THE PREMIER: If there was no work for Thursday, he could not be blamed.

Motion put and passed.

The House adjourned accordingly at 9·40 o'clock, until the next Tuesday.

Legislative Council,

Tuesday, 10th September, 1901.

Papers presented—Question: Surveys (Contour), Perth and Fremantle—Motion (urgency): Judges and Appointments (withdrawn)—Question: Measles Spreading, Quarantine—Question: Excise Officer for Goldfields—Question: Fourth Judge, Appointment—Motion: University, to Establish (adjourned)—Motion: Capital Punishment, to Abolish (negatived)—Pawnbrokers Bill, first reading—Probate and Administration Bill, first reading—R.C. Church Lands Bill (private), first reading—Standing Orders (joint), Committee's Report—Roads Act Amendment Bill, second reading—Dog Act Amendment Bill, second reading postponed—Land Act Amendment Bill, second reading (concluded)—Adjournment.

THE PRESIDENT took the Chair at 4·30 o'clock, p.m.

PRAYERS.

PAPERS PRESENTED.

By the MINISTER FOR LANDS: 1, By-laws of the Municipality of East Fremantle; 2, Museum and Art Gallery, annual Report; 3, Commissioner of Police, annual Report; 4, Geological Survey, Progress Report for 1900; 5, Mail Service for South Coast, papers as ordered.

Ordered to lie on the table.

QUESTION—SURVEYS (CONTOUR), PERTH AND FREMANTLE.

HON. M. L. MOSS, without notice, asked the Minister for Lands: Whether the papers mentioned in resolution passed on 18th July had yet been laid on the table.

THE MINISTER FOR LANDS: The Government were endeavouring to obtain from the Perth Council the information asked for.

HON. M. L. MOSS: But what of the papers?

THE MINISTER FOR LANDS: The delay in their production was regrettable, and immediate steps would be taken to lay them on the table.

MOTION (URGENCY)—JUDGES AND APPOINTMENTS.

HON. T. F. O. BRIMAGE (South): I move the adjournment of the House in order to call attention to the manner in which the Government have treated Mr. Acting Justice Pennefather. I understand he was appointed during the absence from the State of the Chief Justice; and the letter which notified Mr. Pennefather of his appointment as an acting Judge promised that, in the event of the resignation of the Chief Justice, Mr. Pennefather should be appointed a Puisne Judge. I think it is known to most hon. members that Mr. Acting Justice Pennefather is an old political opponent of the Premier (Hon. G. Leake); but surely that letter from the late Government, stating that they would give Mr. Pennefather a judgeship in the event of the Chief Justice resigning, is sufficient to show that this gentleman is entitled to the appointment. Constitutionally, I understand he is entitled to it. I believe acting Judges have often been appointed in the other States; and in the event of the resignation of the Chief Justice or any of the other Judges, the acting Judge is permanently raised to the Bench. In the case of Mr. Pennefather, I can say he is a worthy occupant of the Bench; I believe he has been congratulated by most of the members of the bar on the manner in which he has officiated as a Judge of the Supreme Court; and as for anyone who should attempt to malign Mr. Pennefather by saying he is not a fit and proper person to occupy that Bench, I need but state, for the information of hon. members, that Mr. Pennefather has every right to the appointment, as a gentleman of very high standing both in this and in the Eastern States. He matriculated at Melbourne University in 1870; and in 1874 he obtained the degrees of B.A. and B.L. He was then engaged in the Crown Solicitor's Department in Melbourne for five years, and instructed the Crown Prosecutor on circuit. Farther, in 1875 he was admitted as a barrister to the Vic-

torian bar; and in 1883 he was admitted as a barrister to the New South Wales bar. In 1894, Mr. Pennefather was appointed Commissioner to take evidence in Australia and New Zealand in regard to the great cyanide case, in relation to the Forrest-McArthur patent rights in the Transvaal. That was a position of high trust. In 1896 he came to Western Australia, like a great many more, and was elected member for the Greenough in 1897. He was appointed Attorney-General, which post he held for three and a half years. I certainly think that this gentleman, who has acted in an honourable and upright manner during his sojourn here, and has risen to the highest post, holding that position without any complaints whatever being received of mistakes or as to his behaviour, is entitled to the appointment.

HON. J. M. SPEED (Metropolitan-Suburban): I second the motion.

THE MINISTER FOR LANDS (Hon. C. Sommers): This motion comes rather as a surprise to me, especially when one bears in mind that only very recently in this Chamber an emphatic resolution was carried by a large majority, with the effect practically that the Bill which was known as the Fourth Judge Bill was thrown out by this House, on our failing to get a promise from the Government of that day that they would not appoint the very gentleman now in question. Seeing that motion was carried, this House can hardly stultify itself by agreeing to the adjournment of the House on the same question. I may point out it was on the 24th October, 1900, that motion was passed; and I find that the hon. member who has just spoken (Hon. T. F. O. Brimage) voted on the question in the very opposite way he now advocates.

HON. T. F. O. BRIMAGE: But not the second time. I had not time to study the question.

THE MINISTER FOR LANDS: There is a great difference of opinion in connection with this matter, but it must be borne in mind that Mr. Pennefather, in accepting that position, did so in spite of the opinion of this House and the opinion of the Bar. A very strong petition was presented about that time objecting to his having the position of fourth Judge given to him; and a very strong protest was made by the Press of the State, and by the Bar in particular. I think that if the hon. member knew as much about the case as I do, he would not have moved this motion.

HON. J. M. SPEED: We want to know as much as you do.

THE MINISTER FOR LANDS: I am sorry I have not the papers to lay before hon. members, but I understand that in another place this very question will crop up, and probably to-morrow I shall be able to give some information about it. The appointment of a Judge is in the hands of the Attorney General and Ministry of the day, and no doubt had the late Ministry had power to appoint Mr. Justice Pennefather at that time, they would have done so; but, in making the appointment, it was clearly laid down by them that if they were in power, and a permanent vacancy occurred, they would confer the judgeship upon him. That promise was not binding on their successors. Their successors have the right to choose who, in their opinion, is the best man for the position; and in filling positions of this sort great care must be exercised that the best man obtainable, whether a politician or not, the man best fitted for the post, shall be elected to such a very high and important office. I take it the Government, in electing Mr. S. H. Parker for that position, have chosen the best man available. I trust that to-morrow I shall be able to give much more information on the matter, and then members will be able to hear both sides of the question.

HON. W. G. BROOKMAN (Metropolitan-Suburban): I rise to say that the Bill which was before this Council in October last was thrown out simply on principle. It was thoroughly debated for two or three days, and members by a majority came to the conclusion that it was not advisable to appoint Mr. Pennefather as a fourth Judge. I have nothing whatever to say against Mr. Pennefather, but I know that our goldfields friends desired a Judge for the goldfields only, and it was the principle of the Bill that was taken exception to; therefore by a majority of this Council that measure was thrown out. When we said we would not pass that Bill, the Government of the day had no right whatever to go behind our backs and make such an appointment. We acted according to

the lights of the law, and were well advised. We threw out the Bill, and I cannot for the life of me see any reason why the Government should have made this appointment. I do not say this out of any feeling against Mr. Pennefather, and I doubt if I ever met that gentleman, but I assert the principle that if we are to sit here and represent the country, and pass or throw out Bills, we shall not have others to come in and say they will do anything they decide upon. Therefore, although Mr. Pennefather has been superseded by Mr. Parker, I maintain that what we carried last October is absolutely right and within the meaning of the law.

HON. J. W. HACKETT (South-West): In view of the statement of the Minister for Lands, who I believe proposes to give us farther information to-morrow and to bring papers down, I assume the mover will withdraw the motion for adjournment.

THE PRESIDENT: He must, or we shall have to adjourn if it be carried.

THE MINISTER FOR LANDS: I said I hoped to be able to give farther information and produce papers.

HON. J. M. DREW (Central): I beg to move the adjournment of the debate.

THE PRESIDENT: You cannot do that. The question is that the House do adjourn.

HON. T. F. O. BRIMAGE: I ask leave to withdraw the motion for the present.

Motion, by leave, withdrawn.

QUESTION—MEASLES SPREADING, QUARANTINE.

HON. C. A. PIESSE asked the Minister for Lands: 1, Whether the attention of the Government had been drawn to the recent spread, with fatal results, of measles throughout the State, owing to the landing at Albany of several soldiers suffering from that disease. 2, If so, do the Government intend to quarantine all such cases arriving at our ports in the future.

THE MINISTER FOR LANDS replied: 1, No; the attention of the Government has not been drawn to the spread of measles throughout the State. Measles has been endemic in Western Australia for many years. 2, Quarantine is now conducted in this as in the other federated States, and under the regulations the disease is not quarantinable. The Government does not therefore intend to quarantine such cases arriving in Western Australian ports.

QUESTION—EXCISE OFFICER FOR GOLDFIELDS.

HON. T. F. O. BRIMAGE asked the Minister for Lands: 1, If it is the intention of the Government to appoint an excise officer for the goldfields? 2, If not, why not?

THE MINISTER FOR LANDS replied: The matter is one that comes under the control of the Commonwealth Government, but the Government will make representation to the Federal Minister for Customs in connection therewith.

QUESTION—FOURTH JUDGE, APPOINTMENT.

HON. T. F. O. BRIMAGE asked the Minister for Lands: 1, If it is the intention of the Government to appoint a fourth Judge. 2, If so, when?

THE MINISTER FOR LANDS replied: The Government propose, at once, to introduce a Bill providing for the appointment and salary of a fourth Judge.

MOTION—UNIVERSITY, TO ESTABLISH.

HON. R. S. HAYNES (Central) moved:

That, in the opinion of this House, the time has arrived when a University should be established in Perth.

He said: I thought it right, in moving this motion, to give a short history of how Universities in various places have been formed; how they have been commenced; how they have been carried on, and with what measure of success. It seems to me a large number of people do not seem to understand what effect the establishment of a University has upon a country. Here immediately a student passes through the secondary schools he has one of two courses open to him. He may start in life in some profession or occupation, or if he wishes to carry on his education farther, he must, so to speak, be exiled from the State. He has to go to some other State, and there receive education. Constantly a student is sent away when about 16, 17, or 18 years of age, and for

three years afterwards, if he wishes to obtain a University degree, he will have probably to live an exiled life amongst strangers, and be for a considerable time exposed to the dangers to which young men are subject. I can never understand why the people of this State remained so long without making some move to provide a University for purposes of higher education. What is the consequence? All the persons born in this State who have studied in any profession have had to go out of the country, or to be handicapped in meeting persons from other States or from England. Universities have existed almost before or soon after the Christian era. In Rome Universities were very common. The Universities we have now are probably not the same kind of Universities, although the aim of them would be the same; but it was not until about the ninth century that the first organised University was made at Salerno, in Italy. That was apparently the first modern University established. Following closely on that came the Paris University in 1110, started I think by William of Champeaux, a pupil of Abelard; and that University has been in existence ever since, though it has doubtless been altered in immaterial particulars. Italy appears to have been the country in which Universities chiefly flourished; and it was not until many years after the period of which I am speaking that an attempt was made to establish a University in England. The first English University appears to have been established in 1133 at Oxford, and was modelled on the Paris University.

HON. J. W. HACKETT: Do you not believe in Alfred the Great?

HON. R. S. HAYNES: Well, the first authentic record of the establishment of a University was in 1133, and it was established by a person named Robert Pullen, who came over from Paris and lectured upon the Bible. Whether he was English or French does not appear. He was followed in the ensuing year by others; and from that time onward Oxford has been a University. At the end of that century Oxford was regarded as "excelling in clerkly lore." I may draw attention to the fact that the word "lore" is spelt l-o-r-e. Subsequently, colleges in connection with Oxford University were established: University College in 1249, Balliol in 1263, Merton in 1264; and then came the Cambridge University, also established in 1264. In the same year there was also a University established at Prague, in Southern Germany. Then came the University of Cracow, Poland, in 1364; then the University of Vienna in 1364, Leipsic in 1409, Freiburg in 1455; and it was not until 1411 that Scotland became possessed of a University (St. Andrew's), founded by Henry Wardlaw. The University of Edinburgh was established in 1582, and the Berlin University in 1809. Some other continental Universities had in the meantime been established, but they did not come into prominence. The University of Bonn was founded in 1818. Those are the chief Universities of which we hear. For the years 1883-4, the average attendance at the Berlin University was 4,867, with 296 professors; at Bonn the attendance was 1,037, with 122 professors; at Goettingen, 1,064, with 121 professors; and at Leipsic, 3,433, with 180 professors. University extension lectures were commenced in England by Professor James Stuart, who lectured to women in Manchester, Liverpool, Sheffield, and Leeds; and the effect of his lectures was to raise the standard of education, and to assist students who desired to become graduates of Universities. Durham University was founded in 1832, and the London University in 1825 by Campbell, the poet. It was established chiefly because the Dissenters were not permitted to attend the other Universities; and under that University King's College and University College were subsequently founded. Trinity College, Dublin, was established in 1591, and the Queen's College, Ireland, in 1850. I have quoted those instances to show that wherever there has been a large population, there has always been a University. In America, from an inquiry which was made five or six years ago, it appeared there were 370 Universities in the United States, and nine-tenths of them—that is, about 250—were established within the last 40 years; showing that as America grew in importance, so did she establish Universities. I now come to contrast the position of this State with that of New South Wales; because I do not think we could have a better comparison than the

States of New South Wales and of Western Australia. The University of Sydney was established in the year 1851 and opened in 1852. At that time the population of New South Wales was 187,243. The population of Sydney and suburbs was 53,294. Our population is now about 183,000, and the population of Perth is estimated at from 45,000 to 50,000.

HON. G. RANDELL: Our population is 190,000.

HON. R. S. HAYNES: True; and I am reminded that I am speaking of a time after Port Phillip had been cut off from New South Wales, because in the next year a University was established in Melbourne. I am speaking of New South Wales at a time when she had not so large a population as we have at the present time, and when the population of Sydney was 53,000 as against the present population of Perth, from 45,000 to 48,000. Those are the relative positions in point of numbers. Regarding areas, we have a larger area than had New South Wales, although at that time it included Queensland. The number of the population would hardly account for the establishment of the University of New South Wales. We must look to see what was the revenue. The revenue of New South Wales for that year was £405,000; our revenue is upwards of £3,000,000. There is a wide distinction. It is true that in New South Wales there were no receipts from railways or telegraphs, and there were very small receipts from the post office; but the revenue there was a revenue of £405,000, which was all they had to expend; and we have £3,000,000. True, we have other objects on which to spend our revenue: still, we have the revenue; and that fact shows that so far as this State is concerned, it is now in a position immeasurably superior to the position of New South Wales at the time of the establishment of the University of Sydney.

HON. J. W. HACKETT: What was the endowment of Sydney University?

HON. R. S. HAYNES: The endowment of the University of Sydney by the Government was £5,000 per annum provided by the Act of Incorporation, and a special Building Act subsequently provided £30,000 for buildings; and seven or eight years afterwards that was increased to £60,000.

HON. G. RANDELL: Was the University endowed with any land?

HON. R. S. HAYNES: No. The endowment was, therefore, very small: I do not suppose it was as much as we lose over the Mint, and the cost of the buildings was certainly not so great as that of our Mint. We have, on the one hand, a Mint here which does not pay; and in Sydney there was a University which did some good. The number of students at the Sydney University for the first five years did not exceed 40. I do not mean there were 40 students per annum, but that there were 40 during the first five years.

HON. J. W. HACKETT: Forty matriculations?

HON. R. S. HAYNES: There were 40 matriculations; 40 students. The University commenced with a professor of classics, a professor of mathematics, and a professor of chemistry and experimental physics, while readers or lecturers were appointed in English, French, and law. The salaries of the professors were fixed at £700, £600, and £400 per annum respectively, together with three-quarters of the class fees; but the salaries were raised considerably almost immediately after the arrival of the professors in the colony, in consequence of the increased cost of living after the gold discoveries. Nevertheless, New South Wales could then get professors cheaply; and surely we can do likewise. The amount at present allowed is £900 a year to a professor, with a retiring allowance. Now, if the establishment of the University of Sydney was warranted by the condition of the State of New South Wales, I am entitled to ask this House to pass the motion standing in my name; because, as I have pointed out, we are now in a very much better position than New South Wales was then. Moreover, we are in a much more isolated position than any other Australian State. It is true that in Queensland there is no University; though there is at present a movement on foot to establish a University in that State. But a Queensland student can attend the University of Sydney, and can reach Sydney from Brisbane in about 20 hours by ordinary train or 18 by express. The journey by steamer occu-

pies 40 hours only. In Melbourne and Adelaide there are Universities. Here, unfortunately, we are isolated. A matriculant of the Sydney University has, by arrangement or by charter, a right to continue his studies at the London University. The Melbourne University was established in 1853, one year after the Sydney University. Now, we know that Victoria at that time could not have been in a very forward state. Just previously, it had been known as Port Phillip, but had been proclaimed a separate colony. Associated with the Melbourne University are the Church of England college, known as "Trinity," and the Presbyterian, or "Ormond" college. In Queensland there is a movement to establish a University; there is a University established in Adelaide; and surely, if we have any faith in this State, we must feel we are better able to found a University than South Australia has ever been, or will be for many years to come; because our revenue is increasing, our population is increasing, our settlement is increasing; we have the land, we have every gift that nature can bestow upon us, whilst South Australia seems not to be so fortunately situated. The University of Adelaide was founded in 1874, principally through the generosity of Sir Walter Hughes, subsequently assisted by Sir Thomas Elder. In 1881, letters patent were granted, conferring on graduates of Adelaide University the same rights as appertain to graduates of any British Universities. So much for the Australian States. The University of New Zealand was founded in 1870, and confers degrees for law, medicine, and music. A University was started under the provincial government of the Otago district in 1869. That district was not a State; it was a province of New Zealand, provincial government being then in force in that island. The endowment given to that University was 100,000 acres of land. Some years afterwards the provincial Government endowed it with a farther 100,000 acres. The University was opened in 1871, with three professors in arts. They conferred degrees in arts, medicine, and law. Subsequently, professors in law and medicine were appointed, and afterwards an arrangement was made that the University of New Zealand should grant degrees. In Montreal, Canada, a University was established as far back as 1821; and there is also a University in Toronto. Now if all the other States can afford to establish Universities, surely we can. Are we to continue to deny to the young men now growing up amongst us, and to whom we shall hereafter have to bequeath the destinies of this country, that education which, had they been born in any of the other States, they could have acquired? Why is it you spend so much money upon railways, observatories, zoological gardens, mint, and a number of other things, all of which are necessary in their own way no doubt, but none of which are so needful as the establishment of a University for educating the children and giving them an opportunity of studying the sciences? Why should we have to send our children away? It may be said, why should the State be taxed so that any person's child should attend? I may answer that we are taxed now for educating every child. Education is free in the State, and the cost comes out of the coffers of the State to which we contribute. I know objection will be made that probably the University will not be sufficiently well attended, but I feel certain it will be better attended than the Sydney University was at its first inception. Directly a University is founded it will be very easy to supply it with a large number of students, because I feel sure that the Barristers' Board will pass a regulation that every student or barrister before admission should serve two or three years at the University. That would raise the standard of the tone of society. Why should we have to send our children to Melbourne? I know that some time ago people used to laugh at the idea of anyone qualifying in Melbourne. They said, "How can they know anything in Melbourne"? "Whom did he learn his profession under?" "Dr. So-and-so." "Why, that man killed my father." That sort of thing, however, has died out. Every University has faced the same thing. Why a person should not be able to qualify in Melbourne, with a population of 500,000, just as in Dublin or Durham, or any other place with a population less than that of Melbourne, I cannot understand. I am unable to understand why

a person cannot study as well in the air of the Australian States as in the gloom and dismal air of England. No doubt they have learned professors, but we can have professors here. A professor in the Sydney University, the late Dr. Garran, was, I understand, accounted one of the two greatest living classical authorities. Professor Anderson Stuart is a shining light, and he would quickly be snapped up as a lecturer or a professor if in the old country. We can get professors of sufficiently high ability. I hope the House will pass the motion. It does not commit the Government to anything; but we must begin by a motion expressing the desirability of such an institution, and saying the time has arrived for it to be formed. I hope the House will be with me, and, if so, I propose to have the matter referred to the Legislative Assembly with a view of getting an expression of opinion from that body. If we get an expression of opinion from both Houses of Parliament, we have at all events taken one step in the establishment of a University. Even if it be decided that a University shall be established and the greatest haste be adopted, three or four years will elapse before that decision can be carried into effect; so there is plenty of time for consideration. I ask the House to unanimously assent to the motion.

HON. D. McKAY (North): I think the mover has made out a good case for the establishment of a University in this State, and I am surprised we have not had a University in the State before. I have much pleasure in supporting the motion.

HON. J. W. HACKETT (South-West): I beg to move the adjournment of the debate.

HON. G. RANDELL (Metropolitan): In seconding the motion for adjournment of the debate, I have much pleasure in supporting the proposal for establishing a University in this State. The object is one I have regarded with favour for many years past, and one I had in view when I was induced to obtain the co-operation of the late Colonial Secretary, and of the late Governor, Sir William Cleaver Francis Robinson, for the establishment of a High School in Perth. I think it is pretty well known, or at any rate it should be known to the older residents of the city, that at that time there was no method of secondary education for young people; the High School, as it was then called, and which had turned out some of our best men, who now occupy the highest positions in the State, being then closed. It occurred to me it was a reproach to this State, with its possibilities and its growing wealth and enterprise, that it should be without an institution for training young lads whose parents desired them to receive a liberal education. That was one of the objects I had in view when I got the assistance of those two officers of the Government in the establishment of a High School assisted by the State, that it would eventually become a University for Perth. Of course at that time the population and revenue and other circumstances of the State would not allow anyone to indulge for a moment the idea that a University could at once be established; but I am inclined to think—although this opinion is not shared by everyone who has a knowledge of the matter—that the time has arrived when steps should be taken at as early a date as possible to establish a University in the city of Perth. As Mr. Haynes has pointed out, we have 190,000 people or about that number, and Sydney, when it established a University, had not quite so many. The hon. member did not say how many there were in Victoria at the time a University was established there. That was in 1853, just after the commencement of the gold diggings, when a wave of prosperity was smiling on that State as well as on New South Wales. But we have an instance nearer home in the case of South Australia, which has a population of about 350,000. Doubtless the population of South Australia was less when the University was established. There, I believe, the University has been carried on satisfactorily, or at any rate we are participating in some of the benefits of that University, and I think some of our young people are receiving their education from that source. It is undesirable that our young men of talent, whose parents have the means to send them to a University, to look forward to high positions in the civil service, the judiciary, the bar, or any other walk of life, should have to go out of the State to receive their education. The hon.

member has told us they have lecturers in New South Wales, and that we might do with a very small number of professors on the staff of the University. Of course members will be aware that I never went to a University, and I am perhaps talking somewhat out of line; but some of those who have been at a University will, I feel sure, support my assertion that a University is necessary for a man who seeks the highest education that can be obtained, and to reach that status which cannot otherwise be reached, by graduating, we will say, with honours. In fact it has been proved that many public men of ability and of education, to an extent, have had said respecting them, "He is not a University man." I believe we should take steps in the direction advocated as soon as possible, and that the Government will be inclined to support the motion. Perhaps it may be as well to make some small amendment, which I will move before I sit down. I believe the Government will be quite willing to fall in with the views expressed, and which seem to me to meet with the approval of the House. A number of young people trained in the secondary schools are evincing ability of a high order, and occasionally we have sent them to other parts of the world to complete their education at some University. With the revenue we have—the hon. member says three millions a year, and that is about the figure, but I believe it was a little over that amount last year—I believe we ought to be able to afford the necessary amount of money to provide a building in which the staff and the school can be housed, and the machinery which would be required; and I am especially anxious that there should be a scientific side of education in any University that may be established here, because I believe it is going to be almost the most important part of a liberal education in these days. We find that a University has just been opened in Birmingham. That has been the creation of one man, Sir Josiah Mason, who was a hawker of unconsidered trifles in his early days. He had to fight his way up against difficulties. He established a business on one occasion, or at least he went into partnership with his father-in-law and worked up a business to a high state of efficiency, but the father-in-law, not recognising the services which had been so valuable to him, sold the business, so Josiah Mason (who at that time was 30 years of age) had to begin the world afresh. He became a millionaire, and he had opinions of his own which he carried into effect by establishing a scientific school. I forget the exact name of the school, but it was very much for electricity, and for the cultivation of science in Birmingham. The University has developed from that idea, and the money the worthy people of Birmingham placed at the disposal of a board of trustees. I am afraid we have no such men in Western Australia, nor are we likely to have for some considerable time. Still, as the Government have taken education under their wing, it is desirable they should look in this direction, and that they should give their assistance, after the plans have been well considered and matured, for the establishment of a small University here. I would suggest that the best way to go about the thing would be to have this motion amended to read "That in the opinion of this House the time has arrived when the Government should take such steps as are necessary, either by the formation of a Royal Commission or a committee to make inquiries, to ascertain the cost and obtain all other information relating to the establishment of a University." I think the hon. member did not contemplate we should get a University within a year or two. This, in my opinion, would be laying the foundation for the information which would be absolutely necessary; for although I think a University is very desirable, we should be sorry to say we had come to the conclusion it should be established at once. I know there are gentlemen in this State who would give good advice on the subject, and advice and information can be obtained from other sources as to the cost at which a University could be fully equipped. Professors are looking for higher salaries than those paid a good many years ago.

HON. R. S. HAYNES: Nine hundred pounds.

HON. G. RANDELL: Professors would be fully equipped for the work that would be expected from them by the public at large. I do not think I need say more. I thought it desirable I should express

my thorough and hearty agreement with the principle of the motion, and I shall be glad if such words as I have suggested should recommend themselves to hon. members' judgment. I formally second the motion for adjournment of the debate.

Motion for adjournment put and passed.

MOTION—CAPITAL PUNISHMENT, TO ABOLISH.

HON. R. S. HAYNES (Central) moved:

That, in the opinion of this House, the punishment of death for any offence should be abolished.

He said: This is a motion to which I think most hon. members will be opposed before I commence to speak. I quite sympathise with those members who are not in accord with me; and I do not think the less of them because they disagree with my views on this question. I think they are actuated by the best, though no doubt mistaken, intentions. I am speaking on a subject of which I know something, and that is about capital punishment. I may say I have defended several hundred people for their lives; and throughout the whole course of my career, only one of them has been executed. I am pleased indeed to think that has been the case; and, later on, I shall satisfy hon. members that miscarriages of justice have time after time taken place in the Courts of this State, simply in consequence of the punishment of death for a considerable number of offences. Hon. members are perhaps unaware that in this country the death penalty is provided for treason, murder, three or four kinds of attempted murder, which I will classify as "attempted murder," rape, burglary, and wounding, and arson where the premises are occupied. Probably hon. members are not aware that there are seven death-traps in this State; and if any hon. member wishes to realise what a death sentence is, let him witness an execution, and then let him say whether he is prepared to support punishment by death. Every hon. member who is in favour of it, I should ask to have a look at the gallows, at the execution room; and he will get the "creeps" directly he walks into it. Execution is an abominable, it is a detestable action; it is repulsive in the last degree, and it brands the man who supports it as being unworthy of the first principle of manhood.

A MEMBER: Did you ever see a man who had been murdered in cold blood? That is as bad as the gallows.

HON. R. S. HAYNES: Of course it is; and it is no more ugly than is a man who has been hanged, as he appears after the cap has been removed from his head; and one action is as justifiable as the other. We in Australia have at all events the privilege of boasting that we have more death penalties than any other part of the world. In England, there is a death penalty for one offence only; that is murder.

HON. M. L. MOSS: And treason.

HON. R. S. HAYNES: Treason and murder; but treason is an offence of which one seldom hears. What is the object of punishment for crime? It is not vindictiveness. The principle is not to punish the criminal, but to dissuade the criminal from committing crime by showing what is the result of crime when crime is detected.

HON. C. E. DEMPSTER: No; the object is to deter others.

HON. R. S. HAYNES: Then why do you not hang up murderers in public, on gibbets? Hang them at the corner roads. Why not take a suicide and put a stake through his side and hang him at a cross-road? In Sydney, such persons used to be hanged just where the statue of the Prince Consort now stands. A suicide was hanged on a gibbet with a stake through his side. The last one who was allowed to remain hanging was at the corner of the road going to Woolloomooloo, midway between the Prince Consort's statue and the Queen's statue in Hyde Park. Why do we not hang murderers in chains, on gibbets, or quarter them and have them carried round the town? Why kill a man in a private room, if you want to deter? Let us have the old scenes that used to be witnessed in England: whip the criminals at the tail of a cart, and let them ride on the gibbet; and then you can bring evil-disposed people to the gibbet and say, "Look! This is what will become of you if you are a criminal." Surely there is an obvious answer to the suggestion. I ask the question, what is the object of punishment? Mr. Dempster says, "to deter others." I

will show you how to deter them. The fact is, that was the old principle, that was the old and mistaken idea; and the result was revolting. It is a cruel and an abominable thing for five or six persons to stand around and see another man done to death on the gallows with his hands tied behind him. To think of it makes one's blood run cold. Fancy chaining a man's arms down; fancy the poor helpless wretch blindfolded and a lot of paid officials looking on; reporters taking down every word the poor wretch may utter; then silence for a moment, a click, then a thud, and a life is taken which cannot be handed back.

A MEMBER: A criminal is exterminated.

HON. R. S. HAYNES: That is true; but you are not sure you always have the right man. I will give you one instance where the wrong man was taken. I will show this House that in the interests of our common humanity, we should at once abolish the death penalty. It is the only relic of barbarism at present in existence; the only link which binds the civilised era with the old barbarians in the dark ages. I will show hon. members for what offences people used to be hanged, and the method of hanging adopted, which, by the way, was more merciful than our modern system.

HON. H. LUKIN: It has been "a life for a life" from the earliest ages.

HON. R. S. HAYNES: It is said the devil can quote Scripture; but I do not know any portion of Scripture which justifies us in doing another man to death.

HON. J. W. HACKETT: Have you any faith in electricity?

HON. R. S. HAYNES; Let me say that for many years I was, I will not say an advocate but a holder of strong views on the death penalty; and I did not see any reason why the death penalty should be abolished. For that reason I do not quarrel with hon. members who hold views different from mine. My mind wavered from time to time, but what principally changed my opinion was through reading an account of an execution by electricity. The execution was photographed, and published in the *Royal Magazine*. I have read the article at least half-a-dozen times, and each time I read it, it seemed more repulsive.

HON. M. L. MOSS: That was an American romance.

HON. R. S. HAYNES: It was not. It was an account of an execution in Sing Sing, and contained photographs taken at the actual execution.

A MEMBER: How many years ago?

HON. R. S. HAYNES: Not 18 months ago. The photographic views give almost a biograph of the execution. We in British communities flatter ourselves that we are humane, and we look down with scorn on the Spaniards with their bull fights. But they kill a bull only, whereas we kill one of our fellow creatures. Of the two, I say there is more humanity about the Spaniard. But the Englishman, of course, is always right. The early principle of trial was trial by battle. You complained before a judge, or a reeve, or other officer, that another man had done you a wrong. According to early law, the defendant was summoned; and if he did not get compurgators, namely persons who could swear to his innocence, or if he failed to escape by some quibble, he had to fight you, and the stronger man won. There was also what was called a trial by ordeal. I want to show you how humane were our early British ancestors, and I shall read a short extract which will show how repulsive was the conduct of the early Britons to their fellow men, and will also impress upon you that probably in another 100 or 150 years, accounts of our own methods of treating criminals will be read with the same amount of horror as that with which you will listen to what I am about to read. Sir James Stephen, the best authority on the criminal law, says:—

> Criminal justice was originally a rude substitute for, or limitation upon, private war; the question of guilt or innocence, so far as it was entertained at all, being decided by the power of the suspected person to produce compurgators, or by his good fortune in facing an ordeal. The introduction of trial by combat, though a little less irrational, was in principle a relapse toward private war; but it was gradually restricted, and practically superseded many centuries before it was formally abolished.

The way in which the trial was conducted will show hon. members that this was actually a fight one with the other. It was a question of "an eye for an eye, a

tooth for a tooth," on the old principle. Sir James Stephen says:—

If the oath succeeded the accused was acquitted. If it failed or "burst," that is if the witnesses could not be found, or would not swear, or if the accused were a man of bad character, he had to go to the triple ordeal (*urtheil*), that is, to handle red-hot iron of 3lbs. weight, or to plunge his arm into boiling water to the elbow.

It is unnecessary to give a minute account of the ceremonial of the ordeals. They were of various kinds. They were appeals to God to work a miracle in attestation of the innocence of the accused person. The handling of red-hot irons, and plunging the hand or arm into boiling water unhurt, were the commonest. The ordeal of water was a very singular institution. Sinking was the sign of innocence; floating the sign of guilt. As anyone would sink unless he understood how to float and intentionally did so, it is difficult to see how anyone could ever be convicted by this means. Is it possible that this ordeal may have been a noble form of suicide, like the Japanese "happy despatch"? In nearly every case the accused would sink. This would prove his innocence, indeed, but there would be no need to take him out. He would thus die nobly. If by any accident he floated, he would be put to death disgracefully.

No doubt we are laughing at this; and I have no doubt that in another 100 years, somebody else will laugh at us. Do not laugh! We have plenty of errors of our own at which other people laugh. Frenchmen laugh at us, Germans laugh at us; and we laugh at them. As I was saying, if the ordeal failed, the accused was convicted. Then it is stated how they punished him. Trial by battle subsequently came in with the Norman kings. The author says:—

The following was the substance of the process according to which appeals might be made in cases of treason, homicide, breach of the peace, and wounding (*de pace et plagis*), mayhem, breaches of the peace by false imprisonment—[these were all capital offences]—robbery, arson, and rape. The appeal was made before the coroner, or before more coroners than one. The appellor was required to make a minute and strictly formal statement before the coroner as to the nature of the offence, setting forth a great variety of particulars as to the time, place, and circumstances of the offence, in order that the appellee might be enabled to defend himself. [And so on.] If the appellee appeared before the justices he might avail himself of any one of a great variety of pleas or exceptions which are detailed at great length in Bracton. If the appellee was defeated before the stars appeared he was hanged. If he was victorious or defended himself till the stars appeared he was acquitted of the appeal; but inasmuch as the appeal was considered to raise a presumption of his guilt, he was to be tried by the country as if he had been indicted.

All felonies except petty larceny were punishable by death, originally. Most assaults, assaults with violence, were also punishable by death. Forgery was probably unknown at that date. In the case of felonies, not only was the person executed, but the goods were escheated to the Crown or landlord.

A MEMBER: More honesty in those days.

HON. R. S. HAYNES: I cannot see it. There was a law in Halifax providing that anyone caught red-handed had to be hanged by the neck, if the goods stolen were of the value of thirteen pence halfpenny. Now I am coming to later years, to about 150 years ago. At the present time our principal authority upon criminal law is "'Hale's 'Pleas of the Crown.'" The Lord Chief Justice had the reputation of being a very humane man, and he provided what were known as the Pleas of the Crown or Rules of the Criminal Law. It is only 150 years ago, and yet two unfortunate women were arraigned in the dock before him, charged with being witches, and a very learned doctor of medicine gave skilled evidence, the evidence of an expert, as to what was witchcraft:—

Two women, Rose Cullender and Amy Duny, were indicted for bewitching several children, who were considered too young to be called as witnesses. The evidence came in substance to this, that each of the women had a quarrel with some of the parents of the children said to be bewitched; that afterwards the children had fits; that in their fits they threw up crooked pins, and declared that the two prisoners were tormenting them, and that they saw their apparitions. Some other incidents were alleged, almost too puerile to relate; *e.g.*, "a little thing like a bee flew upon the face" of one of the children, whereupon she "vomited up a twopenny nail with a broad head," and said "The bee brought this nail and forced it into her mouth."

HON. M. L. MOSS: That must be an American edition, I think.

HON. R. S. HAYNES: It is reported in *6th State Trials*. It is an authentic report of a case tried in England. You laugh at it now. I will show you what this death penalty is.

HON. J. W. HACKETT: What does the doctor say?

HON. R. S. HAYNES: I will read what the doctor says:—

This was proved, not by the child, but by her aunt, who seems not to have been asked the most obvious questions, such as whether when she saw the bee it was carrying the nail, and if so, how, and as to the child's opportunities of getting the nail and putting it in her mouth. A quantity of nonsense of this sort having been proved, it is satisfactory to find that "Mr. Sergeant Keeling" (probably as *amicus curiæ*) "seemed much unsatisfied with it, and thought it not sufficient to convict the prisoners; for admitting that the children were in truth bewitched, yet" (said he) "it can never be applied to the prisoners upon the imagination only of the parties afflicted; for if that could be allowed, no person whatsoever can be in safety." This view of the matter was encountered by the famous Dr. Brown, the author of *Religio Medici*, who, upon view of the three persons in court, was desired to give his opinion what he did conceive of them; and he was clearly of the opinion that the persons were bewitched, and said that in Denmark there had been lately a great discovery of witches, who used the very same way of afflicting persons by conveying pins into them, and crooked as these pins were, with needles and nails. And his opinion was that the devil in such cases did work upon the bodies of men and women upon a natural foundation (that is) to stir up and excite such humours superabounding in their bodies to a great extent, whereby he did in an extraordinary manner afflict them with such distempers as their bodies were most subject to, as particularly appeared in these children; for he conceived that these swooning fits were natural, and nothing else but that they call the mother, but only heightened to a great excess by the sublety of the devil co-operating with the malice of those we term witches, at whose instance he doth these villanies.

That is the evidence. The Court gave an opinion that they were bewitched. Lord Chief Justice Hale summed up to the jury, his summing up being very short. "Thou foul witch" was the term he applied to the prisoner in the dock. This is the Lord Chief Justice's summing up to the jury. I like that hypocrisy. It was very bad in those days, and it is very good in these days, and I believe that in another hundred years people will say it was very bad in these days. Exactly as we speak of what took place a hundred years ago, they will speak of what takes place now. What I refer to took place only 150 years ago:—

He told the jury that "he would not repeat the evidence unto them, lest by so doing he should wrong the evidence on the one side or the other. Only this he acquainted them, that they had two things to inquire after. First, whether or no these children be bewitched? Secondly, whether the prisoners at the bar were guilty of it? That there were such creatures as witches he had no doubt at all; for, first, the Scriptures affirmed so much; secondly, the wisdom of all nations had provided laws against such persons, which is an argument of their confidence of such a crime."

The poor old women were both convicted and executed—burned in the fire—not 150 years ago. Hundreds were burned for witchcraft, and these prosecutions were not abolished until Lord Chief Justice Holt abolished them by threatening a prosecution of a man named Hathaway. What would be thought to-day if we had such evidence as that? The life of that woman was taken away, and that was an unjustifiable act. It may have been 150 years ago, but still it was unjustifiable. Let me tell you about the case of a man tried before Lord Justice Nathaniel Lindley on that judge's first circuit. That man was charged with the capital offence of murder, and was convicted, and it was only after strenuous efforts that the man's life was saved, yet subsequently another man admitted the offence. Fortunately the man who was convicted was not hanged, and after many years he was liberated. The question to be decided is whether any State or any one has a right to take human life. I deny the existence of such right, and I challenge any person to show me any authority for it, the only justification being that of "an eye for an eye a tooth for a tooth." Every nation in a semi-barbarous, uneducated state punished nearly every offence by death. As civilisation marched onwards, the death penalty was abolished for all offences excepting only the crime of murder. It was thought at one time that by exhibiting the corpses on gibbets in the street murder would be prevented. That, however, did not prevent murder, but executions for murder were more frequent at the end of last century and the beginning of the present century than they are now. There were ten times as many crimes of violence in the last century as now, and the decrease is not in consequence of the punishment at all. Punishment has nothing whatever to do with it, and now I am speaking of a matter I know something about myself. I say from my experince of criminals that when once criminals have made up their minds

to commit a crime, they are not deterred by fear of the sentence.

HON. M. L. MOSS: Nonsense!

HON. R. S. HAYNES: But they are deterred only by the danger of exposure and conviction.

HON. M. L. MOSS: Nonsense!

HON. R. S. HAYNES: Mr. Moss can pit his view against mine, but I give mine after many years' experience, and I assert that every authority who has studied the criminal law is of the same opinion as myself. It is not, I repeat, punishment that deters crime, but the certainty of detection.

HON. J. W. HACKETT: That applies to all crimes.

HON. R. S. HAYNES: If the certainty of detection will prevent crime, it is not necessary to take human life. I say to you who defend hanging and taking another person's life, that by such means murder has not yet been stopped. Give what I advocate a trial of five years, and see if you do not stop that crime. Punishment by death has existed for 1800 years, and you cannot stop murder by that method. Crime undoubtedly was on the wane, and had almost ceased or at any rate it had become very much less after you abolished capital punishment for felonies, and inaugurated a system of police, and it is the system of police and detectives and not the punishment which has prevented crime. Take the case of crimes of violence. A man loses his temper. Do you think for one moment that he pauses a second to think what the punishment will be? He wants to get hold of a man and to kill him, and not for one moment does he think of the punishment. Do you think that if he thought it was hanging or anything else, he would stop? No. His passions have got hold of him, and he cannot stop.

HON. J. W. HACKETT: Then, according to your argument, he ought not to be punished at all.

HON. R. S. HAYNES: I entertain the idea that when the science of medicine travels a little farther ahead, we will be able to treat criminals as lunatics. I certainly assert that many criminals are lunatics, and cannot restrain themselves from committing crime.

HON. M. L. MOSS: That is all right.

HON. R. S. HAYNES: I do not like to hear the word "punishment" at all, and I say that if a man commits crime, society should be protected from him, and he should be placed in such a position that he would not be able to commit crime any farther. Executions are very rare in Germany and in Austria: they are much more frequent in England. Is there any less crime in England than in Germany or in Austria? I think not. Executions are very common in China. There a man is beheaded for scarcely anything. Executions in the dark regions of Africa, where people are barbarous or semi-barbarous, are very common. Do they prevent crime? Do you not see that wherever the people are either barbarous or semi-barbarous, executions are common? As the people become civilised, executions become rare. But whether the House will go the whole length of my motion or not, there can be absolutely no dispute that we should not disfigure our statute book by having these punishments of death enacted for offences short of murder. Of course the House is with me in that. I will get hon. members step by step. I say our statute book is disfigured by these laws; and the danger is that where the offence is to be visited by the capital penalty, juries will not convict. One cannot add to an information for a capital offence any other information charging an offence of a less degree; consequently the verdict has to be one of guilty or not guilty, and we cannot bring in a less serious charge. The consequence is, juries will not convict of capital offences, and there are miscarriages of justice. My contention is that we should punish crime, but we should take greater care in order to secure the conviction of the guilty party. The greatest offence known to the law should be followed by imprisonment for life. I do not mean penal servitude in gaol for seven years; but where wilful murder is proved, the criminal should be kept in gaol for the term of his natural life. You may say, "Look at the cost." I say that is rubbish. Is it not better that he should be kept there than that the barbarity of hanging him with a rope should be countenanced?

HON. J. W. HACKETT: The next humanitarian will do away with imprisonment.

HON. R. S. HAYNES: I wish we could; but I am afraid there will have to

be some restraint placed on persons who injure others. They must be put in places where they will be safeguarded. I do not like the idea of inflicting pain on any of the lower animals, and much less on a man. I do not like applying torture in the shape of a whip. I consider that if a man is kept away from doing harm to other persons, that is all we are entitled to do. I move this motion: I hope the House will pass it; at all events, it opens the matter up for discussion; and if I do not pass the first part of the motion, I shall be willing that it pass in an amended form, and am quite prepared to accept an amendment if any member think it necessary. But after from 15 to 20 years' experience, I say that every person who has had the same experience as I have had is forced to the same conclusion.

HON. W. G. BROOKMAN (Metropolitan-Suburban): I have much pleasure in seconding the motion. I have followed the hon. member with considerable interest. For many years I have held the same opinion; and I believe that punishment by death is, for some offences, not a sufficient punishment. A criminal is condemned; he has three weeks in which to make his peace with the Almighty; and we know that condemned criminals invariably go to the scaffold quite prepared for death, and that death is to them no punishment. I think some other law should be applicable to criminals; and if a man commit murder on the spur of the moment, because of some temporary annoyance and without any prior intention, I do not think his life should be taken.

HON. J. W. HACKETT: What would you do with him?

HON. W. G. BROOKMAN: I am arguing that death is no punishment. Give a man time for his conscience to prick him; and if he recognises that he has done wrong by taking the life of his fellow creature, his remorse will be to him a greater punishment than death. I have therefore much pleasure in seconding the motion.

HON. H. LUKIN (East): I have only a few words to say in opposition to Mr. Haynes. He went a long way round to prove what we already know; but I am positively certain there are still several members in this House who retain their common sense sufficiently to know that when a man commits a wilful, deliberate, cold-blooded murder, that man has forfeited his right to live; and it is better for that man, and better for the community, that he should be put out of the way, to save him from committing any other similar offence. As for my friend's observations about several other crimes for which the death penalty is recorded or is liable to be inflicted, I quite agree with him that the death penalty for those offences should be struck off the statute book.

HON. C. A. PIESSE: What, for rape?

HON. H. LUKIN: Yes; for rape. Mr. Haynes has tried to draw a very frightful picture of a man going to the scaffold. But I am certain that if the hon. member happened to go home, and found one of his children ruthlessly butchered by a cold-blooded murderer, he would be the first to shout, "Hang him!" We must look at both sides of the question. I do not wish to say more. I am positively certain the sound sense of the House will never vote for doing away with capital punishment for a cold-blooded, deliberate murder.

HON. S. J. HAYNES (South-East): Personally, I cannot support the motion. My reading and my experience convince me that punishment by death for murder is certainly a deterrent; and if this be abolished ——

HON. R. S. HAYNES: Then why not gibbet murderers?

HON. S. J. HAYNES: Because our state of civilisation is such that the undue advertising of the putting away of what I may term vermin and brutes is repugnant to the present generation.

HON. R. S. HAYNES: Then the punishment is not a deterrent.

HON. S. J. HAYNES: I am simply stating the result of my observation; and I think the time has not arrived for the abolition of capital punishment. To my mind—and I look at this from a common sense point of view—the putting to death of not only any man, but of any animal, is unpleasant and perhaps horrible, particularly in the case of a man; but I think it is about the best cure for, and the best mode of treating, criminals of a certain class. Why should the State be burdened with keeping those brutes who commit such horrible crimes?

HON. R. S. HAYNES: Then why imprison a man for life? The State has to keep him.

HON. S. J. HAYNES: For ordinary felonies, no man is actually imprisoned for life. But to imprison a murderer for the full term of his life would be to punish the honest and respectable portion of the community, who would be compelled to support him. And I am perfectly sure that so long as the punishment of death is on the statute book, it will be in some measure a deterrent to violent-minded men, and also to men with strong animal passions. It will be a deterrent to murderers. If it be swept away, there will not be such deterring influences to prevent such men from committing crime. They will not be afraid of a sentence for a term of years, which by good behaviour is reduced, so that they are again thrown upon society.

HON. R. S. HAYNES: No; immure them for life.

HON. S. J. HAYNES: I agree with my friend who has just spoken (Mr. Lukin). In case any child of Mr. R. S. Haynes's had been murdered by one of those brutes, he would immediately come to an opposite conclusion. When such horrible crimes are committed, the best method is to put the criminals out of the way, as you would vermin or wild animals.

HON. R. S. HAYNES: Do not speak thus of your fellow men.

HON. S. J. HAYNES: Only recently, a crime has been perpetrated which might have resulted in murder; its object being to put out of the world, by the hand of an assassin, one of those for whom, I am sure, the whole of us have the highest respect—the President of the United States. It does not matter what morbid opinions may have affected the mind of the criminal. I say, in this instance it would be better in the interests of humanity to sweep him out of the road, rather than to imprison him for life. I cannot support the motion; it is contrary to my common sense; and I think if the death penalty were abolished, in the present state of society at any rate, crime of this sort would increase.

HON. C. E. DEMPSTER (North-East): I regret I cannot support this motion, notwithstanding the hon. member's having placed the whole matter before us in a very interesting way. But I am sure there are very few in this House who for a moment believe that to do away with the death penalty for murder and similar crimes would not produce a very injurious effect. I am quite sure the abolition of the death penalty would ultimately lead to a larger number of murders and fearful outrages being committed than are committed at present, when people know that death must be the penalty.

HON. D. M. MCKAY: Such crimes would be increased tenfold.

HON. R. S. HAYNES: Nonsense! Take the case of sheep-stealing in England.

HON. C. E. DEMPSTER: It is humiliating to think that such is the case; but I am sure every reasonable man must come to that conclusion. Crime would increase. The death penalty must and does deter. How often do we read of cruel and bloodthirsty murders and other horrible crimes; and do we not frequently say, "Hanging is too good for him." So it is. And shall we then do away with capital punishment? No. The best thing we can do is to exterminate such wretches, and not prolong their existence and possibly leave it in their power to do deeds of a similar kind again. I feel sure the House will not affirm the hon. member's motion, for I can hardly think that with his discrimination and discernment, he really believes all he has actually said on this matter.

HON. R. S. HAYNES: I do.

HON. A. JAMESON (Minister): After having heard hon. members discuss this question so fully, I think the mover will perhaps see the advisableness of amending his motion to read: "That the death penalty should not lie against any offence save murder."

HON. R. S. HAYNES: All right.

HON. M. L. MOSS: And treason.

HON. J. W. HACKETT: There is a lot to be said for retaining some of the other capital offences.

HON. A. JAMESON: I believe the House will then be with the hon. member. I should except murder.

HON. R. S. HAYNES: After the word "offence," insert "except treason and murder."

HON. J. W. HACKETT: Will the Government support that?

HON. A. JAMESON: I believe so.

HON. J. W. HACKETT: Then make it a Government measure.

HON. A. JAMESON: If we get the support of this House, I believe the Government will consent to the abolition of the death penalty for all offences with the exception of murder. I may say I have given some attention to this matter, which was very fully investigated by the Penal Commission, of which I was a member. We studied the whole question, and came to the conclusion that at the present time it would certainly be inadvisable to remove the death penalty for murder. The hon. member is aware that frequently, and with difficulty sometimes, the death penalty has been removed, and not with satisfactory results. There is a general feeling on the part of penalogists that the removal of the death penalty has not been satisfactory, and there has been increased murder. Undoubtedly the fact that executions and capital punishment come up vividly before the mind, has in some instances deterred one from committing murder; not murder committed in passion such as the hon. member (Hon. R. S. Haynes) described, but cold-blooded murder. There is another aspect. Of course the great difficulty is to know what to do with the criminals, if you do not execute them. Undoubtedly by execution we get rid of a danger to our social life. If you imprison criminals for life, a difficulty then arises. Is it not a greater punishment than execution? Is it not more humane to execute them? In Sweden, where capital punishment does not now exist, a prisoner has again and again said that death would be preferable to imprisonment for life; that it is not clemency to endure a living death, and they would infinitely rather be executed.

HON. R. S. HAYNES: It is a protection to society.

HON. A. JAMESON: Execution is a permanent protection against that which is a constant danger. In speaking of Italy, even in the very prisons murder has been committed by persons whose lives have been saved. When you have a man who is an instinctive murderer, undoubtedly for him and for society execution is the best thing. The abolition of capital punishment would be a dangerous policy and it would be the more dangerous in so far as Western Australia would become in a measure an asylum for a certain class of criminals. This really ought to be a Federal question. If capital punishment were abolished it ought to be abolished throughout the whole of Australia, and not in one State only. Take, for instance, such a case as that of Deeming, who prepared his scheme of murder beforehand: undoubtedly there are such cases, and one would choose a State where he might commit murder with the chance of not being executed. Such a case undoubtedly would be a danger to us, and I am sure that if the hon. member would modify his motion to the effect suggested he would get the support of the House.

HON. R. S. HAYNES: Will you move the addition of those words, "except murder and treason"?

HON. A. JAMESON: I have not moved the motion as a Government motion, and the amendment, if proposed, must come from someone else. I can only say, as a member of the Government, that I shall endeavour to see it carried out, if it be the will of the House.

THE MINISTER FOR LANDS (Hon. C. Sommers): As Dr. Jameson has pointed out, we shall have an opportunity of considering this question, for it is proposed to carry out a new criminal code, and the death penalty is provided for certain particular offences. So members will have an opportunity of dealing with each crime. I am not going to vote for the motion at all, for I think the penalty of death is a deterrent, so I do not agree with the abolition of such penalty. With regard to publicity, to some criminals publicity has a certain amount of charm, and the custom of executing some criminals, such as bushrangers and others, gathers for them a certain amount of sympathy, and instead of being detested by a certain number of people they are applauded. Death has more terror where it is conducted in private, and I think that is the reason why publicity was done away with. With regard to abolishing the death penalty for rape, I doubt whether this House will agree to abolish it in relation to such offence.

HON. R. S. HAYNES: Has it been carried out in this State?

THE MINISTER FOR LANDS: I do not know, but the very possibility of its being carried out acts to a large extent as a deterrent, in my opinion. I oppose the motion.

HON. J. M. DREW (Central): I cannot support the motion as it at present stands; but if it had read in a different way I should have been glad to vote for it. I should have supported it had it read "that, in the opinion of this House, punishment by death should be abolished, except in the cases of murder and treason." I should support that in the strongest manner, but I think it would be a great mistake if we did away with capital punishment in so far as murder is concerned. Murder is the extremest offence, and the extremest punishment should be dealt out for that offence, and, in my opinion, imprisonment for life is no adequate penalty. I consider that capital punishment for murder works very well. Very few murders of the description referred to have been committed in Western Australia during recent years, and the gallows does good in a case where a monster commits a murder deliberately. I do not approve of the infliction of the death penalty for other offences; therefore I have much pleasure in moving, as an amendment:

That after the word "offence" the words "except treason and murder" be inserted.

TWO MEMBERS: Murder and rape.

HON. J. M. DREW: No.

HON. M. L. MOSS (West): I had no intention whatever of speaking on this motion, and had the matter remained without the amendment, I certainly should not have taken up the time of the House farther on the matter. I merely rise now to say that, so far as I am concerned, I desire to enter my emphatic protest against the abolition of the death sentence in the case of rape.

TWO MEMBERS: Hear, hear.

HON. M. L. MOSS: I can conceive nothing more horrible, nothing more revolting than that a little child should be ravished by some brute of a man, and, to my mind, that is equal to the taking of life.

HON. R. S. HAYNES: What about kicking a woman?

HON. M. L. MOSS: I have no desire to go into anything irrelevant to the matter before the House. We have listened to a long speech from Mr. Haynes, who has talked of the abomination of the gallows, with all of which I agree. He has referred to cold-blooded murder, but, to my mind, the ravishing of a little girl by some brute is equally abominable, and so is treason. My strong opinion is that rape should also be included as something for which the death sentence should be passed. We know that the death sentence when passed on a person who has committed the crime of rape is not very frequently carried into effect, but the fact that you have that on the statute book as a possible penalty a man may suffer if he commits that terrible offence, as has been pointed out by many persons, is a great deterrent. There is the prerogative of mercy which frequently is exercised in cases of this kind. We know that in the history of crime in Australia there have been cases in which eight or ten men, one after another, just like a number of brutes, have gone and carnally known a woman. Under these circumstances I think it is a good thing that we have on the statute book capital punishment, which at any rate will act as a warning to persons that, if they do this kind of thing, they are liable to suffer the death penalty. I could not allow that amendment to be proposed without raising a protest against it. I have no intention to vote for the motion or the amendment.

HON. R. S. HAYNES (in reply): I will ask the House to divide on this question. One talks of the horror of a man committing an onslaught upon a little child, and upon a female! There are some persons who have a doubt whether rape can be committed upon a woman. With reference to committing an onslaught on a little child, it is revolting; but how about a man who kicks his wife in the stomach? This is not revolting at all!

A MEMBER: It is not to be compared with that.

HON. R. S. HAYNES: I should put them in the same category. If you have a charge of rape, the jury acquit the prisoner, and the prisoner goes scot-free owing to the fact that, if he were convicted, the sentence of death would be passed. It is of no use saying the question of enforcing the sentence may rest with the Executive. That is the objec-

tion. Within my positive knowledge, in 20 trials for rape heard in the Supreme Court of Perth, the prisoner has been acquitted. I wish to point out as one of the reasons why the death sentence should be abolished, that I know of no instance in the last 17 or 18 years in which a prisoner has been executed. I defended a black fellow for a rape upon a white woman, in the interior. He was found guilty without any recommendation to mercy, but the sentence was not carried out. If they will not execute a black man for committing a rape on a white woman in the country, abolish the death penalty. I accept the amendment, and I hope the House will pass it.

Amendment put and passed.

Motion as amended put, and negatived on the voices.

At 6·33 o'clock, the PRESIDENT left the Chair.

At 7·35, Chair resumed.

PAWNBROKERS BILL.

Introduced by Hon. A. JAMESON (Minister), and read a first time.

PROBATE AND ADMINISTRATION BILL.

Introduced by Hon. A. JAMESON, and read a first time.

R.C. CHURCH LANDS BILL (PRIVATE).

Introduced by Hon. R. S. HAYNES, and read a first time.

On farther motion by the Hon. R. S. HAYNES, the Bill was referred to a select committee, comprising Hon. F. T. O. Brimagé and Hon. A. Jameson, with Hon. R. S. Haynes as mover; to have power to call for persons, papers, and records, and to report on 17th September.

STANDING ORDERS (JOINT), TO AMEND.

COMMITTEE'S REPORT.

HON. C. SOMMERS (Minister for Lands) brought up the report of the Standing Orders Committee, and said the report fully set out the causes which led the committee to recommend the House to pass the following motion:—

That this House approves of the report of the Standing Orders Committee, and that a Message be sent to the Legislative Assembly informing that body that this House is unable to concur in the request contained in Message No. 3.

He now accordingly moved the motion.

HON. J. W. HACKETT (South-West): As a member of the Standing Orders Committee, he seconded the motion. The report laid before the House would surely be convincing. He had only one word to add. If this honour could have been parted with by the Legislative Council, the House would have done so most justifiably and creditably to themselves by allowing the duties of Clerk of Parliaments to continue in the hands which lately held those duties, namely our late Clerk, Mr. Charles Lee Steere. Hon. members recognised that in losing that gentleman they had lost an officer on whose services they placed, and deservedly placed, the very highest value; and one might take the liberty of adding that whoever came in the room of that gentleman would have much difficulty in doing work equal to that which Mr. Lee Steere had accomplished. But at present it was not for hon. members to consider the claims of friendship, and certainly not in a case where the old prerogatives of the second or advising Chamber, and the established usage of Parliament observable in so many Parliaments throughout the Empire, were at stake; and in these circumstances, in seconding the motion of the Minister he had no other duty to perform than to preserve the usage as it had existed in this State from the date of responsible government, and as it was followed in all the Parliaments of the British Empire.

Question put and passed.

Message accordingly transmitted to the Legislative Assembly.

ROADS ACT AMENDMENT BILL.

SECOND READING.

Debate resumed from 28th August, on the motion moved by the Minister for Lands.

HON. M. L. MOSS (West): I regret that owing to circumstances not under my control, I have had no time to consider the measure now before the House. However, I will endeavour to deal briefly with the Bill, and I may be able to point out some matters which will enable us to come to a conclusion as to whether this measure should be passed exactly as it is

presented to us by the representatives of the Government. There can, I think, be no doubt that many of the proposals contained in Part I. of this Bill are matters of great moment and importance, while on the other hand there are many powers proposed to be conferred on roads boards which I think it extremely inadvisable to give. With regard to Part II., with which I propose briefly to deal, I think many of its provisions are open to serious objection. Clause 7 is, I think, extremely objectionable. It provides that—

> A board may grant to any member thereof a sum not exceeding ten shillings a day for expenses incurred by such member when actually travelling on business for the board.

That is in Part I. Personally, I think members of roads boards should not be paid; and I can see that Clause 7, Subclause 1, will be a fruitful source of income to some roads board members; in fact, owing to the way in which the sub-clause is drawn, a member coming from the goldfields on a deputation to the Government regarding the wants of the district, would be paid ten shillings a day during all the time he was absent from his home on that service. I think it is not good policy that a man should be paid for such duties. A provision such as is contained in Clause 7 enables members of those boards to practise very great abuses on the public funds; and I think it is an unnecessary provision, and one the want of which has not so far stood in the way of roads boards satisfactorily performing their functions. Clause 10, however, contains a very admirable provision.

HON. A. JAMESON: Do you refer to Sub-clause 2 of Clause 7?

HON. M. L. MOSS: No; I should support that as a fair thing. If a man give a whole day, as returning officer, to carry out the provisions of the Act at a contested election, he ought to be remunerated. But the first part of the clause I object to, because I think it would open the door to abuses. I know that in the administration of the Local Government Acts in New Zealand, such provisions led to terrible abuses, men being paid to attend meetings of those local bodies. In that country, men used to be paid for attending education committees, education boards, charitable boards, and county councils; and some were simply "living on the game." I think it wrong to enact any such provision. Clause 10 is a very good clause indeed. I know that in some roads board districts round Fremantle, members of the boards have had roads declared through the lands of other members, which roads up to the present time have not been made; and though the roads have not been made, nevertheless fences have been erected at the public expense on both sides of the line of road, and by that means the owners have had practically the whole of their land fenced at the public cost.

HON. R. G. BURGES: Do not forget landowners have to pay rates for that land.

HON. M. L. MOSS: So have those whose lands are not fenced free of charge. I shall not make use of any names, but I make the assertion that in the case of a roads board near Fremantle, a member of the board used his influence to get a road declared through his land, and that both sides of that line of road have been fenced. The provisions of the clause will prevent the recurrence of such an abuse. I am not, however, satisfied that Clause 19 will be in the best interests of the public.

HON. R. G. BURGES: But what about Clause 20?

HON. M. L. MOSS: It is, in Clause 19, proposed that meetings may be held outside the roads board district.

HON. R. G. BURGES: That is according to the old Act,

HON. M. L. MOSS: No. The clause reads:—

> In section nine of the Roads Act 1888, the words "within the district," in the first line thereof, are repealed.

At the present time it is, I understand, necessary to hold a meeting within the roads board district.

HON. R. G. BURGES: No. The contrary provision was passed in this House. Mr. Stone moved it.

HON. A. JAMESON: That has already been passed in the amending Act of 1894. You will find the provision in Section 11 of that Act.

HON. M. L. MOSS: If it be the law at present, I have no desire to disturb it. I am probably a bit at sea, in view of the fact that I have not had time to study the Bill. Clause 20 should, I think, be

amended in Committee by inserting, in lieu of "the Minister for Works," the words "the Minister charged with the administration of the Act." Such a suggestion was thrown out by Mr. Hackett during the speech of Dr. Jameson. That is the procedure we have adopted with the Game Act, and with several other measures which have from time to time been before Parliament. Part II. of this Bill is to my mind extremely objectionable, and I think, without wishing to say anything very disparaging against Dr. Jameson, that it is legislation aimed at meeting the requirements of Cottesloe and Cottesloe Beach. I refer to the whole of Part II. Any district so far advanced as to have the provisions of Part II. applied to it should be proclaimed a municipality, and the Municipalities Act should be in operation in that district. I think it is bad policy to have too many different classes of local bodies. We have roads boards and municipalities, and this Part II. will create a new corporation, half roads board and half municipality. Besides, by Part II. there are most objectionable powers sought to be conferred on roads boards. Take Clause 36 as a sample. That enables the board, when Clause 36 has been declared by the Governor to apply to the district, to call upon the owner of the land to fence. Now in municipal areas that provision applies at the present time; and I think most hon. members will agree that the power of fencing which municipalities at present have, presses harshly and very unduly on the holders of land. I have no hesitation in saying that in roads board districts there may be at times a majority of the board which could pretty nearly ruin a man by bringing that provision into operation.

HON. R. G. BURGES: You did not think of that just now when you were speaking of Clause 10. You are now speaking of towns.

HON. M. L. MOSS: I will deal with Clause 10 in a moment.

HON. R. G. BURGES: You are one-sided.

HON. M. L. MOSS: I will deal with Clause 10 again; but, with regard to Clause 36, persons owning roadside land in this State might be called upon by a roads board to fence, and the cost of fencing would, in many instances, be nearly as great as the cost of the land itself. I think the House should hesitate before conferring such power on a roads board. There is just this difference between the clause I have mentioned and Clause 10——

HON. R. G. BURGES: A great deal of difference.

HON. M. L. MOSS: All the difference in the world. The provision contained in Clause 10 has, in the past, enabled persons owning land in country districts to have their land fenced at the public cost. That is what I object to. In the past these grants made by Parliament from time to time have been for the purpose of making roads, and as I say, in many instances that has been abused to this extent, that instead of the money being applied to the legitimate purposes for which it was voted by Parliament, it has been applied to fencing people's land. That is of a very different character from the power sought by Clause 36 of this Bill, which would enable a board to place upon owners of country land (in many instances of very small value) a liability, and I think the House would hesitate before passing legislation enabling a roads board to exercise power of that kind. There is a provision in this Bill enabling the roads board to close rights-of-way on obtaining the consent of the majority of the owners of the land. Dr. Jameson has told us that in the past these rights-of-way have been made the receptacles for old tins and rubbish thrown out from houses abutting on those lands. It would be a great mistake for the House to close up those open spaces. The more the means of access we give to the people, and particularly in such localities as those referred to—Cottesloe and Cottesloe Beach—the better for the public at large. I quite agree with any proposal restricting people cutting up lands from making narrow streets, and the provision in the Bill making those streets not less than 66 feet in width seems to me a good one. I do not go so far as to say such rights-of-way should be locked up because the owners of the land object to their being sold. Much more do I object to the fee simple being given to the owners when land becomes dedicated to the public use. Generally, I support the motion, and when the Bill

gets into Committee I shall do my best to prevent certain portions of it from becoming law.

HON. R. G. BURGES (East): This Bill has been asked for particularly by roads board conferences; but some of the provisions have been altered. Clause 7 which the last speaker has referred to has come principally from the roads board conferences, and I take it the roads board conferences have got into hot water with goldfield representatives, but they thought it very hard that they should have to go these distances without being paid. No doubt a large amount of the funds of a board would go in this way. In fact it is pretty well known that some of the boards in some of these outside places have spent large sums of money, and the auditor has not passed them. I propose that the first part of the clause be struck out altogether, but the second part is moderate, the sum being only two guineas, and of course there is no necessity to give that in all cases. In regard to Clause 20, Dr. Jameson, in speaking on the second reading, said the Government by this Bill were increasing local self-government; but I think that in some of the clauses, particularly Clause 3, the Bill would be curtailing that power altogether. What does Clause 3 mean? It means taking away the power of the roads board altogether, and if roads boards are not fit to carry out their duties, we had better do away with local self-government altogether, and put the government entirely into the hands of the Minister. Clause 20 provides: —

> The Minister for Works may summarily dismiss any clerk or other officer of the board who neglects or fails to observe the provisions of this section and of section one hundred and two of the principal Act.

That power ought to be in the hands of the roads board. What was asked for was that a public auditor should go and audit the accounts. To give the Minister for Works power to go about and dismiss the officers of the board would be to do away with local self-government altogether, or, at any rate, to curtail the powers of the board, and no persons would sit on a roads board if that passed. I hope the Bill will not be passed unless it is amended. The last speaker referred to Clause 10, and said he thought it was a very good thing. That was one of the matters brought forward at the first conference in Perth, and it has since been brought forward several times. It must not be forgotten that large holders of land are rated, and all the roads boards of the country where there is private property will have to pay a rate. Thus large holders will, I repeat, have to pay rates, and why should they, whilst they have to pay rates, have the nuisance of there being a road through their property, with gates? Supposing people go through the property at night, and leave the gates open and let the stock get all over the country? Men open the gates and drive the sheep out, and make all sorts of excuses when the case is brought before the Court, as I know to my sorrow. I hope this clause will not pass: it would be an unjust clause. Mr. Moss takes a great deal of trouble in relation to matters he speaks on, but in this instance he is only looking at his own surroundings. This Bill is the outcome of the wishes of the people living in the suburbs of Perth. The second part ought to be tacked on to the Municipal Act, and it is not required in this Bill. Instead of being under a roads board, these suburbs which are gradually going towards municipalities ought to be under the Municipal Act. The Bill could be easily amended. Under the Municipal Act a certain number of people in the towns can become a municipality. Let the number be reduced, or let some amendment be made in the Municipal Act so that those suburbs can come under that Act instead of under the Roads Act. There is a clause in the Bill relating to the closing of roads. The Minister referred to that and said he wanted the power to be altogether in the hands of the Minister. There are instances where a road which has been surveyed has not been required for a length of time, and this Bill will give a Minister power to close that road. Lots of these roads are not brought into use by roads boards, and declared roads, because if they are declared roads very often a lot of money has to be spent which would not otherwise be required. No roads should be closed before notice is given to the roads board, the board being asked whether the roads will be required for the future or not. The roads boards are not treated fairly. The

surveyors sent out do pretty well as they like, and the neglect of some of these surveyors costs the roads boards hundreds of pounds, roads being run through property whether they are over hills or in dales, or anything else, without people being taken into consideration. That is occuring every day. There may be some trouble in the Survey Department, but one must not look to the Survey Department for everything. The authorities ought to consult the roads boards, and when in Committee I shall move that such power as I refer to shall not be given without application being made to the roads board. The Minister or Survey Department does not look into these things. Very often roads are closed, and then as soon as ever they are closed, people begin to grumble, and the roads have to be reopened. It will be the same if this clause in the present Bill passes.

THE MINISTER FOR LANDS: What clause is that?

HON. R. G. BURGES: I cannot put my hand on it just now.

HON. M. L. MOSS: There is nothing in this Bill about closing roads.

HON. R. G. BURGES: Oh, yes, there is. As to Clause 10, with regard to fencing, Mr. Moss thinks it would be quite fair for gates to be put on a man's land; but he must remember that Clause 36 will apply to the land. If you made a surveyed road or macadamised road through that man's property, the man would have to fence, instead of the roads board. Does the hon. member think that fair? Is there any justice in that at all? We must look to both sides. I am surprised at the hon. and learned member making such a mistake. Again, he has not looked thoroughly into this matter, but has gone on his own surroundings. I hope Clause 10 will not pass as it stands. These clauses will all apply to the district roads board, as well as to those little suburbs. Under Clause 41 the board may borrow any amount of money not exceeding ten times the average ordinary income of the board for two years immediately prior to the yearly balancing of accounts next preceding the *Gazette* notice of such loan. Of course, they take a vote upon this; but you see what it means. You may get an extravagant board, and the board can borrow. The board's income may be £200 or £300 a year for the previous two years, and they may borrow £2,000. Before six months are over they get squabbling; a new board has to be elected, and they have to pay the piper. The hon. member has not mentioned that. It refers to suburbs more than to country districts. But this clause in Part I. cannot be used save after notice in the *Government Gazette*, and it would be exceedingly inadvisable to have such a clause in a Roads Act. When we go into Committee, we shall have some lively work with some of these clauses before the Bill is finally put into shape.

HON. C. E. DEMPSTER (East): This is a very important Bill, and I hope it will not be passed without proper consideration. There are many clauses in the Bill which I do not like. Clause 10 I do not think would be at all desirable in its present form, except it were given effect to at the option of the landholder. We will say a road is declared through a large freehold block. That, if fenced in, may cut off the owner from his water and from all his improvements. In that case, perhaps it would be more desirable for the owner to erect gates instead of having the land fenced in. But in other cases it would be very much better to have the land fenced off than to leave it open; because there is great difficulty in enforcing the closing of gates, and through their being left open many people lose valuable stock. To leave this power optional with the board would, I think, be very unfair to the landowner. We should thus take away from the landowner a strip of land a whole chain wide through a large block of land, perhaps taking from him as much as 10 to 20 acres, as I have known to be done. The landholder gets nothing at all for that; and I think the least the Government or the board could do would be to fence off those roads if required to do so by the proprietors; and if not, to erect swing gates; because, as I have said, it would in many instances be more desirable in the interests of the owner to have swing gates than to have the land fenced. I may mention one instance in which a very gross injustice was done in the district where I live. A man had a road running right through his block, near the river within five or six chains. If that road were fenced, it would cut off

the proprietor from the whole of the water, and his paddock would be utterly useless. For a great many years, the roads board had gates there, and to a certain extent they gave satisfaction, although of course they were often left open. But now the board have done away with the gates, and the whole of that paddock is in consequence thrown open. The landowner will not fence it himself, and neither will the board; and that, I contend, is a glaring injustice to the owner. He gets no sympathy, because people say, "He is a freeholder with a large block of land: he should have a gate or something of that sort." But there is a main line of road directly opposite, not half-a-mile away; and yet there is this second line of road through his property, and he is not allowed to have gates across it. That shows the option should be with the landholder, and not with the roads board. The matter of rating property has always been a very sore subject. At present, the landholders are heavily taxed. They have to pay a license for every vehicle they have. These roads are for the public benefit throughout the State; they are the vital arteries of the country; they are constructed with a view of enabling the producer to carry his produce to market as cheaply as possible. Of that cheapness the consumer derives the benefit, and I contend the roads, above everything else, should in all circumstances be maintained out of the public revenue. All must see we cannot do without roads. We are not rated for our railways. Roads are just as much a necessity, and a great deal more, than the railways; and I consider that in providing for rating ourselves as the Roads Act provides, we have been a lot of fools. We should have insisted from the first upon our roads being maintained out of the revenue of the State. In common justice to anybody who has land or farms in the country, it must be admitted that the roads are not a benefit to farmers who happen to live along the route. The roads do not increase the value of their property: they simply enable the farmer to carry his produce to market; and the more cheaply and easily he can do so, the better for the consumer. Therefore, rating a man's property for the maintenance of roads is an injustice, and one to which we ought never to have submitted. I see a clause has been introduced in which it is proposed to license camels. Some years ago, a measure to that effect was introduced in this House by me, was carried here, and rejected in the other House, where it was declared to be a "silly Bill." But I do not see why camels which work on the roads of the State, and are fed upon the Crown lands of the State, as they have been from their first introduction, should not contribute something towards the revenue. They are fed gratis upon the land; they have free access to the country's grass; and their owners never contribute anything towards mending the roads or anything else in the country. I think it is very fair to collect a licence from camel-owners, and from camel-drivers also. Mr. Moss has said it is undesirable to introduce in the Roads Act measures which appertain to municipal regulations. I think Part II. ought, properly speaking, to be municipalised. I do not see that it is desirable to mix up the Roads Act and the Municipal Act; and I therefore strongly object to make these clauses applicable to the rural lands and the rural roads of the country.

HON. E. McLARTY (South-West): I have much pleasure in supporting the second reading of this Bill. At the same time, I recognise it will be necessary to make some considerable alterations in Committee. I think the clause dealing with payment of members of a roads board is rather dangerous. For the last 26 years, consecutively, I have been a member of a roads board, associated with gentlemen who have never asked for payment of their services: there is no difficulty, in any district, in getting members to come forward at roads board elections, which are generally keenly contested; and therefore, so long as we have men standing for election, taking up the duties and carrying them out without payment, it is hardly necessary to insert such a clause. Moreover, I believe there are roads boards whose members could hardly be trusted with this privilege. A large portion of the funds would go in payment of members for supervision, etcetera. I do not like the wording of Clause 20, Sub-clause 3, referred to by Mr. Burges. I do not think it is the

Minister's place to interfere with the boards. Any roads board members worthy of the position they hold should surely be sufficiently intelligent to know whether their secretary or clerk is doing his duty, and should have the right to retain or dismiss him. I think it would be an interference with the privileges of the board to place this power in the hands of the Minister, at all events without reference to the board. As to Clause 10, dealing with gates, I think there is a great deal to be said on both sides of the question. Mr. Dempster has spoken of cases of hardship; I have no doubt landholders have, in many instances, suffered injustice. At the same time, I think there should be a discretionary power with the board to say whether it is necessary to erect swing gates leading through fenced land, or whether it should be compulsory to fence the sides of the road. I have known many cases in point. A man perhaps holds a 100-acre block fronting a main road. Another man takes up a section behind him, and has no access to the main road except through the 100-acre block, which access perhaps is not used once in a month, to enable him to acquire a right-of-way; and I think it a hardship that the board should have to expend public funds in fencing both sides of the through road, where swing gates would in some instances answer the purpose; and therefore it might well be left to the discretion of the roads board whether they consider the landholder is entitled to have the road fenced off, or to have swing gates erected. I am not in accord with Clause 32, dealing with the width of roads. In a case like that to which I have referred, where a man wants a right-of-way simply to get from his land to the main road, to take 66 feet is occasionally a hardship on the adjoining landowner through whose property he would make the road. If a man wants a right-of-way through which he can get along with a cart or other vehicle, I think half-a-chain is quite wide enough.

Hon. M. L. Moss: The clause refers to new roads or streets.

Hon. E. McLARTY: The necessity for a 66 feet width applies in townships, and not in the country; therefore I do not agree with its being made a hard-and-fast rule that any road or right-of-way should be one chain wide. In many instances in the country, half-a-chain is quite sufficient for all purposes. I am afraid that Clause 39, dealing with footpaths, would also in many instances be a hardship to the owners of blocks. One cannot always rely on the wisdom of roads boards.

Hon. R. G. Burges: Nor even on the wisdon of Governments.

Hon. E. McLARTY: And in small country townships through which a road passes, a board might call upon an owner of land, who might hold a considerable frontage to some public road, to make a footpath which would be very expensive, and perhaps of very little use when it was made. I hardly think a roads board should have that power. If it be necessays to have footpaths, I think the district should be declared a municipality, and the matter be dealt with by the municipal council. It is hardly the province of the roads board to call upon owners to construct footpaths. There is one matter I do not think was referred to in this amendment of the Roads Act, which is causing a good deal of dissatisfaction throughout the State. That is with regard to rating. Under the present Roads Board Act a man cannot have a vote unless he is rated up to £5; but a conditional purchase holder takes up a block of 100 acres for which he pays £2 10s. per annum, and he may be rated upon that £2 10s. and at the same time apply for a vote. I do not think that is the right thing. If a man is called upon to pay rates, he should have the right to exercise his vote at an election. To my knowledge the present state of things has caused a great deal of dissatisfaction when people have found that although they pay the rates on their property, they are disfranchised because the valuation does not amount to £5. Dr. Jameson, who has taken a good deal of trouble with the Bill, will perhaps look into that matter and introduce a provision enabling persons who pay rates on a smaller valuation than £5 to have the right to vote. Again, rating is not at all equitable. A man who has a homestead lease is exempt from rates altogether. He may take up a very good piece of land and improve it, and may use the roads quite as much as his neighbour, yet, as I

say, he is exempt from paying rates, whereas a man who takes up a conditional purchase lease adjoining and pays a rental of 50s. per annum is rated. I do not think that is just. Again, taking the conditional purchase blocks, it seems to me the rating is not in proportion to the freehold land. You can only rate on the amount actually paid in rent to the Government. The property may be worth a thousand pounds, but if a man pays 50s. he is only rated on the 50s., whereas if a man holds freehold property he is rated on any valuation that may be set upon it. The question of rating requires to be looked into very carefully. I shall be pleased to support the second reading of the Bill, but I hope the measure will not be rushed through the House. I hope that when the second reading has been passed, the Committee stage will be postponed till next week, which I think would give members a better opportunity of studying the provisions of the Bill, and would also permit of information being obtained from roads boards.

HON. F. T. O. BRIMAGE (South): I intend to support the Bill, though it contains some clauses which require alteration. Mr. McLarty has recommended that the Committee stage should be postponed till next week, but I think most members are prepared to go into the Committee stage at present, and I trust that it will not be postponed.

HON. R. G. BURGES: What necessity is there for hurry?

HON. A. JAMESON (in reply): Before the motion for the second reading of the Bill is put, I would like to speak on the second part of the measure. Other matters which members have brought up can be dealt with in Committee. Speaking on the second part of the Bill as a whole, I should like to point out that by Clause 34 the Governor may direct that "all or any one or more of the following sections shall apply to the district or portion or portions of the district named in such notice." This gives an opportunity for a farther stage of local government, in so far as it enables a suburban board to be put under some particular clause, although such board may not wish to enter into a municipality, and not be prepared to enter into a municipality. I take it there are not a great many who will take advantage of the second part, but it will enable those who desire to do so to carry their wish into effect. This has been drawn up from a conference of roads boards which has been going on for several years. There is not a single clause here which has not been suggested by this conference.

HON. R. G. BURGES: The majority of those at the conference, or some of them, are from town municipalities.

HON. A. JAMESON: They were representatives, not merely from the coast but the goldfields sections of the community, and we have a great number of suggestions from the goldfields that go much farther than those contained in the Bill. I ask the House to pass the second reading, and to bear that in mind, when the measure goes into Committee.

Question put and passed.

Bill read a second time.

DOG ACT AMENDMENT BILL.

SECOND READING.

Order read, for resumption of debate on the motion for second reading.

HON. A. JAMESON (Minister): I move the adjournment of the debate until this day week. It seemed that there were several objections to the Bill in so far as it was simply an amendment not dealing with a sufficient number of subjects in connection with the Dog Act, which I think ought to be covered by the present measure. I now move the farther adjournment in order that we may have time to reconsider the matter, and that I may consolidate other amendments and bring them forward in a way which I hope will meet with the wishes of hon. members.

Motion put and passed, and the debate farther adjourned.

LAND ACT AMENDMENT BILL.

SECOND READING.

Debate resumed from the previous sitting.

HON. C. A. PIESSE (South-East): Having read this Bill, I must commend the Government for having introduced it, but the measure does not go far enough. I note that it is the object of the Government to amend certain sections of the present Act. For instance, there is Subclause (*a*) of Clause 2. That seems to

me to be a very unwise provision unless the Minister can make some improvement upon what he stated the other day. My object in getting the present provision inserted in the Lands Act was to bring the Act on all-fours with the Trespass Act, and that provision should not be altered, for it is working very well as it is at present. Most owners of land were under the impression that if they fulfilled the conditions appertaining to the Land Act so far as fencing was concerned, they did all that was required, and that if their neighbours trespassed on their land, a claim could be brought against them. The Trespass Act provides for the keeping out of all great and small stock, including sheep, but not including pigs or goats, and it was proposed that we should adopt that section. It was referred to the other House, and carried there also, and it is the law to-day. No doubt that has been the means of preventing much friction to owners in relation to fencing their land. This matter must be carefully considered before the present provision is altered, and if we are going to do what is now proposed, we shall be taking a step backward instead of forward. I shall deal with the point when the Bill is in Committee. In Clause 2, Sub-clause (*c*), which has reference to the payment of £1, seems to be in perfect order. Sub-clause (*d*) provides that in Section 68, Sub-section 2, the words "three hundred" be substituted for the words "one thousand." In conjunction with the Land Act, that means that if it becomes law any person can select 300 acres of second or third class land in any portion of the South-West division of the State. It would be a great mistake to allow a person to select as low a quantity as 300 acres. A few years ago at an agricultural conference at which there were 80 representatives from agricultural districts, the following resolution was passed :—

> Reduction of minimum area in Clause 68 (Sub-section 2) to 200 acres in second-class land and 300 acres in third-class land when the land adjoins the property of the applicants.

The Government have not taken any steps in regard to that. They are going to let any man who chooses to make such an application pick the eyes out of the second-class or third-class land. He may not get the land himself, but possibly there may be members of his family who would be entitled to hold the land, and, if the proposal be adopted, there will be an abuse of the clause. I trust the Government, when considering the matter, will adopt the words of that conference, and will allow the land to be taken only when it adjoins the property of the applicant, and will leave the law as it at present stands with reference to any applications which may be made in any portion of the country which does not adjoin the land of the applicant. Otherwise, we shall have a repetition of that old 40-acre principle. Forty-acre blocks of first-class land were taken up all over the country; to-day we are confronted with that trouble; and although the area proposed in the Bill is much larger, it is about on all-fours with that old provision, because it applies to second and to third class lands, which are not so valuable. It would not be wise to give the applicant the right to select anywhere. If we give permission to select a smaller area, it must be an area adjoining his own. I admit he should have that permission; in fact, I myself worked hard to have the area cut down. I think it unjust that a poor man should be forced to take up 1,000 acres, when 300 or 400 will content him. But if he wants to take it up away from his homestead, he should have to take up at least 1,000 acres.

HON. J. M. SPEED: Strike out Sub-clause (*a*).

HON. C. A. PIESSE: No. The words were "three hundred." We wanted "two hundred" in the case of second-class land, and "three hundred" in third-class. This provision can be allowed only when the land sought to be taken adjoins the property of the applicant, otherwise they might "pick out the eyes" of the country. Sub-clause (*e*) reads: "Sections 69 and 72 are hereby repealed." This is certainly a good step so far as the South-West Division is concerned; but I question whether we shall not have to consider the rights of other districts. It has been pointed out to me this amendment will work very unjustly in other parts of the State; and I am quite in accord with the arguments used by the person who pointed that out to me. No doubt much can be said on this matter by those who understand it; and it would

not be wise to sweep away those sections altogether, except with respect to the South-West Division of the State. There the sections are not wanted; they are abused every day. For 15s. a man can select 3,000 acres of land.

HON. R. G. BURGES: Not in the South-West Division.

HON. C. A. PIESSE: In the South-West. I have taken up such land, and could do so to-morrow. There is nothing to stop me. It has been done repeatedly in our district; and for 15s. you can select 3,000 acres. That 15s. gives you a right to the land for three months; for three months more the land is advertised for sale; and then people find that the man who has paid the 15s. has practically monopolised that land for six months.

HON. R. G. BURGES: You must mean in the East Division.

HON. C. A. PIESSE: I do not. We are suffering from this to-day. I will instance a hard case. A young fellow had taken a homestead lease of 160 acres. It was a small area after all. He did not own the adjoining country. Another man, who lived about 40 miles away, set his eyes on the spot. He paid 15s., and took up 3,000 acres of land. The young fellow applied for 200 acres outside his own land; but the man who paid the 15s. was given a prior right, and that young settler is penned in, and has to look elsewhere for more land.

HON. R. G. BURGES: That is the fault of the land regulations, giving 160 acres.

HON. C. A. PIESSE: A man starting in a small way cannot afford to take up more than 160. Anyway, it is clearly apparent we must do away with this provision as regards the South-West Division. We must not give any prior right to the pastoralist.

HON. R. G. BURGES: That was given last year.

HON. C. A. PIESSE: Anyway, it is the law to-day; and I congratulate the Government on having the pluck to strike it out. I do not intend to say more with reference to that matter, so far as the original Act is concerned; but I should like to say a few words with reference to the amendments I have tabled which will save me saying a lot at the Committee stage. I shall deal with only the most important of those amendments. For instance, regarding Section 33 of the principal Act, I have an amendment to strike out the word "not." In the past, and quite recently, the Government have held sales of forfeited leases, and have wondered why the attendances at those sales have been so small. I attended the last sale. There were catalogued pages and pages of forfeited leases; and there were only three persons in that saleroom besides myself. The auctioneer said to me, "I cannot make out how it is people do not attend these sales." I replied, "It is simple enough. You put up a block upon which perhaps £15 has been paid in rent. You give the purchaser no rights whatever to any previous payments. Then you will not take a bid of less than £1. The money already paid is not counted as part of the purchase-money; and the successful bidder has to pay the rent on the following morning, just as if he had taken up the land without purchase." The successful bidder does not get any rights to the previous payments. These are taken by the Government. Now what right have the Government to take two payments for that land? Why do they start *de novo?* They have already received £15. Why not let the bidder, if he like, give £10 for that right? Why not submit the block to auction as they do any other land sold?

THE MINISTER FOR LANDS: We want some money to help to pay for the surveys.

HON. C. A. PIESSE: If you want the money, why did you not bring in a Bill to make it compulsory for the selector to pay for the surveys? You depend on the proceeds of sales of forfeited leases to pay the surveys; but it costs the Government a great deal more to print those sale notices than ever they get back; and even if they did sell some of the blocks, the proceeds would not pay for printing, let alone paying anything towards the cost of surveys. True, the amount of the payments already made might help to pay for the surveys; but I cannot see why, when a block is put up at auction, all rights appertaining to that block should not be sold with it. If the Government wish to start afresh in respect of that block, why advertise its sale by auction at all? Anyone can go the next day and take it up, without paying a pound as he must do at the auction; and yet the Government wonder

why there are no purchasers at the sale. I know for a fact that all the blocks forfeited in my district have been applied for since; and there were none bought at auction. I agree with the proposal that a rabbit-proof fence erected by the owner should count as a full improvement. We know how urgent it is to have rabbit-proof fences; and it is absolutely necessary that every encouragement should be given to holders of land to erect them. Section 59 deals with the outside purchase of land. Considering that the whole tenor of our past land legislation has been in favour of small areas, it comes as a surprise to most people to find that a capitalist can at a moment's notice secure 5,000 acres of land anywhere in this State. The man who will reside upon the land and work it is limited to two selections, one of 1,000 acres on residence, and another of 1,000 acres on non-residence; but the capitalist, who does not reside on the land, provided he does certain equivalents, can for £2,500 secure at a moment's notice 5,000 acres of land. I maintain that is an inducement held out to the capitalist, and to those people who desire to form large estates. I say in this matter the capitalist should have no more consideration than the ordinary selector; therefore I will move that the area be reduced from 5,000 acres to 1,000 acres, and I hope the Government will not oppose my amendment. I hope they will agree to the reduction of area, or strike out the provision altogether.

HON. R. G. BURGES: It is 1,000 now.

HON. C. A. PIESSE: No; 5,000. A capitalist can take up 5,000 acres, and ordinary selectors are not allowed to take more than 2,000.

HON. J. E. RICHARDSON: That is when the capitalist pays cash.

HON. C. A. PIESSE: That is when he pays cash; but why should he be allowed to do that? I hope the Government will see their way to cut down the area. We do not know the moment land may become very valuable. What is to stop a capitalist from securing a 5,000-acre block between Collie and the goldfields, where, owing to the construction of a railway line, land may become of great value? Under the land regulations, there is nothing to stop a man from doing that. In second-class and third-class land, you can get 10,000 acres in one block. I maintain that provision should be amended. I suppose this Bill will go into Committee to-night. I trust it will, and I shall have something to say on the different clauses as we come to them.

HON. C. E. DEMPSTER (East): I hope the House will deal very carefully with this Bill. It is now only about two years since the Land Act was revised, and passed through both Houses after due and careful consideration; and I believe the Act in its present form is almost all that we can wish it to be, and think we shall be acting very unwisely if we adopt all these amendments without due deliberation. I should particularly draw attention to the striking out of Sections 69 and 72 of the Act. These sections apply more directly to the leases of the East Division. Now, of what are those leases comprised? They are comprised of land which has hitherto been useless and unoccupied; but in consideration of low rental, and of the occupier being allowed to take up blocks of not less than 1,000 acres each, many pastoralists have taken leases and stocked them. If these sections be done away, those lessees will have no privilege whatever. Any selector may, at any time, step in and select the very best portion of the run, whereas perhaps the only inducement the lessee had in taking up that land was the desire to secure the few hundred acres of grazing country to be found on the block. And I contend that in this respect the pastoral lessee has a fair and just right to consideration, and that it would be very unwise to allow these two sections to be excluded, because they do to a certain extent in their present form protect the leaseholder. There is another clause which I think it behoves the House to deal with very carefully. That is one with respect to allowing leases of small blocks of land to be given by the Government. I think that last session we declined to sanction any farther extension of the leases of the guano Islands, with a view to retaining the use of the guano and not allowing it to be exported. If we allow this clause to pass as it stands, leases of these Islands could be given, and the lessees could do what they thought fit, and could not be prevented from sending the guano away from the State, however much it might be required here.

We should be unwise if we were not careful in dealing with measures of this sort, because we do not know what harm we may be doing. This amendment would clash very undesirably and unjustly with regulations passed only two years ago. In Committee, I shall certainly oppose the clauses to which I have referred.

HON. R. G. BURGES (East): I wish to make a few remarks on the Bill. When speaking the other night with regard to these little amending measures, I raised objection, and the Minister for Lands specially mentioned me when referring to these things. There is no doubt it is necessary to bring in certain amendments of the Land Act and other Acts, when errors are discovered, but I think the whole Act should be considered, and the Government should see if they could not bring in amendments more necessary in order to induce people to settle on the land by letting them have an area they could live on. There is a great outcry about meat, and we know there are large areas of land in the Northern portion of the State, and even in the East Division Mr. Dempster. has spoken about, on which stock can be kept if water can be procured. Several people have joined together, and have gone to the Minister—I do not know whether the present Minister or not—and asked for certain concessions, to see if they can improve matters. Although the land to which I refer is not good country, it could feed stock if a certain amount of money were laid out on it. It is known that all through the northern portions of the Murchison, Gascoyne, and right away to the Kimberleys there is a large amount of country, but no water, and the best course for the Government to adopt will be to give inducement to people and reduce the price of those lands. As regards conditional purchase, Mr. Piesse said a man took up 160 acres, and then 300 acres more, whereupon somebody came and hemmed him in for 15s. I think the hon. member is in error there. He must know that in the greater portion of this State a man cannot live on 160 acres of starvation area. That is all it is in the greater part of this State. Money is being spent on land along a river or rich swampy land, to grow potatoes, or on some of those rich lands where they grow apples; but, as I say, a large portion of the land is not thus situated, and in fact it is not only the experience of this State, but of the other States where there are large areas that the men cannot make a living on small quantities of bad land. During the last six months the system of having a board has been adopted in places where men have given up their holdings, and two or three holdings are allowed to be made into one, according to what the land will produce, so that a man may live reasonably and comfortably without everlastingly shifting about. Give men large areas to settle on, and not make them pay the same as at present. Let a man have 160 acres, and also 300 or 400 acres more, and let him pay only a nominal rent for so many years, and then if he cannot make the land pay he will give it up and someone else will have it. Men who go on growing corn on land of the kind I have referred to are starved out, and we want to put people on the land so that men may grow enough to produce sufficient to live upon and keep cattle, horses, and a few sheep, and get milk and butter. The sooner the Government or the Minister adopt the idea I throw out, the better will it be for the country, and for people who come here and settle on our land. It would have been more satisfactory for us to devote our time to such an object as that, than to have the amendments which are provided in this Bill. I wish to draw attention to Clause 3, which provides that Section 152 of the principal Act is to be struck out, and the following substituted:—

> On receiving application in the form or to the effect of the Twenty-eighth Schedule, the Governor may grant leases of any Crown land for any area not exceeding (except in the case of leases for guano or other manure, or for the collection and manufacture of salt) twenty-five acres, for a term not exceeding twenty-one years from the date thereof, at a yearly rental of not less th n three pounds, for any of the following purposes (that is to say):—
>
> (1.) For obtaining and removing therefrom guano or other manure.

This is only a side-wind brought under this Bill to do away with a resolution passed a couple of years ago with regard to the guano Islands. As soon as people got this power, our valued guano deposits would be leased away for ten years, perhaps to just two or three people; and if that be done, it will be a disgrace to anyone concerned in it. Let the Govern-

ment bring the matter openly before the public, and let the public know what they are doing, and not get this proposal in by inserting it in a Land Bill contrary to the resolution passed by both Houses of Parliament in this State. Hereafter, I shall speak pretty strongly on this matter if the proposal be left in the Bill. We go on to Sub-clause 3, and I should like to know what the Minister for Lands wants to let sites and buildings for. We talk about enterprise being done away with. I wonder what next the Government will go in for? I hope this clause will be dealt with well when the Bill is in Committee. Clause 5 provides—and the Minister may be able to explain this—

> Notwithstanding anything contained in the principal Act, any Crown land, whether within an agricultural area or not, which is proved to the satisfaction of the Minister to be second or third class land, may be disposed of, subject to the conditions of sections fifty-five, fifty-six, or fifty-seven of the principal Act, at a price less than ten shillings an acre.

Although it ought not to be so, I am afraid the Minister has had to make some provision under the Lands Purchase Act, so that the Government may reclassify a portion of the land and make use of it. There are in the Eastern districts a good many thousands of acres of land of the description referred to, which is leasehold land, and that ought not to be the case. The department ought to look into this matter, and revalue that land and get it turned into use. Land is taken away from the settler; people have had to resell to the Government, and the land is leased now for sheep. I told the Minister such was the case. The sooner we get the land turned to greater use the better it will be. In regard to Clause 6, the last clause of this Bill, which is only a short measure, I made a mistake to-night. I was speaking in a hurry, and I have explained to the Minister that I made a mistake. Clause 6 provides for the closing of roads. It says:—

> The Governor may, by proclamation in the *Gazette*, close any road or reservation for a road which may have been surveyed or shown as a road on any plan published by the Department of Lands and Surveys: Provided that such road is not within the limits of a municipality or townsite, and has not been declared a Government road or declared a road under the Roads Act 1888 or any amendment thereof.

Before that step is taken, application should be made to the district roads board to see whether the road would be necessary in the future. I have had a good deal to do with roads boards, and my experience is that as soon as you close a road somebody comes and wants it. That will be the case under this measure. As soon as people found a road was closed, and another use made of it, there would be a stir, and they would want the road opened. That is cropping up every day, and the proposal made is perfectly useless. Provision ought to be made that there shall be an application to the roads board before a road is closed. I am not going to oppose the Bill, but if it gets into Committee we shall, I think, be able to thresh out the details, and I hope that some of the clauses I have spoken of will be excluded.

HON. J. M. DREW (Central): I have pleasure in supporting the second reading of this Bill, which on the whole should meet with the acceptance of the House. The amendments it seeks to introduce have been largely the result of public agitation, especially in the district I have the honour to represent. The amendment of Section 68 reduces the minimum for grazing leases from 1,000 to 300 acres. This is very necessary in the interests of close settlement. Not every small selector finds himself in a position to take up, fence, and improve 1,000 acres. The poor man, who must "crawl before he can walk," is under the principal Act practically debarred from taking advantage of the grazing-lease section. Unless prepared to take up 1,000 acres, he is shut out from the benefits of the section; hence I say this Bill contains an important amendment, an amendment which should receive the support of every friend of the selector—that the minimum for grazing leases be reduced from 1,000 to 300 acres. In the Victoria district, where the land is high-class grazing land, it is not necessary for a man to take up 1,000 acres in order to get a comfortable living. A man can gain a very good livelihood on 500 acres; and if so, why should he be compelled to take up 1,000? I see no necessity for that. Every reasonable argument is in favour of the

reduction. We do not want to see the whole country locked up by a few. We want to see as many families as possible settled on the soil; and that can be done only by allowing them to take up as much land as they think they can make a livelihood upon, and not by insisting on their taking up more than is useful to them. I shall have pleasure in supporting the repeal of sections 69 and 72 also. Mr. Dempster has spoken strongly against this amendment, but I consider it is in the interests of settlement. The present law arms pastoralists with large powers to prevent selection and settlement; it enables the pastoralist to take up a grazing lease on his run, over the head of any selector who comes along.

A MEMBER: That is a power he ought to have.

HON. J. M. DREW: I say, no. I may be a *bona fide* selector. I may go to considerable trouble to select a block of land on a pastoralist's run. I may apply for the land. But the squatter is immediately notified of the fact. He has three months in which to decide whether he will take it. At the end of three months he generally decides to take it. He takes it, if he have not exceeded his qualfication before; and he is very careful not to exceed his qualification. He will take it probably for 12 months, and then he will let it drop. Meanwhile, I leave the district disgusted. In my district, that practice has done more to interfere with settlement than anything else I know of. The same argument will apply to poison leases also. I do not wish to rob the pastoralist of his right to take up grazing leases; but if any man comes along and first selects a block of ground, that man should have liberty to take up that block and no one should come in over his head.

HON. R. G. BURGES: Why should he take up the squatter's land?

HON. J. M. DREW: In Clause 3 of this Bill, which proposes to amend Section 152 of the principal Act, I see what Mr. Burges has referred to. Among other provisions, there is one to grant leases for 21 years from the date thereof, at a yearly rental of not less than £3, for certain purposes, including "sites for inns, stores, smithies, bakeries, or similar buildings." I hope the Minister will be able to give the House some explanation of this provision.

HON. W. MALEY: It is good paternal Government.

HON. J. M. SPEED: We are going first to make people drunk, and then put them in gaol.

HON. J. M. DREW: The amendment providing that the resident magistrate shall not act as an umpire in cases to which the Government are parties in a resumption is, I think, wise. It seems to me iniquitous that a civil servant should act as umpire in a case in which his employers are concerned. With regard to classification of land in agricultural areas, this is also necessary, because in many of these areas the land is not all first class. There is often a large quantity of second-class and third-class land; and why insist that people shall pay first-class prices for second or third class land? On the whole, I think the Bill is a very fair one. I shall have much pleasure in supporting the second reading.

HON. D. M. McKAY (North): I have carefully looked through this Bill, and I cannot say that I am by any means in love with it. With all due deference to the Minister for Lands, I think the amendments proposed are such as would disturb the existing regulations. It is just possible they might open the door to land jobbing, and might interfere with the operations of the Agricultural Bank.

HON. J. M. SPEED (Metropolitan-Suburban): I should like an explanation from the Minister with respect to the proviso at the end of Clause 3:—

> Provided that in all cases where it is proposed to grant a lease for a longer term than 10 years, notice of the application for such lease and of the purpose and term for which it is proposed to be granted shall be published in four consecutive ordinary numbers of the *Gazette*, at least one month before the grant of such lease.

That provision seems altogether absurd. If it be intended to provide for a public notification, we all know the worst place for that is the *Government Gazette*. It is the last place persons would ever think of looking for anything of the kind. Moreover, the lease might be of interest to the people of the district; there might be given away a right for which various people in the district might like to compete; and even if the notice be published in the *Gazette*, there is no means by which such people can prevent the Government from granting the lease. It seems

to be totally unnecessary to insert these words; and any public notice should be given through some newspaper circulating in the district.

THE MINISTER FOR LANDS (in reply): I was warned, when I made it known that I intended to introduce a Bill to amend the Land Act, that I should find very many members knew the Land Act better than they knew their Bibles; and I am beginning to find that out. With regard to Clause 3, considerable doubt seems to exist; and in bringing in the amendment, I assure hon. members I had no intention of taking them unawares, but tried to show as clearly as possible what was intended to be done. The idea was that the powers of the Government should be extended to granting leases for all purposes mentioned in the clause, for a term not exceeding 21 years, and of an area not exceeding 25 acres, on payment of an annual fee of £3; but in regard to leases for the collection of guano and for salt manufacture, it was felt that the area of 25 acres was not sufficient, and that the Government should have power to give leases of a larger area, but that in no case should a lease be granted for a term exceeding 10 years without first giving the intention publicity in four consecutive issues of the *Government Gazette*. I know full well that last year there was carried in this House a resolution affirming the desirableness——

HON. C. E. DEMPSTER: Two or three years ago.

THE MINISTER FOR LANDS: I have been in this House only one year, and I spoke on the question.

HON. R. G. BURGES: Last year there was an attempt to do away with the provision.

THE MINISTER FOR LANDS: It was reaffirmed that no fresh leases be made of such lands; and although application has been made for an extension of term, no such thing is contemplated.

HON. J. M. SPEED: Perhaps the applicant was waiting for this Bill.

THE MINISTER FOR LANDS: I do not know. I do not feel keenly on the matter; and if hon. members do not desire to give the Ministry that extension of power, I have no objection to have the clause struck out in Committee, or amended as may be desired. Mr. Burges made reference to the Lands Purchase Act, and stated that I said we had no power to sell land that had been repurchased by the Crown at a less sum than 10s. per acre. [HON. R. G. BURGES: No.] The Act gives the Minister power to dispose of this land at a price one-tenth higher than it actually cost; and naturally, in subdividing such an estate, the best lands are valued at a fair price, so that the poorer land, if it be left on the hands of the department, may be disposed of cheaply, yet at a figure sufficient to repay to the Government the amount of the purchase money, *plus* interest and profit. So in cases where land is left on their hands the Government have power to sell it at any price they think fit; and I shall be able shortly to place on the table of the House a report on every one of the purchases made, so that hon. members may see for themselves the amounts paid for those estates, the amounts realised, and the areas of land left in the hands of the Government, with their values set opposite; and I am glad to say it will be a very satisfactory statement. In regard to the question of rabbit fences, I think there is a good deal in that. I am sorry to say the necessity for making provision of this sort escaped my memory when drafting the Bill; but when in Committee I shall have no objection whatever to the insertion of the words "rabbit fence," and to the value of the fence being allowed against improvements. In Committee, I shall have a good deal to say on the various amendments, and if no other members desire to speak on the second reading, I shall, if it be not too late, be glad to go into Committee to-night.

Question put and passed.

Bill read a second time.

ADJOURNMENT.

The House adjourned at 14 minutes to 10 o'clock, until the next day.