**FENCES BILL 1891**

**Legislative Council, 29 October 1891, pages1785-6**

Second reading.

**COMMISSIONER of CROWN LANDS (Hon. W. Copley)** said the Bill was introduced to supply a long-felt want. In the Act a fence was defined as one capable of resisting great cattle. A good deal of sheep and, in some cases vermin-proof fencing was now necessary. It was also the law that no one who made a sheep-proof fence could claim a contribution from his neighbour except all his land was sheep fenced. The same applied to vermin-proof fencing. The interpretation of the word ävail” being very confusing, had been altered. Clause 7 of the principal Act, which was difficult to understand, needed amendment, because there was no occupier of the land. The Bill would be found much more workable. Fence or dividing fence “shall mean a fence separating the lands of different occupiers which— (a) is ordinarily capable of resisting the trespass of great cattle; (b) shall have been or shall be added to under section 5 hereof capable of resisting the trespass of sheep; and *(c)* shall have been made rabbit or vermin proof under section 6 hereof.” “ Avail” is interpreted to mean, “ Any occupier shall be deemed to have availed himself of a fence within the meaning of this Act who shall use or occupy land which abuts on such fence.”

If A had land fenced and B was using adjoining land he would be liable for half the cost of the fence, whether his own land was exposed or not. The question of giving notice was to be done in a different way. Under clause 8—“ Any person desiring to compel any adjoining occupier to join in or contribute to the construction of a dividing fence may, in manner provided in section 18 hereof, serve on such adjoining occupier a notice to fence, which shall specify the boundary to be fenced, and contain a proposal for fencing the same, and shall specify the kind of fence proposed to be constructed.” The word “occupier” was defined as follows:—“Occupier shall include any person who is in the actual occupation of or entitled as owner to occupy any land alienated from the Crown by grant, agreement, lease, or licence; but shall not mean or include any person in the occupation of or entitled to occupy land held under the Crown by yearly licence under any Act relating to the sale and occupation of Crown lands heretofore or hereafter to be in force.” Several hon. members had an intimate acquaintance with the difficulties of the present system, and they would be able to assist with advice in passing the measure. It was not only an amending, but a consolidating Bill.

The Hon. J. WARREN did not think that the Bill was very perfect. The present Bill had answered exceedingly well. It might be very tyrannical to make people pay for a fence they could not use. The Bill would apply to pastoral tenants of the Crown. The whole of the North was overrun with wild dogs, and a sheepowner might find it advantageous to vermin-proof fence; but what possible good would that be to an adjoining cattle station ? Perhaps the tenure would in other circumstances be too short to justify a contribution to an expensive fence, and perhaps the Government might refuse to pay for it at the end of the term.

The Hon. F. KRICHAUFF said a similar Act to the Bill had been passed in Victoria, and there was not the same necessity to protect from wild dogs except upon the borders. The Bill might be quite suitable for agriculturists and unsuitable for pastoralists.

The Hon. G. W. COTTON supported; the Bill, he said, was one of those measures by which the man who had no cattle was taxed for the benefit of the man who had. The property of him who had cereals or cabbages did not stray abroad to the disadvantage of his neighbour, but with his neighbour’s cow's or other live stock it was quite the reverse, for he often found that his crop had been greatly damaged, if not entirely destroyed, by the incursions of outside stock. This hardship had been so severely felt for years in the agricultural districts in the United States that in some of the States there was a law well known as the “ herd law,” which enacted that the owners of animals should themselves prevent their property from injuring the crops of others either by being kept in stalls or by fencing them in at their own expense. This Bill made it still harder for the poor man, who could not afford at the moment to fence his land, by forcing him to pay one-half the cost of his neighbour’s fence, although he was unable to make any present use of it. Presumably if owners of land fenced next unenclosed Crown lands they would be able to obtain one-half the cost from the Crown. The Bill required careful attention in Committee.

On the motion of the Hon. J. L. STIRLING the debate was adjourned till November 4.