Queensland

Parliamentary Debates
[Hansard]

Legislative Council

TUESDAY, 2 DECEMBER 1902

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LEGISLATIVE COUNCIL.

TUESDAY, 2 DECEMBER, 1902.

The PRESIDENT took the chair at half-past 3 o'clock.

INCOME TAX BILL.

ASSENT.

The PRESIDENT announced the receipt of a message from His Excellency the Governor, intimating that the Royal Assent had been given to this Bill.

LOCAL AUTHORITIES BILL.

RESUMPTION OF COMMITTEE.

On clause 196—"Mode of making valuation"—

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL (Hon. J. Murray) moved the omission of subsection (2)—providing for the mode of making the valuation on goldfields or mineral fields—with the view of inserting a new subsection.

HON. E. D. MILES said that was the most important clause in the Bill as far as goldfields were concerned. It altered the entire system of rating which had been in force the last ten years. He agreed generally with the principle of valuing freehold on the land only and not on improvements, but that was not applicable to other holdings on goldfields. The section in the Valuation and Rating Act relating to goldfields was the same, with a verbal alteration, as that recommended by the special committee, and which he understood the Minister intended to move as an amendment. On the Charters Towers Gold Field it had answered fairly well without pressing unduly on the small holdings. The local authorities were perfectly satisfied with it, and desired that there should be no change in the manner of valuation. He had had letters and telegrams to that effect from all the local authorities on the goldfield. He would briefly state how the clause, as printed, would affect those bodies. The municipality of Charters Towers was a very small one, having an area of only 1 square mile, and was mostly freehold land. The total valuation was at present £260,519, and the general rates amounted to £2,170 19s. 10d. The town clerk had wired him that the decrease in valuation would be three-fourths of the total valuation. The Queenton shire, which had only recently been formed, had a very large area and surrounded Charters Towers. There were 3,000 ratepayers, and it took in the thickly-populated part of Charters Towers. There was little or no freehold land. Goldmining leases extended over 1,300 acres, and there was a large number of separate holdings on the leases. The valuation of the leases, including buildings, was £67,800, and the general rates amounted to £423. The result of the operation of the clause would result in the reduction of the valuation—on land only—to £26,000, and in the rates to £155, or a decrease of £368. The total general rates were £3,800, and the chairman estimated that, on the valuation of the land only, the rates would be £950, or a decrease of £2,850. The Dalrymple Divisional Board, with a large area, had a small population outside the goldfield, and no metalled roads. The total rates were £1,173, and the goldmining leases covered 900 acres. That division would not be so much affected as the shire or the municipality. The area of the goldfields was 1,000 square miles. The number of goldmining leases last year were 100, with an average area of 20 acres. During the present year a large number of new leases had been taken up, the present area being 2,554 acres. There were 3,407 goldfields homesteads in the shire and municipality, having an area of 15,941 acres, the rent being 1s. an acre for 40 acres and 6d. an acre up to 80 acres. The minimum rent was 5s. There were 1,883 residence areas on the field of ¼-acre each, and they paid no rent whatever. There were 43 tailings areas with an area of 214 acres at a rent of 20s. an acre; 57 machine areas, totalling 164 acres; 18 market gardens, with an area of 222 acres; and 146 water areas which paid no rent. There were also 96 crushing mills and cyanide works. If the clause passed as it stood, it would affect goldfields in this way: One of the leases on Charters Towers had an area of 25 acres, and paid on the improvements £9 7s. 6d. a year in rates. It crushed in September last 1,570 tons of quartz, which were all carted over the roads in two-wheel drays carrying 4 or 5 tons. The residues came to about the same tonnage, and they were carted to the cyanide works. Under the clause that lease would only pay £3 per annum. Surely that was not enough. Another lease of 18 acres paid at present £10 per annum; it crushed 1,791 tons for September, all carted over the roads; but under the clause it would pay only £2 5s. per annum. Another area of 12 acres paid at present £6 per annum, but under the new valuation it would pay £1 10s. That lease crushed in September 910 tons. Then in the matter of crushing mills. One of them had an area of 20 acres. It was rated at present at £63 2s. 6d., but under the clause would pay £2 10s. only. The total quartz crushed in September amounted to 19,164 tons, 15,000 tons of that being carted over the roads. During the same period 25,351 tons of residues had been carted over the roads to the cyanide works. In addition to all the quartz and residues carted over the roads, there was considerable heavy traffic in [4 p.m.] the shape of mining timber and firewood. Instead of reducing the valuation on goldmining leases, it should be increased, the companies being quite willing to pay fair rates. There were 3,407 goldfields homesteads, and he would point out that that was already valued. The owner of the lease had to pay rates upon the value of the land, which was taken at twenty times the annual rental. By making the valuation on the land those properties would either escape taxation altogether, or else the local authorities would rate the same land twice over. Surely that was not intended. At present goldfields homesteads were practically only valued on the buildings, the value of which ranged from £5 to £1,000. The land itself was practically of no value,

except in exceptional cases; but there was plenty of vacant land within 3 miles of the post office upon which a man could build his house on payment of a very small fee. That land could, therefore, be of very little value for rating purposes. All those homesteads which now paid a fair valuation on the buildings would, under the clauses, come under the minimum of £20, and, with a maximum rate of 3d. in the £, they would have to pay only 5s. a year. No local authority could carry out its necessary works under such conditions. There were also many holdings with no title whatever, buildings being erected on goldmining leases on sufferance. He would further point out that people could come on to a goldfields homestead and sink a shaft on payment of the bare value of the improvements interfered with. That land, therefore, could hardly be of any great value. The revenue at present derived on goldfields was not sufficient to carry on necessary works. That was especially so in regard to the shire of Queenton, and, as far as the Charters Towers municipality was concerned, some years ago they had to borrow money in order to make their outside roads, and had imposed a loan rate of 1d. in the £. In view of the policy of the Government in reducing the subsidy to local authorities, it was more than ever necessary that their present rating powers should be maintained. It had been suggested that the difficulty might be got over by raising the maximum to 6d. in the £, but he would point out that that would penalise the freeholders, who would have to pay double the rates they were now paying, whereas others would pay nothing like what they should pay. He had had considerable experience in local government matters, and did not believe that any alteration in the present method of rating on goldfields would be acceptable. Taken on the whole, the principle in force of rating improvements had worked fairly well for the past ten years, and he thought the desires of the local authorities should receive fair consideration. Under the Bill, as it stood, the minimum amount upon which rates could be levied was £30 in municipalities and £20 in shires. It had been suggested that the minimum should be raised to £40 in the case of municipalities, but he did not think that would make very much difference. He was perfectly satisfied that the amendment to be proposed by the Minister was the best in the interests of all parties, and he had much pleasure in supporting it.

HON. F. I. POWER said that if the amendment to be proposed by the Minister was carried he should not press his own. The difference between it and the amendment of which he had given notice, was that his amendment provided for the taxation of improvements on property held under any tenure on a goldfield. In brief, he proposed to tax improvements on freehold. Under the present mode of valuation the system worked inequitably. He might mention the case of two hotels very close to each other. One was on a freehold and one was merely rated on the unimproved value of the land. On the other property held under a mining tenure, the whole of the improvements were valued for rating purposes. The result was that the hotel doing twice the business paid far less in rates than the one on the other side of the road. It would appear that the necessity of avoiding that anomaly had not arisen at Charters Towers. He might add that at an informal meeting of the Gympie Municipal Council they were unanimous in recommending that the old system be adopted, and they also approved of the principle of taxing improvements on freeholds. The clause, as it stood, was nonsensical, and could never be worked, or at any rate would work gross injustice. It was an unfortunate thing that the necessity arose to tax improvements, but he did not see how they were going to get out of it. He was pleased to think that mineowners were not so selfish as to wish to have their quartz carted over the roads without paying anything towards their maintenance. If the amendment to be proposed by the Minister was carried, he should take it as an intimation that the Committee did not consider it wise to tax improvements on freeholds on goldfields. Under the clause, as printed, Gympie, with its 460 freehold and 2,000 mining tenures, would lose about £2,000 of its annual revenue from rates. And as to Croydon, where there were no freeholds, he failed to see how they were going to get any revenue at all.

HON. A. H. BARLOW said he had given the matter very careful consideration since they last met. He knew very little about goldfields and had dealt with the question as one of principle. It appeared to him that the only way of arriving at the proper taxation of mines was by some arbitrary method of fixing their value, as was done in New Zealand. The proposal he had endeavoured to sketch out was this—

> In the case of land held under goldmining lease the value for rating purposes shall be deemed to be one-fortieth the sum at which such property, if held in possession free from encumbrances, would be fairly purchasable if sold by public auction: Provided always there shall be first deducted from the said purchasable price the estimated amount of capital expended by the owners or their predecessors in title on any shaft, drive, crosscut, dam, building machinery, or any other improvements on the land.

For instance, supposing the value of the whole of the shares of a mine was £100,000, and £40,000 had been spent in improvements. That would leave £60,000, one-fortieth of which was £1,500. A rate of 3d. in the £ on that would give £18 15s., which was not a very improper amount for a goldmining lease to pay which had a capital value of £100,000. By the scheme of the Bill the valuation was to be twenty times the annual rental. Twenty times the annual rental of a 25-acre lease was £500, which at the same rate would have to pay £2 1s. 8d., which was a ridiculous amount. To solve the question at all they must depart from the ordinary principles of rating, and it should be borne in mind that the companies were the backbone of a goldfield, and that the ordinary working miner, with his little bit of a cottage, was only an addendum to the mines. It was the mines that kept the whole thing going.

HON. B. D. MOREHEAD said he intended to vote for the Hon. Mr. Power's amendment should it be moved.

Question—That the words proposed to be omitted stand part of the clause—put and negatived.

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL moved the insertion of the following new subsection:—

> (2.) In the case of land held under any tenure peculiar to gold fields or mineral fields, the value of the land shall be estimated at the fair average value of land of the same quality and held under the same tenure in the same neighbourhood, together with the value of the buildings erected thereon, but without regard to the value of any other improvements made or work done upon the land, and without regard to any metals or minerals contained or supposed to be contained in it.

It was for the Committee to decide whether that amendment or the one standing in the name of the Hon. Mr. Power would suit goldfields best.

HON. F. I. POWER: If the amendment was negatived, then he would move his amendment, the object of which was to cover all [4·30 p.m.] tenures on goldfields. He could not agree with the Hon. Mr. Miles that the amendment he proposed to move would not suit Charters Towers. Although the free-

holds were highly valued, the fact of valuing the improvements only meant that the valuation would be lower. His idea was that each property should stand on its own merits. If it was unwise to tax improvements on freeholds, then it was unwise to tax improvements on all mining tenements.

HON. E. J. STEVENS thought the amendment suggested by the Hon. Mr. Power was the one that should be agreed to. He could not agree with the hon. gentleman's suggestion only to propose it if the Minister's amendment was negatived. He did not see why freeholds should not be included, because if the improvements were not rated they would hardly have anything to rate at all.

HON. A. J. THYNNE said that in some cases there would be a little difficulty on account of people holding land for speculative purposes, and who did not improve it, getting off with a lower rate than the owner of the property alongside. That was one of the reasons which had led to a change in the system of rating. When they had to deal with conflicting tenures, such as they found on goldfields, it was impossible to arrive at mathematical accuracy as was the case elsewhere. He did not think that on Charters Towers there were many vacant allotments which would escape taxation, or that the revenue would be largely affected thereby. He was disposed to support the proposed amendment of the Hon. Mr. Power, which would tend to remove the difficulty as to what value should be put upon goldfield tenements. Once they got into the system of valuing the lands plus the improvements, it would fix a value on land that at present had no value. Taken altogether, he thought the balance of argument was in favour of the proposed amendment of the Hon. Mr. Power, notwithstanding that occasionally some few persons holding land for speculative purposes would get off with a lower tax. That was a pity, but he did not see how it could be avoided.

HON. F. CLEWETT: The present system of rating upon goldfields had worked effectively and satisfactorily, and if the system at present in operation gave local authorities sufficient revenue on which to carry on their works, it would be inadvisable to disturb it. There might be some inequalities in the system, but if the local authorities were satisfied he did not think it would be wise to make any alteration.

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL was inclined to think it would be wise to adopt the amendment proposed by the Committee, which would place the clause in exactly the same position as it was in when first presented to the Assembly. That provision had answered the purpose very well in the past, and he had no doubt it would do so in the future. The distinction between his amendment and that of the Hon. Mr. Power was that one read, "in the case of land held under any tenure upon goldfields," and the other, "in the case of land held under any tenure peculiar to goldfields." It might be well to strike out the words "peculiar to."

HON. E. J. STEVENS pointed out that freehold was a tenure which applied everywhere, and was certainly not peculiar to goldfields. Apparently the Minister was satisfied to accept the amendment of the Hon. Mr. Power. [The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL: No; that was only a suggestion.]

HON. A. H. BARLOW said the Minister was evidently under a misapprehension. "Tenure peculiar to goldfields" was a thing of itself.

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL said he should suppose that "tenure peculiar to goldfields" included any tenure which existed upon a goldfield. Suppose land was held as freehold, and also under lease, would that not be "peculiar to goldfields"?

HON. A. H. BARLOW said "tenure peculiar to goldfields" meant land held under a mining lease or a goldfields homestead. Freehold was not peculiar to goldfields.

HON. J. T. ANNEAR said that after a great fight the Legislature had decided that improvements on freeholds should not be rated. The object was to tax a man's land but not his industry. He thoroughly agreed with it, and he trusted the Minister would stick to his amendment, and that the Committee would adopt it.

HON. F. T. BRENTNALL said the amendment moved by the Minister was the one recommended by the special committee. Its object was that all improvements on leaseholds which were held at a very low rental should be valued for rating, and that with regard to freeholds the rating should be on the unimproved value of the land. If, as the Hon. Mr. Annear had urged, they were to carry out consistently the tendency of recent legislation on the subject, they must leave out the improvements on freehold and value only the land itself.

Amendment (*Hon. Mr. Murray's*) agreed to; and clause, as amended, put and passed.

Clause 197—"Valuation of tramways"—postposed.

On clause 198—"Valuation of gas mains and electric lines"—

HON. F. CLEWITT said he was of opinion that the rating of gas and electric mains should not be retrospective. In many instances gas mains had been laid in the interests of the ratepayers and the local authorities to an extent which, under other conditions, would not have been undertaken by the companies. They would never have extended the mains had they known they would be taxed for making such extensions. He moved the addition of the following new subsection:—

This section shall not apply to existing gas or electric mains, but shall apply to all such mains to be laid down after the passing of this Act.

HON. E. J. STEVENS said he wished to call attention to an earlier subsection of the clause.

HON. F. CLEWETT withdrew his amendment temporarily.

HON. E. J. STEVENS said he could not understand the principle on which gas mains were rated. If the diameter was 3 inches, it had to pay £1; if 6 inches, £2; if 9 inches, £4; and above 9 inches, £8. The difference in the space occupied by each, and the depth of the road to be opened up, were infinitesimal. The work was done at the expense of the companies, and, instead of laying extra burdens on companies that had done so much for the cities, they ought to do everything they could to help them.

HON. F. CLEWETT said the question raised by the Hon. Mr. Stevens deserved the consideration of the Council. The gas companies had to leave the roads in good repair, and the laying down of the mains cost the local authorities absolutely nothing. Besides that, the extension of gas-lighting improved the ratepayers' property and enabled the local authority to raise an increased amount of rates. It was almost iniquitous to penalise the people by whom those improvements were made. Why it should be attempted to penalise gas companies in their operations he did not know. Where the surface of the road was disturbed, the company had to replace it to the satisfaction of the local authority; and, therefore, no injury was done to the local authority. Instead of penalising such companies,

every possible encouragement should be given to them to make extensions. He would be inclined to strike out the clause altogether.

HON. F. T. BRENTNALL asked whether subsection (1) did not cover the ground proposed to be covered by the suggested amendment. Was the subsection of retrospective effect? It conveyed the idea that if anybody in the future laid down pipes, then the clause was to come into operation. If it referred to the future, then the amendment was unnecessary.

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL thought the hon. gentleman's interpretation was quite correct. The clause did not refer to pipes already laid down. With regard to the point raised by the Hon. Mr. Stevens, he would point out that most careful calculations had been entered into with regard to the charges to be made for the various sized mains, and it was considered that the proposed charges were as fair as possible.

HON. F. CLEWETT: If the construction placed on the clause by the Hon. Mr. Brentnall was correct, that took away the necessity for his amendment. It might be well to postpone the clause to ascertain its real meaning.

HON. G. W. GRAY thought it would have been advisable if the hon. gentleman had had his amendment printed and circulated. It was very difficult to understand the effect of an amendment unless that were done. Gas mains were continually being replaced and renewed, and the amendment would allow no renewals to take place in existing pipes without charge.

HON. A. H. BARLOW: There was very serious doubt in his mind about the clause. Clause 198 stated that land under and about the pipes should be deemed to be rateable land. It was open to the gravest doubt whether that had retrospective action or not.

HON. F. T. BRENTNALL said electric wires and pipes could hardly be deemed to be rateable land.

HON. A. H. BARLOW said that unless they were exempted under clause 194 they were rateable land.

HON. E. J. STEVENS thought the proposed rate should be amended. He admitted that the breaking up of streets was a nuisance, but a greater nuisance than that would be having no gas at all. He did not think extra revenue should be made by local authorities out of gas companies in proportion to the amount of gas they supplied. A charge of £1 per mile would be quite sufficient, whatever the size of the main. He therefore moved the omission of all the words after "pipes," on line 26, to the end of the schedule, with the view of inserting the words "one pound."

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL hoped the Committee would not support the amendment. The question had been under the consideration of local authorities, and they found it necessary that such a rate should be imposed to provide them with sufficient revenue with which to carry on their business. If the amendment were carried it would destroy the value of the clause altogether.

HON. E. J. STEVENS: It was possibly true that the matter had received consideration from the local authorities, and one of their objects might have been to get as much revenue as possible, but he again pointed out that the more gas mains were extended the more they increased the value of rateable property. £1 per mile was more than sufficient compensation for the nuisance caused by breaking up the roads. He was convinced that the amendment was a fair one.

Question—That the words proposed to be omitted stand part of the clause—put; and the Committee divided:—

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,, W. D. Box	,, P. Macpherson
,, W. V. Brown	,, E. D. Miles
,, A. J. Callan	,, J. Murray
,, A. J. Carter	Sir H. M. Nelson
,, F. Clewett	Hon. F. I. Power
,, J. Ferguson	,, L. Thomas
,, G. W. Gray	,, A. J. Thynne

Teller: Hon. W. D. Box.

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,, F. T. Brentnall	,, E. J. Stevens
,, J. Cowlishaw	,, W. F. Taylor
,, B. D. Morehead	,, A. H. Wilson

Teller: Hon. J. T. Annear.

Resolved in the affirmative.

HON. E. J. STEVENS said he would now draw attention to that portion of paragraph 3 which referred to electric lines. [5·30 p.m.] They were to pay at the rate of £2 for every mile or fraction of a mile. Why the difference between electric mains and gas mains?

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL said he presumed it was because the tubes containing the wires were of a small and uniform size.

HON. E. J. STEVENS said that explanation would not satisfy anyone. The opening to be made in the road was just as great as that required for a 9-inch gas main, and the tube containing the electric lines would be quite as large as the mains for which gas companies were charged £8 per mile.

HON. A. H. BARLOW pointed out that the Bill contained no definition of electric line. It might be applied to telegraph and telephone lines, which would be liable to a charge of £2 per mile.

HON. J. COWLISHAW said the boxes containing the electric cables in all the main streets were at least 9 inches wide, and required as much opening up of the road as a 9-inch gas main.

HON. F. T. BRENTNALL said if it happened that telegraph and telephone wires were taxable under the clause there would be a chance of getting something out of the Commonwealth Government for our local authorities.

HON. W. F. TAYLOR said that in any case the Commonwealth Government would get the money out of the subscribers to the telephones, and instead of paying £6 they would have to pay £8, and as a subscriber he objected to be mulcted in that manner. If telegraph wires were also to be charged, it followed that the application of the clause had not been understood by the framers of the Bill.

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL said the clause had nothing whatever to do with telegraph or telephone wires. It related solely to wires for electric lighting.

HON. A. H. BARLOW: That could only be made clear by amending the interpretation clause.

HON. E. J. STEVENS did not think the explanation given by the Minister sound. If it was proposed to introduce new wires into the pipes, the trenches would have to be opened up, so that in that case there would be as much disturbance to the roadway as in the case of gas mains. He thought the charge should be made as small as possible, and £1 per mile would be quite sufficient. It was simply putting a tax on

improvements made for the benefit of the community. He moved that the words "two pounds" be omitted, with a view of inserting "one pound."

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL objected to the amendment. He had already pointed out that the boxes which held the electric wires were of a uniform character. The amendment was only an attempt to deprive local authorities of a good source of income.

HON. G. W. GRAY: It had been stated that under that clause telephones would be rated at £6 or £8 a year. That was not the case, as they belonged to the Queensland Government. It was only persons, companies, or corporations which would be taxable. In reference to the boxes in which electric wires were placed, they were about 6 inches in diameter, and therefore a similar charge had been made for them as for gaspipes of that diameter. He would point out also that if there was a fault in the wires it could be discovered without tearing up the roadway.

HON. F. CLEWETT: So far as the size of the box was concerned, that depended upon the quantity of material inside them, and in making a trench, at all events, it had to be large enough for a man to work in.

HON. G. W. GRAY said that the excavation for electric wires was nothing like as extensive as the excavation required for gaspipes.

HON. E. J. STEVENS understood that in the case of gas companies the tax was in proportion to the amount of gas supplied. If that was the case, then those who supplied electricity should be charged much more than they had been. He, however, did not advocate that. He thought that such works should be made as cheap as possible, and the local authorities should not be allowed to increase the burdens of the taxpayer.

HON. G. W. GRAY: In putting down the trenches it was not necessary to excavate more than 1 foot deep; and, as excavation was made in the footpath, there was no interruption or inconvenience to traffic in laying down boxes for electric wires.

HON. E. J. STEVENS: There was just as much inconvenience in connection with opening up footpaths as with opening up the middle of the roadway.

HON. F. CLEWETT pointed out that whereas in Brisbane any electric lines were laid under the footpath, in Rockhampton they were confined to the roadway.

HON. F. T. BRENTNALL: They had been told that the clause did not apply to telephone lines. Did it apply to overhead tramway wires? There was nothing in the clause which said it did not.

Amendment negatived.

HON. F. CLEWETT again moved his amendment making the clause applicable only to gas mains laid down after the passing of the Act.

HON. A. H. BARLOW said that if the amendment were passed there would be an unjust discrimination between the old mains and the new ones. All the mains in the city of Brisbane would go scot free, while if an extension was made to Taringa, for instance, it would be subject to taxation.

HON. W. D. BOX was of opinion that the taxation should not be retrospective. When the companies laid down their mains they did so under the then existing law, under which taxation was not contemplated.

HON. P. MACPHERSON said that if the clause passed the Brisbane Gas Company might have to pay the shocking sum of £165 per annum, and the South Brisbane Gas Company less than half that amount, and he was informed that they were perfectly willing to pay it.

Amendment negatived; and clause put and passed.

Clause 199 passed with a verbal amendment.

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL proposed the insertion of the following new clause, to follow clause 199:—

Notwithstanding the provisions of the three last preceding sections, a local authority may enter into an agreement with any person, company, or corporation with respect to the valuation and rating of any existing or future tramway or undertaking in any of such sections referred to upon a basis different from the basis in such sections prescribed, or for the exemption of the tramway or undertaking or any part thereof from rating during a specified time:

Provided that every such agreement and the proposed duration thereof shall be submitted to the Governor in Council and be approved by him before it shall have any effect.

New clause put and passed.

Clauses 200 to 203, inclusive, put and passed.

Clause 204 agreed to with a verbal amendment.

Clauses 205 and 206 passed as printed.

On clause 207—"Question of liability of rating, how determined"—

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL desired to negative the clause with a view of inserting a new clause in substitution thereof.

Clause put and negatived.

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL moved the insertion of the following new clause:—

Whenever a question arises between a local authority and any person as to the liability of any land to be rated or as to the right or liability of any person to be rated in respect of any land, either of the parties may apply to any two justices sitting in petty sessions to determine the question, and the justices shall hear and determine the question accordingly, and may make such order on the application as they think fit. Any such order may be varied upon a subsequent application by either party if the facts have in the meantime been altered.

HON. A. H. BARLOW ventured to suggest instead of the matter being determined by two justices, it should be determined by a police magistrate, as it was purely a matter of law. It was only an appeal as to the liability of a person to be rated, and two justices were not likely to be so learned in the law as a police magistrate. [The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL: A police magistrate may not be available.] He thought it a great mistake to refer such a matter to justices.

HON. A. J. THYNNE: New South Wales metropolitan magistrates had exclusive jurisdiction in certain matters such as garnishee orders, and so forth. He did not know of any distinction being made, however, in regard to valuation or appeal courts. He recognised that it would be better if the matter could be determined by police magistrates; but he did not think that they were always available. The present appeal under the Bill, as printed, was to the valuation court; but as that only sat once a year, it was recognised that it was necessary to provide an ordinary petty sessions jurisdiction.

HON. A. H. BARLOW did not want to limit the Bill, but he took the determination of an intricate point of law out of the hands of justices and put it in the hands of men who had had more experience.

HON. A. H. WILSON asked would it not be well to add the words "to a police magistrate with any two justices"?

HON. A. J. THYNNE: The trouble under the present system was that when a police magistrate sat alone he had the power of two justices, but when he was sitting with other justices he could only exercise the functions of one justice.

HON. A. H. BARLOW believed that ordinary justices did their best, but they could not be as well versed in such matters as men who made a study of them.

New clause put and passed.

Clauses 208 and 209 passed as printed.

Clause 210 passed with a verbal amendment.

Clauses 211 to 216, inclusive, passed as printed.

On clause 217—"Cleansing rate"—

On the motion of the VICE-PRESIDENT OF THE EXECUTIVE COUNCIL, a verbal amendment was made in line 43.

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL moved the omission of the last paragraph of the clause, giving power, from time to time by by-law, to define the mode of making and levying a cleansing rate.

HON. A. H. BARLOW: It seemed to him the paragraph was an important one, and that it was not by any means surplusage. He should like to know the reason for the omission of the paragraph.

HON. A. J. THYNNE: Instead of going through the formality of getting a by-law passed, which usually occupied some months, the local authority could accomplish the purpose by resolution. If the Bill was to come into operation on the first of next month, there would not be time to pass such by-laws in the ordinary way.

Amendment agreed to; and the clause, as amended, put and passed.

Clause 218 put and passed.

Clause 219 passed with a verbal amendment.

Clause 220 put and passed.

On clause 221—"Local authority may recover for water supplied to public buildings"—

HON. A. H. BARLOW: In a previous clause they had inserted the names of certain institutions as being exempted from rates, and if they were not inserted in that clause they would be liable to ordinary rating.

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL moved that after the words "trustees for any," the words "acclimatisation societies, public recreation grounds, or" be inserted.

Amendment agreed to; and clause, as amended, put and passed.

Clauses 222 to 226, inclusive, put and passed.

A new clause embodying clause 249, placed under the wrong subdivision, was inserted to follow clause 226, with the view of afterwards negativing clause 249 of the Bill.

Clauses 227 to 229, inclusive, put and passed.

Clause 230 passed with a verbal amendment.

Clauses 231 to 233, inclusive, put and passed.

Clause 234—"Timber may be seized for rates in arrear"—was passed with an amendment providing that the land may be entered upon and the timber cut and removed "within thirty days after the day of sale."

Clauses 235 to 246, inclusive, put and passed.

On clause 247—"Duty of registrar to convey"—

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL moved in line 7, after the word "encumbrance," the insertion of the words "other than any reservation of mines or minerals or the right to mine on the land."

HON. P. MACPHERSON asked what was the reason for the insertion of the amendment?

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL understood that in the Ipswich district in particular certain landowners had given the right to mine for coal under the land, and in the event of their wishing to give a conveyance they could not convey the right to mine under the land.

HON. A. H. BARLOW: There were two titles, so to speak, to the lands in question—the underground title, which was not to be affected by any action for distraint, and the surface title, which was a very different thing.

HON. A. J. THYNNE: The amendment raised a very big question. The policy of that part of the Bill was to give an absolute title as the result of the non-payment of rates. The idea was that even a mortgagee who had not paid his rates was ousted or could be ousted. If they were going to preserve one interest they must preserve all. Why should a mortgagee or life tenant be deprived absolutely of their title, while another set of persons were having their rights preserved? The scheme of the Bill was, that whether a person was down as a ratepayer or as the original owner of the property, when the Registrar of the District Court caused a sale to be made, the person who bought got a title above all others. If they were going to cut into the main principle of the clause, he did not see where they would end. If people would not pay their rates, extending for a period of seven years, then of course they ran the risk of losing their property altogether.

HON. A. H. BARLOW: In the Ipswich district there was some plan by which owners sold the surface, but the underground freehold was retained by the original owner.

The VICE-PRESIDENT OF THE EXECUTIVE COUNCIL: The question had cropped up since the Bill passed through the Assembly, and in consequence of a communication by the Registrar of Titles the whole matter had been referred to the Crown Solicitor, who had given the following opinion:—

> I am of opinion that although the question is a debatable one, the transfers should not go beyond the interest the owner had in the land rated, and the transfer should only be made of the land subject to the right to mine retained by the transferror—which never passed to the owner. I am not sure that the court would take this view, as the Act provides for an estate in fee-simple free from encumbrance, but the registrar is on the safe side in refusing to accept a transfer of more than the "owner" held in the land at any time until otherwise ordered by the court.

After due consideration, the Home Secretary thought it desirable that such an amendment as he now proposed should be inserted.

HON. A. H. BARLOW thought it most unjust that the surface freeholder who made default should penalise the man whose rights had been reserved when the land was sold.

HON. A. J. THYNNE: The man whose rights had been reserved ought to be a ratepayer in respect to the rights that had been reserved to him. Both persons—the surface man and the underground man—were occupiers. He could not agree with the view put forward by the Crown Solicitor, who admitted that, to a certain extent, the whole matter was open to doubt, and he referred to the fact that the previous Act contemplated giving a title in fee-simple to the buyer. If they broke away from that they practically broke away from the whole principle of a freehold. The principle of the clause was that it was the duty of the owner to contribute to the necessities of his district, and it was only fair that if an owner during a period of seven years would not pay his rates, then he should take the consequences.

HON. A. H. BARLOW thought the only way to get at the underground miner would be to rate very heavily the small piece of land by which he gained access to the mine.

Amendment negatived; and the clause put and passed.

Clause 248 put and passed.
Clause 249 put and negatived.

On clause 250—"Notice of sale of land to be given to local authority"—

HON. J. T. ANNEAR said it had been pointed out to him by an eminent authority on local government—Mr. J. M. La Barte, the clerk of the Burrum Divisional Board—that the clause was not in accordance with the corresponding section in the Act of 1890, and that it was essential that that section should be re-enacted. He therefore moved the insertion of the following after the 3rd line of the clause:—

Whenever a person who is the owner of rateable land within an area subdivides the same, he shall forthwith give notice in writing, accompanied with a plan of the subdivision, to the local authority; and whenever any such person sells any rateable land he shall give like notice specifying the name and address of the purchaser.

HON. A. H. BARLOW said there was a danger that if a man cut his land up into allotments for sale, and it was a "frost," and he only sold one allotment, if he wanted to divide it in some other way the local authority might not allow him to do so.

HON. E. J. STEVENS said that once the subdivision was decided upon, and the plan lodged with the local authority, it was an absolute fixture, and could not be altered without the consent of the local authority.

HON. B. B. MORETON said the amendment applied not so much to suburban allotments as to country land, such as farms. If a man had 1,000 acres of agricultural land, and sold a portion of it, to relieve himself from paying the rates on that portion he sent in to the local authority the name of the purchaser, together with a plan showing the portion he had sold.

Amendment agreed to.

Clauses 251 to 258, inclusive, put and passed.
Clause 259 passed with a verbal amendment.
Clauses 260 and 261 put and passed.
Clause 262 passed with a verbal amendment.
Clauses 263 to 265, inclusive, put and passed.

The Council resumed. The CHAIRMAN reported progress, and leave was given to the Committee to sit again to-morrow.

The Council adjourned at twelve minutes past 9 o'clock.