether he could not insert a labour clause which would meet the difficulties referred to by some honorable members.

Dr. RENWICK: The labour conditions have reference to the number of men to be employed on the land, and those conditions entail a large expense which falls upon the lessee. In addition to this, we have the warden's report, and we possess a geological chart of the whole country which shows that parts contains minerals and which do not. The fact that a Crown lessee was applying for leases in order to prevent selection would be discovered either by the inspector or some other person. There really is no difficulty in the matter, and I cannot see the danger apprehended. We are continually forfeiting leases because of the non-fulfilment of the labour conditions. The reports do not always come from the officers of the department; they are often received from residents in the neighbourhood, who report for purposes of their own. I have no personal interest in the matter, and I have had the very best legal advice as to the way in which the bill should be framed.

Mr. MURRAY thought that no one would accuse him of unduly favouring either the mineral selectors or the squatters. For eight years he was employed as a licensed surveyor in a district in which pastoral and agricultural pursuits were extensively followed, and he did not remember a case of a mineral lease having been used in that district to block selection. A number of permits were at one time bought up at low rates, and he thought that he once measured some mineral leases for the purpose of possession being obtained of the land for one year. This was the only case in which he remembered having measured mineral leases to bar selection. It would be impossible to tell whether land contained minerals at the time when it was taken up or to do it within three months. He had just received information of tin having been found in a mine after eight months' sinking through

hard rock. If, therefore, there was such a condition as that suggested by the honorable member for New England (Mr. Proctor) inserted in the bill, the miners would have to cease operations altogether. He supported the bill in the interests of miners, although it would have no effect upon the district which he represented, because the mineral land in that district was covered by an immense mining reserve.

Mr. BEYERS said the honorable member for THE UPPER HUNTER (Mr. McElhone) was mistaken in thinking that the bill would give the squatters another opportunity to bar selection. If he thought that that would be the effect of the bill, he would be the last man to support it.

Mr. McELHONE said honorable members were under the impression that the labour conditions would prevent the Crown lessees from securing land by means of this bill; but we knew very well that in working mineral leases they were not bound to spend money in any particular way. They could sink holes, for instance, in the same way as many squatters in the Hay district had sunk useless tanks. They could tip some scoundrel in the employ of the Government to overvalue these holes in the same manner as officials had been induced to overvalue the useless tanks on the banks of the Murrumbidgee and Murray, and in that way the land would be secured to the Crown lessee, who would resort to anything short of murder in order to acquire additional property. The more *bond fide* a selector might be the less chance he would have.

Amendment (by Mr. J. P. ABBOTT) proposed,—

That the following words be added to the clause:—"Provided that this bill shall be in force for a period of twelve months from the passing thereof."

Mr. COPELAND hoped the amendment would not be pressed, because it might so happen that Parliament would be in recess, or would be engaged upon other important business when the act expired. The bill could not be said to contain a new principle, because that principle had actually been in operation since 1874.

Question—That the words proposed to be added be so added—put, whereupon the Committee divided with the following result:—

Ayes	5	} Majority, 22.
Noes	27	

Mr. Murray.

AYES.

Tellers,

Mr. J. P. Abbott,
Mr. W. R. Campbell.

NOES.

Mr. Andrews,
Mr. Beyers,
Mr. J. Brown,
Mr. Brunker,
Mr. G. Campbell,
Mr. Carter,
Mr. Copeland,
Mr. Cramsie,
Mr. H. C. Dangar,
Mr. Fawcett,
Mr. W. J. Foster,
Mr. Fraser,
Mr. Henson,
Mr. Hezlet,

Mr. Holborow,
Mr. Jacob,
Mr. Kidd,
Mr. Murray,
Sir Henry Parkes,
Dr. Renwick,
Sir John Robertson,
Mr. Suttor,
Mr. Wilson,
Mr. Wisdom,
Mr. Withers.
Tellers,
Mr. Burdekin,
Mr. Fergusson.

Question so resolved in the negative.

Clause agreed to.

Bill reported without amendment; report adopted.

House adjourned at 3 minutes after
11 o'clock p.m.

Legislative Assembly.

Friday, 20 October, 1882.

Salaries of Judges of the Supreme Court—Forest Lodge (near Tarlo) Estate Bill—Dubbo Gas Company's Incorporation Bill—Rotton's Estate Bill—Albury Gas Company's Bill—Licensing Districts of Forbes, Parkes, and Condobolin—Mining Act further Amendment Bill—Contagious Diseases Prevention Bill—Violation of Children Bill—Agricultural Societies.

Mr. SPEAKER took the chair.

SALARIES OF JUDGES OF THE SUPREME COURT.

Mr. JACOB (for Mr. McCULLOCH) asked the COLONIAL SECRETARY,—Do the Government intend to take the necessary steps during the present session to provide for increasing the salaries of their honors the judges of the Supreme Court?

Sir HENRY PARKES answered,—A bill will be introduced during the present session to fix the salaries of judges of the Supreme Court.

FOREST LODGE (NEAR TARLO) ESTATE BILL.

Report of select committee on this bill presented by Mr. TEECE.

DUBBO GAS COMPANY'S INCORPORATION BILL.

Bill referred to select committee (on motion by Mr. JACOB, for Mr. CASS).