Queensland

Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 15 SEPTEMBER 1887

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LEGISLATIVE COUNCIL.

Thursday, 15 *September*, 1887.

Message from the Governor—Assent to Bill.—Valuation Bill—committee.—Real Property (Local Registries) Bill.—Adjournment.

The PRESIDENT took the chair at 4 o'clock.

MESSAGE FROM THE GOVERNOR.

ASSENT TO BILL.

The PRESIDENT announced that he had received a message from His Excellency the Governor, assenting in the name of Her Majesty to a Bill to make provision for the registration of copyright in books and dramatic pieces published in Queensland.

VALUATION BILL.

COMMITTEE.

On the Order of the Day being read, the House went into Committee of the Whole to further consider this Bill in detail.

Question—That clause 2, as read, stand part of the Bill—put and passed.

Clauses 3 and 4 passed as printed.

On clause 5, as follows:—

"All land is rateable for the purposes of this Act, with the following exceptions only, that is to say:—

(1) Crown land which is unoccupied or is used for public purposes;

(2) Land in the occupation of the Crown, or of any person or corporation, which is used for public purposes;

(3) Land vested in, or in the occupation of, or held in trust for, the local authority;

(4) Commons;

(5) Land used exclusively for public worship or for public worship and educational purposes, or for mechanics' institutes, schools of arts, public schools, libraries, or cemeteries; and

(6) Land used exclusively for hospitals, lunatic asylums, benevolent asylums, or orphanages."

The HON. J. C. HEUSSLER said he would like to know from the Postmaster-General why subsections 5 and 6 were not included in one subsection, and whether land held by the Acclimatisation Society and the National Agricultural and Industrial Association would come under subsection 5. He thought that that and the following subsection should be in one paragraph, and not divided as they were in the clause.

The POSTMASTER-GENERAL (Hon. W. Horatio Wilson) said that if the hon. gentleman would look at subsections 1 and 2 he would see that among the exceptions to rating were "Crown land which is unoccupied or is used for public purposes," and "Land in the occupation of the Crown or of any person or corporation of which is used for public purposes." He might also mention that the clause was taken exactly as it stood, with the exception of the word "mines," from the Divisional Boards Act of 1879.

The HON. W. D. BOX asked what was the definition of the word "Commons" in subsection 4?

The POSTMASTER-GENERAL said that commons were those reserves set apart as commons under the Divisional Boards Act and the Local Government Act.

The HON. A. HERON WILSON said he was not quite clear as to the operation of subsection 2, which exempted "Land in the occupation of the Crown or of any person or corporation." It seemed to him a great hardship that corporations should not get rates from their own land. For instance, in Maryborough the corporation had wharves, and right alongside of them were wharves owned by private individuals. Suppose those wharves were leased for a term of years, then under that subsection the parties who leased the private wharves would pay rates, while the tenants of the corporation would not. He regarded that as a great hardship, and would like to hear the opinion of the Postmaster-General on the subject. He supposed the object was to save the endowment.

The POSTMASTER-GENERAL said the effect of the provision would simply be that, in future, corporations in making bargains with their tenants would have to make allowance for the rates; in fact, add the rates to the rent.

The HON. A. HERON WILSON: Yes; that is right enough for the future, but suppose there is a lease existing at the present time which has seven or ten years to run?

The POSTMASTER-GENERAL: The lease will, of course, speak for itself.

The HON. A. HERON WILSON said if anything could be done to prevent the injustice that would result from this provision he should be glad.

The HON. T. MACDONALD-PATERSON said the Hon. A. Heron Wilson was speaking as if the clause proposed an alteration of the law, whereas it was the law as it at present stood. The hon. gentleman gave as an illustration the case of a lease having seven or ten years to run; but he (Mr. Macdonald-Paterson) thought no harm would occur to either of the contracting parties, because the lease was made before that Bill was introduced, and under an Act containing a similar provision. The Bill did not disturb existing interests. Those reservations or exemptions had always been maintained in the past history of local government in this colony, ever since it was separated from New South Wales, and he did not think they had the effect of benefiting or harming any private individual. If an intending lessee of a wharf bore in mind, as lessees usually did, that he would be mulcted in rates, he would deduct so much from his intended rental, if he was leasing from a private person; while, on the other hand, if he was leasing from a corporation, and came under the exemption, he would give a little more. So that the provision would do no harm whatever either to private individuals or corporations.

The HON. A. HERON WILSON: That is right enough for the future, but I referred to the present time.

The HON. A. C. GREGORY: That is the present law.

Clause put and passed.

Clause 6—"Valuation of rateable land"—passed as printed.

On clause 7, as follows:—

"In the valuation of land the annual rateable value shall be computed as follows:—

"I. With respect to town land and suburban land—

"The annual value of the land shall be deemed to be a sum equal to two-thirds of the rent at which the same might reasonably be expected to let from year to year, on the assumption (if necessary to be made in any case) that such letting is allowed by law, and on the basis that all rates and taxes, except consumers' rates for water, gas, or other things actually supplied to the occupier, are payable by the owner.

"Provided as follows:—

(1) The annual value of rateable land which is improved or occupied shall be taken to be not less than five pounds per centum upon the fair capital value of the fee-simple thereof.

But this proviso does not apply to any land which, is fully improved—that is to say, upon which such improvements have been made as may reasonably be expected, having regard to the situation of the land and the nature of the improvements upon other land in the same neighbourhood.

(2) The annual value of rateable land which is unimproved and unoccupied shall be taken to be not less than eight nor more than ten pounds per centum upon the fair capital value of the fee-simple thereof.

"II. With respect to country land—

"The capital value of the land shall be estimated at the fair average value of unimproved land of the same quality in the same neighbourhood, and the annual value shall be taken to be not less than five nor more than eight pounds per centum upon the capital value.

"Provided as follows:—

(3) The annual value of rateable land held under lease or license from the Crown for pastoral purposes only, or as a grazing farm under the Crown Lands Act of 1884, shall be taken to be equal to the annual rent payable under the lease or license.

"III. With respect to mines—

"In estimating the annual or capital value of mines the surface of the land and the buildings erected thereon shall alone be taken into consideration, and all minerals and other things beneath the surface of the land, and all machinery necessarily used for the purpose of working the mine, shall not be reckoned.

"IV. No rateable land shall be valued at an annual value of less than two pounds ten shillings.

"V. All land which is town land or suburban land within the meaning of the Crown Lands Act of 1884 shall be town land or suburban land for the purposes of this section, and all other land shall be deemed to be country land.

"Provided that the Governor in Council, on the recommendation of the local authority, may by proclamation declare any suburban land to be country land, or any country land in the vicinity of a town to be suburban land. And such land shall thereupon be deemed, for the purposes of this Act, to be country land or suburban land as the case may be."

The HON. W. D. BOX said he wished to elicit an expression of opinion from the Committee with regard to subsection 2, the first part of the clause of which said—

"The annual value of rateable land which is unimproved and unoccupied shall be taken to be not less than eight nor more than ten pounds per centum upon the fair capital value of the fee-simple thereof."

That referred to town and suburban lands, and he thought the 8 per cent. minimum was very excessive and severe. He would like to see 6 per cent. as the minimum, and the maximum not more than 8 per cent.

The POSTMASTER-GENERAL said that subsection 2 was precisely the same as was contained in the Bill of last session, which passed that Committee. He would also point out to the hon. gentleman that the Committee could scarcely interfere with a clause of that kind.

The HON. J. TAYLOR said he would like to hear from the Postmaster-General what he called "improvements." Supposing he had a paddock of 500 acres, and it was enclosed with a good fence—was that an improvement?

The POSTMASTER-GENERAL: Does the hon. gentleman refer to the subsection alluded to by the Hon. Mr. Box? Of course there is nothing there about town land.

The HON. J. TAYLOR said the land he referred to was town and suburban land. He had several paddocks fenced in with an expensive fence, and he wished to know whether those paddock would come under that clause

The POSTMASTER-GENERAL said he did not think they would come under subsection 2, but under subsection 1, which dealt with partly improved property. If land was fenced it was partly improved.

The HON. A. C. GREGORY said he would call attention to the last paragraph of subsection 5, which read as follows:—

"Provided that the Governor in Council, on the recommendation of the local authority, may by proclamation declare any suburban land to be country land, or any country land in the vicinity of a town to be suburban land. And such land shall thereupon be deemed, for the purposes of this Act, to be country land or suburban land, as the case may be."

A difficulty that he saw would arise was that the Governor in Council could only exercise the powers conferred by that clause on the recommendation of the local authorities. It was true that, under the Crown Lands Act, it was possible to evade that condition; but that would be a very clumsy way of getting over the difficulty. He thought it was better that the words "on the recommendation of the local authorities" should be removed, so that it would be entirely in the hands of the Governor in Council to give effect to the provision when they thought fit. Of course, it would still be in the power of the Governor in Council to listen to the advice or act on the recommendation of the local authority, but there might be—and most likely would be—cases in which the local authority might have an interest in one way, while the interests of the public were in another direction. He thought that it would be far better to give the Governor in Council power to act without the necessity of a preliminary recommendation from the local authority, and he would move that the words "on the recommendation of the local authority" be omitted. If that amendment were adopted it would make that part of the Bill more workable, and would in no way alter the principle upon which it had been framed.

The POSTMASTER-GENERAL said, as the Hon. Mr. Gregory had stated, the amendment did not strike at the principle of the Bill, but he would like to hear the matter discussed. It might be a convenience that the local authority should have power to recommend to the Governor in Council that country land should be proclaimed suburban land, or *vice versâ*. The local authority was, in fact, the vehicle between the ratepayers and the Governor in Council. He had not the slightest objection to the omission of the words, but he would like to hear the opinions of hon. members, because whatever might be the wish of the Committee in respect to that matter he would accept.

The HON. T. MACDONALD-PATERSON said he was strongly in favour of the retention of the words proposed to be omitted, and the grounds upon which his opinion was based would be very shortly stated. The very essence of local self-government was to put as much responsibility as possible upon local authorities, and he did not think the words proposed to be omitted burdened the clause in any way, but, on the contrary, thought they ought to be retained for many reasons. Who were better qualified to give an opinion upon the question as to whether country land should be proclaimed suburban land, or whether suburban land should be proclaimed country land, than the local authorities? If they gave a wrong opinion they would be answerable to the ratepayers who appointed them, and he did not think the Governor in Council should be dragged into matters of localism at all. The proceedings of the local authorities were generally made public, and were usually well known in the communities where they acted, and if their recommendation was not approved of, those who were opposed to it could petition the Governor in Council not to act on the recommendation. The provision was in perfect harmony with the other machinery for local government, and from his experience of local governing bodies for many years he could strongly recommend the adoption of the clause as it stood in the Bill. He did not think they should remove the responsibility from those having local jurisdiction. The policy of the Government measures was to put as much responsibility on the local authorities as was consistent with the advancement and progress of the colony, and as they were able to bear, and also to relieve the central authority from responsibility in matters which were of a purely local character. He earnestly hoped that the words "on the recommendation of the local authority" would be allowed to remain in the Bill.

The HON. A. C. GREGORY said he was afraid the hon. gentleman did not quite see the effect of the clause, or that he had not fairly considered the matter. The Bill introduced a totally new principle of valuation, adopting the distinctions of town, country, and suburban lands. Hitherto town and suburban lands had been defined for a totally different purpose, having nothing whatever to do with local authorities. In adopting the distinction between town, suburban, and country lands many incongruities might arise. There were many cases in which a little corner of a division might be country land under the existing laws, and the ratepayers might consider it very desirable that that particular portion should be brought under the same regulations as the rest of the municipality or division. He did not propose by his amendment to remove from the local authorities the power to petition the Governor in Council to include lands, which were now denominated country lands, in town and suburban lands; but he thought that the ratepayers and anyone else who was competent to express an opinion on the matter should also have the power to move the Governor in Council. The amendment would not in any way interfere with the local authorities, but would simply give the same right to other persons as was conferred upon them by that clause. As it at present stood, the Governor in Council could not take action except on the recommendation of the local authority, and that was highly objectionable. The difficulty could be met by inserting after the words "on the recommendation of the local authority," the words "or otherwise"; but the shortest and most direct way of attaining their object was to leave out the words proposed to be omitted. He would also point out that the Governor in Council could proclaim country land as suburban land in another way, even if the clause were passed in its present form; but it was a very clumsy and awkward method, and one not at all desirable to be employed. It would be quite sufficient for them to find a piece of land within two miles of a town, and put it up to auction, and it would immediately become suburban land. It must be apparent to all hon. gentlemen that such a mode of arriving at a desirable conclusion was highly objectionable, and when they came to look at what the effect of the clause as it stood would be, they would see that the amendment he had suggested would in no way throw any obstacle in the way of anyone doing what he thought was necessary for the benefit of the public, and it afforded an opportunity of doing things in a straightforward and consistent way.

The HON. T. MACDONALD-PATERSON said he would ask if hon. gentlemen thought it highly objectionable that the local authority should recommend the Governor in Council to declare that suburban land should be altered to

country land, or *vice versâ?* It would be undesirable to omit the words proposed to be omitted, and take away the responsibility from the shoulders of the local authority, and give, as the Hon. Mr. Gregory said, anyone a right to make a representation to the Governor in Council, as it would become a source of persecution within those local areas. They knew there was a considerable amount of jealousy and ill-feeling in regard to those parochial matters, and that ill-feeling sometimes ran very high, and it ought not to be in the power of anyone to make a representation to the Governor in Council without the local authority knowing anything about it. If the words were omitted it would be an attack upon the local government tree that they were endeavouring to nourish and bring into a strong well-grown tree. It was part of the decentralisation scheme that had been advocated for many years, and they had better leave the clause as it was.

The HON. A. C. GREGORY said the speech of the hon. gentleman was a strong argument in favour of the amendment. The hon. gentleman knew what was the result of those little bickerings amongst local authorities, and how necessary it was for them to provide for interference on the part of the Governor in Council. They had only to look in places round about Brisbane, which they knew personally, to see how necessary it was for the Governor in Council to be able to take action in regard to the jurisdiction of local authorities and the limits of that jurisdiction. The ratepayers had in some cases become so dissatisfied with the proceedings of the local authorities that they had had to appeal, in accordance with the law, to that effect. The amendment was not really such a very important one, because the Governor in Council could interfere in another way; but if it were lost it would leave a very undesirable provision on the Statute-book. It was not worth while taking up any more time if they preferred to retain the words. The Governor in Council would have to go round a corner instead of by a straight line, and exercise his power in another way.

Amendment put and negatived; and clause passed as printed.

Clause 8 passed as printed.

On clause 9, as follows:—

"For the purpose of making valuations a local authority may employ valuers. Every such valuer shall make and return his valuation in the form contained in the said second schedule or to the like effect.

"The valuation so returned may be adopted by the local authority with or without alteration, but when adopted shall be the valuation of the local authority."

The HON. A. C. GREGORY said he proposed to omit the words "with or without alteration" in the 2nd paragraph. At present in any valuation made by a local authority they had to employ a valuator, who had to make a declaration that he would value faithfully and truly according to law, and the local authority had power only to correct a valuation where there had been an absolute error or mistake or mis-entry. But the clause as it stood would allow the local authority first of all to employ a valuer, and having employed him they could quietly take and strike out every one of his valuations and enter their own, and that would be a valuation against which there could be no appeal. If the local authority could alter the valuation, what was the object of having a valuator at all? Why not say the local authority might make any valuation they liked? He had known several cases in which a local authority had tried to get at a particular ratepayer whom they considered was not paying enough rates, and wanted to increase the rating accordingly. The existing law required that they should accept the valuation of the valuator or have a fresh valuation. He proposed to omit the words he had mentioned, and to insert in their place the words "or referred back to the valuator for reconsideration and amendment." Unless some amendment of that kind were adopted, the clause was practically useless, and the law would be left in a far worse state than it was in at present.

Amendment put.

The POSTMASTER-GENERAL said he did not agree with the Hon. Mr. Gregory in wishing to see those words excised, because they were inserted for the express purpose of clearing up a certain doubt which had hitherto arisen. Sometimes valuators made mistakes. They occasionally made glaring errors, and it was impossible after the valuation was once made to in any way interfere with it. Doubts had arisen as to whether a valuation made by a valuator should be adopted or altered by a local authority. If the clause were left as it was, if the valuator made a mistake, the local authority, on revising the list, could make an alteration, and he thought it was very desirable that they should have that power. He might point out that there was nothing in the words proposed to be added by the Hon. Mr. Gregory, namely—"or referred back to the valuator for reconsideration and amendment"—that prevented that being done. If the valuator made a mistake or the local authority wished to revise his valuations for some pertinent reason, all they had to do was to ask him to alter it, and if he did so, and they adopted it, it became the valuation of the local authority. The object was to give the local authority power over the valuator, and the clause was specially drawn to clear up doubts which had hitherto arisen, and which he knew of his own knowledge had given the local authorities very great trouble. He knew of one division not far from Brisbane which had had to send round fresh valuations and fresh notices all over the division in consequence of some little trouble of the kind. If the clause were left as it was, such a thing could not happen.

The HON. A. C. GREGORY said if it was the opinion of the hon. gentleman that the valuing should be left entirely in the hands of the local authorities, what was the use of going in and having a nominal valuator? Now, the difficulty that had arisen was one which he specially wished to see provided for. Cases had arisen in which a valuation had been made, and the local authority thought the valuation was not a suitable or correct one and had made another. Now, if they had been allowed to alter it, they might have revalued the whole from beginning to end, and what would have been the use of the valuator at all? If they kept the clause as it stood they would put the valuation into the hands of the local authority—the board, or shire council, or municipality, as the case might be—and they had better far strike out all about valuators. But, on the other hand, difficulties had arisen in which there had been assumed to be mistakes, and which it was really desirable should be referred back, and such cases he would provide for by allowing the local authority to refer the matter back again to the valuator with any remarks they liked to make. If the clause were left as it was, it would lead them into a state of confusion, and he could not follow the arguments of the Postmaster-General in the matter.

The POSTMASTER-GENERAL said he thought the hon. gentleman had quoted an extreme case. He asked what was the use of a nominal valuator? They knew very well that the valuators appointed were not nominal valuators. They were paid very high sums for valuing the properties in a division, and all that was wished for by the clause was simply tha

their valuations should be, to a certain extent, revised, and he believed they would be revised to but a very slight extent by the local authority. As hon. gentlemen knew, the valuation came before the local authority, and the members of that local authority had a great knowledge of the value of property in the division, and would know whether the valuator had made an under-value or an over-value. If they found that he had made an under-value they had the power to say, "You have made a mistake here; you had better value it again." They ought to have that right, and that was why he wished the clause to remain as it was.

The HON. W. D. BOX said it seemed as if the Postmaster-General was arguing for the change proposed by the Hon. Mr. Gregory. The clause said that the local authority might, with or without alteration, adopt the valuation; but the Hon. Mr. Gregory said he thought the whole valuation should be in the hands of the man paid to do it. If the clause were passed as it was, the whole thing would be in the hands of the local authority, who might increase or reduce a valuation without any reference to the valuator. The Postmaster-General said that the valuator might do his work, but after he had done it the local authority might step in and alter it as they pleased. Their duty would be to refer the matter to the valuator, whose duty it was to do the work properly. They were supposed to get the best man they could, and he ought to do the work thoroughly; but if he made any grievous mistake they might refer the matter back to him.

The HON. J. TAYLOR said a great deal of time had been wasted over the matter. He knew four boards which had never had a valuator at all. He had been chairman of one board ever since it had been established, and they had always done the valuing themselves. They were not bound to have a valuator, and when they wanted a valuation for the next year, the chairman simply signed the valuation of the previous year. That was quite sufficient, and they had never had any grumbling in any way whatever. There were four or five boards which never had valuators. The clause said boards might employ valuators; they were not compelled to do so, and the board he belonged to did the valuing themselves, as they did not choose to go to the expense of £100 for a valuation, which might be wrong from beginning to end. He considered the clause as it stood was a very good one.

The HON. T. MACDONALD-PATERSON said he agreed with what had fallen from the Hon. Mr. Taylor. He sincerely trusted that the clause would pass as it stood. Those who had looked carefully into the wording of the clause would notice that there was a difference in the phraseology between it and the clause in the Local Government Act. The wording of the clause before hon. gentlemen had received very careful attention indeed. There was one thing he wished to call attention to, and that was that the wording of the clause in the present Act would lead readers to believe that it was only the person whose land was erroneously valued who could appeal if he felt himself aggrieved. But the fact was, that any ratepayer in the vicinity who heard of an incorrect valuation, although he had no connection with the land whatever, could give notice of appeal simply in the interests of the public; so that the community had that safeguard. He knew that under the Municipalities Act of 1864 the corporations revised the valuations made, and did alter and modify them. They sometimes increased and sometimes lessened the valuations made by the paid valuator, with great benefit to the community, and a great saving of time to the justices in this respect: that the appeals, that would have been brought in by the hundred, were reduced to half-a-dozen. Hon. gentlemen would see that clause 6, which they had passed, pointed out clearly that the valuation could be made by the local authority, and, as the Hon. Mr. Taylor had just pointed out, there was a provision for appointing a valuator if they thought proper. The valuation need not be made even yearly, as the hon. gentleman had remarked, and he trusted that the clause would be allowed to stand.

The HON. A. J. THYNNE said if the Hon. Mr. Gregory wished to have the alteration made he should have moved for the omission of the word "may," and have altered the scheme of the clause altogether. As it was now, under section 6, the local authorities were the persons to make valuations, and the scheme of section 9 was to empower them, if they thought proper, to employ valuators when they did not think they could do the work themselves. The valuation, as the clause stood at present, which came before the court of appeal would be the valuation of the local authority, and not of the valuator. The question was, was it judicious to compel the local authorities to employ valuators? There might be arguments in favour of either view; but there were instances not far from Brisbane in which great and gross favouritism had been shown in the valuations which had been made for some local authorities, and very serious complaints had been made about them, perhaps not in public; but in one division the feeling had been very intense on the part of several ratepayers. As the Hon. Mr. Macdonald-Paterson had pointed out, any person who was aggrieved by too low a valuation being put upon any property in the district might appeal against it, because it was a matter in which each and every ratepayer was interested—namely, in having a proper amount of rates charged against each property in the district, and in seeing that none should escape his fair share. But it was very hard to expect ratepayers to go through the whole of the rate-lists, and, practically, they only appealed against the valuation when it was excessive upon their own land.

The HON. A. C. GREGORY said he thought the worst thing he could do for the Bill would be not to press his amendment. In a very short time they would find a great many members of the Council would be sorry for it. A little practical knowledge would enable hon. gentlemen to understand better how the clause would apply. As for the statements made in regard to no valuation having been made by certain boards, it was very unfortunate that such a thing should occur, because they were subject to a very great penalty. However, now that six months were passed, they could not be got at. When there was a valuator it would be observed that he had to make a declaration that his valuation should be equitable, and a local authority had no body to be coerced or anything else to be got at, and they could hardly put a board in court and make them answer questions in regard to how they valued particular properties. That could be done with a valuator, and was continually being done. It was one of the functions of a valuator to be able to support his valuation by evidence in court. As remarked by the Hon. Mr. Thynne, even if the amendment were carried there would still be a defect in the clause. Nevertheless, it would be better then than in its present shape. He could, however, see from the sense of the Committee that they did not apprehend what would be the result of the clause as it stood, and therefore, with their permission, he would withdraw the amendment; but he would, at the same time, warn hon. members that when that provision became law they would find that it was not so convenient as they imagined it would be.

Amendment, by leave, withdrawn; and clause passed as printed.

Clauses 10 to 12, inclusive, passed as printed.

On clause 13—"Appeals to justices for errors in valuation"—

The HON. A. J. THYNNE said he had a new clause to propose providing for the extension of the provision with regard to appeals, which was something similar to one already in existence in the Local Government Act. He thought, however, that his proper course was to move it after that clause was passed.

Clause put and passed.

On clause 14, as follows:—

"A justice shall not be disqualified from adjudicating in any case of an appeal against a valuation solely by reason of his being the owner or occupier of rateable land in the district."

The HON. A. J. THYNNE said he would move that the new clause he had to propose be inserted as clause 14 of the Bill; and would briefly explain the object of the clause. By clause 5 certain lands were exempted from liability to rates, but there was no machinery provided for deciding the question as to what should be rateable. In a case which had come before the Supreme Court, and in which the present Premier, who was one of the counsel, intimated that the only way of deciding such a question was by allowing the local authority to put in a distress warrant, and then for the person or institution distrained upon to commence an action for damages and trespass in the Supreme Court against the local authority. That was a very roundabout way of getting justice. The proposition he made was that the magistrates, at an appeal court where a question of that kind arose, should have the power to decide the question, subject to an appeal by either party to the Supreme Court if they should be dissatisfied with the decision of the bench. He therefore moved that the following new clause be inserted as clause 14, namely:—

If at the hearing of any such appeal, any question of law shall arise as to the principle upon which any valuation should be made or as to the admission or rejection of evidence or any question shall arise as to whether any land included in any valuation is rateable land, the justices shall state and record their decision upon such question, and if either party shall be dissatisfied with such decision, such party may appeal therefrom to the Supreme Court.

Such appeal shall be in the form of a special case to be agreed upon by the parties, and if they cannot agree the justices shall settle the special case, and such special case when so agreed on or settled shall be transmitted by the appellant to the Supreme Court and be set down for argument in the same manner as special cases in action in that Court.

The Supreme Court shall hear and adjudicate upon any such special case, and may make such order as to costs as to the Court shall seem fit.

He had taken the clause word for word from the present Local Government Act, with the exception that he had added the words, "or any question may arise as to whether any land included in any valuation is rateable land."

The POSTMASTER-GENERAL said the only objection he saw to the clause proposed by the hon. gentleman was that by adopting it they would enable justices to decide questions of law. A question under clause 5 as to whether land was rateable or not would be a question of law. The hon. gentleman was quite right in saying that a case had come before the Supreme Court on that very question, but it was under clause 61 of the Divisional Boards Act.

The HON. A. J. THYNNE: No; under a provision of the Local Government Act.

The POSTMASTER-GENERAL said the provisions in the two cases were the same. The clause in the Local Government Act stated that "if any person think himself aggrieved on the ground of incorrectness in the valuation of any rateable property" he might appeal. In the clause of the Valuation Bill before the Committee, the words "incorrectness in the valuations" had been altered advisedly, and the clause there read, "if any person thinks himself aggrieved by the amount of the valuation," and that was the only case upon which the justices should be allowed to adjudicate in matters of valuation.

The HON. A. J. THYNNE: I would point out that the case which was heard in the Supreme Court was under clause 185 of the Local Government Act.

The POSTMASTER-GENERAL said he had quoted from the 61st clause of the Divisional Boards Act, and the 185th clause of the Local Government Act was exactly the same. As he had said, the word "incorrectness," which had led to a heavy Supreme Court case, had been omitted, and he thought they should only allow the justices to adjudicate upon the amount of the valuation. The effect would be that the local authorities would be very careful not to rate any land which should be exempted, because if they did they would be liable to an action at the hands of the person rated. He therefore could not see his way to accept the amendment.

The HON. A. J. THYNNE said he would suggest a possible instance of the difficulty that might arise under the present system. By subsection 6 of clause 5, land used exclusively for hospitals was exempted from rates. In most hospitals a doctor resided on the land, and in a great many of those institutions in the colony the doctor had the privilege of private practice for his own benefit. A question might arise, in such a case, between the valuer of the local authority, who might be a very sharp man, and the manager of the hospital, as to whether the land was used exclusively for a hospital, and as to whether it was to be liable to pay rates or not. In a case of that kind the only way the question could at present be decided, was by the local board putting the bailiffs into the hospital, and either selling something or committing some act of trespass, and then for the hospital authorities to bring an action against the board in the Supreme Court for recovery of damages. He thought that was not a proper state of affairs, and that there ought to be a simple and ready method of deciding such questions, and that was provided by the amendment he had proposed. The provision was already in existence in the Local Government Act in connection with other matters, and he had not heard of any complaint as to the way in which it had worked. In his opinion the duty of deciding what was rateable property should be imposed upon the magistrates, as in that way they would provide a summary and quick method of dealing with difficulties that might arise without parties incurring the large expense that would be involved in bringing an action in the Supreme Court. The expense attendant on such a course was more than any hospital committee would undertake, and if it were undertaken and the action against the board was successful there would be a serious loss to the taxpayers. He trusted that the amendment would commend itself to the Committee.

The POSTMASTER-GENERAL said he would like to point out that the clause as proposed would be inconsistent with the last part of clause 13, which stated that the justices should "hear and determine all objections to the valuations on the ground of error in the amount thereof, but shall not entertain any other objection, and shall have power to amend any valuation appealed

against, and their decision shall be final upon all questions of fact determined by them." According to that provision, they were directly enjoined not to entertain any other objection to the valuation except that of error in the amount.

The HON. A. J. THYNNE said if the hon. gentleman was driven behind so slight a bulwark he had better consent to the passing of the clause altogether, because it would be a ready way of determining whether land was rateable or not. There might possibly be something in the formal objection taken by the hon. gentleman, but at present he did not see that the adoption of the amendment would render any change in the 13th clause necessary.

The HON. T. MACDONALD-PATERSON said he had a very strong objection to inserting the proposed new clause in the Bill. He knew that such a provision was advisedly excluded from the measure for the express purpose of defining clearly the duties of the justices, and the specific matters upon which they should adjudicate. The hon. gentleman had mentioned an instance in which a difficulty might arise under the clause as it at present stood, but he (Hon. Mr. Macdonald-Paterson) did not think it was very probable such a case would occur. If such a case did arise he would be very sorry for the question to be left to the decision of the justices as to whether, under such circumstances, the residence of the surgeon of a hospital was properly rateable. The hon. gentleman stated that some hospital surgeons had the right of private practice for their own benefit. He (Hon. Mr. Macdonald-Paterson) denied that to some extent, for wherever a surgeon was invited to take charge of a hospital in Australia, and he was permitted the right of private practice, that right was given to him for the purpose of lightening the burden of the annual payment to the hospital surgeon. Who could deny that the quarters given to the surgeon in the hospital grounds was part of his emoluments, or that it was an appurtenance of the hospital premises? He therefore did not think the hypothetical case would stand scrutiny. The duties of the justices were well defined in that clause, and he thought that the alteration of the words "incorrectness in" to "the amount of" the valuation of land was an extremely good one. The question the justices would have to consider was purely one of error in the amount and nothing else, and, as had been specifically pointed out by the Postmaster-General, they were prohibited from entertaining any other objection whatsoever in respect of valuations. He hoped hon. gentlemen would allow the Bill, which was an extremely valuable one to the country, to pass, and that the Hon. Mr. Thynne would not press his amendment.

The HON. A. J. THYNNE said the hon. gentleman had referred to the very question that might arise with respect to hospital property, and the peculiar relation of a medical officer who had the right of carrying on his private practice on the hospital premises. He (Hon. Mr. Thynne) thought that the question which might arise in such a case should be left to the local justices, but would not make their decision absolutely final. In every thing they had to decide under clause 13 their decision would be final. How then were they to be held in check when they made a mistake on a question of law? Were they to be held in check or were they to be complete masters of the situation, whether they were guided rightly or wrongly? If the Postmaster-General or the Hon. T. Macdonald-Paterson could show him any real substantial ground of objection to the new clause he had proposed he would withdraw it in a moment, but he failed to discover that they had pointed out any reasonable objection to the clause. He hoped it would be adopted, and believed it would commend itself to anyone who considered the matter carefully. Were the justices to have the final decision of all those matters?

The HON. T. MACDONALD-PATERSON: No; only as to the amount of valuations.

The HON. A. J. THYNNE said clause 13 provided that their decisions should be final upon all questions of fact determined by them. What provision was there for deciding questions of law? If no provision of that kind was made they practically left the magistrates to do as they pleased; they might refuse to receive evidence offered to the court, or they might refuse to hear an appellant, and there was no remedy against them—absolutely no control over them. He contended that where there was a possibility of the justices making a mistake, there ought to be some check upon them, and he had endeavoured to provide that in the clause he had prepared from the Local Government Act. The only complaint about that clause was that it did not cover any dispute as to rateable land which might arise under section 5 of that Bill.

The POSTMASTER-GENERAL said that in his opinion the proposed new clause would be likely to lead to litigation. If the justices had the idea that they were to hear and decide questions of law, they would decide them one way or another, and if they decided wrongly would put the parties to the expense of an appeal. He thought that was a very strong reason why the new clause should not be adopted. The whole matter was very carefully considered when the Bill was drafted, and it was deemed desirable that the justices should simply adjudicate upon the amount of the valuations. Such a case as that alluded to by the Hon. Mr. Thynne might not occur once in twenty years. If it did occur at all, it would be so seldom that it was really not worth their while encumbering the Bill with a clause of the kind which the hon. gentleman had proposed.

The HON. W. G. POWER said he agreed with what the Hon. A. J. Thynne had stated about the possibility of surgeon's quarters at a hospital being rated. He (Hon. Mr. Power) was one of a bench of magistrates in Brisbane who had to hear an appeal made by the Rev. Joseph Buckle against the rating of a small cottage in a church allotment in Leichhardt street, which was used by the caretaker of the church, and they decided that it should be rated. He thought that was a parallel case to the one referred to by the Hon. Mr. Thynne. The magistrates, as he had said, decided that as the land was not used exclusively as a church it was liable to be rated, but, believing that, though legally liable, the law did not intend it to be rated, they fixed the assessment at the lowest amount they could.

Question—That the proposed new clause stand part of the Bill — put, and the Committee divided:—

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The Hons. J. D. Macansh, A. J. Thynne, A. C. Gregory, W. D. Box, T. L. Murray-Prior, and W. G. Power.

NOT-CONTENTS, 6.

The Postmaster-General, the Hons. A. Heron Wilson, T. Macdonald-Paterson, W. Pettigrew, W. Aplin, and G. King.

The CHAIRMAN said: A division having been called, there appear—Contents 6, Not-contents 6. It therefore becomes my duty to give my casting vote, which I do in favour of the Not-contents, and the question is therefore resolved in the negative.

Clause 14 put and passed.

The remaining clauses, the schedules, and preamble were passed as printed.

On the motion of the POSTMASTER-GENERAL, the House resumed, and the CHAIRMAN reported the Bill without amendments. The report was adopted and the third reading of the Bill made an Order of the Day for Wednesday next.

REAL PROPERTY (LOCAL REGISTRIES) BILL.

COMMITTEE.

On the motion of the POSTMASTER-GENERAL, the President left the chair, and the House went into committee to consider the Bill.

Preamble postponed.

Clauses 1, 2, and 3 passed as printed.

On clause 4, as follows :—

"The Governor in Council may by Order in Council establish at Rockhampton within the Central district, and at Townsville within the Northern district, branches of the office of the Registrar of Titles, and may appoint one or more person or persons to be deputy registrar or deputy registrars of titles for such districts respectively, who shall perform the duties hereinafter declared."

The HON. A. J. THYNNE said he did not propose to move any amendments in the clause or on the Bill at all; but he would suggest to the Postmaster-General that it might be as well for him to ask the Committee to give some power to the Governor in Council to make regulations in connection with those branch offices. There were a great many places in which improvements for the facilitating of business might be introduced. For instance, one matter of importance was that the local offices should be obliged to make periodical returns to the head office of all documents lodged and dealt with by them. In fact, there was no reason why each branch of the Real Property Office should not send in to the other branches duplicates of their index-book at any rate, so that in Townsville a search might be made in reference to a transaction in any part of the colony, and complete information might be obtained in Brisbane. He did not think the scheme would involve a very great deal of expense. Another matter he would suggest for consideration was that some system might be introduced by which a person in Townsville might lodge in the office there a document for registration in another branch office, and that the time from which the lodgment would count would be the time it was received in any one of the three offices. Of course, documents lodged in that way for registration in Brisbane would have to be transmitted from the branch office to the office at which they were intended to be registered; but as they were now fully supplied with telegraphic communication, there was no reason why a daily or perhaps a less frequent advice of documents lodged should not be transmitted from one branch office to another. He mentioned that matter in the interests of people who had to transact business with the Real Property Office, and in doing so he believed the system he suggested would facilitate and improve the position of people dealing with titles under the Real Property Act. Another important matter would be that people lodging caveats, judgments, or executions against land registered under the Real Property Act, might be at liberty to lodge them at any one office, and they should be at once advised to the office at which they were intended to be registered. Otherwise loss would be suffered, as it was at present, by people who paid money, and in the course of transmission of documents for registration from the northern parts to Brisbane the caveats or judgments might be entered by which the transfer might be destroyed. Important questions had arisen from time to time, and the proposed system of lodging documents in any one place to be transmitted to another would have to come before them before long, and if it were initiated with the establishment of branch offices, it would make the system much more popular with the commercial classes and land-dealing classes of the community. Some regulations ought to be made, especially in reference to the transfers of documents under the provisions of the Settled Land Act, which should always be referred to either the Master of Titles in Brisbane or some local representative. In regard to the Settled Lands Act, there had been as yet practically no experience in the department, and it would require a very great deal of care to be taken to prevent mistakes being made in dealing with land under the Real Property Act, in connection with the provisions of the Settled Lands Act, as one or two blunders would really shake the confidence of the people in the registration system of the colony, and it would be a very great pity if anything of that kind were allowed to happen. He made those suggestions in the hope that the Postmaster-General would see his way to give more power to the Governor in Council in the making of regulations for the management of those offices, and avoiding difficulties, and also in the hope that the Government might work out a scheme which would give satisfaction to the people both in the North and in the South.

The POSTMASTER-GENERAL said he would point out to the hon. gentleman that clause 7 seemed to render it almost necessary that any regulations should be drawn up under a Bill of that kind. That clause said :—

"All the duties and powers imposed and conferred upon the Registrar of Titles by the principal Act shall and may, so far as relates to land within the districts aforesaid, be performed and exercised by the local deputy registrars for such districts respectively."

So under that clause the deputy registrar would have full power to do everything that possibly could be done in Brisbane, and the clause further went on to say that all that was required to be done at the office of the Registrar of Titles should be done by the local registrars for the districts. Under those circumstances he scarcely thought that regulations would be necessary, especially as he was not aware that there were any regulations under the principal Act.

Clause put and passed.

On clause 5, as follows :—

"Upon the establishment of a local registry within either of such districts, a duplicate, certified by the Registrar of Titles, of so much of the register-book kept by him at Brisbane under the principal Act as relates to the existing title to any land within such district, shall be transmitted to such local registry, and shall there be kept by the local deputy registrar of titles.

"Such duplicate shall thereafter, so far as regards land within such district, be deemed to be the register-book kept with respect to such land."

The HON. J. C. HEUSSLER said he would like to know from the Postmaster-General what provisions were made in regard to duplicates supposing a fire should occur in a registry office, which would be a disaster to the colony. He spoke more for the sake of information than anything else, because it was always passing in his mind that duplicates should be kept in different localities; so that if a fire broke out in one office the originals should not be destroyed. He was not present on the second reading of the Bill or he should have mentioned the matter then.

The POSTMASTER-GENERAL said there was no difference in the principle or the method of carrying on business in the Northern and Central districts from that which obtained in Brisbane. There was one thing that was perfectly understood, and that was that the Real Property Office was so far as possible rendered fireproof, and, of course, it would be the duty of the Government to see that the offices in Rockhampton and Townsville were rendered as fire-

proof as possible also. It would be only needless expense to have duplicates placed in some other locality. Such a thing had never been contemplated, and the Act had been in operation since 1861.

The HON. J. C. HEUSSLER said it was all very well to talk about the expense; but what would be the expense of the disaster if at any time such a fire were to break out, even in a building that was, so far as possible, fire-proof? He was sure that no landed proprietor would object to pay a few shillings extra to prevent such a thing.

The HON. SIR A. H. PALMER said he wished to call attention to the fact that what the Hon. Mr. Heussler was saying had nothing whatever to do with the Bill. There was nothing in the Bill in regard to fire-proof buildings, and the hon. gentleman was only wasting time. If the hon. gentleman wished to bring in a matter of that sort he should bring in a separate motion.

The HON. J. C. HEUSSLER said he was not present on the occasion of the second reading of the Bill, so he took the present opportunity of mentioning a matter which was of such vital importance.

The remaining clauses of the Bill, the schedules, and the preamble were agreed to without amendment.

On the motion of the POSTMASTER-GENERAL, the House resumed, and the CHAIRMAN reported the Bill without amendment. The report was adopted, and the third reading of the Bill made an Order of the Day for Wednesday next.

ADJOURNMENT.

On the motion of the POSTMASTER-GENERAL, the House adjourned at five minutes to 6 o'clock until Wednesday next.