it will be under conditions that will make that land produce six or seven times more than the other land. That is the great object in view. I may be allowed to refer to some cases that have come under my notice, bearing pointedly upon the whole question at issue. Men who were on the land of the Great Southern Railway Company found themselves in this position: they had all their leasehold land taken from them, and many of them said they would be ruined in consequence. But what was the result? Some of those who held 40,000 or 50,000 or 60,000 acres arranged matters with the Company so that they were allowed to take up a few thousand acres only; and one and all whom I have spoken to on the subject say it was the best thing that ever happened to them. That, also, I am confident will be the result of the operation of these homestead leases. I know there are some people who believe they will be ruined by losing a considerable portion of what they never use; but I think they belong to a class that will soon become extinct. I refer to those who run their sheep in front of a shepherd rather than fence their land, a practice which is indefensible on economical grounds; and the sooner these people learn, by the experience of their neighbours, that they are on the wrong track, the better will it be for them, and the better will it be for the colony. The object of my resolution is this: we may all have our opinion or our doubts as to the success of this proposal, but let us try the experiment. The proof of the pudding is in the eating. Let us try the experiment, and let us watch the result. If the Government give effect to this resolution we shall have the very experience we want. We can then see whether it is a failure or not. With these few words, I again commend the resolution to the House.

Motion put and passed.

ADJOURNMENT.

The House adjourned at 40 minutes past 10 o'clock p.m.

Legislative Council,

Thursday, 8th November, 1894.

Railways Act Amendment Bill: third reading—Municipal Institutions Bill: Legislative Assembly's Message—Adjournment.

THE PRESIDENT (Hon. Sir G. Shenton) took the chair at 4·30 o'clock p.m.

PRAYERS.

RAILWAYS ACT AMENDMENT BILL.

THIRD READING.

This Bill was read a third time, and *passed.*

MUNICIPAL INSTITUTIONS BILL.

LEGISLATIVE ASSEMBLY'S MESSAGE.

IN COMMITTEE.

THE COLONIAL SECRETARY (Hon. S. H. Parker) moved that the amendment made by the Legislative Assembly on the Council's amendment No. 28 be agreed to.

Question put and passed.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I now beg to move that this committee does not insist on its amendments Nos. 17 and 18. I am sorry that the Legislative Assembly has not seen fit to accept these; but still I see no use in insisting upon them. One amendment provided that a blind person, or a person unable to read or write, might vote, and the other that the hiring of carriages to bring voters to the poll should not be deemed an act of bribery and corruption under the Act. However, the Assembly has not seen fit to accept them, and I move that we do not insist upon them.

THE HON. H. McKERNAN: The Assembly says that the insertion of the words "blind persons or who cannot write" will interfere with the secrecy of the ballot; but how about proxy voting? That is still allowed, and there is no secrecy about it.

Amendment agreed to.

THE COLONIAL SECRETARY (Hon. S. H. Parker): I now move that the Council's amendments Nos. 36 and 42, with which the Legislative Assembly has disagreed, be insisted on. These are

amendments as to which the Legislative Assembly asserts that they infringe the privileges of that House. You have already, sir, in your position as President, given a ruling upon this question, and it seems to me that the same loyalty to its Speaker which induced hon. members of the Assembly to support him in his ruling, must also induce us to support our President in the ruling he has given. I do not, however, think, sir, it is the duty of a legislative body blindly to support its Speaker or its President, whatever his views may be, but I do think that unless the members of that body are convinced that its Speaker, or President is in the wrong, it is the duty of members to support him. I have taken some care and trouble myself, both before and after you were pleased to give us your ruling, to inquire into the matter, and I may say that the conclusion I have arrived at is that the ruling you have given is entirely in accordance with law. The Legislative Assembly is presided over by a gentleman who has had a long Parliamentary experience, and who is imbued with the idea of upholding, as far as he possibly can, the privileges and powers of that House. He is a strong Speaker. I have great respect for him personally, and also for his abilities, and I think the Assembly is to be congratulated upon having such a firm and strong Speaker presiding over their debates. At the same time, the fact of the Speaker being so strong ought to induce us to be very careful to see that his strength does not detract from any of the privileges to which this House is entitled—in fact, the strength of the Speaker is a danger and menace to the liberties of this House. It has often been pointed out that if each House is to assert its rights and privileges on every occasion to the utmost extent, there is a probability that many collisions will occur between them, and that it is only by a spirit of forbearance and moderation in counsel that we can hope to work in harmony. I have looked round for the purpose of discovering whether there was not some way in which we could come to a compromise with the Assembly on this question; but I find, sir, that there is no spirit of moderation guiding their counsels; I find no forbearance so far as the Speaker is concerned, and no spirit of compromise entering into their debates. I am sorry to refer to the debates in the Assembly, but it seems to me that when questions of privilege arise we are bound to refer to them. I find that when the Government in that Chamber recently sought, in a spirit of compromise, to get the Bill passed in the manner suggested by this House, there was a strong feeling of opposition manifested apparently on the part of the Speaker. It was suggested that we might have a conference, but it was pointed out that only members who supported the Speaker could be appointed to represent the Assembly, and it was said that that House could not possibly surrender, and that the only object of the conference could be to convert this House to their views. Hence no spirit of compromise enters their views. The idea of that House is to assert to the utmost their rights and privileges with a view of curtailing our privileges. There is no idea of compromise or forbearance or moderation in counsel at all. It seems to me that having only just entered upon our position as an elected Upper House, which represents a large and influential class of the inhabitants of this colony, although not as numerous as that represented by the Assembly, were we to surrender entirely in the manner which is apparently desired, I cannot help thinking that future Houses would view our action with the greatest regret. I thought at one time that we might pass a resolution to the effect that this House assented to revert to the $2\frac{1}{2}$ per cent. recommended by the Assembly, and at the same time might pass a further resolution that it should not be deemed a precedent, nor in any manner to be taken as a surrender of our privileges. On further consideration, however, I could not but recognise that such action on our part, notwithstanding a resolution of this kind, would be virtually surrendering, and our action, on future occasions, would be quoted against us. I think it is my duty, as I intend to propose that this House shall insist on its amendments, to show that I am entirely in accord with the views you, sir, have expressed on this question. It will be observed, as you, sir, have already said, that the Speaker of the Assembly takes his ground entirely upon the Standing

Order for the conduct of business which he has quoted, and which you have also quoted. I think, to properly understand this question, we have to go much further back than that. We have to look at the Constitution Act. It does not follow that because we are an Upper House we are to be guided by the practice of the House of Lords, or that we are a body in any way analogous to that House. Our powers, duties, privileges, and functions are such as are accorded to us by law. The Constitution of the House of Lords is not a written one, but one which has grown up by practice during centuries. It is an hereditary body, and has no analogy to this House, which is elected by the people and is responsible to the people; and, sir, I think I shall be able to show that not only is there no analogy between this House and the House of Lords, but that the framers of our Constitution, and the framers of every Australian Constitution, have never intended that there should be any analogy between the House of Lords and the Upper Houses of the Parliaments of Australia. The old Legislative Council, which ruled the destinies of this colony with the Governor for some twenty years, was constituted of one Chamber only. It had very large powers; in fact all the powers claimed or possessed by the House of Commons at the present time. It must be borne in mind, that although our Constitution Act was prepared in this colony in the first instance, it was submitted to the Imperial authorities—the Crown Law officers of the Colonial Office, and when it became law it was virtually an Act drawn by the legal officers of the Imperial Government. If hon. members will refer to the second section of it they will find that it says:—"There shall be, in place of the "Legislative Council now subsisting, a "Legislative Council and a Legislative "Assembly. . . . and such Council "and Assembly shall, subject to the pro- "visions of this Act, have all powers and "functions of the now subsisting Legis- "lative Council." Hon. members will thus observe that, subject to anything contained in that Act, it was intended that both the new Council and the new Assembly should each have all the powers the old Legislative Council possessed—not that the new Legislative Assembly alone should have them, and that the new Council should have the powers of the House of Lords, but that both Houses should have all the powers of the old Legislative Council, except where otherwise provided by the Act. Now, the old Legislative Council had full powers over Money Bills—it had full powers to originate and amend all Bills. This Act, therefore, does not create a House of Lords and a House of Commons, but two Houses of Commons. Let us see where the provisions of this Statute make any difference. I have searched through the Act and find no distinction made between the two Houses, except in one particular, and that is contained in section 66, which provides that "All Bills for appropriating any part of the consolidated revenue fund, or for imposing, altering, or repealing any rate, tax, duty, or impost shall originate in the Legislative Assembly." These Bills are usually known as Money Bills, and by that short term I shall call them during the rest of my argument. When this section speaks of repealing or altering any rate, tax, duty, or impost it clearly means rate, tax, or impost payable to the general revenue. That is clear by the sections which precede and follow it. We find then that with the exception of originating Money Bills, this House has every power which is possessed by the other House, and it may be said that it is obvious that such was the intention of the framers of the Act. Unless the Legislature, which passed the Act, and the Imperial authorities who framed it, had not been of opinion that without this clause the Legislative Council could have originated Money Bills, they would not have inserted it. Unless the framers of the law, and legislators who adopted it, had not been of opinion that but for this provision this House might have originated Money Bills, they would not have inserted this section to prevent us from claiming the right. Therefore, with respect to this Act, it will be observed that this House has every power which is possessed by the other House, except the right to originate Money Bills. Strangely enough, we do not stop there. I find that in 1891, shortly after the adoption of Responsible Government—in fact in the first session of Parliament under the present Constitution—the Legislature passed what is known as the Parliamentary Privileges

Act. It was passed by both Houses, before any idea had arisen that this House should be analagous to the House of Lords; before there was any idea that the Legislative Assembly would claim superior rights and powers, and before there was any idea that this House had no power to amend certain Bills, and when there was no dispute between the two Houses. I will draw the particular attention of hon. members to the first section of it. It says: "The "Legislative Council and Legislative "Assembly of Western Australia re- "spectively, and the committees and "members thereof respectively, shall hold, "enjoy, and exercise such and the like "privileges, immunities, and powers as, "and the privileges, immunities, and "powers of the said Council and Assembly, "and of the committees and members "thereof are hereby defined to be the "same as are at the time of the passing "of this Act, or shall hereafter for the "time being be held, enjoyed, and ex- "ercised by the Commons House of "Parliament of Great Britain and Ire- "land, etc." Reading this as we have a perfect right to read it, by dropping out the word Assembly, it is that the Legislative Council shall hold, enjoy, and exercise such and the like privileges, immunities, and powers as are held, enjoyed, and exercised by the Commons House of Parliament of Great Britain and Ireland. It seems almost absurd, in the face of this legislation, to liken this House to the House of Lords. We find that the Constitution Act likens it to the House of Commons, and that the Privileges Act also likens it to the House of Commons; and to say now, when a dispute has arisen, that this House has only the powers of the House of Lords, seems as if the proposition were only put forward with a view to curtailing our privileges, powers, and functions. In speaking, sir, of section 66 of the Constitution Act, I may remind hon. members that the effect of it is to prevent the origination in this House of what are known as Money Bills. The origination of Money Bills has always been looked upon as the peculiar privilege of the House of Commons for the last 300 or 400 years, and I know of no case where the House of Lords has attempted to originate Money Bills for centuries. Obviously, if it were intended to create a House of Lords, or a House similar to the House of Lords, there was no occasion to legislate that we should not have the power to originate Money Bills. The mere fact, therefore, of the legislation existing clearly proves that the framers of our Constitution never imagined that we bore any analogy to the House of Lords. And again, the framers of this Constitution must have contemplated that both Houses had equal powers, and no attempt was made to restrict them, otherwise than by rendering it impossible to originate a Money Bill in this House. I infer from this restriction that it was intended that all other powers of the House of Commons, and all other powers of the Assembly, should be preserved to us. If such were not the case, why is it we find that the framers of our Constitution, the Legislature which passed it, and the Imperial Parliament which adopted it, thought it necessary to prevent us only from originating Money Bills, and at the same time take it for granted that we could not amend them without any legislation on the subject? I go so far as this: It seems to me that as we are restricted by legislation only from amending Money Bills, there is full power in this House to amend any such Bill when it comes before us. I find in Victoria that this power was specially taken away from the Council. The Constitution Act of Victoria contains a similar provision to ours restricting the Upper House from originating Money Bills, but goes further and specially enacts that it shall not amend such Bills. The omission of such a provision from our Act, bearing in mind that the framers of it had the examples of Tasmania and South Australia before them, where Money Bills were amended, and the Constitution of Victoria, where they cannot be amended—I submit, with all confidence, that the omission of any words restricting the Legislative Council from amending Money Bills shows that the intention was to go no further than to prohibit the introduction of such Bills, leaving full power to this House to amend them, if they think proper, when they come before them. The Standing Orders of this House make no distinction between Money and other Bills. It is provided by the 234th Standing Order "that "every public Bill sent to the Council by

"the Legislative Assembly shall be dealt "with in all respects in its progress "through the Council as if it had "been initiated in the Council." We know full well that any Bill we can initiate in this House we can amend. It has always struck me with regard to Money Bills that, if we have no power to amend, our procedure is a most foolish one. The question is put whether this clause shall stand part of the Bill, and, if we can only answer in the affirmative, it seems to me there is no good in putting it. If we can say no, then it is obvious we can amend. The Standing Order I have read provides that every Bill shall be dealt with as if it had been initiated in the Council. There is no exception as to a Money Bill. I cannot but help thinking, sir, that when Parliament adopted these Standing Orders, if it were intended that this House should have no power to amend Money Bills some provision would have been made for a different procedure in committee in regard to them to that we are bound to adopt, and which amounts to an absurdity, if we have no power of amendment. I need hardly say in these Standing Orders there is full provision for amending all Bills. The mode of amending them and the way of putting the question are pointed out, and there is no allusion whatever to Money Bills, or reference to any exception as regards those Bills. In fact, so far as the Standing Orders and legislation are concerned, there is nothing that can be pointed to which interferes with, or detracts from, our power of amending such Bills. The Speaker quoted Standing Order No. 1, which says that in all cases not provided for hereinafter, resort shall be had to the rules, forms, and practice of the Commons House of the Imperial Parliament of Great Britain and Ireland. Firstly, I may say that it seems to me that this Standing Order would only come in where the matter was not otherwise provided for, but I have already read the Standing Order which provides that this House may deal with every public Bill sent to it by the Assembly, as if it had been initiated in the Council. Therefore this Standing Order cannot be brought in aid of the argument of the Speaker, because the matter is already provided for. Then, assuming it had not been provided for, this Standing Order No. 1 enacts that this House shall follow the rules and practice, not of the House of Lords, but of the House of Commons. The Speaker construes that to mean that the Assembly only shall follow the practice of the House of Commons, and that we are excluded from the privileges of the House of Commons. That is not the way I read it. If the matter of amending Money Bills is not provided for, still this Standing Order provides that this House shall follow the practice not of the House of Lords, but of the House of Commons; and even if it did provide that we should follow the practice of the House of Lords, no Standing Order could override the Act of Parliament. If the Constitution Act and the legislation on the subject, to which I have referred, have given us equal powers with the other House, except as to the origination of Money Bills, no Standing Order could take away those powers. It seems to me clear, by the Constitution Act, that we do possess those powers; and that being so, I would not care if the meaning of the Standing Order were such as the Speaker construes it to be, because, I submit, it could have no force or effect in the face of the plain words of the Statute. It must be obvious that this must be the case. Hon. members must see that no Standing Order can add to their privileges or powers which they do not possess by Statute, and by similar reasoning no Standing Order can detract from such powers or privileges. In dealing with Constitutional law, I feel very diffident in expressing a strong opinion, for in all such matters as this, where Acts have to be construed, questions are open to doubt, and there may be different readings. At the same time, in construing Acts of Parliament we must take the plain meaning of the words used, and if we do that in this case there is very little doubt about our legal position. I do not think it wise for an Upper House to exercise its full powers on all occasions. In my opinion, an Upper House should look at the circumstances of each matter as they come before it, and even if it be in opposition to the views of the Lower House, yet if it finds that House, which certainly represents more popular constituencies than this House does, is only echoing the voice of

the public, I think it would be wise, as a rule, not to offer any opposition, because it is obvious that in the end the views of the Assembly must prevail. This House, I imagine, is created principally as a check upon hasty and unnecessary legislation—so as to be a drag, as it were, on legislation until the true voice of the country may be obtained. But when the voice of the constituencies at large is emphatic in favour of a certain measure, I think, sir, it is wiser for this House, even if it be opposed to the voice of the country, not to make any unreasonable opposition to what must eventually prevail. In a matter like this it is different. Here we find, on a very minor matter, that the Assembly has taken the earliest opportunity, and in the most emphatic manner, to deny to us what seems to me to be our rights—to deny to us the privilege, not of amending a Money Bill, which we have the right to do, but of amending a Bill which, if my opinion be correct, might have originated in this House. The Speaker has never attempted to define this as a Money Bill. He has never quoted section 66 of the Constitution Act against us. Nor is it a Money Bill. It is a Bill to regulate Municipalities, and incidentally to provide a mode of raising taxes—taxes which do not go into the public revenue, and which do not therefore come within section 66 of the Constitution Act. This Bill might have been introduced here, and we would then have had full power to amend it as we pleased; but now we make a few minor amendments, we find the Assembly up in arms against us, not with the idea of compromise, or of conference, or arriving at some decision which will meet the views of both Houses, but with a view, judging from the lines adopted by the Speaker, of forcing us to entirely surrender our rights and privileges—a view which imposes upon us the necessity of making a firm stand on the present occasion. If we give way, whatever resolution we pass, or whatever protest we make, or however much we declare it shall not be taken as a precedent, it is obvious that on future occasions our action will be quoted as a precedent, and we shall then probably have to follow the course we are taking at the present time. The Speaker says that he is sorry to see that some Assemblies have given way, and have allowed Councils to exercise powers they were not entitled to; but I think these Councils are only exercising the powers to which they are entitled. Those to which he particularly referred were South Australia and Tasmania, and, whether entitled or not, their success should urge us to follow in their steps. I regret to find that the Speaker is under the impression that this House treated his letter, which I read to hon. members on a former occasion, with disrespect and discourtesy. I am glad to take this opportunity of saying that I feel sure no hon. member of this House had the slightest idea of treating the Speaker or his words with any discourtesy whatever. We have the greatest respect and admiration for the Speaker, but we fully recognise that the strength of the Speaker is a danger to us, and should make us still more anxious to see that the steps which he has taken, and which he advised the Assembly to adopt, shall not have the effect of limiting our powers or our privileges. I regret that I have not been able to express myself as clearly as I might have done, but I will conclude now by moving that this Council insists on its amendments 36 and 42. I have looked at the Standing Orders, and there is no necessity for us to give any reasons. If we pass this, the responsibility of throwing out the Bill will rest with the Assembly, and not with this House. All we have to do is return the Bill to the Assembly and insist on our amendments. It may be that the Assembly will ask for a conference, but in view of the words to which I have referred I do not know that I should be prepared even to advise this House to confer with the Assembly, although a conference might be requested.

The Hon. J. C. G. FOULKES: I think the House ought to feel grateful to the hon. the Colonial Secretary for the able manner in which he has expressed the views of one and all of us. There can be no doubt about it we are all determined the privileges of this House shall be maintained. We are prepared to give way to the people, but not to the Assembly, the members of which possess no greater powers than we do. I am not prepared to deal with this question from a constitutional point of view, but I have every confidence in our President, and in

the Colonial Secretary. We do not wish to enter into recriminations with the Assembly, but we must uphold our privileges. All through the session attempts have been made to interfere with our privileges, and so long as we agreed with the Assembly everything went smoothly; but the moment we began to exercise our functions, we are told that we virtually possess no power at all. In this instance we might have reconsidered our decision; but no attempt has been made to argue the question with us—we are only told that we have no right to deal with the matter.

THE HON. C. A. PIESSE: I should like to point out that the Legislative Assembly has been to a certain extent inconsistent in this matter. Members of that House have said that we ought to have originated the Bill, and yet they say now that we cannot amend it.

Motion put and agreed to.

ADJOURNMENT.

The Council, at 6 o'clock p.m., adjourned until Tuesday, 13th November, at 7·30 o'clock p.m.

Legislative Assembly,

Thursday, 8th November, 1894.

South Australian "Blocker" System—New Zealand Life Assurance System—Postal Facilities at Rockingham—Reduction of Live Stock Rates on Government Railways—Reduction of Duty upon Kerosene—Message from the Deputy Governor: Assent to Bills—Revoking of Civil Service Commission—Municipal Institutions Bill: Message from Legislative Council—Pharmacy and Poisons Bill; recommitted—Southern Cross-Coolgardie Railway Bill: second reading; in committee—Mullewa-Cue Railway Bill: second reading; in committee—Scab Act Amendment Bill: second reading; in committee—Goldfields Act Amendment Bill: second reading—Adjournment.

THE SPEAKER took the chair at 4·30 p.m.

PRAYERS.

SOUTH AUSTRALIAN "BLOCKER" SYSTEM.

MR. THROSSELL, in accordance with notice, asked the Commissioner of Crown Lands whether the Government would, in the interest of land settlement, inquire into the working of the "Blocker" system of South Australia, with a view, if found successful, of introducing a similar system into this colony.

THE COMMISSIONER OF CROWN LANDS (Hon. W. E. Marmion) replied that he would be glad to adopt the suggestion, and would make inquiries of the South Australian Government, with a view to considering the advisability of introducing the "Blocker" system into this colony.

NEW ZEALAND NATIONAL LIFE ASSURANCE SYSTEM.

MR. THROSSELL, in accordance with notice, asked the Premier whether the Government would cause inquiry to be made as to the success attending the system of national life assurance in New Zealand, with a view of introducing a similar system into this colony.

THE PREMIER (Hon. Sir J. Forrest) replied that the Government would make inquiry into the matter.

INCREASED POSTAL FACILITIES AT ROCKINGHAM.

MR. SOLOMON, in accordance with notice, asked the Premier—

1. Had any representations been made to the Government, through the Postmaster General, referring to a petition from the residents and shipping masters at Rockingham, as to an extension of the mail service between Fremantle and Rockingham, from once to twice a week; also, as to the inconvenience caused at Rockingham in consequence of there not being any money order office there for the convenience of settlers, residents, and ship masters?

2. Would the Government, taking into consideration the want of railway facilities, endeavour to meet the wishes of the people in this most important district, where for some time past vessels have been shipping from 2,000 to 2,500 tons of timber monthly, and give all the postal facilities possible?