Hon. N. Keenan: Not if two years had elapsed since the assignment.

Mr. F. C. L. Smith: The Minister might consider whether the clause might be subject to exemption up to £1,000.

Hon. N. KEENAN: The Bill, in order to be understood, must not be taken as regards merely one clause, but with a grasp of all its details. A later clause provides that succession duty shall be payable by any person who has received a beneficial interest under any policy of life assurance which has been maintained by the donor for the benefit of that person. The difference between probate duty and succession duty is a mere matter of terms. Probate duty is paid by a legatee, and succession duty by a donee. If a husband takes out a policy on his own life for the benefit of his wife, then upon his death the wife would be liable to pay succession duty on the amount of the policy. It is absurd to attempt to understand the Bill by reading one clause; it is necessary to read a number of clauses.

The Premier: Practically all of them.

Hon. N. KEENAN: I should like the Committee to decide that no duty of any kind shall be imposed, whether directly as probate duty or by way of succession duty, in the case of moneys received by the party to whom a policy is made payable, at all events up to a limited amount. Undoubtedly it is of extreme public importance to encourage the people at large to go in for life assurance.

Clause put and passed.

Clauses 15 to 26—agreed to.

Clause 27—Recovery of duty:

Hon. N. KEENAN. What need is there for providing in this clause what is already provided in Clause 8e and further provided in Clause 44? What is the reason for these repetitions? Is the explanation that the Bill was made up from various Acts and that wherever provision is made in any one of those Acts that a debt due by a testator or an intestate estate is a debt due to His Majesty, that provision has been repeated in the Bill?

The Premier: Perhaps the reason is that there may be no loophole.

Progress reported.

House adjourned at 6.15 p.m.

Legislative Council,

Tuesday, 4th September, 1934.

The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

AGRICULTURAL BANK ROYAL COMMISSION.

Auditor General's Reply to Criticism.

The PRESIDENT: I have received from the Auditor General a copy of his reply to statements included in the report of the Royal Commission, who inquired into the affairs of the Agricultural Bank, and will place it on the Table of the House.

PAPERS—CRIMINAL COURT, CARNARVON.

Case of James Crossthwaite.

On motion by Hon. C. F. Baxter ordered: That all papers having reference to the charge against James Crossthwaite, which was listed for trial at the last March sessions of the Criminal Court, including copies of the magistrate's notes taken at Carnarvon, when Crossthwaite was committed, be laid on the Table of the House.

MOTION—STATE TRANSPORT CO-ORDINATION ACT.

To Disallow Regulation.

Order of the Day read for the resumption of the debate from the 28th August, on the following motion moved by Hon. A. Thomson:—

That Regulation No. 48, made under the State Transport Co-ordination Act, 1933, as published in the *Government Gazette* on 16th

March, 1934, and laid on the Table of the House on 7th August, 1934, be and is hereby disallowed.

On motion by Hon. E. H. Angelo, ordered: That the debate be adjourned till the 11th September.

MOTION—ROYAL PREROGATIVE OF PARDON.

Disqualification of Hon. E. H. Gray, M.L.C.

Debate resumed from the 29th August on the following motion moved by Hon. H. Seddon:—

That, in the opinion of this House, the free pardon granted to the Hon. Edmund Harry Gray, insofar as it professes to remove the disqualification incurred by him under Section 184 of the Electoral Act, is of no force or effect, inasmuch as it is not a proper exercise of the Royal prerogative of pardon.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central) [4.37]: This is an extraordinary motion to move in this House. It would have been an extraordinary one if it had come from one of the two members of the legal profession who occupy seats in this Chamber. But it is still more extraordinary coming from one who, so far as I know, cannot claim to have any special knowledge that would enable him to unravel the intricacies of the law. Yet Mr. Seddon had all the self-confidence necessary to enable him to say that the free pardon granted to Mr. Gray, insofar as it professes to remove the disqualification incurred by him under Section 184 of the Electoral Act, is of no force or effect, inasmuch as it is not a proper exercise of the Royal prerogative of pardon. A more self-satisfying attempt, on the part of a layman, to interpret the Letters Patent under which the Lieut.-Governor exercises his powers, it would be difficult to find in the Parliamentary records of the British Dominions. With one stroke of the pen, Mr. Seddon over-rides and over-rules all recognised authorities. It is for Mr. Seddon to prove his case, and he made a poor effort to do so.

In his arguments as to the power of the Governor to grant a free pardon, the hon. member relies on a quotation from Halsbury's "Laws of England," which says that the right of pardon is confined to offences of a public nature, where the Crown is prosecutor and has some vested interest, either in fact or by implication, or where any right or benefit is vested in any subject by statute or otherwise, the Crown, by a pardon, cannot affect it or take it away. The extract, which Mr. Seddon quoted, is merely a general statement of the law, and is generally true and correct. That general statement of the law, of course, must be considered and examined from the aspect of its application to particular cases. Even as quoted by Mr. Seddon and applied to this particular case, it is a correct statement of the law and confirms the validity of the pardon as a lawful act of the Lieut.-Governor. The offence of which Mr. Gray was convicted was undoubtedly an offence of a public nature in which the Crown, Mr. Hughes, or any private person, knowing the facts and anxious to vindicate the electoral law of the State, could be the prosecutor. The Crown has an interest in the public laws of the State to see that they are obeyed, but the Crown does not cease to have that interest merely because a private person takes proceedings before the Crown moves in the matter. There is nothing, therefore, in the general statement of the law, as quoted by Mr. Seddon, which shows, or even implies, that the Lieut.-Governor could not give the pardon which he gave in this case. On the contrary, when that statement is examined and applied to this case, it shows that this case is one in which a pardon can be granted, that the pardon, according to its tenor, is valid, and was lawfully granted by the Lieut.-Governor.

Hon. V. Hamersley: What authority have you quoted?

The CHIEF SECRETARY: The Crown Law Department.

Hon. C. F. Baxter: The Crown Law authorities make mistakes sometimes.

Hon. J. Cornell: Was that opinion expressed before or after the pardon was granted?

The CHIEF SECRETARY: It was furnished after Mr. Seddon's speech.

Hon. J. Cornell: Were the Crown Law authorities consulted before the pardon was granted?

The CHIEF SECRETARY: We are not dealing with that point.

Hon. J. Cornell: It is usual for the King's representatives to consult the Crown Law Department before such an action as this is taken.

The CHIEF SECRETARY: It is certainly not unusual for the Crown's legal advisers to be consulted. It is admitted

that Mr. Gray broke the law, but, in considering the question as to whether the Royal prerogative should have been exercised in his behalf, certain circumstances must not be overlooked by this House. There is very clear evidence that it was the intention of the Legislative Council that the power of deciding a case of alleged defamation should not be entrusted to a magistrate.

Hon. G. W. Miles: Why was the case not allowed to go to the higher court on appeal?

The CHIEF SECRETARY: The hon. member will have an opportunity to state his views on that point. The Bill for the amendment of the Electoral Act, 1907, had two defamation clauses. In the course of our second reading speeches, both Mr. Moss and I attacked those clauses, Mr. Moss one, and I the other. We attacked them on the ground that it should not be left to a magistrate to say what "defamation" was, with the penalties attached. In Committee, Clause 194, as it was then, which dealt with "defamation of candidates," was negatived on the motion of Mr. Moss, without a division. The clause that was struck out read—

194. (1.) Any person who makes or publishes any false and defamatory statement in relation to the personal character or conduct of a candidate shall be guilty of an offence against this Act, and shall be liable, on conviction, to a penalty not exceeding one hundred pounds, or to imprisonment for not exceeding six months:

Provided that it shall be a defence to a prosecution for an offence under this section if the defendant proves that he had reasonable ground for believing and did in fact believe the statement made or published by him to be true.

(2.) Any person who makes a false and defamatory statement in relation to the personal character or conduct of a candidate in contravention of this section may be restrained by injunction at the suit of the candidate aggrieved, from repeating the statement or any similar false and defamatory statement.

The deletion was agreed to in another place. Another clause, the cause of the conviction of Mr. Gray, was overlooked, although it was practically a repetition of the clause which was struck out, except that, at the end of the clause that escaped attention, words appeared which made the offence one of "undue influence." Mr. Moss in opposing the deleted clause, said—

Hon. M. L. Moss: No one objected to a person being punished for making a false defamatory statement against another, but the complaint was that the question of whether a writing was a libel or not was always a question for a jury, and to entrust it to magistrates in the country with little experience, who might be friends of the candidate just ousted, and to subject the offenders to six months' imprisonment without the opportunity of going before a jury, was a piece of legislation never heard of anywhere where the British flag was flying.

The Colonial Secretary: A proviso could be added giving the right of appeal.

. . . . . .

Hon. M. L. Moss . . . . . The law did not permit a judge to say whether a piece of writing was libellous. The judge could not say that it was capable of a defamatory meaning being put on it, but whether it was a libel or not was purely a jury matter. In this State where many judicial functions were fulfilled by medical men with a small amount of legal experience, it would not do to allow them to decide these matters. Again, where there was a right of appeal from these summary offences, the judges seldom interfered with the findings in fact, and whether the writing was defamatory at all was entirely a question of fact.

The clause was put and negatived. It will be seen that the House at the time emphatically expressed its opposition to the principle of a magistrate trying a case of defamation. I am urging this in mitigation of the offence committed by Mr. Gray, and in support of the plea that on those grounds alone the case called for clemency.

Hon. J. Cornell: Then why has it remained in the Act for 27 years?

The CHIEF SECRETARY: I could give instances of other provisions equally objectionable that have remained just as long.

Hon. A. M. Clydesdale: There were no common informers about; that is the difference.

The CHIEF SECRETARY: In Mr. Gray's case the magistrate was an experienced officer, and any observations I make are not intended to be a reflection on him. I am confining myself to the principle of magistrates being entrusted with the powers contained in the Act, and I say that, although the fact would carry no weight in a court of law, it was contrary to the intention of Parliament that they should exercise those powers. That intention was shown by the rejection of a clause of similar import. That the other clause escaped attention was purely an accident. Mr. Moss made clear his objections. No one disputed them, as no one voted against the deletion of the clause. Morally, therefore, Mr. Gray was entitled to special consideration such as

could not be given him before a judicial tribunal. It may be said that there was an appeal to the Supreme Court, but, as everyone knows, it is very difficult to succeed against a decision of a lower court unless the appeal is based on bad law. That particular section of the Act requires amending, as it is a menace to every candidate for Parliament, for not only is he responsible for his own deeds, but, in the prosecution of his campaign, he may have to suffer for the acts of impulsive agents.

Hon. H. S. W. Parker: In England he would have been disqualified for life.

The CHIEF SECRETARY: So stupidly was the Bill of 1907 drafted, and so hurriedly was it rushed through the House at the end of the session that it passed all stages and became law with a most dangerous paragraph included. Section 162 contains the following:—

> (1.) If the Court of Disputed Returns finds that a candidate has committed or has attempted to commit bribery or undue influence, his election, if he is a successful candidate, shall be declared void . . . . .
>
> (3.) The Court of Disputed Returns shall not declare that any person returned was not duly elected, or declare any election void—(a) on the ground of any illegal practice committed by any person other than the candidate and without his knowledge or authority;

This means that a candidate would be responsible for illegal practices, including undue influence committed by someone else, someone not his agent, someone perhaps a secret opponent, provided that what was being done was within his knowledge. The fatal words in the paragraph were "with his knowledge or authority." It would be quite sufficient if it were within his knowledge, although he had not the power to prevent it. The words were in the Act for many years but apparently there has been an amendment, for the paragraph now reads "with his knowledge and authority" which is something quite different.

Hon. J. J. Holmes: The case I took to the High Court cost me £800.

The CHIEF SECRETARY: I moved an amendment to the clause and had these words added, "with a view to influencing the vote of an elector." The amendment was accepted. Another unjust and silly provision appeared in Clause 180 of the Bill. Under that provision it was bribery to supply food, drink or entertainment after the nominations had been officially declared. The provision read:—

> Without limiting the effect of the general words in the preceding section, "bribery" particularly includes the supply of food, drink, or entertainment after the nominations have been officially declared, or horse or carriage hire for any voter whilst going to or returning from the poll.

The food might have been supplied to someone who was not an elector, but the very fact of a candidate sharing his lunch on a railway journey with any person would constitute bribery on the part of a candidate. From the wording of the motion one would conclude that Mr. Gray was a political reprobate, whose presence was objectionable to members of this House.

Hon. J. Cornell: There is nothing of that.

Hon. W. J. Mann: Of course not.

Hon. C. F. Baxter: You cannot put that construction on it.

The CHIEF SECRETARY: Let me recall the quotation, "Let those who think they stand take heed lest they fall." I have seen serious breaches of the Electoral Act committed——

Hon. J. Cornell: So have I, mainly by your side.

The CHIEF SECRETARY: —committed unwittingly by candidates with a longer experience than Mr. Gray possesses, and they were not Labour candidates. Defamation under the Electoral Act is not confined to false accusations against personal character. Posters with clever cartoons of a candidate which he considered held him up to public ridicule, made people laugh at him, and influenced the electors against him would give grounds for an action for defamation. But, so far as I can remember, no candidate has taken electioneering literature seriously; nor have the public. If they did, there would have been no end of work for the lawyers and elections would have become very tame affairs indeed.

As for the Constitution Act, how many members of Parliament can truthfully say that they have not unconsciously walked into its meshes in the course of their political careers. "They make the laws and they should know them" is what some people say. But who knows the Constitution Act? Not even the lawyers. And how many members have sounded, or could sound the depths of the Electoral Act?

Hon. A. M. Clydesdale: I know a bit about it now.

The CHIEF SECRETARY: One member has had practical experience. After all, what has been Mr. Gray's crime? He was doing, as he and many others had done on many previous occasions, circulating electioneering literature. He was guilty of an error in not inquiring into the accuracy of certain statements made in some of the literature. But he has already paid dearly for that error. He has had to bear his share of damages and costs in a libel action and has been involved in considerable expense. In arriving at a decision whether it was a case in which the Royal prerogative should be exercised, one cannot overlook the fact that Mr. Gray has, for years past, given all his time outside his Parliamentary duties to deeds of charity unsurpassed in their extensiveness and merit by those of any other man in Western Australia. He has been in the forefront organising relief for the distressed. He has been associated with almost every movement for the benefit of humanity, from the care of the health of the infant to the provision of comforts for the aged. "This is all sentiment," some will say. If it is sentiment, it is sentiment that cannot be smugly brushed aside, sentiment that cannot be scoffed at, sentiment that will be applauded by everyone who has a grain of human sympathy in his soul.

Hon. G. W. Miles: That is so.

The CHIEF SECRETARY: This man, besides what he has suffered in another court for the same offence, had to suffer again to the extent of £2,000 by the loss of his seat in Parliament. Murderers have been saved from the gallows, and let off with comparatively light sentences by the exercise of the Royal prerogative on the advice of Governments of various political colours after the culprits had been tried by judge and jury. But because the same prerogative has been exercised on behalf of a man who has already been severely punished in the civil courts—a man whose record any of us might envy—there is a hue and cry for his blood.

Hon. J. Cornell: Is it a similar prerogative?

The CHIEF SECRETARY: It is the exercise of the Royal prerogative in every case.

Hon. J. Cornell: This prerogative of pardon has been exercised only once.

The CHIEF SECRETARY: It is unfortunate that the hon. member belongs to the same party as the party in power, but I cannot think that any member of this House conscientiously believes that in similar circumstances the same amount of clemency would not be extended to the bitterest foe of the Government. The House cannot, with a due sense of responsibility, pass a motion of this kind. How can they say that the free-pardon granted to Mr. Gray has no force or effect? Is not that a matter for a judicial tribunal to determine? Mr. Gray has taken his seat in the House, and if he is here illegally there is an opportunity for any one who thinks fit to challenge him in the Supreme Court. Can the passing of this motion nullify everything that has been done, and if it cannot do that, hon members will themselves have taken a course calculated to bring ridicule on the Legislative Council. And on whom is the censure contended in the motion cast? On the Lieut.-Governor.

We are told in the motion that the free-pardon was not a proper exercise of the Royal prerogative. Who exercised this prerogative that was not proper? The representative of the King on the advice of his Ministers. If His Excellency was wrongly advised, it is his advisers who deserve censure. But Mr. Seddon says it appears that the advice was given to the Lieut.-Governor by the Minister for Justice. I do not know where he got that information. He is unaware of the fact that the papers came before a meeting of Executive Council. The hon. member adds that, in the circumstances the Lieut.-Governor would have been justified in referring the matter to a judicial tribunal before finally deciding to exercise the powers of pardon. The Lieut.-Governor has a right to seek legal guidance, without dictation from his Ministers, and Mr. Seddon should not assume, and give publication to his assumption, that His Excellency did not do so in this case. The proceedings of Executive Council, however, may not be divulged, as members must know. That this House will carry a motion censuring the representative of the King for a constitutional Act, is something most people will not believe until they see it published to the world.

HON. C. F. BAXTER (East) [5.5]: Before dealing with the subject matter of the motion, I should like to express my pleasure at seeing amongst us again the Honorary Minister. He was very wise, after the serious accident he met with, to go away for a holiday, and furthermore I feel that the trip he took to the far North will be beneficial not only to his health but in many other ways. Speaking to the motion before the House, I desire it to be distinctly understood that any remarks I may make will not be in any way personal towards Mr. Gray, for whom I have the highest esteem. Mr. Seddon, who submitted the motion, dealt with the question as regards the Electoral Act, and from the constitutional position; therefore I shall not in any way traverse that ground. I do feel, however, that the Leader of the House deserves the fullest sympathy for being placed in an unpleasant and invidious position by having to handle this matter. That is proved conclusively by his having to put up the weakest defence I have ever heard submitted by him in this House. I did think that something would be said to justify the action that has been taken, that some information would be given to guide hon. members: but we have been left, as it were, in an empty space. The Minister told us that the case should not have been entrusted to a magistrate. We have the laws of the land by which to abide, laws which control our destinies, and, as they stand today, the position is that if it is thought a magistrate is not able to give a just decision, then there is a higher tribunal to which to appeal. The Chief Secretary stated it was difficult to succeed against a decision of a lower court unless the appeal was based on bad law. Surely that is a terrible admission for the Minister to make. Does the Minister think that the higher courts are influenced by the decisions of the lower courts? Where then do our courts of justice stand? Then the Minister concluded by taking what I considered was a very undignified stand, that was, to throw the responsibility of the action on the Lieut.-Governor. The responsibility lies with the Executive-Council, which is the Government of the State.

The Chief Secretary: On a point of order. I deny that I threw the responsibility on the Lieut.-Governor; just the reverse, in fact. I said that if any censure had to be administered, it should be administered to the Government.

Hon. C. F. BAXTER: All hon. members regret the necessity for a motion of this nature. It must, however, be admitted that a far-reaching and very dangerous precedent has been established. Fortunately, it is not too late to correct the transgression. As members know, after the case came before the court, the magistrate's decision was reserved for a considerable period. I take it the magistrate wanted to give careful consideration to the matter, and I have no doubt he tried to relieve the position as much as possible as far as Mr. Gray was concerned. But there was no alternative to recording a conviction. Next we find the Government having recourse to Section 10 of Letters Patent to extend a pardon. I say without fear of contradiction that that section was never intended to apply to a case of this description. Section 10 was framed for the purpose of meeting a case where an innocent person had suffered through the imposition of a wrong sentence, and the cream of legal authorities declare that that section cannot possibly apply to a case such as that under review.

Hon. E. H. Gray: You might find yourself in a similar position.

Hon. C. F. BAXTER: That interjection ill-becomes the hon. member. Indeed, if I were in his position, I would not be occupying my seat in this House.

Hon. E. H. Gray: I am sitting tight.

Hon. C. F. BAXTER: Let us review the position as we find it. Governments are brought into existence to administer and maintain law and order. Here, however, is an instance where the Government have gone beyond the law of the State, a law which they helped to make. Further, I say they have ignored Parliament. As the Chief Secretary said, it is unfortunate that Mr. Gray should be a strong supporter of the party in power, but it would be similarly unfortunate no matter who the person was in whose behalf such an action was taken. I do not hesitate to declare that this particular action is a blot on the political life of Western Australia; it is one of the worst occurrences ever recorded in the State, as far as my experience goes. Even if the power of pardon under Letters Patent could have been exercised, it might have been used in respect of the penalty imposed

by the court; but I cannot understand how it could be applied to the occupancy of a seat in this House. The moment the conviction was recorded in the court, the seat of the hon. member became vacant, and there was only one way in which reinstatement could be effected. There is only one door by which one can enter and that is through the Electoral Act and facing the electors. When the conviction was recorded, the seat automatically became vacant, and the member who forfeited his seat could not be reinstated by a pardon or in any other way excepting through the Electoral Act. The Leader of the House dealt with the protection of public men. I do not agree that there should be protection for them regarding any statements they may make, or pamphlets, or even cartoons with which they may be associated. Members of the legislature are protected for anything they may say in either House of Parliament, and that, I think, is adequate protection. Why should similar license be extended to persons outside, license to make statements not borne out by fact, statements that may ruin the career of someone else? Outside Parliament protection should not be given to members of the legislature who should, more than anyone else, be familiar with the laws of the State. I have heard it said that this case is a trivial one. To me it is one of the most serious we could conceive. Above all, what we require to protect are our own characters and the character of the people. If this case is to go unchallenged, it will have very far-reaching effects. How many self-respecting persons will stand as candidates for Parliament if they are to meet with this sort of experience? Even to-day it is difficult to secure parliamentary representatives, yet seemingly it is to be made even more difficult, and so will result in keeping out of Parliament the very class of men that should be in it. Again, how can we expect the community to respect the laws, if they are to be used in this manner? If law and order are to be maintained, the law should be strictly abided by, with no departure and no extension of the protection given. I am sorry the hon. member has got himself into the position in which he is, yet it must not be said that because he is a member of the Legislature he is to be pardoned for any misdeed.

Hon. G. W. Miles: Especially while the other man's conviction stands.

Hon. C. F. BAXTER: The Chief Secretary put up many excuses, but I say excuses do not count when the law is broken and a conviction recorded. Being a law-maker does not entitle anybody to be a law-breaker. If to-morrow a parent was convicted of stealing food for his starving family, or a sustenance worker were to be found guilty of claiming more payment than he was entitled to, would pardons be extended to them? If so, where would it all finish? In my opinion the most important law on our statute-book is the Electoral Act, for that Act is responsible for the satisfactory making and unmaking of Governments to control the destinies of the State. If there is one Act that should be respected to the very letter, it is the Electoral Act, in order that politics should be kept as clean as possible and that we should have good sound government. A very important issue is at stake, namely, whether Parliament is to be paramount, or whether the Government are to rule Parliament as well as the country. That is the position facing members of the House, and it is for them to say how they view it. I take it our plain duty is not only to pass the motion before us, but to go farther and assert the rights of the House by declaring the seat vacant. Thus will a dangerous precedent be avoided, a small portion of the lost dignity of the House will be regained, and respect will be shown for the laws of the country in which we live. I support the motion before the House for, contrary to the opinions of the Chief Secretary, I think that motion is very necessary. If the House is to sit down and allow a position like this to be forced upon it, we shall have very little respect from the people of the country. But, apart from that, from our own standpoint we must preserve the dignity of the Chamber and also the legal aspect of the case. For we are here to make the laws in the first place, and so we should stand four-square in seeing to it that the laws of the country are carried out.

HON. J. J. HOLMES (North) [5.20]: This is a very important question and I feel I should not be doing my duty if I did not have something to say upon it. First of all, I should like to welcome Mr. Kitson back to the Chamber, especially as he has been up in that much neglected country, the North. Seeing the difference it has made in him, I think I can safely say to the rest of the rising generation, "Go up North

young man, for it is a good place to live in." Anything I may say this afternoon on the motion before us will be free from political imputation. I greatly regret that Mr. Gray should find himself in the position in which he is; still we have a duty to perform and I certainly have made up my mind as to what that duty is. First of all it is to support the motion before the House. The Chief Secretary opened by saying it was an extraordinary motion. I reply by saying that an extraordinary position has been created, a position which I think the House must deal with. The Chief Secretary said the motion was a self-satisfied attempt by Mr. Seddon to define the law. I answer that by saying that, as far as I can judge, this is a self-satisfied attempt by the Government to define the law without consulting their legal advisers. For I have perused the papers tabled in another place, and can find there no reference to the Crown Law Department, nor any advice from that department. The Chief Secretary said that Mr. Seddon would deal with this matter by a stroke of the pen. I answer that by saying that is exactly what the Government have done—and I say that after having perused the papers. The Chief Secretary then went on to say what Parliament intended 27 years ago. I could not help smiling at that, because only last week, when addressing the House on the action of the Transport Board, I said some members were trying to read into the Transport Co-ordination Act what Parliament would not agree to. My remarks, of course, met with the Chief Secretary's entire approval. Yet to-day the Minister comes along and quotes what members tried to include in a Bill 27 years ago, when the House would not permit it. It proves, I think, that the Chief Secretary is in a very tight corner, when he offers such excuses to the House. He said that members could not contest this matter in the law courts. Let me put that position before the House. We know that another case was tested in the courts, that it was taken to the Full Court, has now been taken to the High Court, and may be taken to the Privy Council. In all seriousness I ask, which member of the House is prepared to fight the Government on an issue like that, the Government with the funds of the State behind them, to take the case from court to court and to finish up with the Privy Council? Usually, if the Lieut.-Governor has before him any question capable of a doubt, he refers the matter to His Majesty the King. I respectfully suggest that in this case the question should have been referred to His Majesty, seeing that no similar case has ever occurred anywhere in the British Empire. Since I view this from a very serious standpoint, it seems to me we have to decide whether we are to live under a democracy or under a dictatorship; because if any man can be pardoned in this manner, and the Lieut.-Governor is right, it cannot be questioned that we are back hundreds of years into the dark ages and are ruled, not by a democracy, but by a dictatorship. For if this thing can be done, anything can be done. We often hear that the King can do no wrong. But the liberty of the people and the property of the people are in jeopardy, if it be true that the King or his representative can do no wrong. Of course that is the wrong interpretation so often placed upon that dictum. What it is really intended to convey is that the King must do right. And so invariably he does right. But in this case I regretfully suggest that the King's representative has done wrong. The irony of the whole thing is that the Labour Government, the standard-bearers of democracy, have set up an autocrat in this country, and claim that he has to do anything they tell him. Surely we cannot admit that without question. It seems to me there is no alternative to the House contesting that position. And it can only be contested in the manner set out in the motion before the House. The position is too serious for us to introduce either the political aspect or the personal aspect. We have to try to keep Mr. Gray out of the picture altogether. Let us deal with it from the standpoint of how it is going to affect the country hereafter, leaving out the personal element altogether. In the street and in the Press all sorts of references have been made to members of this House, as to what we are; but I have no hesitation in saying that this House to-day is fighting, as it has always fought, for liberty, equity and justice. We are trying to face a Government claiming to be democratic, but acting in an entirely different manner; we are trying to see that equity and justice shall still be the order

of the day in this country. I respectfully point out that if the House carries this motion—and I honestly expect it will—

Hon. G. Fraser: You know already it will be carried.

Hon. J. J. HOLMES: There can be no turning back. We must go on, otherwise we will create a wrong impression in this country that although we started off we baulked at the first hurdle. I can visualise several hurdles we have to get over after we pass this one, but we will come to them later. If any Government can set the Constitution Act and the Electoral Act at defiance, as I claim they have done in this case, they can set about confiscating property. They can liberate their friends or intern their foes. Surely, to prevent that kind of thing is worth fighting for. As to what the King's representative can or cannot do I will quote briefly from Lord Halsbury's "Laws of England" as follows:—

> The laws are the birthright of the people, and the Sovereign has no right to alter them apart from Parliament.

That is worthy of serious consideration by members. This authority goes further—

> Nor may His Majesty interfere with the administration of justice. Although his person is above the law it is his duty to obey it.

We could not have anything more definite than that, from the highest authority in the Empire, as to the part we should pursue in this matter. It can clearly be shown that the King's pardon can only apply as between His Majesty and one of his subjects. A pardon cannot apply between two of his subjects, namely between Mr. Hughes and Mr. Gray. Only one person can pardon Mr. Gray, and that is Mr. Hughes. Two men have a dispute; one has a grievance and desires an apology. The pardon must come from the man aggrieved. His Majesty's representative should not be dragged into a dispute, and cannot be so dragged between the two persons I have mentioned. I have read somewhere that Mr. Hughes did offer to accept an apology.

Hon. E. H. Gray: He offered blackmail.

Hon. J. J. HOLMES: I will leave it at that. It is common talk that he was prepared not to go on with the case if he got an apology.

Hon. G. W. Miles: It is a defiance of the Constitution.

Hon. J. J. HOLMES: When that verdict was given at Fremantle by the police magistrate, a duly qualified person, Mr. Gray lost his qualification for a seat in this House. No other tribunal or authority can put him back into this House other than the electors who sent him here. If we allow Governments to put men into Parliament I question whether some of us, if we expressed our views as we desired, could not be put out of Parliament by the same Government. Is that a state of affairs we should authorise or give our assent to? In "Instructions to the Governor," page 181, paragraph VI., we find the following:—

> In the execution of the powers and authorities vested in him the Governor shall be guided by the advice of the Executive Council, but if in any case he shall see sufficient cause to dissent from the opinion of the said Council, he may act in the exercise of his said powers and authorities in opposition to the opinion of the Council, reporting the matter to Us without delay, and the reasons for his so acting.

In this case "Us" means His Majesty the King, as I interpret it. If ever there was a case which should be referred to His Majesty the King it is this one. In paragraph VIII. of the same instructions, page 182, we find—

> The Governor shall not pardon or reprieve any offender . . . . . in any case in which such pardon or reprieve might directly affect the interests of Our Empire . . . . .

In view of the public opinion existing in this State at present as a result of the action of the Government I say that this pardon or reprieve is directly affecting the interests of the Empire. If the pardon is allowed to stand it upsets constitutional government and will take us back to the dark ages. The greatest appreciation of constitutional government should come from a Labour Government, who claim to be democratic on 364 days of the year, and autocratic, when it suits them, on the 365th day. I have no hesitation in saying that this pardon reflects upon the justice of His Majesty, and the justice hitherto obtaining within the British Empire. For that reason alone, in view of these instructions, a pardon should never have been granted. I have perused the papers lying in another place. Mr. Gray's solicitor appears to have prepared and drawn the pardon.

The Chief Secretary: That is not correct.

Hon. J. J. HOLMES: Mr. Gray's solicitor wrote to the Minister for Justice on the 20th August, enclosing a pardon. The following paragraph appears in the letter:—

> Should there be any question as to whether a pardon can be legally granted, we take it that you will be guided by the advice of the Crown Solicitor.

I have looked through the file, and can find no reference to the Crown Solicitor or to any advice given by him. I presume if the matter had been referred to the Crown Solicitor and he had given advice, it would have appeared in the file, and would have been part and parcel of the papers laid on the Table of the House. The Government purported to lay the papers on the Table of the House and they had no right to put in certain papers and withhold others, if they did so. The pardon sets out—

> Know ye that we in consideration of some circumstances humbly presented to us, and for divers good reasons, are generously pleased to grant such pardon.

Hon. J. Cornell: It was "Diver" who made it necessary.

Hon. J. J. HOLMES: Mr. Gray in his plea sets out that it has always been the practice for candidates to use leaflets commenting on their adversaries. I would point out that Mr. Gray was not a candidate. He was someone else who butted in. The plea and the pardon are wrong. Mr. Gray goes on to say that he suffered to a greater extent than the other man who was charged with the same offence. I will leave it to the other man at the back of his mind, to say which of the two is now suffering to the greater extent. One man was convicted, and as far as I know will pay the penalty. Mr. Gray, who set out that he was suffering to a greater extent than the other fellow, now has his conviction removed. The plea was put up in the Fremantle court that the penalty inflicted by the court should be as light as possible, as light as the magistrate could make it, because conviction carried a consequence, so it was claimed, that Mr. Gray, who had four years to run in Parliament, would as a result of the sentence lose £2,000, namely four years at £500 a year.

Hon. G. W. Miles: As if that is all that he was here for.

Hon. J. J. HOLMES: After serious consideration the magistrate reduced the penalty to a minimum. Mr. Gray further pleaded that he had nothing to gain by the issue of the circular. He had everything to gain. May I refer to the three members of the West Province as the dauntless three. Although he was not in the fight that time, he will be in it next time, so that he did have something to gain and his plea was not correct that he had nothing to gain by the issue of the pamphlet. The plea or petition sets out that Gray was convicted at Fremantle on the complaint of Thomas John Hughes. There we have distinct evidence, in the petition, that this is a dispute between Mr. Gray and Mr. Hughes, and how it can be claimed, in view of the authorities quoted, that the King or his representative can be dragged in to settle such a dispute is something beyond my comprehension. Section 184 of the Electoral Act provides—

> Any person who is convicted of undue influence at an election shall during a period of two years from the date of the conviction be *incapable of sitting as a member of Parliament.*

That was a result of the conviction at Fremantle.

Hon. J. Cornell: A result that was waiting there.

Hon. J. J. HOLMES: When that conviction was recorded—on the 15th August, I think—Mr. Gray ceased to have the qualification for being a member of this Chamber. If the Government can put him back into the Chamber five days later, behind the backs of the electors of this country, they are usurping the functions of Parliament and of the people. In the authority to which I have referred, it is set out that, above all things, His Majesty cannot interfere with representation of the people in Parliament. If he could do so, where would we be? If His Majesty's representative could interfere with representation in Parliament, once there was a Government in power, there could never be any Opposition. It is clearly laid down by all authorities worth quoting that His Majesty cannot interfere with representation in Parliament, that that is the people's right, and that this House is the master of its own destinies. I hope it will prove so before this business is finished. Again, His Majesty, or His Majesty's representative, can grant a pardon only where a person has been wrongly convicted. In this instance it is admitted on all hands that the conviction was right. The magistrate spent days

in trying to find a way out. There was no way out. He had to convict. And now the King's prerogative is abused in a dispute between two persons—it is not a case between the King and one of his subjects. One of the dangers of such action is the risk of miscarriage of justice. Indirectly the action compromises His Majesty. That is the last thing to which we ought to be a party. When the law is put in motion, as it was in this case, the law should be enforced. Surely we cannot allow it to go forth that members of Parliament are a privileged class who can do anything and say anything outside as well as inside Parliament, and that if any aggrieved subject brings a complaint against a member of Parliament the King's prerogative can be introduced to condone the offence. That would mean the breaking-down of the liberties of this country. If such a condition of affairs were allowed to arise—one law for members of Parliament, and another for the community as a whole—the liberties of this country would disappear. I view this matter most seriously. During the period of almost 30 years that I have been a legislator, never have I approached any subject so far-reaching as this. It seems to me that the House must assert its rights, must stand up for equal justice to all, and maintain constitutional government. We cannot allow the setting up of a dictatorship in this country, which should be, and which we claim is, one of the freest countries in the world. Therefore, I support the motion.

HON. J. NICHOLSON (Metropolitan) [5.52]: In any remarks I may make on this motion, I wish to dissociate myself from anything of a party character or anything which would import personal antagonism to the hon. member who unfortunately figures in the motion. The considerations which naturally arise on such a matter as this prompt one to express deep regret for that hon. member that he should have become involved in the proceedings which culminated in his conviction—a conviction carrying with it a penalty of a most drastic character. Because of the very attributes which the Chief Secretary mentioned as possessed by Mr. Gray, one feels more deeply that he has become the unfortunate victim of circumstances, but circumstances which, we must recognise, were brought about by his own action. The various matters leading up to the conviction have been traversed by previous speakers, and it is unnecessary for me to deal with all of them; but I certainly am exercised in my mind with regard to the motion before us, which reads—

> That, in the opinion of this House the free pardon granted to the Hon. Edmund Harry Gray, insofar as it professes to remove the disqualification incurred by him under Section 184 of the Electoral Act, is of no force or effect, inasmuch as it is not a proper exercise of the Royal prerogative of pardon.

Hon. J. Cornell: What is wrong with that?

Hon. J. NICHOLSON: I shall try to point out how the matter presents itself to my mind. The Chief Secretary, in his speech on the motion, said that it had the effect—I think I am right in saying this, the hon. gentleman will advise me if I am wrong—of passing a rebuke on the King's representative, the Lieut.-Governor. Certainly that is my view. I am sure that that is not intended by Mr. Seddon.

The Chief Secretary: That is my view.

Hon. J. NICHOLSON: We must examine the question in a calm, dispassionate way; and that is what I am endeavouring to do. As responsible legislators we must consider the motion we are asked to pass. Each one of us here is asked to tell the Lieut.-Governor, or to tell His Majesty the King, that this exercise of the prerogative is of no force or effect. What justification have we for saying that?

Hon. J. J. Holmes: The laws of the country must be obeyed.

Hon. J. NICHOLSON: What justification have we as legislators here for saying that that pardon is of no force or effect? I do not think there are many lawyers in Perth, if there is one, prepared to say that pardon is of no force or effect.

Hon. J. J. Holmes: The trouble is that one cannot get two lawyers in Perth to agree on any subject.

Hon. J. NICHOLSON: Then the hon. member will appreciate the difficulty that presents itself in connection with this matter.

Hon. J. J. Holmes: Do not cloud the issue; that is all.

Hon. J. NICHOLSON: I am going to try to clarify it.

Hon. J. Cornell: Will the hon. member suggest what form the motion should take?

Hon. J. NICHOLSON: I will, but I wish first to explain my position. Various authorities have been quoted. Mr. Seddon quoted certain authorities in support of the motion. I think the views expressed by Mr. Seddon are not shared in by the Crown Law Department, according to the opinion read by the Chief Secretary. I venture to say, in the first place, that the exercise of the pardon, according to the authorities so far as one can find them, should be an exercise of a pardon where that Royal prerogative is used, in a case where the Crown is the prosecutor. In this particular case the Crown was not the prosecutor.

Hon. E. H. Gray: The informant was the prosecutor.

Hon. J. NICHOLSON: A private individual. If the King had prosecuted Mr. Gray, the position would have been entirely different; and then, I venture to say, no one could have questioned in any way the rights or wrongs of the pardon. But we have to see what the prerogative is. The very authority referred to by Mr. Seddon and Mr. Holmes, Halsbury's "Laws of England," lays down, in one of its passages on the subject, the following:—

> The Royal prerogative may be defined as being that pre-eminence which the Sovereign enjoys over and above all other persons by virtue of the Common Law, but out of its ordinary course, in right of his regal dignity, and comprehends all the special dignities, liberties, privileges, powers and royalties allowed by the Common Law to the Crown of England . . . . . The prerogative is thus created and limited by the Common Law, and the Sovereign can claim no prerogatives except such as the law allows.

The King can only exercise that prerogative and give those rights of pardon so far as the laws allow. Halsbury continues—

> The courts have jurisdiction——

This is the important point, the point I wish to impress upon members, that we should refer this matter to the courts, and not constitute ourselves a court of law. We are law-makers, but we have not the powers even of the Mother of Parliaments so far as impeaching or arraigning a man before us.

Hon. J. J. Holmes: We should do our job, and let others do theirs.

Hon. J. NICHOLSON: Halsbury proceeds—

> The courts have jurisdiction, therefore, to inquire into the existence or extent of any alleged prerogative, it being a maxim of the common law that *Rex non debit esse sub homini sed sub Deo et lege quia lex facit regem.*

In effect, that maxim is that the King is under no man, and, practically, answers only to God and the law.

Hon. J. Cornell: That is, under common law.

Hon. J. NICHOLSON: Exactly. The King must obey the law, and must conform to the law, although his position is in conformity with the maxim quoted by Mr. Holmes. Nevertheless, the King is the head of our political institution, to which he must himself conform in all respects.

Hon. J. Cornell: Common law does not enter into this case.

Hon. J. NICHOLSON: I am not dealing with common law, but am pointing out what the prerogative is. Halsbury also says—

> If any prerogative is disputed, the courts must decide the question whether or not it exists, in the same way as they decide any other question of law. If a prerogative is clearly established, they must take the same judicial notice of it as they take of any other rule of law.

That is the point.

Hon. G. W. Miles: How are we to get to court?

Hon. J. NICHOLSON: We, as a legislative body, should not attempt that. Matters can be brought before the court in the proper way.

Hon. G. W. Miles: By whom?

Hon. J. NICHOLSON: By any private individual. For example, there was the complainant in the previous case against Mr. Gray. That same complainant has the right, a very inherent right, entitling him to go to the superior court and ask for a declaration as to whether or not the Royal prerogative of pardon has been properly exercised.

Hon. G. W. Miles: Have we not rights under our own Constitution?

Hon. J. NICHOLSON: Absolutely none in this respect.

Hon. G. W. Miles: Are we not to protect our own Constitution?

Hon. J. NICHOLSON: We are not infringing it.

Hon. G. W. Miles: It has been infringed, if the action taken in this instance was wrong.

Hon. J. NICHOLSON: If we are to constitute ourselves as a court and assume

the functions of a court, then we shall do what is wrong.

Hon. J. Cornell: We did it in one instance.

Hon. J. NICHOLSON: There is a court to which we have access in order to determine all such questions that may arise. There is a proper method to be pursued respecting such matters. That course is to invoke the aid of the court for an interpretation and a determination as to whether the prerogative was properly exercised.

Hon. C. H. Wittenoom: Would the Government pay the expenses involved?

Hon. J. NICHOLSON: That has nothing to do with us. If the court should hold in favour of the persons who apply for such a declaration or determination, then the question of costs would lie with the court.

Hon. J. Cornell: And furnish a harvest for lawyers!

Hon. J. NICHOLSON: Probably Mr. Wittenoom and a few others who may desire to have the question tested, would be pleased to participate in that course.

Hon. J. J. Holmes: In view of what has happened, we think we know more about law than lawyers do.

Hon. E. H. Angelo: And is that much?

Hon. J. Cornell: Is there on record a case parallel to the one under discussion?

Hon. J. NICHOLSON: Not identical with it, so far as I have been able to discover. That is where the difficulty is experienced in arriving at a unanimous decision regarding the position.

Hon. G. Fraser: Is there a law similar to ours anywhere else in the British Empire?

Hon. J. NICHOLSON: Undoubtedly there are similar laws, and some provisions carry penalties far more severe than those embodied in our Act.

Hon. G. W. Miles: Under the English law, an offender is not allowed to contest his seat again.

Hon. J. NICHOLSON: That is so, for a period.

Hon. J. J. Holmes: You admit we are making political history?

Hon. J. NICHOLSON: Yes.

Hon. G. Fraser: Are you sure there are other laws comparable with this provision in our Electoral Act?

Hon. J. NICHOLSON: Yes, there are laws comparable in other parts of the British Empire, and they embody much heavier penalties.

Hon. E. H. Gray: Is there any other British legislation that embodies the particular section of our Electoral Act under which action was taken?

Hon. J. NICHOLSON: Probably not a section that is the same, word for word.

Hon. G. W. Miles: That has nothing to do with it; the provision is in our Act.

Hon. J. NICHOLSON: The fact remains that legislation in other parts of the British Empire imposes far heavier penalties than our Act does.

Hon. J. J. Holmes: I think there is provision for disqualification for seven years in Britain.

Hon. J. NICHOLSON: And for some offences, the disqualification is even more severe. I recognise that members of this Chamber have to shoulder grave responsibilities. In the first place, they have to see that the traditions of the Chamber are maintained. They have to see that the laws are respected, and not flouted. They have a duty to the people they represent, to see that they, as members of the Legislative Council, themselves set a worthy example. They should set a high standard for their own conduct. They should not attempt to justify happenings of this description or seek to evade the law by a step such as was taken in this instance by the Lieutenant-Governor on the advice of his Executive Council, a step which meant the granting of a pardon for a serious offence. Obviously, such a course would mean placing an individual member of Parliament on a plane differing from that of a private citizen. To my mind that is a most serious aspect.

Hon. G. W. Miles: What are you advocating? Do you suggest we should sit down and take no notice?

Hon. J. NICHOLSON: If the hon. member will give me an opportunity to explain what I mean, I will do so, but I cannot do it in one breath.

Member: You must lead up to your point.

Hon. J. NICHOLSON: We are looking at the effect of the granting of the free pardon. Halsbury has pointed out that the effect of such a pardon is to clear a person from all the consequences of the offence for which he had been convicted, and from all statutory or other disqualifications following upon such a conviction. Are we, as men-

bers of Parliament, to place ourselves on a higher pinnacle than that of a court of law, and, as individual members, say that we know more than our judges? Are we to say, in the face of such a high legal authority as I have quoted, that we will endorse a motion that the pardon granted to Mr. Gray has no force or effect, seeing that we are informed by so eminent a legal authority as Lord Halsbury that such a pardon removes all statutory and other disqualifications? There are certain disqualifications covered by the pardon, particulars of which have been published in the "Government Gazette." The pardon so granted to Mr. Gray was intended to relieve him of all disabilities and disqualifications from which he suffered as a result of his conviction. The pardon was far-reaching indeed. I would be sorry to see the pardon allowed to go so far, because I look upon the granting of such a pardon as calculated to lead to most grave abuses of our laws. While I cannot see my way clear to support the motion in the form in which it has been moved, I believe an emphatic protest should be made by the Legislative Council, to register our disapproval of the granting of such a pardon to a member of Parliament or to anyone else under such circumstances. Before I close I shall move an amendment to strike out all the words after "House" with a view to inserting the following words:—

"it is contrary to the spirit of justice and an improper interference with the administration of the law for a free pardon to have been granted to the Hon. Edmund Harry Gray, and this House desires to enter its emphatic protest against the granting of such a pardon."

Hon. J. J. Holmes: Where will that get us?

Hon. J. NICHOLSON: It will get us where the motion itself will not. The motion may lead us into a position members generally do not foresee.

Hon. J. J. Holmes: What position?

Hon. J. Cornell: We are here to learn.

Hon. J. NICHOLSON: The position some members do not foresee is that if we agree to the motion, we shall constitute ourselves a supreme authority to determine whether the exercise of the prerogative of pardon by His Majesty's Deputy was right or wrong, and we shall rebuke him, in effect, for his action.

Hon. J. Cornell: Your amendment suggests that.

Hon. J. NICHOLSON: That is not so.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. J. NICHOLSON: I was dealing with a suggested amendment that I intend to propose to overcome the difficulties presented by the motion moved by Mr. Sedden. It is quite true that the motion embodies the words "that in the opinion of this House" the free pardon granted will have a certain effect. It may be argued that the fact of its being an expression of opinion places the motion on the same plane as the amendment I have outlined, but the amendment is couched in more suitable language to meet the very difficult situation in which we as a legislative body are placed. We are not a court of law. It must be borne in mind that the motion may be intended to precede some other motion or action. For example, if the motion were passed in its present form, it may be said to have the effect of declaring the seat occupied by Mr. Gray really vacant. This House would then be placing itself in the position of a court of law, whereas a court of law is the proper tribunal to determine whether the seat is vacant. The determination of the court can only be invoked by the usual methods open to anyone to test the question. It is not unreasonable to suppose that the passing of the motion might be followed by action under Section 66 of the Electoral Act, which reads —

(1.) Whenever a vacancy occurs in either House for any cause (otherwise than by the effluxion of time in the case of a member of the Council), the President or Speaker, as the case may be, upon a resolution by the House declaring such vacancy and the cause thereof, shall by warrant under his hand, in the prescribed form direct the Clerk of the Writs to issue a writ to supply the vacancy.

(2.) In the case of any such vacancy when Parliament is not in session, or when the vacancy occurs during any adjournment for a longer period than seven days of the House affected, the President or Speaker may, without such preceding resolution, by warrant under his hand in the prescribed form, direct the Clerk of the Writs to issue a writ to supply the vacancy.

(3.) If at the occurrence of any such vacancy there is no President or Speaker of the House affected, and Parliament is not in session, or if the President or Speaker of the House affected is absent from the State, the Governor shall, if satisfied of the existence of such vacancy, by warrant under his hand, direct the Clerk of the Writs to issue a writ for the election of a member for the seat so vacated.

(4.) Every such warrant shall be issued by the President or Speaker, or by the Governor, as the case may require, as soon as—

(a) In the case of death he shall receive notice by a certificate in the prescribed form, under the hands of two members of the House of which the deceased was a member, of the death of such member; and

(b) In the case of acceptance of any of the principal executive offices of the Government liable to be vacated on political grounds, as soon as the appointment of such member has been published in the "Government Gazette," and notified by the Minister to the President or Speaker, or to the Governor, as the case may be, and such appointment and notification it shall be the duty of the Minister to publish and give forthwith:

Provided that any such warrant may be issued notwithstanding no such notice has been received or appointment published as aforesaid, if the President or Speaker, or the Governor, as the case may be, is satisfied of the existence of the vacancy.

(5.) Whenever a vacancy occurs by reason of any of the disqualifications mentioned in section thirty-one, subsection (5), and section thirty-eight, subsection (2), of the Constitution Acts Amendment Act, 1899——

This does not cover the particular disqualification with which we are dealing.

Hon J. Cornell: It did not cover the case of Mr. Clydesdale, either.

Hon. J. NICHOLSON: No. Subsection (5) continues—

——it shall be the duty of the Registrar in Bankruptcy forthwith to give notice thereof in writing to the President or the Speaker, as the case may be, if within the State, and otherwise to the Governor, and on receipt of such notice the President or Speaker, as the case may be, if within the State, or otherwise the Governor, shall forthwith, by warrant under his hand, direct the Clerk of the Writs to issue a writ for the election of a member to supply the vacancy.

If such a step were taken, following on the passing of the motion in its present form —I should greatly regret such a step because it would place the House in a false position—we would justly be held up to ridicule. We do not want to risk that. As a legislative body it is our duty to set a somewhat high standard.

Hon. J. J. Holmes: We shall be held up to ridicule if we pass your pious amendment.

Hon. J. NICHOLSON: Evidently the hon. member is not viewing the matter in the proper light. I am endeavouring to show that we as a House would not be justified in passing the motion in its present form because, obviously, it contains the suggestion of a declaration that the seat is vacant.

Hon. G. W. Miles: If that is the opinion of the House, what is wrong with it?

Hon. J. NICHOLSON: If, following on the motion, there be tabled another motion seeking to have the seat declared vacant, we shall find ourselves in this position.

Hon. J. J. Holmes. There is only one motion before the House.

Hon. J. NICHOLSON: But one can anticipate what might happen. There is a risk of our being led into a false and wrong position. On authority that we must heed, it is obvious that the pardon granted to Mr. Gray is a valid pardon until declared otherwise by the court. That is my contention, and on that ground I say that although another motion were submitted, we could not act or regard the pardon as being other than valid. The first step would be for the court to declare that the prerogative has been wrongly exercised. The court has jurisdiction to inquire into the existence or extent of any alleged prerogative. If any prerogative is disputed, the court must decide whether it exists, just as the court decides any other question of law. In what position would we be if such a motion as I have indicated were tabled in the House? We must hold that the pardon is valid until it is set aside by the tribunal established to determine such questions. We are not a tribunal to determine that question. We must recognise the authority of the court in such matters, and not constitute ourselves a court of law.

Hon. J. J. Holmes: The court will tell us whether we are right or wrong, not you.

Hon. J. NICHOLSON: Then bring the matter before the court.

Hon. E. H. H. Hall: At whose expense would it be brought before the court?

Hon. J. NICHOLSON: Someone or other must move the court, and it would be at the expense of whoever moved the court.

Hon. J. J. Holmes: If we take the proposed action, someone else will have to move the court.

Hon. J. NICHOLSON: No; any motion to that effect passed by the House would be a nullity until the pardon was declared valid or otherwise by the court. The pardon granted to the hon. member is a valid and subsisting pardon,

so far as we as a House are concerned, and we must so regard it meanwhile. That is our duty as a legislative body, and it would be wrong for us, constituted as we are, to try to usurp the rights, powers, and functions of the court. My amendment would register what is desired. It would express the opinion of the House in a clear and emphatic manner, and pronounce in emphatic language the protest we wish to make in our endeavour to safeguard the rights of the people.

Hon. W. J. Mann: And leave it at that?

Hon. J. NICHOLSON: It would be left for someone to take the necessary action.

Hon. G. W. Miles: Who would the someone be? Are you going to do it?

Hon. J. NICHOLSON: This Chamber could not possibly do it. A mere expression of opinion as contained in the motion would not attain the desired result, and would only bring ridicule upon the House.

Hon. G. W. Miles: You will bring ridicule upon us if we follow you.

Hon. J. NICHOLSON: I am sorry the hon. member should view the matter in that light. I am seeking to point out the position as it appears to me. It would clearly be detrimental to the interests of the House if any attempt were made to pass a motion which might have a serious effect upon the standing of the House in the public mind. We wish to retain the respect and confidence of our electors. The only way to do so is for us to act in a proper and legal manner, not otherwise.

Hon. J. J. Holmes: And so you want us to pass just a pious resolution?

Hon. J. NICHOLSON: It is a matter of registering an emphatic protest against the action of the Government. The motion would re-act upon the heads of the King's representatives. It is not right for us as a legislative House to attempt to bring that about.

Hon. W. J. Mann: If we pass a pious resolution and nothing comes of it, what happens then?

Hon. C. F. Baxter: What could happen?

Hon. J. NICHOLSON: Certain members were brought before the court because of the action of a certain individual.

Hon. C. F. Baxter: That is quite a different case.

Hon. J. NICHOLSON: The hon. member should weigh the position. It is the function of the court to determine these questions, and it is within their jurisdiction to inquire into them. Under what authority would the hon. member inquire into them? He has nothing to show, and there is no authority vested in this House by any statute or any right whatsoever to make such an inquiry. The hon. member would be asserting some prerogative of which there was no existence.

Hon. C. F. Baxter: Other legal opinions differ from yours.

Hon. J. NICHOLSON: I should like to see the question tested before the court. Our only course is to proceed in a manner that will sustain the honour of this Chamber. I am sure the mover of the motion has no other desire than that. The motion, however, is calculated to lead us into difficulties. My reason for moving the amendment is that, unless we register this protest, the granting of pardons may lead to a very grave injustice and bring Parliament into disrepute. The amendment will leave the remedy in the hands of the courts. I move an amendment—

That all the words after "House" be struck out with a view to inserting the following:—"it is contrary to the spirit of justice and an improper interference with the administration of the law for a free pardon to have been granted to the Hon. Edmund Harry Gray, and this House desires to enter its emphatic protest against the granting of such a pardon."

Hon. A. Thomson: I second the amendment.

Hon. J. CORNELL: I move—

That the debate be adjourned.

Motion put, and a division taken with the following result:—

Ayes	.. .. ..	8
Noes	.. .. ..	15
Majority against	..	7

AYES	
Hon. A. M. Clydesdale	Hon. V. Hamersley
Hon. J. Cornell	Hon. W. H. Kitson
Hon. J. M. Drew	Hon. J. Nicholson
Hon. G. Fraser	Hon. W. J. Mann (*Teller.*)

NOES.	
Hon. E. H. Angelo	Hon. H. S. W. Parker
Hon. C. F. Baxter	Hon. H. V. Piesse
Hon. C. G. Elliott	Hon. H. Seddon
Hon. J. George	Hon. A. Thomson
Hon. E. H. H. Hall	Hon. C. H. Wittenoom
Hon. J. J. Holmes	Hon. H. J. Yelland
Hon. G. W. Miles	Hon. H. Tuckey
Hon. R. G. Moore	(*Teller.*)

Motion thus negatived.

HON. J. CORNELL (South—on amendment) [7.57]: The introduction into the debate of Mr. Nicholson's amendment has brought new phases of this matter before us. I moved the adjournment of the debate so that members might have a few hours in which to consider whether or not the amendment was a sufficient refutation of the action of the Government. It is almost impossible to separate the subject matter of the motion from that of the amendment. It is the general issue that we have to face. The Government committed one of the gravest of blunders ever made by any Cabinet in Western Australia when they recommended to His Excellency that a free pardon be granted to Mr. Gray for the offence which was committed, and for which he was likely to suffer grave consequences under the Electoral Act. I have expressed that opinion personally to hon. members. When Mr. Gray was convicted, he found himself in exactly the same position as that in which Mr. Clydesdale found himself when a Supreme Court judge practically ruled that that hon. member had forfeited his seat in this Chamber. You, Mr. President, were away at the time, and I was asked what was going to happen next. My reply was that so far as the Legislative Council was concerned, there was no charted way. Neither under the Electoral Act nor under the Constitution was there any precedent for the House declaring Mr. Clydesdale's seat vacant. Exactly the same position presented itself when the magistrate convicted Mr. Gray. The Electoral Act says that a member having been convicted of that offence shall suffer the disqualification of being unable to sit in this or in another place for two years. That was no decision of the magistrate; the statute has provided that for over 20 years. Again, however, there is no charted way. If the pardon had not been granted, there was no charted way, no precedent, for this House to declare Mr. Gray's seat vacant. I venture the opinion that Cabinet should have used the instrument of the King's prerogative only as a last resource, when there was absolutely no other means of taking action. I have always been under the impression that a pardon was exercised only when no other medium of action was available. But there were other means available in Mr. Gray's case, just as there were other means open to Mr. Clydesdale. I hope these remarks are not being taken as in any way personal; I am merely setting up one case against the other by way of parallel. Mr. Clydesdale, or his legal advisers, took the course of appealing to a higher court. I have yet to learn that members of this Chamber who opposed the passing of a Bill in favour of Mr. Clydesdale had the slightest intention of questioning his right to remain a member of this House. Had a similar course been adopted in Mr. Gray's case, had Parliament been asked, in view of all the circumstances, to extend clemency to Mr. Gray as clemency was extended to Mr. Clydesdale, a good case might have been made out. If hon. members will read the Act to which I have alluded, an Act passed by overwhelming majorities in both Houses, they will, I think, come to the conclusion that a special Act of Parliament was passed for the special purpose of protecting an individual member. The same course should have been adopted in Mr. Gray's case.

Hon. G. W. Miles: Do you approve of that course?

Hon. J. CORNELL: I merely say that in all the circumstances an excellent case might have been made out. However, that course was not followed. Instead, recourse was first had to the last resort—a pardon. Mr. Drew to-day, on behalf of his colleagues in the Cabinet, tried to justify the granting of the pardon. In my opinion, it cannot be justified in all the circumstances. There is a way in which the prerogative might have been exercised without entailing the odium now forthcoming from persons who, largely, have not an appreciation of the whole situation. If the only clemency extended to Mr. Gray had been in respect of his disqualification to sit, I do not think exception would have been taken to that course here, because the circumstances of the case are abnormal. Mr. Drew to-day tried first of all to justify the granting of the pardon in law. The hon. gentleman merely skimmed over what Mr. Seddon had said.

The Chief Secretary: No; I replied to Mr. Seddon.

Hon. J. CORNELL: But the hon. gentleman accused Mr. Seddon of being a layman, and he quoted superficially from a summary of Halsbury's "Laws of England." He also quoted from a document, but gave no authority. Indeed, I understand there is no authority that can be given for this action of the Government. So far as my inquiries go, the action is unprecedented; and for an un-

precedented action it is fairly hard to find authoritative justification. Mr. Drew referred, by way of justification, to what Mr. M. L. Moss had said in 1907. Mr. Drew was in the House then; you, Mr. President, and I were not. I anticipated that attempt at justification some days ago, and took the trouble to go through the volume of "Hansard" in question and to compare the discussion reported there with the present Electoral Act and its amendments. Mr. Moss's remarks were not directed to either of the sections of the present statute by reason of which Mr. Gray finds himself in so unfortunate a position. "Hansard" shows that as regards the very sections, Nos. 181 and 184, under which Mr. Gray was called to account for taking a hand in the distribution of a pamphlet——

The Chief Secretary: I admitted that.

Hon. J. CORNELL: Mr. Moss moved a minor amendment relating to intimidation of a person entering a polling booth.

The Chief Secretary: That was one thing.

Hon. J. CORNELL: That was the only reference to those sections. The amendment was carried here, and accepted in another place. The "Hansard" report shows that all the other clauses, up to No. 189, were agreed to without discussion. "Hansard" contains absolutely no reference to that unfortunate part of Section 184 which imposes the penalty of disqualification. A reference to "Hansard" would show that the clause struck out at the instance of Mr. Moss had reference to defamation, and that Mr. Moss condemned the provision involved in it of having to go before a magistrate and not before a Supreme Court Judge and a jury. However, that is beside the question, in a way. The fact remains that the present law has stood for 27 years, and that the heavy penalty has remained in force throughout that period, though this is the first time it has ever been applied. I understand also that this is the first time, in the lapse of those 27 years, that an individual, whether a candidate or not, has taken action against another individual for a breach of the Electoral Act. It was generally admitted that the late Edgar Harris and I knew the Electoral Act pretty well. Nevertheless, neither of us was conversant with the fact that we could proceed against a candidate for doing certain things. We thought that was the duty of the Chief Electoral Officer. Mr. Drew said there were other bad features of the electoral law. Eighteen months ago I tried to remedy an evil of which every candidate for the Legislative Council is aware. However, my three friends of the West Province opposed me. I happen also to know of a case where the Electoral Act was stretched so as to have nomination day and polling day only 9½ days apart. I shall not enter into any recriminations with regard to that. I happen to know various sections of the Electoral Act which are faulty in the extreme, but which a political party has used to its advantage. It is no use arguing that something said by Mr. Moss in 1907 constitutes a reason why clemency should be granted to Mr. Gray now. The Legislature should have inquired into the anomalies of the Act and rectified them. I find myself in this position: For the first time in the history of responsible Government in Western Australia a pardon has been granted. Let us put aside any party aspect. I admit that the punishment goes far beyond fitting the crime. But the wrong road was followed to alter it. Thus we arrive at the point that this House is of opinion His Excellency the Lieut.-Governor wrongfully exercised the King's prerogative of pardon. I am not one of those who subscribe, without qualification, to the theory that the King's representative can do no wrong. In the British Empire we have advanced constitutionally to such an extent that representatives of the King have been sent back to His Majesty for not having followed the advice of their responsible Ministers. There was one such instance in New South Wales. To-day it is generally accepted that the King's representative accepts the advice of his Ministers.

Hon. J. J. Holmes: But he is not bound to do so.

Hon. J. CORNELL: Constitutional historians indicate that there are innumerable instances on record of His Majesty having recalled his representatives in various parts of the Dominions, for not having followed the advice of their Ministers. I understand that in the present instance no documentary evidence has been furnished, either here or in the Legislative Assembly, to show that legal advice was submitted in conjunction with the recommendation to His Excellency the Lieut.-Governor, advice that would have indicated the case was one in which His Excellency could properly ex-

ercise the Royal prerogative of pardon. His Excellency would have courted a snub similar to that which other vice-regal representatives received on occasions if he had asked his Ministers to submit legal advice to back up their recommendation to him. We must be generous, but I submit the blame must rest entirely with His Excelleny's advisers. The only phase I am really concerned about is whether the circumstances were such that the Royal prerogative of pardon could be constitutionally exercised. On the goldfields and in the metropolitan area, I found that thinking men were mainly disturbed in their minds regarding the circumstances in which the prerogative had been resorted to in a private dispute. There is no precedent to guide us, and if the exercise of the prerogative of pardon were in circumstances that could not be questioned, nothing more need be said or done about it. On the other hand, I understand the consensus of legal opinion that counts is concerned as to whether Cabinet properly advised the King's representative to extend the Royal clemency to a party in a dispute between two individuals. If the advice were tendered in those circumstances, the doubt that arises is as to whether the prerogative was properly availed of. I was in Sydney in 1905 when the pardon was granted to a man who had been charged with murder. That pardon cleared him of everything. If the pardon in Mr. Gray's case does not clear him of every disability, then the action of His Excellency cannot be regarded as amounting to a pardon at all. We have a motion and an amendment. I do not wish to influence members one way or the other. As is known, I have at times been called upon to exercise the powers and authorities of the highest position in this Chamber—I refer to the responsibilities of your position, Mr. President—and it is in that capacity that I speak this evening, not as an ordinary private member. I accept the fact for the sake of argument, that the prerogative should not have been exercised in this instance. The fact remains, however, that the prerogative was exercised. If this House decides that Mr. Gray was wrongfully pardoned, by no juggling of words can we arrive at the conclusion that such a decision does not amount to a repudiation of the pardon. Our decision would mean that, in our opinion, the pardon was never granted. That is the position as I view it. It would mean that from the date of his conviction, Mr. Gray ceased to be a member of the Legislative Council. If we pass the motion, we repudiate, in effect, the exercise of the Royal prerogative of pardon by the Lieut.-Governor, a prerogative that was not exercised of His Excellency's own volition, but on the advice of his responsible Ministers.

Hon. J. Nicholson: And that decision would carry a rebuke to him.

Hon. J. CORNELL: I do not view the matter in the light of a rebuke.

Hon. J. J. Holmes: It might make His Excellency more careful another time.

Hon. J. CORNELL: I have already drawn attention to the customary constitutional practice followed by the representatives of the King. Frequently they have to do things that they would refrain from doing from their own personal point of view, and in doing so, they incur a certain amount of odium that attaches to such actions. We know that His Excellency the Lieut.-Governor could have refused to accept the recommendation of his Ministers, but we must not run away with the impression that that would have ended the matter. If Cabinet desired to have their way, they could have asked the responsible British Minister to inform the Imperial Cabinet that the Lieutenant-Governor's appointment was terminated, and that someone else should be chosen for the post.

Hon. J. J. Holmes: But surely that is bordering on intimidation!

Hon. J. CORNELL: I do not think the Lieutenant-Governor would adopt that attitude: he has acted and will accept the responsibility. It is not denied that this House can do almost anything, and we can resolve that the pardon was wrongly granted. I warn members that if they agree to the motion, one logical course only can be pursued to implement the decision. If we consider that Mr. Gray has no right to sit here, we must take the next step to eject him from the Chamber. While the case is hardly analogous, we know just how the Hon. Hugh Mahon was expelled from the House of Representatives in 1919. The motion expelling him paved the way for the implementing resolution declaring his seat vacant. If, in this instance, we carry the motion and another declaring Mr. Gray's seat vacant, Mr. Gray then is placed in the position he

would have been in had no pardon been granted at all. If members of this Chamber exercise their prerogative, which is more than a mere protest, they must also concede that Mr. Gray has his individual rights. The position is that Mr. Gray might take a process of law, in which case it would be the duty of the Government, having started Mr. Gray, to see him through. There is a method by which we can declare a seat vacant. We would only declare it vacant by a resolution that in the opinion of the House the prerogative was wrongly exercised. Then we would get back to Mr. Gray's disqualification in the first place. I want to make one more point, and I ask members not to act hastily, not to proceed to the end with this matter tonight. My last point is: Let us assume that a pardon was wrongly granted to an individual who did not belong to this House. A pardon overcomes a decision of law, otherwise we could not set aside a decision of law. Take Mr. Gray's partner in the offence, Mr. Mann. Suppose Mr. Mann be pardoned, then the only way one could take exception to the pardon would be by having recourse to law.

Hon. G. W. Miles: But he does not come under the Electoral Act; not to the extent that a member does.

Hon. J. CORNELL: I am simply taking the question of pardon, and trying to illustrate to the House that a pardon is a decision of law. It could not be otherwise. In the case I cited he was found guilty by a jury, the Royal prerogative was extended to him, and that sets aside a decision in law. Therefore we have to view the question of pardon generally, not individually. I admit we may feel keenly about it, but the question the House has to answer is, "Will the course we are about to follow lead in a direction that will secure justice?" That is all I have to say on that question. No one in the State more strongely condemns the action that was taken than I do, for although it might appear on the surface to have been a very good thing for Mr. Gray, in my opinion it was a very bad thing for him and should have been exercised only as a final resource. However, it was exercised, and it is now exercising our minds as to how far we can go. Mr. Holmes, by interjection, said we were making history. That may be so, but I think if any member of mature experience will sit down and dispassionately cogitate for a few minutes, he will come to the conclusion that, despite our boasted English institutions and forms of Government, the power is slipping from the hands of the people every day and getting into the hands of a few men, a few hardy Cabinet Ministers. We all know that in many instances that is not good. Although I have no desire to introduce what is immaterial but really relevant, I could give instances of our existing system of Cabinet clemency and Cabinet protection being exercised greatly to the prejudice of our laws. As Mr. Seddon has said, when the baby is left on our doorstep or the chickens come home to roost, the gravity of the case presents itself and we get up in arms; but I am afraid that when we make a protest we find ourselves up against something that takes a good deal of scotching. I have endeavoured to deal with the question as Mr. Seddon did, to view it in all its raw circumstances, to cut out all sob-stuff, and to make no reference to the sins of commission of any political party. Our job is to do the right thing, and I hope the right thing will be done. If members can convince me that the right thing is to carry the motion and subsequently implement it with a further motion, I will act according to my conviction. If we say in the one motion that the King's representative was wrong, then logically we must go farther. That is the position: If members can convince me that that is the wisest course to follow, I will square up to it and vote for it.

HON. C. F. BAXTER (East—on amendment) [8.40]: There can be no doubt of the ability of the legally trained mind to frame a very hard and exacting motion which in the end is useless. Mr. Nicholson has proposed an amendment as follows—

> That in the opinion of the House it is contrary to the spirit of justice and improper interference with the administration of the law for a free pardon to have been granted to Mr. Gray, and this House desires to enter its emphatic protest against the granting of such pardon.

The PRESIDENT: I must remind the hon. member that the amendment is that certain words, proposed to be struck out from the motion before the House, be struck out. Of course the hon. member may refer to the suggested insertion of other words in the event of the words proposed to be struck out being struck out.

Hon. C. F. BAXTER: Quite so. The only reason the House would have for striking out those words would be for the purpose of inserting Mr. Nicholson's amendment. That amendment says, "contrary to the spirit of justice," yet it concludes with a pious resolution which means nothing and will get us nowhere. Mr. Nicholson's amendment says, "an improper interference with the administration of the law." Very well, if the action taken was contrary to the spirit of justice, and an improper interference with the administration of the law, why should the motion end with a pious protest?

Hon. J. Nicholson: You have the power of the Chamber to amend it.

Hon. C. F. BAXTER: The hon. member can let that take care of itself. He is not the only one who has gone thoroughly into this matter. There are other opinions, coming from members of the profession to which he belongs, which have been given to other members of this Chamber. If we are mildly to sit down and agree to the proposed protest, we shall be deserving of indignities at the hands of the people of Western Australia. If we are calmly to submit to the encroachments of Governments all the time, where will be the need for Parliament at all? Successive Governments of Western Australia have voiced strong protests and stirred up the people almost to the point of revolution against the encroachments of the Federal Government, yet none of the encroachments of the Federal Government has been nearly so vital as the encroachment of the State Government which is now before the House. This is not the occasion on which to enter a mild protest. It is time for members of this Chamber to assert their rights, and they can do so only by standing firm and supporting the motion, not by entering a mere protest. Mr. Nicholson's amendment concludes "and this House desires to enter its emphatic protest against the granting of such pardon." Of what value is that? None whatever. If members are going to agree to that, it would have been as well not to raise the question at all.

Hon. J. Nicholson: What would be the value of a resolution declaring the seat vacant? It would not be worth a snap of the fingers.

Hon. G. W. Miles: How do you know that?

Hon. J. Nicholson: I am telling you.

Hon. G. W. Miles: That is only your opinion.

Hon. C. F. BAXTER: Mr. Nicholson thinks that he alone possesses the legal knowledge necessary to deal with the question. It may resolve itself into something for the Privy Council to determine. It is a very deep question and legal interpretations are necessary, more than have so far been given.

Hon. J. Nicholson: Then leave it for the court to decide.

Hon. J. J. Holmes: Necessity knows no law.

Hon. C. F. BAXTER: According to the papers laid on the Table of another place in this case there was no attempt made to get the opinion of the Crown Law Department. We, however, have obtained the opinion of other legal gentlemen. Members would be ill-advised to accept the amendment unless the concluding words were struck out, namely, "and this House desires to enter its emphatic protest against the granting of such pardon." With those words deleted, members might support the amendment.

Hon. J. J. Holmes: It would be worse than Mr. Seddon's motion.

Hon. C. F. BAXTER: The amendment certainly opens strongly but it dies off at the tail end. Trust a legal mind to smooth things over! But the smoothing over means that a precedent is to be established for all time.

Hon. J. Nicholson: On a point of order, the hon. member says I am moving to smooth things over. I am moving to smooth nothing over. In moving my amendment I suggested the course that I considered was appropriate and proper as compared with the one proposed by Mr. Seddon.

The PRESIDENT: That is not a point of order; it is a personal explanation.

Hon. C. F. BAXTER: I hope members will stand firm and preserve the dignity of the House. There is only one way to do it and that is to stand firmly for Mr. Seddon's motion. After that, other action can, and I daresay will, be taken. To back down by amending the motion as suggested by Mr. Nicholson would render our action next to useless.

HON. R. G. MOORE (North-East—on amendment) [8.48]: The question is whether this is a proper case for the exercise of the Royal prerogative of pardon. As to public opinion, so far as I can ascertain, there is

only one view—the people as a whole are very indignant at the action of the Government. The amendment is prefaced by the words "*In the opinion of* this House." Evidently there is one prerogative left to us and that is to express an opinion. Whether it be right or wrong does not matter.

Hon. J. Nicholson: That is a privilege.

Hon. R. G. MOORE: If we make mistakes, we shall not be the only people to err. Mr. Gray made a mistake. The amendment submits that in the opinion of the House it is contrary to the spirit of justice and an improper interference with the administration of the law for a free pardon to have been granted to Mr. Gray. In my opinion that is the best reason that has been advanced during the debate for passing the motion so ably moved by Mr. Seddon. In the fewest words possible Mr. Nicholson has given the best reason for passing the motion. Mr. Nicholson seems to have gone to a lot of trouble and he certainly has done well to condense the reason into so few words —it is contrary to the spirit of justice and an improper interference with the administration of the law. That is why the motion was framed, and that is why I intend to support the motion.

Amendment put and negatived.

Personal Explanations.

Hon. H. Seddon: I wish to make a personal explanation. Mr. Gray has asked that an opportunity be given him to make a considered statement to the House and requested that the debate be adjourned until Thursday next. I consider that we should give Mr. Gray an opportunity to make any statement he desires, but I should like to have the debate concluded to-morrow. Therefore I move—

That the debate be adjourned until to-morrow.

Hon. E. H. Gray: As I am vitally concerned, it is my wish to make a considered statement to the House and explain my rights in the unfortunate happenings of the last month or two. I consider that my request is a reasonable one because I believe I can throw a different light on the debate.

Hon. J. Cornell: You are making a personal explanation?

Hon. E. H. Gray: Yes. This is the first occasion on which I have been in the House since the debate started and the discussion has taken a different turn. To-morrow a public engagement will prevent my making the necessary preparations, and I should like until Thursday afternoon to prepare my statement.

Hon. J. Cornell: Put the engagement aside.

Hon. E. H. Gray: It is impossible to do so.

Motion (adjournment) put and passed.

BILLS (4)—FIRST READING.

1, Tenants, Purchasers, and Mortgagors' Relief Act Amendment.

2, Electoral Act Amendment.

3, Constitution Acts Amendment.

4, Roman Catholic Church Property Act Amendment.

Received from the Assembly.

House adjourned at 9 p.m.

Legislative Assembly.

Tuesday, 4th September, 1934.

The SPEAKER took the Chair at 4.30 p.m., and read prayers.

LEAVE OF ABSENCE.

On motion by Mr. Wilson, leave of absence for two weeks granted to Mr. Marshall (Murchison) on the ground of urgent private business.