Official Report of the National Australasian Convention Debates
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NATIONAL AUSTRALASIAN CONVENTION:
DELEGATIONS FROM COLONIES.

New South Wales
Edmund Barton, Esquire, Q.C.
The Honorable George Houston Reid, M.L.A. (Premier).
The Honorable Joseph Hector Carruthers, M.L.A. (Secretary for Lands).
William McMillan, Esquire, M.L.A.
William John Lyne, Esquire, M.L.A.
The Honorable James Nixon Brunker, M.L.A. (Colonial Secretary).
The Honorable Richard Edward O’Connor, M.L.C., Q.C.
The Honorable Sir Joseph Palmer Abbott, K.C.M.G. (Speaker Legislative Assembly).
James Thomas Walker Esquire.
Bernhard Ringrose Wise Esquire.

South Australia.
The Honorable Charles Cameron Kingston, Q.C., M.P. (Premier).
The Honorable Frederick William Holder, M.P. (Treasurer).
The Honorable John Alexander Cockburn, M.D., M.P. (Minister of Education).
The Honorable Sir Richard Chaffey Baker, K.C.M.G. (President of the Legislative Council).
The Honorable John Hannah Gordon, M.L.C.
Josiah Henry Symon, Esquire, Q.C.
The Honorable Sir John William Downer, Q.C. K.C.M.G., M. P.
Patrick McMahon Glynn, Esquire, B.A., LL.B.
The Honorable James Henderson Howe.
Vaiben Louis Solomon, Esquire, M.P.

Tasmania.
The Honorable Sir Philip Oakley Fysh, K.C.M.G., M.H.A. (Treasurer).
The Honorable Henry Dobson, M.H.A.
The Honorable Neil Elliott Lewis, M.H.A.
The Honorable Nicholas John Brown, M.H.A.
The Honorable Charles Henry Grant, M.L.C.
The Honorable Adye Douglas (President Legislative Council).
The Honorable William Moore, M.L.C. (Chief Secretary).
Matthew John Clarke, Esquire, M.H.A.
The Honorable John Henry, M.H.A.

Victoria.
John Quick, Esquire, LL.D.
The Honorable Alfred Deakin, M.L.A.
William Arthur Trenwith, Esquire, M.L.A.
Sir Graham Berry, K.C.M.G. (Speaker Legislative Assembly).
The Honorable Simon Fraser, M.L.C.
The Honorable Sir William Austin Zeal, K.C.M.G. (President Legislative Council).
Henry Bournes Higgins, Esquire, M.L.A.
Western Australia.
The Honorable Sir James George Lee Steere, Knight (Speaker Legislative Assembly).
George Leake, Esquire, M.L.A.
The Honorable Frederick Henry Piesse, M.L.A. (Commissioner of Railways).
The Honorable John Winthrop Hackett, M.L.C.
William Thorley Loton, Esquire, M.L.A.
Walter Hartwell James, Esquire, M.L.A.
Albert Young Hassell, Esquire, M.L.A.
Robert Frederick Sholl, Esquire, M.L.A.
The Honorable John Howard Taylor, M.L.C.

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NATIONAL AUSTRALASIAN CONVENTION:
DELEGATES: ALPHABETICAL LIST.

President:
The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., Premier, S.A.

Acting President:
The Honorable Sir RICHARD CHAFFEY BAKER, K.C.M.G., President of the Legislative Council, S.A.

Chairman of Committees:
The Honorable Sir RICHARD CHAFFEY BAKER, K.C.M.G., President of the Legislative Council, S.A.

Members of the Convention:
Barton, Edmund, Esquire, Q.C.
Berry, Sir Graham, K.C.M.G., M.L.A.
Braddon, The Honorable Sir Edward Nicholas Coventry, K.C.M.G., M.H.A.
Brown, The Honorable Nicholas John, M.H.A.
Brunker, The Honorable James Nixon, M.L.A.
Carruthers, The Honorable Joseph Hector, M.L.A.
Clarke, Matthew John, Esquire, M.H.A.
Cockburn, The Honorable John Alexander, M.D., M.P.
Deakin, The Honorable Alfred, M.L.A.
Dobson, The Honorable Henry, M.H.A.
Douglas, The Honorable Adye, M.L.C.
Fraser, The Honorable Simon, M.L.C.
Forrest, The Honorable Sir John, K.C.M.G., M.L.A.
Fysh, The Honorable Sir Philip Oakley, K.C.M.G., M.H.A.
Glynn, Patrick McMahon, Esquire, B.A., LL.B.
Gordon, The Honorable John Hannah M.L.C.
Grant, The Honorable Charles Henry, M.L.C.
Hackett, The Honorable John Winthrop, M.L.C.
Hassell, Albert Young, Esquire, M.L.A.
Henry, The Honorable John, M.H.A.
Higgins, Henry Bournes, Esquire, M.L.A.
Holder, The Honorable Frederick William, M.P.
Howe, The Honorable James Henderson.
Isaacs, The Honorable Isaac Alfred, M.L.A.
James, Walter Hartwell, Esquire, M.L.A.
Kingston, The Honorable Charles Cameron, Q.C., M.P.
Leake, George, Esquire, M.L.A.
Lee Steere, The Honorable Sir James George, Knight, M.L.A.
Lewis, The Honorable Neil Elliott, M.H.A.
Loton, William Thorley, Esquire, M.L.A.
Lyne, William John, Esquire, M.L.A.
McMillan, William, Esquire, M.L.A.
Moore, The Honorable William, M.L.C.
Peacock, The Honorable Alexander James, M.L.A.
Piesse, The Honorable Frederick Henry, M.L.A.
Quick, John, Esquire, LL.D.
Reid, The Honorable George Houston, M.L.A.
Sholl, Robert Frederick, Esquire, M.L.A.
Solomon, Vaiben Louis, Esquire, M.P.
Symon, Josiah Henry, Esquire, Q.C.
Taylor, The Honorable John Howard, M.L.C.
Trenwith, William Arthur, Esquire, M.L.A.
Turner, The Honorable Sir George, K.C.M.G., M.L.A.
Walker, James Thomas, Esquire.
Wise, Bernhard Ringrose, Esquire.
Zeal, The Honorable Sir William Austin, K.C.M.G., M.L.C.

Clerk:
E. G. BLACKMORE, Esquire, Clerk of the Legislative Council and Clerk of the Parliaments, S.A.

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Clause 3 (Salary of Governor-General), 629. Amendment by Mr. Higgins, to limit the application of the clause "until the Parliament otherwise provides," 629; agreed to, 632. Amendment by Mr. Howe, to make the salary £7,000 instead of £10,000, 632; negatived, 633. Amendment by Mr. Barton, that the salary shall not be altered during Governor-General's continuance in office, agreed to, and clause, as amended, agreed to, 633.

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Clause 10 (Mode of election of members; continuance of existing election laws until the Parliament otherwise provides), 672. Amendment by Mr. Barton, to apply the clause to elections for the Senate instead of the House of Representatives, agreed to, and clause, as amended, agreed to, 676.

Clause 12 (Retirement of members), 676; agreed to, 679. Reconsidered, and amendment by Mr. Barton, to convey clearly that elections will take place every three years right on from the first time, agreed to, and clause, as amended, agreed to, 1190.

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Clause 14 (Qualifications of member), 1191. Amendment by Mr. Walker, providing that the age qualification shall be 25 instead of 21 years, negatived, and clause, as read, agreed to, 1191.

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Clause 19 (Vacancy in Senate to be notified to Governor of State) agreed to, with verbal amendment, 680.

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Clause 21 (Quorum of Senate), 682. Amendment by Mr. Gordon, to leave out the words "as provided by this Constitution." relating to the number of members of the Senate, agreed to, and clause, as amended, agreed to, 682.

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Clause 25 (Mode of calculating number of members): Verbal amendments by Mr. Barton agreed to, and clause, as amended, agreed to, 1191.

Clause 29 (Qualification of electors), 715. Amendment by Mr. Holder, providing that every man and woman of the fall age of twenty-one years, whose name has been registered as an elector for at least six months, shall be an elector, 715; negatived by 23 to 12, 725. Amendment by Mr. Holder, that no elector now possessing the right to vote shall be deprived of it, 725; withdrawn, 731. Amendment by Mr. Holder, to add to the "And no elector who has at the establishment of the Commonwealth, or who afterwards acquires a right to vote at elections for the more numerous House of the Parliament of the State shall be prevented by any law of the Commonwealth from exercising such right at elections for the House of Representatives," 731; agreed to by 18 to 15, 732. Amendment by Dr. Cockburn, providing that no property or income qualification shall be required of any elector, negatived, and clause, as amended, agreed to, 732. Reconsidered, 1191. Amendment by Mr. Barton, providing that "no qualification existing at the establishment of the Commonwealth to vote at elections for the
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Clause 35 (Vacancy by absence of member), 734. Amendment by Mr. Barton, providing that the disqualifying absence shall be two consecutive months, agreed to, and clause, as amended, agreed to, 734.

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Clause, as amended, agreed to, 735. Reconsidered, and consequential amendments by Mr. Barton agreed to, 1197; clause, as amended, agreed to, 1198.

Clause 37 (Quorum of House of Representatives), 735. Amendment by Mr. Carruthers, providing that twenty members instead of "one-third of the whole members" shall constitute a quorum, negatived, and clause, as read, agreed to, 735.

Clause 38 (Voting in House of Representatives), agreed to, 736.

Clause 39 (Duration of House of Representatives), 1031. Amendment by Sir George Turner, to limit the duration of every House of Representatives to three years, agreed to, and clause, as amended, agreed to, 1031.

Clause 40 (Writs for General Election), agreed to, 736.

Clause 42 (Questions as to qualifications and vacancies), 736. Amendment by Mr. Barton, to omit the application of the clause to the question of a disputed return. Agreed to, and clause, as amended, agreed to, 736.

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Clause 44 (Disqualification of members), agreed to, 736.

Clause 46 (Disqualifying contractors and persons interested in contracts), 736. Amendment by Mr. Gordon, to substitute in sub-section 3 "A company legally incorporated in any State" for "an incorporated company consisting of more than twenty persons," 737; clause postponed, 738. Further considered, 1034. Mr. Gordon's amendment withdrawn, 1034. Amendment by Mr. Carruthers, providing that any member of the Federal Parliament who directly or indirectly accepts any fee or honorarium for work done or services rendered for or on behalf of the Commonwealth shall vacate his seat, 1034; agreed to, and clause, as amended, agreed to, 1044.

Clause 47 (Place to become vacant on accepting office of profit), 739. Amendment by Sir George Turner, to make the clause apply to a member "either while he is a member, or within six months after ceasing to be a member," 740; withdrawn, 741. Similar amendment by Sir William Zeal, 744; withdrawn, 749. Amendment by Mr. Glynn, to strike out the provision that no person holding offices specified in clause shall be capable "of being chosen" as a member 743; negatived, 749. Amendment by Sir William Zeal, to insert as a new sub-section to the clause-Until Parliament otherwise provides, no person being a member, or within six months of his ceasing to be a member, shall be qualified or permitted to accept or hold any office, the acceptance or holding of which would, under this section, render a person incapable of being chosen, or of sitting, as a member," 749. Agreed to by 19 to 18, 753. Verbal amendment by Mr. Barton agreed to, 754. Clause, as amended, agreed to, 756. Reconsidered, and agreed to without alterations, 1198.

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section 16, dealing with insurance, providing that the subsection shall not apply to State insurance which does not extend beyond the limits of the State concerned, 779; agreed to, and sub-section 16, as amended, agreed to, 7 82. Amendment by Mr. Higgins, to insert as a new sub-section "Industrial disputes extending beyond the limits of any one State," 782. Further amendment by Mr. Higgins, to insert before "industrial," "conciliation and arbitration for the prevention and settlement of," 792; agreed to, 793. Proposed new sub-section, as amended, negatived by 22 to 12, 793. Amendment by Sir Joseph Abbott, to make sub-section 22 a

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to "navigation on the rivers Murray, Darling, and Murrumbidgee," 794; withdrawn, 815. Amendment by Sir John Downer, providing that the sub-section shall apply only to "rivers running through or on the boundaries of two or more States, so far as is necessary to preserve the navigability thereof," 815; negatived by 24 to 10, 819. Subsection, by 25 to 10, struck out, 820.

Mr. Gordon proposed a new sub-section to read, "The control of the navigation of the River Murray and the use of the waters thereof," 821. Amendment by Mr. Barton, to make proposed sub-section read, "The navigation of rivers, so far as they form boundaries between States," 821; withdrawn, 824. Amendment by Mr. O'Connor, providing that the control over the River Murray should only be from Albury to the sea, 824, negatived by 23 to 9, 826. Amendment by Mr. Carruthers, to add to the proposed new sub-section "from where it forms the boundary between Victoria and New South Wales to the sea," 826. Amendment agreed to by 18 to 10, and sub-section, as amended, inserted, 829. Clause, as amended, agreed to, 829. Reconsidered, and new subsection 32A proposed by Mr. McMillan, giving the Commonwealth the power of taking over with the consent of the State the whole or any part of the railways of any State or States, upon such terms as may be arranged between the Commonwealth and the State; agreed to, 1199. New sub-section 32B, proposed by Mr. McMillan, "Railway construction and extension with the consent of any State or States concerned"; agreed to, and clause, as amended, agreed to, 1199.

Clause 51 (Exclusive powers of the Parliament), 830; agreed to, 833.
Royal Assent.

Clause 57 (Signification of Queen's pleasure on Bills reserved), 833. Amendment by Mr. Reid, providing that Bills shall only be reserved for one year and not for two, 833; negatived by 17 to 16, and clause, as read, agreed to, 834. Reconsidered, 1200, and agreed to without alteration, 1201.

CHAPTER II-THE EXECUTIVE GOVERNMENT.

Clause 58 (Executive power to be vested in the Queen), 908; agreed to, 915.
Clause 59 (Constitution of Executive Council for Commonwealth), 915; agreed to, 916.

Clause 62 (Number of Ministers), as read, agreed to, 916.
Clause 64 (Appointment of civil servants), 916. Amendment by Mr. Wise, providing that "no officer shall be removed except for cause assigned," 916; negatived by 28 to 8; and clause, as read, agreed to, 920.

Clause 67 (Immediate assumption of control of certain departments), 920.
Amendment by Mr. Walker, providing that the railways shall be included in the departments to be taken over, 922; negatived by 18 to 12; and clause, as read, agreed to, 934. Reconsidered, 1201. Verbal amendments by Mr. Barton agreed to, 1201. Amendment by Mr. O'Connor, to add "The obligations of each State in respect of the departments transferred shall thereupon be assumed by the Commonwealth," agreed to; and clause, as amended, agreed to, 1202.

CHAPTER III.-THE FEDERAL JUDICATURE.

Clause 69 (Judicial power and courts), 934. Amendment by Mr. Carruthers, to strike out the limitation of the minimum number of justices to four besides the Chief Justice, 935; negatived by 16 to 13, and clause, as read, agreed to, 943.

Clause 70 (Judges' tenure, appointment, removal, and remuneration), 944. Amendment by Mr. Symon, to use the term "judges" instead of "justices" of the High Court, negatived, 944.

Sub-section 2. Amendment by Mr. Symon, providing that judges shall be appointed by the Governor-General in Council instead of "by the Governor-General, by and with the advice of the Federal Executive Council," agreed to, and sub-section, as amended, agreed to, 944.

Sub-section 3 amended consequentially. Amendment by Mr. Kingston, providing that judges "shall not be removed except for misconduct, unfitness, or incapacity," 946. Amendment amended by Mr. Kingston to read "misbehaviour or incapacity," 959 agreed to, 960. Verbal amendments to same sub-section by Mr. Barton agreed to, 960 sub-section, as amended, agreed to, 961.

Clause, as amended, agreed to, 962.

Clause 71 (Extent of judicial power), 962. Amendment by Mr. Glynn, to add as a now sub-section "any matters that the Parliament may prescribe," 962; negatived, and clause, as read, agreed to, 967.

Clause 72 (Appellate jurisdiction of High Court), 967. Amendment by Mr. Glynn, providing that there shall be no exceptions to the appellate jurisdiction, negatived, 967. Amendment by Mr. Wise, to leave out the words "both as to law and fact" in connection with the power of the High Court in hearing and determining appeals, 967; agreed to, 968. Amendment by-Mr. Wise, to omit "provided that no fact tried by a jury shall be otherwise re-examined in the High Court than according to the rules of the common law," agreed to, and clause, as amended, agreed to, 968.

Clause 73 (No appeals to the Queen in Council except in certain cases), 968. Amendment by Sir George Turner, providing that the High Court may grant leave to appeal to the Queen in Council, negatived by 17 to 14, 968. Clause, as read, agreed to by 22 to 12, 989. Reconsidered, and agreed to, without alteration 1202.

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Clause 74 (Jurisdiction of Courts), reconsidered, 1203. Amendment by Mr. Barton in the first paragraph (which read, "Within the limits of the judicial power of the High Court, the Parliament may from time to time"), to leave out "of the High Court," agreed to, and clause, as amended, agreed to, 1203.

Clause 76 (Actions against the Commonwealth or a State), 989; struck out, 990. Clause 78 (Trial by jury), 990; agreed to, 991.
CHAPTER IV.-FINANCE AND TRADE.

Clause 79 (Consolidated revenue fund), 834. Amendment by Sir John Downer, to strike out the words "duties" and "moneys." Agreed to, and clause, as amended, agreed to, 835.

Clause 81 (Money to be appropriated by law), 835. Verbal amendment by Sir John Downer negatived, and clause, as read, agreed to, 835.

Clause 82 (The Commonwealth to have exclusive power to levy duties of Customs and excise and offer bounties after a certain time), 835.

Paragraph 1. Amendment by Sir George Turner, to omit the provision that the Parliament shall have sole power to impose duties of excise "upon goods for the time being the subject of Customs duties," agreed to, and paragraph, as amended, agreed to, 836.

Paragraph 2. ("But this exclusive power shall not come into force until uniform duties of Customs have been imposed by the Parliament). Amendment by Mr. Henry, to add "or excise" after "Customs," 836; withdrawn, 837. Amendment by Mr. Higgins, to specifically provide that any State may alter its duties until uniform duties have been imposed, 837; withdrawn, and paragraph, as read, agreed to, 838.

Paragraph 3, as read, agreed Lo, 838.

Paragraph 4. Amended consequentially to agree with amendment made in paragraph 1, 843. Amendment by Mr. Barton, providing that "wares or merchandise" shall be included in the operation of the paragraph as well as "goods," 847; withdrawn, 854. Amendment by Sir Edward Braddon, to add to the paragraph "But any contract subsisting with any State on the 31st March, 1897, under which bounties are given by such State, shall not be impaired," 843; withdrawn, 854. Amendment by Mr. Higgins, providing that "Contracts subsisting with any State on the 31st March, 1897, under which bounties are offered or given by such State shall not be impaired," 859. Amendment by Mr. Isaacs on proposed amendment to substitute "the establishment of the Commonwealth" for 31st March, 1897," 862; negatived, 864. Mr. Higgins' amendment withdrawn, and paragraph, as amended, agreed to, 866.

Clause, as amended, agreed to, 866.

Reconsidered, 1203. Amendment by Mr. Barton providing that "The control and collection of duties of Customs and excise and the payment of bounties shall pass to the Executive Government of the Commonwealth upon the establishment of the Parliament of the Commonwealth," agreed to, 1203. Amendment by Mr. Higgins, to add as a new subsection, "That this motion shall not apply to bounties or aids to mining for gold or silver or other metals," agreed to, and clause, as amended, agreed to, 1203.

Clause 83 (Transfer of officers), 866. Amendment by Mr. Wise, providing that any officer taken from the employ of a State into the employ of the Commonwealth shall not, "so long as he remains in the service of the Commonwealth," be entitled to demand any gratuity, pension, or retiring allowance due by the State to him, 868. Clause postponed, 870. Further considered, 1044. Mr. Wise's amendment withdrawn. Amendment by Mr. Barton,
providing that an officer transferred by the State to the Commonwealth shall be entitled to have his claim pro tanto against the State which he had served, and have the remainder of his claim satisfied by the Commonwealth as for the remainder of the term of service entitling him to a pension, 1045; amendment by Mr. Deakin to add to the proposed amendment "and all other existing and accruing rights of any such officers as shall remain in the service of the Commonwealth shall be preserved," 1046; agreed to, 1051. Amendment, as amended, agreed to, and clause, as amended, agreed to, 1051.

Clause 84 (Transfer of land and buildings), 870. Amendment by Mr. Wise, providing for the Commonwealth taking over the buildings of the State, 870; withdrawn, 871. Amendment by Mr. Barton, providing for the alteration of the term "belong to," as applied to land and buildings transferred, to "vest in," 871; agreed to, and clause, as amended, agreed to, 872. Reconsidered, 1203. Amendment by Mr. Barton, providing that vessels" shall also be transferred, agreed to, 1204. Amendment by Mr. Barton, providing that "things" as well as "materials" appertaining to "lands, buildings, works, and vessels" transferred shall be transferred, agreed to, 1204. Verbal amendment by Mr. Barton agreed to and clause, as amended, agreed to, 1204. Recommitted, 1211. Amendment by Mr. Barton, to omit "uniform duties of Customs shall be imposed within two years after the establishment of the Commonwealth," with a view of inserting the paragraph elsewhere, agreed to, 1211.

Clause 85 (Collection of existing duties of Customs and excise), 872. Verbal amendments by Mr. Barton agreed to, 873. Amendment by Sir Edward Braddon, providing that "the offering of bounties upon the production or export of goods" shall not be continued by the States prior to the establishment of the Commonwealth; withdrawn, 874. Clause, as read, agreed to, 875.

Clause 86 (On establishment of uniform duties of Customs and excise, trade within the Commonwealth to be free), 875; postponed, 877; COMMONWEALTH OF AUSTRALIA BILL:

further considered, 1140. Amendment by Mr. Deakin, to add "nothing in this Constitution shall be construed to prevent any State from regulating the importation of opium or alcohol, under conditions which are applicable as nearly as possible to opium and alcohol within the State," 1140; negatived by 15 to 14, and clause, as read, agreed to, 1148.

Clause 87 (Accounts to be kept), 877; postponed, 908; further considered, 1051. Amendment by Sir Philip Fysh, providing that the books of the Commonwealth shall show the balance in favor of the State monthly, agreed to, 1062. Verbal amendments by Mr. Barton agreed to, 1052. Clause, as amended, agreed to, 1053.

Clause 88 (Expenditure), 1053. Amendment by Mr. Reid, providing that the maximum expenditure of the Commonwealth shall be specified for the first "three" instead of "four" years; agreed to, 1056. Amendment by Mr. Reid, providing that the annual expenditure of the Commonwealth in the exercise of the original powers given to it by the Constitution shall not, for the first three years after its establishment, exceed £300,000; agreed to, 1056. Amendment by Mr. Reid, providing that the total yearly expenditure of the Commonwealth in
performance of the services and the exercise of the powers transferred from the States to the Commonwealth shall not, for the first three years, exceed £1,250,000; agreed to, and clause, as amended, agreed to, 1056.

Clause 89 (Payment to each State for five years after uniform tariffs), 1057.

Paragraph 1. Amendment by Sir Philip Fysh, providing that the amount to be paid to the whole of the States for any year during the first five years after uniform duties of Customs have been, imposed shall not be less than the aggregate amount returned to them during the year last before the imposition of such duties, 1059; negatived, and paragraph, as read, agreed to, 1067.

Paragraph 2. Amendment by Mr. Reid, to strike out the paragraph and insert new paragraphs which had been agreed upon by the Treasurers of New South Wales, Victoria South Australia, and Tasmania, dealing with the method of apportioning to the States the surplus revenue after meeting the expenditure provided for in clause 88, 1067; agreed to, and clause, as amended, agreed to, 1070.

Clause 90 (Distribution of surplus), 1070. Amendment by Mr. Barton, providing that after the expiration of five years from the imposition of uniform duties of Customs "each State shall be deemed to contribute to revenue an equal sum per head of its population." Agreed to, and clause, as amended, agreed to, 1070.

Equality of Trade.

Clause 92 (No derogation from freedom of trade), 1070. Amendment by Mr. Gordon, providing that no preference shall be given having the effect of inducing trade or commerce in any particular direction within the Commonwealth unduly, and in particular by one part of the Commonwealth offering greater inducement than other parts wherever the inducement offered returns no reasonable profit as regards the particular trade or commerce induced to to that part of the Commonwealth offering the inducement, 1070; withdrawn, 1113. Amendment by Mr. Wise, providing that the clause shall apply to "State" instead of to "part of the Commonwealth," 1073; agreed to by 17 to 13, and clause, as amended, agreed to, 1113.

Clause 93 (Inter-State Commission), 1113 amendment by Mr. Barton, providing that the Inter-State Commission shall maintain the provisions of the Constitution "upon railways within the Commonwealth, and upon rivers flowing through, in, or between two or more States," agreed to, 1113; consequential amendment deleting latter portion of clause agreed to, 1113; clause, as amended, agreed to, 1114.

Clause 94 (Tenure of office), 1114; amendment by Sir William Zeal, to reconstruct the clause by making it read, "The members of the Commission shall be officers of the Civil Service of each State, to be appointed by the Governor-General from time to time as required , and to deal only with such matters as may be specifically referred to them. One officer only to be chosen from each State," 1114; withdrawn, and clause struck out, 1117.

Clause 95 (Powers of Commission), 1117. Amendment by Mr. Gordon, to omit the provision that the powers of the Commission shall include such "as the Parliament may from time to time determine" negatived, 1140, Amendment by Sir George Turner, to leave out the words "but shall have no powers in reference to
the rates or regulations of any railway in any State, except in cases of rates or regulations preferential in effect, and made and used for the purpose of drawing traffic to that railway from the railway of a neighboring State," 1132; agreed to, 1140.

Clause 96 (Taking over public debts of States), 1086. Amendment by Sir George Turner, striking out the provision requiring "the consent of the Parliament of any State" to the taking over of a debt of a State, 1087; agreed to by 20 to 15, 1097. Amendment by Sir George Turner, to strike out the reference to "any part" of the public debt, agreed to, 1097. Amendment by Mr. Higgins, providing that the Commonwealth may take over "a ratable proportion" of the debts of a State, 1098; agreed to, 1099. Amendment by Sir George Turner, providing that the clause shall only apply to debts "as existing at the establishment of the Commonwealth," 1087; agreed to, 1100. Amendment by Sir George Turner, to reconstruct the remainder of the clause by striking out words and making it read, "And may from time to time convert, renew, or consolidate such debts.

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or any part thereof, and the States respectively shall indemnify the Commonwealth in respect of the amount of the debts taken over, and thereafter the amount of interest payable in respect of the debts shall be deducted and retained from time to time from the respective shares of the surplus revenue of the Commonwealth, which would otherwise be payable to the States, or if there be no surplus revenue payable, or if such surplus revenue be insufficient, then the amount shall be charged to the respective States wholly or in part. 1087; agreed to, 1100. Amendment by Sir George Turner, to further add "Upon any conversion or renewal of the loans representing the debts, any benefit or advantage in interest or otherwise accruing therefrom shall be applied to the reduction of such debts," 1100; negatived, 1102. Amendment by Mr. Higgins, defining "ratable proportion," 1102; agreed to, and clause, as amended, agreed to, 1103.

CHAPTER V.-THE STATES.

Clause 101 (Saving of the Constitutions), 991. Amendment by Dr. Cockburn, to strike out the provision that the Constitutions of the several States shall continue as at the establishment of the Commonwealth, so that they may decide at any time the form of their Constitution without reference to any outside authority, 991; negatived, and clause, as read, agreed to, 992.

Clause 102 (Governors of States), 992. Amendment by Dr. Cockburn, to add to the clause "The Parliament of a State may make such provisions as it thinks fit as to the manner of appointment of the Governor of the State, and for the tenure of his office, and for his removal from office," 992. Point of order raised by Mr. Dobson, as to whether the amendment exceeded the powers conferred by see. 3 of "The Australasian Federation Enabling Act (South Australia), 1895," and was within the competence of the Committee to make, 1000. Chairman ruled that it was within the powers of the Committee, 1000. Amendment withdrawn, 1001. Clause struck out, 1001.

Clause 106 (Nor levy duty of tonnage, nor tax the land of the Commonwealth, nor maintain forces. State land exempted from taxation), 1001. Amendment by
Mr. Barton, to strike out the phrase prohibiting a State imposing tonnage dues without the consent of the Parliament of the Commonwealth; agreed to, and clause, as amended, agreed to, 1004.

Clause 107 (State not to coin money), reconsidered, and agreed to, without alteration, 1204.

Clause 110 (Recognition of Acts of State, of various States), 1004: agreed to, 1006.

CHATTER VI.-NEW STATES.

Clause 113 (Admissions of existing colonies to the Commonwealth), 1007. Struck out, on motion of Mr. Barton, 1010.

Clause 114 (New States may be admitted to the Commonwealth), 1010. Amendments by Mr. Barton, to embody the effect of clause 113, which had been struck out, Weed to, 1010. Amendment by Mr. Barton, to alter the power of the Parliament with regard to new States from "establishment and admission" to "admission or establishment," agreed to, 1010. Amendment by Mr. Barton, giving the Parliament power to make terms" as well as "conditions" in regard to States seeking to enter the Commonwealth, agreed to, 1010. Consequential verbal amendments by Mr. Barton agreed to, 1010, and clause, as amended, agreed to, 1012.

Clause 115 (Provisional Government of Territories), 1012. Amendment by Sir Edward Braddon, providing that any "territory" placed under the control of the Commonwealth may have representation "in accordance with the ratio of representation provided by the Constitution," 1013; negatived, 1016. Amendment by Mr. Wise, to add to the clause, "No lands the property of the Commonwealth shall be leased for a longer period than fifty years, or alienated in fee simple, except upon payment of a perpetual rent, which shall be subject to periodic appraisement upon the unimproved value of the land so alienated at intervals of not more than ten years." 1012: negatived by 21 to 13, and clause, as read, agreed to, 1019.

CHAPTER VII.-MISCELLANEOUS.

Clause 118 (Seat of Government), 1019. Amendment by Mr. Walker, to specify that the seat of government "shall be within an area which shall be federal territory," 1019; negatived, and clause, as read, agreed to, 1020.

Clause 120 (Aborigines of Australia not to be counted in reckoning population), agreed to, 1020.

CHAPTER VIII.-AMENDMENT OF THE CONSTITUTION.

Clause 121 (Mode of amending the Constitution), 1020. Amendment by Mr. Deakin, to omit the provision requiring an absolute majority of members for any proposed alteration, 1021; negatived, 1023. Amendment by Dr. Cockburn, providing that the proposed alteration shall be submitted to the electors within "six" instead of "three" months, agreed to, 1023. Amendment by Mr. Barton, to make the fourth paragraph read, "and if a majority of the States approve the proposed law, and if the people of such majority of States are a majority of the people of the Commonwealth, the proposed law," &c., 1025, agreed to, 1027. Amendment by Mr. Barton, to make the fifth paragraph apply to "representation"
instead of to "proportionate representation," agreed to, 1028. Amendment by Mr. Barton, to strike out the provision that any alteration of the minimum number of representatives of a

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State in the House of Representatives shall not become law without the consent of the electors of that State, 1028; withdrawn, 1030; clause, as amended, agreed to, 1030. Reconsidered, 1204. Amendment by Mr. Barton, to substitute instead of sub-section 4, "And if a majority of the States and a majority of the electors voting approve the proposed law, the proposed law shall be presented to the Governor-General for the Queen's assent; but, until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one half the votes for and against the proposed law shall be counted in any State in which adult suffrage prevails," agreed to, 1208; verbal amendments by Mr. Barton agreed to, 1208 and 1209; clause, as amended, agreed to, 1209.

Proposed New Clauses.

New clause 11A, proposed by Mr. Barton-"For the purpose of holding elections of members to represent any State in the Senate, the Governor of the State may cause writs to be issued by such persons in such form and addressed to such Returning Officer as he thinks fit," 1149. Amendment proposed by Mr. Holder to insert "in Council" after "Governor," 1149, negatived, 1150; new clause agreed to, 1150.

New clause 48A, proposed by Mr. Barton, "Until the Parliament otherwise provides, all questions of disputed elections arising in the Senate, or the House of Representatives, shall be determined by a Federal Court or a court exercising federal jurisdiction agreed to, 1150.

New clause 53A, proposed by Mr. Wise, providing that "If the Senate reject or fail to pass any proposed law which has passed the House of Representatives, or pass the same with amendments with which the House of Representatives will not agree, and if the Governor should on that account dissolve the House of Representatives, and if after the said dissolution the House of Representatives again pass the said proposed law in the same or substantially the same form as before, and the Senate again reject or fail to pass the said proposed law, or pass the same with amendments with which the House of Representatives will not agree, the Governor may dissolve the Senate." Amendment by Mr. Higgins on proposed new clause providing that the dissolution of the Senate shall not be contingent upon the dissolution of the House of Representatives, 1153; negatived by 24 to 7, 1168. Proposed new clause negatived by 19 to 11, 1168.

Series of new clauses to follow clause 54, moved by Mr. Isaacs, providing for the adoption of a referendum to the people in case of a deadlock between the two Houses, 1169; negatived by 18 to 13, 1173.

New clause 78A, proposed by Mr. Symon, "No person holding any judicial office shall be appointed to or hold the office of Governor-General, Lieutenant-Governor, Chief Executive Officer, or Administrator of the Government, or any other executive office," 1174. Amendment by Sir George Turner, providing that the proposed clause should also apply to any person holding any executive or
legislative office, negatived, 1175. Clause agreed to by 19 to 11, 1176.

New clause 78B, proposed by Mr. Gordon, "Every legal practitioner duly qualified in any State shall be entitled to practice in the High Court or in any Federal Court," negatived by 21 to 9, 1176.

New clause 82A, proposed by Mr. Walker, "The Parliament shall take over the whole of the railways of the several States, excepting Tasmania and West Australia, if they desire to be excepted, and each State shall be charged with any deficiency or credited with any net profits on the working of such railways," 1176; withdrawn, 1176.

New clause 95B, proposed by Mr. McMillan, providing that the control and management of all railways of the Commonwealth shall be in the hands of a board, 1176; negatived by 18 to 12, 1177.

New clause 100A, proposed by Mr. Deakin, "All reference or communications required by the Constitution of any State or otherwise to be made by the Governor of the State to the Queen shall be made through the Governor-General as Her Majesty's representative in the Commonwealth, and the Queen's pleasure shall be made known through him," 1177; negatived, 1181.

New clauses to follow clause 103, proposed by Dr. Cockburn, "a member of the Senate or House of Representatives shall not be capable of being chosen or of sitting as a member of any House of the Parliament of a State," and "If a member of a House of the Parliament of a State is, with his own consent, chosen as a me

New clause 120A, proposed by Dr. Quick, providing that any person attempting to vote more than once at an election held under the Constitution shall be guilty of an offence against the electoral law of the State in which he votes, and shall be liable to a penalty not exceeding £50, or to imprisonment for a period not exceeding three calendar months, 1182; withdrawn, 1183.

New clause, proposed by Mr. Barton, to follow clause 87 (the words having been taken from clause 84), "Uniform duties of Customs shall be imposed within two years after the establishment of the Commonwealth." Agreed to, 1211.

Preamble.

Preamble, 1183. Amendment by Mr. Glynn to assert that the people "invoking Divine Providence" have agreed to form one indissoluble Federal Commonwealth, &c. Mr.

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Glynn asked leave to withdraw amendment, but this was objected to, 1184; negatived by 17 to 11, 1189. Amendment by Mr. Deakin to substitute "unite in" for "form," 1184. Agreed to, 1189. Preamble, as amended, agreed to, 1189.

Bill reported, 1209; motion by Mr. Barton for the recommittal of the Bill agreed to, 1210. Bill finally reported, 1211. Motion by Mr. Barton, that the report be adopted; agreed to, 1211.

CONSTITUTION, ADOPTION OF:

Motion by Mr. Barton, that the draft Constitution be now approved, 1211; congratulatory remarks by Sir George Turner, 1212; Sir Edward Braddon, 1213; Sir Richard Baker, 1214; Mr. Deakin, 1215; Mr. Dobson, 1216; Mr. Barton, 1216; the President, 1217; agreed to, 1218. Motion by Mr. Barton that copies of the draft
Constitution and minutes of proceedings of Committee be forwarded to the Governor; agreed to, 1218.

CONGRATULATORY MESSAGES FROM:
Australasian Federation League of Victoria, 142.
Australian Natives Association of Victoria, 142.
Central Queensland Territorial League, 142.
District Council of Kingston, 142.
South Australian Literary Societies’ Union, 1209.

CONVENTION, ADJOURNMENT OF TO SECOND MEETING:
Motion by Mr. Barton, that the Convention, on its rising, should adjourn till Wednesday, the 5th May next, and that, at its rising on that day, it should further adjourn till Thursday, September 2nd, at 12 o’clock noon. Agreed to, 1209. No quorum on May 5th. Adjournment till September 2nd, 1218.

CONVENTION, ADJOURNED SITTINGS OF:
Motion by Sir George Turner, that this Convention approves of Parliament House, Sydney, as the place for the adjourned meetings of this Convention, to commence on September 2nd next. Agreed to, 1209.

DIVISIONS:
Motion by Sir John Forrest, that Standing Orders be suspended to enable him to move that Committee of Whole be instructed to first consider clauses in Draft Bill relating to Money Bills and relative powers of two Houses, 417.

COMMONWEALTH BILL (in Committee)
Motion by Sir John Forrest, to postpone clauses 1 to 51 until after consideration clauses 52, 53, and 54, 465.

Money Bills.
Clause 52 (Money Bills). Amendment by Sir George Turner, providing that Bills for appropriating any part of the public revenue shall be initiated in the House of Representatives only, 479.

Clause 53 (Appropriation and Tax Bills). Amendment by Mr. Walker, to call the "States Assembly" the "Senate," 482. Amendment by Mr. Reid, providing that the Senate shall not make amendments in laws imposing taxation, 575 Amendment by Sir George Turner, to delete the provision that laws imposing duties of Customs on imports need not deal with one subject of taxation only, 599. Amendment by Mr. Holder, providing that the expenditure for any service which the Senate, by address to the Governor-General, declares to be inimical to the interest of any State shall not be authorised by the same law as that which appropriates the supplies for the ordinary annual services, 605.

CHAPTER I.-THE PARLIAMENT.
Part II.-The Senate.
Clause 9 (The Senate). Amendment by Mr. Higgins, providing for representation on the basis of a sliding scale, 668.

Part III.-The House of Representatives.
Clause 23 (Constitution of the House of Representatives). Amendment by Sir George Turner, to limit the operation of Paragraph 1 until Parliament otherwise
Clause 29 (Qualification of electors). Amendment by Mr. Holder, providing for an adult suffrage qualification, 725. Amendment by Mr. Holder, providing that the Commonwealth shall not prevent any elector who at the establishment of the Commonwealth, or who afterwards acquires a right to vote for the more numerous House of the State Parliament, from exercising such right at elections for the House of Representatives, 732.

Clause 30 (Qualifications of members of House of Representatives). Amendment by Mr. Holder, that members must have been born within the limits of the Commonwealth, 733.

Part IV.-Provisions Relating to Both Houses.

Clause 43 (Allowance to members). Amend by Mr. Gordon, to increase the allowance from £400 to £500 per annum, 1034.

Clause 47 (Place to become vacant upon accepting office of profit). Amendment by Sir William Zeal, making it absolutely prohibitory that no person coming within the scope of the clause shall accept or hold office, 753.

Part V.-Powers of the Parliament.

Clause 50 (Legislative powers of the Parliament). Amendment by Mr. Holder, providing the Parliament shall only have control of the post and telegraphic services without the boundaries of the Commonwealth, 775. Proposed new subsection by Mr. Higgins, "Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State," 793. Amendment by Sir John Downer, providing that the control and regulation of rivers shall apply to rivers running through or on the boundaries of two or more States, so far as is necessary to preserve navigability, 819. Sub-section 31 struck out, 820. Amendment by Mr. O'Connor, on new Sub-section providing that the federal control of the River Murray shall only be from Albury to the sea, 826. Amendment by Mr. Carruthers, that the control of the Murray shall be from where it forms the boundary between Victoria and New South Wales to the sea, 829.

Royal Assent.

Clause 57 (Signification of Queen's pleasure on Bills reserved). Amendment by Mr. Reid, limiting period of reservation to one year, 834.

CHAPTER II.-THE EXECUTIVE GOVERNMENT.

Clause 64 (Appointment of Civil servants). Amendment by Mr. Wise, providing that no officer shall be removed except for cause assigned, 920.

Clause 67 (Immediate assumption of control of certain departments). Amendment by Mr. Walker, providing that the State railways shall be taken over, 934.

CHAPTER III.-THE FEDERAL JUDICATURE.

Clause 69 (Judicial power and courts). Amendment by Mr. Carruthers, providing that no minimum number of justices shall be specified, 943.

Clause 73 (No appeals to the Queen in Council except in certain cases). Amendment by Sir George Turner, providing that the High Court may grant leave
to appeal to the Queen in Council, 968. As to whether clause should stand, 989.

CHAPTER IV.-FINANCE AND TRADE.

Clause 86 (On establishment of uniform duties of Customs and excise, trade within the Commonwealth to be free). Amendment by Mr. Deakin, providing that a State shall be permitted to regulate the importation of and alcohol, 1148.

Equality of Trade.

Clause 92 (No derogation from freedom of trade) Amendment by Mr. Wise, to use the term "State" instead of "Part of Commonwealth," 1113.

Clause 96 (Taking over public debts of States) Amendment by Sir George Turner, providing that debts may be taken over without consent of States, 1097.

CHAPTER VI.-NEW STATES.

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Appointment of an Inter-State Commission, 1114
Recognition of God, 1189.
OFFICIAL RECORD OF THE DEBATES
OF THE NATIONAL AUSTRALASIAN
CONVENTION HELD IN THE
PARLIAMENT HOUSE, ADELAIDE,
SOUTH AUSTRALIA.
Monday March 22, 1897.

Meeting of Convention - Proclamations - Roll of Representatives
- President - Clerk - Notices of Motion - Hour of Meeting -
Adjournment.

The delegates met in the House of Assembly Chamber, at Parliament House, Adelaide, at 12 noon.

The Clerk of the Legislative Council and Clerk of the Parliaments (Edwin Gordon Blackmore, Esquire), attending in the House, read a Proclamation, as follows:—

PROCLAMATIONS.

New South Wales, (L. S.) HAMPDEN, to wit. Governor.

PROCLAMATION By His EXCELLENCY THE RIGHT HONORABLE HENRY ROBERT, VISCOUNT HAMPDEN, Governor and Commander-in-Chief of the colony of New South Wales and its dependencies:

WHEREAS by the seventeenth section of an Act passed in the fifty-ninth year of Her Majesty's reign, intituled an Act to enable New South Wales to take part in the framing, acceptance, and enactment of a Federal Constitution of Australasia, it is enacted that when the first elections have been held in three or more colonies a meeting of the Convention shall be convened for such time and place as a majority of the Governors of such colonies may decide, or, in case of an equal division, as the Governor of the senior of such colonies may fix: And whereas such elections have been hold in five of the said colonies: And whereas it has been decided by a majority of the Governors of the colonies to be represented at such Convention, with the advice of their respective Executive Councils, that a meeting of the Convention shall be convened for noon on Monday, the 22nd day of March instant, at Parliament House, Adelaide-Now therefore, I, HENRY ROBERT, VISCOUNT HAMPDEN, in pursuance of the power and authority vested in me as Governor of the aforesaid colony, do hereby declare that a meeting of such Convention shall be held at such time and place as aforesaid.

Given under my hand and seal, at Government House, Sydney, this 18th day of March, in the year of our Lord one thousand eight hundred and ninety-seven, and in the sixtieth year of Her Majesty's reign.

By His Excellency's command.

JAMES N. BRUNKER.
GOD SAVE THE QUEEN!

Mr. BLACKMORE:
I have to report that I hold similar Proclamations by the Governors of South Australia, Tasmania, and Victoria. I lay these upon the table, together with copies of the Australasian Federation Enabling Acts of New South Wales, South Australia, Tasmania, and Victoria. I will proceed now to read the certificates of the appointment of the representatives to the Convention for New South Wales, South Australia, Tasmania, and Victoria, to the effect that the following have been duly elected delegates to the Convention:—

ROLL OF DELEGATES.
Colony of New South Wales.
EDMUND BARTON, Esquire, Q.C.
The Honorable GEORGE HOUSTOUN REID, M.L.A. (Premier).
The Honorable JOSEPH HECTOR CARRUTHERS, M.L.A. (Secretary for Lands).
WILLIAM MCMILLAN, Esquire, M.L.A.
WILLIAM JOHN LYNE, Esquire, M.L.A.

The Honorable JAMES NIXON BRUNKER, M.L.A. (Colonial Secretary).
The Honorable RICHARD EDWARD O'CONNOR, M.L.C., Q.C.
The Honorable Sir JOSEPH PALMER ABBOTT, K.C.M.G. (Speaker Legislative Assembly).
JAMES THOMAS WALKER, Esquire.
BERNHARD RINGROSE WISE, Esquire.
South Australia.
The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P. (Premier).
The Honorable FREDERICK WILLIAM HOLDER, M.P. (Treasurer).
The Honorable JOHN ALEXANDER COCKBURN, M.D., M.P. (Minister of Education and Agriculture).
The Honorable Sir RICHARD CHAFFEY BAKER, K.C.M.G. (President of the Legislative Council).
The Honorable JOHN HANNAH GORDON, M.L.C.
JOSIAH HENRY SYMON, Esquire, Q.C,
The Honorable Sir JOHN WILLIAM DOWNER. K.C.M.G., Q.C., M.P.
PATRICK MCMAHON GLYNN, Esquire, B.A., LL.B.
The Honorable JAMES HENDERSON HOWE.
VAIBEN LOUIS SOLOMON, Esquire, M.P.
Tasmania.
The Honorable Sir PHILIP OAKLEY FYSH, K.C.M.G. M.H.A. (Treasurer).
The Honorable HENRY DOBSON, M.H.A.
The Honorable JOHN HENRY, M.H.A.
The Honorable NEIL ELLIOTT LEWIS, M.H.A.
The Honorable NICHOLAS JOHN BROWN, M.H.A.
The Honorable CHARLES HENRY GRANT, M.L.C.
The Honorable ADYE DOUGLAS (President Legislative Council)
The Honorable WILLIAM MOORE, M.L.C. (Chief Secretary).
MATTHEW J. CLARKE, Esquire, M.H.A,
Victoria.
JOHN QUICK, Esquire, LL.D.
The Honorable ALFRED DEAKIN, Esquire, M.L.A.
The Honorable ALEXANDER JAMES PEACOCK, M.L.A. (Chief Secretary).
WILLIAM ARTHUR TRENWITH, Esquire. M.L.A.
SIR GRAHAM BERRY, K.C.M.G. (Speaker Legislative Assembly)
The Honorable SIMON FRASER, M.L.C.
The Honorable Sir WILLIAM AUSTIN ZEAL, K.C.M.G. (President Legislative Council).
HENRY BOURNES , HIGGINS, Esquire, M.L.A.

Mr. BLACKMORE:
I respectfully request the delegates to the Convention to attend at the table and sign the record roll of the Convention.
The members of the Convention present then signed the roll.
PRESIDENT.
Sir JOSEPH ABBOTT:
It is a very Pleasing duty to me to follow what has been the established precedent in reference to these Conventions. For many years past in the colonies in which they have been held invariably the Premiers of the colonies have been chosen to preside over the meetings of the Conventions, and that is a rule there is no justification in departing from on the present occasion. Therefore it gives me great pleasure to move:
That Mr. Charles Cameron Kingston, Premier of the colony of South Australia, be President of this Convention.
I need hardly remind you that Mr. Kingston is one who took great interest in the Convention of 1891, and devoted his abilities most attentively to those proceedings, which resulted in the framing of the Commonwealth Bill, so that he comes to this Convention with a matured mind and vast experience as a parliamentarian in South Australia, which will, no doubt, serve him in good stead in the position which I hope he will occupy as the result of your goodwill to South Australia and its Premier. I do not anticipate that he will have many disorderly members to deal with, but if he has I think he is the right man to deal with them, and I have therefore great pleasure in submitting the motion. (Hear, hear.)

Sir GRAHAM BERRY:
I have great pleasure in seconding the nomination of Mr. Charles Cameron Kingston as President of this Convention. I do not think that there will be any doubt as to his ability to fulfil the functions of that position. Following the precedents which have always prevailed in the Australian Colonies, that the Premier of the colony in which the Convention is being held shall preside, I think the motion will be unanimously carried, and that Mr. Kingston's election will meet with the approval of the delegates. I have therefore very much pleasure in seconding the motion. (Cheers.)

Mr. KINGSTON:
I desire to express my deep sense of the honor proposed to be conferred on me, and to submit myself to the will of this honorable Convention.

There being no other nomination,

The PRESIDENT ELECT (having been conducted to the chair by Sir Joseph Abbott and Sir Graham Berry) said: Representatives of Australasia-
My appreciation of the high honor which has been conferred on my native colony and myself in calling me to preside over the deliberations of this august assembly is too intense for adequate expression. I would that I were more worthy of it, but I rely on the kindly feeling which has prompted my election to this honorable post being continued to sustain me in the discharge of its important duties, and I promise you that no pains will be spared on my part to deserve the confidence so generously bestowed. Again I thank you. (Cheers.)

THE CLERK.

Mr. HOLDER:
I move:
That Edwin Gordon Blackmore, Esq., be Clerk of this Convention.

Sir RICHARD BAKER:
I second that.
Question resolved in the affirmative.

NOTICES OF MOTION.

Mr. HOLDER:
I give notice that at the next meeting I will move:
That, unless otherwise ordered, the Convention shall meet daily, Saturdays and Sundays excepted, punctually at 11 a.m., and shall sit till 5.30 p.m., with an interval from 1 to 2.

Dr. QUICK to move:
That a return be laid before this Convention showing-
I. The populations of the various Australian Colonies, according to the latest statistics and estimates.
II. The average annual population of each of the said colonies during the last ten years.

Mr. HOLDER to move:
That the proceedings of the Convention be open to the public except when otherwise ordered.

Mr. HOLDER to move:
That official minutes of the proceedings be kept by the Clerk, and, being signed by the President and Clerk, be printed and circulated amongst the representatives.

Dr. QUICK to move:
That a return be laid before this Convention showing-
I. The present annual cost of naval and military defence in each of the Australian Colonies.
II. The average annual cost of such defence in each of the said colonies during the last ten years.
III. The amount of money expended in each of the said colonies in the construction of fortifications and other defence works, and in the purchase of warships and other implements of warfare now maintained and fit for use.
IV. The amount of interest per year, at 3 per cent., which such money so expended would bear in each colony.
V. The total present annual cost of defence in each colony, including interest on works and war vessels and implements.

VI. How such total present annual cost of defence of Australian Colonies, including interest on works, &c., would be distributed under Federation, if such total cost were charged against the Federated States pro rata according to population.

Mr. HOLDER to move:
That an official record of the debates of the Convention be made by the "Hansard" reporters of South Australia.

Mr. HOLDER to move:
That in the debates and proceedings of this Convention the Standing Orders and practice of the South Australian House of Assembly be observed.

Dr. QUICK to move:
That a return be laid before this Convention showing—
I. The present annual cost of maintaining the following services in each of the Australian Colonies, viz.:—Quarantine, ocean beacons and buoys, ocean lighthouses and lightships.

II. The average annual cost of such services in each of the said colonies during the last ten years.

III. The amount of money expended in each of the said colonies in the construction of works, buildings, &c., connected with such services now maintained and fit for use.

IV. The amount of interest per year, at 3 per cent., which such money would bear in each colony.

V. The total annual cost of such services in each colony, including interest on works and buildings.

VI. How such total present annual cost of such services, including interest on work, &c., would be distributed under Federation if such total cost were charged against the Federated States pro rata according to population.

Dr. QUICK to move:
That a return be laid before this Convention showing—
I. The annual amount of revenue collected in each of the Australian Colonies during the last ten years from Customs and excise taxation.

II. The average annual amount of such revenue money so collected in each colony during the last ten years.

III. The average annual cost during the last ten years of collecting such taxation and administering the Custom and Excise Departments, including interest at 3 per cent. on the cost of Custom-houses.

IV. The net average annual revenue during the last ten years derived from such taxation in each colony.

Dr. QUICK to move:
That a return be laid before this Convention showing—
I. The receipts of each of the Australian Colonies during the last ten years from post offices and telegraphs.

II. The average annual amount of such receipts so collected in each colony.
III. The average annual cost during the last ten years of working and administering the said services.

IV. The net annual receipts or losses of each colony in these services during the last ten years.

V. The amount of money expended in each of the said colonies in the construction of works, buildings, &c., connected with such services now maintained and fit for use.

VI. The amount of interest per year, at 3 per cent., which such money would bear in each colony.

VII. The total annual present cost of such services in each colony, including interest on works, &c.

VIII. How such total present annual cost of such services, including interest on works, &c., would be distributed under Federation if such total cost were charged against the Federated States pro rata according to population.

ADJOURNMENT.

Mr. HOLDER:
If no other business is coming forward, I shall formally move:
That the Convention at its rising adjourn until eleven o'clock to-morrow.

Mr. BARTON:
I would suggest that it should be till 10 o'clock. There are a large number of delegates who prefer that the Convention should begin at 10 instead of 11 o'clock. In view of the fact that either the Convention must bring its labors to a termination before a certain time or it will lose the services of several of the Premiers, who it is understood will take a journey, it is desirable that, as we can do some important work to-morrow, we should meet at 10 o'clock. I propose, as an amendment, that:
That the word "ten" be substituted for the word "eleven."

The PRESIDENT:
Has the motion been seconded?

Mr. GORDON:
I second it.

Sir GEORGE TURNER:
I may say I have consulted with the other representatives of the colony of Victoria, and we feel that all the representatives must be anxious that the work here should be done as quickly as its great importance demands; and, while we think that 11 o'clock is rather too late to commence in the day, we feel that, perhaps, for some who have a distance to come, and others who have business to attend to here, 10 o'clock is rather too early. I therefore
take the liberty of suggesting to the movers of the motion and of the amendment that we might fix the time at 10.30 o'clock, which will suit the convenience of all and give us an extra half hour. (Hear, hear.)

**Mr. BARTON:**
As far as to-morrow is concerned, I will withdraw my motion in favor of that of Sir George Turner.

**Mr. HOLDER:**
I accept Sir George Turner's amendment.
Sir George Turner's amendment accepted.
Motion agreed to.

**ADJOURNMENT.**

**Mr. HOLDER moved:**
That the Convention do now adjourn.
Question resolved in the affirmative.
Convention adjourned at 12.31 p.m.
Tuesday March 23, 1897.

Petition - Notice of Motion - Days and Hours of Sitting - Minutes of Proceedings - "Hansard" - Standing Orders and Practice - Admission of the Public - Returns: Population, Cost of Naval and Military Defence, Quarantine, Public Works, Customs and Excise Revenue, Post offices and Telegraphs - Suspension of Standing Orders - Proposed Select Committee - Resolutions - Adjournment.

The PRESIDENT took the chair at 10.30 a.m.
PETITION.
Dr. COCKBURN
presented the following petition, signed by the President and Secretary of the Women's Christian Temperance Union of Australasia:—

To the President of the Federal Convention of Australasia, in Session assembled:

Sir-On behalf of the executive of the Women's Christian Temperance Union of Australasia, which numbers about 8,000 women and has branches in every colony, we have the honor respectfully to forward the following resolution, adopted on February 26th, 1897:—"That this executive, representing the Women's Christian Temperance Union of Australasia, earnestly urges the Federal Convention of Australasia to secure in the Federal Constitution the provision that all voting by electors for Federal Parliaments be upon the basis of equal voting rights for both sexes."

We have the honor to be, Sir,
Obediently yours,
E. W. NICHOLLS, President.
NORA B. HARRIS, Secretary.

Petition received and read.
NOTICE OF MOTION.

Mr. GLYNN:
I give notice that at the next meeting I will move:
That a return be laid before this Convention showing—
I. The estimated capital cost in 1896 on miles open and completed of the railways of each of the colonies of New South Wales, Victoria, South Australia, and Western Australia.
II. The basis on which such capital cost has in each case been estimated.
III. The capital cost of the rolling-stock of each of such colonies.
IV. The percentage for each colony of the net railway revenue on the capital cost thus ascertained.
V. Estimates similar to those mentioned in paragraphs 1, 3, and 4 for each of the years 1892, 1893, and 1894.

That the Clerk be requested to obtain and lay on the table any reports presented by the Railway Commissioners of the colonies of New South Wales, Victoria, Queensland, South Australia, and Western Australia on the questions:

I. Abolition of the break of gauge.

II. Amalgamation under a federal body or otherwise of the railways of all or any two of the said colonies.

DAYS AND HOURS OF SITTING.

Mr. HOLDER moved the following motion standing in his name:

That, unless otherwise ordered, the Convention shall meet daily, Saturdays and Sundays excepted, punctually at 10.30 a.m., and shall sit till 5.30 p.m., with an interval from 1 to 2 p.m.

He said: I think it will be convenient that the Convention should meet at half-past 10; to meet later would be to lose valuable time, and I am afraid that if we met earlier we should have a thin House for the first half hour of the sitting, which would be unfortunate from many points of view. At the same time, while I express that view, of course I should be prepared—as all of us must be—at any time to bow to the decision of the majority. For the present, at any rate, I move the motion standing in my name.

Sir RICHARD BAKER:

I second the motion.

Sir JOSEPH ABBOTT:

It appears to me that we have been told by all the colonies that there is a great necessity for getting through this work quickly, and I recognise the fact that circumstances have arisen which will require some of the members of the Convention to get away from the colonies at an early date. That being so, is it not desirable that we should sit on Saturday? I cannot see the necessity of excluding the whole of Saturday, but I do see that a great deal of good would arise if we included Saturday as one of our sitting days. I know the very best motives have actuated the representatives of South Australia in laying aside Saturday as a holiday for the Convention, but we have not to consider our personal desires in a matter of this kind, and I think we ought at all events to sit for half the day on Saturday. The Convention can, if necessary, adjourn at 1 o'clock or 2 o'clock, but I shall test the feeling of the Convention by moving the omission of the words—"Saturdays and."
Mr. TRENWITH:

In seconding that amendment it is obvious that four at any rate of the leading members of the Convention-leading in their respective colonies at any rate-must leave here not later than three weeks or a month hence. The work we have to do is of the gravest possible importance; it is work that cannot possibly be hurried without injury, and yet it is work that must be got through with all reasonable expedition. It seems to me so obvious that we must give all the time we possibly can to the work before us, that it is not necessary to support this position by argument, and I therefore simply second the amendment moved by Sir Joseph Abbott.

Mr. REID:

I thoroughly sympathise with the zeal which has prompted this amendment, but I doubt its wisdom very strongly. The strain on members of this Convention, if they do the work as I am sure they will do it - faithfully and honestly-during the times named in this resolution, will be sufficient to tax the resources of any ordinary individual, and I cannot shut my eyes to the fact that it will be necessary for many of us to consider these very difficult matters for hours during the evenings of the week. I also cannot forget the labors which the press will have upon them, and "Hansard," in taking a verbatim account of a sitting which is to last a very considerable time each day. I think experience has shown that if any man is to do his best intellectual work he has enough to do on the motion as submitted by Mr. Holder, that is to say, he has to have intervals for reflection, for consultation, and, with every respect to my distinguished friend, I do think that the proposition from South Australia is a very wise one.

Mr. SOLOMON:

I trust that the amendment will not be agreed to by members of the Convention because I for one, owing to my religious belief, could certainly not take part in the proceedings of the Convention on Saturday, and I think that any member who is placed in that position should not be placed at a disadvantage by sitting on that day. I trust therefore that members of the Convention will agree to the resolution as proposed.

Sir WILLIAM ZEAL:

I would suggest that this matter should be left for further consideration. In a few days Ave shall have the attendance of the Western Australian delegates, and then all members will be enabled to take part in the discussion and to consider whether it is desirable that the innovation proposed by Sir Joseph Abbott should be adopted. In the meantime I would suggest that the motion should not be pressed, and if hereafter the
exigencies of business require Saturday to be taken, no doubt hon. members will cheerfully acquiesce in the proposal.

Mr. HOLDER:

Before the motion is put I would like to put to the Convention this point: that, as the motion stands, "unless otherwise ordered," the Convention shall sit at certain times. It will always be competent if we have special business to finish to have a special meeting on Saturday, and should the Western Australian delegates on their arrival desire to sit on Saturday, an alteration can be made; but I hope, for the present, the formal business included in the resolution will not be delayed, and that the Convention will agree to the motion.

Sir JOSEPH ABBOTT:

In deference to the remarks of Mr. Solomon, I withdraw the amendment.

Mr. BARTON:

I would like to submit for the consideration of the Convention whether, if we are not to sit on Saturday, it does not become more necessary that we should meet at 10 o'clock each day. Of course, by sitting from 10.30 till 1 on Saturdays, two and a half hours will be gained. That is precisely what will be lost if we sit from 10.30 instead of 10 on other days. That time would be made up if we sat on Saturdays. I do not wish to move an amendment if the sense of the Convention is against it. If it seems good to hon. members that that course might be adopted, the private convenience of members must give way.

Mr. REID:

We will make up for that by short speeches.

The PRESIDENT:

I put it that Sir Joseph Abbott have leave to withdraw his amendment.

Leave given.

Question resolved in the affirmative.

MINUTES OF PROCEEDINGS.

Mr. HOLDER:

I content myself with simply moving this motion:

That official minutes of the proceedings be kept by the Clerk, and, being signed by the President and Clerk, be printed and circulated amongst the representatives.

Question resolved in the affirmative.

"HANSARD."

Mr. HOLDER:

I also move this motion:

That an official record of the debates of the Convention be made by the "Hansard" reporters of South Australia.
Sir RICHARD BAKER:
I second the motion.
Question resolved in the affirmative.

STANDING ORDERS AND PRACTICE.

Mr. HOLDER:
I move:
That in the debate and proceedings of this Convention the Standing Orders and practice of the South Australian House of Assembly be observed.

I may inform members of the Convention that copies of the South Australian Standing Orders will be available, so that a copy may be handed to any hon. member immediately. For that reason, among others, it will be wise to follow this course.

Mr. REID:
I regret to Say that I have not had sufficient leisure to study the rules of the South Australian Parliament yet. May I ask if there is a time limit.

The PRESIDENT:
There is no time limit, but there is a power

Mr. HIGGINS:
I think we ought to have a copy of the Standing Orders before we adopt them in ignorance of what arrangements are made in South Australia.

Sir RICHARD BAKER:
I wish to point out that the Standing Orders of the House of Assembly in this province are very nearly the same as the Standing Orders of New South Wales. I may say that I have studied the Standing Orders of all the colonies, and I am in a position to make that assertion.

Mr. REID:
They are very good, then.
Question resolved in the affirmative.

ADMISSION OF THE PUBLIC.

Mr. HOLDER:
I move:
That the proceedings of the Convention be open to the public except when otherwise ordered.

I submit this motion, feeling assured that every member of the Convention will wish the proceedings to be as public as possible. We should take the public into our confidence at the earliest possible moment, and, while availing ourselves of the other powers in this Convention, the
educative influences that will be exercised by admitting the public to this Convention will be largely promoted.

Sir. RICHARD BAKER:
   I second the motion.

Sir GEORGE TURNER:
   I desire to ask whether the proceedings of the Convention will include the Convention in Committee.

Mr. BARTON:
   Select Committee?

Sir GEORGE TURNER:
   No; I understand that in Select Committee it would be desirable that we should discuss matters in private, but what I desire to make clear is whether, when the Convention goes into Committee, the proceedings of the Committee as a whole should be open to the public. I think that should be so; and I wish to know if the words are sufficiently wide. If they are I shall be perfectly satisfied.

The PRESIDENT:
   I take it that the words are sufficiently wide for the Committee of the whole, but not for Select Committees.
   Question resolved in the affirmative.

RETURN-POPULATION.

Dr. QUICK:
   I move:
   That a return be laid before this Convention showing-
   I. The populations of the various Australian Colonies, according to the latest statistics and estimates.
   II. The average annual population of each of the said colonies during the last ten years.
   I may say with reference to the whole of these notices of motion relating to the returns I have been inquiring into the matters lately, and I find a deficiency of information in a classified and tabulated form. I believe the statisticians for most of the colonies would be able to place this information in the form I propose. It would be most valuable to the delegates from all the colonies, and if we were in possession of the information and data it would enable us to consider anything financial.

Sir PHILIP FYSH:
   I rise to second the motion, but in doing so I wish it to be distinctly understood that all returns of this nature, or of the nature of those mentioned, in the various motions by the gentleman who has just resumed his seat, must virtually be delayed until the statisticians of the colonies,
engaged now on special financial or statistical work, have completed that work. The Convention is not likely to object to the granting of all information which any individual member may ask for, and the more the better; but such information can only be gained at a time when the various statisticians are relieved from the other official duties in which they are engaged. I believe the information now being prepared will be in even better form than that required by the resolutions. Therefore, if the hon. member will be satisfied that the information shall be prepared for the various finance committees by the statisticians, but that the duties of the statisticians shall be first to attend to such work as may be demanded from them on behalf of the finance committees hereafter formed, there will be no objection to the whole of the proposals. In seconding the motion I hope he understands that I make such reservations as I have mentioned. When we form these finance committees they will undoubtedly make great demands upon the statisticians, and these will be officers of the House, and will be called upon to prepare all the tables to be asked for.

Dr. QUICK:
I am quite willing to accept it on that understanding.
Question resolved in the affirmative.

POPULATION.

Dr. QUICK:
I move:
That a return be laid before this Convention showing-
I. The present annual cost of naval and military defence in each of the Australian Colonies.
II. The average annual cost of such defence in each of the said colonies during the last ten years.
III. The amount of money expended in each of the said colonies in the construction of fortifications and other defence works, and in the purchase of warships and other implements of warfare now maintained and fit for use.
IV. The amount of interest per year, at 3 per cent., which such money so expended would bear in each colony.
V. The total present annual cost of defence in each colony, including interest, on works and wax vessels and implements.
VI. How such total present annual cost of defence of Australian Colonies, including interest on works, &c., would be distributed under Federation if such total cost were charged against the Federated States pro rata according to population.

Probably, with the consent of the Convention, I may be permitted to
move the rest of the motions standing in my name en bloc.

The PRESIDENT:

I think the hon. member had better move the motions one after another.

Question resolved in the affirmative.

QUARANTINE, LIGHTHOUSES, &c.

Dr. QUICK:

I move:

That a return be laid before this Convention showing-

I. The present annual cost of maintaining the following services in each of the Australian Colonies, viz.:—Quarantine, ocean beacons and buoys, ocean lighthouses and lightships.

II. The average annual cost of such services in each of the said colonies during the last ten years.

III. The amount of money expended in each of the said colonies in the construction of works, buildings, &c., connected with such services now maintained and fit for use.

IV. The amount of interest per year, at 3 per cent., which such money would bear in each colony.

V. The total annual cost of such services in each colony, including interest on works and buildings.

VI. How such total present annual cost of such services, including interest on work, &c., would be distributed under Federation if such total cost were charged against the Federated States pro rata according to population.

Question resolved in the affirmative.

CUSTOMS AND EXCISE TAXATION.

Dr. QUICK:

I move:

That a return be laid before this Convention showing-

I. The annual amount of revenue collected in each of the Australian Colonies during the last ten years from Customs and excise taxation.

II. The average annual amount of such revenue money so collected in each colony during the last ten years.

III. The average annual cost during the last ten years of collecting such taxation and administering the Custom and Excise Department, including interest at 3 per cent. on the cost of Custom-houses.

IV. The net average annual revenue during the last ten years derived from such taxation in each colony.

Question resolved in the affirmative.

POST OFFICES AND TELEGRAPHS.

Dr. QUICK:
I move:
That a return be laid before this Convention showing—
I. The receipts of each of the Australian Colonies during the last ten years from post offices and telegraphs.

II. The average annual amount of such receipts so collected in each colony.

III. The average annual cost during the last ten years of working and administering the said services.

IV. The net annual receipts or losses of each colony in these services during the last ten years.

V. The amount of money expended in each of the said colonies in the construction of works, buildings, &c., connected with such services now maintained and fit for use.

VI. The amount of interest per year, at 3 per cent., which such money would bear in each colony.

VII. The total annual present cost of such services in each colony, including interest on works, &c.

VIII. How such total present annual cost of such services, including interest on works, &c., would be distributed under Federation if such total cost were charged against the Federated States pro rata according to population.

Question resolved in the affirmative.

SUSPENSION OF STANDING ORDERS.

Mr. BARTON:
I desire to move:
That so much of the Standing Orders be suspended as may be necessary to enable certain resolutions to be moved without notice.

The question of course has been exercising the minds of members of the Convention as to whether the procedure with which the discussion shall be initiated shall be by way of taking the Commonwealth Bill of 1891 as a basis, or upon certain resolutions defining the principles and conditions upon which and the powers and functions with which the federal authority should be constituted. Holding the opinion that the latter is the better course, I have ventured to ask the Convention to make the necessary suspension of the Standing Orders in order that, as the matters are urgent, such resolutions may be taken at once. I do not propose to enter into a discussion now upon the question, and I do not suppose any other member will, except upon the question tha

The PRESIDENT:
I would point out that this resolution will require an absolute majority of
the Convention.

Question resolved in the affirmative.

A SELECT COMMITTEE.

Mr. BARTON moved:

That a Select Committee be appointed to draw up, for the consideration of this Convention, certain resolutions relating to conditions upon which and the powers and functions with which the federal authority should be constituted.

I shall have a second resolution to move as to the Committee, but I am under the impression-

Sir GEORGE TURNER:

It might be as well for us to hear the second resolution.

Mr. BARTON:

I am under the impression that, instead of nominating certain members of the Convention in my resolution, it would be a far more delicate course for me to leave the matter to the respective delegations to appoint two members from each of the colonies to act on the Committee. With that view I have left the nomination in the second resolution blank. If the first resolution is carried, I will ask the President to leave the chair for say ten minutes while the respective delegations meet and nominate two members and communicate them to me. I shall then embody them in the resolution. The resolutions to be framed will be of vital interest to the colonies in their separate capacities, and this seems to me to be the more judicious course to pursue, and I hope it will meet with the approval of this Convention. As to the first resolution, I am strongly of opinion that we should not take as our guide or as our master anything which has been done in the past. I am one of the strongest supporters of the Convention Bill of 1891, I believe that, with certain alterations in the financial provisions, that Bill is a measure under which the colonies could even now safely federate. Not that I say it is the best Bill that could be framed; but I do believe it is a well-devised and well-drawn Constitution, and a Constitution under which a free people-making such amendments from time to time as necessity will require, and the powers given by the Constitution will allow-might live in perfect freedom and with perfect security. But that is not the question before us now, because the people of the different colonies have laid upon us the charge of framing a Federal Constitution under the Crown. They have not by so much as a hint given us to understand, one way or the other, whether we are to adopt any work or not. This is the first Convention directly appointed by the people, and therefore the inference from that is that the desire of the people is that, as far as possible, this Convention shall
originate the Constitution. I am perfectly free to admit that the Bill of 1891 will be found to be of great help to us in the committees, and I am of opinion that after we have discussed certain general resolutions we should appoint committees who should take certain branches of the work, and the result of whose labors should be embodied in the Bill to be submitted to the Convention as a whole. While I am of that opinion, and I say that in the work of such committees a great deal of instruction may be derived from the Bill of 1891, the business of this Convention is to arrive at a conclusion, not under the influence of the previous work, but by its own efforts. I shall be pleased to find that the conclusions of the various committees, afterwards adopted by this Convention, are so nearly like the Bill of 1891 that it will be found to be a good indication of the greatness of the work of those who made it. That will be the best test of the Bill of 1891, and I do not propose that the Bill, as travellers have told us the Abyssinians did with a living ox at a royal feast, should be pegged out and strung up in such a way that the epicures of the moment may cut out quivering strips of it for their own gustative delectation. Apart from that, it is the duty and the charge of this Convention to proceed as of itself to make the Bill which it has to frame, however much it may be added to by various suggestions, and however much it may be found that the purport of the resolutions of your Select Committees will be contained in the Bill of 1891, in which case it would be folly not to adopt the form in which that Bill embodies them. We shall be best following out the mandate of those who elected us by laying down the conditions and powers of the Federation by general resolutions, by which a full discussion of all may be taken, and by afterwards proceeding to arrive at such conclusions, presumably and preferably in Committee, as will enable us to arrive at a form of Bill which will satisfy this Convention and the people afterwards. This is the principle upon which I propose to move this resolution; and, looking at the urgency of the work that has to be done, and the possibility that something may arise to prevent the Convention concluding its labors satisfactorily in the time some of us think it should take, I think I am best consulting the wishes of members in not speaking at great length. I shall content myself therefore with moving the motion.

Sir GEORGE TURNER:

I quite agree with Mr. Barton that, under existing circumstances, it is better that we should not make the Commonwealth Bill of 1891 the document that we should here deal with, although I think we must all admit in our minds that by far the largest portion of that Bill will be found in any Bill which is brought forward for our final consideration. But the difficulty I have is this: My hon. friend suggests that we should have a committee
consisting of two members from each colony. That will mean a committee of eight. I feel that if we have eight gentlemen sitting round a table endeavoring to frame resolutions, holding, as they necessarily must, diverse views on matters which should be included in the resolutions and the form they should take, it must necessarily occupy those gentlemen considerable time before they can complete resolutions and submit them for consideration.

Mr. ISAACS:
Hear hear.

Sir GEORGE TURNER:
In addition to that, we should have on the committee gentlemen with a knowledge of financial matters, gentlemen with a knowledge of judicial matters, and gentlemen also with a knowledge of constitutional matters, if we are to frame a Constitution. We must, however, have some foundation, and I think it would be simpler if we appointed one of our number to frame resolutions which we might take as our basis. I should be satisfied, as far as Victoria is concerned, to say that Mr. Barton should undertake the duty I suggest of framing certain resolutions according to his own ideas as to what form the deliberations of the Convention should take. When we get these resolutions Mr. Barton will not, I am sure, feel any cause of offence if we deal with them fully, if we deal with them freely, and if we alter them in every line and every particle in which we think they should be altered, because he will be framing the resolutions at the request of the Convention, and he may, when he hears the arguments brought forward by those holding different views, be led to amend and alter and modify the views he has put in the resolutions. That will be the simpler plan, and it will be the better mode of having something definite before us. It will take Mr. Barton very little time to frame these resolutions, because he knows his own mind. If we have a committee its members must differ on many points, and the work will probably take them a considerable time. I believe something of this system was followed in Sydney, when Sir Henry Parkes took charge. It may be that he discussed the matter informally with other members before he brought forward the resolutions. If we authorise Mr. Barton to do the same thing now it could riot be left in better hands.

Sir JOHN DOWNER:
I entirely agree with Sir George Turner, and a considerable amount of time will be saved by adopting the course suggested. As a matter, of course we shall have to ultimately send this to constitutional and other committees, which will be committees consisting of greater numbers than two for each colony, and it is not expedient at present that they should be
handicapped by any portion of their members having been on similar committees, and so having come to conclusions without having had the advantage of hearing the opinions of their fellow members. The method suggested by Sir George Turner is what was done in the Sydney Convention, and we are satisfied that if Mr. Barton has the drafting of the resolutions which are to be brought before us they will be in form broad enough to allow any member to have an opportunity of ventilating any views he may happen to hold. We know Mr. Barton will be only too delighted to have his resolutions commented upon, discussed, and differed from, and he will certainly understand that he is introducing the matter before us not expecting for a moment that the resolutions which he proposes will be regarded as our final conclusions until they are discussed, fully considered, and settled. I think we shall save a deal of time if we adopt this course.

Mr. SYMON:

I venture to think the suggestion so uncommonly good that I should like to enlarge its scope a little by suggesting for the consideration of the Convention whether we might not entrust Mr. Barton altogether with leading the business of the Convention. The Convention is really in substance, as well as in essence, a Parliament, and if we are at each stage to have the proceedings entrusted to a committee of six, eight, or whatever the number may be decided upon, we shall be like sheep without a shepherd. One of the first things we should think of is to select one of our members to lead the business in the ordinary way in which the leader of the House of Assembly takes the business through. It will greatly facilitate our proceedings, and lead to regularity and directness of purpose which perhaps we should otherwise fail in. It should always be remembered that the Convention of 1891, which is looked upon in many respects as a precedent, was an altogether anomalous assembly, and, by common consent of the members, the leader of the proceedings was the late Sir Henry Parkes. He was entrusted with the duty of conducting the resolutions, and the whole of the business was practically in his hands. Here, of course, a totally dissimilar state of things exists. Our President is largely in the position of a Speaker to conduct the proceedings, while Sir Henry Parkes was not only the President but the Leader of the Convention, so far as its practical business was concerned. I therefore suggest whether Mr. Barton's duties might not be enlarged into those of Leader of the Convention.

Mr. CARRUTHERS:

I think the carrying of the resolution proposed by Mr. Barton would
probably land this Convention in very doubtful procedure. In the first place I think we have been elected in order to conduct our deliberations in the most open manner possible, and it will be a mistake-copying, too, one of those mistakes which has, perhaps, led to the unpopularity of the Convention of 1891—if we provide that the chief work to be done shall be commenced by a secret committee, because practically a Select Committee must carry out its deliberations in secret. In the next place, I, deriving as I do my authority direct from the people, object to delegate those powers to any Select Committee, however able it may be. I do not object to oppose my views to those of any gentleman who puts forth his arguments for consideration; but I do object to oppose them to the views of a committee which may form resolutions as the result of compromise, and whose members are, to some extent, bound to support those resolutions. I think it will leave us open to arguments against our proceedings at the onset if we delegate any portion of our functions to any Select Committee, however able it may be. I am one of those who think we should not make the Commonwealth Bill the basis of our procedure. But we have their work, which, according to the admission of the mover of this resolution, will have to be largely adopted, no matter what our procedure may be to-day, and it is better to adopt those portions of the Bill of 1891 which merit our approval openly and straightforwardly than to do anything which may savor of subterfuge. I use the term subterfuge without any desire of giving offence to any member of the Convention but it really would appear to be a subterfuge if we borrowed the provisions of the Bill of 1891, without admitting at the outset the authority from which these labors have resulted. I would remind the mover of this resolution that there is another colony which is deeply concerned in the work of this Convention. The representatives are not here to-day, and any resolution proposed and carried to-day for the formation of a Select Committee must, to a large extent, deprive the representatives of that colony of their lawful right to participate in the deliberations.

Mr. BARTON:

Though they are not here they have expressed their willingness that we should proceed in their absence.

Mr. CARRUTHERS:

They may have expressed that willingness, but they do not, I am sure, expect that we will take any momentous step in their absence. They no doubt anticipated that we would proceed with formal matters, and not with matters of vital importance. Here, however, we have representatives laying down what must be the fundamentals of Federation in the absence of those gentlemen. If we take any names we may choose to form resolutions they
have to submit these resolutions, and to a great extent will, commit themselves to support them. More than that. Why should members be deprived of their rights of proposing amendments to these resolutions?

Mr. PEACOCK:

They would not be deprived.

Mr. CARRUTHERS:

Members will stand here and propose resolutions, and to that extent they will be handicapped in considering any amendments suggested. Now I hope that any resolution which may be moved giving expression to the opinion of the Convention will be dealt with in an open and popular fashion, and that we will use that material which is to hand, making the best use of it. I refer to the Bill of 1891, which has not been so unpopular as many members imagine. It has been practically adopted by resolutions passed in the various Parliaments of Australia, because I think every Parliament of Australia which was represented has passed resolutions generally approving of that Bill; so that we have evidence that it is not so unpopular as some members have said. I hope that an amendment will be moved which will test the feeling of the Convention whether we will take as a basis the Bill of 1891 rather than proceed by the appointment of Committees.

Mr. TRENWITH:

It seems to me that the hon. gentleman who has just resumed his seat has overlooked one important matter in connection with the constitution of this Convention. This Convention is practically a Parliament without an Executive. An ordinary Parliament conducts its business in public, but its Executive prepares in private the business that has to be submitted to Parliament in public. We are in the position of having no such Executive, and we are here this morning without the possibility of proceeding intelligently in public. The motion Mr. Barton has moved is with the view of overcoming that difficulty—for the purpose of creating a skeleton which the deliberations of the Congress may proceed to clothe with a body. It seems to be an absolute necessity of our Constitution. The suggestion of Mr. Carruthers that hon. members will be deprived of an opportunity of moving resolutions embodying their thoughts seems to me to be an erroneous one. Whatever resolutions are submitted will be submitted as all resolutions in Parliament are submitted. They are subject to amendment by any member, and I take it that it is quite possible if, as suggested by Sir George Turner, Mr. Barton were appointed to do this work himself, he might draft resolutions having in view the convenience of this Convention, rather than the embodiment of his own views, simply for the purpose of
creating a subject for discussion, and that a resolution might be submitted by him which he himself would subsequently aim to amend. Therefore the most perfect freedom can be achieved under the resolution which has been submitted. The question of who are to constitute the committee—whether, as suggested, eight members should be selected, or, as subsequently proposed, one member should be appointed—does not now come in. We are not now discussing the personnel of the committee, but that some executive body for this purpose should be constituted. I submit that if we do not proceed in that manner we will be landed in a great difficulty. We have either to create an Executive for ourselves or adopt a defunct Executive—that is, to use the work of an Executive which is defunct. Mr. Carruthers suggested the propriety of taking up the Federal Convention Bill rather than take the step which is proposed in the resolution. I respectfully submit that we will be much more hampered and have much less freedom if we propose to discuss at once the Bill, with all its perplexing and intricate machinery clauses, than we would be if two, or three, or four resolutions embodying no machinery and no methods of application, but simply principles, were submitted. We will be able then to come to a conclusion which will bring us much closer together than we are now, and will lead to the crystallisation in a general form of the varied and opposite views of the members of the Convention at present.

Mr. Reid:

I have listened with great attention to the remarks which have been made in this debate, and to some extent I regret that it has occurred because for

my part I was prepared to abide by a resolution discussed in an informal manner, but since it has come up I feel bound to question the wisdom of the procedure proposed. Mr. Trenwith unconsciously showed an objection to this procedure in his method of advocating it. For instance, he says we must have an Executive. Well, if we must be guided by an Executive, I prefer to be guided by a defunct one (laughter)—because no questions would arise of want of confidence, and it would not be in the position of Governments, which are mostly always inclined, as Mr. Peacock knows, to give a twist to the views of members which we do not wish to impart to our views in this Convention. I have been somewhat puzzled to find myself—one of the severest critics of the draft Bill—prepared to begin work on that measure, while those, who have always lauded up to the skies the transactions of the Convention of 1891 have shrunk from following that course. The Abyssinian illustration of my hon. friend has quite cleared my mind from, the puzzling state in which it was. I find my hon. friend shrinking from the course I suggest from sheer veneration. They now wish
to submit this ideal of superior wisdom to the-I need not say rough-but the usual handling of the committee of the whole.

Mr. BARTON:

We fear the Greeks when they bring us gifts.

Mr. REID:

My own impression is that it would be an infinitely more satisfactory course, although it would be done in private, to take openly and publicly the Bill of 1891. My hon. friend will see that he is bound, if he happens to be a member of a secret committee, to take that Bill, or most of it, as a basis of the future Bill. I strongly emphasise the view that was expressed by Mr. Carruthers. I do say that most of the unpopularity which fell upon the leaders of the Convention of 1891 fell upon them because the proceedings were not conducted according to the usual parliamentary methods. Now we have here a Bill which all of us, I think, or which every member of the Convention admits, is admirably suited as a basis for drafting the Bill of this Convention. I entirely reject the notion that we were sent to this Convention to do anything original, to do something entirely out of our own heads. I entirely reject that notion. We were sent here to use our best intelligence and set about our work in the best possible way, and if in the course of considering that question we come to the conclusion that the Bill which is familiar to the Convention, and which has the additional advantage of being familiar to the people of Australia, would form a basis, and a convenient basis for our own Bill, there is no human being in Australia who will complain of our adopting that course. On the contrary, the people of Australia would be satisfied with that course, which would enable them to follow the alterations we may make in that measure. Sir George Turner, after a night's reflection, is beginning to see the difficulty of the course of which he is in favor.

Sir GEORGE TURNER:

That is hardly fair, Mr. Reid.

Mr. REID:

I hope not. I do not wish to say anything unfair. Personally, I am prepared to bear stronger things said to me.

Sir GEORGE TURNER:

I cannot give my views without disclosing what was done at the caucus. I do not want to do that. I have not altered the views I expressed yesterday.

Mr. REID:

That is exactly what I was saying. (Laughter.) What I was endeavoring to say was that he was perceiving the difficulty of carrying out his views, but he would not alter them because he revels in difficulties. When we come to advocate this method of procedure along with the generous suggestion of
Sir George Turner, that the whole load should be put upon the shoulders of Mr. Barton, we begin to see that the labors of the committee in drawing up a list of resolutions, if they are not to be idle, and if they are not to produce a string of platitudes which any boy in a public school could draw up after reading these discussions, without containing the vital principles and the mode of the possible settlement of them, will be attended by a deadlock in the committee at the beginning. The only way to avoid such a deadlock will be to bring up a series of platitudes to waste our time in portentous discussion. We had that experience in 1891, when, as the result of many days' debate, Sir Henry Parkes brought up a string of resolutions in which he placed some very debatable points. The members of the Convention will remember that as a result of many days' debate nearly all these debatable points were emasculated, and a string of resolutions was adopted, nineteen-twentieths of which everyone was agreed upon before the debate began. I feel bound to express my opinion upon the point as a matter of record, and regret that the other course was not followed. At the same time I am quite prepared now, as a majority of the Convention are opposed to my view, to get to work as soon as possible. (Hear, hear.) If Mr. Barton will add to his great services in this and other matters connected with Federation by drafting these resolutions, I think we will all owe him great gratitude; because he will be practically taking upon his shoulders the full burden of these proceedings, and if he will consent it will be infinitely satisfactory to the Convention. Of course we will all expect that Mr. Barton, in drafting the resolutions, is not committing even himself to them; he is merely doing us a great service in laying before us a basis which he thinks will facilitate our-discussion. Before sitting down I cordially agree with the suggestion that Mr. Barton should act as Leader of the Convention. The fact that Mr. Barton is senior representative of the mother-colony is of course an element in the matter, but the great point about it is this, that Mr. Barton adds to that highly distinguished position every other qualification for the position. (Hear, hear.)

Mr. BARTON:

The debate seems practically to have closed. I do not want to say anything in reply. I hope Mr. Carruthers will find that there are thirty-nine present besides himself who are incapable of anything like a subterfuge. That is an expression which I think should not have been used in connection with the proceedings of this Convention. I do not want to say anything hard, or that any expression was out of place, because I am sure every delegate from New South Wales will be found, like the other
delegations, in perfect harmony. We all wish to express in debate our opinions after mature consideration, and I am sure Mr. Carruthers, after resuming his seat, does not think anyone in the Convention would be guilty of anything like subterfuge if we interpreted the mandate of the people in the way suggested. feel totally unequal to the task of leading the Convention, but if the burden should be laid upon me by my fellow members, then I suppose I must accept it; but I should prefer someone else should accept it, because I have not been in the best of health for the last few weeks. I am sure, however, that I would receive the very generous cooperation of the whole of the members in these responsible duties. There is one duty I can accept in the meanwhile. As it seems to be the wish to proceed by resolution without appointing a Committee, I am prepared to undertake the task of moving a general resolution by way of opening the debate. (Hear, hear.) After I understood it was the desire of the Convention as a whole that general resolutions should be placed before them as a means of opening the proceedings, and as I expected at the time that it would be acceptable to the Convention that a Committee should be appointed to draft these resolutions, I made a draft of resolutions based very much upon those adopted at the Convention in 1891, and, by the courtesy of Mr. Blackmore, I have had some copies printed at the Government Printing Office.

If, therefore, it is desired that we should proceed at once to the work of dealing with resolutions of that kind I could move them almost at once, and if this is the general understanding of the Convention I shall ask leave to withdraw the motion in your hands.

The PRESIDENT:

Would it be more preferable to put the resolution in the form of an application to withdraw the motion, or that Mr. Barton be requested to bring up, for the consideration of the Convention, certain resolutions relating to the power and functions with which the Federal authority should be constituted.

Mr. BARTON:

If the resolution in your hands be withdrawn, I take it that the leave given for the suspension of the Standing Orders will be sufficient to cover my resolutions.

Sir GEORGE TURNER:

I think it would be better for all of us if we made a request to Mr. Barton, and if that meets with the approval of the Convention I will move that he be requested to frame these resolutions.
Mr. WALKER:
I second the motion.

Mr. BARTON:
Although, as I have stated, I have been enabled to procure two or three copies of these resolutions, it might be desirable, in the first place, that I should have a little time to consider what at present is simply a draft; and, in addition to that, time would thus be afforded for a final copy of the resolutions to be sent to the Government Printing Office, and printed copies placed in the hands of hon. members. If it be the wish of the Convention that that should be done, I should suggest that there is no necessity for a formal resolution, and you, Mr. President, might leave the chair till 2 o'clock.

The PRESIDENT:
With the approval of the Convention I propose leaving the chair till 2 o'clock.

The Convention at 11.35 adjourned till 2 p.m.

On resuming debate on motion by Mr. Barton.

Mr. BARTON:
I rise to move the following resolutions
That, in order to enlarge the powers of self-government of the people of Australia, it is desirable to create a Federal Government which shall exercise authority throughout the Federated Colonies, subject to the following principal conditions:—

I. That the powers, privileges, and territories of the several existing colonies shall remain intact, except in respect of such surrenders as may be agreed upon to secure uniformity of law and administration in matters of common concern.

II. That, after the establishment of the Federal Government, there shall be no alteration of the territorial possessions or boundaries of any colony without the consent of the colony or colonies concerned.

III. That the exclusive power to impose and collect duties of Customs and excise, and to give bounties, shall be vested in the Federal Parliament.

IV. That the exclusive control of the military and naval defences of the Federated Colonies shall be vested in the Federal Parliament.

V. That the trade and intercourse between the Federated Colonies, whether by land or sea, shall become and remain absolutely free.

Subject to the carrying out of these, and such other conditions as may be hereafter deemed necessary, this Convention approves of the framing of a Federal Constitution which shall establish—

(a) A Parliament, to consist of two Houses, namely, a States Assembly or Senate, and a National Assembly or House of Representatives: the States
Assembly to consist of representatives of each colony, to hold office for such periods and be chosen in such manner as will best secure to that Chamber a perpetual existence, combined with definite responsibility to the people of the State which shall have chosen them: the National Assembly to be elected by districts formed on a population basis, and to possess the sole power of originating all Bills appropriating revenue or imposing taxation.

(b) An Executive, consisting of a Governor-General, to be appointed by the Queen, and of such persons as from time to time may be appointed as his advisers.

(c) A Supreme Federal Court, which shall also be the High Court of Appeal for each colony in the Federation.

In moving these resolutions, I desire to explain at the beginning that I have not aimed at that definiteness and precision which would embody and give full expression to my own views. I do not think that the stage of our deliberations has arrived at which we should endeavor to commit the delegates to expressions of opinion on matters of detail, or even to certain matters of principle, with respect to which a fuller knowledge of the views and opinions of their fellows might cause them to alter or modify their views. The spirit in which I move, and the spirit in which I have framed these resolutions, is one which seems to me to harmonise with the attitude in which a member who has been elected to this Convention should approach his duties. Anyone will concede this, that if a body of gentlemen were chosen to represent any colony in this Convention, having laid down for themselves certain views, and saying with reference to those views, "These are the terms upon which we will accept a Federation, and if we cannot obtain these, we are opposed to any Federation at all"; anybody will concede that a body of gentlemen coming into the Convention in that spirit would come into it in an anti-federal spirit. It is only necessary to imagine four or five States sending to a Convention four or five such bodies, each animated by those ideas, hidebound by those pre-judgments, to see that the result of any discussion within these walls would be absolutely futile. It would be an impossibility under such circumstances for those agreements to be come to which are presupposed in the very idea of a federal compact. Let fifty men come to a gathering of this kind, and each of the ten representatives of each different colony be bound by one set of views and opinions, then compromise becomes impossible, and without that spirit of compromise every body of ten in those four or five bodies must succeed in all its views, or else that body and the colony which elected it must
withdraw. Clearly and obviously that cannot be the spirit in which to approach a gathering of this kind, because it is impossible to approach it in a spirit which makes all negotiations and all concessions, all interchange of views and ideas, and all readiness to see the superior light of reason, altogether out of the question. That being the view and the attitude in which a member should approach this Convention, and that being also my own view and attitude, I drew these resolutions up, having this principle in mind, that if I am to insist under all circumstances upon having my views carried into effect I am aiming at the impossible, and that if I have to approach the duty I have to perform in this Convention in that spirit I would be the most useless member of this body. I take it that every one of us has come to this Convention in that spirit which I alluded to as animating myself. I hope to be guided by the views, opinions, and arguments of those by whom I am surrounded. I hope to listen in a totally unbiased spirit to all the arguments they put forth, and as I expect them in any case in which they may consider my arguments to be superior to adopt my arguments, so I should be an extraordinary being if I were not prepared to adopt their arguments whenever their superiority was so made manifest. It is, therefore, totally obvious that any state of procedure, any attempt at procedure which would result in this Convention at the present stage being bound down by hard and fast sets of opinions with regard to those matters which are outside the mere essentials of a Federal Commonwealth, is an attempt which would necessarily render futile the whole of the operations of this Convention. It is that state of pre-judgment which we are to avoid. What we want at this preliminary stage of our discussion is to hear at full length—to hear, of course, with every fair regard to the possible limitations of time which we may have to observe—the views and opinions of those who come from the several colonies, and who come here on an equal footing. Before, therefore, we can come to well-reasoned conclusions as to what our Federal Constitution should precisely contain, we should have a debate which is so wide in its scope that every form of view and opinion upon the main matters in issue, and on the chief problems which must engage the attention of the Convention, and which must be settled before a Constitution is passed, will be made manifest, and yet that discussion should be such as to avoid entire and final judgment upon those matters which are outside the essentials of Federation, so that the full light of reason may have its full effect on every member, and incline him, perhaps, to the adoption of that which, though not at first part of his own opinions, he finds by listening to others to be better than his own original conclusions. It is in that spirit that I have drafted these resolutions in such a
manner that, while they lay down first the essential conditions of Federation, and next the essential powers, authorities, and functions which the Federal Convention should have, they do not travel into that ulterior ground which would invite decision on questions, the decision on which ought better to be taken at a later stage. That is the reason why hon. members will find these resolutions in a state which does not carry us much farther. They carry us to this extent, that if adopted they carry those matters which are essential. These resolutions are only part of a general course of procedure which I will proceed to explain. If I succeed in carrying these resolutions, I shall ask the Convention to agree to another set of resolutions, and I shall move something to this effect—and I do not think it will be out of order if I give the purport of the words contained in a rough draft of the resolutions which may follow these. They read:

I. That the resolutions be referred to three Select Committees with power to send for persons and papers. Committee No. 1 to be for the consideration of constitutional machinery and the distribution of functions and powers; No. 2, for the consideration of provisions relating to finance, taxation, and trade regulations; and No. 3, for the consideration of provisions relating to the establishment of a Federal Judiciary.

II. That each of such Committees do consist of three members from each of the colonies represented; that each of the several delegations do choose the members of its body who are to serve on such Committees.

Mr. FRASER:

Is that your altogether?

Mr. BARTON:

That will absorb nine delegates in each delegation, three for each of these, and the Prime Minister of each colony represented be an ex officio member of each Committee.

III. That Committee No. 2 be instructed to specially consider sub-resolutions Nos. 3 and 5 of resolution No. 1, with a view to their being carried into effect on lines just to the several colonies.

IV. That it be an instruction to Committees Nos. 2 and 3 to report their respective conclusions to Committee No. 1.

V. That upon the result of the deliberations of the said Committees Committee No. 1 do prepare and submit to this Convention a Bill for the establishment of a Federal Constitution, such Bill to be prepared as speedily as is consistent with the most careful consideration.

I have given these resolutions as they suggested themselves to me, as an improvement on the resolutions of 1891, in order to make clear to hon. members now present an idea of the general scheme. I propose to ask hon. members to take the discussion now upon the general propositions without
limiting themselves in their expressions of views as to their further extension; but I put it at the same time whether it is the time for laying down matters of detail. To my mind this is not the stage. We ought to leave it open to this extent, that while we agree upon essentials, and express ourselves fully and freely upon all our views, still, so far as our views are not negatived by any principle here laid down, their embodiment in any resolution may stand over for Select Committee and afterwards for Committee of the whole House, when they may be debated with the freest publicity and fullest freedom. I believe we shall by this process best arrive at conclusions; not that, as many of us would like, we shall be able to drive our own particular views to an issue at once, but we shall discuss all these matters, both constitutionally and otherwise, and then we may arrive at views which, though contrary to our present opinions, shall essentially represent the views of those who sent us here to deal with the problems we have to discuss. About these resolutions - and perhaps I ought to say that I promise not to make a long speech-they correspond very largely in the main with the proposals of Sir Henry Parkes at the Convention in 1891. They have been altered only in the direction of brevity and simplicity. They are not much altered in other respects, except that the first resolution lays down clearly at the outset that Federation is necessary "in order to enlarge the powers of self-government of the people of Australasia." That is a proposition which, from the many discussions that have taken place in public in various parts of the colonies, appears to have been lost sight of. The idea of surrender seems to have occupied a large place in the minds of the people. Federation really adds to the powers of self-government, a fact which seems to have been put aside and left out of consideration. It is an enlargement of the powers of self-government to include within the scope of action the dealing with national affairs which previously we could not touch. It is the very object which has brought us together in Convention. It is an incontrovertible proposition which. has been laid down clearly. Take these resolutions further. Those under the first head are those which prescribe the principal conditions of Federation-those matters which must be granted as guarantees of the security of the federating colonies. The first is that the several colonies are not to be touched in any of their powers, privileges, and territories, except perhaps where a surrender is necessary to secure uniformity of law and administration in matters of general concern. The next is that, after the establishment of Federation, the present inviolability of the territory of each colony shall be still preserved, subject to the determination of the people of such colony themselves. Whether the people choose to make it
through Parliament or by way of popular vote, it should be one of the
guarantees afforded by Federation, that is, the Bill which the Convention
will frame should guarantee that the territory of each colony shall be
inviolate, except to the colony itself. The third contains conditions without
which Federation would be impossible. The Federal Parliament should
have the exclusive power to impose and collect Customs duties. Clearly we
could not have border duties. We should have free intercourse by sea, as
well as by land, between one colony and another. We have had it argued
outside this place that other forms of revenue than Customs should be
given up to the Federation. Some persons have argued that the land should
be the basis of taxation. I should protest seriously against such a surrender
as that. The idea of locality as an inherent essential of the individualism of
each province altogether precludes such an idea. The land itself must be
left sacred to each colony just in the same way as its

chosen which is least imbued with the idea of localism, and that is to be
found in federal Customs duties and the abolition of duties between the
States. The continuation of such duties is at variance with the federal idea.
The next of these conditions is that of the exclusive control of the military
and naval defences. I pass that over as being a self-evident proposition.
The fifth is that the trade and intercourse between the federated colonies,
whether by land or sea, shall become and remain absolutely free. I have
dealt with that under sub-heading three, in referring to the imposition of
Customs and Excise. These are laid down as the main principles-essential
to the creation of the Federation. The remainder, namely, Resolution 2,
expresses the chief powers and functions which ought to be granted to the
federated people, in order to secure the complete freedom with which it is
proposed to constitute them. The first is that there should be a Parliament,
and next that the Parliament should consist of two Houses. In support of
the general way in which it was thought advisable to frame these
resolutions it may be contended that I should have left the idea of the two
Houses out of the resolutions. I take it that we are a body of gentlemen
who have really considered the question, and, inasmuch as we have made
ourselves familiar with the literature on the subject, I take it there is no one
here who will for one moment imagine that any form of government by a
Parliament consisting of one House, could be designated a Federation. The
individualism of the States after Federation is of as much interest to each
colony as the free exercise of national powers is essential to that
aggregation of colonies which we express in the term Federation. If the one
trenches upon the other, then so far as the provinces assert their
individuality overmuch the fear is an approach to a mere loose

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confederation, not a true Federation. The fear on the other hand is, if we give the power to encroach, that is, if we represent the federated people only, and not the States in their entities, in our Federation, then day by day you will find the power to make this encroachment will be so gladly availed of that, day by day and year by year, the body called the Federation will more nearly approach the unified or "unitarian" system of government. We cannot adopt any form of government the tendency of which will be, as time goes on, to turn the Constitution towards unification on the one hand, and towards a loose confederacy on the other. (Hear, hear.) We must observe that principle. or else we do not observe the charge laid upon us by the Enabling Act, which lays on us the duty to frame a "Federal" Constitution under the Crown. So, therefore I take it there must be two Houses of Parliament, and in one of these Houses the principle of nationhood and the power and scope of the nation, as constituted and welded together into one by the act of Federation, will be expressed in the National Assembly, or House of Representatives, and in the other Chamber, whether it is called the Council of the States, the States Assembly, or the Senate, must be found not the ordinary checks of the Upper House, because such a Chamber will not be constituted for the purposes of an Upper House; but you must take all pains, not only to have a Parliament consisting of two Chambers, but to have it constituted in those two Chambers in such a way as to have the basic principle of Federation conserved in that Chamber which is representative of the rights of the States; that is, that each law of the Federation should have the assent of the States as well as of the federated people. In reference to this, I wish to illustrate what I said at the beginning—that I am endeavoring to refrain from pushing my views regarding some matters into definite expression in the terms of the resolutions. There are some of us who think we may secure an effective Federation, although we may not have equality of representatives of the States in the Senate. I am fully and definitely of opinion that the States should be repre- [P.22] starts here

sented equally in the States Assembly. I hold that opinion because I believe that the object of that States Council is to preserve the individuality of the several States, and if it is once conceded that by having only one Chamber, and that elected on the proportionate basis of representation, you are so constituting your Parliament that you are in danger every day of derogating from the individuality of the States, it follows that there should be a Second Chamber for the preservation of that individuality in the most effective way possible. But if you must have two Chambers in your Federation, it is one consequence of the Federation that the Chamber that
has in its charge the defence of State interests will also have in its hands powers in most matters co-ordinate with the other House. In this resolution I have gone on to say that the States Assembly shall consist of representatives of each colony, and I have not inserted the words which might be expected to be inserted, "an equal number of representatives," although in my opinion that should be the case:—

The States Assembly to consist of representatives of each colony, to hold office for such periods and be chosen in such manner as will best secure to that Chamber a perpetual existence, combined with definite responsibility to the people of the State which shall have chosen them.

These words do not in any way lay down any method of election to the Senate or Second Chamber. This is a matter that will be thrashed out in the Committee and upon the discussion of the Bill. There are some of us who think the only way to preserve definite responsibility is to have the election by the people of the quota of each State to the Senate. (Hear, hear.) There are others who think that could be well and best done by the election of the quota of each State by its Legislature; there are others, too, who think that there should be a difference in suffrage between the electorate which chooses the States Council and the National Assembly. It should not be our purpose now to lay down definite lines upon any one of those subjects, because they are really questions which should be decided only after we become acquainted with each others' views in this debate and upon the discussion in Committee, and when the Bill is being discussed. It is then, and then only, that we shall be fully in possession of the reasons which underlie each others' views, and be able to say how far we can make concessions, and how far we can demand concessions in return. (Hear, hear.) I have said further, "the National Assembly to be elected by districts formed on a population basis," and upon that perhaps there can be no denial. (Hear, hear.) The States Council or Senate will represent, so to speak," one State one vote," if the principle of equality be adopted, in the same way that the National Assembly will exist for dealing with the affairs of the nation as one welded identity. It is impossible to deal with the rights of the federated people through that Chamber in any other way than by representation proportionate to numbers. This was the principle adopted in the 1891 Bill, and I do not see that any variation of that principle can be adopted by this Convention or by any other. This motion says that the House of Representatives is "to possess the sole power of originating all Bills appropriating revenue or imposing taxation." In leaving the resolution in that form, I am not going the full length of my own opinion. I only put that forward as being essential because I believe there will be scarcely a member of this Convention who thinks that the power of amendment
should be left to the Senate who will deny, if we are to have responsible government carried on, that the ultimate control of taxation and expenditure must be in the hands of the National Assembly. If we are to have what we understand as responsible government, I am of opinion that if you made similar provision to that made in the Bill of 1891 it would be scarcely possible to carry on government except in that way. I take it under the system of responsible government there is one power, and one only, that places it in the control of the representatives to demand the expulsion of the Government. Government goes on so long as funds are available. If the Executive becomes blind, or weak, or corrupt, what is the result? Obviously until funds are out they may remain in office, in spite of attempts to dislodge them. They remain in office if left in possession of the funds, by which they can defy the voice of the people, and therefore if expulsion is necessitated by the voice of the people through the House that expulsion can only be effectuated in one way, and that is by the denial of supplies. (Hear, hear.) Some people wondered why in the Bill of 1891 there was no actual statement that the Government was to be carried on under the form of responsible government, but words to express that intention are not to be found in any Constitution of the colonies. And why? Because the power of the 'purse is given to the people in the Constitution of the colonies, and the existence of that power of the purse enables the people to indicate distrust of the Government by the refusal of supplies at the moment it becomes bereft of the confidence of the people. Now of course these are mere elementary things I am stating—I quite recognise that but I must claim the indulgence of the House for stating them, because they introduce some of the most important considerations we shall have to deal with in our future labors. I have, of course, assented in the past to the proposition that the House of Representatives should have not only the sole power of origination, but the sole power of amendment; while in the Bill of 1891 there was a provision which empowered the Senate, at any stage of a Bill, not to amend the Bill, but to send a message to the other Chamber expressing its desire that certain amendments should be made, which message that other Chamber could deal with as it pleased. Nevertheless the result of the Convention of 1891 was to confine to the House of Representatives the sole power of origination and amendment of Tax Bills and Appropriation Bills. Now, that is my opinion, but I have not gone to its full length in this resolution because, while I know the immense majority, if not the whole, of this Convention will agree that the origination shall be left entirely with the House of Representatives, there is a very large
number of our colleagues who are of opinion that the power of amendment should remain with the Senate. That is a question which, like others, may be dealt with finally hereafter, and I think I have gone far enough in the resolution at this preliminary stage. By this resolution we want to find out what are the views of our colleagues. Then the second sub-head of the resolution speaks of-

An Executive, consisting of a Governor-General, to be appointed by the Queen, and of such persons as from time to time may be appointed as his advisers.

I have used the words:

To be appointed by the Queen.

I am aware there is a difference of opinion about that, not perhaps a great one in this Convention, a difference of opinion, however, outside, because there are some who are in favor of the election of the Governor-General by our people. Now I have good ground for the position I have taken up.

Sir EDWARD BRADDON:

Hear, hear.

Mr. BARTON:

The Federal Enabling Act says this in section 7:

And the Convention shall be charged with the duty of framing for Australia a Federal Constitution under the Crown in the form of a Bill for enactment by the Imperial Parliament.

I have been actuated in the insertion of the words:

To be appointed by the Queen,

by that section of the Federal Enabling Act. It seems to me that if we are not to act in antagonism to the instructions given by the Act we should provide for the by that section of the Federal Enabling Act. It seems to me that if we are not to act in antagonism to the instructions given by the Act we should provide for the appointment of the Governor-General by the Queen. I am aware that it is said the election of the Governor-General by the people is quite compatible with the relations which exist between us and the mother-country. I am, however, not of that opinion; because I think it would mean the sundering of the strongest, and perhaps almost the last, bond which exists between us and the mother-country.

Mr. REID:

Hear, hear.

Mr. BARTON:

If we are to elect our Governor-General, and to appoint the man who looms large in party politics in our own country, we shall be placing in the
position a man, who by the necessities of the case, and by the facts of his career, must be a partisan. I think if we continue under the system of responsible government, which is the system we have learned to handle, and know best how to handle-if we continue to go on with responsible government, and yet elect our Governor-General-it will follow that by electing a man from one side, we shall be electing a man who may have a strong temptation to the thwarting of one Ministry and unfairly assisting another. That is not consistent with our position under the Crown. We should be nearer the condition of the South American republics. We should be a republic in everything but name, and if we should reduce ourselves to that nothing would remain for us but, as it was once euphoniously put by a Victorian politician—

To cut the painter entirely.

For if the substance of our connection is gone, there is nothing to be added but com

Mr. PEACOCK:

We shall all be unanimous on that point.

Mr. BARTON:

Then the resolution says—

And of such persons as from time to time may be appointed as his advisers.

There was a temptation there to insert

His responsible advisers.

But I think, if I may say so, I have acted very cautiously and wisely in leaving out such a term. Strong as I am myself that the form of government we should continue to have under Federation is responsible government, and strongly as I shall endeavor to urge it when the right time comes, I do not think it is right to bind the Convention at this stage. That, again, is a matter to be decided by all of us upon the opinions and arguments we hear, and we must recollect we are not framing a Constitution-so far as we are framing one at all-and that we are not legislating-so far as we are legislating at all-for a day. If not for all time, we are making a structure which will last in its substance for centuries. There may be those among us, or who will succeed us, who may think that some other form of government but responsible government should be adopted. It may be well for us to have regard for that in our Constitution. While I think we should frame our Constitution in such a way as we did indeed frame it in 1891, so that almost the only way of bringing it into effect is by way of responsible government, still, throughout this Convention, we must listen to the views and opinions of those who wish to substitute some other reform for responsible government. I for one, as I do not wish my boots made in
Germany, do not want my Constitution made in Switzerland. I think our British forms of Government, those we have adopted and adapted, are best fitted for ourselves. Others may be of a different opinion, and in order that before we ultimately decide we may listen to what others have to say, I have not obtruded my views into this part of the resolution. The last portion of the resolution says:

There shall be a Supreme Federal Court, which shall also be the High Court of Appeal for each colony in the Federation.

That, again, I take as an essential, I do not think we shall find more than one or two dissentients to that proposition in the whole Convention. It seems to me that if we are to have Federation in all its strength and power we are forced to the conclusion that the power which will best hold the Federation together, and will best preserve the honor of the Constitution, is the peaceful arbitrament of a Federal Court. What do we find elsewhere? Where countries are in communication with each other, and differences arise, there are diplomatic negotiations. Sometimes there may be arbitration. On the failure of these there is only one form of arbitration, the arbitrament of blood. The difference in countries which have Federation is that, instead of being sundered by war upon differences occurring, the Federation possesses not only a continuous tribunal of arbitration, but it possesses a Supreme Court, a body which shall decide in the peaceful and calm atmosphere of a court, not under surroundings of perturbed imagination or of infuriated party politics, those questions of dispute which arise, and which must arise, under a Federal Constitution, and many of these questions are precisely the questions which will arise between State and State when conducted by separate Governments, questions of boundaries between States, questions of the validity of the laws of the States, and other questions which may arise, and which could only then be ultimately resolved by warfare. With Federation, by so much as you promote the resort to a just tribunal to settle these differences in the calm judicial manner of which I have spoken, by so much do you take away the cause of secession, and by so much do you promote the indissolubility of the terms of the Union. One of the strongest guarantees for the continuance and indestructibility of the Federation is that there should be some body of this kind constituted which, instead of allowing the States to fly to secession because they cannot get justice in any other way, will enable them to settle their differences in a calm judicial atmosphere. What seems to me to be the first function of a Federal Supreme Court is not that it should be a High Court of Appeal, but that it should settle State difficulties. Most of those who discuss this question
discuss it from the view that it is simply to be constituted as a Court of Appeal. In that respect it may be valuable, and may save litigants from being dragged thousands and thousands of miles to a distant tribunal, or from being obliged, without the means or opportunity of attending that tribunal, to wait here and see their best interests destroyed. Its chief value will be that it will be an arbiter in disputed questions after Federation has been brought about, and will have the result of preventing the Federal Government being an arbiter, which would mean that one of the parties to the dispute would be a judge in its own cause; and it will substitute for heated discussion, under circumstances less likely to promote a possible determination, discussions of that kind which makes for the solidarity of the Union rather than for its disruption. I need go no further in my attempt to explain the purport of these resolutions. I have resisted all temptations to make long speech in doing so, as I must not forget that very similar resolutions were discussed in 1891, and must not fail to remember that there are in the hands of hon. members full reports of the discussion; and in fact that the reasons upon which these resolutions are based are already in the hands of hon. members and I should not be doing justice to them if I were to unnecessarily elaborate those reasons. I am content to move these resolutions in what, for such an occasion, is a short speech. I ask that they should be accepted as containing proposals which are essential in the framing of a Constitution, but which do not contain all the necessary arbitrary definitions, which will be best thrashed out at a later stage in the light of fuller discussion, and when we will have had the opportunity of knowing each other's opinions, and of modifying our own wherever it may be found necessary. I have already described the further procedure I hope to base on these resolutions, which I trust will include a resolution to refer them to the committees which will be formed. They do not acquire finality by being passed now; the Convention will have the opportunity in the committee of pushing these resolutions to the most definite conclusions. That, I submit, is the right stage for all that kind of work to be done. Our work in the meantime is to familiarise ourselves with each others' views.

Mr. PEACOCK:

You must admit that you have not given us much of your views. If the debate is proceeded with in the same strain we will not know much of each other's views.

Mr. BARTON:

I have stated what I consider to be indispensable in the formation of a Union; but if it is necessary to proceed further I shall be prepared to state
with more definiteness what my views are. I do not think I lacked definiteness when I said that the Federal Parliament should have embodied within it a Council of the States, which should be formed on the basis of equal representation of each State. If members want any expression of opinion on my part, I may say that the best way in which to appoint that Senate is as is done in Switzerland, and here I am taking a piece of a constitution made in Switzerland after all. (Laughter.) With regard to this question, I am of opinion that the States themselves could not do better than elect their own quota to the States Council in their own way. As far as my individual efforts will go in my own colony, I may say I am in favor of it being done in this way. Although each State has the right to dictate its own suffrage, inasmuch as this House of the States is to be representative of the State entities there should be no question of locality. I was in 1891 in favor of the various Parliaments electing their own quota to the States Council, but I have had some experience in observing some elections in my own colony since, which has convinced me that the elections should not be by the local legislatures, if you are to have payment of members in the Federal Parliament, or the appointment of any committee which is to be paid by the local legislature. It is likely to lead to transactions which we would be far better without. I am of opinion, therefore, as far as my own colony is concerned, and I would suggest that we should elect our quota to the Senate in some such way as that in which we stand elected now to this Convention. I believe that we should form the colony into one constituency, as the very idea of locality in the election of a body which is to represent the States as separate entities in the States Council is a total abnegation of the motive principle. I am of opinion therefore, as far as my own colony is concerned, that it should take early steps to pass a law after we have federated, to elect its own quota as one constituency. I am of opinion with regard to the suffrage of the federal colonies that that is a matter to be dealt with by the Federation, and I will say why. If anybody were to attempt to dictate to the people of New South Wales, Victoria, or any other colony the mode in which they should frame their suffrage, or the way in which they should elect their representatives, that person would be laughed to scorn.

Dr. COCKBURN:
That is right enough.

Mr. BARTON:
We propose to frame a free nation, but if each State has not the absolute power to frame its own suffrage it would not be free.

Dr. COCKBURN:
In its own affairs, certainly.
Mr. BARTON:

That does not involve an interference in the suffrage of one colony by another colony. One colony may have a £10 suffrage, another a universal suffrage, or an adult suffrage, and there should be no pretence on the part of the Federation to dictate to any colony that it should abandon its suffrage for its own Legislature, or should compel it to adopt the system, say, of one man one vote. The colonies could not dictate to the Federation as to how it should adopt its suffrage, just as the Federation would have not the slightest right to dictate to the colonies. Their rights are correlative, and there cannot be the slightest denial of that. I am of opinion, therefore, that the first Federal Parliament should be elected on the basis of the franchise at present existing in each colony, and after that time the federated Parliament should have the sole right of framing its own suffrage. Now, I am not going to weary hon. members by any further elaboration of my views. Another reason is this, my views are to be found in debates which have already taken place, and I do not suppose there is a member in this Convention who is not aware, either by conversation or by public speaking, of my views. I am also animated by this idea in not endeavoring to take up time too long, by the fact that there are a number of us here who were members of the Convention of 1891, and some of us occupy positions which will force upon us the necessity of speaking. It is equally incumbent upon us not to make our speeches too long because there are members who were not members of the 1891 Convention, and who have been sent in with the others to form a uniform body. Since the election of the representatives of 1891 they are virtually new blood in the matter of Federation, and I think the fairest play that could be extended by us to them is to make our speeches as short as possible, so that the time available may be fully occupied by them in the utterance of their views. I ask hon. members, if I have not fully explained my own views, to remember they are well known, and if I forbear from fuller explanation it is because I think it is far more important than that I should speak that those who have not been heard should have the opportunity of being heard fully in this debate on the essentials of Federation. Holding this opinion, and without the least endeavor to commit this Convention, and with the hope that no amendment may be introduced to bring a matter before us at a time that is premature, I bring these resolutions forward.

Mr. DEAKIN:

I second the motion.

Sir RICHARD BAKER:
I ask if these resolutions will be put separately or in one motion.

Mr. BARTON:  
If the slightest desire to have these resolutions put seriatim is expressed, I, as the mover, shall be only too happy to accede to it. I think, however, they should be discussed in globo, and put afterwards seriatim.

The PRESIDENT:  
I will put the resolutions together in order that the discussion may proceed upon them generally. I take it that is the wish of the Convention. I propose afterwards to put them seriatim to the vote.

Sir RICHARD BAKER:  
I feel considerable diffidence in rising to discuss resolutions which I only saw for the first time at 2 o'clock to-day, but at the same time, as I understand it is the wish of the Convention that our deliberations should be concluded as soon as possible, I venture to speak concerning the various matters which have been so ably and clearly put before us by Mr. Barton. I understand that it is the wish of this Convention that no amendments should be moved to the power of originating all Bills appropriating revenue or imposing taxation."

But, in accord with what I understand to be the wish of the Convention, I shall not move any amendment, although I shall express my opinion in reference to the subject-matter to which these words refer. We are here to form a Federal Constitution, and we must not lose sight of the fact that there are very essential differences between any Federal Constitution and any Constitution formed for the government of one country or one colony upon a unification system. Now, the first question that suggests itself to my mind is this: Is the commonly called responsible government system-the Cabinet system-consistent with true Federation? I know that in the debates that have taken place in these colonies during the past six years it has, to a considerable extent, been assumed that we will at all events commence with the Cabinet system. There is one notable exception to that view, and that exception is a gentleman whose opinions are of considerable weight. Sir Samuel Griffiths has said-

If it is accepted as a fundamental rule of the Federation that the law shall not be altered without the consent of the majority of the people, and also of a majority of the States, both speaking by their representatives, why should not the same principle be applied to the no less important branch of the State authority—the Executive Government?

And he goes on to say:

One mode is suggested by the American Constitution, which requires that the first appointment of the Ministers of the State must be made with
the approval of the Senate.

Now, to this point—a most important point, it seems to me—I venture to direct the earnest attention of the members of this Convention. I have spent some considerable time in arriving at a conclusion upon this point, because I am fully impressed with the futility of paper Constitutions. I am fully impressed with the absolute necessity that wherever it is possible we should adopt that form of government under which we have lived, that we should adopt that form of government which is engrained in the minds of the people, and that whenever any modifications are proposed such modifications should be genetically connected with the form of government with which we are familiar. A Constitution should be of historical growth, and not be manufactured. Although I am fully impressed with that idea, I am afraid that if we adopt this Cabinet system of Executive it will either kill Federation or Federation will kill it; because we cannot conceal from ourselves that the very fundamental essence of the Cabinet system of Executive is the predominating power of one Chamber. We know that from experience in all these colonies. We know, too, that it would be impossible for any Government to carry on if they were obliged to have majorities in both chambers. What was it that led up to the Federation of Canada? Before the resolutions were adopted in the Canadian Convention, which led up to the Federation, there existed state of affairs which throws a lurid light upon this question. Upper and Lower Canada had been united in one Government, but the divergence of race and religion of the two peoples, the French and the English, who constituted the population of the two Canadas, were so great, that it brought about in effect two Governments and two Parliaments. No Government could exist which had not a majority of the French people, and had not also a majority of the English people. There were in effect two Premiers, two Attorneys-General, and two Houses. The result was that between 1862 and 1864 five Ministries existed, each existing for a short period, and each utterly unable to do anything, and it was this state of affairs which led to the two Canadas desiring a Federation rather than a unification. Will not the same state of things prevail here if it is provided that a responsible form of government in this new Federation should be obliged to have majorities in both Chambers? If they are not obliged to have majorities in both Chambers, and

if one Chamber is to be the predominant power in the Federation, what becomes of the whole principle of Federation? Supposing the Executive is the creation—because the Executive is in essence the creation of one Chamber of Parliament in all our colonies—of the House of Representatives
in this new Federation, what will be the result? It seems to me, undoubtedly, that the powers of the Senate will wane until it becomes only a dignified appendage of the House of the Representatives. That is not what we want; at all events, it is not what, I want. I do not think it would be safe for any of those amongst us to desire that State rights should be fully recognised, but desire that we should retain those powers of self-government which we now possess, minus the particular matters which will be handed over to the Federal Government. It would not be safe for any of those to enter into a form of Government in which the Executive was the creation of one branch of the Legislature. Such a state of things appears to me to be utterly incompatible with the very essence of Federation. Now, sir, is it possible for us to learn lessons from other countries? There are in existence at this moment Federations in Germany, Switzerland, America, and, to a limited extent, in Canada, without counting other countries, concerning which we know but little. Do we find that in any one of these Federations the Cabinet system of Executive exists? We certainly do not. We know there is a great tendency amongst all of us to have a copy of systems of government with which we are familiar. We are now assembled here to adopt a form of government which is absolutely different from those forms of government under which we live, and, to import into a federal form of government the Cabinet system, is to form a patchwork Constitution, and try an experiment which has never been tried before.

Mr. TRENWITH:
Not in Canada.

Sir RICHARD BAKER:
Will that hon. gentleman for a moment contend that Canada is a Federation?

Mr. ISAACs:
Yes.

Sir RICHARD BAKER:
Can a system of government in which one branch of the Legislature, which is supposed to represent the rights of the State, is nominated by a successful partisan leader be a true Federation? As Mr. Goldwin Smith observes, the barefaced proposition that one branch of the Legislature should be nominated by the leader of a party is almost incredible, when we consider that Canada proposed to form a federal form of government. In Canada, through its creation, the Executive appoints the dominant party in one House, and also appoints the Lieutenant-Governor and the judges in the other House. The Ministry have the power of vetoing the Bills of the Colonial Legislatures.
Mr. FRASER:
And so they have in New South Wales.

Sir RICHARD BAKER:
The whole of my arguments do not apply in the slightest degree to a unitarian form of government. In Canada the dominant party is represented by the Ministry, who have the power of vetoing the acts of the colonial Legislature, and they have the power of appointing judges and Lieutenant-Governors of the provinces. I am quite sure that no one who has studied this question of a federal form of government will contend that the essence of Federation exists in Canada, and, judging by the newspaper reports, the state of affairs that exists there is anything but satisfactory. Cannot we obtain lessons from institutions of other countries? I am quite willing to admit the advantages of a Cabinet system, and I am also quite willing to admit the great disadvantages that have shown themselves in other forms of the Executive. In the American form of the Executive, what we would call the Ministry are altogether disassociated from Parliament, and that system has not worked well. As probably all the members of this Convention are aware, in America, the Speaker practically performs the duties of the Premier with regard to legislation; and, as all those who have read Mr. Bryce's work will know, great disadvantages have arisen from the American form of Executive. We find that in the Swiss form of government (which, by-the-by, was proposed two or three times by the Ministry of South Australia as a model to adopt even in this colony, where we are not confronted with the difficulties of a federal form of government), the Executive is elected directly by Parliament, and not by one branch of Parliament, but by two branches. Now, I do not wish in any way to dogmatise on this question, because I am perfectly aware of the great difficulties surrounding it. I have only thrown out these suggestions for consideration by members of this Convention, so that when we get to closer quarters the matter may be more carefully considered, and discussed more in detail, and so that we shall not assume as a matter of course that we should adopt that form of Executive with which we are so familiar.

Mr. FRASER:
What is your proposal?

Sir RICHARD BAKER:
I make no proposal for substitution at the present time.

Mr. DEAKIN:
Do without an Executive?

Sir RICHARD BAKER:
I make no proposal. I am aware, as has been pointed out by Mr. Barton,
that we should keep all our minds open before we arrive at definite conclusions concerning the problems we are met to solve. I am pointing out to the members of this Convention how absolutely inconsistent it is that the first principle of Federation should be that the responsible Ministry form of Executive should exist.

Mr. DEAKIN:
Tell us what to do.

Sir RICHARD BAKER:
Well, if I am asked to give a definite opinion-(hear, hear)-I think we will do best to adopt the Swiss form of Executive. (Hear, hear.) My honorable friend Mr. Barton says he does not want his boots made in Germany, and he does not want his Constitution made in Switzerland.

Mr. PEACOCK:
He is a true Australian native.

Sir RICHARD BAKER:
Now I want my boots made where I find they fit me best.

Mr. BARTON:
You won't find that in Germany, will you?

Sir RICHARD BAKER:
I don't know. If I have in any way shown to the members of this Convention that this important matter is one which should be fully discussed, I venture to think I have done some slight good in bringing this matter forward. (Hear, hear.) Concerning another important question, which, by-the-by, is only vaguely referred to in theme resolutions-the relative power of the two Chambers over our proposed Constitution-I cannot help thinking that it is extremely difficult for some people to get out of their heads the idea that the Senate is a kind of glorified Upper House; they cannot appreciate the fact that the Senate represents the people as fully as the House of Representatives.

Mr. DEAKIN:
It depends how it is elected.

Sir RICHARD BAKER:
They can't appreciate the fact that the House of Representatives represents the people grouped as a nation, and that the Senate represents the people grouped in States, but that they each represent the people. If that is so, why should Money Bills originate in one Chamber more than another?

Mr. WISE:
For convenience only.

Sir RICHARD BAKER:
If there is a question of convenience, why should they not originate in the
Senate?

Mr. WISE:

Because the Treasurer won't probably sit in the Senate.

Sir RICHARD BAKER:

That is a matter which has to be decided. In the German Constitution there is no Treasurer, there is a Committee of Finance, and that Committee of Finance is appointed by the States Council, the Bundesrath, and not by the House of Representatives, the Reichstag, at all. So that if we may look for any information in the German Constitution we need not necessarily arrive at the conclusion that the Treasurer is to sit in the House of Representatives. There is no Lower House, and there is no Upper House. I ask—"Why should we assume that one?

Mr. PEACOCK:

Hear, hear.

Sir RICHARD BAKER:

Therefore, as statesmen, we must look ahead. If we want a federal form of government to continue, and if we wish to prevent a nominal Federation from becoming an actual amalgamation, we must look at the forces behind, and we must give those powers to the Senate which will enable it to hold its own with the House of Representatives. I shall not detain this Convention any longer. I have spoken on the spur of the moment, and I am quite willing to fall in with the opinion expressed by the Hon. Mr. Barton, that we, who were members of the Convention of 1891, and who have expressed our opinions not only orally but by writing, shall allow those members who have not had similar opportunities greater time in which they may put their views before us, because our views are known. I hope that we will approach all these matters in a spirit of compromise. I am quite sure that nothing I have said can be asserted to be in a dogmatic spirit. I have shown what seem to me difficulties, and I do not even wish to suggest a solution of those difficulties. I shall be pleased to do so only after other members have expressed their views on the question, because I hope they may give me more light upon the subject, and that any opinion I may express now may be altered by hearing the views of the other members. (Cheers.)

ADJOURNMENT.

Mr. WISE:

I feel assured that the desire is that this Convention should proceed with this debate. At the same time it can be easily understood that there is a disinclination to speak on matters of this kind without due consideration. If
there is no one ready to go on I suggest that we
should adjourn, so that we may have time to consider the admirable
speeches to which we have listened.

Sir JOSEPH ABBOTT:
These resolutions were only submitted to the House at 2 o'clock, and I
shall undertake to move the adjournment of the House. I do not think that
the House can be blamed for asking for time for consideration of such
important resolutions and speeches. It is unfair to ask members to speak to
such resolutions or to reply to the speeches made. I therefore move:
That the debate be adjourned.

Sir RICHARD BAKER:
I point out, on a question of order, that the debate will come on in the
ordinary way at 10.30 tomorrow.

The PRESIDENT:
We have carried a resolution to sit till 5.30, and under ordinary
circumstances I should not feel justified without a suspension of the
Standing Orders in Putting a resolution which would have a contrary
effect. However, I take it that the wish of the Convention is that the
Convention should adjourn.

Mr. BARTON:
I move that the debate be adjourned.
Question resolved in the affirmative.
Convention adjourned at 3.30 p.m.
Wednesday March 24, 1897.


The PRESIDENT took the chair at 10.30 a.m.

PETITION.

Mr. BRUNKER:
I have the honor to present a petition from the Womanhood Suffrage League of New South Wales.

The petition is respectfully worded, and ends with the following prayer:—
Your petitioners, therefore, humbly pray—That your honorable Convention will so frame the Federal Constitution of Australasia that the right to vote for representatives to the Federal Parliament shall be possessed by women and men without any distinction or disqualification on the ground of sex.

I move that the petition be received and read.

Question resolved in the affirmative.

The CLERK read the petition, which was as follows:—
To the Hon. the President and the hon. members of the Federal Convention of 1897. The 23rd day of March, 1897.

The humble petition of the members of the Womanhood Suffrage League of New South Wales respectfully showeth:—
1. That in framing a Federal Constitution for Australasia, the determination of the persons to whom the Federal Franchise shall be granted is a question of great importance, and your honorable Convention will probably consider whether or not such franchise shall be uniform throughout all the colonies.

2. That at the present time in New South Wales, Victoria, Western Australia, and Tasmania, women do not possess the right to vote for candidates for election as members of the Parliaments of the said colonies, whilst in respect of South Australia much right has been conferred upon the women of that colony, and that therefore the women of the colonies first mentioned are under a disability from which the women of South Australia have been relieved.

3. That (as the Hon. Geo. Reid, Premier of N.S.W., has said in his article on the "Outlook of Federation"), "In this matter the taxpayers have much more at stake than the politicians," and that the women of the various colonies are taxpayers under their respective Governments, and will be...
taxpayers under any Federal Government which may be established.

4. That women are patriotic, and law-abiding citizens, taking an equal part in the religious and moral development of the the people, and doing more than half of the educational, charitable, and philanthropic work of society as at present constituted—that, therefore, whatever federal franchise shall be conferred upon or possessed by male citizens should also be conferred upon or possessed by women.

5. That, in view of the facts and considerations abovementioned, we are justified in appealing to

Your honorable Convention to so frame the Federal Constitution as to give the women of all the colonies a voice in choosing the representatives of the Federal Parliament, so that United Australia may become a true democracy resting upon the will of the whole and not half of the people.

Your petitioners, therefore, humbly pray-

That your honorable Convention will so frame the Federal Constitution for Australasia that the right to vote for representatives to the Federal Parliament shall be possessed by women and men without any distinction or disqualification on the ground of sex.

And your petitioners, as in duty bound, will ever pray, &c.

Signed on behalf of the members of the Womanhood Suffrage League of New South Wales.

M. S. WOLSTENHOLME, President.
ROSE SCOTT, Hon. Gen. Secretary.
ADA F. GRIFFITHS, Vice-President.
NELLIE ALMA MARTEF, Recording Secretary.
ELIZA H. MANIER, Hon. Treasurer.
CHAIRMAN OF COMMITTEES.

Sir GEORGE TURNER:
I desire to give notice that to-morrow I will move:
That the Hon. Sir Richard Chaffey Baker be appointed Chairman of Committees of the Whole of this Convention.

RETURNS-RAILWAYS.

Mr. GLYNN:
I beg to move notice of motion No. 1:—
That a return be laid before this Convention showing-

I. The estimated capital cost in 1896 on miles open and completed of the railways of each of the colonies of New South Wales, Victoria, South Australia, and Western Australia.

II. The basis on which such capital cost has in each case been estimated.

III. The capital cost of the rolling-stock of each of such colonies.
IV. The percentage for each colony of the net railway revenue on the capital cost thus ascertained.

V. Estimates similar to those mentioned in paragraphs 1, 3, and 4 for each of the years 1892, 1893, and 1894.

Sir WILLIAM ZEAL:

Before that is put I suggest to add after "rolling-stock" the words "in use," because this motion will embrace all the rolling-stock which has been laid on the railways, and I imagine that is not what is required.

Mr. GRANT:

I would like to point out to Sir William Zeal that it will be difficult to get the capital cost of the rolling-stock in use, and therefore it would be better to allow the motion to stand as it is, because I do not know any means by which the capital cost of the rolling-stock in use can be obtained in sufficient time for the purposes of the Convention.

Amendment negatived.

On the question that the motion be agreed to,

Mr. REID:

I think we have almost arrived at the time when we should have some understanding as to how these returns should be prepared. I am in a most amiable mood to-day, but it does seem to me that whilst we are passing resolutions which will involve the preparation of very troublesome returns we have not decided upon any source for the authority of these returns. I understand we have some statists in attendance, and they may be able to agree upon the information, but if they disagree I do not know how we are to get at the return. It is merely a difficulty I suggest to the gentlemen who are moving these resolutions.

Question resolved in the affirmative.

REPORTS ON BREAK OF GAUGE AND RAILWAY AMALGAMATION.

Motion by Mr. GLYNN:

That the Clerk be requested to obtain and lay on the table any reports presented by the Railways Commissioners of the colonies of New South Wales, Victoria, Queensland, South Australia, and Western Australia on the questions:

I. Abolition of the break of gauge.

II. Amalgamation under a federal body or otherwise of the railways of all or any two of the said colonies.

Mr. REID:

What are we to understand by the term "presented"? Does the motion allude to reports presented to the Parliaments or the Governments? Of course we know the reports have been presented to the Parliaments, and I
suppose these are referred to.

Mr. GLYNN:
Presented to the Government.

Mr. FRASER:
They are private.

Mr. REID:
That raises a difficulty. A Government may be in possession of confidential reports from the Railways Commissioners, and I apprehend they are not likely to send them in in response to a resolution of this sort. However, I have no objections to a resolution of this kind being passed, because I do not think it will come to much. (Laughter.)

Mr. BARTON:
To make the return more useful would it not be advisable to also include all reports presented with reference to the question of differential rates, or preferential rates as they are called? It seems to me that it will be important information when we approach the consideration of the railway question. I would suggest to amend the question by adding as a third sub-head the words-

III. The existence of preferential or differential rates.

Mr. FRASER:
Are not some of these reports private? I know it is so in our colony; I know also that members have been refused such information.

Dr. QUICK:
I think the suggestion is a most valuable one. I have been endeavoring, without success, to obtain official information on the subject in our own colony.

Mr. BARTON:
We could furnish some, I know.

Dr. QUICK:
I know the Government of New South Wales has been more liberal in this respect than the Government of Victoria. For State reasons this information was refused me during my campaign. I have since ascertained that the objection then entertained will be withdrawn, and I believe my friend the Premier of Victoria will be willing to concur in the presentation of any reasonable return or reasonable memoranda. I do not mean memoranda which would entail the revealing of State or departmental secrets, but public information which will be of use.

Mr. HOLDER:
About two years ago a meeting was held in Melbourne of the Railways Commissioners representing the different colonies to discuss the question
of preferential rates. Would it not be possible to have a report of those proceedings, as it would place the whole matter before us in the clearest possible light, and be of the utmost service in discussing the subject? I would address my question to the Premiers present.

Sir GEORGE TURNER:

With regard to that conference, as far as my recollection goes, it was a conference of the Railways Commissioners of the different colonies, and they then gave confidential reports to the Ministries of the various colonies. I should say unhesitatingly that it would be very unwise for the Governments to disclose the matters which were then discussed and the confidential reports which were then given by the Commissioners of the various Governments. We could not then come to any understanding as to what should be done, and the whole matter lapsed. It may be hereafter necessary if we do not federate to have the matter again discussed, and if we disclose any confidential reports it may place one or other of the colonies in a false position. I have no doubt that the Premiers of the

Mr. BARTON:

What I meant by the amendment was that the reports with regard to the differential or preferential rates should be of the same nature as those relating to the amalgamation of the railways and the abolition of the break of gauge. There have been laid before the Parliaments reports of a public character.

Mr. GLYNN:

I have not tabled this motion without examining as to the possibility of the compilation of the reports, and the difficulties are not of a serious character. It is this that has induced me to table the motion. Some of the matters -part 1, for instance, the abolition of the break of gauge-are included in reports which have been presented to Parliament. Some of them, at all events, are public, and it would be useful to the Convention if these reports were placed at the disposal of members. As to the second portion-the amalgamation under a federal body or otherwise of the railways of all or any two of the said colonies-of course my motion only takes the shape of a request that the clerk-and a request which amounts to a mandate as far as the clerk is concerned-should get them from the various Governments. If there is any objection it would be fatal to my motion being carried into effect, but it would be a great convenience to the members to have them. Of course the amalgamation of - the railways will be one of the important points raised at the Convention, and where there is no obligation of secrecy it would be extremely convenient if these reports were laid before us.
Mr. Barton's amendment agreed to.
Main question, as amended, resolved in the affirmative.

FEDERAL CONSTITUTION.

Debate resumed on resolutions by Mr. Barton (vide page 17).

Sir JOSEPH ABBOTT:

I am afraid I leaped myself last night or yesterday afternoon in a trap by want of parliamentary knowledge. (Laughter.) When I moved the adjournment of the debate I forgot the rule that the person who moved the adjournment was supposed to open the debate next day. I agree with Mr. Barton that we went to hear the opinions of the gentlemen who were not in the Convention of 1891 rather than the opinions of those who had the opportunity to express their views then. However, following the parliamentary rule, I willingly accept the task which I made for myself. It always appears to be a very difficult thing for a man who has occupied the position of Speaker of one of the Legislatures for a very long time, and whose duty is to listen rather than to indulge in oratory, to be suddenly called upon to indulge in oratory, and I promise the Convention that I am not going to weary them, as hon. members elsewhere weary the Speaker and Chairman of Committees, by long speeches. I shall support the resolutions. Originally I was under the impression that these resolutions were not required, until I heard the speech of the hon. representative of Victoria, Mr. Trenwith. I agree with him that it is desirable that we should show to the public that we have taken every step to shape the Bill which will have ultimately to be referred to the people for their consideration, and their approval or condemnation. Therefore I think it is wise that these resolutions were initiated, and in the form of the origin of the Bill which will ultimately be considered. I have heard some representatives say it is unnecessary upon the resolutions to express their opinions as to details, that the resolutions are so vague that they may be fully accepted; but I would remind these representatives who hold such opinions that at a later stage we will be called upon to appoint committees to deal with the various matters in these resolutions, and I think it is essential that the committees should gather from the debates what are the opinions of hon. members. I therefore hope that the new members to the Convention will readily express their opinions and not hesitate, whatever the length of time they take, to give free expression if they wish to do so. I would remind the Convention that the eyes of Australia are upon them, and we are required to work for the purpose of obtaining information to lead the people to a right position in reference to this very great question. The question of Federation is not a new one, for when the first free Constitution was granted to New South Wales I have
no hesitation in saying that had communication then between the old country and the colony of New South Wales been as efficient as it is to-day the probabilities are that there would have been introduced into that Constitution, which was the groundwork of every subsequent Constitution, the power of Federation. That was then suggested by the Colonial Secretary of the day in England, but owing to the possibility of delay the matter was laid on one side, and I think unfortunately put aside, because if the power that I speak of had been given in the Constitution of New South Wales to produce Federation, the trouble, the anxiety, and the heart-burning which have arisen over this question would not exist to the same extent as they do at the present day. As a native of the mother-country of Australia I rejoice indeed to see that the proposal of Dr. Quick, the hon. representative of Victoria, has been in these latter days given effect to. He was the first, I think, to suggest and give real vitality to this question; he it was who proposed that the people should be asked to take a hand in the game, and not politicians alone. The condemnation of the Convention of 1891 and the jealousy which arose over its work was largely due to the fact that the people themselves had no direct dealing with that Convention. Had the members been elected by the people, and had the Convention come to the same conclusions as it arrived at ultimately, the people would have recognised that the members of the Convention were speaking as their direct representatives rather than as the representatives of the Executives of the day. In most of the colonies the Premier of the day nominated the members to that Convention, and, with few exceptions, the nominations of the Executive of the day were accepted. As I heard a representative of Victoria say the other day, there has been a great deal of misunderstanding with regard to the work of the 1891 Convention, and there has been a great deal of opposition to it, directly arising from ignorance of what was done and partly from the fact that the people had not an opportunity of dealing with the matter themselves; and I think Australia ought to be thankful to Dr. Quick, the hon. representative of Victoria, for having brought about what I say unhesitatingly is the present constitution of this Convention. With regard to these resolutions, I think it is a foregone conclusion that we shall pass them, and, although this will be done, it is most advisable for members to give expression to their views on those details which will ultimately arise in the Bill and come before the committees which will be appointed. I favor every one of these resolutions, but I do not say that when the time comes to consider the details which will necessarily be evolved in the committees I will be found voting for every one of these details. I want a Constitution to be given to Australia which will be liberal in its character,
and which will not at the beginning produce heart-burnings or discontent amongst the people. The people must deal with the conditions of their own making, and they could only do that by means of this Convention. We have a great work before us, and I am thankful we have a great leader to carry on that work. I am thankful that one who took part in the debates of 1891, and who has since never lost sight of that Convention, although a very busy man in private life, and who has kept the question before our colony, and has in fact assisted to keep it before the other Australian Colonies, has had the great honor conferred upon him by this Convention of being its leader. I am inclined to think there is a little selfishness on the part of hon. members in having chosen Mr. Barton as the leader. (Hear, hear.) They found in him a ready and genial leader, one prepared to undertake and to willingly carry out the work. In selecting him they have conferred an honor on him and on the mother of the Australian colonies. I do not intend to express any opinion as to the form this Federation should take. I think it is very desirable that representatives speaking now for the first time, who have not had an opportunity of dealing with this great question, should do so. We may be told-for I have seen it hinted in some of the newspapers-that members of this Convention are to be attacked for opinions which they have given utterance to elsewhere. Now, I have sitting on my left an hon. gentleman who was very much against what was done in 1891, and I think that hon. gentleman was actuated by motives which influenced hundreds and thousands of others in the colony. He felt that the people were not doing the work, and that it was a work which the people ought to do for themselves. I do not care what opinions Mr. Reid may have expressed in the past. It is immaterial for the purposes of this Convention. We find him staunch, earnest, and loyal to the cause of Federation at the present time. In New South Wales we look upon him as having repented of his sins, and having made a full confession, and we have forgiven him, and I would ask the members of this Convention to do likewise.

Mr. REID:
I think there has been a general repentance. (Laughter.)

Sir JOSEPH ABBOTT:
I know that the two questions which will require the gravest consideration at the hands of the Convention are the question of finance and the question of our railways. When these are thrashed out, as I hope they will be, by the most experienced Premiers and by the best financial men which this Convention can furnish to these committees, we will have ample matter to discuss, and then we will have an opportunity of
discussing details which are not available at the present time. I feel very pleased as a representative from the old country to find the earnestness with which this question has been taken up in South Australia-to find the earnestness with which it has been taken up in the other colonies; and, above all things, I am delighted that, even at the last hour, Queensland has expressed a desire to have a share in the labors of this Convention. (Hear, hear.) I feel sure that, if Federation is brought about, all the Australian Colonies, sooner or later, will have to come into it. It was, therefore, essential that all the Australian Colonies should be represented in the Convention, and even the remote colony of New Zealand might have done good work to the Convention if she had chosen to send forward some of her public men as representatives at the present time. They need not ultimately have come in. The checks which exist under our Federal Act are such that no colony will be bound by what is done here at the present time. But it is well that every colony should have an opportunity of assisting to frame the Constitution which, I feel sure, if two or three of the colonies agree to all will have ultimately to be bound by.

Sir GEORGE TURNER:
I am pleased indeed that the honorable the Speaker of New South Wales has told us that in dealing with these resolutions we are not, and ought not, to be debarred from dealing with questions of detail, because I feel that if the committees we are to appoint are to do their duty properly they ought to be able to know the minds of the majority of the representatives here assembled, and, that being so, I feel much regret that the three gentlemen who have already spoken have not given us the benefit of their past experience.

Mr. PEACOCK:
Hear, hear.

Sir GEORGE TURNER:
And the great knowledge they undoubtedly possess, and that they seem to desire that those who are comparatively new to this movement should express their views without having had an opportunity of hearing from those who have had a much larger experience in dealing with these matters than many of us who are present. But as they have taken that position, then I think it devolves upon those who have endeavored to make themselves acquainted with the facts to place, as far as possible, before the representatives their views with regard to matters of detail which have hereafter to be dealt with. The Hon. the Speaker of New South Wales has said that we ought not to attack our friend Mr. Reid for his past opinions. We have come as
representatives to this Convention, and will have the benefit of hearing the views of other members, and no member ought to be attacked should he see reason to change his views and should he see that the arguments he has had the opportunity of hearing have shown him that his preconceived views were wrong. The very object of adjourning for four months is for the purpose of getting as much light as we possibly can, and if we change our views we are perfectly justified in doing so. I also regret that Mr. Barton, in bringing forward these resolutions, has not dealt with them in more detail than he appears to have considered wise. However, perhaps it is beneficial that these resolutions should be somewhat vague, because we can then pass them unanimously and have no recorded votes. I do not altogether agree with that, for seeing that we have the right to change our views, it would have been better if we had had some distinct statements which would form a foundation on which to base the various arguments. The first consideration which we all ought to keep before us is to accomplish Federation, if we possibly can do justice to the various colonies we are sent here to represent. We ought to bear this fact in mind: we are not legislating here; we are merely negotiating. Whatever we do we have to take back to the respective colonies, and their Parliaments will take opportunities of discussing the matter and suggesting amendments, and then, having discussed those amendments and having given them the full weight they deserve, we have to go back to those who sent us here and ask them if they are prepared to agree to what we have done. We are free and open in this matter, knowing that we are not passing an Act of Parliament binding the people we represent. One point to keep in view is that we ought to deal with all matters in a fair and equitable manner, and take care that we properly represent the States which will form the various parts of federated Australia. We also by some means should represent the people directly as individuals - as individuals combined into one body. So that whatever laws may be hereafter passed by the Federal Parliament will require assent by two bodies - one as representing the States, and the other as representing the people. Therefore I quite agree with Mr. Barton that it is absolutely necessary that we should have two Houses. I do not think it will be argued, or even attempted to be argued, that only one House will be necessary, and therefore I will not bring forward any arguments why we should have two. Then as to the question of the Governor-General, upon which such stress was laid by Mr. Barton, I agree with him that the appointment should be made by the Queen, and therefore I need spend little time discussing that particular portion. With regard to the senators and the members of the House of Representatives, it will be necessary for us to ascer- tain what qualifications will be required by those we have to send there to represent
us. One matter should be definitely and distinctly laid down, and that is that there should be no property qualification required for either of those Houses, or for the electors. With regard to the numbers, I do not know that this is very material. We have before us certain suggestions in the Commonwealth Bill, but I do not altogether agree with these, because the numbers, at all events at the commencement, should be reduced as much as we can, in order that we may make this new body as little expensive as absolutely necessary. It will, no doubt, be wise to provide, as this will be a democratic body, we hope, that those whom we send there, and who will have to devote a large amount of their time to carrying out the work of the Federal Parliament, should receive some reasonable remuneration for the work they will have to do for the people of the colonies. It will be admitted on all hands, I think, that if we are to induce the smaller States to throw in their lot with us we must show that we are not in any way afraid of their action hereafter. That being so, whether it be theoretically correct or not, we must be prepared to allow them to have equal representation in the Senate. If we look at other places we will find, perhaps, that that has not been followed out in its entirety. In America there is an equality; in Canada there is a kind of equality; in the German Empire we find there is not equality; and if we say it exists in Switzerland we must admit it does not exist in the same way that we are prepared to see it here. Although, the larger States might fairly claim to have larger representation in both Houses, seeing that what we must keep before us is the welding of the colonies into one whole, we must be prepared to make some sacrifices. The larger colonies must be prepared to give to their smaller neighbors equal representation in the Senate body. One other important question is how we are to elect the senators and the members of the House of Representatives. With regard to the senators I am not prepared to give the power to the Parliaments of the different colonies to choose those who should represent the people in the Senate. The Commonwealth Bill did make that provision, but when we come to consider the proposal we will find that there are many difficulties. In the first instance, if we gave power to the Parliaments to choose, how is that choice to be carried out? We in Victoria have two Houses. Are we to say to one House, "We will allow you to select a certain number," and to the other House, "We will allow you to select the balance." So far as my view is, I think we should not allow more than six senators from each of the colonies, two retiring every two years, so that our Council would have to elect one senator and our Assembly the other-and we would not agree to that proposal. If we say it is to be a unanimous choice we may have grave difficulties. When one body has
passed certain names as being the gentlemen who should be selected, and the other says, "We will not agree with you in that choice," then there will be a block. In America such difficulties appear to have frequently arisen, and Acts of Parliament have been passed that where such a difficulty arises the two Houses should meet as one body to make a selection. That enables the representatives of the Upper House to combine with the members of the Opposition in the Lower House to over-rule the Government party in that House. I know that might occur in our colony by twenty-four members of the Assembly out of the ninety-five agreeing with the forty-eight from the Council; and so they would be able to over-rule seventy-one members who are supposed in their House to represent the views of the people. There being these grave objections to this proposal, I think it will be unwise to place any provision in the Bill which will enable the Parliaments to make this choice. The argument in favor of it is that we will then have a body which will be the elect of the elected. That is a very good, high-sounding phrase, but is it true? We know that in many of the Upper Houses we have no elected body at all, but a nominated body; and I feel perfectly certain of this, that we will not agree to have a nominated Senate. I am sure it will be very hard to persuade the people of Australia-I know it will be to persuade the people of Victoria-that they are to allow anybody to have the right of electing for them those who are to represent their interests in the Senate. We must, of course, provide some means of dealing with the first election, and that, I think, we can fairly do by saying that as we have thought it well to elect this Convention by the vote of the whole of the people in each colony we cannot go far wrong if the Senate in the first instance be chosen on exactly similar lines. Then afterwards, as the States are to be represented as States, I would unhesitatingly give them the power of determining how their representatives are to be chosen. When I speak of States I must have it distinctly understood that I do not refer to the colony as a piece of land, but I refer to those who possess the States-the people for the time being. And holding that view, I say whatever choice be made by the States should be made by the people of the States, and not by any Parliament that might be elected or nominated.

Mr. REID:

Hear, hear.

Sir GEORGE TURNER:

In our colony I should certainly advocate that while we were fixing the mode of electing or selecting our representatives we should allow the people as the occasion arises to make the selection themselves. That would
be my view; it might not be agreed to by others, but I should certainly think the people should choose either by the whole colony in one constituency or divided into a few large constituencies. Preferably I would say have one constituency. At the same time, to prevent any class being shut out from representation, we should endeavor to arrange such a mode of proceeding as would allow of minorities as well as majorities being represented, so that all classes would have full representation in the House. Then as regards the House of Representatives-perhaps we should not call it the Lower Chamber because its members might not consider it the Lower Chamber-I think in all the colonies, and in all parts of the world, the tendency for some years past has been to enlarge the franchise, so that every person who should be represented has an opportunity of being represented.

Mr. REID:
Hear, hear.

Sir GEORGE TURNER:
It would never do to allow in this Federal Parliament that those representatives who are elected upon the most liberal franchise possible should be outvoted by those who would be elected by a very limited franchise indeed. As this may fairly be regarded as the National House, representing the people of the various States as a nation, we ought to have uniformity in the franchise. We must leave it to the Federal Parliament to say what the franchise should be. At the same time, as some colonies have given the right of voting to those who have not that right in other colonies, it would be unfair and inequitable to take from any who have the right, and therefore whatever uniformity is determined upon we shall have to allow the innovation that no person, man or woman, who has the right to vote shall be deprived of exercising that right, even so far as the elections to the Federal Parliament are concerned. I would go the length of saying that everyone who has the right in the various colonies, if they desire to exercise their franchise, should have the opportunity of doing so. I hold myself strong views with regard to the question of one adult one vote; but even though I hold those views, and even though if that principle were proposed here I would have to vote for it, still I do not consider that this is the proper place to settle the question. I think that each colony should be allowed to frame its own franchise, based upon the franchise of the more numerous House, until we have a uniform franchise framed by the federated Parliament, itself. Under some Constitutions the power is given to frame a uniform franchise. It has been done in Canada, and there is a similar power in Switzerland; but I would not lay down hard and fast lines. There is one point on which I think we are all agreed, that is, in having the
election in the first instance on the qualification of the electors for the more numerous House, and thereby we follow the only course we consistently can, but we ought to make one declaration, and that is that whoever has the right to vote should vote once and no more. That has been determined in the Parliament of Victoria in discussing the late Federation Bill, and it was determined also in the Parliaments of New South Wales and South Australia. I do not know how the other Parliaments dealt with the matter, but the three colonies I have referred to resolved that they should have the principle of one adult one vote, or one man one vote, as the law of the land might be for the time being. Then we have to fix the proportion of representation according to the number of the population. A suggestion has been made of one member for every 30,000 of the population, but I think, in order to reduce the expense, it should be one for every 40,000 or 50,000.

**Mr. BARTON:**

One for every 40,000 will give us the right-sized House.

**Sir GEORGE TURNER:**

I think that would be ample. I should like it to be distinctly understood that, as far as I am concerned, I do not intend that we shall take 40,000 people wherever we can find them and say, "You shall have one member," as in many of the colonies, and particularly in Victoria, if we did so we would do a grave injury to the country and confer a benefit on the towns. I understand we are to allow each colony to fix what may be considered fair constituencies and allot the colonies one member for every 40,000 of their population. We should also endeavor to make some provision for the settlement of deadlocks between the two Houses. We have found in all the colonies the difficulty of settling questions which may come into dispute, and therefore we should endeavor if we possibly can to lay down some reasonable lines to settle the matter. Both these Houses will represent the people of the colony as their servants, and the people will be the masters. When the two Houses cannot agree the proper course would be to let the people settle the dispute. We might try other means of doing this. We might try both Houses meeting together for the purpose of coming to a vote, but I object to that proceeding. If we have to ascertain the views of our electors at present we have to dissolve the unfortunate House of Assembly, whereas the cause of the trouble may be the other House. Let us have power to dissolve both Houses, and let us ascertain the views of the people, and if they can agree they will send back a majority on one side or the other; and if they cannot agree we may have another deadlock. The only true way of dealing with the matter—it is a novel proceeding and it is a proceeding which is not in force in any English-speaking part of the
world, but if we can adopt it in a workable form we should - will be by a
direct referendum to the people; not that we should take a mass vote, but
should ascertain the wishes of the people by finding out whether a majority
of the States are prepared to take a certain course, and see if they contain a
majority of the people. If we do that we will get back to bedrock. The best
mode to settle deadlocks between the Houses will be to allow both Houses
to go back to their constituents, either by double dissolution or referendum,
and ascertain if possible what their views may be; but before taking such a
step it would be wise and proper to see that both Houses have had full
opportunity to confer and negotiate so as to obtain a compromise, and only
when such an effort has failed should they go back to the constituents. The
next important point upon which I desire to express my views is with
regard to the powers to be conferred upon the Federal Parliament, and I
may say here at once that I agree almost entirely with the provisions of the
Commonwealth Bill. I think they have been very carefully framed, and we
may safely give those powers to the Federal Parliament; but we ought to
scan them very carefully and see that we are doing no injustice, because we
must bear in mind that the powers we give to the Federation will be the
foundation upon which the whole structure will rest. While we

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should be prepared to give them every reasonable power, we must see that
these powers do not interfere too much with the domestic legislation of the
States. In Canada and the United States entirely different modes of
procedure were adopted. In Canada they gave the States certain specified
and limited powers, and retained to the Dominion all other powers not
specifically conferred on the States. In the United States they gave limited
powers to the new body, allowing the States to retain power over all
matters which they did not voluntarily give up. That latter course was
followed in the Commonwealth Bill, and it is the course that we, if we are
sensible, will endeavor to carry out in framing the Constitution for the
Federal Parliament. I am prepared to give the fullest possible power of
taxation and borrowing to the members of the new Parliament. We must
take care that when the necessity arises they have the power to do what is
required. If they have not, and if they cannot raise the money, either by
taxation or by borrowing, then when they most require to be strong they
probably will be found to be weak, and I am prepared to trust them. Seeing
that they are elected by ourselves, and represent us, I am prepared to
entrust them with the fullest possible powers to raise money either by
taxation or by borrowing. We must see that the new body has absolute
control over the Customs and Excise duties and bounties. There are other
matters which I need not go into. There is defence and quarantine, and
similar matters, which will be placed under the Federal Government, and, in fact, we may say all matters relating to the external affairs, internal commerce, defence, and general government can safely be placed in the hands of the new body, and the States can retain all the other powers which they now possess. One question, which is one of great difficulty, and to which we will have to give our earnest attention, is how to deal with the railways of the various colonies. We have differential rates, and if we allow these to continue the result will be that any colony through its railways will be able, if it so chooses, to practically nullify, or nullify to a great extent, any intercolonial freetrade which may be determined upon by the Federal Parliament. If this is so, we must have some means to prevent any one colony injuring another colony's interests or acting contrary to the wishes of the other colonies. The mere construction of ordinary lines is a matter that I do not think we could hand over, for it is closely associated with the land policy of each colony. We build our railways, not for the purpose of getting profit out of them, but to open up territory in our own colony, and for the purpose of settling the people on the land. Therefore, I think, we could not, in justice to our colony, hand over to anybody the requirements of any particular part of the colony. If we come to deal with intercolonial lines, that might be on a different footing altogether. As far as their construction is concerned, I have no fear in saying, that, as the whole of the colonies would probably be interested in the building of any particular line, then the whole of them might be fairly consulted with regard to that matter, and, therefore, we might be able to abolish the want of a uniform gauge which exists at the present time, and do away with the unfortunate cut-throat policy which obtains with regard to the railways in all the colonies. Thereby we would be able to benefit the people of the colony, and be able to make large savings which will go far to meet the amounts we will have to raise under this Commonwealth. Another knotty point we will have to discuss is what are to be the powers of the respective Houses with reference to Money Bills. When we speak of Money Bills we use a term capable of the widest interpretation, and in connection with all these measures with which we are familiar the term "Money Bills" is used for the want of a better denomination. With regard to the ordinary legislation, I have no hesi-
purse. In South Australia the Council is allowed to suggest amendments, and, no doubt, the representatives of that colony will give us information on the point as to whether it works well or ill in the general management of their colony. I believe that in Tasmania power is given to the Council to make alterations in Money Bills, but if we look at the Constitution of the mother of Parliaments we will find that the Commons claims to have full control over all expenditure, and imposition of taxation. I will admit at once that the Senate in this new Parliament will occupy a somewhat different position to that occupied by Upper Chambers in our ordinary Legislature. Is the difference so great as to justify us in giving up what is, the law in nearly all the colonies and in Great Britain?

Mr. HOLDER:
A radical change.

Sir GEORGE TURNER:
It is not of sufficient weight or influence to make us do that. I am prepared to listen to all the arguments to show me that my preconceived ideas are not correct, and, if they are of sufficient weight, I will be glad to fall in with them. It is admitted on all hands that the power of initiation should rest with the House of Representatives alone, but to my mind the better course will be to give to the Senate the full power of rejecting any proposal, but not give them the power to interfere with the details decided upon by those representing the people? The Commonwealth is in a somewhat peculiar position in one respect, and it will afford food for reflection for many of us represented here-the lawyers. (Laughter.) We know by one of the provisions that the courts of the Federation have full power to decide as to the validity of all the laws which may be passed. It is said that ordinary Appropriation Bills cannot be amended. It is very difficult for a Treasurer-indeed, I do not know that there is any Treasurer here who will be able to do so-to give us a definition of an ordinary Appropriation Bill, because in nearly every appropriation we have for the year there are matters which may be regarded, as far as that year is concerned, as extraordinary. Then we are asked to provide that the imposition of taxation should be dealt with in one Bill, and that only one matter should be included in the Bill. Therefore, if by some unfortunate slip, both Houses being willing that a certain tax should be imposed, two of a slightly different nature were included in one Bill it might, and probably would, be held by the courts, which are always conservative, that that law was ultra vires. Seeing the difficulties which stand in the way I think it is wise, at all events at the commencement, to see how it will work, and to follow out the old lines on which we have worked, and which have been fairly satisfactory, and to say that there should be that great distinction
between the two Chambers, and that the ultimate power of dealing with all
Money Bills should rest with the House of Representatives alone.

Mr. PEACOCK:
This is the way to get it all out.

Sir GEORGE TURNER:
It is said that we ought to give the power of suggestion. Well, I have had
no experience of that, but I do think if I were a member of the Senate, and,
after fully thinking over a matter and debating it, the Senate had come to a
conclusion and made certain suggestions to the other place, and the other
place had treated them as they, might-and possibly would-with contempt, I
should feel I was much more belittled than if I had only the power of
rejection. Rather than take the responsibility of swallowing what I
altogether did not approve, I would much prefer undertaking the
responsibility of rejection. So far as I can at present see, the right of
suggestion is a power which I do not think it will be beneficial or advisable
to give to the Senate. If deadlocks do arise-and they do and will arise on
financial as on other matters-let them be settled in the mode we have
provided for the settlement of ordinary difficulties. Let the people, as the
final arbiters, say what their representative should do, and no harm can be
done if the people decide, deciding not only as a people, but as colonies.

Sir WILLIAM ZEAL:
When have these deadlocks arisen?

Mr. REID:
And where?

Sir GEORGE TURNER:
They have occasionally and unfortunately arisen in the colony of Victoria.

Sir WILLIAM ZEAL:
When?

Sir GEORGE TURNER:
During the last few years.

Sir WILLIAM ZEAL:
Of what character?

Sir GEORGE TURNER:
Do not let us quarrel amongst ourselves. (Laughter.) We are in
Opposition here apparently. Let us oppose everything from the
Government side - (laughter) - and let the Government quarrel among
themselves if they like, but the Opposition should never quarrel.
(Laughter.) I desire, however, to pass an as rapidly as I can, as it is not fair
to detain the Convention any longer than is absolutely necessary. The next
question to consider will be the constitution of our Executive. There we shall have the Governor-General selected for us in the way referred to by Mr. Barton, and if we start with five Ministers we will have ample for the work to be done, instead of the seven, as has been proposed. They will have to hold office during the pleasure of the Governor-General, which means they will hold office so long as they can control the expenditure of Federation—that is, so long as they possess the confidence of the House of Representatives. We are told that if we have responsible government it will kill Federation, or the Federation will kill responsible government. But are we to assume at once that responsible government will kill the Federation? I am not prepared to do that. I am prepared to give it a trial. If we are to assume that, and say we will have no responsible government, but we will allow this new body to start on altogether new lines, we will be entering on a course of which we know nothing. We have the experience of the other mode of proceeding, and we may very wisely and sensibly commence on this particular line. If we find in a few years' time that these difficulties have arisen, then we have the power to alter the Constitution, but in the first instance I consider that the wisest course to pursue is to allow the Government of the Federation, as in those of the various colonies, to be what we all know popularly as responsible government. Give it a fair trial, and if those difficulties have arisen and responsible government is going to kill or injure Federation, then I am perfectly certain that the people will be only too glad to make the alterations and start on another line which experience will have taught us we ought to have begun with.

Mr. REID:
Hear, hear.

Sir GEORGE TURNER:
We must have Federal Courts of Appeal to deal with federal matters, and also have A Court of Appeal to deal with matters from the Local Courts. The only question is whether we ought to make the decision of the Federal Court final. The right of appeal to the highest tribunal in the land is looked upon as the cherished right alike of the poor and the rich. It may be that sometimes the rich use it harshly against the poor, but whenever possible a man has a right to appeal to the highest tribunal of the old country. That is a link we ought to be loth to break. The links are few now. One link is the selection of the ruler for the time being, and another is the right to appeal to the courts of England, and these are links we ought not to lightly break. Before we adopt any measure which would result in a change in either of these two principles we should give careful and cautious consideration indeed to the whole question. As to
the election of the Governors in the various colonies, I say again that it would be unwise to give the Ministry the power of appointment or the people the right of election. If we gave it to the Ministry they might desire to give the place to a faithful supporter, or to get rid of a dangerous opponent, and in any case the occupant of the position would be regarded as a party man. If he were a Governor elected by the people he might say- "I am elected by all, and your Parliaments are elected by simply a portion of the people," and difficulties might arise between him and his responsible advisers. It would be almost impossible to have a Governor elected by the people. With regard to that particular course, we should again go by a well-known and beaten track, and not start any innovations. One of the most important questions to be dealt with is finance, and at the present time we have not before us the fullest information we could desire, which we possibly could get by the appointment of committees to consider this particular question. We may look upon the question from a particular standpoint, but if we are to have a lasting basis we ought to endeavor to fully consider and grapple with it, and to get a safe foundation. We have to frame a Constitution fair and equitable to all the colonies. We have to see that it will be useful, not only at present, but in the future, so that it must be elastic, and we have also to see that, while we take from the various States ample money, to carry on the Federation, we must leave ample means to the Governments to carry on their own domestic work. That being so, first, of all we have to, look at what liabilities we are going to place on the new body and what revenue we will give them. We will give them Customs revenue, which will be far and away more than sufficient to deal with the ordinary expenditure, and will leave them a large surplus. I do not know whether any of the Treasurers here have had the pleasure of ever having had a surplus, but it is a dangerous thing to have to deal with. If we are wise we will keep that temptation out of the hands of the Federal Treasurer. Many proposals have been suggested which no doubt will be thrashed out here and afterwards. We can start with this one certainty: that none of the colonies can afford to hand over all of this money without getting a large part of it back. We are all too poor to attempt to do that. This course was pursued in America, and there they have such an overwhelming surplus that they find it difficult to decide what to do with it.

Mr. PEACOCK:
Not now.

Sir GEORGE TURNER:
Well, they used to have. We are not in a position to do it, and we may dismiss that particular portion from consideration without giving it much thought. Another mode is that adopted in Canada, where they give certain
subsidies, which in the first instance were looked upon as fixed amounts. What has been the result? Agitation sprung up, and agitation continued, and when the Treasurer brought in a surplus the States thought they ought to get a little more of the plunder, and if we adopt such a system it must necessarily be so here. We know from experience that our municipalities are always pressing the Government to get as much as they can possibly get for their various works, and if we adopt the Canadian system we will find that the States here will follow a similar coarse and make frequent demands for "better terms." The unwisdom of giving to any Legislature the expenditure of money which is not all raised from the people is apparent, and strong pressure would always be brought to bear on the Federal Government to expend the money they had in their hands. I have seen it stated in one place that we should transfer other departments to the Federation—the Education Department, for instance—but it seems to me that when we are dealing with the powers of the Federal Parliament and the departments of the State, we should not deal with them as a financial question, but on the broad question as to whether it is a good thing that the Federal Parliament should have control of various departments. One other matter is that of allowing the Federal Parliament to have this surplus and divide it. If we allow the Federal Parliament to have the surplus we will have extravagance. We allow them to deal with defences and post office matters, and undoubtedly strong pressure will be brought to bear by every colony to have extra facilities with regard to the post offices and extra money spent on defences, and we can easily realise that when the Treasurer has plenty of money to spend there will be a strong temptation to spend it.

Mr. BARTON:

Defence should cost less under the Federal Parliament.

Sir GEORGE TURNER:

It probably will cost less, but that does not alter the position that the various colonies will demand to have extra money spent in order that the money may be expended in them. There will also be the temptation to court popularity by reducing taxation 'while they have money in their hands, and seeing that there are all these objections I have come to the conclusion that we will be making a grave mistake if we allow the Government to have a surplus with which they can deal as they like. There is only one other course that I can see, and that is that we shall take care that the expenditure we place on the shoulders of the new body shall be at least equal to, if not a little greater than, the revenue we are going to give it. We can start with that, and as the revenue will rapidly increase, even if
we are giving the Federal Parliament a little more expenditure than revenue at the start, it will catch up the deficit. To do that I think we should transfer to the new body all the debts of the various colonies. The proposal laid down in the Commonwealth Bill, and which was looked upon as a very good one at the time, but which has since been shown (to be unfair in its incidence. provided for a scheme of payment of expenditure according to population and the division of the surplus on the basis of the amounts contributed by the various colonies. There is much to be said against a division of expenditure on the basis of population. Wine charges on a population basis would be fair and others would be unfair, and the result worked out in figures would show -that some of the colonies would benefit very largely and benefit too at the expense, of the other colonies. We have another proposition, called the accounts scheme, in which it is thought to be wise to keep some sort of accounts of the receipts and expenditure for each colony. On the face of it that seems fair and feasible, but I do not think it would work. We would have to keep distinct records; -we would have to keep a Customs-house on the borders of -each colony, not to collect a tax, but to collect information, because we are told if duty is paid in our colony and the goods are ultimately exported to New South Wales that New South Wales must get the duty which is paid in Victoria. How accounts are going to 'be kept to do that, considering that raw material may be brought into one colony and duty paid on it and then exported after it is manufactured into another colony, I fail to see. How could the proportion of the duty to be taken by each colony be fairly apportioned? I cannot see how correct accounts could be kept, and I may say that I have had some experience as Commissioner of Customs. It would lead to an expensive system of book-keeping, and it would lead to an increase of the expenditure, which would be unwise. There is another objection. It would take away that supervision over the expenditure which is necessary, because if the money is simply collected and the proportion of the expenditure charged to the colony interested, the other colonies, not having the same degree of interest in keeping down expenditure, might agree to any expenditure, reasonable or unreasonable, which the colony more interested proposed to make. Then again, we would have one body-the State-practically finding the money, and another body-the Federal Parliament-expending it, which would necessarily give rise to friction. Again, at any time, supposing a levy had to be made, a State might turn round and say, "You have been squandering the money given you. If you had guarded it properly you could have carried on with the means at your disposal, and we will not give you any
more." That position might be taken up by the Government of the day, or by the local Parliament, who might say, "We will not tax our people to repay you money which has been squandered." On full consideration we will find that that scheme is impossible to adopt, though I think from the figures I have seen the colony of which I have the honor to be one of the representatives would have no cause to complain, because a large amount of duty would be credited to it, and it would be impossible to ascertain the full amount thereof to be credited to the other colonies. Then we must not forget that when we have a uniform tariff it will make a difference in the amount of money to be collected. We will have a certain amount which will have to be raised, but although we raise the amounts now, we raise them on varying tariffs which each colony has adopted, and when we take them all into one we may collect more or we may collect less. It will all depend on the basis on which we frame the uniform tariff, and, therefore, it is not wise to say that the amounts we receive from Customs are so much, and to calculate that in the future it will bear the same ratio in each colony. In the post offices also there are certain services which are charged in one colony and not in another. So that one colony will probably lose and another may have to collect more, but in either circumstance the Federal Government will not receive the exact amount which is being collected at present. Another great difficulty is that we lose all our border duties, as they will no longer be collected. The loss has been put down at from £500,000 to £700,000.

Mr. WISE:
£900,000.

Sir GEORGE TURNER:
There is no doubt the colonies will be able to send goods manufactured in one colony into another, and the colony importing from abroad and at present paying duty will cease to pay. We will be sending from one colony to another a far larger amount of goods than we are sending at present, and where these goods are dutiable at present we will in the future lose that amount. To be on safe lines, we should put the loss down at much closer to a million. There are other matters, such as the interest on the bonded debt to be taken over; and then we will have to provide for all the expenses of the Federal Parliament. We are told that we will save a large amount on our interest bill. Of course eventually we can save a large sum, but we must not calculate that we will save the whole of the difference between £3 17s. per cent. on £180,000,000 and £3 per cent. on the same amount, because in the conversion we will have to pay a large bonus, as we will have to pay the market price of our stock and heavy expenses, and so we will not save the whole of the interest. We will be benefited, however, if we can have this
conversion, as we will be able to have a stock in which trustees can deal, as they will be allowed by the Imperial Parliament to invest in the federal consols which will come into existence. We will also get a better price and a better market value, because when we are floating a loan there will be more customers. If we can make an interminable stock we will make great savings; but, looking at all the circumstances, we must remember that in the first instance the savings will be small, and we will have also to provide a sinking fund. I believe that the wisest course is to have as little disturbance in the State finances as possible, and we should avoid friction between the State and the federal authority. If we can we should devise some means by which the whole of the various debts can be taken over, and that appears to me to be the course we should endeavor to pursue. I do not go the length of saying, nor do I concur with the views of those who say, that it is necessary to transfer the assets. It appears to me that the British moneylenders do not lend us money on our railways or public buildings, but that they lend on the general credit of the colonies, and that being so, there is no necessity to transfer the assets. I do not believe that for this purpose we need do it at all; but for other reasons it may possibly be wise for us to transfer the railways, or to give some controlling power over them. In taking over the debts of the colonies, I feel satisfied, at the present time, that we can easily leave the matter of the assets out of consideration. In all these matters we must try to follow out one rule, and as we know that there are richer colonies and that there are poorer colonies, the former must be prepared to make some sacrifice to allow the latter to enter this Federation. I do not mean that the richer colonies ought to be plundered or give up a large sum. but they ought to be prepared to say, "We are desirous, honestly and earnestly desirous, to have this Federation brought about and to bring our smaller States in with us, so that all of us may reap the benefit. We are prepared, to obtain that larger end, to make some reasonable sacrifice as far as we are concerned." We should speak with one voice, and all communications, either from the Federal Parliament or otherwise, should go through the one channel—the Governor-General for the time being. An important point, no doubt, will be the question of the federal capital, and it is a matter which we dare not attempt to fix at this time. It might be argued that it should be perambulating-wandering-from one colony to another.

HON. MEMBERS:

No.

Sir GEORGE TURNER:
Wandering from one colony to another with no fixed home. I do not believe in that; but I believe if we can leave the question of the uniform tariff to the new Parliament we can safely, and without fear of injustice to anyone, leave the question where the Federal Parliament is to have its home to the Federal Parliament. There is another important point I wish to speak on. We know we must not expect that all the colonies will come in at once with us, and therefore provision should be made in the hope that in the near future colonies which at first remain outside may come in; but we should not make the way either too easy or too strict. This is a matter upon which I am not prepared at the present time to express a decided opinion. It is a difficult matter to be thrashed out. We are going to enter into a bargain, and that bargain should be made binding as far as it should be reasonably binding, but at the same time we must not forget that difficulties will arise in the working of the Constitution, and troubles must ensue. Therefore we should take care that we have some reasonable mode for providing for amendments that may hereafter be necessary. If we make it too rigid we will have a Constitution that will not bend, but will probably break. The States must have a means to ascertain whether amendments may be made, or else we may have a repetition of what has happened in other places, and bloodshed may ensue. If the States desire some amendment which they cannot get the opinion of the other States upon, it may involve their desiring to leave altogether. I do not think we should make a Provision for the States leaving, for once they join they should join for all time, but they ought to know whether an amendment can be made. The Bill which, an a rule, I hold very strongly, provides that any amendment—the slightest amendment—has to obtain an absolute majority of both Houses of Parliament, and then by Convention has to obtain the majority of States. Well, I believe we would be perfectly safe if, instead of having an absolute majority, we left the matter to be decided by a simple majority in each of the two Houses. I would consult the people, but not by the roundabout method of a Convention, for men would be elected to the Convention frequently upon mere personal grounds, not upon the one particular point that might be at issue, but because he was personally popular, or because he was a gentleman who, desiring a seat, was in a position to travel throughout the length and breadth of a colony and advertise himself. If we want to ascertain whether any amendment ought to be made we can ascertain it by referring the matter directly to the people. I would be perfectly prepared to give to the people full control over all these amendments. It may be that if the one House desired to make an amendment the other House would block it. On the other hand neither
House may make any move in the direction of amendment, and in either of such cases, if the colonies think the amendment ought to be made, there is no reason why we should not give to the State Parliaments the power to move in that direction. If a large number of States decide in their respective Parliaments that amendments in the Federal Constitution in a certain direction of the States must agree to amendments. Mr. Barton referred to the Swiss, to whom we can look for many useful lessons in dealing with this matter. If the two Houses under the Swiss Constitution agree that an amendment ought to be made, it is referred to the people by way of the referendum. If a majority of the cantons and a majority of the people decide that the amendment is a proper one it is made. Apart from that, under this Constitution 50,000 inhabitants still have the right to call for the referendum to decide whether a change shall be made. It the referendum decides that there is to be a change, both Houses give up their position, and an election takes place. If the new Parliament decides that the amendment should not be made, the matter will probably rest there; but if they agree as to what should be done, it is only when the people approve of the amendment that it becomes law. This is a simple mode of procedure, and one that we might adopt here. We ought not to give power to the federal body to alter the representation of a particular State unless that State agrees to the alteration. Here we have laid down a principle that the people are to frame the Constitution under which they are to live. Those who are to frame the Constitution should have full and ample power when an amendment is necessary to make such, just as they have the power to formulate the Constitution finally. Those, briefly, are the views I hold with regard to the main principles upon which our Federation should be based. There are many other details I would go into if I had the time, but it would be improper to delay the Convention, and I reserve the full right to myself, after hearing the arguments from those who have had greater experience than I have had in this matter, to change the views I am now giving the Convention. I am here only as a negotiator, not as a legislator, and if I find that other opinions that will be advanced during the debate are more acceptable to the people of Australia,

I will be only too glad to help to frame a Constitution in accordance with the wish of the people.

Mr. O'CONNOR:

I take advantage of the generous suggestion made by members of the Convention of 1891 that those who have not hitherto taken part in these discussions should be allowed some preference. This has emboldened me

[P.50] starts here
to address the Convention at an earlier period in these debates than I had intended. I think it must have struck every member of the Convention that the clear, straightforward, and practical exposition which we have just heard from Sir George Turner is in itself a complete justification of the procedure by resolution. (Hear, hear.) We have been told that these resolutions will lead to evasion of the matters in difference, because it is impossible in the discussion upon them to come to definite conclusions. But I say that the resolutions are admirably framed to carry out the very purposes of this Convention. On many matters which are embraced in these resolutions we are agreed; upon some and not many, though very vital matters, we differ, and we know from previous experience and from the debates of 1891 that these differences are very marked in regard to some of these questions. Why should we bind ourselves down to a decision at an earlier period than is necessary? (Hear, hear.) I quite admit that our procedure should not in any way restrict debate, or prevent the fullest and most direct expression of opinion, but I do say that our procedure should be so devised as to prevent a conclusion being come to by the Convention at a moment earlier than is absolutely necessary. (Hear, hear.) The different views which will be held upon matters of difference no doubt will find full expression here, and it is for the committees who will discuss these matters from every point of view, with the information thereon which has been derived from the debates, to find some mode of compromise—some way out of our difficulties. It will be for the Convention afterwards, when the result of the labors of the committees is put in a concrete form, to express its opinion and place its views upon record in the fullest possible manner. But it does appear to me that it would be unwise to bind this Convention down to any definite expression of opinion at any period earlier than that of the approval of the draft Bill brought from the committees. I propose to go at once to some of the matters of difference upon which it is necessary that the Convention should know our views—(hear, hear)—and I propose to follow the example of Sir George Turner, and to state expressly and as clearly as I can, my views upon these matters of difference. The most important of them, perhaps, is that which was dealt with in the admirably suggestive speech of Sir Richard Baker, yesterday. (Hear, hear.) I may say at the outset that I hold the opinion that equality of representation in the Senate is an essential condition to this union. (Hear, hear.) I say it is so for these reasons. In the first place, the very principles of a federal union are involved in it. And I say, in the second place, that when one considers the inequality of population in these colonies at the present, it would be impossible to expect the different colonies to hand over the work of legislation and administration of federal affairs in their colonies to a body
in which they had not equal representation. I hold that perhaps one of the
strongest reasons which have actuated the people of these colonies in
pronouncing for the federal form of government rather than any other of
the different forms of union is this: that it is necessary for the proper
development of the resources of the different colonies, to the prosperity of
the different colonies in the inchoate condition in which we are at the
present time, that the fullest possible scope should be allowed to the
development of local resources; and, therefore, I hold it to be a basic
principle of this Federation that we should take no powers from the States
which they could better

exercise themselves—we should place no power in the Federation which is
not absolutely necessary for carrying out its purposes. I agree with the hon.
member, Sir Richard Baker, that it is impossible, upon any form of
Federation which has been suggested in these colonies to have an ideally
perfect Federal Constitution. That is practically impossible in any country,
even in the United States of America, where I suppose the largest amount
of representation is given to the States that is given by any Constitution.
There the powers of the two Houses are not equal. The United States
Senate has no power to initiate expenditure. But in regard to our own
Federation the reason becomes much stronger in favor of that limitation
which the hon. member, Sir Richard Baker, says is inconsistent with the
federal idea. I admit at once that the form we now propose will not be an
ideally perfect Federation, but the form we propose is the best form of
federal representation which we can give under the circumstances. And our
aim here is not to form an ideal Federation. It is to form a Federation which
will work, which will stand the stress of time, which will stand the working
of all those diverse pressures and influences which make Federation one of
the most difficult forms of government to carry on anywhere. We must be
prepared for the play of forces in this Federation, and so arrange its
machinery as to give sufficient power to the central authority to secure
cohesion in the Union, and yet sufficient freedom of action to the States to
allow of their local development. Sir Richard has contrasted the federal
form with the responsible form of government Responsible government is
the form of government under which all these colonies have hitherto lived
and grown; and the question arises, shall this Federation carry on its work
on the same method? It has many imperfections, but we should never lose
sight of the principle which I suppose has been better enforced by history
than any other principle—that is, that no Constitution has ever succeeded
which has been a creation rather than a growth; that no Constitution has
ever succeeded that has not been a development of institutions which had
their roots deep down in the hearts of the people for whom the Constitution has been enacted. Now, I say that responsible government is not only the form of government under which these colonies have grown to what they are, but it is a form of government for which we have hereditary preference it is a form of government which has achieved its present position by reason of sacrifices on the part of those who went before us; it is a form of government the working of which we understand thoroughly; and it is a form of government to supplant which by something else which the people do not understand would mean, I think, the introduction of a dangerous experiment. I think we will find it quite a sufficient task to educate the people of Australia to the working of a federal constitution with responsible government; but if we are to attempt to impose this federal form of government upon the people, and a federal form of government which the people do not understand, and which is contrary to their instincts and traditions, we may well tremble for the efficacy and permanence of any institution of the kind. So I take it as a principle that in the work of making this Constitution, whatever form the Federation may take, it must be a form consistent with the working of responsible government. It follows that, although I believe very strongly in giving the States the fullest possible representation, that representation must be such, and such only, as is consistent with the working of responsible government. That necessarily means a limitation in the power of the House which represents the States. I admit at once that the States must be equally represented in the Senate. That is necessary, because otherwise the position of the smaller colonies in the Constitution would indeed be of an insignificant character. Let us look for a moment at the representation in the House of Representatives which the proposed Constitution would give. Taking the representation of the quota of the Bill of 1891, namely, one for every 30,000 persons, New South Wales would be represented by somewhere about forty-two members, Victoria by about forty-one, Queensland sixteen-and in dealing with this question I do not intend to leave out of consideration Queensland, because we all feel that no federal union can be complete which does not embrace the people of the whole continent, and I hope from what we know is going on, and from the cheering message which my friend the Premier gave last night, I hope and believe that before this Constitution is formed we shall have our brothers from Queensland with us. Well, that will give to Queensland sixteen, South Australia twelve, and West Australia and Tasmania five each. Now, in a House constituted like this it is obvious that the interests of the smaller States would be absolutely in the hands of the
larger States, if the voting went by States. Therefore I say there must be some part of the Constitution in which that balance may be redressed. There must be some part of the Constitution in which these small States will have representation as States, because if they have not, even if you assume you can induce them to enter into the Union, you will necessarily have a continual sense of injustice and a feeling that the smaller States are not being properly dealt with, a continual feeling that their interests are neglected in the Federation and even if it were to suit the interests of the smaller States to enter now for some reason into a Federation that did not give them equal representation, it would be creating and leaving in the Constitution itself a germ of unrest which would probably develop into something much more serious. Depend upon it we cannot go wrong in framing this Constitution, and laying its lines, so far as we possibly can, on the ordinary principles of justice, equity, and fairness. And if we lay our Constitution on those principles we must give equal representation to the smaller States. So, for these reasons, I am strongly in favor of equal representation of all the State's in the Senate. Now, I come to the question which is necessarily involved-what powers to give to the Senate-because it makes a very material difference to the interests of the smaller States whether this House in which their interests are represented has co-equal powers with the Representative Assembly or whether it has not.

Mr. HOLDER:

Hear, hear.

Mr. O'CONNOR:

In dealing with that question the principle which must guide us is to give the Senate the fullest possible powers consistent with carrying on responsible government. What does that lead to? In the first place, that it is impossible to have responsible government unless you make up your mind that one House shall be the arbiter of the fate of the Executive Government.

Mr. BARTON:

You cannot carry it on by the confidence of one House alone.

Mr. O'CONNOR:

As Mr. Barton remarks, it is very true you cannot carry on by the confidence of one House alone, but generally speaking you would have the confidence of both Houses in the carrying on of your administration; but if it came to a question of a difference of opinion between the two Houses, it is clear that one House must have sway, and that House must be the House in which the people are directly represented, the House which has control of the purse. For this reason the business of Government must be carried on by an Executive which must have control of the purse and initiate
legislation of a financial character; and as the existence of the Government depends upon the will of the Representative House, it
depends upon the will of the Representative House, it
follows that the other House cannot be given equal powers with regard to
those matters which affect the existence of the Government. Sir George
Turner in his address spoke of the limitation of the power in regard to
Money Bills. Before I go any further in a statement of my views upon that
point I would like to make a reference to his views in regard to Money
Bills. I draw a very strong distinction between different kinds of Money
Bills. We know there is no more fruitful source of discussion between, the
two Houses in our different Legislatures—very often
Sir GEORGE TURNER:
Is that the principle? It is not the principle on which we act.
Mr. O’CONNOR:
I take it that the principle in all the colonies is this: that where a Bill
involving the expenditure of money in order to carry out its purposes even
incidentally, even supposing that it is a Bill necessitating the appointment
of an officer, that officer has to be paid by the Government, and that alone
makes it a Money Bill.
Sir GEORGE TURNER:
They are money clauses incidentally.
Mr. BARTON:
They do not require a message from the Governor.
Mr. O’CONNOR:
According to the provisions of the Constitution generally, it will be found
that there are many cases in which Bills are not for the purpose of
imposing burdens on the people, and yet incidentally become Money Bills.
There may be different rulings in the various colonies as to this question,
but I think it will be recognised that there are Bills which impose Taxation
and incur expenditure, and there are other Bills which merely incidentally
require expenditure to carry out their purpose. I draw a strong distinction
between those two classes of Bills, and while, no doubt, it is very
necessary and right that the House of Representatives only should have the
power, not only of initiating, but of amending all Bills which impose
taxation or appropriate revenue, the other class of Money Bills should be
handed over to the Senate to deal with upon exactly the same footing as the
House of Representatives. I take up this position for the reason that it is
necessary in the carrying on of responsible government that the initiation
of all taxation should be in the hands of the House of Assembly, that all
Bills imposing taxation, and all Bills Appropriating revenue should be
initiated in the House of Representatives, and, further, that no amendment
of any of this class of measure should be allowed to the House which does not control the existence of Governments. For the reason that all these matters, which are absolutely essential for the carrying on of administration, are in the hands of the House of Representatives which controls the existence of Governments, that House alone should have the power, not only of initiation, but of amendment of those Money Bills such as I have described. Of course it is necessary to give the Senate, as representing the States, an absolute veto in regard to Bills imposing taxation and appropriating revenue; but if you give the power of amending such Bills to the Senate, you give them the control of expenditure and appropriation, because our experience of conflicts between two Houses is this: that the power of amendment of Money Bills would mean the power of obstructing the carrying of a Budget until the will of the Upper Chamber prevailed.

An HON. MEMBER:

So you would with a veto.

Mr. O'CONNOR:

No, because if you give a veto that is a matter of policy upon which the Senate takes upon itself to express an opinion, and if it is right or wrong it does not disturb the existing condition of things. There are other matters dealing with this to which I will refer by-and-bye. Therefore I say, so far as the initiation of expenditure and the amendment of Appropriation and Taxation Bills are concerned, I would follow the provisions of the draft Bill. The draft Bill provides-

That there shall be no initiation except in the House of Representatives, and there shall be no amendment to Bills imposing taxation or appropriating revenue in the Senate.

So far I entirely concur with the provision of the draft Bill. It seems to me there is another question which may arise in regard to this matter which requires to be dealt with. Suppose you get to a point where the Senate refuses to carry out the wishes of the other House in regard to some matter of appropriation. Care is taken in the draft Bill to provide that the Bill appropriating revenue shall contain nothing else, so that there will be but one subject dealt with in the Appropriation Bill. Let us assume that in the Senate, by reason of some combination amongst particular States interested, the Appropriation Bill for the year's supplies is continually rejected. There you would have a deadlock in the ordinary processes of government; and I draw a very strong distinction between a deadlock which affects the carrying out of the daily business of Government—indeed
its actual existence—and a deadlock which does not affect these matters. Any ordinary measure, or even a taxation measure, may be thrown out time after time by the Senate without stopping the daily working of the machine of Government; but where the Appropriation Bill for the ordinary annual services of Government is thrown out by the Senate you have a deadlock of a dangerous character. I may be told that these deadlocks do not often happen, and if they do they are easily got over. I know they are got over in the different colonies easily enough, for this reason, that living as we do under a unitarian form of government, the Upper and Lower House are subject to the same public opinion. The public opinion of the country has to decide which is right and which is wrong, and sooner or later that House which finds itself not in accord with the great body of public opinion must give way. I admit in that way difficulties are often solved. But the difficulty in a federal form of government is this: If the Opposition in the Senate is composed of a number of States or a particular group of States holding out upon some question particularly affecting their special interests, the public opinion of those States sustains that Opposition' and backs up the obstructive tactics carried on in the Senate.

Mr. HIGGINS:

Have they no responsibility?

Mr. O'CONNOR:

They are not directly responsible to the people. They are responsible to the States.

Mr. BARTON:

They are responsible to the people of the State.

Mr. O'CONNOR:

Their particular responsibility is to the State as a State. I am only dealing with a matter in which State interests are specially involved.

Mr. PEACOCK:

Hear, hear.

Mr. O'CONNOR:

When State rights are spoken of a great deal of confusion often arises, because of the use of that expression in a loose way. State rights are expressly provided for by the Constitution, but it is in regard to State interests in federal affairs that the difficulty arises. I will give a concrete illustration. Suppose, for instance, it is a matter of defence, and the question arising whether a large sum of money is to be expended on the eastern coast or the western coast. There may be a group of States which say that the money is to be expended on the eastern coast, while the other States express the
opinion that it ought to be disbursed on the western coast. I assume that a combination of States in the Senate holds out for the expenditure being on the western coast, or, if you wish, on the eastern coast.

Mr. FRASER:
Or not at all.

Mr. O'CONNOR:
In regard to that condition of things, the public opinion which takes up the view of either the eastern or the western States is not the public opinion of the whole of Australia, but the public opinion of particular localities interested, which public opinion would enforce and sustain the party of obstruction in the Senate; therefore there is not the same possibility of an early solution of difficulties as there is in the case of a unified form of government. With reference to the ordinary deadlocks or disputes between the two Houses, there can be no question that they ought to be left to be settled by a spirit of compromise of the two Houses and the public opinion of Australia. (Cheers). On questions of appropriation for the ordinary annual services of government, or questions which affect the turning round of the machinery of the government day by day, it would be unwise to trust to matters of that sort being settled by the public opinion of the people of Australia. I should not deal with this question in this way only that the Bill of 1891 provided that the appropriation for the ordinary annual services for the year should be contained in one Bill, and that nothing else should be contained in that Bill. I am strongly opposed, in general, to what may be called mechanical methods of solving difficulties between the two Houses. But where the existence of the working machinery of government depends upon the carrying of the annual appropriation, it would be an unwise thing to allow for any considerable time the machinery to be stopped by a deadlock on the question of appropriation; therefore it is that I should propose a very different way out of the difficulty to that suggested by Sir George Turner. My view is that there is only one kind of deadlock we should provide for, and that is the one I have dealt with. There should be provision that if the Senate rejects a Bill in one Session it will be sent up next Session. If it is then not passed the two Houses should sit together and pass it.

Mr. FRASER:
Either pass it or reject it.

Mr. O'CONNOR:
It seems to me that that would be one way out of the deadlock. If a majority decide that it is not to pass, well and good; but the probabilities are, and you may assume, that a majority of the Assembly are in favor of passing it.
Mr. ISAACS:
With or without amendment?

Mr. O'CONNOR:
Without amendment. In that way you have both Houses working together. I admit that it might eventuate in the carrying out of the will of the minority in the Assembly. It might be, for instance, that a minority in the House of Representatives who are unwilling that that kind of appropriation should be made may be joined by a majority in the Senate, and that both together they may disapprove of the expenditure. We cannot help that. It appears to me you must leave it to the majority, whichever way they may decide.

Mr. PEACOCK:
A nice position for a Government to be in!

Mr. O'CONNOR:
I do not see what other way there is out of the difficulty.

Mr. REID:
They will get out of it.

Mr. BARTON:
Perhaps sometimes the public interest is superior to the position of a Government.

Mr. O'CONNOR:
I should certainly be altogether opposed to enacting anything in the Constitution which would make either House at any time merely subservient to the purposes of any Government. (Hear, hear.) The public interest stands higher than that. My only reason for proposing this mechanical method of getting rid of the difficulty is that it is to the public interest that the country should have the question settled one way or the other.

Sir GEORGE TURNER:
You see the effect of that. A minority would put the Government out.

Mr. O'CONNOR:
Exactly; that may be so. The question however is whether it would not be better in the interests of the country that the Government should be put out in that way than that a war should take place between the two Houses which would land the country in a very serious difficulty.

Mr. PEACOCK:
How does that square with your views as to responsible government?

Mr. O'CONNOR:
Then a new Government would be formed, which would be able to go to the country.
Sir GRAHAM BERRY:
Go to the country at last.

Mr. O'CONNOR:
Of course. But before you do it you must arrive at some way of getting rid of your legislative deadlock. What is the other way proposed by Sir George Turner? I do not know whether he intends his solution to apply generally or only to questions of this sort. His proposal, though commendable from the point of view of its simplicity, would be very costly and very undesirable. Sir George Turner proposes that when there are difficulties occurring between the two Houses there should be a dissolution.

Sir GEORGE TURNER:
A dissolution or referendum.

Mr. BARTON:
The referendum as a Court of Appeal!

Sir GEORGE TURNER:
A referendum preferably; a dissolution if I could not get the referendum.

Mr. O'CONNOR:
In regard to a dissolution, it appears to me it would be quite impossible in the first place to say that for every difference of opinion between the two Houses there should be a dissolution.

Sir GEORGE TURNER:
I would not say that.

Mr. O'CONNOR:
And if his proposal involves a dissolution of the Senate also I am altogether opposed to it. (Hear, hear.) I believe one of the safeguards of the position of the Senate, both in regard to its steadying and controlling influences as a Second Chamber and in regard to its duties as representing the State, is that it should have the quality of permanence as far as possible. I believe it should be brought into direct touch with the people by continual renewal of its members by some such process as that provided in the draft Bill, but I certainly think it should not be in the position that a Government at any time it thought fit might dissolve the Senate and send it about its business. That would be placing a power in the hands of a Government for the time being which it should not possess over the States forming the Federation; so that this proposal to dissolve, if it involves dissolving the Senate, is one which I think is inconsistent with the true principles of Federation, and which it is not necessary to adopt. In regard to the referendum, I think that it is a kind of expedient which may be all very well in a small country like Switzerland, but as applied to the complicated kinds of questions which occur in our politics it would be a very

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unsatisfactory method of solution. I challenge anyone who takes that view to mention any measure in regard to which the public can give an intelligent and decisive opinion, "yes" or "no," without qualification. In nearly all cases the differences of opinion between the two parties who take opposite sides in a controversy are differences of opinion as to applications, as to methods, and as to a number of other things. It is very seldom you have differences so complete upon the principles of a measure that they can be settled by a "yes" or "no."

Dr. COCKBURN:
This question is the greatest of all, yet it is subject to the referendum.

Mr. O'CONNOR:
So it is that, with all questions which are the subject of differences of opinion between the two Houses, it is impossible to arrive at a satisfactory conclusion by the referendum. As to all other questions, there need be no method provided for settling conflicts between the two Houses; they should be able to settle their differences by that spirit of compromise which has actuated Houses in other places. I have dealt now with the question of the composition of the Senate as between itself and the federal authority. A question has arisen with regard to the mode of election. The mode of election provided by the draft Bill of 1891 is open to many objections, and one of the principal is that alluded to by the last speaker. But in other ways it is objectionable because it appears to me that you do not always in that way, by the election of both Houses of Parliament, however you may arrange it, get at the true expression of the opinion of the country, and it does not always result in the choice of the best men. Two results would follow the adoption of the method of popular election by the colony as one constituency, or by large constituencies. The first would be that your Senate would be a much more powerful body, because it would rest directly upon the vote of the people.

Sir GEORGE TURNER:
And the responsibility as well.

Mr. O'CONNOR:
It would have, also, a responsibility directly to the people, which would be another advantage. It would have the feeling of responsibility, and also the strength which that position would give, and in addition to that it would also result, I am confident, in the choice of better men than can be obtained under the system proposed in the draft Bill. Coming to the House of Representatives, I shall state very shortly my views, because I do not wish to detain the Convention at great length. Inasmuch as the House of
Representatives represents the people as a whole, it appears to me that the mode of choosing those representatives should be left in the hands of the Federal Parliament. That must be done ultimately, but until the Federal Parliament has the opportunity of passing the measure it would be a very convenient thing to allow elections to go on upon the franchise of the popular House in each colony-to go on as provided in the draft Bill.

Mr. BARTON:
And according to the present suffrage?

Mr. O'CONNOR:
Yes.

Sir GEORGE TURNER:
And allow plural voting?

Mr. O'CONNOR:
Of course you must have some method of electing your first Parliament. For this Convention to undertake the work of harmonising each of the franchises of the different colonies would be an endless and unwise task. I say that for the first Parliament we may very well leave the mode of election to be that which is the popular mode in the different colonies.

Mr. PEACOCK:
The Act under which we sit sets that out.

Mr. O'CONNOR:
One of the first works of the Federal Parliament would be to enact some form of uniform franchise for the whole of the colonies, and I have no doubt it would be on the broadest possible basis. I pass on now to another question which has been dealt with by the speaker who has just sat down, namely, the question of the amendment of the Constitution. I hold a very strong opinion that an amendment of the Constitution should not be rendered an easy matter. I think the analogy from the method of amendment allowable in the local Legislature is altogether a misleading one. The local Legislature is made by the people of the State, and the people of the State only have any concern in it, but the Federal Legislature is a Legislature founded upon agreement come to by the different States and upon certain terms; and I say we should not allow those terms to be altered except after going through a very solemn process. It should not be in the power of the federal authority, or even the people of the Federation, upon any chance vote or temporary excitement, or the prevalence of any particular kind of interest, to bring about an alteration of the Constitution. It should be a solemn matter, which could be done only when by proper methods it had been ascertained that it was the will of the great majority of the thinking people of the Federation that an amendment should be brought
about. That end can be best attained by surrounding the matter with those safeguards which are provided in the Bill. I should be sorry to see that amendment could be made easier than is provided for in the Bill. I should like to say a word now with regard to the Federal Court of Appeal, and I hope I may have the indulgence of the Convention in speaking at somewhat greater length than I intended, because I think it is a matter of much importance that our views should be freely given in regard to questions likely to be in controversy. In regard to the Court of Appeal I take this position: I think we have at the head of the judicial system in the colonies at the present time perhaps the most learned and the highest court of justice that exists anywhere, and we should not lightly give up the privilege of having our cases adjudicated in that court. I quite approve of the provision of making the Federal Court of Appeal accessible to suitors in the different colonies, but I would not make resort to that court obligatory. I would still preserve the right to go to the other court.

Mr. DEAKIN:
To either, but not to both.

Mr. O'CONNOR:
Yes; to either, but not to both. The Court of Appeal here would have many advantages. It would be a Court of Appeal that might be an easier and cheaper process than appeal to the Privy Council.

Mr. ISAACS:
Which litigant is to choose the Court?

Mr. O'CONNOR:
The appellant. The only person who has the right of choosing the tribunal is the plaintiff.

Mr. HIGGINS:
Very small choice, as a rule.

Mr. O'CONNOR:
The plaintiff's choice undoubtedly is limited, but I should give him the privilege, if he thinks fit, to go to the Privy Council in England.

Mr. GORDON:
If he has the money.

Mr. O'CONNOR:
If it comes to a question of money, I do not really know whether a Court of Appeal in these colonies would be cheaper than a Court of Appeal at Home. I think the hon. member will recognise that what makes the appeals expensive is not the process of the court, but the expenses necessarily incurred in employing gentlemen like ourselves who, unfortunately, have to live by these courts.

Mr. BARTON:
Why unfortunately?

Mr. O'CONNOR:

I doubt very much whether the processes in that direction would be cheapened by the change. But I do say that we have in the English Court of Appeal a very high tribunal—a tribunal which is probably the highest of its kind in the world—a tribunal which has the advantage of knowing nothing whatever of the litigants, nothing whatever of the local circumstances. It is an advantage to have a tribunal like that, and I would have a strong objection to give up our rights of appeal to that tribunal unless we are to have strong advantages on the other side. I propose that for anyone who thinks fit to appeal to the Federal Court here it, should be the final court to both parties; but if he chooses to appeal to the higher court, he should be allowed to do so.

Mr. GORDON:

And drag the other man after him.

Mr. O'CONNOR:

You must drag the other man somewhere. It is a question whether it is wise to throw up altogether our right to appeal to one court for the sake of obtaining the right to appeal to another.

Sir GEORGE TURNER:

Would it not be better to allow the appeal to the Privy Council by the consent of the court here or by special leave of the Privy Council?

Mr. O'CONNOR:

It might be done.

Mr. BARTON:

Would it not be better to limit the class of cases in which you would allow a man to take the case to the Privy Council?

Mr. O'CONNOR:

Yes; that too might be done. We might have limitations, but we should not give up entirely our right of appeal to the Privy Council. I have dealt with some of the most important matters under the head of the second resolution, about which it appears to me there is likely to be any controversy. I have not for a moment attempted to deal with all those questions, nor do I pretend that I have dealt with them in any way exhaustively, but it appeared to me that it would bible, come to know each others' views on these important questions. I propose now to deal shortly with some matters which are included in the first portion of the resolution, and which really involve the basis of Federation. The most important of these questions are involved in the first and fifth sub-heads of the resolution, and which embrace the consideration of how the railways of the
Federation are to be treated. It will be admitted at once that the acquirement of the railways by the federal power is not necessary for Federation. Let us remember that the Australian railways occupy an entirely exceptional position. If the railways of the several colonies were in the hands of private companies, would it be contended that in order to have a complete Federation they would have to be acquired by the federal power; but in view of the necessity that traffic and intercourse, between the colonies shall be absolutely free, it becomes necessary to consider what shall be done with regard to the railways. We may take several things as being conceded. In the first place, it is idle to speak about trade and intercourse between the several colonies being free if the rates remain as they are at present, and I think it will also be admitted that all of us are prepared to recognise that in this Federation the interests of any State in the Federation, or any group of towns, are not to be favored, but that every portion of Australia is to have the benefit of the Federation, and that trade is to be permitted to flow in those channels in which it naturally would flow by geographical conditions. Any interference with that course of the trade through differential rates is for ever to cease as soon as we have federated. The only question is as to the best way to bring that about. Some persons have advocated the taking over of the railways by the Federal Government. I am opposed to that. I hold the view that however desirable it might be to have an ideal administration of the railways under our new Constitution, we cannot leave out of eight the present condition of things. We must remember that on this continent, taking it generally, we are without any great waterways. The railways are the roadways of the colonies; they are the only channels of communication, and they are built having regard to local requirements and the development of localities, and from this point of view they will always be better managed under a policy which has local things and local requirements only in view. Now, I suppose examples will occur to anyone who has thought the matter out that, in regard to a large number of railways the question of federal convenience and federal interchange of traffic is of no concern. The great bulk of the railways were laid for the purpose of advantaging localities, and for that reason it appears to me there is no necessity to place upon the shoulders of this Federation the enormous responsibility and the very heavy duties which would be involved in taking over these railways, because it means in the first place taking over some £110,000,000 worth of property; it means managing this great property; it means controlling an immense army of public servants who would come under that control; and although you
might to a certain extent relieve the State of the responsibility of controlling the servants by a system of commissioners, such as prevails in Victoria, New South Wales, and other colonies, at the same time that only to a certain extent minimises the evil, and I think it is well to prevent as much as possible the Federation having upon its shoulders the care of any larger number of public servants than is absolutely necessary. I therefore submit that, unless a distinct advantage is shown in the taking over of the railways, unless it is shown that we cannot carry out the object we have in view in some other way, there is no necessity to take this very strong step of acquiring the railways. No doubt as time goes on perhaps it may be necessary for the Federation to construct lines which will be entirely upon the principle of federal convenience. No doubt power may be given to the federal authority to take over railways, and the construction of railways, but, of course, only with the consent of the State concerned, and with an equitable adjustment of value of the line affected, the money spent upon it, and the distribution of profits. But we may only concern ourselves with the existing state of things. What we really want to get at is how are we to arrange that these railways are to be run so that every portion of the Federation shall profit by its geographical position altogether irrespective of railway rates. That is to say, that the rates shall be arranged so that no colony shall be advantaged or disadvantaged by being served by one railway system more than another. The main difficulty is how to bring this about and yet preserve the control for local purposes, in the same way as now. Hon. members who reflect for a moment on the condition of things in England and America will see that there is no difficulty in dealing with this matter. In England, Ireland, and Scotland we know the railways are built under concessions given by the State, which has always placed restrictions against the rights being used in a particular way. Railway companies are not allowed to use their rights so as to prejudice or benefit one particular locality over another; and it has been found necessary to give power to the State to exercise its authority in seeing that the railways are constructed and run in such a way as to reasonably serve every person likely to use them. In America concessions are given in the same way and with the same limitations, but the difficulty has been found in practice both in England and America, in the absence of some authority, which has to decide as to the mode in which rates should be regulated, and whether localities are being advantaged or not by the running of the railways. That led to the establishment of an Inter-State Commission in 1887 under the provisions of the United States Constitution, which have very much the same purport as sections 11 and 12, Part IV. in the draft
Bill. I have always held the opinion that sections 11 and 12 give ample power to the Federation to prevent the imposition of differential rates, which have obstructed the free passage of trade through all the colonies.

Sir GRAHAM BERRY:
That has been disputed.

Mr. O'CONNOR:
I am only mentioning it for the purpose of showing that it was under consideration when the Bill of 1891 was last considered, but unfortunately, when the measure was discussed in committee, I noticed that diverse opinions were expressed concerning these clauses.

Mr. GORDON:
Hear, hear.

Mr. O'CONNOR:
If there is one thing more than another we should endeavor to avoid it is the admission of doubtful language into this Constitution. If we are going to make up our minds that there is to be some provision that railway intercourse should be free of its present restrictions we should say so in language which would be unmistakable, and be free from ambiguity. Under similar provisions in the American Constitution a federal law was passed in 1887, which gave into the hands of a powerful Inter-State Commission the control of all questions relating to inter-state communication by railway, the Commission being also a tribunal. It gave to this tribunal first of all the duty of looking into the affairs of all the railway companies, examining their rates, and prohibiting the imposition of rates which gave to one State an advantage over another State. It contained a number of other powers—very large powers—which it is not necessary for me to enlarge upon at present. Although the exercise of these powers involved the abrogation of rights existing between railway companies, they scarcely interfered with the carrying out of the existing contracts, and must have very largely interfered with the value of investments in these railways, the advantages of the powers given to this Inter-State Commission were so obvious that the people of the United States passed it, while the whole thing worked in such a satisfactory way as to bring about equally satisfactory results. In England it was found necessary to establish a Commission very much on the same lines, and the Railway and Canal Traffic Act, which was passed in 1878, and provided for a Constitution on a similar basis. The Lord Chief Justice or the Lord Chancellor—I am not sure which—is one of the members, while a high dignitary in Scotland is an ex officio member, and there are other members possessed of expert railway knowledge who are appointed by the Government. This Commission is very much on the lines of the body established in America.
It sees that no advantage is given to the railways or to the inhabitants of one locality over those of another; and in that way it preserves the running of railways right through the United Kingdom on continuous lines, yet by different companies, in such a way that justice is done to every portion of the country served by those lines; and it takes precautions that one locality does not get an advantage to the detriment of another. Now, I can see no reason why we should not deal with the question on exactly the same lines. I can see no reason why in the first place we should not place in our Constitution a distinct prohibition against anything like the imposition of differential rates for the purpose of advantaging one colony over another or one locality over another. We should make provision to prevent preference being given to the ports of one colony over the ports of another colony, and we should make it plain that in the running of our railways there is to be no disadvantage accruing from residence in a particular locality or a particular colony. If a provision of that kind is placed in the Constitution, under it no doubt a Commission such as I have sug-

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gested may be appointed, and that Commission should be charged with the duty of administering that law, and also charged with a duty of another kind which will be very important in carrying on the railway work of these colonies. It will be admitted, perhaps, that one of the greatest difficulties in dealing With the question of railway communication hitherto has been the difficulty of arriving at any conclusion in regard to the break of gauge. That question has been agitated between the Governments of the different colonies and the Commissioners of the different colonies for many years, and they have never been able to arrive at a conclusion upon it. I think we may fairly hope that if the duties of this board are made of an advisory nature in regard to questions of that kind we shall very shortly have some method by which, upon a fair and equal distribution of the expenses of the operation between the different colonies, we shall have some solution of this difficulty of break of gauge. No one who reflects on the immense importance—not only for trade purposes, but for military purposes—of having a line of railway without a break can undervalue the importance of some such object being effected. My view of dealing with this railway question is that we might deal with it very much on the same lines as the railways in the United States and England are dealt with, and that this question of the transfer of railways, involving immense—in fact, unknown—responsibility, might very well be left alone. The principle which should guide us in this, as in all other matters, is that we should take all the responsibility that is necessary, that we should shrink from no responsibility which is necessary, but that we should take none upon
ourselves that is unnecessary, and the objects and purposes of which are not absolutely essential to the Union. I should like to make a short reference to the financial question, which has been dealt with so clearly by Sir George Turner. I do not pretend for one moment to have the ability or the experience to express an opinion in controversy to what he has said. But I would like to say that, in regard to the consolidation of the public debts, it has always appeared to me that that consolidation would be of very little advantage to these colonies unless they can secure by such consolidation a very substantial reduction in interest. And it is a question to be very seriously considered whether the public creditor would regard it as an advantage to have the whole of the debts of these different colonies—practically secured as they are now by public works in the different colonies—handed over to a Federation which will have behind it the credit of the whole community, but which will not have those substantial guarantees of interest-producing assets.

Sir GEORGE TURNER:
One stock instead of seven would be the main thing they would look at.

Mr. O'CONNOR:
Of course I see the advantage of that; but, on the other hand, the question of the value of the security will be taken into consideration. That, however, is a matter upon which we shall rely very largely on the information we get from the financial committees, and from discussion in those committees. It is one of the most important questions we have to consider, and one of those upon which most of us feel diffident about expressing any definite opinion until we obtain that further information. I quite agree with the principle laid down by Sir George Turner, and that is that you must place in the hands of the federal authority the fullest powers of taxation. You must trust it with the fullest possible powers, and trust to the exercise of that supervision and control which the people must always exercise over any Government constituted such as ours. It is also obvious that, having handed over the full power of collection of Customs to the federal authorities, they must have a very much larger sum than they can possibly dispose of.

One of the disadvantages pointed out by Sir George Turner was the holding of a large balance, and the trouble then would be in the distribution to the various colonies. But I have no doubt that that distribution will take place equitably. I have expressed my views fully and as directly as possible upon the questions likely to be traversed. I feel sure that other members of the Convention will follow the same course. No doubt in the course of this
discussion differences of opinion, and very strong differences of opinion, will be observed, but I hope that that spirit of compromise, which I am sure animates every member of this Convention, will be in evidence.

Mr. SOLOMON:

Hear, hear.

Mr. O’CONNOR:

The sense of the heavy responsibility of the great work we have in hand, and the feeling that that work is only to be accomplished by the exercise of the utmost possible spirit of compromise in our deliberations, will enable us to arrive at some definite conclusion upon these matters of difference. The work we have been sent to do here really involves that, and I have no doubt that by the time we get into Committee the work of the committees themselves, both by discussion in this chamber and by personal discussion, will have become easy. As to the final results, of course it is hard to foretell; but if the spirit which animates this gathering only continues to the end, the result will be a compromise of those difficulties which will result not only in a firm enduring basis of union, but in a Constitution which will be not only worthy of the federated Australia, but also of acceptance by the people who have sent us here to do this work. (Cheers.)

Sir EDWARD BRADDON:

I heartily indorse the admirable advice offered to us by the distinguished gentleman who is the Leader of this Convention that we should approach this subject with the full determina tion to accomplish Federation, and not with any idea of carrying out any preconceived and hide-bound notions of our own. But in doing that I think we have to bear in mind that, without giving regard to any notions of our own, we have to consider those notions which exist very largely in full strength in some of the States which we hope to see parties to this Union. We have, to accomplish Federation, to provide such a Constitution Bill as shall be acceptable not only to one or two or three of the States, but to all the States collectively. We are sent here by the people not to pass a Constitution, but to draft one which shall be tendered to the people for their acceptance or rejection, and we shall fail entirely in our mission, as I see it, if we have to offer to them a Constitution Bill which three or four of the colonies will utterly decline to have anything to do with. One of the points of danger that I see in our course is that we may make this Constitution Bill unpalatable to the people and the smaller States by reason of hesitation as to giving the Senate such full power as the smaller States demand for the preservation, not only of their State rights, but of their State interests. We have been told, and I think it is generally conceded, that the Senate is to have equal representation, that every State entering the Federation is to be represented by an equal
number of members; but that, I think, will be of very little use to us of the smaller States if it is to be accompanied by a merely empty power which will serve no purpose whatever. It is claimed by the leading representative of Victoria that the Senate shall have no power whatever in amending Money Bills. In some of these colonies, at any rate in Tasmania, rightly or wrongly, the Legislative Council claims the right and exercises the right of amending Money Bills, and are we to deny to this Senate the power which is used and exercised not infrequently, rightly or wrongly - I believe wrongly - but which is exercised by the Legislative Council? I think that if we recognise the very broad distinction between this Senate and the Legislative Councils, and the difference of the relations between the Senate and the National Assembly, as compared with the Legislative Councils and the Houses of Assembly, we shall see at once that there is not any sort of comparison which should lead us to confine and limit the powers of the Senate as we would desire to limit and confine the powers of the Legislative Councils. The smaller colonies will have as their sole security against infringements of their rights and their interests that Senate in which they will have equal representation, and in which I claim they ought to have very considerable power. I believe, Mr. President, that even in the Convention of 1891 a larger measure of power would have been conceded to the Senate but for the fact that it was then claimed that the members of the Senate should be chosen by the Parliaments of the different colonies; and inasmuch as in two Parliaments of the continent of Australia the Legislative Councils are nominee bodies, the objection prevailed against giving a Senate chosen by a nominee body any large measure of power. I think that we are now agreed—that even Victoria, through the voice of her Premier has agreed—that the Senate shall be elected by the people on such franchise as may be prevailing in each particular colony. That being so, the Senate being equally representative of the people with the other branch of the Federal Legislature, there is no reason to my mind why we should hesitate to give very considerable power to it. On the question of the franchise, I hope we shall see the Senate made an elective body, elected by each of the colonies as one electorate.

**Mr. REID:**

Hear, hear.

**Sir EDWARD BRADDON:**

And on the popular franchise, the franchise in each colony of its House of Assembly. As regards the House of Representatives, or National Assembly, while I quite recognise the force of the argument that the franchise of that House should, be committed to the Federal Parliament, I
think we have to bear in mind the fact that the franchise passed by the Federal Parliament might very well be one which would come into conflict with the local franchise for the election of our House of Assembly, and, unless that be regarded as an immaterial difficulty, the better course would seem to me to be that each colony should in the matter of the election of its representatives to the House of Representatives elect them on its own franchise, whatever that may be. And on this point Sir Samuel Griffith, who is a distinguished advocate of Federation, has written very strongly, and, as I think, very convincingly. He concludes his arguments against a federal franchise with this paragraph:—

The history of the United States affords at least one example of the working of the system of non-interference. An attempt to impose a uniform franchise as a condition of Federation would in all probability seriously delay its accomplishment, and a still more serious objection—sow the seeds of future dissension and discord.

Sir GEORGE TURNER:

Was he not speaking then of putting it in this Convention Bill?

Sir EDWARD BRADDON:

I read him as speaking generally on the federal franchise. Whatever the local franchise may be, whether it be the exceedingly broad one of South Australia or the sufficiently liberal one of Tasmania, one can very well understand that the people of each colony would desire to have the right reserved of maintaining its franchise if in its wisdom it thought proper to do so. In Tasmania we have a franchise which does not extend to women, but which gives a vote to every man who deserves it.

Mr. ISAACS:

What is the test?

Sir EDWARD BRADDON:

A vote, is given to every man who deserves it, in this sense—that he is a taxpayer, that he is a man who is his own breadwinner, and that he is earning sufficient to keep himself. He is entitled to vote, though he might only contribute to the taxation through the Customs, on the principle that all taxpayers are entitled to a voice in the representation of the colony.

Sir GEORGE TURNER:

How many votes can one man have?

Mr. REID:

As many as he deserves.

Mr. ISAACS:

The theory apparently is that he deserves as many as he can get.
Sir EDWARD BRADDON:

One man by the extent or location of his property may have a dozen votes.

Sir GEORGE TURNER:

Hear, hear.

Sir EDWARD BRADDON:

But it is not because he deserves a dozen votes, but because, by accident, his property happens to be distributed over different electoral districts, that he has a plurality of votes. It is a difficulty which could very readily be got over, and it has been got over in the case of the election of representatives to this Convention, by treating the colony as one electorate. Sir George Turner, in regard to the Senate being restricted to the power of veto in respect to Money Bills, said that no such difference between the Senate and Legislative Council would justify this. Well, I hope that on further consideration of this matter he will see that there is such a difference as will justify a very considerable difference in the treatment of the Senate as compared with the Legislative Council; and I hope also that he and others who are earnest in the cause of Federation, even though they feel as Sir George Turner has spoken in regard to the limitation of the Senate's power, will bear in mind that the smaller colonies have to be induced to come into this Federation by some assurance at the outset that their rights and interests will be safeguarded through the Senate. For my own part I am convinced that we may trust ourselves with perfect security to the National Assembly when Federation is accomplished, and we have this large Assembly representing the Commonwealth when all local jealousies and all parochial interests and feelings will die out, and there will be an honest and loyal endeavor on the part of every member, or at least a majority of the members, of the Assembly, to deal fairly with all States, large or small; but it may not be easy to persuade the people of the smaller colonies to accept or reject this Bill, and convince them, as I am convinced, that it is perfectly safe to entrust ourselves to the hands of the National Assembly. They know, as we all know, that in the National Assembly the two large colonies will outvote the smaller ones by something like two to one, and that any one of the two colonies, New South Wales or Victoria, will have just as full a representation as the four smaller ones collectively.

Mr. DOUGLAS:

It is more than that. They have seventy-seven to thirty-four.

Sir EDWARD BRADDON:

We have, I think, to give the fullest consideration to that, and to be actuated in all our dealings with this great question by a desire to earn the confidence of the people and to ensure the inclusion in the first Federation
of all the five colonies on the continent and Tasmania. We must give some
consideration to the question of meeting the difficulty of deadlocks
between the two Houses. Sir George Turner prefers the referendum, and I
think myself it is a very admirable method by which the popular voice can
be obtained when the two Houses of a provincial Parliament differ on
matters of great public moment. For many simple questions that arise in
our local Parliaments the referendum, I have no doubt, is the best solution
of a difficulty; but the referendum will not do at all in the case of a
deadlock between the Senate and the House of Representatives in the
Federal Parliament. If it were made a referendum to the people it is
obvious that the smaller States must go to the wall.

Mr. ISAACS:
No.

Sir EDWARD BRADDON:
The great preponderance of population is in the larger colonies, and a
referendum must go against the smaller colonies.

Sir GEORGE TURNER:
I do not propose that.

Sir EDWARD BRADDON:
If I understand it, the alternative is to have it of the States and also of the
people of the Commonwealth.

Sir GEORGE TURNER:
There is one referendum, but you must have a majority of both.

Mr. DOUGLAS:
Victoria does not know what referendum it means.

Sir EDWARD BRADDON:
That appears to be the case.

Mr. O'CONNOR:
That will bring you back to the same difficulty as before.

Mr. BARTON:
Then you would have the same opinion as the representatives.

Sir GEORGE TURNER:
Then the dispute would be in favor of the objectors. The objectors would
succeed.

Sir EDWARD BRADDON:
I hope very sincerely that Sir George Turner will be able to show us a
method that we can adopt, and which will commend itself as being an
effectual solution of the difficulty. At present, although I am in favor of the
referendum on general principles, and see how it can be wisely adopted
upon simple questions, when people can answer "aye" or "no," I do not see
that the referendum will get us out of a difficulty in the case of differences between the Senate and the House of Representatives. The alternative of Sir George Turner is a joint dissolution, and if we are to adopt, as I think he advises, our present constitutional form of government, a joint dissolution would not be the proper method to take in that particular case. Another idea has been suggested, and an idea that would suggest itself naturally to everyone, and that is of both Houses sitting together, but, obviously, I think that in that case the smaller States would be bound to see the same objection as to the referendum or any other method which brought population into the scale as against the intelligence, the wishes, and the interests of the smaller States. If the two Houses sat together and the larger States in the House of Representatives were in accord upon any point, the two Houses sitting together would be utterly incapable of carrying any point in favor of the smaller States. I do not care to be urging always the claims of the smaller States for consideration, as if it were something in regard to which I had a personal wish, but if I ask for consideration for the smaller States, it is for the one great reason that I want the people of the smaller States to come in. That is all. I am not speaking as for myself, but I am speaking - as I believe I am entitled to do - for all the people of those smaller States upon whose good will and vote the success of the Federation movement depends. I imagine there will be little difference of opinion concerning the election or appointment of the Governor-General. We are to frame a Constitution under the Crown, and if we are to carry out the injunctions of the Federal Enabling Act, there is only one course open to us, and that is to proceed as we have hitherto done by acting under a Governor-General appointed by the Crown. Following that comes the question how the Government is to stand in its relation to the two Houses, and whether we are to proceed under our ordinary Constitution as we know it - that Constitution which is familiar to us - or adopt some other method. If we are to adhere to our ordinary constitutional methods I see myself no way of effectively dealing with this matter except by making the Ministry of the day responsible, and responsible alone, to the House of Representatives. I cannot understand how, unless we adopt the valuable suggestion made by Sir Richard Baker, and proceed on some method other than the one with which we are familiar, we can effectively carry on the business of the Federal Parliament. It is clear to my mind that we could not have a Government in power which had not the confidence of the House of Representatives, which for the main part will have committed to it the charge of the public purse. Although there is considerable scope for argument amongst those committees which will be
appointed to discuss questions, this is not one of those points as to which we should encounter any great difficulty. One of the great questions we have to deal with is necessarily finance, and it is impossible, even if it were expedient, to speak on this subject at any great length, or go into details before the Finance Committee give us that full information on which it may be possible for us to base our opinions. In connection with this great question of finance I should hope we shall follow the advice of Sir George Turner, and go for economy in the Constitution of the Federal Legislature.

Mr. REID:

Hear, hear.

Sir EDWARD BRADDON:

And also in connection with the whole of the federal machinery. Sir George Turner would have the number of senators reduced from eight to six, and the number of members of the House of Representatives from one in 30,000 to one in 40,000 or 50,000. I think we might go even further than that, and reduce the number of senators to four for each State, and the number of members in the National Assembly from one in thirty thousand to one in fifty thousand. And if we did that, and also reduced the amount which it was proposed by the Convention of 1891 to pay the several members, i.e., £500 to £250 per year, we should secure a reduction of £60,000 at one fell swoop—we should secure a reduction from £84,000 to £24,000 a year.

Sir GEORGE TURNER:

You must not forget they have to live away from their homes for many months.

Sir EDWARD BRADDON:

For three months. No doubt the first sitting of the Federal Parliament will be a long one, because in that Session they will have to frame a federal Customs tariff, but, after the first sitting, no doubt the transactions of the Federal Parliament will be of an exceedingly simple character, and occupy a very small amount of time. There is this also to be borne in mind, that we might very well depart from the provisions of the Bill of 1891, or rather the determination of the 1891 Convention, in regard to allowing members of the States Parliaments to be elected as members of the Federal Parliament.

Sir GEORGE TURNER:

Hear, hear.

Sir EDWARD BRADDON:

I can conceive of no reason whatever why a member of one of the States Parliaments should not be eligible for membership in the Federal Parliament, provided that the Sessions were held at different times, as I imagine they would be. There would be no objection in point of time, and
there would be every reason to argue in favor of it, not only from the point of view of expediency, but also of the capability of representatives. And if it were held that no member of a States Parliament should be eligible to be a member of the Federal Parliament, in some of the colonies there would be a difficulty encountered, because either the States Parliament would have to be denuded of a considerable part of the talent upon which it depended, or else the Federal Parliament would be supplied with an inferior body of representatives. There are not many men, as far as my knowledge goes, seeking public life over and above the actual demand for representatives in the colony. In the case of Tasmania, at the Convention election, out of thirty-two candidates twenty-five are members of Parliament of one House or the other, and, of the remaining seven, all but two had been members of Parliament or aspirants for that honor. That shows, to my mind, that there is, at any rate in Tasmania, that slowness on the part of the public—that want of leisure, perhaps, on the part of the people—which prevents them from coming forward and acting as public servants in the Parliament of the States or in the Federal Parliament. I think there might very well be some cons-

siderable saving effected in respect of the Federal Court of Appeal. I do not know whether I have been accurately informed, but I have it in my mind that Sir Samuel Griffith had put down the cost of the Federal Court of Appeal at something like £16,000 a year. Now, there seems to be an opinion here, judging by the "hear, hears" that accompanied some of the suggestions made in the direction, that we should retain our present mode of appeal to the Privy Council. There is every reason, at any rate, why in South Australia they should desire to do so, because South Australia has the distinguished honor of sending to the Judicial Committee of the Privy Council its own Chief Justice. If we are to retain that form of appeal, although we give some other, I put it to hon. members of this Convention whether it would not be advisable to obtain through the Chief Justices of the different colonies some form of Federal Court which would answer all local purposes without being a very considerable charge upon the people of the colonies. And, proceeding in the direction of economy, I would point out that in the event of our loans being consolidated—and I apprehend that that is the only way we can arrange satisfactorily for the handing over to the Federal Government of the collection of all our Customs duties—the payment of the interest on the debts of these different colonies would be made by the Federal Parliament. Having regard to that, I think we ought to consider what the position is, and what we shall attain as the consequence of handing over this charge to the Federal Government. We should
undoubtedly, as I see it, effect an early saving of a very large amount of interest by the conversion of our States bonds into a Commonwealth stock. There can be very little question about that, even if the value of the security as a Commonwealth security rather than a provincial one did not affect very largely the price at which we should have to convert. But we should also by that proceeding effect a very considerable saving in the cost of management.

Mr. ISAACS:
Hear, hear.

Sir EDWARD BRADDON:
I presume, almost as a matter of course, that, Federation being accomplished, there would not be an Agent-General for each of the colonies, but a High Commissioner for all, and by handing over to him the duty discharged to a very great extent by the Agent-General of South Australia (Mr. Playford) I believe the management of the payment of interest and so forth would save that large part of the charge which now falls upon the individual colonies to the extent of £400 to £500 for every million of debt. In the consolidation of these debts I can see no reason whatever why any difficulty should arise in regard to the transfer by the States to the Federal Parliament of their railways, or any other public works whatever.

Mr. GLYNN:
Hear, hear.

Sir EDWARD BRADDON:
These debts are raised not upon this or that particular public work but upon the public credit. The security is the consolidated revenue of each colony, and, that being so, it will be sufficient that that security should remain what it is, the security of the good faith of the Commonwealth, which surely should be equal to the security of the good faith of the individual colonies concerned. It would be impossible for some colonies to hand over in any way as security all of the public works upon which borrowed money has been expended. We in Tasmania could not very well hand over a lot of our roads which have been constructed out of public money. If a receiver were appointed, I do not know that he could go and receive anything out of these roads, although he might wear his boots out walking about them.

Sir WILLIAM ZEAL:
That would be a debit, not an asset.

Sir EDWARD BRADDON:
I think that the general feeling of this Convention is that it is desirable that we should not hand
over to the Federal Government so large an amount of revenue as would lead it on in the paths of extravagance. The suggestion of Sir George Turner is that we should hand them over something less than they have actually to spend, and so let them start with a deficit.

**Mr. BARTON:**

A pity they could not treat us so in return.

**Sir EDWARD BRADDON:**

That possibly is a method which suggested itself from local causes to Sir George Turner—from the local coloring which favors the idea of a standing and continual deficit as a wholesome corrective.

**Sir GEORGE TURNER:**

So it is a corrective for all extravagance.

**Sir EDWARD BRADDON:**

I think that, as Sir Samuel Griffith has pointed out, the necessity of at any rate withdrawing the temptation to extravagance from the Federal Government has a natural sequence in the consolidation of the debt and the handing over of the payment of interest to the Federal Government. We give them our Customs duties, which amount to about £7,000,000, and ask them to pay away interest on the national debt, which is £7,000,000 at present, but is reducible, possibly, by a considerable sum. It has been estimated that it may be reduced by £1,000,000 by a wise system of conversion, and if we do that and keep the Federal Government sufficiently supplied with money for defences which might not be the amount we now spend, but something less, we should make ample provision for federal necessities.

**Mr. FRASER—**They will supply this by taxation.

**Sir EDWARD BRADDON:**

It may be done by taxation applied by the Federal Government and Parliament, or by contribution of the different States. I do not think any difficulty would arise from that, because we already contribute our quota towards the support of various defence forces, and some of us contribute something towards the deficiency between revenue and expenditure of the postal and telegraph service. Whether it was by contribution or by direct taxation raised for a specific purpose is not very material. It would necessarily follow under a system of Federation not only that there should be a federated defence—and as to this there is a common agreement throughout the colonies, whether people believe in Federation or not—but also that we should have as a necessary corollary to Federation intercolonial free trade—the fullest possible trade opened up for us throughout all the colonies entering the Federation; and I hope that this free
trade, which some of us have longed for for many years, will be an immediate accompaniment of Federation, and adorn and crown it from the very start. I do not think it is incumbent upon us at present to select the federal capital. I believe there are those who are in this difficulty—that they have promised three or four different centres that they shall all be the federal capital; and unless we are to have a perambulating central Government it is difficult to see

Sir GEORGE TURNER:
On the top of Mount Wellington?

Sir EDWARD BRADDON:
And that very large question of the amendment of the Constitution is one that I think may be left for calmer deliberation than we can bring to bear upon it here at this moment—for deliberation after we have consulted more closely together, and heard all the arguments this way and that in favor of any particular method by which that Constitution may be amended. We shall, I imagine, recognise to the fullest extent that it is not desirable to make any amendment of the Constitution easy of accomplishment. It should not be a Constitution that can be changed lightly at the will of this or that section of the community, but something that can only be changed after the wisest and fullest consideration,

and after due deliberation by a body which shall possess the complete confidence of the great mass of the people throughout the colonies. Having offered these few remarks on the whole question, I would only say that I fully indorse all that is contained in the motion of the Hon. Mr. Barton, with this reservation, that in subclause 3 there should be some proviso. The sub-clause reads:—

That the exclusive power to impose and collect duties of Customs and Excise, and to give bounties, shall be vested in the Federal Parliament.

I quite agree with that, but I think it ought to be expressed that so much is stated with the understanding that the concession should be accompanied by something more, that is to say, that in yielding up to the Federal Parliament the imposition and collection of these duties, we should also impose on the Federal Government and Parliament the obligation of paying the interest on the consolidated debt.

Mr. BARTON:
That is a controversial matter you can consider in Committee.

Sir EDWARD BRADDON:
Then I would make this remark, that I think the motion requires amendment in the first major clause:

That, in order to enlarge the powers of self-government of the people of
Australia:

Now we meet here under an Enabling Act which speaks of the framing and accepting and enactment of a Federal Constitution for Australasia.

Sir GEORGE TURNER:
That is evidently a slip of the pen.

Mr. BARTON:
It is a slip.

Sir EDWARD BRADDON:
I do not know whether it will be necessary to move a formal amendment.

Mr. BARTON:
No.

Sir EDWARD BRADDON:
Then I will not move one, but I hope to see the word "Australasia" substituted for "Australia."

Mr. BARTON:
If it may be done I will be pleased if the word can be altered with the consent of the Convention.

The PRESIDENT:
That leave be granted to amend the resolution.

Leave granted.

Mr. GLYNN:
I am sure that it will not be expected from every member of this Convention to travel over those points in connection with Federation upon which I deem we are in accord. When the matter of the resolution as against going into Committee on the Bill of 1891 was mooted, I ventured with some deference to make a suggestion that perhaps the essential and most important matters might be embodied in a resolution for treatment in Committee, as I think that there are only four or five important matters which can lead to differences of opinion between the members of the Convention, and it will be advisable to direct our criticism to those and those alone. I assume that on such matters as the equality of representation in the Senate there can be no vital difference of opinion. I do not think we will fall in with the Canadian or the Germanic Confederation of having a disparity in the representation. I assume that our ideas of Federation are fairly embodied in the Commonwealth Bill of 1891, and, from public opinion, I judge it is necessary to have an equal representation of the colonies. We do pay some respect to public opinion, and hope with the great motive power of public opinion to make Federation a reality; and it would be absolutely impossible to draw in the smaller States if they were to come in as subordinates, which a disparity of representation would involve. There are such matters as the appointment of a Federal Supreme
Court of Appeal upon which we are in perfect agreement. A useful suggestion has been thrown out by the last speaker, that perhaps we should take advantage of the Chief Justices of the colonies. I confess that it is an idea which struck me also. The proposal in the Bill of 1891 was to create a judiciary of four members, with a Chief Justice, at a considerable expense; but we must not be too slavish in following others. When the American Confederation was formed there were fourteen States banding together with a reserved territory which, I think, has since provided thirty or thirty-four additional States; and it was the possibility of a diversity of relations, and the growth of complications in the way of commerce and trade, which were likely to be exceedingly numerous, that made it necessary to create for federal purposes a tribunal that would settle all moot points which might spring up from time to time. Of course with some diffidence I venture to think that there is not the same possibility of intercolonial differences in Australia, with its seven States, and little room for territorial expansion, as in America, and that the likelihood of them is exceedingly remote. It is not advisable to create a tribunal at a very large expense and for its functions to approach to almost zero. We might follow in the lead of England, where the Courts of Appeal are constituted not only of the High Court of Justice, but of Divisional Judges.

Mr. SYMON:

Like the old Court of Exchequer.

Mr. GLYNN:

Yes, as my honorable friend, Mr. Symon, reminds me, like the old Court of Exchequer. So that upon this point it is possible there will be considerable economy. The Federal Judiciary, I take it, is essential to Federation. As regards the conversion of debt, undoubtedly we cannot expect much saving from that as the result of consolidation. It has the merit of absorbing, through the payment of interest, that surplus of which Sir George Turner is so fearful, and it has the incidental advantage of giving a uniformity to our stock. I do not for one moment think it will give a greater idea of our solvency, because there never has been the smallest dread of repudiation. Here there was absolutely none. Of course there have been differences in the prices of the bonds, but that has been due to temporary disturbances in the colonies, or excessive expenditure in public works amounting to overloading. Stock which stood at £93 a few years ago is now at a premium in the English market. There have been fluctuations, but it was apparent only in the price; and, if we take a series of years, the stock has not declined, but has risen with the progress of the colonies; unless there has been some cause operating to the contrary, as I may say, without
being invidious, was the case in Victoria, where from 1886 to 1890 seventeen and a half millions of public money were spent, causing, of course, subsequently, a temporary recession in the value of the stock. We cannot expect very much in the way of conversion except when the bonds mature; for, as has been pointed out by Sir George Turner, if you convert bonds before they mature you will have to pay for it. When Mr. Goschen in 1884 converted between 500 and 600 million pounds of stock, the bonds were either absolutely due at the time, or were bonds which could be converted at twelve months' notice, and Mr. Goschen's skill as a financier was shown in his correct anticipations as to the extent to which bondholders would agree to the conversion. As regards this matter of a deadlock in a particular colony, it might be regarded as a small matter. I believe in the principle of allowing the Upper House to amend Money Bills. I listened to the very clear speech of Mr. O'Connor. It was excellent in matter, and admirable in its manner of treatment, and of a moderation of temper, towards which I wish I could approximate, but unfortunately I cannot do that because I suffer under, shall I say, the disadvantage of having been born in the country from which he is a descendant of one remove. He would not give the Upper House co-ordinate powers, and in that I differ from him. The Senate, as a body, is distinct from the Upper House in a consolidated form of government. The origin of the distinction in England was, of course, that the right of taxation was reserved to the people. The Upper House did not represent the people; it represented a particular class of people who, as a portion of the people, had representation in the Lower House, and, as a class, had a distinct power in the State. We are not bound to follow the anomaly, and it is important that there should be greater vested power in the Senate that would take place under a consolidated system. It has been said by Bagelot that undoubtedly by giving the Senate co-ordinate powers with the Lower House it would open the way to many deadlocks. We must not follow too closely the opinions of pedants on this point. Are we called upon to anticipate the probability of deadlocks? If we are, I trust very largely to the good sense of the people. I say, further, that if a deadlock occurs in connection with a money matter in the Appropriation Bill, and if the Upper House insists upon interference, and a deadlock ensues, it will open up the way to a revolution. Their fear of such a thing occurring will operate as a sanction to prevent it. As regards other matters referred to by Mr. O'Connor, and with reference to deadlocks over a point of policy, my answer is this: If it does occur the result of the deadlock is simply to postpone public opinion on that point for the time being. Should
there be a temporary deadlock I do not think there would be much evil resulting from that, and I still trust to the good sense of the people to rectify matters.

Mr. O'CONNOR:

I only spoke of it in regard to the ordinary annual appropriation.

Mr. GLYNN:

On that point the question of Money Bills comes in again. If they are blocked, the whole of the machinery of Federation will be clogged. The evil resulting from that state of affairs would be so great as to act as a deterrent against the possibility of it occurring. Mr. O'Connor spoke about allowing the two Houses to sit together. If you once begin this course of joining the two Houses together you will have it open to evils similar to those which attended the system in Switzerland. As regards the question of the appointment of the Executive, I have to differ from Sir Richard Baker, the representative of South Australia, though I am still open to conviction after further argument. I find that responsible government, so far from being, as he suggested, out of sympathy with the vital principle of Federation, is being advocated for introduction there, upon which point I would like to read what Simon Sterne says in his book on the constitutional history of America. That author advocated a resort to responsible government. Mr. Sterne said:

The further advantage expected to be derived from having the Cabinet or Ministry connected with the popular branch of the legislative body is that in that way some more responsibility will attach for the legislation of the congressional session to the Government in power. One of the serious defects of all American legislation is the almost entire absence of responsibility connected with legislation.

As regards the difference in sympathy with the people towards these respective systems - the Cabinet system and the system of responsible government, and the one suggested to have a fixed Executive like that adopted under the Swiss Constitution-I agree that we ought to follow the course of the Constitution in England. It has been said by a writer on the constitutional question:

You might as well adopt a father as make a monarchy. The special sentiment belonging to the one is as incapable of voluntary creation as the peculiar affection belonging to the other.

The great merit of the English constitutional system is that there you have a united Cabinet. You cannot have that under the Swiss system of administration. You also have the fusion of legislative and executive powers. This very writer upon the American Constitution to whom I have referred shows a degree of responsible government which would cover that
and ought to be introduced into America. Then you have—which is a very
great quality of the British Constitution—the power of accommodation to
any emergency

that may arise. If the Government in power is out of sympathy with the
people an adverse vote in Parliament will immediately effect a change; but
under the American system, if at the time of the outbreak of the Civil War
a President had not been in power who for I may say also that, as regards
the objection of my friend Sir Richard Chaffey Baker to the continuance of
the Cabinet system, it seems to me to carry him a little too far, because it is
really applicable, to some extent, in our consolidated systems here. The
very fact that we have an Upper House shows there is an assumed
necessity for a certain class being represented in a different manner to
those of the Lower House; but we refuse the Upper House any control over
the appointment of Ministers except such as the trend of the debates in that
House can exercise on the opinions of members of the Lower House. On
this point Sir Richard Baker referred to the experience of Canada, and I
think he mentioned that between 1862 and 1864 there were several changes
of Ministry; but that occurred prior to its present Federation. It occurred
under the consolidation of the Canadas, so that his argument really tells
from the opposite point of view; but as a matter of history the changes
which took place then resulted from the fact that Upper and Lower Canada
were to be equal in point of representation, and that Upper Canada, as its
population increased, sought in 1840 for a redistribution of seats, and the
majority that would turn the scale one way or another was too small to
render permanence of Ministerial position probable. As the result of this
unfortunate state of affairs, a coalition Ministry was formed on the basis of
the introduction of Federation, so that Sir Richard Baker's argument,
instead of applying against the Cabinet system, really tell for it, because
the evils that occurred did not occur under the federal system.

Mr. BARTON:

It was not used as against the Cabinet system, but to show the
impossibility of dealing with both local and national affairs in one
Parliament.

Mr. GLYNN:

The comparative weakness of the Canadian Federation is due to its being
too much impregnated with the monarchical element. Freeman says:

On the whole, the general teaching of history is to show that, though a
monarchical Federation is by no means theoretically impossible, yet a
republican Federation is far more likely to exist as a permanent and
flourishing system. We may, therefore, in the general course of
comparison, practically assume that a Federal State will also be republican State.

Of course that would not tell against our Federation, because we really set up a crowned republic. The Canadian system is a peculiar one. It really is more of the old and gradually becoming obsolete form of monarchical government than you will find under the system which is represented in the United Kingdom itself. Federation, as far as we know it in its true sense, under responsible government was not granted to Canada till 1847, though the first Federation was in 1840. Coming to the question of the suffrage, Mr. Barton, in his very clear and able speech, says that the question of disparity in the suffrages of the States is not one that would affect the Federal Parliament at all as a whole. I differ from him on this point. In the older countries of the world they are coming gradually to uniformity of suffrage. Divergences in the franchise have been the cause of trouble between England and Ireland and the cause of constitutional troubles in England. Could it be said that it would have no effect upon the Federation, as a whole, if one State elected its members on a different franchise to the others? In a Federation you have consolidation to some extent if you have the direct powers of the citizens over taxation and executive control; therefore, I say it is a matter which affects all the States, whether one or more of their number returns members on a less liberal franchise than the others.

Mr. HIGGINS:

Mr. Barton agrees with that.

Mr. GLYNN:

I understood that Mr. Barton's argument was that the question of diversities of suffrage was one which the federated government need not really, and logically could not, trouble about.

Mr. BARTON:

What I argued was that it rested with the Federal Parliament to fix the franchise for the federated people.

Mr. GLYNN:

I understood that he said it was not a matter for this Convention at all, because they should not dictate to the other colonies as to the suffrage upon which each should send its representatives to Parliament.

Sir PHILIP FYSH:

The first Parliament?

Mr. BARTON:

I said the first election should be on the existing suffrages, and then the federated Parliament should fix the suffrage for the federated people.
Mr. GLYNN:

Then I pass the question by. Mr. O'Connor referred at considerable length and with considerable force to the question of railways. Upon this question I differ from him. I think we ought to take over the railways; and at the risk of trespassing further than I intended upon the time of the Convention, I will endeavor to advance evidence incidental to my argument. We cannot raise the issue in the abstract between State and private ownership of the railways, as the principle of State ownership has been accepted by the colonies; but indirectly it arises, as under a Federation the individual colonies would be private owners in respect to the central body, and therefore whatever objections can be urged against private ownership in general would apply with equal, if not greater, force to the separate ownership of the States. The experience of England has been reflected by reports from experts which should guide us here. Whatever has been urged against the system of separate management as against amalgamations or State control will tell in respect of the Federation and the individual States, should they retain the railways. Mr. O'Connor, in support of his opinion that the solution of the question is parliamentary control without ownership, referred to the working of the English Railway Acts and the Inter-State Railway Commission in America; but what is the case in England? The Act to which he referred was I think the Act of 1888, and was one which I respectfully submit to this Convention the States, if federated, would not tolerate. The States would never tolerate an Act of the Federal Parliament which would interfere with local opinions and policies on the question of rates and management if the present system of separate ownership be continued. They might as regards intercolonial trunk lines, but the lines from which they get their results and do greatest injury through differential rates are local lines. I say it is exceedingly unlikely that an Act as stringent in its power and interference with private ownership as that passed in 1888 would be tolerated here.

Mr. O'CONNOR:

I did not advocate it, but only referred to the principle of it.

Mr. GLYNN:

My argument amounts to this: that you cannot give effective control over these matters such as Mr. O'Connor advocated by Act of Parliament. In England and America the control system has failed, and I think amalgamation is preferable, because it would promote economy and get rid of the differential tariffs and destroy secret rebates. Upon this point let me quote to the Convention a work on "National Railways," published in 1895 by James Hole. He states:
The Inter-State Commerce Committee has so far been able to exercise very little control over the American lines, and it is now said to be a thing of the past except in name. It seems rather a body for collecting statistics of the railways than to possess any power to check their aberrations. It reports that the increase in railway capital for the year (to 30th June, 1890) is 538,079,233 dollars, of which at least 250,000,000 dollars is due to the increase of capitalisation on lines already in existence, and states that whether or not this represents the true increase in value of railway property is a pertinent question. Very pertinent indeed, we should say.

Mr. HIGGINS:
Who is Hole?

Mr. GLYNN:
He is a man who has had, shall I say, the audacity to study the subject and put his views into print, and I think his opinion must therefore be presumably entitled to some weight, more, at all events, than any unsupported one of mine. As regards English experience he says:

In the Act of 1888 a proviso was passed that there should be no preference of the foreign over home produce, yet the report of the Railway Rates Committee of the Central Chamber of Agriculture (April 5th, 1892) says: -"Your Committee desire to draw special attention to the fact that, notwithstanding the provisions of the Act of 1888, they have received reliable information that instances continue to exist of preferential charges in favor of foreign."

Now, let me refer to one who at all events is a high authority, that is Sir Henry W. Tyler, who gave evidence upon this aspect of the question of State ownership before a Committee of the Lords and Commons which sat in England in 1872. By the way, this committee states in its report that competition must fail to do for railways what it does for other trades, and no means can be devised by which competition can be permanently maintained. The evidence of this expert, who had nineteen years' experience as an inspector of railways, was to this effect:

No one who is not actually engaged in the working of the railways, or in watching the details of their working, can have any idea of the unnecessary cost, labor, and obstruction to traffic which arise from the diversities of interests and management of various companies.

He said that they stood upon their legal rights, and defied control. Again, the suggestion by this expert was that the State ought to take over the railways, that amalgamation would be the best thing for economical purposes and generally in the interests of the public weal. He said that you could take advantage of the existing boards at the outset. That principle would be analogous to what one might suggest for the colonies. A local
board could take control of the local management for the purposes of the Federation, and then the railways could not, as they do now, mutually destroy one another. This expert says:

Their attention being devoted not to competing with each other, but to the organisation of improvements, not for the benefit of their individual lines, but for the general public.

I need not refer at any greater length to the success of the systems in America and England. We know railways are an absolute public necessity, capable of being a monopoly, and therefore should not be in private hands, as shown by experience in England and America, and to some extent in India, where the system has led to considerable waste; and latterly in England for the purposes of economy they have been amalgamating management, and the greater number of the companies are now managed by twelve big boards representing combinations of various companies. As regards America, from the point of view of the subserviency by these companies of the interests of the public, the Farmers' Alliance, whose sphere of influence extended right through the United States, a few years ago complained of the evils to which I have made reference in this quotation, and demanded:

That the means of communication and transportation shall be owned by, and operated in the interest of, the people, as in the United States postal system.

Now, I might perhaps refer to some of the advantages of the system of central control. The authority to whom I have referred-Hole, on National Railways-said:

An amalgamation of competing lines is the only way to prevent a war of rates and consequent ruin to capital involved. But amalgamation not controlled by the State is another name for public robbery.

He recommended, and every other witness recommended, amalgamation on the score of economy. He suggested that:

It would be a great step in advance to have all the roads unite; put all cars into a common stock, and let them be distributed, record kept of movements, and mileage paid through a general clearing house.

Mr. FRASER:

That is done in England.

Mr. GLYNN:

It is gradually being done during the last thirty or forty years. It has not yet been effected in England, because there exists there over all the lines of England twelve different bodies of management. To some extent they are
bodies similar to those which we would have under the Federation, and I think I am entitled to rely on the balance of evidence being in favor of the amalgamation of the control of our federated railways. I think I can say, therefore, without expressing my opinion emphatically, that from many, points of view federated Australia would benefit by placing the railways under a central federal control; it would promote economy; it would get rid of the multiplicity of accounts, to which reference has been made, and which we have here; it would prevent the waste consequent upon differential tariffs; it would lead to a uniformity of gauge; it would reduce the mileage of purely political lines to the true requirements of the district; and it would minimise the possibility of the railway vote becoming a power in politics. I have heard it stated that under Federation the railway vote would be greater than now, but the answer is clear. The power of a great number of unions is small. We know that the unions in England are losing their influence through the extension of their numbers, and it would be the same here. The effective power of the railway vote would be less in the Federation than it would be in relation to local politics under our present system. Supposing that some trouble arose in South Australia, through their power of combination the men would be able to attract votes to whatever extent might be possible, with far more effectiveness than in a federated body, because you would have a check on the discontented South Australians in the power of the other colonies. When the big strike took place here several years ago, we know that it was a failure; and when the strike occurred at Broken Hill, it did not lead to a general strike; and for this reason I believe that, instead of increasing the vesting of the control of the railways in a central Government, would decrease the political power of the railway vote. It is admitted that our great trunk lines are already federated, and, as Sir George Turner has suggested, this control might be given to the central body, but that the smaller lines might still be under local management. It is, however, in connection with these smaller lines that the trouble exists.

Sir GEORGE TURNER:

Would you hand over all our suburban railway lines?

Mr. GLYNN:

I see no absolute reason why not.

Mr. BARTON:

And the cable tramway in King-street, Sydney?

Mr. GLYNN:

It is not a railway.

Mr. BARTON:

It is part of our railway system, and is under the Railway Commissioners.
Sir GEORGE TURNER:
Would you take over the Melbourne trams?

Mr. GLYNN:
The remedy is very easy, and can be settled in Committee. What properly does not belong to the Commissioners' control can be left out. We have an example of railway federation in Switzerland, where, in 1890, they initiated a policy for the purchase of the cantonal railways. I think it was rejected on a referendum, but it resulted in the resignation of a president. Again in Austria-Hungary, you have a pooling of the railways.

Mr. HIGGINS:
Would you have the Federation to buy the railways?

Mr. GLYNN:
Yes. Before I sit down I will suggest, of course with a certain amount of deference to other opinions, my ideas as to how the purchase can be brought about. The Prussian Government has the control of 14,000 miles of State railways, and the greater portion of it has been secured by purchase. The Germanic Federation in their articles have taken power to construct railways.

Mr. WISE:
I think you will find they take the railways over.

Mr. GLYNN:
I am sure about Prussia, and I saw that the Germanic articles give the power to construct lines and add to existing lines, even if there is local objection.

Mr. O'CONNOR:
There is the military system.

Mr. GLYNN:
We have the military system here. You are going to give the control of the military to the Federal Government.

Sir GEORGE TURNER:
We are not going to have a standing army.

Mr. GLYNN:
Then the question of break of gauge is mixed up in this railway question. It is really connected with the military system. Members of this Convention will remember the reports which were presented by Generals Edwards and Hunter upon the question of the break of gauge in reference to the military question. Both point out that the difficulties caused by breaks of gauge are enormous in time of war through transhipment of horses and ammunition and duplication of trains. We have reports from
Mr. Eddy, and in 1889 he says:

I beg of all to give this matter most careful consideration, and let us by-and-by be looked upon as benefactors in connection with our railways, and not twenty years hence—when the bill has to be paid for altering, and possibly twenty or thirty times as great as it would be to-day—charged with shortsightedness.

It has been asked whether I would advocate the purchase of the lines, whether we should take over the national debts of the colonies or not. The taking over of the lines must be done by purchase. It is really a matter of counting the price, and it would be a question of settling differences. The solution I would suggest is that the cost be ascertained by the federated colonies on some uniform basis. That might be done for the five years before the year of purchase. The percentages of the net revenue on such ascertained capital cost for each of these years might be taken and a mean struck between the five percentages, and whatever sum such mean would represent on the cost so ascertained of the year of purchase might be taken as the net earnings, or income, to be purchased. Such income would, of course, be a terminable one, as repairs and amount to reconstruction in an ascertainable number of years. The purchase-money would be the present value of that income for the life of the railways, at the rate at which federal stock can be floated at par. I merely suggest this as a possible means, which may be open to many objections which I cannot see, of purchasing the railways. I believe it should be adopted, for any Federation which did not include it would be incomplete. At the same time I will say this, and it is a feeling, I think, which animates every member of the Convention, that though we may differ on certain points I hope that we will approach the different questions in a spirit of compromise, and one that will be accepted by the people of the colony. Though I may hold opinions different from other members, I will, without sacrificing essential matters, agree to any fair proposal after sufficient argument has been used to convince me, while I will subordinate in matters fairly open to compromise the question of State rights to the greater question of Federation.

Mr. FRASER:

On the invitation of the gentlemen who so ably conducted the debates of the Convention in 1891, I rise as a new member to make a few observations. I would not have the assurance to do so were it otherwise, because I see there are members present who I think should take precedence over me. I am not going to dwell in the least degree on matters that are not necessary. I am going to confine myself, if possible, to the
disputable point or points upon which I may be able to throw some light. The resolutions proposed by our able leader have my hearty support; but, while agreeing in that respect, I would have preferred to have gone on with the Commonwealth Bill straight away.

Sir PHILIP FYSH:
Hear, hear.

Mr. FRASER:
We are getting on very well so far, and there is no reason to complain. In the published address which I issued to the electors of Victoria I gave my opinions, and they are pretty well known. It goes without saying—and I am glad to find a unanimity of feeling on a great many more points than at one time I had hoped for—that we will federate under the Crown. It also goes without saying that there should be two Houses of Parliament. I remember the time when there used to be a discussion on that, but it is not the case now. As for the Senate of the Federal Parliament, it is acknowledged now that there must be an equality of members, and that the Senate must have some power to protect State rights and other rights. With regard to the question that has been raised concerning the popular vote, that might probably be carried on in one direction in one colony and in an opposite direction in another colony. This is a matter of State rights, pure and simple. I remember at one of my meetings explaining to the electors about the referendum, and I put a case like this: Supposing Victoria increased her population to, say, 3,000,000, they would of necessity have in the House of Representatives 100 members, who would have control of the whole States if the referendum were general all over the colonies. At first it was spoken of in that way, but subsequently it was altered so as to give the States State rights by voting as States.

Sir GEORGE TURNER:
I have never shifted on that point, you know. I enunciated it just the same as I gave it to-day. The Argus said so, you know.

Mr. FRASER:
I am very glad to hear that. I always thought otherwise. But we have all a perfect right to shift our position just as we see the necessity of it. I have come here with a full determination to give way in every possible respect except on such points as my judgment will not allow me to. We are fairly well agreed on the matter of State rights, so that I need not dwell on that. But I would point out that where one colony through, perhaps, an enormous gold find, might swell its population to 3,000,000, it would then be entitled to 100 members in the House of Representatives, and of course it could simply swamp the whole of the other colonies and carry everything before it. Therefore the States must be protected in their State rights as in
their other rights. It is only fair we should look at it as it would affect us, supposing we were the weakest colony of the group. So much for State rights. On the matter of the election of the Senate, I hold somewhat different views to those that have been enunciated here. In my published address to the electors of Victoria, I stated that I would give them two alternatives—the first to be by election on the basis of the ratepayers' roll, or the alternative as provided in the Commonwealth Bill. I prefer the first of my proposals, namely, the election by the ratepayers of the various colonies. I prefer that, and I would not have one electorate for the whole colony. There are, I think, very strong arguments against that. I can only just name some of them. In the matter of retirement or the death of a member, or of the retirement of a member by effluxion of time, or from any other cause, the whole machinery we have just had in force would have to be brought into operation to elect one senator, at a cost of something like £15,000 in our colony. That is quite unnecessary, and therefore I would urge that the senators should be elected by provinces. I am speaking for our own colony, because I quite agree with the statement that we have no right to dictate to the other colonies how they should conduct their own affairs in regard to this matter.

Mr. PEACOCK:
They are our affairs.

Mr. FRASER:
They are our affairs after the Federal Parliament is created, but not before. Afterwards they could agree that there should be a uniform mode of election, of course. Accepting the hypothesis that there will be eight senators, and I prefer that number to any other, because if you reduce the number below eight, and there are one or two absentees, the House would be too small to deal with. I think eight is quite a good and suitable number. Then I would divide the colonies into eight provinces. That would be a better system of representation than that of the whole colony constituting one big electorate. It would be a far better and truer system of representation, much less expensive, much less difficult to work in every way. So far as I can see, the colony of Victoria is in favor of that system. I quite agree that the House of Representatives should be elected without plural voting, and, of course, as far as the Senate is concerned, plural voting should be done away with. So far as plural voting is concerned, in Victoria, and in this colony also, it is a mere bugbear.

Dr. COCKBURN:
We never had it here.
Mr. FRASER:

Out of all the seats in the Assembly in Victoria there are only one or two seats affected by it, and those not to any appreciable extent. It is a bugbear, and I should willingly go for the election by one man one vote, or, as in this colony, one adult one vote. It is fair that the representatives should be elected one in 40,000. We are passing a Bill for a very long time, and therefore we should look forward to the time when the colonies instead of having five millions of people, as at present, should have fifty millions. But a small number of representatives would not be a drawback at all. In our colony the mandate of the people was for the reduction in the number of members of the Assembly, and I think it would be an advantage for that reason and for others that we should commence in a moderate way with the number of members of the House of Representatives. My friend Sir Richard Baker yesterday referred to the Canadian system as not being Federation. I think the Australian Colonies will be very fortunate indeed if they manage to get one as good. At any rate, I only returned from that part of the world a short time ago, and I can say without fear of contradiction that the five millions of persons in that country are perfectly satisfied with their own form of Federation. Were they to re-enact it they could make some alterations, but the very alterations they would propose are in this Bill—the Commonwealth Bill of 1891. As Sir George Turner said, the powers given to the provincial Governments were specified, and the powers given to the Federal Parliament were all the rest. I hope we propose to do exactly the reverse. To specify the powers of Government to the Federal Parliaments will be much less difficult to do than to specify the powers of the provincial Parliaments or State Parliaments, and thereby get over the initial difficulty. The difficulty in Canada—my own country—partly owing to the school question. But the people of Canada have got over that difficulty at the general elections, and are now perfectly satisfied with the Federation, and not one in a million would dream of going back. Overcoming immense difficulties, they have built a private railway to the Pacific of over 3,000 odd miles, although they have been assisted by the commonwealth by land grants and other things; but the progress they have made and the advancement of the Dominion is so great that they would not dream of going back, nor would any country, I hope, that has the good fortune to federate. As to the opinions of Mr. Goldwin Smith, which were quoted by Sir Richard Baker yesterday, that gentleman is thoroughly disrated in that part of the world, and he is not worthy of being listened to. Why, a few years ago he predicted that the States of Canada would rush into union with the United States. Did they do so? No; but those in favor of
such a step were relegated into obscurity. It is astonishing how public men change their opinions. (Laughter.) I have been in public life for twenty-seven years, and have noticed that when the wind veers round they come round to their senses; and so the public men in Canada who talked of joining the United States either had to swallow their own words, or to suffer rejection at the hands of the people. You know the history—that the Canadians are as loyal to the British Crown, yes, even more so than many sections of the British communities. So far from Canada not being a Federation, I say the people there are satisfied with what they have got. No doubt their system is on more conservative lines than the Federation we want, because, for instance, a senator in Canada must have 4,000 dollars free of all encumbrance, and he is nominated or appointed by the Government for life. On that point I was very glad to hear the views of Mr. O'Connor. No doubt such a power of appointment gives the Dominion Government too much prestige, and I am sure that where a Government is in power for twenty years, it must have exercised improper patronage during that time. The Macdonald Government held office for over twenty years, and then the Premier died, and Sir Mackenzie Bowell took his place. Give me a system of Government where there is a change pretty often, but not too quickly. I think that this colony has had a change about once a year.

**Mr. Peacock:**

No.

**Mr. Fraser:**

Oh, they have a permanent Government now, of course. (Laughter.) I remember, though, that some years ago when I was constructing a railway north of Spencer's Gulf there seemed to be a change of Ministry every year or so.

**Sir Richard Baker:**

That is rather an exaggeration, I think.

**Mr. Fraser:**

I am merely stating what I thought was approximately the fact. I think it well that a Government should be in power for two or three years. If we can get rid of the difficulty of the ins and the outs we will make a great gain. When the outs get in and the ins are ejected, the trouble is to get the others out. There is too much of that, and if we can get rid of that form of government it will be a good thing; but I see no hope of it, as the people of the colonies, like the people at home, are accustomed to responsible government. I agree with Mr. O'Connor, that there is no chance of adopting any other form. We might prefer some other system, but it is not practicable, and we must be content to do what we can. I was also very glad to hear Mr. O'Connor on the matter of a deadlock. Without repeating
his words, I may say I almost agree with every word he has said on that subject, and that will suffice. With regard to decentralisation, I remember the time years ago when we elected two members of the House of Commons, because we considered at that time that the Government of New South Wales were treating us very improperly in that part of New South Wales which is now Victoria. We elected two members of the House of Commons to the House of Parliament in New South Wales to mark our disapprobation of the treatment we supposed we had received, and it had the desired effect of getting separation. What we want is that the growth of these Australian Colonies shall be just as nature intended; that there shall be no artificial means of forcing any town or towns against other towns. The growth should be just as nature intended it, and if we allow that we do what is just and best for all concerned. I will say a few words about the railways. I have had to do with the railways for a great many years, and ought to know something about them. In my published address I said I would not favor pooling the railways at all, except in so far as I would give control of the railways for the exigencies of defence purposes; and I will say, moreover, that I suggest to this Convention that they should not entangle the Bill they are about to frame with any difficulties. If they create difficulties they will be difficulties that it will be hard to get over, and it is most difficult to pool the railways. There is no necessity for it at all for Federation. If any section of the members here will insist upon the amalgamation of the railways, a difficulty is created at the outset that it will be hard to get over. I will state two or three cases. I have sent wool from Charleville to Brisbane at £2 per ton. I have sent wool from Bourke to Sydney at very low rates. I can send wool from Bourke by water—make no mistake about it, though you forget your water systems of Australia; they are not to be left out of your calculations.

Mr. WALKER:
Hear, hear.

Mr. FRASER:
The water system of Australia is not to be ignored as we are ignoring it.

Mr. Howe:
You would not allow us to do much.

Mr. FRASER:
It is a great loss to Australia that the great waterways are not utilised. Let me say that wool is brought from Bourke, and even higher up, from Brewarrina, right down the Darling and up the Murray to Echuca. What
railway can compete with the water?

Mr. WISE:
How much rebate is given by the Victorian Government to bring it down?

Mr. PEACOCK:
This is something for Committee.

Mr. WALKER:
Sixty-six per cent.

Mr. FRASER; All the colonies are equally guilty.

Mr. WALKER:
Hear, hear.

Mr. FRASER:
Nevertheless the producers get the benefit of the low rates.

Mr. REID:
The New South Wales producers do not get it down very cheap.

Mr. FRASER:
New South Wales wool can be carried at £2 a ton from Charleville to Brisbane. I grow wool at many places in Queensland. It I am compelled to send my wool by any particular route what must I do? I can easily send it to Murray Bridge, the cheapest, because it is the natural, outlet for Murrumbidgee, Edward River, and Lower Murray wool, to Murray Bridge. The colonies should, I say, enter into the question perfectly fairly to each other.

Mr. REID:
Hear, hear.

Mr. FRASER:
It is quite easy to strengthen clauses 11 and 12, to which Mr. O'Connor and others have referred, in such a way that, so far as practicable, the differential rates shall cease. They cannot cease altogether, because some colonies can carry more cheaply than others. The colony of New South Wales cannot pretend to carry wool across the Blue Mountains on the zig-zag so cheaply as it can be carried over level country, in other colonies. The pooling of the railways presents a difficulty it will be difficult to get over, and there is no absolute reason for it. It may be said that we in Victoria are losing by our railways every year. We are closing some of them. I assume the colony of New South Wales would not approve of taking non-paying lines, though if she is willing to take them I would not say nay.

Mr. PEACOCK:
At prime cost?
Mr. FRASER:

That would be the difficulty. In Canada the railways belong to private owners, with the exception of one short line known as the Intercolonial line running through a part of Quebec down to Nova Scotia, and those belonging to private capital are worked the more fairly. The railways would be worked more economically by the local people than by federal regulation. The more distant the management the greater the expense, and the larger the number of lines the greater is also the cost. Then, with regard to the rolling-stock, you cannot mix it, because the gauges are not the same. It would be a very expensive thing for the colonies of New South Wales and Victoria to change their gauge. We have quite enough loads to bear without carrying out such a work. Certainly the main trunk lines might be altered, but then the rolling-stock could not be worked on them. I see grave difficulties in the way of pooling the railways, and I see no necessity for it. I look upon the railways as public works, like an ordinary road or bridge, as they take the place of the roads. In the event of the extension of railways in England it has to be approved by Parliament, which imposes certain limitations, such as maximum and minimum rates. You would properly fix a maximum and a minimum rate which would effect what is required. In the extension of railways here how would the Federal Parliament deal with it? The railways are colonial and not intercolonial, and therefore there is no necessity to amalgamate them at all. If you pool them you must get the net receipts from them to pay the interest. The interchange of railway stock is a common thing with private railways, as it is far better and cheaper to run a truck on than to discharge and reload. Credit and debit accounts of the trucks run on each line are kept, and it is then a simple matter of adjustment. The financial question will be one of difficulty with the Convention. No doubt great savings can be effected. I was looking at the returns, and I find that we in Victoria have some £8,000,000, and New South Wales somewhere about the same amount, coming due within the next six or seven years. I do not anticipate that we can make great savings at first by the conversion of our debts, as the persons holding our debentures will not give us much advantage, unless it is near the time for them to mature. When, however, the time of expiry comes due we will, no doubt, by consolidation be able to effect great savings, and, unless some specially favorable opportunity presented itself in the meanwhile. I would almost advise waiting until that time. We could then issue a new loan on favorable terms, as our old debenture-holders would compete, and we might effect a saving of 1 per cent. in the interest. I see that in the colony of Victoria we have some £8,000,000 falling due before 1901. In the colony of New South Wales it is pretty much the same,
and in the whole of the colonies there is about 22 1/2 millions coming in between 1901 and 1905. That is a very large sum of money, and the few years will soon pass over, and a very large saving can be effected. This is a point that should not be lost sight of, for the saving would be very great indeed. I agree with Sir George Turner that it is not necessary to take over the assets. In my opinion, if four partners were going to take over a huge property, and there was a very wealthy partner, he would ask himself whether the other three partners would be able to bear the burden; and I hold that there is no doubt that all the colonies could pay their debts. However, I do not say that there should not be some adjustment. Some of the colonies may have borrowed too much, and there should be an adjusting line, but there is no necessity to take over the assets. The assets, after all, are not the security the debenture-holder looks at. He looks at the credit of the colony and the honor of the taxpayers to pay the interest as it becomes due. Therefore, I think consolidation of the debt might be made very properly, and provision should be made for it in the Bill. I see the debts of the four colonies are about £135,000,000 Victoria £47,000,000, New South Wales £57,000,000, South Australia £23,000,000, and Tasmania £8,000,000. It must be remembered that the Commonwealth Bill of 1891 was framed at a time when all the colonies, or at least our colony, were booming; but now we must be prepared to save, and economy must be the watchword in framing the Bill. The payment of the members of £500 as fixed in the Bill must be cut down at all events to £300. In Canada it is £200. In the Bill we must economise to a great extent, because the colonies have reached a plane, and for some years to come we will have enough to pay the interest upon our indebtedness, and we have to do that without borrowing. It is easy to pay our debts while the colonies are borrowing like they were in the past, but I feel sure the colonies have set their face against borrowing for some time. In the matter of the judiciary I agree with Mr. O'Connor; we should not break the link with the mother-country. I entirely agree with the statement that there may be cases in which colonial judges may be influenced without their knowledge; and it is well to keep the link in any case, and it is well to give the final appeal to those who wish to have it as at present. The Chief Justices of the various colonies might very properly form a Federal Court of Appeal on the matter. There are several other matters I had intended to speak upon, but as it is so late now I will refrain.

HON. MEMBERS:
Go on.
Mr. FRASER:
The Federal Parliament would take over everything of a national character, and the powers and privileges of the local Parliament would not in the least degree be abridged. That is where Canada has made a mistake, and it is where we are not likely to fall into an error. I do not think there is any necessity for me to say any more, and I will conclude with saving that I am not going to agree to anything that will act as a bar to the adoption of Federation, and should there be anything done to hamper its progress we ought to set our faces against it. We will have quite enough of a load to carry to get Federation through, and we are only in the initial stage now. If we handicap it and weigh it down with difficulties we will be running a great risk in connection with this great question.

Mr. CARRUTHERS:
Evidently the members of the Convention are tired of their labors to-day, and I propose that the debate be now adjourned.

The PRESIDENT:
I would point out to the Convention that 5.30 is the hour fixed by resolution for the daily termination of the sittings of the Convention.

Mr. BARTON:
That does not prevent the adjournment of the debate.

The PRESIDENT:
No. If this debate is adjourned, there will be no other business for the Convention to go on with. If no other representative desires to speak, I would suggest that the motion be submitted for the suspension of the resolutions.

Sir GEORGE TURNER:
A very bad beginning, Mr. President.

The PRESIDENT:
It is not for me to decide whether that should be carried or not.

Mr. HOLDER:
If necessary I will move that the sessional orders be suspended in order to enable me to move that the Convention do now adjourn.

Sir J. W. DOWNER:
The motion before the House at the present time is that the debate be now adjourned, and that is not in the slightest degree antagonistic to our sessional orders. When we have done with it any hon. member may move something to get the Convention out of a difficulty for three-quarters of an hour. (Laughter.) The motion is perfectly in order.

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Mr. BARTON:
In seconding the motion for the adjournment, I would point out that the sessional order states: "That, unless otherwise ordered, the Convention shall meet," &c. It is perfectly open to the Convention to make a different order at any time. I think that the better form of this order would have been that we should meet at 10 a.m. or 10.30 a.m.-I should have preferred 10 a.m.-that Mr. President should leave the chair at 2 p.m., and that is all. Then the House would have been master of its own procedure.

The PRESIDENT:

I would point out to the representative who has just spoken that that is a matter which no doubt was very properly considered by the Convention when the resolution was submitted and carried, but that so far as I am concerned I take only the resolution before me, and as to the wisdom or otherwise of a different course being adopted it is not for me to say anything. I take it that the position by the resolution is that the Convention has indicated its intention of sitting till 5.30 p.m., and, although it has been put by another representative that the motion as now submitted is not in exact contravention of the resolution, still at the same time-taking a view of its natural consequences-the Convention generally cannot fail to see what the result will be. However, if it be the desire of the Convention to terminate its sittings now, I will put the motion which has been moved.

Sir JOHN DOWNER:

No; let the debate be adjourned.

Sir GEORGE TURNER:

Before that motion is put I feel that probably I cannot object to an adjournment with any effect, because if no member is prepared to go on with the discussion it would be an absurdity for us to sit here looking at each other.

Mr. HIGGINS:

It is too dark to see our papers.

Sir GEORGE TURNER:

If that is the only difficulty I dare say the South Australian Government, who have been so kind to us in making provision for light for us in other places, will make provision for light for us here; but, seeing that many of us have come very considerable distances, we ought to be prepared to go on with this debate. Surely hon. members have made up their minds what positions they intend to take, and I fail to see why we cannot go on discussing this matter till half-past 5 o'clock. If no member will go on, of course we are bound to adjourn, but I feel bound to place my protest against this proceeding on our records, and to ask that it shall not occur again. We fixed our hour of adjournment at half-past 5 o'clock, and hon. members ought certainly to come prepared to sit till the proper hour.
The PRESIDENT:
According to our Standing Orders no debate can be allowed either upon the motion for the adjournment of the House or the motion for the adjournment of the debate.

Sir GEORGE TURNER:
Of course if I have been out of order I willingly withdraw everything that has been said.

Mr. BARTON:
I most willingly do the same thing.

The PRESIDENT:
I have allowed some latitude on this matter owing to the natural want of familiarity of the majority of members with the local Standing Orders. I now propose to put the motion.

Question resolved in the affirmative, and debate adjourned till to-morrow.

Mr. WALKER:
I beg to give notice

The PRESIDENT:
The time for the receipt of notices of motion has expired. Notices of motion were called on after the receipt of petitions, shortly after the meeting of the Convention.

Mr. ISAACS:
By leave.

The PRESIDENT:
A suspension of Standing Orders will be necessary for that purpose.

Mr. SYMON:
May I ask a question? It was intimated yesterday when a question was put that in adopting the Standing Orders in force in this colony every member of this Convention should be furnished with a copy of them. I think probably these little irregularities which have been pointed to would not arise if that course had been followed.

The PRESIDENT:
I am sorry if that has not been attended to, as I was under the impression that it had.

ADJOURNMENT.

Mr. HOLDER:
I move:
That the Convention do now adjourn.

Question resolved in the affirmative.
Convention adjourned at 4.46 p.m.
Thursday March 25, 1897.

Notices of Motion - Message from the Queen-Chairmanship of Committees - Federal Constitution - Suspension of Standing Orders - Leave of Absence to Members.

The PRESIDENT took the chair at 10.30 a.m.

NOTICES OF MOTION.

Mr. WALKER:
I beg to give notice that to-morrow I will move:
That a return be laid before the Convention showing-
(a) The total public indebtedness of each of the Australasian Colonies, giving in tabulated form the due date and amount of each loan, with rate of interest it carries, also mentioning in each case the date of latest return to which the statistics apply.
(b) The State debt per head in each of the Australasian Colonies.
(c) The annual interest charge per head on said State debts, showing each colony separately.

Dr. QUICK:
I beg to give notice of my intention to move:
That there be laid upon the table of this Convention a precis of all available official reports showing-
I. The nature of the country lying approximately between the Oodnadatta Railway Station, in South Australia, and the Pine Creek Railway Station, in the Northern Territory, its suitability for settlement or otherwise, the length of the line that would have to be constructed to connect these two railway systems, and the probable cost per mile.
II. The nature of the country lying between Lake Torrens and the nearest railway in West Australia, its suitability for settlement or otherwise, the length of line that would have to be constructed to connect the South Australian railway system with that of West Australia, and the probable cost per mile.
III. The nature of the country lying between the Northern Territory railway and the nearest railway system of Queensland, its suitability for settlement or otherwise, the length of line that would have to be constructed to connect the two systems, and the probable cost per mile.

MESSAGE FROM THE QUEEN.

The PRESIDENT:
I have the honor to announce the receipt, through the Right Honorable the Secretary of State for the Colonies and His Excellency the Governor, of
a message from Her Majesty the Queen, as follows:—

I have received Her Majesty's commands to desire you to acquaint the Federal Convention that she takes special interest in their proceedings, and hopes that, under Divine guidance, their labors will result in practical benefit to Australia. I desire to add my own cordial wishes for a successful result, which will conduce to the dignity and strength of the Empire.

Date, March 25th. J. CHAMBERLAIN.

I think this is a fitting moment to call for three cheers for the Queen.

[Three cheers were then given by the delegates.]

CHAIRMANSIP OF COMMITTEES.

Sir GEORGE TURNER:

As we all hope by Monday next, at latest, to be in Committee, and at work upon the details of the proposals which we are now debating generally, it will be necessary for us to decide as to who shall preside over our deliberations in Committee, and therefore I have pleasure now in moving:

That the Honorable Sir Richard Chaffey Baker be appointed Chairman of Committees of the Whole of this Council.

Sir EDWARD BRADDON:

I beg to second that.

Sir RICHARD BAKER:

Before that is put I wish to make an observation. I am aware that it is not usual for any gentleman whom it is proposed to appoint Chairman of Committees to make any remarks, but the procedure adopted in this case is not usual, and therefore I venture somewhat to depart from the ordinary routine. In the first instance I wish to state that I submit myself to the Convention. In the second I think it is only right that I should also state that if the proceedings are unduly prolonged it may be necessary that I should ask to be relieved from the position to which I may be appointed, seeing that at the end of May I have to contest an election for the Legislative Council.

Sir JOSEPH ABBOTT:

We are not going to be here till May.

Question resolved in the affirmative.

FEDERAL CONSTITUTION.

Debate resumed on resolutions by Mr. Barton (vide page 17).

Mr. CARRUTHERS:

Although I was one of those who rather objected to the procedure proposed by my friend Mr. Barton, still the Convention having agreed in its wisdom to adopt that procedure, I intend to accord to him a very loyal
support, so that success may result from his leadership. We have every reason to congratulate ourselves that the mantle of the great apostle of Australasian Federation, Sir Henry Parkes, has fallen on so worthy a disciple, and I think that his marked and consistent advocacy of this great cause during the past four years, making it the sole aim of his political life, is some guarantee that he will devote the whole of his great abilities to the accomplishment of this great work. As a representative of the mother-colony, New South Wales, which has large interests at stake in this matter, which have compelled her to look at the matter from a very different standpoint from some of the smaller States, I desire to express the sentiment of the people that we wish to see justice extended to all the colonies interested, be they large or small, and we desire to extend to the smaller colonies, where we differ from them, the utmost conciliation and the utmost consideration. I cannot, however, lose sight of the fact that it will be better at the onset of this Convention if we reach away from platitudes, if we perhaps restrain the desire to be extremely polite and courteous to one another, and, having exhibited the utmost of politeness, come to those topics which will be found to form the crux of this matter. I believe that the spirit of compromise is the spirit which should actuate us, but we must not forget the fact that the compromise effected here has to be accepted by the people of Australia, and although we may disperse, having satisfied ourselves and each other that we have got as much as we can in the way of compromise, we must not forget that we have to induce the people to accept the compromise. I am much in the same position as the Premier of Tasmania, who voices his own opinions in many matters, but tells the Convention that practically he fears the difficulty of persuading the people he represents to accept those opinions. We must not lose sight of the fact that in our solicitude to frame a Constitution framed on compromise there is a great power behind us which it is difficult to educate, and which will be the final arbiter of the Constitution. So far as New South Wales is concerned, there is an extreme desire in that colony that Federation should be accomplished. We desire to have gathered up that wandering brood that once owed allegiance to and formed part of the colony, and we are prepared to a large extent to give up many things which we deem to be almost necessary to our existence, but we are not prepared to make sacrifices which will thwart the ultimate will of the people to mould their own destinies. Whatever Constitution we frame here
breath of life. We cannot expect them to do that unless the Constitution is acceptable to them, and acceptable on the broad grounds of humanity. We may argue about State rights, but the people concern themselves mostly, not about inanimate things, but about flesh and blood, and any Constitution must be one which has its deepest and best regard for the rights of flesh and blood rather than of the inanimate objects which exist in the State. All the rights of the State therefore to my mind must be subordinate to the supreme rights of the people themselves. It will be a very difficult task to persuade the people of Australia-the people of New South Wales-to sacrifice any of the supreme rights of the people, even if it be necessary as a compromise, in order to induce the various States to come into this compact. Again, while we have some students here of the different forms of Federation which have been adopted in other parts of the world, I think we must avoid any slavish imitation of those precedents which have been created for us in times gone by, and in countries where even human slavery has been tolerated. We may set up our ideal, but before we conclude our labors we may have to accept something that is not theoretically perfect, and possibly have to accept something which will include all the good things in various Constitutions. It was a very happy thought on the part of the mover when he inserted these words in the preamble:

That in order to enlarge the powers of self-government of the people of Australasia.

I have found, and I dare say all hon. members have found, a great misapprehension with regard to the outcome of Federation. That misapprehension will be largely removed by the adoption of the words in the preamble, setting out that Federation will really enlarge the powers of self-government of the people of Australasia; and, while I congratulate my friend on having given this happy turning to the preamble, I would suggest we might also extend that preamble by inserting the words:

And to extend the influence of the people of Australasia.

Because, to my mind, one matter which is most material in regard to the future of Federation is not merely to increase the powers of self-government of the people of Australasia, but also to extend and widen the influence of the people of Australasia. Inseparably connected with the safety of the country, with its defences, and with its finances, is the wider influence of Australasia in Australasian waters. I can show to the Chamber by arguments incontrovertible that the relative amount of expenditure on defence will be proportionate to our influence in Australasian waters. As foreign powers obtain a footing upon the threshold of our doors it will be necessary to increase our armaments and increase our defences, and with the necessity of increasing the armaments we will have to dip our hands
more deeply into our pockets and provide more money for the defence of our country. One of the results of our isolation and disunion in the past is that, while in Australasian waters there has been a gradual weakening of our influence, there has also been an increase in the influence of foreign powers which may become our enemies. It is noticeable that whilst we are striving to increase our influence by means of Federation, and have representatives here from the southern island of Tasmania, we have no representatives from the greater island of the north - New Guinea. We should, perhaps, look with deep forebodings if the island of Tasmania were in the hands of a foreign power, but do we not know that two-thirds of the island of New Guinea is in the possession of two foreign powers, which might be involved in war with the old country at any time. One of the things we should aspire to and one of the things in which we should educate the public is the acquirement of the whole of New Guinea, which never ought to have gone into other hands. It may not be out of place for me to say at this juncture, although it may be a little bit beyond the resolutions, that whilst we all hail with delight the fact that our Premiers are going to visit England to pay their respects to Her Majesty the Queen, in a few days now, I venture to express the hope that the federal sentiment may be served to some good purpose, and that one of the results of that visit will be the making of arrangements whereby it will be possible for us to gain again what we never should have lost those two portions of New Guinea which are in the hands of foreign powers, and are practically not used by them at all. I have seen it stated that it might be possible for us to obtain Dutch New Guinea for £1,000,000. It would be to thwart the people in the management of their own finances. I agree with my hon. friend, Mr. O'Connor, that the Federal Parliament should have absolute control of taxation, so that it might raise its revenue by any method it pleases, for the reason that it is necessary to have unlimited power of taxation for defence or war purposes, and for the reason also that we should not frame a Constitution which refuses the people of Australasia hereafter the right of moulding their own system of taxation and to rule themselves in their own finances. We have instances to show how the innocent intentions of the authors of Constitutions have been perverted. Let us look to America, where a gigantic system of protection is in force, and is in force in direct opposition to the very words of the Constitution, which provides:

That the Congress shall have power to lay and collect taxes, duties, imposts, and excises to pay the debts, and to provide for the common defence and general welfare of the United States.

And under the plea of those words it has imposed the most gigantic
system of protection the world knows. But, on the other hand, the moment an attempt was made to impose direct taxes the Supreme Court of the United States held that direct taxes were impossible under the Constitution because of two limitations, one of which was:

That no capitation or other direct tax shall be laid unless in proportion to the census or enumeration herein before directed to be taken.

So that the will of a majority of the people of the United States has been thwarted by these pitfalls in their Constitution, not designedly placed there by the framers of the Constitution, but possibly put in without proper foresight of what the future might bring forth. I dare say hon. members will admit that as this Convention is constituted it has been almost impossible for us to avail ourselves of the services of the financial experts of Australia. We have one or two here—perhaps hon. members will not take offence if I thus limit their numbers—one could count them on his fingers; but the financial experts of Australia have been precluded from coming into this Convention, because many of them are Government officers, and a large proportion are gentlemen in the service of institutions which could not spare them for this occasion. What we require is not so much the wisdom within the doors of the Convention as the advice of the experts of Australia outside the Convention.

Mr. FRASER:

Hear, hear.

Mr. CARRUTHERS:

We want, not schemes, but more data, more information, and more facts.

Mr. FRASER:

Hear, hear.

Mr. CARRUTHERS:

We need these things before we can devise a system of finance likely to stand the test of time. We cannot shut our eyes to the fact that the Convention of 1891 dealt largely with this question of finance, with the result that the authors of the scheme have been the first to condemn it. We do not want a repetition of that. Whilst people are warm on the subject of Federation let us be careful that in our haste we do not sacrifice wisdom, and I would strongly recommend—without waiting till we reach that stage when we get into Committee on the Bill—that there should be a Select Committee appointed, whose functions should be to obtain evidence and information with regard to the probable financial difficulties we shall have to face.

Mr. BARTON:

That is provided for in the resolutions I am to move after this is disposed
Mr. CARRUTHERS:

I presume also that the resolutions will provide for the committee reporting. I have a strong objection to a committee which will usurp the functions of the Convention in reporting recommendations. I should like them to examine into matters and get information, and let it be available to the members of the Convention. Not a day should be lost before steps should be taken to collect the information on the financial problems, so that we may at the proper time have before us facts and figures and data which we have not now. Any system of finance to be popular should be one which aims at economy, and throughout the whole of our federal ideas there should be an anxiety not to increase the machinery of government in Australia, but to diminish it. There is no country, I suppose, on the face of the earth that is so over-governed as Australasia.

Mr. PEACOCK:

Hear, hear.

Mr. CARRUTHERS:

With 4,000,000 of people we have seven Governors, seven Agents-General, fourteen Houses of Parliament, seven Postmasters-General, and several distinct Supreme Courts, whilst the whole work for over 40,000,000 of people in the United Kingdom is done by one Parliament and one head for all of these. It does seem to me manifestly wrong that we should attempt in any way to multiply rather than to lessen the machinery of government, and it will be doing good service if our efforts are directed at every point not to increase the expenditure of Australasia, but rather to diminish it—not to multiply governments, but rather to diminish them. Let the people have less intricacy in the forms of government under which we live; and this can very well be done in many directions which may be pointed out—the abolition of six out of the seven Agents-General and the appointment of one Governor-General, for example. I have no extreme anxiety to see in our Constitution a provision to impose upon the colonies seven Lieutenant-Governors receiving salaries, when the present Lieutenant-Governors, the Chief Justices, so admirably fill the positions, which are to a large extent formal. I was very glad indeed to hear Sir George Turner speak so strongly in favor of having the Customs barriers on our borders absolutely removed. I was very glad to hear that sentiment so heartily reciprocated by our friends of South Australia.

Mr. BARTON:

It would be no Federation without that.

Mr. CARRUTHERS:

There will be no Federation acceptable to the people of New South
Wales which does not remove all the
Customs-houses from our borders. I am glad that the hon. members have
been so kind as to put before us this aim and purpose of Federation. In
New South Wales we have always strongly felt that these fetters and
obstacles have been among the chief means of creating an anti-federal
spirit throughout Australasia. I hardly expected to hear so much delight
expressed by our friends at the prospect of having these barriers removed.
It reminds me of the couplet from the old play-
Perhaps it was well to dissemble your love,
But-why did you kick us downstairs?
For many years the people of New South Wales have been anxious for
the removal of the barriers, and no colony will more heartily rejoice at
having intercolonial freetrade throughout the length and breadth of
Australasia than New South Wales. But whilst we are endeavoring to do
that we do not want to change the venue of the conflict from the Customs-
house to the railway station. We know the warfare that has been going on
between our own colony and Victoria.
Sir GEORGE TURNER:
We know who started it.
Mr. CARRUTHERS:
Since the Customs barrier was erected by Victoria a ladder has been put
up by that colony at the wall to help us to climb over, in the shape of
differential rates. We also have been trying to get the trade of Riverina,
which geographically belongs to Victoria. If something be not done wisely
in reference to the railways the anti-federal spirit will continue to be
exhibited. The same spirit of antipathy engendered and fostered by the
Customs-houses will be engendered and fostered by the Railway
Departments. We shall not be doing our duty to the people of Australia if
we do not place before them those difficulties with which we have to deal.
It seems to me that the better plan will be to place our railways absolutely
under federal control. I do not believe in the half-hearted system which is
not going to allow the Federal Government to interfere with State-owned
properties.
Mr. SOLOMON:
Hear, hear.
Mr. CARRUTHERS:
If we are going to place the railways under dual control we shall have
friction, not so much perhaps between individuals and the State as between
the Federal Government and the States. My friend Mr. O'Connor largely
objects to see the necessity of dealing with the railways, because if they
were owned by private individuals he sees no necessity then for putting them under federal control. But the difference between State-owned railways and privately-owned railways is of such a character as to cut the ground from under his argument. If people owning railways privately maintain a cut-throat policy they have to pay the loss out of their pockets, and the producers and others who use the railways get the gain. But where State-owned railways come in, whatever tends by policy to cause a loss to the railway tends to tax the people, because this loss must be made up out of the pockets of the people or must be made up by overcharges to consumers who have no opportunity of using other lines. The disparity between the two is that in one case the loss comes on private people, while in the other it falls upon the taxpayers of the country. Any policy which allows New South Wales to rob Victoria of the earnings of her railways tends to impose additional taxation upon the people of Victoria, and anything which allows Victoria to rob the people of New South Wales of the earnings of her railways tends to impose additional taxation upon the people of New South Wales. It has been well put by a journalist that if you federate without federating the railways it is like a man marrying a girl and leaving her at the church door. It seems to me that the analogy is a good one. Why should we leave to the future the difficulties which we are seeking to overcome by Federation to-day? I urge, therefore, that the Federal Constitution Bill should either provide to take over the rail-

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ways, or provide some machinery by which thorough inquiry might be made and ultimately federal control—or such control as the Federal Parliament may approve—assumed over railways. A suggestion has been made by one of my colleagues from New South Wales to abolish the differential rates, but when the effect of that is explained to the people of New South Wales they will be the last to approve of it without a Federation of the railways. The differential rates policy applies to various towns of the colony as well as to the towns on the border. If that policy were adopted we should have a large extent of the railway traffic in the Riverina district and towards Queensland driven into a neighboring colony, and so should lose the benefit of it without any compensation. But if we federate the railways the traffic will go to its-natural outlet, probably to Victoria or sometimes to Queensland, but we shall have this compensation that as citizens of the Commonwealth we shall have an interest in every bale of wool and every ton of goods and every passenger carried over the railways, no matter where they are carried to. We shall share in the profit that comes from the increased use of one line, and we shall share also in the loss which accrues owing to the diminished use of another line. I am strongly in
favor of two committees—one to deal with the finances and take evidence, and another to deal with railways and take the evidence of the railway experts of Australia, so that we may have before us the views of those who have devoted a lifetime to the study of these subjects, and may tell us the probable consequences of one of three courses—either of leaving the railways alone, or of federating them, or of having some control over them without interfering with the border rates. The last point on this topic is the much-vexed question of State rights. I am prepared at the onset to say that I see nothing for it but to concede to the smaller States equal representation in the Senate. It may be, from my standpoint, illogical, but I say, so far as the, possibilities of Federation are concerned, there is no possibility of accomplishing this unless we concede to the smaller States that power which they now enjoy in Australasia of equal representation. Therefore, having regard to the possibilities of Federation, I feel bound to assent to the proposal that there shall be equal representation of the States in the Senate. But, having said that, I go with the Premier of Victoria that the powers of the Senate must be restricted unless o

Mr. PEACOCK:
Hear, hear.

Mr. CARRUTHERS:
I am willing to accept that position; but, on the other hand, so long as the burden of maintaining the States is borne by the larger States they must hold the financial control.

Mr. PEACOCK:
That is the way to put it.

Mr. CARRUTHERS:
It seems to me that is the only position which can be taken up if you look at the matter from a logical standpoint. If taxation and representation are to go together, it is a corollary that representation as well as taxation should be proportional. It is absurd that you should give to a House which may have a majority of representatives from the smaller contributories power to control the finances of the whole Federation. Has it not been well pointed out that the power of veto of a Taxation Bill practically gives a power to direct the form of taxation. And if the Senate has the power of amending Money Bills, or finally vetoing them, it will have

the power to mould the finances of a country.

Mr. REID:
Hear, hear.

Mr. CARRUTHERS:
There would be the continual saying of "No" to the financial proposals of
the Government, a continual refusal to reform the finances. That is practically the imposition on the country of a continuance of an unfair system of finances. Therefore, if you give the power from time to time to thwart the will of the majority of the people by rejecting money and financial Bills, you will give through the Senate a right to the minority of the taxpayers to mould the finances of the country. The proposal seems to me to be indisputable, that those paying the taxes and finding the money should have the right to mould the finances of the country.

Sir WILLIAM ZEAL:

Hear, hear.

Mr. CARRUTHERS:

It will be intolerable if the 2 1/2 million of people living in New South Wales and Victoria find the bulk of the money necessary to support Federation only to see the financial policy of the country governed by a minority of the people who might hold the majority in the Senate.

Mr. HOWE:

There is another side to the question.

Mr. CARRUTHERS:

It has been well put that you must have a Constitution which will bend, not break. But any Senate which will thwart the will of the people will either have to bend or break. If there is no provision for the bending there will be a break. More than that, if we graft the system of responsible government on our Federal Parliament, we must allow the power of the purse to remain in the popular Chamber. It will be manifestly absurd to have the will of the people thwarted by the decision of the Senate. It has been proposed to deal with deadlocks by the Norwegian system of the Houses sitting together. I prefer rather to listen to the suggestions of the member for South Australia (Mr. Glynn) and of the Premier of Victoria. You must to a large extent avert deadlocks by the common sense and goodwill of the people. I venture to say that deadlocks will be averted in nine cases out of ten by the exercise of that good will and good faith which are so signal a quality of the people of Australasia. But if we are to provide a means of ending deadlocks, I am in favor of the adoption of the referendum. I think the occasions for its use will be few and far between. I have been one of those who recognise that the will of the people when directly appealed to will be expressed in a common-sense fashion to the surprise perhaps of those who think that the people lose their heads and run riot in their ideas. It is proposed by Mr. Barton in connection with the Commonwealth to establish a federal judiciary, and that this is necessary no one will deny; but he also proposes that there shall be a High Court of Appeal, which shall be a final Court of Appeal for litigants in Australasia.
I, however, object to a Court of Appeal which is to take the place of the Privy Council. If you adopt the suggestion that it should be established, and its decision is not made final, it is simply creating another hurdle for litigants to jump. Law is costly enough at present, without imposing another bar to litigants securing a final decision. But in any case there will still be the right to petition the Privy Council, so that, on the ground of economy to litigants, it will be an expensive arrangement, as it provides an additional Court of Appeal. Of course, we know there is a great difficulty in establishing such a court without the consent of the Imperial Parliament, which rarely will be given, and which has not been given in the case of Canada. You will find that litigants can petition the Privy Council. And even if we succeed in doing away with the right of appeal to the Privy Council we will be setting up an inferior tribunal in place of a superior one, and one selected from the limited bar of Australia at the expense of the country for an existing one chosen from the wide range of jurists of England at her expense. As to the expense of taking litigants to a far distant court, litigants are never taken there. It is simply a matter of postage stamps.

Mr. Barton:
I did not say that litigants were always taken there. I said that they were either dragged thousands of miles to a distant court, or had to remain here and see their dearest interests destroyed.

Mr. Carruthers:
I quite understand that my friend was speaking figuratively; so am I. It is a question of money to send, not them, but their cases there; and whether the litigants remain in Melbourne, Sydney, or Adelaide, it does not matter much how far distant the court is. The expense of going to an Australasian final Court of Appeal would be just as much as would be involved in going to the Privy Council, because members of the English bar can be engaged at no greater expense than lawyers can be engaged in Australasia. Then as to the question of delay. Are we not quite well enough aware that our Supreme Courts have delays as well as any court in the world? If we look at the arrears of work in the various colonies we will see something of it. In our own colony the court is not only a year, but two years behind in some cases. I can therefore see no reason for setting up an inferior tribunal in place of a superior one, either upon the pretext of economy or upon that of saving time. My friend the Premier of Victoria was good enough to hope that we should defer until a remote period, possibly to put outside of the consideration of this Convention, the question of the site of the federal capital. I do not want to throw the apple of discord into our proceedings.
Mr. DEAKIN:
An orange of discord.

Mr. CARRUTHERS:
But I do say here, so far as the wandering brood of New South Wales is concerned, the mother-colony stands in a different position to them. We have seen those who have sprung from our loins setting up their own households in other parts of Australia; we are the senior, the mother-colony. We have the largest population, and are ahead in the race for life in other respects. While we have been hardly pressed we have never been passed, and we feel, therefore, prompted by different feelings from some of our neighbors on this question of capital. We have been selected, not by ourselves, but by the Imperial Government, as the key for the first line of defence; we have the head of the Church of England, selected not by us, but by the people of Australia.

Mr. PEACOCK:
We have the head of the Salvation Army. (Laughter.)

Mr. CARRUTHERS:
We are quite willing that this question should not be one to divide us at the onset, but it would perhaps be false modesty upon the part of the representatives of New South Wales not to remind the Convention of the claims which have been created for us by time, by history, and (if we may term it) by tradition; and I hope therefore that whatever consideration is given to this subject, it will not settle the question in a way that will shut out any portion of New South Wales from advancing its claims to be the site for all time of the seat of Government. I do not wish to say any more on this question now, or to overstep the bounds of prudence. I notice one omission in this resolution to which I would like to ask Mr. Barton in his reply to refer. Every provision is made here for the union of the States, but no provision is made—and I dare say it is intentionally not made, but I want to get this question thoroughly thrashed out in this Convention—for a possible dissolution or secession.

Mr. ISAACS:
There is no possible dissolution or secession.

Mr. CARRUTHERS:
It is better to understand our position. Is there to be a power of secession?

HON. MEMBERS:
No.

Mr. CARRUTHERS:
Well, then, hearing these answers, it behoves us to draft a Constitution that will never provoke those
feelings which will build up forces that will have to be repressed by the exercise of force. We must not have a Constitution of that rigid character which it will be difficult to amend. You are not going to have the power to secede or dissolve, and therefore it behoves us to frame our Constitution in that elastic way that we can amend it in consonance with the growing aspirations of the people who should have the power of governing themselves in their own way. If, however, as I have said before, you have the Constitution so rigid that you cannot either secede or amend it, it is just possible civil wars and disasters similar to those which took place in the United States would eventuate in the Australasian Colonies. I am therefore strongly in favor of framing the Constitution with such elastic provisions, more especially with regard to amendments, that when it is found not to express the desires and ambitions of the people of Australasia amendment will be simple and easy. If you do not provide for that you will create a great danger, and instead of the blessings of union there may be greater evils than those of disunion. We have to avoid the perils of disunion, and strive to do our utmost to mould a Constitution which will promote the peace and welfare of the people of Australasia.

Mr. HIGGINS:

I hope the House will bear with me if, speaking as I do with some indisposition, I do not succeed in keeping the debate up to the high level it has already attained. I feel some difficulty in dealing with the resolutions as they have been framed. I am sorry that we have to debate resolutions which are so weak, so vague, and so inconclusive, and in saying that I hope I will be understood as not in the least way speaking with any churlishness or failing to recognise the great services that Mr. Barton, the representative of New South Wales, has rendered to the cause of Federation. I feel that they have been so drawn as not to be debatable, and yet at the same time we are to speak on matters that are debatable. I have never known yet in any deliberative assembly any such course to be adopted, where, you have resolutions containing generalities and yet members have to speak on details. The position is that we have advanced a good deal since 1891. These resolutions are framed very much upon the basis of 1891, but they are even more colorless than the resolutions adopted then in some particulars. Are we to be told that we have not got something more definite and concrete since 1891, and that the resolutions that were sufficient for that year are sufficient for 1897? I hoped we should have specific resolutions placed before us-resolutions that would deal directly with specific matters on which discussion (which should be short, sharp, pointed, and crisp) could be based, that would save us from making
speeches which would sail round all the aspects of Federation. No one more than I recognises the value of the speeches that have been delivered up to now on this question, and no one more than I recognises the thought and care given by those who have spoken to this great subject. In saying that I do think that these resolutions are not worthy of a House to which is delegated the responsibility of framing a Bill for the purpose of Federation. In this matter I feel there is a sort of generous abnegation on the part of those engaged in the formulation of the Bill of 1891. They appear to say-"Let us not speak, but let us have these new men who had nothing to do with it before speak." Well, I confess that having heard Sir Richard Baker, the representative of South Australia, I should have liked, as he was a member of the Convention of 1891, to have heard him speak, not only on the subject to which he addressed himself so efficiently, but also to all the subjects. As I understand it, he is precluded at this stage by this form of resolution from speaking now on the other subjects.

Mr. BARTON:

Might I mention, Mr. President, that there is nothing in these resolutions which prevents any hon. member from addressing himself at large to any question which can arise out of them.

The PRESIDENT:

I beg to say that the whole of the resolutions are open to debate, and not only the resolutions, but any matter which might be suggested by way of amendment.

Mr. HIGGINS:

I think I have been misunderstood. I say that Sir Richard Baker is now precluded by the rules of debate from addressing himself at this stage to the points which he omitted. That is an evil result, because Sir Richard Baker had to speak, as was apparent, without any opportunity for arranging his remarks. At all events I think those engaged in the important work of 1891 are a little mistaken in thinking that the other members of this Convention are not anxious to hear their views on, all matters.

Sir GEORGE TURNER:

Hear, hear.

Mr. HIGGINS:

I think we should like to hear them speaking in some way upon the details as well as speak upon those details ourselves.

Mr. DEAKIN:

We have done so already.

Mr. HIGGINS:

I think my honorable friend Mr. Deakin over-estimates the extent to
which the outside public have read the debates of the Convention of 1891.

Mr. PEACOCK:
Hear, hear.

Mr. HIGGINS:
Personally, as in duty bound, I have read those debates, but I am quite sure that, in regard to the members of that Convention who are here now, most of the public do not understand their views, and yet we shall not hear their, views in this Convention until we have had the work of the Select Committees, and until, to a large extent, compromise has been the order of the day. We want to know the views of members of this Convention before we get to that stage. Of course, I understand the reason why the present procedure has been adopted. The reason is to avoid having members commit themselves before due time; but the result is that, in place of members committing themselves by their speeches to one thing after another, we have members committing themselves to a dozen things in one speech; so that I cannot see there has been any gain, but I can conceive that the electors will be very indignant to know that we are going back to the vagueness of 1891. With regard to these resolutions, I do not intend to sail all round the Federation subject; but I want first to point out that in the very first of the sub-divisions of the resolution there is an expression used which is either unmeaning or unnecessary. It says:

That the powers, privileges, and territories of the several existing colonies shall remain intact, except in respect of such surrenders as may be agreed upon to secure uniformity of law and administration in matters of common concern.

What is meant by saying that the territories are to "remain intact except in respect of such surrenders as may be agreed upon to secure uniformity of law in matters of common concern"?

Mr. WISE:
The federal capital must be culled.

Mr. HIGGINS:
This does not express it in the slightest. In the resolutions of 1891 they had words which had some meaning, and in place of "territories" they had "territorial rights," which gave a meaning to them. It speaks of these as principal conditions, but I deny that these are the principal conditions. There are conditions which are far more radical than the conditions here mentioned. Then, as to the second part of the first resolution, there is to be no surrender of territory except by the consent of the State which has the territory. That was put down as an unobjectionable point, and yet it was the very point that Sir Charles Dilke, in his criticism of the Bill of 1891, found most fault with; that is to say, that there ought to be no alteration of the
territories unless with the consent of the State concerned. We have very large States, and we have some very loose links connecting territories—such as, for instance, that of South Australia and the territory north of it—and it is highly important to understand whether there may be any alteration of territorial boundaries without the consent of the Federation itself. We should like to know how the representatives of New South Wales would look if they found that the colony of Queensland were to divide into three different parts and return twenty-four senators as against the eight senators of New South Wales.

Mr. PEACOCK:

Hear, hear.

Mr. HIGGINS:

That would be representation of the minority with a vengeance. In regard to the second part of the resolution, I do not like at all the meagre provisions as to the Senate. The resolution says that the Senate is to be "chosen in such manner as will best secure to that Chamber a perpetual existence combined with definite responsibility to the people of the State which shall have chosen them." I am not at all sure, unless we know how the Parliament is going to be elected, what is to be the franchise, and so forth, that we should commit ourselves to a House which is to have a perpetual existence. That would depend upon other circumstances. "Perpetual existence." I understand that to mean that the members would go out in rotation of every two or three years. I say that more details should be forthcoming, because by perpetual existence we may be giving to that Assembly the potentiality of ruling our Commonwealth. I should like to have it altered so as to read—

Chosen in such manner as will best secure to that Chamber direct responsibility to the people,

in place of the vague words—

Combined with definite responsibility to the people.

There is one speech which of all others has induced me to rise. I had intended to let these resolutions go without much discussion as far as I was concerned, because it appears to me that we are talking upon a false basis; but the speech of Sir Richard Baker appears to me so well worthy of attention that perhaps I may say a few words upon it. Sir Richard Baker has made an attack upon responsible government for the purpose of this Federation, and, widely as I differ from him, I admire the straightforward and direct manner in which he went to the heart of the subject at once. This House is indebted to him for pointing to the important matter of States rights in such a clear fashion. He put it in a nutshell when he said—
We cannot have responsible government with responsibility to two Houses.

I think that this is as true a statement on this subject as can be made by anyone. But the corollary he draws is "Therefore do not have responsible government." The corollary I propose to draw is "Do not have responsibility to two Houses," and there is just that distinction between us, and the sooner we come to that distinction the better. I do not make a fetish of responsible government. It may be that in the womb of time there will be improvements upon it; but I like to use the thing I find rather than strive at unfound novelties. I like to go to what the people are used to, and this is one of the broad reasons in favor of responsible government. Responsible government has worked well in the colonies; the people are familiar with it; we know the ways of responsible government; the mother-country has worked under it; and I hope this House will be chary about allowing any departure from responsible government. I agree with Mr. Carruthers that we must not have a Constitution so rigid that we cannot make alterations from time to time which may be considered necessary. We must not make the Constitution so rigid as that of the States. We must be able to make alterations without having to resort, as they do in America, practically to a civil war. In the meantime let us start with responsible government and let us remember that there are great advantages in responsible government from the mere fact that the Ministry is able to act with more promptitude in national emergencies, in place of having to go to the Senate, as they do in the United States, to get a statute passed, and also because there is a leadership in the House. You have particular men deputed to frame Bills and submit them, saying, "These are necessary for the country"; whereas in America the President recommends Bills, but the President is elected by the people almost direct, and there is no proposal to have any official like the President in this Federation. Sir Richard Baker said also, in very weighty words, "The Cabinet system will kill Federation, or Federation will kill it." I think in that he is mistaken. I say that in order to make that proposition have any reasonable vraisemblance he has to define Federation to suit himself. What is Federation? According to Sir Richard Baker it is Federation if you have equal powers for both Houses. Therefore he says if you have not got equal powers for both Houses you have not got Federation. That is a kind of argument in a circle. But it is not of the essence of Federation that you should have equal power in both Houses. I ask where Sir Richard Baker finds authority for the statement that there can be no Federation without equality in both Houses. The answer I got when I was interjecting about that was that in Canada they
have the nominee Senate, but that is not against the essence of Federation. What I understand to be the essence of Federation is what is put in a pamphlet issued by Sir Richard Baker, where he points out that the essence of Federation is that a citizen has got two citizenships—he is a citizen of the Federation for federal purposes, and a citizen of the State for State purposes. You must understand that the question of how the different Houses are formed is not an essential part of Federation. As to the United States there is no analogy. In the United States you have not responsible government, and you cannot apply the rules to them which you apply here. I am very glad to find that Sir Richard Baker recognises the impossibility of reconciling responsible government with the giving of the power to amend Money Bills to the two Houses. Of course he says:

Let us have the power to amend Bills and throw over responsible government.

I was greatly struck yesterday with the observations of Sir Edward Braddon on this point. He put, with a degree of moderation, the view of Tasmania as a smaller State at present. He said:

The government must rest upon the House of Representatives.

If the government must rest upon the House of Representatives you must give the House of Representatives sole power of the purse, else you cannot make the Government rest upon that House. Sir Edward Braddon's view was, I understand, that you must give the Senate power to amend Bills, and you must give the House of Representatives sole power of controlling Ministries. You cannot, however, reconcile these two things. If you give the sole power of appointing and controlling Ministries to the House of Representatives, you must refuse to the Senate the power of amending Money Bills, because the whole of our system of responsible government turns upon the way in which you deal with Money Bills. Money Bills will not wait. Mr. O'Connor's distinction of Money Bills is very important.

Sir GEORGE TURNER:

You only apply that to Appropriation Bills.

Mr. HIGGINS:

Still, though Mr. O'Connor's distinction may be right in theory, it may be almost impossible to carry it out in practice. Money Bills will not wait. You have to pay your creditors and your servants, and if you have a Senate that can block, block, block, that Senate can block, block, block until the Ministry is forced to bring down a measure that suits the Senate. Why, what has happened

[P.98] starts here
brought in a Bill to impose a land and income tax. The Upper House said:
   No; we will reject it as a whole.
   The Ministry then, against its will, and feeling itself under pressure of
getting taxation for the purposes of the finances, was forced to drop the
Land and Income Tax Bill, and bring forward an Income Tax Bill, which
was soon passed. I hope it will be understood that having the President of
our Upper House with us I am not making an attack, but making a point.
By giving the power to refuse, you give the power to dictate what sort of
taxation you will have. There is one matter which incidentally bears on two
of the subjects I want to deal with shortly. It is said to us who do not favor
giving the power to amend Money Bills to the Senate that if we express our
views on the matter we destroy Federation, that we simply put a damper on
Fo put an impossible case, suppose the Premier of New South Wales said,
"I want to spend a million on defence works at Port Jackson" - of course
there is nothing more popular than the expenditure of money on a city. In
that impossible case Hobart and Perth would be very indignant, and would
ask "Why is the money to be spent there simply to give employment to
New South Wales laborers?" In that case would not Victoria be quick
enough to interfere, and say, "We will back up Tasmania and Western
Australia. We will back up the small colonies."
Mr. HOWE:
   Supposing a large sum is to be expended in Victoria simultaneously?
Mr. HIGGINS:
   It would be a case of "pull, devil; pull, baker." You must trust to the
Federation. After all, it is the people for whom we legislate-flesh and
blood, as Mr. Carruthers has remarked, and not things. By the way, I might
state with regard to the United States having the power to amend Money
Bills that it has been commented on in Dr. Bryce's book, and there is a
short passage that I will read, although I am sure it is a book familiar to
most members. It says:
   The United States is the only great country in the world in which the two
Houses are really equal and co-ordinate. Such a system could hardly work,
and therefore could not last if the Executive were the creation of either or
of both, nor unless both were in close touch with the sovereign people.
   The Executive in the United States is the creation of the people by the
election of the President by a college chosen by the people. You find also
in the United States that they have a uniform manhood suffrage, which we
have not got here. We are about sixty or seventy years behind the United
States in that respect. All the struggles about a property vote were fought
out there between 1830 and 1850, and ended, as it will end here, in the
only objects of legislation being the people, and the heads of the people
will have to be counted to find out what must be the course of legislation.

Mr. FRASER:

They have not got woman suffrage there yet.

Mr. HIGGINS:

Another point I wish to address myself to is this: It has been said by some speakers that there must be equal representation in the Senate. I feel bound, as far as I am concerned, to say that I do not recognise it. I feel that a number of delegates have spoken in favour of equal representation for the purpose of getting Federation; and at the same time I know that there would be a strong feeling of discontent throughout the colonies among those who call themselves liberals, if there is equal representation of the large and small States.

Mr. LEWIS:

A stronger dissent from the other side.

Mr. HIGGINS:

The hon. member speaks as a representative of Tasmania. I think there is no doubt whatever that the representatives of the smaller States, in urging that there should be equal representation, do not do so in any spirit of selfish grasping. They only want what is just, and to do that they are aiming at getting what they think is proper, having regard to the whole circumstances; and I can only hope that they will recognise that those of us who speak against equal representation are animated by the same spirit. What amuses us is that these representatives of the smaller States seem to assume that they will always remain small States.

Dr. COCKBURN:

It is the principle.

Mr. HIGGINS:

If I were a representative of a small State at the present time I would feel so proud of my country as to believe that in a few years it would have left all the other colonies behind.

Dr. COCKBURN:

It would not alter the principle.

Mr. HIGGINS:

It does surprise me to find those who are ready to assume that Tasmania will always be in the rear as a colony. We do not know what the whirligig of time will bring about. In a few years New South Wales may be a sheep walk and Tasmania the busy hive of industry.

Sir EDWARD BRADDON:

We know that.

Mr. HIGGINS:
Having awakened the interest of the Premier of Tasmania to the great change that will take place between New South Wales and Tasmania, does he now urge the large State as against the smaller State?

**Dr. COCKBURN:**

We are talking about the principle.

**Mr. HIGGINS:**

I come to the principle now. The position is this: I recognise that they are fighting for a principle, only, as I honestly think, a mistaken principle; and if I am wrong my error will appear the more clear from the fact that I have expressed myself clearly upon it.

**Mr. SOLOMON:**

I thought you were inviting interjections.

**Mr. HIGGINS:**

As to equal representation in the Senate, I think we are in danger of being ready to acquiesce in a false principle as if it were a right principle, apart from its being a question upon which there may be a compromise; and if we start by acquiescing in a false position we will be led to a ridiculous result. I want first to show whether this is a correct principle or not. In Canada they have not got equal representation for the purpose of the Upper House; the two large provinces, Ontario and Quebec, have twenty-four senators; the Maritime States, Nova Scotia, New Brunswick, and Manitoba have between them twenty-four; Manitoba and British Columbia are represented in a descending scale to two and one. In Germany you have a Federation in which Prussia has an overbearing number with seventeen, Bavaria has six, and the smaller States have a descending number down to two or one. But in arranging the number of senators for each State the distribution is not in strict accordance with population, the smaller States being, given some advantage.

**Mr. BARTON:**

That was a Federation engendered more by domination than by consent.

**Mr. HIGGINS:**

We are dealing with what exists. The genesis of the German system has nothing to do with the question. Let us look at the experience of the United States—the great exemplar on this question—and let us ask ourselves if the small States found protection, or need for protection, in having a Senate composed of an equal number of members. I will refer again to Mr. Bryce's work, because I think he is the author with whom, upon this subject, most of the members of the Convention are familiar. In the first volume of his work, page 94, speaking of the arrangement whereby each State should return an equal number of members, he says:
There has never been, in fact, any division of interest or consequent contest between the great States and the small ones.

Again, at pages 181 and 182 Mr. Bryce observes:—

What is perhaps stranger, the two branches of Congress have not exhibited that contrast of feeling and policy which might be expected from the different methods by which they are chosen. In the House the large States are predominant: nine out of thirty eight-less than one-fourth-return an absolute majority of the 325 representatives. In the Senate these same nine States have only eighteen members out of seventy-six-less than a fourth of the whole. In other words, these nine States are more than sixteen times as powerful in the House as they are in the Senate. But as the House has never been the organ of the large States, nor prone to act in their interest, so neither has the Senate been the stronghold of the small States, for American polities have never turned upon an antagonism between these two sets of Commonwealths. Questions relating to States rights, and the greater or less extension of the powers of the National Government, have played a leading part in the history of the union. But although small States might be supposed to be specially zealous for States rights, the tendency to uphold them has been no stronger in the Senate than in the House. This arrangement was long resisted by the delegates of the larger States in the Convention of 1787, and ultimately adopted because nothing less would reassure the smaller States, who feared to be overcome by the larger. It is now the provision of the Constitution most difficult to change, for "No State can be deprived of its equal suffrage in the Senate without its consent" - a consent most likely to be given. There has never, in point of fact, been any division of interests or consequent contests between the great States and the small ones.

Where does the protection of the smaller States come in there? The truth is that the true protection for the small States lies in the limitation of the power given to the Federal Parliament. The true protection of the smaller States lies also in insisting that no subjects which cannot be better dealt with by Federation are to be given to the Federation, and that all those subjects which can be best dealt with by a colony, as a colony, should be still left to the colony. Take, for instance, the labor traffic in Queensland, and that is a question which affects that colony alone. Suppose Queensland were coming in, it would be reasonable for them to suggest this, "We cannot go into Federation with you unless you protect our rights with regard to the labor traffic." Hon. members will understand that I do not in any way lay down my own views as to the provisions regarding that traffic at present. If there is a subject over which they fear they cannot coalesce with us, they must put that subject out of Federation, or put a qualification
dealing with labor traffic in the Constitution Bill. What I want, therefore, is for those hon. members who feel strongly about State rights to point out some probable instance of the larger States, as a whole, being able to combine, or willing to combine, against the small States as a whole. I want them to give me some definite concrete instance in which them is a likelihood of the small States being swamped and unjustly treated by the larger States. Where is the instance? Apart from the general sense of justice over a large mass of people, you will find that the larger States, whichever they may happen to be in future years, will tug as hard as they can, and that the small States will really be able to hold the balance very often between the larger States in the representation. I have not been able to get any instance of the smaller States being unjustly treated. I put this case to myself:—Supposing there were a number of Oddfellows' lodges, and those lodges formed a joint association, and that they said - "For the purposes of the association we shall vote in the association room; for the purposes of our lodge we shall vote in the lodge room." And supposing then that some of the lodges had a fewer number of members, and that those smaller lodges said - "But we will be swamped in association matters by a majority from the larger lodges, and therefore we must have in association matters a preferential, a better system of voting than the others." Why, the others would say - "No, you have perfect liberty to control yourselves in your own lodge for lodge purposes, but for your association purpose - for our joint purposes - the majority must rule." Whatever we may say against government by majority, government by minority is much worse, and must be much worse; and, after all, when it comes to the final issue, it is the number of heads and the number of people whose lives and liberty are subject to the Federation that we must go by. But I think really it is about time to descend from generalities about State rights, and for those hon. members who say there ought to be equal representation to show some probable cases in which an injustice could be done to them. As Sir Richard Baker puts it in his pamphlet, and I think it may be used as a strong argument:—

There must be a dual citizenship. In a Federation the people are citizens of two different nationalities, if I may so express myself. They are citizens of the States and also of the Federation. Both the States and the Federal Governments act directly on them. In the particular form of union, which in contradistinction to Federation is called Confederation, the government of the central body acts upon the States as States, and not upon the individual citizens of the States as citizens of the central Government.

There you have a dual citizenship—for the purposes of the Federation, the
Federation acts directly upon the citizens; for the purposes of the State, the State acts directly upon the citizens. Why, in the name of goodness, should not a citizen act directly on the Federation for the purposes of the Federation, and why should not he act directly on the State for the purposes of the State. There is real grave danger, having regard to our conditions, in giving such huge power of equal representation. In the United States they have forty-two States. A small State is one in forty-two. In these Australian colonies, supposing all six federate, including Queensland, we will have only six States. A small State in America will have only one forty-second of the power in the Senate, so that any whim of that small State can easily be cancelled by the other small States. But in this Federation the small State will have one-sixth of the power, and seven times as much as the power of a small State of America.

Dr. COCKBURN:

There were only thirteen to commence with.

Mr. HIGGINS:

That is true, but there are forty-two now, and because the United States have been able to add State after State from their vacant territory the evil has not been so pronounced. Even in America there has been discontent with this equal representation. The people of New York say, and with good reason, that with their five or six millions of people they are only returning two senators, while Nevada, with 30,000 has the same right to return two senators. Nevada is only a pocket borough for the silver kings.

Mr. GLYNN:

They have only one House.

Mr. HIGGINS:

The small States can be worked more easily by a clique than a large State, and there is danger in allowing them to have equal representation. I feel that I should not be justified in detaining this Convention very long, and I wish to be explicit in saying that whatever concessions or compromises may be made hereafter it must be recognised that throughout the colonies there is a large mass of people who do not like the system of equal representation, and who say that this is one new method for stifling the will of the people—of stifling the voice of the majority—and what amazes me is to find gentlemen who call themselves Radicals in a small colony advocating this in preference to rule by the majority. If they know how the stiffest Tories are leaning all their hopes upon equal representation in the Senate they will see how falsely they are being led. There is a greater danger to States rights in another direction under the Commonwealth Bill of 1891, and that is to
allow the selection of the senators by the local Parliaments. Because they have the senators elected by the Parliaments in the United States, Federal politics are brought down into the arena of local Parliaments. The State elections are continually disturbed by contests between Republicans and Democrats, and false issues are put before the State Parliaments. Supposing a man is standing for the representation of Nebraska, he would be asked, "Sir-If you are elected which senator will you vote for?" and if he is returned he has to vote for a certain senator. The result is that the Federal politics are more and more put in the place of State politics; and I say this is one of the greatest dangers which the United States has to fear, that the State politics may be overshadowed by the Federal politics, and in place of the State working out for itself its own destinies upon fair issues, the issues which should be before the State may be confused by issues which are matters for the Federal Parliament alone. I wish to refer again to a passage on page 95 of Dr. Bryce's book. He says here, speaking of these issues:—

In this respect this connection is no unmixed benefit, for it helps to make the national parties powerful and their strife intense in these last-named bodies. Every vote in the Senate is so important to the great parties that they are forced to struggle for ascendancy in each of the State Legislatures by whom the senators are elected.

Then, again, on page 96, he says:

Sometimes when a vacancy in a senatorship approaches the aspirants for it put themselves before the people of the State. Their names are discussed at the State party convention held for the nomination of party candidates for State offices, and a vote in that convention decides who shall be the party nominee for the senatorship. This vote binds the party within and without the State Legislature, which immediately precedes the occurrence of the senatorial vacancy. Candidates for seats in that Legislature are frequently expected to declare for which aspirant to the senatorship they will, if elected, give their votes.

He then speaks in a note of how there was an effort made by a number of men to alter this system so as to throw the election of senators directly upon the people. Then on pages 537 and 542 he shows how the legislature in each State is profoundly affected and has deteriorated in composition by the interference of Federal politics through that system. He says on page 542:

The Federal senators are chosen by State legislators. The party, therefore, which gains a majority in the State Legislature gains two seats in the smaller and more powerful branch of the Congress. As parties in Congress are generally pretty well balanced, this advantage is well worth fighting for, and is a constant spur to the efforts of national politicians to carry the
State elections in a particular State.

Then, on page 537, he says:

One of these is that the political importance of the States is no longer what it was in the early days of the Republic. Although the States have grown enormously in wealth and population, they have declined relatively to the central government. The excellence of State laws and the merits of a State administration make less difference to the inhabitants than formerly, because the hand of the national government is more frequently felt. The questions which the State deals with, largely as they influence the welfare of the citizen, do not touch his imagination like those which the Congress handles, because the latter determine the relations of the Republic to the rest of the world, and affect all the area that lies between the two oceans. The State set out as an isolated and self-sufficing commonwealth. It is now merely a part of a far grander whole, which seems to be slowly absorbing its functions and stunting its growth, as the great tree stunts the shrubs over which its spreading boughs have begun to cast their shade.

In short it is this: that, owing to the State Legislatures having to elect the Federal

Senators, the Federal parties will influence the State Legislatures, which means the introduction of Federal issues into such elections, and it means therefore the deterioration of State politics—the growth of Federal politics and Federal power at the expense of State politics. As to the franchise, I am of opinion that it should be a federal matter.

Mr. HOLDER:

Hear, hear.

Mr. HIGGINS:

It is not a State matter. It is a matter which I should like to see settled in the Constitution.

An HON. MEMBER:

As to the Senate?

Mr. HIGGINS:

As to the franchise of both Houses, that should be in the Constitution.

Mr. HOLDER:

Hear, hear.

Mr. HIGGINS:

Some say in the plausible phrase:—

Let each colony settle for itself the franchise.

Mr. SYMON:

Only for the Senate?
Mr. HIGGINS:
   It has been said with regard to both Houses.
Mr. SYMON:
   There has been no proposition like it.
Mr. HIGGINS:
   I have heard it. I should be the last to interfere with any State settling its franchise for its State purposes, but when it comes to this—that that State is to join in electing members to make laws for us, to make laws for other colonies—the other colonies have a right to have a voice in the franchise. Therefore what shall be the federal franchise is purely a federal matter. I go a little further, and I say I hope to see that we are to fix the franchise in the Constitution.
Mr. HOLDER:
   Hear, hear.
Mr. HIGGINS:
   Of course, it will be said—
   Leave that to the Federal Parliament.
Sir EDWARD BRADDON:
   Hear, hear.
Mr. HIGGINS:
   If you have it left to the Federal Parliament to fix the franchise you will find it hard to get a broad franchise from it.
Mr. HOLDER:
   Hear, hear.
Mr. HIGGINS:
   Therefore I will lend a helping hand to anyone who will try to put into the Constitution the franchise for both Houses. At the same time I am willing to have provision made for amendment of the Constitution to any reasonable degree, so that any alteration can be made hereafter if it be found expedient. I may say, incidentally, that the minimum franchise I can agree to is that of manhood suffrage.
Sir GEORGE TURNER:
   Surely the Federal Parliament is certain to be elected on that basis?
Mr. HIGGINS:
   I would like the hon. the Premier to tell me why it is sure to be elected on that basis. Suppose it is left to the different colonies. In Victoria, Queensland, Western Australia, and Tasmania you have not a uniform suffrage, though I am glad that in New South Wales manhood suffrage exists, while in South Australia women also have the franchise.
Mr. SYMON:
Would you abolish womanhood suffrage?

Mr. HIGGINS:

Not for South Australia. I am in favor of womanhood suffrage, but the colonies have not generally adopted it yet; and, though I am a strong advocate of it, I say the best way of getting it is through manhood suffrage. Get a liberal franchise on the basis of manhood suffrage and womanhood suffrage will follow. It is only a question of expediency. We who claim to be Liberals in this matter demand that we should have in the Federal Constitution a provision for uniform manhood suffrage for the purposes of election to the Senate and the House of Representatives.

Sir GEORGE TURNER:

Would it not shut out women altogether?

Mr. HIGGINS:

With all respect, I say no. If you have uniform manhood suffrage in the Constitution for both Houses as soon as the question of womanhood suffrage is ripe for decision you can ask for an alteration of the Constitution so as to extend the federal franchise to women.

Sir GEORGE TURNER:

In the mean time you shut out the women of South Australia.

Mr. HIGGINS:

I do not shut them out of anything they at present possess. At present they have the advantage of being able to vote at the elections for Parliament in South Australia, and they will still keep that power. I do not close them out of any power they possess at present, but to achieve Federation I should not insist upon making it a condition of Federation that there shall be women's suffrage for all the colonies. The other colonies have to fight the matter out for themselves a little more, and, having done that and having adopted it for their own State Legislatures, it will be time for us to ask to amend the Constitution. I do no

Sir GEORGE TURNER:

They have the right to legislate on certain subjects now, and you take that away from them.

Mr. SOLOMON:

They elected us to this Convention.

Sir GEORGE TURNER:

And made a very good choice.

Mr. HIGGINS:

Yes, a very good choice; but I wish to say again that the women are not giving up anything which they possess at present.
Mr. ISAACS:
Yes.

Mr. HIGGINS:
I have said "No," and my hon. friend says "Yes." All that I can say is "No" again. For the purposes of the State Legislature they will still possess their present right. They know that their best wisdom is not to make this an essential for the purposes of Federation. The surest wisdom is to adopt the franchise of New South Wales, which I wish we had in Victoria, and then, when the matter has become riper, make the alteration.

Mr. GRANT:
They can vote on taxation legislation.

Sir GEORGE TURNER:
They have a voice in the election of the Legislature by which Customs duties are levied.

Mr. HIGGINS:
We must not refuse to recognise that the women in electing the delegates for South Australia have elected them for the purpose of making an agreement with the other colonies, and not to insist on all that South Australia requires. That is all that is implied. I should like to see the Senate elected by the colony as a whole and the House of Representatives by districts. It has been said that a Senate elected by the colony as a whole will be so powerful that it will claim the right to amend Money Bills. If there should be certain advantages given to the smaller States in the Senate it will represent a minority of the people, and a House which represents a minority of the people should be kept subordinate to the House which represents the people as a whole. I should like to speak about the finances, but I do not intend to. I feel that it is the largest of all the subjects; and, although I have given it the most thought, I feel that it is a subject on which I do not want to commit myself, but I wish to get more details first.

Sir GEORGE TURNER:
You should give us the benefit of your knowledge of finance.

Mr. HIGGINS:
I am sufficiently modest to know that my knowledge of finance would do no good to the Premier. I have spoken under some indisposition, and, having dealt so long on matters of the Constitution, I should not do myself justice in going on further; but I can only say that the question of finance and the question of railways are those upon which I think we, as representatives of the people, are entitled to hold our views in reserve. I want more data, more information, more figures—in fact, we are omnivorous for figures upon this question of finance; and I
feel I do not want to hamper myself in future discussions in the Committee of the whole by giving expression to my views upon the question of finance. I think the views of the House are not ripe upon the question of finance, and, although I feel strongly with regard to the question and the inequity of the proposals in the Bill of 1891 upon the financial question, I do not intend to deal with it at the present stage. I feel we should be very chary about committing ourselves in reference to finance. I want to be very guarded as to the mode of dealing with deadlocks. As far as I am concerned, I would like to see a deadlock avoided, not by the joint sitting of the two Houses, but by a system of referendum if necessary; and, if we cannot get that, by a joint dissolution of the two Houses. I am completely against the System of a joint sitting, and I am against the idea of those who represent the people as a whole being treated as no more influential than those who represent a class of people.

Mr. GORDON:
What class?

Mr. HIGGINS:
I say this—that those who represent a class of people do not come in upon the same level terms with those who represent the people as a whole, and with the system of joint sitting I can never be in favor. If the Senate is to represent a minority, as it will do under equal representation, it is not fair to put those who represent the people as a whole upon the same level.

Sir WILLIAM ZEAL:
You propose to give a similar franchise for both Houses.

Mr. HIGGINS:
If you give a special advantage to a small State in the Senate you will have the Senate representing not the true majority, but the minority; and therefore I say, as the Senate represents a minority, it will not be truly representative of the people as a whole. Even though the franchise be upon the same basis, the House will not truly represent the majority. I hope I have not wearied the House. I have raised opposition, which is a great object to achieve in this debate; and I understand a representative of New South Wales will, in the course of time, trenchantly attack my observations and show how utterly unreasonable my conclusions are, I ask the House to bear with me if I have not spoken altogether as, I should have done.

Mr. WISE:
Although I do not find myself in accord with every, view and conclusion that have been arrived at by my hon. friend, I trust that he will find when I have sat down that, in combatting his views, I have imitated the temper with which he has spoken, and his admirable lucidity. I say nothing about his preliminary complaint as to the form of procedure, because it appears to
me that the hon. gentleman himself has answered his own arguments by the
character of the speech he has delivered, and shown how it is possible, on
these resolutions, to touch with sufficient fulness on all the points of
controversy, and to do so without emphasising too early those points of
difference, which must ultimately be solved, but which ought not to be
brought into too much prominence until the time is ripe for their solution. I
will at once come to grip with my hon. friend over the question of equal
representation. As I heard him elaborate his arguments I could not help
recalling an incident at the Philadelphia Convention of 1789, when a
gentleman put, I will not say with equal force, but with great force, the
views urged by my hon. friend, Mr. Higgins, the representative of Victoria-
that is to say, he insisted that it would be improper and absurd that 180,000
men in one part of the country should have equal representation with
750,000 in another portion of the country, and he concluded an emphatic
speech by saying that such a proposal would be unjust. So curiously does
history repeat itself, that we find the

same arguments being used here to-day. He was succeeded by a delegate
from Delaware, who, oddly enough, was called Mr. George Read.

Mr. ISAACS:

A bad start. (Laughter.)

Mr. WISE:

Thus does history repeat itself in great things as well as in little, and this
gentleman said: "The hon. member who preceded me has been candid. He
has said that there should be no Federation if the States come in on equal
terms. I will be equally candid. I tell him I never will confederate upon
such terms." It seems to me that we are much in the same position to-day
that the framers of the Constitution of the United States found themselves
in in Philadelphia little more than a century ago; and this has, more than
anything else, brought me round to the view that there ought to be equal
representation in the Senate, namely, that it is a practical necessity if we
desire to see the Federation of Australia. I am not sure that there is not
some theoretical justification for this. Each of these States has a history of
which it is proud, and traditions to which it clings, perhaps more closely
than people in a larger State, because they have lived closer to the men
whose deeds they cherish in their memories. They have a separate national
existence, and I am not sure that there is not something more than mere
sentiment in the desire that they should not lose their identity in a larger
Federation. It is a practical necessity of Federation that equal
representation should be granted. I do not understand how anyone can
object to this principle of "One State One Vote," who is an advocate of the
democratic principle of "One Man One Vote." It seems to me it would be
just as illogical to say that one State, because it contributes a larger portion
to the revenue than another, should have larger voting power than another
which contributes less, as it would be to insist that it man who happens to
have forty times more wealth than another man should have forty times
more voting power. This recognition of that essential equality which
underlies the whole principle of Federation we are now asked to give by
having an equal representation of the States in the Senate. If that equality is
conceded, we are then face to face with the problem so clearly stated to us
by Sir Richard Baker. And I would like to express my great obligation to
him for the address he delivered the other day.

Mr. REID:
Hear, hear.

Mr. WISE:
Speaking for myself, it compelled me-although the subject was not
unfamiliar-to put all my ideas upon this subject back into the crucible, and
to think the matter out again. And I am afraid the result has been to lead me
to a conclusion different to that which he desired. If it be the case-and Sir
Richard Baker has convinced me that it is-that, to use his own phrase-
The Cabinet system is incompatible with it true Federation, because you
can never have a responsible Government which has to be responsible to
two Houses.

Then I, for one, am driven to make a choice between a true Federation
and responsible government. And like my hon. friend, Mr. Higgins-and
here I agree with him-when driven to make that choice, it seems to me it is
of greater importance that we should preserve the practice of responsible
government, than the logical cohesion of the federal idea. This is one of
those cases where the logical formulae of political speculation ought to
give way to the historical and practical necessities of our own day.

Mr. SOLOMON:
Hear, hear.

Mr. WISE:
And therefore I recognise at once that the Union we are about to enter
upon is not a complete Federation, not a logical Federation in the sense that
every measure that is passed has to approve itself to a majority of the
inhabitants and a majority of the States. Still recognising that, I feel it to be
a duty to do the best we can to keep the federal idea as little weakened as
may be possible. Recognising, then, that responsible government will
vail, and believing, as I do, that it ought to prevail, we are driven to the necessity of establishing the predominance of one of the two Houses, and that predominance appears to have been secured in the draft Bill of 1891, as modified by the proposals of my hon. friend Mr. O'Connor—with whom I am so much in agreement that I shall speak very briefly on this point—in providing that Money Bills should originate in the National Assembly and that the States Assembly should have no power to amend the annual Appropriation Act. But, with that exception, I fail to see any reason why the States Assembly Should not have co-ordinate powers with the Representative Assembly. Give the States Assembly or Senate the power to alter the Appropriation Act and you at once make that body a portion of the Executive. You make it responsible for the preparation of the Estimates of the year and you take the executive government out of the hands of the responsible Ministers, who are to look no doubt to the House which is to be predominant—starting on the assumption that one House must be predominant—and that House by reason of experience we accept because it is the House which represents the people in their numerical majority. I had hoped that the hon. member who has just resumed his seat would have spoken at more length on the reasons that weigh with him why the States Assembly should not be allowed to amend Money Bills. I frankly admit that to me this contest about amending Money Bills has rather an antiquarian than a practical interest. I know that is a vital, living, and important question in Victoria, and I had hoped—and I hope still—that before the debate closes some representative from Victoria will put the Victorian view of this question as forcibly as possible, so that those who, like myself, are in a difficulty as to what arouses so much interest in that colony in a question that seems to us to be on

Sir RICHARD BAKER:

You cannot have responsible government with two Houses of co-ordinate powers.

Mr. WISE:

I do not think so. You cannot have responsible Government and the power to amend the Appropriation Act, but if the power of the States Assembly or Senate to amend the Appropriation Act is taken away, then the Government remains responsible to the House of Representaves.

Sir GEORGE TURNER:

Would you allow Customs Bills to be amended?

Mr. WISE:

I do not see why not. I am glad of the interjection, as it suggests something of interest to the Victorian representatives. It is well known that New South Wales has large deposits of iron. I believe iron, as the raw
material of most manufacturing industries, is admitted free into Victoria. Suppose New South Wales, backed up by Queensland, in order to protect the industry, were to impose a duty of £5 per ton on all pig iron, I venture to think that the Victorian delegates to the Senate would like to strike out that item. Take another illustration. One does not readily occur to me as applicable to Australia; but in other parts of the world there is fish-curing, for instance.

Mr. GORDON:
Queensland sugar.

Mr. WISE:
And the prevention of the introduction of salt would rain that industry.

Mr. ISAACS:
You are assuming that it has passed the other House.

Mr. WISE:
I am.

Sir GEORGE TURNER:
That is the first step.

Mr. WISE:
I do not think that many real conflicts will arise over the Money Bills. The constitutional conflicts to-day take place far more over social questions than they do over Money Bills, and surely it is a little inconsistent to say

that your States Assembly may amend or defeat a Bill that may strike at the very root of any social question, as, for instance, parents and the custody of their children, or establishing what some call freedom of contract, or striking a deadly blow at any industry or disorganising industrial relations, and yet when a Bill for the payment of a single official comes up to say that the men chosen to represent the State - men who have been ripened in judgment by experience, the pick of the whole of the colonies-shall not have the power to amend it in the most insignificant particular, although in larger matters they are given full power. Therefore I trust we shall not be scared by the ghost of dead controversies which lived in Victoria some years ago, and which have not taken on flesh very much in recent years or in any other colonies, and which possibly only walked in Victoria owing to special circumstances, likely enough never to occur again. It is not very hard to define the distinction between Appropriation Bills and what we call Money Bills. Sir George Turner asked me just now if I was in favor of allowing the States Council to amend a Taxation Bill. I will give an illustration from our own colony within the last three years. We sent up a measure for direct taxation, which excited a deal of class conflict. That
Bill, when it reached the Upper House—I only give this illustration as an illustration, not admitting there is the slightest analogy between the Upper House and the States Assembly—when it reached the Upper House, from its peculiar structure, there was doubt as to whether it was a Money Bill or not. This may be difficult to understand, as it was a Bill to impose taxation, and it would therefore seem obvious that it was a Money Bill. However, for certain reasons arising out of the measure being divided into Bills, there was a doubt; but the President of the Council ruled it was a Money Bill and a Bill imposing taxation, and that therefore no amendment was possible. Our Council was then compelled to throw it out, although many of those who spoke in favor of throwing it out would have favored passing it if it could have been amended. In consequence of that the country was put to the expense of a dissolution, and six weeks afterwards, when the ruling had been reversed, the Upper House passed it with the amendments they were willing to have made before-seventy-two of them—and all of these amendments were made with general approval and accepted by the Government with the exception of five, and as to these a conference was held at which a compromise satisfactory to all parties was arrived at. These amendments were a great advantage to the Taxation Bill amended by the Second Chamber.

Sir GEORGE TURNER:
That could easily have been got over by the Assembly sending up a Bill as desired by the Council.

Mr. WISE:
Perhaps some of us thought that way also.

Sir GEORGE TURNER:
Perhaps it did not suit the Government.

Mr. WISE:
I would like to refer to the suggestion of Mr. Higgins as to having a uniform electoral franchise declared in the Constitution. I came here strongly impressed with that idea, and I urged in various addresses that that should be done. Further reflection, however, has satisfied me that it is hardly practicable. Suppose, for instance, the Convention passes a clause to be inserted in the Constitution providing that the suffrage for the first Parliament should be adult suffrage. What measures could be taken to ensure the issue of electors' rights to the women of the colonies which do not possess the franchise? Suppose, for instance, the clause is a one man one vote clause, who is to prescribe that the electoral machinery of the colony that has not got that system shall be so altered as to provide for its effective working?

Sir GEORGE TURNER:
We did it for these elections by saying no man should vote more than once.

Mr. WISE:
I agree with Sir George Turner that it must be left to the Federal Parliament, but before the Federal Executive is in existence who is there to ensure that any regulation we make here with regard to the electoral machinery of any particular colony will be effectively carried out?

An HON. MEMBER:
Each colony would have to pass a Bill.

Mr. WISE:
Is that practicable?

Mr. HIGGINS:
They might refuse.

Mr. WISE:
If they refuse we are in this position: that we have raised up a fresh obstacle to this Federal Commonwealth coming into existence. I believe we shall get a more liberal franchise from the Federal Parliament than from this Convention, but that is an argument rather ad hominem, and one which is not entitled to much weight. It has been said the principle of establishing a federal franchise is a good one and practicable, but at present I have heard nothing to show that such an object, even if desirable—and I have felt fully the force of the arguments urged in favor of as liberal a franchise as possible—can be achieved without raising great obstacles to the union we are sent here to consummate.

Sir GEORGE TURNER:
It is worth making an effort.

Mr. WISE:
I find that I have inadvertently omitted to do justice to part of the argument of my learned friend Mr. Higgins. He very forcibly insisted, and he drove the argument home very clearly, that the true protection of the States interests was to be found in the limitation in the Constitution Act of the powers of the Federal Government. While I entirely agree that it is undoubtedly a great protection of the interests of all the States, both small and large, it does not seem to answer the argument that was in the mind of the hon. member when he used those words. The danger to the States interests that the smaller States fear is not, as I understand it, the encroachment of the Federal Government upon the powers which the Constitution limits to the States, but the improper exercise by the Federal Government of its powers in Federal matters to the injury of the States.
Mr. HIGGINS:
Can you give an instance?

Mr. WISE:
I have endeavored to give one with regard to a possible duty on iron. Some have been given in the course of this debate and others in the debate of 1891. I might mention such matters as an excessive expenditure on defence in an improper place or the expenditure of large sums under the pretence of serving national purposes when the real reason was to secure doubtful votes in a section of the State.

Sir GRAHAM BERRY:
Would not the House of Representatives be the best to safeguard that?

Mr. WISE:
In answer to my honorable friend's interjection it appears to me that it is to prevent anything like log-rolling in the House of Representatives, not so much in the interests of the State, but of the Ministry of the day, that the States desire to protect themselves. Instances will occur to members, and it would unduly protract my remarks were I to give more. I would like to say further that there is one matter, namely, his proposal of limiting the powers of the Senate with regard to the amendment of Money Bills, which my honorable and learned friend Mr. O'Connor seemed to me to leave a little obscure. I understood him to mean that the Senate should have no power to amend the annual Appropriation Act. He is silent, and probably designedly so, on another important matter. Would he or would he not give the States Assembly power to amend the Loan Appropriation Act. It is a matter which has to be faced, but on which I at present express no opinion. It must be considered by those who advocate giving power to the States to protect themselves, and also by those who desire to see more uniformity in the representation of the States.

Sir GEORGE TURNER:
It is more important than the other matter.

Mr. WISE:
It is indeed important, as it may be used as an engine of oppression, yet it may be essential for the due exercise of the government of the Commonwealth.

Mr. O'CONNOR:
It comes under the same principle as Money Bills. The borrowed money has to be spent.

Mr. WISE:
It may be a more effective engine of corruption in the spending of loan
money in different localities, and may cause more serious trouble than perhaps the appropriation of the consolidated revenue. I pass now to the consideration of the proper steps to be taken in the event of there being a hopeless deadlock between the two Houses; and I would preface my remarks by expressing a doubt as to whether it is after all necessary to provide any way out of a deadlock. Is it historically true with regard to these colonies at at any rate that deadlocks have always proved disadvantageous to a community in which they occur? Is there not a good deal to be said, and truly said, in favor of the view that deadlocks have too often occurred from an undue exercise of power which was not always approved of by the people. There is another consideration of a more general character which must never be forgotten, that there is only one way after all to absolutely avoid a deadlock, and that is to create a despot. If you have the government of a single man, a deadlock cannot possibly occur, but I understand a deadlock is the price we and every free country have to pay for the benefit of constitutional government. If you have constitutional government there must always be some risk of the powers—the counter-balancing powers—that constitute a Government falling out of gear, but the true remedy, as proved by experience, is to trust to the self-governing instincts which the British possess, the sense of justice, and the power of public opinion. At the same time there can be no question that in entering upon a Federation we are introducing a new element, and the proposal that was made by Mr. O'Connor does certainly appear to me to be open to the objections raised by Sir Graham Berry, whose interjection was not answered. Mr. O'Connor proposed that if the interests of a majority of States were so seriously affected that the States Assembly felt it its duty to throw out the Appropriation Bill, and per capita, and the question should be resolved by a majority of both Houses. It was asked by Sir George Turner—Suppose you had a minority in the Lower House which was turned into a majority by the reinforcement it received from those of a similar way of thinking in the Assembly of the States? And Mr. O'Connor replied that in that case the will of the States Assembly would prevail. "And what then?" asked Sir Graham Berry, but the question was not answered. How could the Ministry carry on if it found itself in a minority in the Lower House? I fail to see any answer to it.

Sir GEORGE TURNER:

It would not be a majority in that House; it would be a minority. No minority in the House of Representatives, coupled with a majority in the States Assembly, should override a majority in the House of Representatives which gave its confidence to the Ministry.

Mr. WISE:
Exactly so. If the Appropriation Bill is not passed what is the Ministry to do?

HON. MEMBERS? Resign.

Mr. WISE:

What is the next Ministry to do?

Sir GEORGE TURNER:

They must go to the people.

Mr. O'CONNOR:

My answer was that they must go to the country.

Mr. WISE:

Then what becomes of the theory of responsible government? This is one point in which in actual practice the theory of responsible government may be altered. It does not appear that the suggestion of Sir George Turner to avoid a deadlock gets over the difficulty, because if you refer the matter to a referendum, and a referendum be taken of the States, the assumption is that the matter is referred to the referendum because the interests of a majority of the States are so seriously affected that their representatives threw out the Appropriation Bill; the probability is that the representatives actually represented the opinions of their States, so that the referendum, unless the State senators misrepresent the opinion of the State, will lead to precisely the same result. After all we are driven, for my part somewhat reluctantly, to a state of absolute uncertainty as to whether there is any possible way out of a deadlock.

Mr. SOLOMON:

The dual referendum comes in there, according to Sir George Turner.

Mr. WISE:

That complicates the matter still more. I only throw out these observations in order to obtain a further elucidation of a most difficult problem, and I entertain the idea myself that it is preferable to run the risk of any misunderstanding that may arise rather than invent any mechanical contrivance to settle difficulties regarding which there will be a temptation to put the contrivance in force before exhausting all conciliatory means. I would like now to say a word or two in reference to other clauses of these resolutions, and I do not by any means concur in the censure passed by my friend Mr. Higgins, the representative of Victoria, as to the framing of resolution No. 1A. It seems to me to be admirably adapted to raise all the topics in controversy and to be framed as deliberately and successfully as any one of the thirty-nine Articles of the Church of England, to commit no one to anything, yet allow everyone to raise to his own satisfaction any question he pleases. I would like to say one word upon the first sub-
heading of resolution No. 1. It states: "That the powers, privileges, and territories of the several existing colonies shall remain intact." There is one point, referring to the territories of the State that I have not yet heard any comment upon. These are large-sized States to federate, and, in the case of two of them, there is a dangerous predominance in population and wealth. There is another difficulty connected with this subject, which perhaps presses more upon myself and those who hold similar fiscal opinions to myself than upon others, and that is that in the Bill as drafted now there is no practical alternative source of revenue for the Federal Commonwealth to the Customs, and I say this: though the Bill of 1891 conferred absolute power of taxation, and no doubt our Bill will follow suit, because it would be practically exceedingly difficult, if not impossible, for the Federal Government to levy direct taxation, there are some of us who do not look forward with satisfaction to a continuance of the existence of the Customs duties. It has occurred to me, and I throw this out merely as a suggestion, that if the Federal Government at the outset had a substantial portion of the continent as federal territory, that that would give two advantages. It would offer a field for experiment which would be of the greatest interest, and be ultimately successful—an experiment which would result in giving to the Federal Government the revenue from a gradual growth in the value of lands, a form of raising revenue, towards the securing of which there has been a steady movement throughout the continent. There is, belonging to the four colonies of Western Australia, South Australia, New South Wales, and Queensland, a great tract of territory in the interior which is practically unoccupied. Even those portions which are occupied cost far more to govern than they return, and I would suggest whether it is impossible that a concession should not be made by each of these four colonies to hand over the greater part—if not the whole of that territory—to the Federal Government as a federal endowment.

Mr. GORDON:
Without consideration?

Mr. WISE:
Well, the consideration would be that they would take over the charge of governing it.

Mr. HOWE:
Take over the liabilities.

Mr. WISE:
Yes, take over the liabilities. Let them use it as federal territory, and let it be governed as the territories are governed in the United States. It appears to me that would have this advantage: supposing there were to be a great
mineral discovery-as is quite practicable and likely-in territory now unoccupied and belonging to any one of these four States, and that that were to lead to such a rush of population as we have seen lately happen in South Africa; the consequence would be that a particular State, which might already have undue predominance, would have its power considerably increased, to the peril of the whole Federation. If it were federal territory, however, the Federal Government would, as soon as the population justified it, carve out such territory as a new State, and would at the same time, by every increment in numbers, by every natural development, by every improvement in the forms of government, be deriving a revenue and forming a permanent endowment which would ultimately enable it to dispense with Customs duties. It is with a desire to give an opening for a large experiment in land nationalisation—which is a cant phrase often misunderstood—and also with a view of securing the more effective development of the interior, without causing any risk to the Federation by giving undue predominance to already powerful States that I make this suggestion.

Mr. O'CONNOR:
Do you think a Constitution containing that provision would be likely to be assented to?

Mr. WISE:
I premised it by saying that it should be done with the assent of four States. What I would suggest is that the Federal Government should be given power to take over the territory and administer it. Before passing from that topic the arguments in favor of my proposal would certainly be strengthened if the Federal Government undertook to build the Transcontinental railway. It is clearly right that if the federal form of government added to the value of the land by State expenditure, the State-earned increment should go back to the Federal Government, and not to any particular State through which the railway happened to run. I come now to the fifth sub-head of Resolution 1, which reads:

That the trade and intercourse between the Federated Colonies, whether by land or sea, shall become and remain absolutely free.

I entirely concur with the views which fell from my hon. colleague, Mr. Carruthers, as to the necessity of the Federal Government taking over the railways. I do so chiefly upon technical and practical grounds. We all agree, I understand, that the competitive rates must go. We all agree that the railways are not to be used as protective barriers to intercolonial trade. Where we differ is as to the practicability of arriving at either of these objects without the Federal Parliament absolutely taking over the railways, managing them under one system, with one gauge, and under one head. My
honorable and learned friend Mr. O'Connor has urged that all that is
desired can be effected by means of an Inter-State Commission. But in
reply I would remind him, as the South Australian representative, Mr.
Glynn, has already done, and therefore I will not dwell upon it, that the
Inter-State Commission in the United States and the corresponding tribunal
in England have not succeeded in accomplishing their object, and if there is
that want of success by a powerful tribunal, backed with the authority of
the law of a settled community in dealing with private companies, what
hope can we have that the tribunal newly called into existence by a
Government, which has only

begun to feel its feet, will be able to coerce the powerful States, which
would be members of the union and own the railways. And if they could
coerce, is it a safe thing to enter this Federation with much a cause of
permanent friction between the several States? Is it judicious to demand
that the States should surrender their settled policy, which has been
maintained for their own special advantages, and submit the determination
of their policy to a newly-constituted body which will direct the railways in
the interests of the whole community? Is it safe or practicable? If it is, I
shall be glad to welcome that way out of the difficulty. We had an
illustration on the first day of our meeting of the difficulties with which the
Inter-State Commission would be met. One of the representatives, Mr.
Walker, asked a question with regard to the returns furnished by the
Railways Commissioners to their respective colonies in relation to
competitive rates. There was a most ominous refusal at the hands of one of
the delegations, on the ground that they were confidential.

Mr. FRASER:
That refusal is not confined to our colony.

Mr. WISE:
It makes it worse if the other colonies take the same view.

Mr. HIGGINS:
We are more frank, you see.

Mr. WISE:
How is the State Commission to find out what preferential rebates are
being allowed if the railway management refuses the information?

Mr. O'CONNOR:
The Commission must have power to make inquiries.

Mr. WISE:
And if the Government refuses? There are many ways of defeating
inquiries, as the Commissioners of the United States found. Mr. Grant, of
Tasmania, could give us some interesting information on that point.
There are many ways of keeping railway accounts to show a different state of things to that which really exists.

Mr. GORDON:
That's rough on Grant. (Laughter.)

Mr. WISE:

Are not the difficulties, great as they may be-and I admit that they are great-in the way of the Federal Government taking over the railways less than the difficulty in submitting them to the control of an Inter-State Commission. Besides, the taking over of the railways will serve another purpose. We cannot hope to bind these colonies together in an indissoluble tie, to remove the causes of difference, and cement their union unless we open up new channels of communication in addition to removing the obstacles which obstruct the old ones. I believe we shall make little progress with Federation until we turn the railways from weapons of defence into instruments of consolidation. By doing this we will at once get rid of difficulties in the way of trade, and make it possible to build new railways, which at present we dare not do. In my colony the worst effect of the existence of competitive rates is that we are practically prohibited from giving the settlers of the western districts the benefit of railways which they otherwise might have. We dare not run lines further west, although we have reason to believe they would pay handsomely. So far as New South Wales is concerned I am satisfied we can afford, even as a mere matter of calculation of pounds, shillings, and pence-although I do not argue from that point-to give to Victoria the trade of the district which geographically belongs to her, and do the same with regard to South Australia and Queensland; and yet, if we were allowed

Mr. FRASER:
Would you do the same thing with Tasmania?

Mr. WISE:
I think Tasmania should be treated apart.

Mr. WISE:

An HON. MEMBER:
And Western Australia too?

Mr. WISE:
Yes, and Western Australia too. It has been asked why it should be necessary to take over more than the trunk lines, and on that question I do not offer any opinion of my own, but I will accept the opinion of the railway experts, that it is important that they should be taken over as a matter of technical convenience. It would be very inconvenient to run the trunk lines under one system and the branch lines under another; but on
that question I have had no experience, and I am willing to be guided by those who know. Then there is a further consideration. Everyone agrees that the telegraphs and post offices are to be handed over to the Federal Government, but has it been quite clearly recognised that the bulk of the telegraph lines are built along the permanent ways of the railways of the colonies, and that the letters are conveyed in the railway carriages that run along these permanent ways of the system that belongs to each colony?

Mr. HOLDER:
We should not take it for granted that the post and telegraph offices will be handed over.

Mr. WISE:
It has been taken for granted.

Mr. HIGGINS:
Perhaps the South Australian post pays and the New South Wales does not.

Mr. WISE:
Perhaps the service is not so good as in New South Wales. I only urge upon the very attentive consideration of the Convention that grave inconvenience may arise if the power that is entrusted with the carriage of the mails and the duty of administering the telegraphs does not own the land in which the telegraph-posts rest and the land on which the permanent way is built, and over which the mails are carried. For the purposes of defence it is practically impossible, so I understand from military and railway experts, to work out any federal scheme of defence unless the gauges are similar throughout the colonies. To move a force from one part of the continent to another would require delay-

Mr. FRASER:
That is not so.

Mr. WISE:
Not only in moving the men from one platform to another, but in transhipment. I understand it is requisite not only to move the men from one part of Australia to another, but any efficient system of defence would involve that there should be a movement with the men of a large body of war material, wagons, guns, and other things. The transhipment of these must accompany any Federal force from one part of the continent to another, otherwise the efficiency of the force would be retarded. For these reasons, if for no others-I only mention those which apply to the purposes of the Commonwealth - it is desirable that the railway gauges should be made uniform. There is a final reason connected with finance which the Finance Committee should well consider, and I have no doubt they will do so and bring up evidence to support their views. A difficulty in the way of
the finances of the Federation has already been pointed out by Sir George Turner. The Federal Government may have a larger revenue than it knows how to spend, and there is a further difficulty that the amount required for the expenses of the Government may become too great. If the railways are taken over, I believe it is no exaggeration to say that the annual saving in management and in running them—that is to say, if we have one system between Brisbane and Adelaide—will certainly amount to half a million, if not three-quarters of a million per annum.

**Mr. BARTON:**
On what principle have you arrived at that?

**Mr. GORDON:**
Is that allowing for break of gauge?

**Mr. WISE:**
There should be one gauge.

**Mr. FRASER:**
That will cost millions of money.

**Mr. BARTON:**
Ten millions, it is said.

**Mr. WISE:**
Placing the cost at four millions, I was going to say three-

**Mr. FRASER:**
It would be nearly double.

**Mr. DEAKIN:**
Do you want another contract?

**Mr. FRASER:**
You will have to consider the question of rolling-stock.

**Mr. WISE:**
That is a matter of adjustment. If it costs £4,000,000—and the actual cost is a matter for investigation by the Finance Committee with an annual saving of three-quarters of a million it would not take long to work off the amount which it would cost to convert the gauges. So, as a financial expedient, and to assist in adjusting the relations of the finances of the Commonwealth, and of the several States, the taking over of the railways is to be commended. I shall refrain now from further enlarging upon this topic because the matter has been already admirably gone into by a gentleman of experience upon the whole of this subject, Mr. Nash, the commercial editor of one of the Sydney papers, and his pamphlet is in the hands of the members of the Convention. Before I leave this question of the railways, I would like to say what I might have spoken upon more appropriately when dealing specifically with the federal territory. I would
urge that as the Federation must have a federal territory if only in connection with the capital, it is desirable, for many reasons, which there is no need for me to elaborate now, that a clause should be in the Constitution to prevent the Federal Parliament or Government from selling an acre of the federal territory, so that we shall avoid the terrible evils which have resulted in this continent from the wholesale alienation of the land. There is a line of an important character in the first resolution to which my friend, Mr. Carruthers, was the first to call attention. That is a very important and a very significant form of expression:

To enlarge the power of self-government of the people of Australasia.

The preamble of the Draft Bill of 1891 says, in these terms:

Whereas the Australian Colonies have agreed to unite.

The difference between these two forms of language is one of far-reaching importance. Our form not only is something more than the assertion that the union is different from a union of States, but it is a declaration that the Constitution which we are about to frame emanates from the people, and that it is for the benefit of the people as a whole that its powers and functions should be exercised. No student of the constitutional history of the United States will fail to recognise the importance of such a declaration, and I trust that if questions arise under our Constitution as they arose frequently in the United States before the civil war-as they still, though less frequently, arise-as to where is the seat of sovereignty under the Federal Government, or as to what are the indicia of citizenship, these words will prove as useful towards their elucidation as the corresponding words in the preamble of the United States Constitution, "We, the people of the United States . . . do ordain and establish," have proved in the hands of the judges of the Supreme Court of the United States towards settling Similar questions in that country. I trust that the Committee which will frame the Constitution will make this clause the preamble of the Bill, and thus assert that the powers of the Federal Government, although limited in their objects, are in respect of those objects supreme, and that the people of the whole continent have it in their power at any time to limit or extend these powers. It would lead me into a discussion too technical and too legal were I to refer even incidentally to the decisions which have been given by the Supreme Court of the United States in this connection. In reference to the judicature, I would state that I entirely disagree with the proposal which was made, I think, by Mr. Glynn, that the Federal Supreme Court should be composed of the Judges of the various States. I would point out that there is this grave objection to this proceeding-
namely, that such a proposal, if carried into effect, would make the Federal Government dependent upon the Governments of the States, and that it would lead to this contradiction that while the Federal Government would require to have the absolute right to appoint its subordinate officers, so that it would not allow the States Government to appoint even a subordinate officer, it would place in the hands of the States the power, perhaps for temporary political convenience, to appoint those officers who in the ultimate resort would be entrusted with the destinies of the whole country. No Commonwealth would be secure if it depended for its existence upon officers appointed by anyone except themselves. If you once admit that all federal officers may be appointed by the several States the argument fails, but I venture to think that you will have no true Federation unless the Federal Government appoints its own officers and men in whom it can trust.

Mr. GLYNN:
That tells against international arbitration.

Mr. WISE:
I am afraid I cannot follow the analogy. What I am urging is that we ought not to expose the Commonwealth to the risk of having to submit the final adjudication upon matters affecting the Commonwealth—the ultimate interpretation of the Constitution—to judges who may be chosen, not that any judges have been chosen up to the present time, but if any of the colonies decrease in power, as Mr. Higgins suggests that they may do, we may have very improper appointments made to the local benches, and even to the high position of local Chief Justice.

Mr. GORDON:
You might as well assume federal bias as State bias.

Mr. WISE:
Federal bias is better than State bias if you want to carry out federal objects.

Mr. O'CONNOR:
You cannot ask a judge to serve two masters.

Mr. WISE:
I will not deal further with the question. The interjection of Mr. O'Connor has summed up my ideas on the subject. Then there is the matter of the civil servants: and I would like to throw out a suggestion whether it might not be possible to insert some clause to prevent a danger in connection with the Civil Services. There will be undoubtedly an important and extensive Civil Service. If the Post and Telegraphs are taken over that will give a very large number of federal civil servants, and the Customs will considerably increase the number. Now, there must be retained in the
Federal Executive the power to dismiss any servant, but it seems to me that
power should not be exercised except for cause shown. A provision that the
Federal Government should have to lay before the Federal Parliament the
reasons for dismissal of servants would be some check upon arbitrary
dismissals.

Sir GEORGE TURNER:
Would you put that in the Constitution?

Mr. WISE:
I can see no other course. It has taken 100 years for the United States to
pass a Civil Service Act, and now it is not of very much value. If we get a
party system, and follow it out in the appointment of civil servants, we will
be initiating a system of corruption which would gain strength every day.

Mr. ISAACS:
Do not the evils in America arise from the position of the President?

Mr. WISE:
I know that the party system gains strength from causes which do not
exist here, but we cannot hope to be entirely free from it. Therefore, I
propose that this should be inserted:
That all civil servants should hold office during good behaviour, or until
they resign or are d

Mr. GORDON:
You secure them like the judges?

Mr. WISE:
No; because judges are not dismissed for cause shown.

Sir GEORGE TURNER:
That will apply to telegraph messengers.

Mr. GORDON:
The two Houses will have to agree to the dismissal of a junior officer.

Mr. WISE:
I prefer that the power of dismissal should rest with the Executive, but
the Executive should not have it in their power by the appointment of a
commission to shirk their own responsibility, or have it in their power to
work injustice to the Civil Service, and still less should they have the
power to make places in the Civil Service as a reward for services
rendered. In my speech I have endeavored to take up the threads of the
argument used in the course of the debate rather than make a set speech. I
have to thank the Convention for the attention it has given me, and I join
Mr. Carruthers in expressing the belief that if we carry on our deliberations
as we have begun, and show a readiness to make compromises where
compromises are possible without sacrifice of principle, we will, before we
conclude, produce a measure more adapted than was the Bill of 1891 to the requirements of the people of Australia.

Mr. HENRY:

I rise with some diffidence, after the brilliant speech to which we have just listened, to contribute my mite to this important discussion. I understand we are invited to give our views on these general resolutions with the object of furnishing material to Select Committees in framing reports for this Convention. That seems to be the only justification in rising to address the Convention at this time. Mr. Barton has very generously intimated that it is desirable that the new members should speak at greater length than those who had been connected with the previous Convention. As one of those who happen to be amongst the later appointments, I appreciate the kind feeling which prompted that suggestion, but I respectfully differ from him as to the utility of doing this. If the object of this discussion is to educate the members of the Convention in the House, or the public outside of the House, or to influence votes on the questions that are likely to be raised, it would be more desirable that we should hear at greater length those members who, presumably, from their riper experience and familiarity with this subject, are in a better position to educate the members of the Convention and the public outside than we are. Since it has been thrust upon us that we must express some opinions for the guidance of committees I venture to offer my mite on the subject. After what has been said concerning the important constitutional questions that have been raised during the debate, I do not purpose, even if I had the knowledge and the necessary ability, to enter into them at any great length. If I did so I should be repeating, only probably in worse language, the arguments already used. I do not wish to waste the time of the Convention in such a manner, for when we come to closer quarters, in Committee, we can express all the opinions to which we may desire to give expression. Hon. members of this Convention have been deeply interested in the debate as far as it has gone, but when we came here I did hope we would have come to closer quarters, but since we have begun in this way I have listened with great interest and with advantage to the speeches so far delivered.

Mr. GORDON:

Hear, hear.

Mr. HENRY:

I hope that the subsequent discussion will be equally as profitable. What justifies me at the present time in addressing the Convention is that I have taken a great deal of interest in the financial question. Mr. Carruthers said it was inopportune at this stage to advance any opinions on financial
questions because we have not sufficient information, whilst Mr. Higgins went so far as to say that he did not care to express any opinions on finance, although he had thought out the subject, lest he should commit himself to any expression of opinion on that point. Now, I am in accord with Sir George Turner, and I say that whatever opinion I may express on this important question of finance I should not feel bound by it if hon. members can show me a better way out of the difficulty than I see.

Mr. REID:

Hear, hear.

Mr. HENRY:

I think that is the true position, and if we are not to express our opinions on this important question, what guidance will the Select Committee have in framing their report? I certainly think the sound position is: when an hon. member has opinions, that he should not fail to give expression to them in this Convention. As to the resolutions with which we are dealing, I was very pleased to notice that the very first item was in reference to the enlargement of the powers of self-government. Mr. Barton very wisely and very well put this to the Convention, and I think he stated that it had not been sufficiently brought before the public and the electors of Australia during the late elections. Well, I am very proud to know that in little Tasmania this particular view of the question was insisted upon on several platforms. We recognised that we were proposing to join in creating a government which we would clothe with certain powers and functions, which that Government could discharge better in many respects than we could as separate States, and with certain powers also which we could not discharge at all. I am glad to know, especially in view of the remarks of so eminent an authority on Federation as Mr. Barton, that we in little Tasmania have taken this view of the case.

Mr. DOUGLAS:

Not "little" Tasmania.

Mr. HENRY:

My hon. colleague objects to the term "little."

Mr. ISAACS:

Hear, hear.

Mr. HENRY:

In reference to the all-absorbing question of equal representation in the Senate by all the States, I am glad to notice from opinions expressed in this Convention that the principle of equal representation in the Senate will probably be embodied in the Constitution Bill.
Mr. SOLOMON:

Hear, hear.

Mr. HENRY:

As to the other question of great interest to all of us, namely, the power of the Senate to amend Money Bills, that will also no doubt be considered in due season, but I was very much pleased with the suggestion thrown out in that brilliant speech by Mr. Wise, which might very well be taken as a compromise between those who desire to see the power of the Senate to amend Money Bills introduced into the Constitution Bill and those who are opposed to such a proceeding. That compromise, if I understand it aright, is that the Senate shall have no power over the annual Appropriation Bill, but may deal with all other Money Bills. As I have promised, I will not weary hon. members with other questions which have been so ably discussed, but in reference to the franchise for the Senate, I am in accord with those who would submit that question to the will of the people. As to the House of Representatives, we are all prepared to accept representation in the Chamber on a population basis. For my part I shall join with those who desire to see a federal franchise for federated Australia. There has been a great deal said about the Cabinet system. I am in accord with those who would abide by those institutions which are ours, which have been the growth of centuries, and with which the people are acquainted. As showing how a particular system may adapt itself to a country in which it has grown up and answer there, yet be unsuited to another country with different traditions, I would point to the opinions of Numa Droz, an eminent Swiss statesman and writer, who, while approving of the referendum for his own country, declares it to be unsuited to a country with responsible government. It will, therefore, be wiser in my opinion to abide by the Cabinet system, to which the English people have been accustomed. It would be much better to abide by the system we understand, and leave it to the future to alter it if necessary. One speaker has said that there was an evolution taking place in politics as in everything else, and these evolutions will in all probability bring about a change in the Cabinet system; but we must be careful in employing systems we know nothing about. As to the establishment of the supreme Court of Appeal, we must have such an institution. As to the amendment of the Constitution, I will only say that I believe any amendment should be made difficult and not easy, so as to secure greater stability. I was very much interested in the admirable remarks of Mr. Wise on the subject of deadlocks. I think it is far wiser to bear with the evils in connection with the strifes between the two Houses than try to overcome deadlocks by methods with which we are not
acquainted. This brings me to the important question alluded to in the third and fifth sub-sections of this first clause:

That the exclusive power to impose and collect duties of Customs and Excise, and to give bounties, shall be vested in the Federal Parliament:

and:

That the trade and intercourse between the federated colonies, whether by land or sea, shall become and remain absolutely free.

That seems to me to raise the whole matter of finance. It has been said that the question of State rights or equal representation is the crux of this business we have in hand. I do not for one moment underrate the great importance of that question, but I hold that we will come to a definite issue by vote on that as on other constitutional questions. But when we come to the subject of finance we come to what I regard as the crux of the whole business, and it is the solving of that problem that is really the great difficulty that lies before us. Hon. members who are familiar with the 1891 Bill will know the plan that was proposed then. I think the initial mistake made in that Bill was in conferring on the Federal Government the power to touch the Customs, postal, and telegraph revenues of the several colonies before we had a uniform federal tariff. That mistake should not in my judgment be repeated, because it led to endless difficulties and disputes and brain-worrying calculations about adjustments of the revenues and charges. The wiser course for us is to provide that no control of our Customs revenues or any other department shall be exercised by the Federal Government until the hour when the Federal Treasurer tables and carries a resolution in the House of Representatives for the imposition of Customs duties. From that time the real duty of the Federal Government should commence. Members who have given consideration to this subject know how difficult it is to reconcile the differences that arise in connection with the distribution of amounts between the several colonies as proposed in the Act of 1891; and the wiser plan is to make a clean sweep and allow the colonies to go on collecting their revenue and meeting their obligations until the hour when the Federal Government levies taxation. On this point my mind is quite clear. There are a great many industries, there are producing interests-manufacturing and trade interests—which will be seriously, and in some cases injuriously, affected by the great change which will take place when we have the uniform tariff which we must have under Federation. It is only fair that we should look to these individuals who must suffer. As an instance, in the colony I have the honor to represent we have wheatgrowers, and there are a considerable number of men whose interests are tied up in wheatgrowing. It is tolerably clear to many of us that the wheat-growing on the continent of Australia on the
scale it is carried on will necessarily cause these men to put their wheat-growing lands to other, and, I hope, more profitable uses ultimately, and in view of the proposed alteration there should be fair notice given. If we enact that this Constitution Bill shall not come into force or take effect until one, or two, or three years have passed, whatever time may be thought sufficient notice, so as to give these men reasonable time in which to provide for the change which the uniform tariff will force on them, we will only do justice.

Sir GEORGE TURNER:
How will they be assisted unless you say the uniform tariff is not to come into operation for a number of years?

Mr. HENRY:
You do not understand me. I did not make myself clear, but I will answer that question. This is how I propose it should be done. With a view to give the producers and small manufacturers, and also the traders who will have large stocks that will be affected, notice of the change, I say that under this Constitution we should not make the change until, say, January 1st, 1900. That is, that the Federal Constitution Bill should not take effect until the 1st January, 1900, or such date as may be determined on. Very well-

Mr. MCMILLAN:
That is concerning the Customs, I suppose?

Mr. HENRY:
Yes. If the Bill is to take effect on January 1st, 1900, the necessary arrangements would be made for electing the Parliament, which would then meet, and, under the machinery provided in the Bill, would elect its Executive. Then it would adjourn or prorogue, and the work of the Executive would be to frame a tariff and also to appoint organising officers for the whole of Australia, so that when the resolutions imposing the Customs were carried in the House of Representatives, by sending beforehand to the various Government officers the tariff under seal, everything could be ready to commence the collection of the tariff on, say, December 31st, 1900.

Mr. GORDON:
Are all these people to work for two or three years for nothing? Where is the money coming from to pay their salaries?

Mr. HENRY:
I do not intend that any work should be done until January 1st, 1900.

Mr. GORDON:
You must have revenue of some sort.

Mr. HENRY:
Certainly.

Sir GEORGE TURNER:
What difference does it make which body collects the Customs duties?

Mr. HENRY:
It makes this difference, that it involves difficult and complex calculations as to who shall share, how the cost is to be distributed, and how surplus revenue is to be distributed.

Sir GEORGE TURNER:
You will have it when the uniform tariff comes into force.

Mr. HENRY:
I know that, and I will deal with that point in time; I have now merely outlined my plan. It appears to me that there is no other way in which the question can be properly dealt with. Now, Sir George Turner has raised the important question as to how the surplus will be dealt with under the Federal Government and with a uniform tariff, but I say this: that from my point of view there is a duty laid on this Convention that the States' revenues shall be protected, that no action on the part of this Convention shall seriously dislocate or endanger the State finances.

Sir GEORGE TURNER:
Hear, hear.

Mr. HENRY:
I suppose that will be admitted by all. To me it appears if you take away from the States the whole of their Customs revenue, which you must of necessity do when you have a uniform tariff-and without that uniform tariff we can have no Federation worth the name-when you take that away and make no provision for the return of a definite sum, you endanger State finances to such an extent that the State could not prudently enter the Federation.

Sir GEORGE TURNER:
Unless you take away equal liabilities.

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Hr. HENRY:
I am coming to that.

Sir GEORGE TURNER:
I will not say another word.

Mr. HENRY:
I say our Customs revenue in Tasmania, and in the aggregate in all Australia, is practically absorbed in the payment of the interest on the public debt. It takes the Customs revenue of all Australia to pay the interest on the public debt, and I say emphatically-though, like any other member, I
am open to be shown a better way out of it—that if the Federal Government takes over the means by which we pay the interest on our debt it must take over the obligation to pay the interest on that debt. Now we come to the question as to how we are going to compel the Federal Government—how we are to lay the obligation completely and thoroughly on the Federal Government, of paying that debt. I confess that I have some difficulty in arriving at this. Hon. members who are at all familiar with the subject will know that while we lay the obligation on the Federal Government we lay it equally on the various colonies at per head of population. While the interest per head per annum of which Tasmania would be relieved would be £2 1s. 4d., Western Australia would only be relieved of £1 14s. 5d.; and while South Australia would be relieved of £2 13s. 1d. Victoria would only be relieved of £1 13s. 6d., and it is therefore obvious that there must be an adjustment of this interest bill among the colonies. There is no member in this Convention who objects more strongly to anything in the shape of book-keeping between the States Government and the Federal Government than I do, as it is so opposed to the true federal spirit. The debt, however, as I see it, must be taken over by the Federal Government, and consequently there would have to be an adjustment between the colonies in respect to the Customs. Perhaps I ought to explain that I think it is imperative that the obligation should be laid on the Federal Government of setting aside a sum equal to the interest bill, and that is the solution of the difficulty. If we are to lay the obligation effectively on the Federal Government of providing a surplus, we must fix it that they must provide one not less than the interest bill. I see a great danger of allowing the question of the surplus to remain open. It is a matter which will require very close consideration. It perhaps is more a matter for discussion by the finance committee; but still I feel that it is my duty, since we are here to air our views, to refer to the matter. I think it would be interesting to hon. members to show how this works out in practice. I have increased confidence in asking consideration to this scheme, because I am fortified by the opinion of our statistician, Mr. R. M. Johnston, that it is thoroughly equitable in its operations. The result will be that while New South Wales will receive £44,000, Victoria will receive £243,000, and South Australia, will pay £277,000. (Laughter.) I hope my friends from South Australia will not laugh too hard at this, because I will assure them, and Mr. Gordon will be sufficiently acquainted with the finances of his own colony to know, that it is better for them to pay this sum of money to the Federal Government and be relieved of the payment of the interest than to continue as at present, when their annual interest bill so much exceeds their Customs revenue. The £277,000 they would pay is less than the difference between
their Customs revenue and interest. Tasmania would pay £26,000. In this proposal the contributions by the several colonies—would be balanced by the payments to the other colonies, so that the Federation would sit as a mere arbitrator. After some study of the subject I think this plan has the advantage of being elastic, and that it will adapt itself to the changing conditions which we are all confident will take place in the expansion of trade, and in the increased prosperity of the colonies, which will come in any case, but will be greatly accelerated by Federation. With increased prosperity our burden of Customs duties will be lightened by so much per head. Upon the other hand, I have no doubt whatever that by consolidating our public debt the interest on our loans will be reduced, and I am entirely in accord with the practical view of Sir George Turner upon the subject, as I am upon many others, when he told us that he did not consider a conversion scheme would mean a great saving. It is certain, except in the event of a European financial crisis, the result of a war, or other cause, that as our bonds mature there will be a considerable saving in interest. The advantage will come from the consolidation of the debt and through the Federal Government taking over the debt. There have been opinions expressed as to the fear of the Federal Government having an undue surplus. I hope to have the privilege of serving upon a finance committee with other hon. members, and I think I will be able to demonstrate to them that this proposal will obviate that risk, and if the Federal Government has any surplus beyond what is required for distribution to the colonies, as against interest or payment for general charges, it should be paid to the colonies pro rata. That is the best check. I will go on to say something with reference to the question of the railways. Of course you all know that in our little colony— I use the expression again— (laughter) we have not the same difficulties or conflicts in connection with our railways that you have here on the continent. We, however, will take part in this discussion, and it becomes our duty that we should give our best and closest attention to this very important subject. No one more than I sees the necessity of doing away with conflicting railway tariffs in the same way as I see the necessity of abolishing the border Customs duties. I recognise that necessity fully, and I think what we desire can be accomplished without a federation of the railways being brought about. Regarding the fear that has been expressed that to attempt to federate the railways might interfere with the great question of Federation, I consider there is much force in that contention. I would respectfully suggest that a much wiser thing to provide is that the Federal Government should have the power, with the consent of the States, to take over the control of the
railways. From my own point of view I regard the railways of a colony as intimately bound up with its industries, and I also say that the local Government is more likely to know how best to promote the industries of the State than the Federal Government. These are, shortly, the views I have on this subject; but at the same time I must say that my mind is quite open on this question, and I should be only too glad to join in recording my vote in favor of whatever I may see will be of advantage to Australia.

Mr. FRASER:
Some of our railways in Victoria are owned by local bodies.

Sir GEORGE TURNER:
And some of them are anxious to get rid of them.

Mr. HENRY:
I may state frankly that we might have been influenced by a selfish consideration, and have looked to the possibility of carrying out a uniform gauge which is going to cost so many millions of money, being a federal matter. I am, however, told by my hon. friend, Mr. Walker, that Tasmania is to be left out of the question of cost. There is just one point, Mr. President, that I have heard referred to in a very mild form. It has been suggested that if the Federal Government takes over the public debt, then the railways should follow; indicating that the railways of the colony are to be regarded as an asset as against the national debt. I am at variance altogether with that opinion. Money lent to us by British capitalists is lent on the credit of the colony, and the ability of the people to pay the interest. I totally disagree with the view that the railways of the country are to be regarded its an asset to which the English capitalist looks for the payment of his interest. The question has been raised with regard to the posts and telegraphs. I have always been under the impression that this must be a federal business. Looking up the returns for the last three years in the larger colonies of Victoria and New South Wales I find that their expenditure is considerably in excess of the revenue in connection with these departments.

Sir GEORGE TURNER:
Not in our post office.

Mr. HENRY:
I take the three together. We must take them together.

Sir GEORGE TURNER:
We come out about square.

Mr. HENRY:
I have the returns here for 1893, 1894, 1895, and I find that-I need not give the totals, but I will give the mean annual loss for three years-in New
South Wales the loss was £107,000 odd, in Victoria the loss was £154,000 odd.

**Sir GEORGE TURNER:**

I would like to see where you got the figures from.

**Mr. HENRY:**

They are compiled by the statistician and no doubt are perfectly reliable, notwithstanding the doubts of the Premier of Victoria, Sir George Turner. In South Australia there was a surplus of £24,000.

**Mr. GORDON:**

There is management for you.

**Mr. HENRY:**

In West Australia there is a loss of £9,000 odd; and in the colony of Tasmania, which on this occasion I must not call "little," there is a loss of £3,000. This is one of those questions where—if there is any virtue in the fine sermons we have heard about conciliation, and compromise, and dealing with things in a truly federal spirit—it will have to come into operation, because I fail to see how the Federal Government can deal with this as we have dealt with the interest question in any future arrangement amongst the colonies. It is obvious that there can be only one set of postage stamps. There cannot be several sets, one for each colony, and there will be no mea South Australia will each have to bear a share of the loss of these two great colonies. Yet I say as a representative of Tasmania that we should not hesitate about allowing the Federal Government—on merely financial considerations—to take over the Postal Departments of the colonies. It is inadvisable in any sense to attempt any distribution in that direction. We must enter into the arrangement in the hope that what appears as a loss on the Postal and Telegraph Service of the colonies to-day may be reduced. In West Australia the expense of the service, no doubt, will be increased with the expansion that is taking place there. This is one of those questions in which the true federal spirit, which I believe animates this Convention, will see that we must adopt some plan without attempting impossible calculations as to what share each colony should have. Now I come to a subject of very great interest, and that is as to whether the Federal Government should have the power of direct taxation. I have heard the views of hon. members expressed on this subject. For my own part I certainly view with great apprehension the conferring on the Federal Government the power to send the taxgathering officer into our colony—that is the direct taxgatherer. Just imagine New South Wales having the infliction of a Federal taxgatherer and a State taxgatherer, each collecting a tax such as their beautiful land and income tax! Our people groan now under a very heavy income tax.
Sir GEORGE TURNER:
If you come over to Victoria you will know what taxation is.

Mr. FRASER:
Yours is not so much as ours.

Mr. HENRY:
Ours is 1s. on realised wealth.

Sir GEORGE TURNER:
We will give you ours in exchange.

Mr. HENRY:
I view with some anxiety the proposal to give to the Federal Government the power to send their taxgatherer in addition to the local taxgatherer. In working this scheme of distribution of interest it will be necessary to meet any claim the Federal Government may make. South Australia is all right, as she would have to pay only £277,000 if this scheme is carried out, and it is a very good arrangement for South Australia; but we must have the power in the Constitution Bill to levy a tax on South Australian citizens if the South Australian Government think they should pay; or on any defaulting colony. For defence I join in giving power to the Federal Government for such a purpose, but it should only be exercised, in my judgment, after the States Government had failed to pay this taxation as provided in the Bill.

Sir GEORGE TURNER:
For defence purposes?

Mr. HENRY:
For defence purposes. The emergencies would be so sudden that they would not be able to consult. If Sir George Turner had the task cast upon him, as Treasurer of the Federal Government, when the emergency arose he would not hesitate to say that he (Sir George Turner) would raise the necessary money, and trust to the people to make up the amount afterwards.

Sir GEORGE TURNER:
That is very thin.

Mr. HENRY:
One hon. member has called for valuable returns as to the expenditure of the various Governments for a long period of years in connection with defence. I expect it will be found that one colony will have expended more than another. I see the amount varies very much per head of the population for the last three years, but so far as the taking over of any war materials is concerned I think the solution of this difficulty will be in this direction: that it may become the duty of the Federal Government simply to take over the
war material, the warships, or fortifications at their value when taken over. As I take it that whatever money any colony may have expended on defences in the past will be no guide for the Federal Government as to what sum they should pay now.

Mr. FRASER:
The returns are incorrect. We have had appropriations for years and years which have not been returned.

Mr. HENRY:
It would be no true guide to the Convention in this matter. The true principle is to empower the Federal Government to take over munitions of war and all the defence arrangements of the colonies at an ascertained value. There is a provision in the 1891 Bill for taking over the Customs and other buildings, and the same can be extended to the defences. The States Government would then be relieved of the interest on their value from the time the transfer took place.

Sir GEORGE TURNER:
We paid a lot out of revenue for defence works.

Mr. HENRY:
That makes it better. You will be able to reduce your deficits.

Sir GEORGE TURNER:
We will have no more deficits.

Mr. HENRY:
That is a happy state of things. We will all be happy when the time comes when surpluses will have taken the place of deficits. I think I have occupied the time of the Convention quite long enough: but I should like to say, in reference to a remark made by Mr. Carruthers, who favored giving the Federal Government powers of direct taxation, while he was totally opposed to the creation of extra machinery in the working of the Government, that there will necessarily be extra machinery, but in many ways the Federal Government will be able to lessen the machinery. I only trust that the machinery necessary for gathering direct taxation in the several colonies will never have to be set in motion in federated Australia. With these few remarks, I will take my seat.

Mr. SYMON:
I sincerely thank hon. members of the Convention for the kindly cheer with which they have encouraged me on rising to offer my views on the many important questions which have been raised in this discussion. It lessons the natural feeling of hesitation which presses on one in offering his views to so distinguished an assembly as is now gathered within these walls. I am also encouraged by the kindly and generous invitation of Sir
Joseph Abbott to those who have not had the honor of a seat in any earlier Federation Convention or Conference to offer their views with fullness at an early stage of our proceedings. At the same time I am prompted to join with my hon. friend Mr. Higgins, and also the hon. gentleman who has just sat down, in thinking that perhaps it would be at least equally advantageous if we had had a little more plentifully the views of those who have been engaged in previous conventions or conferences. They are our natural leaders, although perhaps on the present occasion with an advantage which is not usually attached to leadership—that we are not bound to follow them. At the same time they are the veterans in this great and momentous business, and they would be able to indicate to us the merits of past efforts in the cause of Federation and to point out to us the pitfalls—to use the appropriate expression of Mr. Carruthers—which they, after mature consideration, recommend us to avoid. We have had one advantage in substitution for that to which I have ventured to call attention, in that we have been enabled to ascertain the views of hon. members of this Convention from the larger colonies, and we have been able to ascertain to some extent what it is they are prepared to concede to us who have the honor to represent what are numerically the smaller colonies. We had from the hon. members Mr. Carruthers and Mr. Higgins what I call, if I may, with perfect courtesy, the bane; and we have from my honorable friend Mr. Wise, in that exceedingly eloquent and lucid and fair speech which he delivered this afternoon, the antidote.

Mr. DEAKIN:
Hear hear.
Mr. SYMON:
Mr. Carruthers went a considerable length, but, if I may be permitted to use the expression, my friend Mr. Higgins out-Heroded Herod. Really, as a humble representative of one of the smaller States, I feel that what he invited the smaller States to do was to open their mouths and see what the larger colonies would send them.

Sir EDWARD BRADDON:
Shut their eyes.
Mr. SYMON:
Yes; and shut their eyes. I omitted, in my desire not to be too emphatic, that part of the old adage. But he gave us one crumb of consolation, and that was that at any rate we should be in the position of seeing—in the Senate this was, and perhaps also in the people's House of Representatives—fair play in those Titanic contests which may—I hope they may not—take place in the Federal Parliament between the two great colonies. We should, in point of fact, be elevated to the useful—perhaps not very dignified—
position of bottle holders under these circumstances. Now, with all humility, that is not the view I venture to accept as that which ought to be presented to these numerically smaller colonies for their acceptance.

**Sir EDWARD BRADDON:**

Hear, hear.

**Mr. SYMON:**

I have the greatest faith, in common with every member of this Convention, whether for a large or a small colony, in the people of Australia. I believe myself in much of what has been said, that we may trust to the justice of the people. On the whole the people are a very good people, and very often, if left alone, their instincts and their objects are right; but at the same time I cannot forget-and I commend this to my hon. friend, Mr. Higgins-that in that noble history of the great federal movement in America it is recorded that the statesmen who assembled to frame the Constitution on that occasion did not forget that all men, even those of the British race, have a fair share of original sin. And I fancy myself that we have added to that a good deal of acquired sin; and when we are considering, as it seems to me, the framing of a Federal Constitution which is to be lasting, and which we hope will stand the test of time, we must, as far as it is within the limits of ordinary human foresight, provide against all possible contingencies and all possible wrongs. We may not - perhaps it is almost too much to expect that we will succeed, but, so far as we can, it is our duty to put this trust a little in the background, and endeavor to provide for the incidents which may be associated with ordinary human nature. And I also venture to commend this to my hon. friend, Mr. Higgins, who expressed his views with characteristic lucidity and force, that what is our position to-day may be yours to-morrow.

**Mr. HIGGINS:**

That is my point.

**Mr. SYMON:**

I am glad to hear it is my learned friend's point, and I will endeavor to clinch it for him. It is true that the two great colonies of New South Wales and Victoria, which we here and in the other colonies both admire and esteem, are transcendent at this moment in wealth and population; but are you sure that that state of things will last for ever? Are you sure that they may not be outstripped in the race for wealth and population by some of their smaller neighbors at this moment? A sense of modesty prevents me indulging in a too sanguine prophecy with regard to my own colony, but look at what is happening at this moment in the West, where population
and wealth are increasing by leaps and bounds, and if the prosperity which
has recently been inaugurated continues, and is permanent, there is no
member of this Convention who can determine where it will end, and
whether at no distant date you may not find Western Australia excelling in
this respect the colonies lying to the eastward. I would be sorry to say one
word suggesting the diminution or the possible lessening of the great
progress and prosperity of these eastern colonies. My own belief is that,
with Federation, they will increase in prosperity and multiply in population
to a degree that can hardly be conceived. I believe we all wish that, but, at
the same time, when you are considering the relative rights and powers in
the Senate and the House of Representatives, you must look at it from the
point of view that the possible balance may be altered in the course of a
very few years. It seems to be the opinion of some that the smaller colonies
would combine, because of their smallness, to achieve their ends to the
detriment, it may be, of the larger colonies, but by and by the position may
possibly be reversed, and therefore I submit that it would be well to look at
it from that point of view.

Mr. HIGGINS:
Do you think the larger States would combine against the smaller?

Mr. SYMON:
I am not so sure. I would not like to predict. I believe, however, were I to
diagnose the position at present, I would say that those healthy rivalries
between the two States would prevent that unhappy state of things which
the hon. member would lament as much as I. Having made these
preliminary observations, diverging a little from the path I had ventured to
mark out for myself for the sake of brevity, I would like to say that I am
sure every member is indebted to Mr. Barton for yielding to the eloquent
and generous persuasion of Mr. Reid, in accepting the arduous position of
leader of our business. I am also greatly indebted

[P.127] starts here
to Mr. Barton for the able and luminous speech in which he unfolded the
resolutions which he has submitted to us, and especially for the fairness
and moderation with which he expressed his views. Perhaps we may
admire the skill with which he suppressed his own views, until some of us,
especially my friend sitting below me, thought he was perhaps too reticent.
Undoubtedly it is time draw back that all of us should have open minds that
must be filled somehow, and I would have been glad if Mr. Barton, who
took such a conspicuous part in the Convention of 1891, had dealt a little
more in detail with the subjects involved in the Convention.

Mr. BARTON:
I shall have another opportunity.
Mr. SYMON:

I know we will all look forward with anticipation, and the effect of that observation upon myself is almost to make me wish that that happy time had arrived. I do not propose to criticise, as was done with much skill and great profit to us all by some preceding speakers, the language or limitations of the resolutions, because when they are passed it is, I think, universally understood that we are not to be in any way bound by them, that the principles they contain are not to be considered as binding upon the Convention until they are embodied or passed as part of the Constitution which we are summoned here to frame; but I do think-and in that respect I was very glad to hear the remarks of Mr. Carruthers-that they are admirably conceived to secure that interchange of ideas which is desirable, to bring our thoughts into contact, if not into harmony, and to indicate at least the direction in which the views of hon. members of the Convention tend, for the purpose of guiding us in dealing with the matter in committee, and afterwards in dealing with it in a draft Bill. It seems to me that this is a great gain. Of course, we assemble here strangers, some of us, at least personally, to each other. There are assembled here statesmen whose names are household words throughout the length and breadth of Australia. We who are not personally acquainted with them have heard of their coming here with a certain degree of awe, and the interchange of views and ideas will get us to nearer acquaintance and, if possible, to a common platform. At any rate, we can understand in what respect we agree and in what respect we differ now that the controversial elements have been eliminated in a great measure from these resolutions. If we are occupied by what remains, and by the views expressed in discussing them, great assistance will be afforded to the committees entrusted with the duty of formulating a Bill, which we are to consider in detail. I should like to make only two remarks upon the form of the resolutions. I agree with the hon. member, Mr. Wise, and also with the hon. member, Mr. Carruthers, that it was a happy inspiration on the part of Mr. Barton to introduce into the first resolution the words-

In order to enlarge the powers of self-government of the people of Australasia.

Mr. BARTON:

I am afraid I must disclaim being the author of that happy inspiration. I will mention in my reply from whom the suggestion came.

Mr. SYMON:

Whoever inspired those words is entitled to great credit. They explode - that seems to me the one special value they possess-a very prevalent fallacy, and they do it in a simple form. They are words that the people of
these colonies will readily understand, and which they will readily remember. There can be no doubt there is an impression abroad that in some vague undefined way Federation will curtail the liberties of the people of this great continent. Something, they think, has been taken away, whereas, in point of fact, the people give up nothing. They are merely called upon to enter into a partnership, by dividing the powers which they possess, and the functions which they exercise, one part being exercised by one particular body and the other by another.

Mr. FRASER:

Much larger powers.

Mr. SYMON:

I think it would be unwise to introduce the amendment suggested by the hon. member Mr. Carruthers to this effect:

Also in order to extend the influence of Australia.

Not that I object or think that that expression does not express another of the purposes which will be served by Federation. The phrase that is used here is not exhaustive, though it is true. If we proposed making it exhaustive we should have to introduce additional amendments, and it would be better to leave it as it stands and allow that to be a prominent and conspicuous feature for the elucidation of the subject rather than encumber it with other things equally true, but not so absolutely necessary to be expressed. I think also it would be a mistake, if I may put it so, to introduce this or any other purpose to which I have called attention into the preamble of the Constitution unless you make the preamble reasonable and complete; and unless you adopt something like the formula agreed upon by the framers of the United States Constitution, setting out a splendid statement of the objects and results of Federation, it would be a pity, I submit to this Convention, to import the words suggested alone into the preamble of the Constitution. I should have liked, however, in common with the hon. member, Mr. Wise, to have seen a sixth subparagraph to clause 1 of the resolutions. I should have liked to see that sixth subsection express as a principal condition the absolute permanence of the proposed Union. We are all agreed, as was shown by the cheers which greeted the suggestion made by Mr. Wise, that we intend this Union to be permanent and indissoluble. But I do think that holding that view, as the Convention does, it would be well that it should be clearly and definitely expressed at every point wherever it is possible. My recollection is that one of the main causes of the fratricidal war of secession in the United States of America was that it was not clear, it was not contained in express terms within the four corners of the Constitution, that no State should be able to secede. The
claim was made by State after State in what was afterwards known as the
Southern Confederacy for years before the war of the secession, and the
contention always was that the Union was a compact between the States,
and that any State, on being dissatisfied or thinking that its rights were
assailed, was entitled to retire. Therefore we should make, I think, in
common with the other hon. members whom I am proud to follow in their
views on that subject, a considerable mistake if we do not make it
absolutely clear—and we cannot begin too soon, it seems to me—that this
Union is to be permanent, and that there shall be no secession.

Mr. ISAACs:
There cannot if it is an Act of the Imperial Parliament.

Mr. SYMON:
Well, I am not so very sure about that. I do not like to pit my opinion off-
hand against so distinguished an authority as my hon. friend the Attorney-
General of Victoria; but whether it is so or not, I think that, having no
doubt—as this Convention has no doubt—on the subject, it is well that it
should be expressed for the guidance of those who are not proficient in
constitutional law or conversant with the effect of Imperial legislation. My
hon. friend Mr. Carruthers put a very important point this morning as to the
beneficial results which might flow from the contemplated visit of the
Premiers to London on the occasion of one of the greatest celebrations that
this Empire has ever seen. He said it would afford them an opportunity of
dealing with some of these great questions such as the possession of New
Guinea, in which Australia as a

whole is greatly interested. I should like, if I may be permitted to say so,
that the Premiers should be enabled to do what I think a far more important
and a far more useful thing than even that. I should like the Premiers when
they leave the shores of South Australia on this contemplated and historical
visit, to go home with the first complete draft of this Federal Constitution
in their hands, and I think the presentation of that draft, completed as it
leaves the hands of this Convention at its first sitting, will be one of the
most precious and most acceptable parts of the Imperial celebration in
which they are to have a share. I hope, therefore, that we shall all bend
ourselves and our energies to put it in their possession if it be possible. I
come now to one or two matters with which, with the permission of the
Convention, I should like to deal. I do not profess to be a financial expert—
those of my profession never are!

Mr. ISAACS:
What, never.
Mr. HIGGINS:
What about our Premier?

Mr. SYMON:
We have no power to keep control over money.

Sir GEORGE TURNER:
We keep some.

Mr. SYMON:
My friend Sir George Turner is the fortunate exception which proves the rule. But there are other matters of moment, and there is one I may be permitted to refer to first, because, although not a financial authority, this is one upon which I do humbly claim to have some slight knowledge. It is that of the federal judiciary. I was gratified to a very great degree by hearing what my honorable friend Mr. Barton said on that subject, and, if I understood him rightly, and I hope I did, he expresses, I think, almost wholly my views on that matter. That a federal judiciary is to be created is the unanimous opinion of this Convention, and therefore it seems to me that the criticism pressed with great power and ability by the hon. member Mr. Carruthers, in connection with making it a court of final local appeal with regard to possible expenditure, loses all its weight. "A charge upon the people of this country" was the expression which he used. Now, if you are to have a federal judiciary, I cannot for the life of me see where the additional charge on the people of this country is to come from if you give it the power at the same time of decision finally upon all appeals from the courts of this country. The functions of that tribunal will be twofold. It will be charged, in the first place, with the duty of interpreting, according to the general principles of common law, the Federal Constitution itself. Now, that has always been regarded, as I think history will declare, as the most noble as well as the most distinctive feature of the Constitution of the United States. It has been that element which has been alluded to as giving the arbitrament of calm judicial decision over the arbitrament of the sword. The settlement of disputes between the different States of the Union by a tribunal of that character is that which I am sure all Australia would wish to see. That tribunal in the United States in that respect has been, of course, the subject of criticism. Its powers have been threatened with limitation; but it remains to this day one of the most striking features of the American Constitution, and one which. I venture to think, is neither likely to be limited nor given up without a very severe struggle indeed.

Mr. BARTON:
Hear, hear.

Mr. SYMON:
We know that in connection with the criticism to which it has been
subject one great and strong President, Andrew Jackson, a man of very arbitrary will, said on one occasion:

John Marshall—the Chief Justice at that time of the Supreme Court of the United States—has pronounced his judgment; let him enforce it if he can.

But, like many other positions of difficulty that present themselves, nothing ever came of this kind of defiance, and the Supreme Court has gone on its way interpreting the provisions of the Constitution for the benefit of the United States. Now, I thoroughly agree with what has been said, that we ought to give to the federal judiciary the power of final appeal from the Supreme Courts of the different States. I do not think that we should send our suitors with their causes 12,000 miles away to have them adjudicated, and when my hon. friend Mr. Carruthers says that for the purpose of giving it this power of appeal we should require the consent of the Imperial Parliament, I do not believe myself that that would constitute any difficulty whatever, because I feel sure that if we expressed in the Constitution the wish of the people of Australasia to have this court of final appeal their own and in their midst, the Imperial Parliament would grant it. Then I venture to protest against the objection which has been made that such a tribunal as we propose would be an inferior tribunal. I believe we should have, and that we have now, the materials for constituting as distinguished and as powerful a Court of Appeal as is necessary for the purpose we have in view, and I do say that if the United States, with its smaller population at the time of union, was able to constitute a powerful Supreme Federal Court, it is saying very little for the federated colonies of Australasia if they shrank from the task of constituting a powerful Court of Appeal here. Besides, we must remember this: that we have just recently sent to the Judicial Committee of the Privy Council a judge from Australia, and I venture to think that, great as are the qualities of the judge whom we have sent, there are others as distinguished on the judicial benches of this continent, and that we should be able, if need, to send a larger quota to the Judicial Committee, who would do honor to its ranks, and if we are able to do that, surely we are able to place them with equal advantage on the judicial bench of our Federal Court. I feel that suitors of this country ought not, to use an expression of Mr. Barton's, to be dragged 12,000 miles for their appeal, and the solution offered by Mr. O'Connor of having a sort of optional Court of Appeal would only, it appears to me, work ill. I think there should be only one court of final appeal. If you have two, who is to have the option and choice of the court to which he is to go? The appellant will go to the court to which the respondent does not want to go. The respondent may like to go
to the Privy Council, and the appellant may say, "I prefer the local article." I may say we have in this colony a sort of optional appeal, what is called a Local Court of Appeal, which occupies such a position in the estimation and confidence of the public that I do not think its functions have been called into operation for at least ten or fifteen years.

Mr. HIGGINS: Who compose it?
Mr. SYMON: It is composed of the Executive Council plus the Governor.

Sir RICHARD BAKER: And minus the Attorney-General.

Mr. SYMON: Yes; minus the Attorney-General of the day. With that high estimation for the law which characterises many people, the only member of the Executive who is supposed to know anything at all about law is excluded from that august tribunal. It endeavors to arrive at substantial justice. I do not place that court for a moment, so far as its constitution is concerned, in comparison with the Federal Court of Appeal. What I desire to point out is that we will be making a very grave mistake if we give an optional appeal. Better for us to leave things as they are and have no recourse to an intermediate court than to constitute an intermediate court of appeal liable to the difficulties which have been indicated, and liable also, it may be, to abuse. The observations made by Mr. Wise are very cogent in answer to the suggestion as to appointing judges of the several colonies to seats on the federal judiciary. It would have the effect which he has pointed out, and besides it would have this effect—that it might be rendered liable to the imputation on the part of suitors from one colony or from another that they had not got justice because of the local prejudices of the judge of one colony being used to their detriment. We must have justice not only free from suspicion, but above all possibility of suspicion, and if we constitute a court of federal judiciary it would be infinitely better, it seems to me, to detach it altogether from the separate colonies and constitute it, as in the United States, by itself, above and out of reach of all the other courts of separate jurisdiction. Now, I am myself filled with as high an admiration for the renown and distinction of the Judicial Committee of the Privy Council as anyone can be. I appreciate also very greatly the argument that it is a link connecting us with the mother-country, which we all love so well, and to which we owe so much; but whilst I give full effect to these considerations, my belief is that we should do better, and we should inspire confidence in the people
of Australia, if we gave them a Court of Appeal here in our midst to which they could go for the final administration of justice. They would be saved the expense not alone of postage stamps and cablegrams, which, of course, may be necessary, but which are not all; they would be saved inconvenience, and it is an inconvenience to have these cases investigated and dealt with 12,000 miles away from them. They would be on the spot to instruct those who had to conduct them, and they would have far greater satisfaction in the result, whatever it might be, and for these reasons, not considering for a moment the immense delay—which is not the mere delay of the court, but the delay of communication—of getting their cases investigated, I feel sure if our Constitution includes something of the nature I have indicated in regard to this federal judiciary it will give great satisfaction, and it will be one of the elements which will induce the acceptance of the Constitution we are framing. The next point to which I wish briefly to refer is that we want a wise, well-balanced Government, fit for a free people. How are we to get it? My hon. friend Sir Richard Baker doubts because of the difficulty as to responsible government; there are some who doubt unless you have a Senate elected on a uniform franchise by direct vote in all the federated colonies; and there are some who doubt unless you have a uniform adult suffrage for the federated colonies included in your Constitution. Now, with regard to the uniform federal franchise, there is, it seems to me, great force in an interjection of some members, which roused my hon. friend Mr. Barton to the only vehement passage of his speech in which he declared against that imposition, if I may use that expression, upon the colonies of a uniform adult or other suffrage as a condition of Federation. I think that he rather exposed a joint in his armor, which some of my friends to the left were not slow to take advantage of, when he said that that would be beyond the competency of this Convention. If the other colonies are agreed that there shall be a uniform suffrage, and if they feel themselves in a position to give effect to that view, it seems to me that it would be perfectly competent for the Convention to do so under the Federal Constitution, because here it is all Australia dictating to itself. It will be the people of Australia assenting to this condition of our Federation; but whilst I am, if possible, in favor of a uniform franchise, I do not see how we in South Australia are to ask the other colonies to agree to it as part of the Constitution unless they feel themselves that they have the mandate from the electors to do so.

Sir EDWARD BRADDON:

  Hear, hear.

Mr. SYMON:

  We, of course, enjoy the blessing of adult suffrage, and my learned friend
Mr. Higgins puts it that we ought to have under the Constitution a uniform franchise, and that it should be fixed by the Constitution; but whilst saying that he was driven to the conclusion that it must be manhood suffrage. He must therefore eliminate South Australia.

Mr. HIGGINS:
Not must.

Mr. SYMON:
If you are to have a manhood suffrage it must be either adult suffrage, so as to include South Australia, or it must be manhood suffrage, under which you take the vote away from the women of South Australia.

Mr. HIGGINS:
Adult suffrage would go on for the States purposes.

Mr. SYMON:
What he wants to do is to have a uniform franchise under the Federal Constitution, and not to leave it to the Federal Parliament established under the Constitution, as I think it ought to be. We cannot have a uniform franchise without one of two things. South Australia must either relinquish adult suffrage-

Mr. HOLDER:
She will keep it for State purposes.

Mr. SYMON:
We are not dealing with that now.

Mr. SOLOMON:
South Australia would not accept Federation unless she keeps the adult suffrage.

Mr. GLYNN:
They would lose to the extent of the surrender of their powers.

Mr. BARTON:
They cannot be surrendering when they are gaining.

Mr. SYMON:
The first election must be on the diverse suffrages existing in the different colonies.

Mr. FRASER:
Hear, hear.

Mr. SYMON:
Future elections must be upon some suffrage. Is it to be adult suffrage or is it to be manhood suffrage? If it is manhood suffrage then you take away from this colony necessarily women's suffrage, or you superadd to the existing franchise in the other colonies female suffrage, which we enjoy. It
appears to me you cannot have a uniform franchise upon any other hypothesis. It must be either abandonment by us, the narrowing of our franchise, or the enlarging of the franchise in the other colonies, and therefore the very able arguments which we have listened to from Mr. Higgins show, I think, conclusively, the impracticability of introducing into the Constitution which we hope to frame a uniform federal franchise. Therefore the only conclusion to arrive at is that it is a matter which should be left, as Mr. Barton says, to the exercise of the attributes of freedom which will belong to the Federal Parliament, and the Federal Parliament permitted to determine whether there should be a uniform suffrage or not. I apprehend myself that if the Federal Parliament undertook the task the representatives from this colony, assisted by all the forces which they could gather from the representatives of the people in the other colonies, would take care to see that it was made upon the widest possible basis, and, at any rate, in such a way that South Australia would not lose the privileges she at present enjoys, and that the franchise of the other colonies should be expanded to the position of South Australia, and not that ours should be narrowed to the position of theirs. This is the view I take upon this subject, and I cannot see myself why at this stage there should be any particular solicitude upon our part, however we may appreciate the privilege which the women of this colony have secured, to force, if I may use that expression, a similar privilege upon the women of the other colonies, who, if I gather rightly from Mr. Higgins, have not quite reached that advanced stage, or, at any rate, have not successfully demanded the privilege at the hands of their representatives in their own Parliaments.

Mr. BARTON:

No substantial number have demanded it.

Mr. SYMON:

That is an additional reason why we of South Australia should not insist upon the other colonies adopting it. Probably hon. members of the other colonies may say that we upon these benches ought to yield to their statements that they have no mandate of the people from the other colonies to give adult suffrage, and that should be a conclusive argument that there should not be uniformity at least in that direction, bearing in mind that we should proceed upon the lines of least resistance, and cause as little local disturbance in the other colonies as possible. I venture to ask my hon. friend to refrain from pressing his view of the question, seeing that the great voice of the Convention will probably be against him. Some of those who advocate the introduction of this enlarged franchise which we enjoy into a Federal Constitution are strong advocates...
of the existing Federal Council. They look upon that Council as a tabernacle of the federal spirit. I do not wish for one moment to lay unkindly or unhallowed hands on that tabernacle, but I do wish to point out to my hon. friends who take this view of the matter that this particular tabernacle of the federal spirit is not founded upon any suffrage at all. If the federal spirit is fairly housed there, I think we may consider with some satisfaction that it will be equally well housed in the temple we are about to build on a broad suffrage without the necessity for uniformity. I should like to any one or two words concerning the very able speech of my hon. friend Sir Richard Baker, as to the difficulty of engrafting upon the federal system responsible government. I venture to express my views with very great diffidence on this point. I know my hon. friend has given great study to this subject. He has also, I know, viewed the whole question from a very lofty and patriotic standpoint as a representative of South Australia, and as one interested in the views which more particularly affect the smaller colonies; but I do venture to think, with all deference, that he has made a mistake in the attitude he takes up. I am myself for responsible government. I wish to cling to the English model wherever I can. It is the freest government under the sun, and try as we may, and animated as we are by a federal spirit or by a spirit of compromise, you cannot eradicate party spirit or government by party in these days from the political life of the British race. It is a system with which we have grown up. We have it, as I think one hon. member said, as part of our political history, and I venture to think that with all the disadvantages, whatever they may, be, it has worked not only well in the interest of the political freedom of Englishmen-

Sir RICHARD BAKER:

But never in a Federation.

Mr. SYMON:

I will come to that in one moment. I should like to think that, in dealing with this subject, we may follow upon the lines which were pursued by the great framers of the Constitution of the United States, and I think probably that if there was one point more than another upon which they were steadfast, and one line of conduct more than another by which they were guided, it was by a desire, in framing their own Federal Constitution, to adhere as closely as they could to the then existing federal system of English Government as far as they understood it. We have developed immensely since that time.

Mr. ISAACS:

Hear, hear.

Mr. SYMON:

The English form of government has grown wonderfully; it has expanded
all in the interests of the freedom and power of the people.

Mr. REID:
   Hear, hear.

Mr. SYMON:
   And one of the earliest, as it has been one of the most significant, of advances has been in the direction of this very system of responsible government. I prefer not to use the term "Cabinet government." I think that expression is misleading, because the whole point is whether we are to have a Government responsible in the ordinary English sense, and not merely a "Cabinet," which, of course, is an expression which might be used in the sense in which it is used in the United States.

Mr. REID:
   Hear, hear.

Mr. SYMON:
   The people there do use, or misuse, the term in describing the heads of the Executive Government under the President. My hon. friend put the proposition that you cannot have the responsibility to two Houses. That, I think, is as clear as noonday; but the consequence of that is not that you are to give up responsible government altogether, but that you must place the responsibility of the Government in one House. Without dwelling upon that, let me address myself to another point which has not been so much referred to. My hon. friend put it that the existence of representative government-

Sir RICHARD BAKER:
   Responsible government, not representative.

Mr. SYMON:
   I beg pardon; the existence of responsible government is inconsistent with the federal theory. Now, with great deference, I deny that. It appears to me that the better way perhaps of stating the proposition, and the way I should like to state it, is that the absence of responsible government is not essential to the federal system. It is not essential to the federal system that there should not be responsible government. It is true that the United States have not got it; it is true that Switzerland has not got it. But the answer to that is that they never had it. In the case of the United States they never had the opportunity of having it, and if I may venture on a statement that I hope will not seem too bold, I believe that the United States would have had it if it had been as well known and understood as now.

Mr. HIGGINS:
   They branched off too soon.

Mr. SYMON:
If it had been then, as it is now, essentially a part of the British system of government, as now we are acquainted with it. I hope I am not on these points in a minority within the ranks of our own delegation; but whether I am or not, I feel and appreciate the advice given by Mr. Carruthers this morning, that we must express our differences with the utmost freedom, for unless we do so it is impossible for arguments to be addressed to controvert them, and it is by the arguments which may be used in their refutation that we may be convinced of our mistake, if we are mistaken. The statesmen who framed the Federal Constitution of the United States were only acquainted with what really, as it then existed, was a kind of personal government of the King of Great Britain, and as the result of that the President of the United States was fashioned in the likeness of the king. If they had waited 100 years more they would have fashioned him more in the likeness of the Premier-of the Premiers of these colonies.

Mr. PEACOCK:
That would have been a job!

Sir GEORGE TURNER:
What a beauty he would have been!

Mr. SYMON:
Certainly, although it would be difficult in one potentate to combine the excellencies of the Premiers of these colonies. I do not like troubling the Convention with quotations, but I should like to read one sentence from an admirable book with which I am sure all the members of this Convention are familiar. It is entitled "The Critical Period of American History," by John Fiske. He is an American writing upon the condition of things anterior to and coincident with the framing of the Constitution at the Philadelphia Convention. At page 298 he says:

Had our Constitution been framed a few years later this point—that is as to the position of the Executive—would have had a better chance of being understood. As it was, in trying to modify the English system so as to adapt it to our own uses, it was the archaic monarchical feature, and not the modern Ministerial feature, upon which we seized. The President, in our system, irremovable by the National Legislature, does not answer to the modern Prime Minister, but to the old-fashioned King, with power for mischief curtailed by election for short times.

That is absolutely, I think, the position in which it stood, and the result of that was that these American statesmen who sought to establish a Council or a body of Ministers had no more thought to shape them after the manner of the
Ministers on the modern English system of government than of flying to the moon. What they contemplated was a kind of Privy Council. They provided for the election of their President, and to all intents and purposes during the four years of office he is an absolute monarch, and they gave him power to select his Executive Ministers or Cabinet, or what you will, a mere Privy Council, who are to advise him without any responsibility to the people's representatives. But let me read one more passage from that excellent book by Mr. Bryce. At page 380 he says:

These observations may suffice to show why the fathers of the Constitution did not adopt the English Parliamentary or Cabinet system. They could not adopt it, because they did not know of it, because it was immature, because Englishmen themselves had not understood it.

Now, there is a singular commentary upon that in the fact that the people of the United States have since been struggling to some extent towards what I may call the light. I think I have established by these quotations my statement that in all probability if the framers of the American Constitution had been aware of the merits of the system of responsible government—then only in its infancy, if it existed at all, in England—they would have incorporated it by some means or other, or in some shape or other, in their Constitution. But there was the war of secession, and the Confederated States framed their Constitution on that of the United States, and although they did not take quite the leap that was necessary from irresponsible Ministers to responsible government, they made at least one slight step towards it by providing that the responsible officers of State should have a seat on the floor of either House, with the privilege of discussing any measures pertaining to their own departments. That was at least a groping, if I may so express it, towards the light, and towards the contact—I will not say the responsibility—between the Executive Ministers of State and the people's representatives, which is the original essence of responsible government. But there is a precedent. We have one instance in which responsible government is engrained upon a Federal Constitution. I will quote it with apologies to hon. members who have an objection to colored races. It is a precedent from Hawaii. I admit it is not on all fours with our case, because there they have only one House.

Sir RICHARD BAKER:

That gives away the whole position.

Mr. SYMON:

I am not so sure of that. What we have to do here is to endeavor to graft it upon a Federation which shall consist of two Houses; and the fact that it may co-exist with a Federation seems to me clear from this very excellent precedent from the enlightened people in Hawaii. Hon. members will find
a note on page 563 of Bryce's book, in which he says:

A singular combination of the Presidential with the Cabinet system may be found in the present Constitution of the Hawaiian Kingdom, promulgated 7th July, 1887. Framed under the influence of American traditions, it keeps the Cabinet, which consists of four Ministers, out of the Legislature; but having an irresponsible hereditary monarch, it is obliged to give the Legislature the power of dismissing them by a vote of want of confidence. The Legislature consists of two sets of elective members—nobles (unpaid) and representatives (paid), who sit and vote together.

I do not wish to press that any further than it need be pressed. I only use it for the purpose of showing that the principle of responsible government is not inconsistent with the federal system. The only difficulty, I venture to think, is how to apply it. Now, I admit these difficulties. I admit the difficulties which my honorable friend has pointed out, but I do not accept his remedy. The adoption of the Swiss system is taking what I may call an alien method.

Sir RICHARD BAKER:

Is not Federation altogether an alien method?

Mr. SYMON:

No; I am afraid I cannot agree with that. I call it an alien method because, as far as I am aware, it is not in use under any other English-speaking Government. I do not like it because of its foreign garb. Although there are difficulties, I am encouraged and cheered by the reflection that men of the British race are accustomed to rise superior to and overcome difficulties of Government as they arise, and I think they can be overcome in this instance. As we are to have representative government, and a people's House, I am in favor of the Federal Government being responsible to the Federal Assembly. It seems to me that is the only course upon which the Constitution can fairly rest. Underlying Sir Richard Baker's objections is undoubtedly the difficulty as to State rights, or what are called State interests. It is from a deep desire that there should be a powerful Senate in the interests of the separate States that he presses his objections. Now, it seems to me that we may have a sufficiently powerful Senate without the necessity of bringing into the question of the responsibility of the Government the voice of the Senate. It would be impossible to have, as the hon. member said, a government responsible to both Houses. And I am entirely with him in making the Federal Senate as strong and powerful as we possibly can for the protection of those State interests which may or may not be adequately guarded in the people's Chamber. Now I think in regard to that the Federal Senate may be reduced, as has been suggested, to
the number of six from each colony. That there should be equal representation for each State seems to be accepted by all except Mr. Higgins, who has some hesitation on the point.

Mr. HIGGINS:
You will find there are more presently.

Mr. SYMON:
No doubt he will be fertile in finding a good many, but I have no doubt he will find himself one of a very small minority in this Convention on any question of unequal representation of the States in the Senate. Now, if we have equal representation of the States in the Senate we shall have there a check upon the preponderating influence of the larger States in the people's House. Then, too, if the principle of representation according to population is placed upon a different basis, my own view is that the standard should be a fixed number for each State with a certain additional number for so many thousand all round, which will give a much fairer basis than taking 30,000 or 40,000, or even 50,000, as the standard according to which we are to regulate the representation. But I agree myself with Mr. Higgins that we must trust in this respect a good deal to the just good sense of the representatives in the people's House. Then, if the mode of election adopted be the franchise as may be determined by each State, we shall have the direct representation of the people, if they decide that the federal franchise shall prevail, and that the members of the Senate shall be elected upon the popular basis.

Hear, hear.

Mr. SYMON:
I have some doubt myself whether election by the Legislatures of the States has not a good deal more argument in its favor than has perhaps been given effect to. I am not at all sure that election by the State Legislatures would not in some respects be a very good thing, and I am not at all sure that the criticism which has been offered as to the introduction into local politics of the question as to whom a candidate will vote for as a senator, would have a bad effect. For instance, in this colony, where we have elections every three years, the people should be able to influence the selection of the candidates for the senatorship at these elections. That would not, it seems to me, have the effect of depreciating local politics and aggrandising federal politics, as my hon. friend suggests. I know that there are abuses in the United States, and undoubtedly they are grave; but you will

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have federal politics in the ascendant whatever method of election you may choose, and the danger is that if you seek, on the other hand, to subordinate
federal politics to State politics, you may weaken that House which we in
the smaller colonies wish to be made specially strong. Then I am not quite
at one with my honorable friend who seeks to withdraw from the Federal
Assembly the power of originating Money Bills. I think that if we agree to
a System of responsible government that power ought to to be left in the
House of Representatives.

Mr. ISAACS:
I do not think anyone suggested that the sole right of originating them
should be withdrawn.

Mr. SYMON:
It was.

Mr. ISAACS:
I did not catch the suggestion, then.

Mr. SYMON:
At any rate, my view is that it should not be withdrawn, and I was tender
the impression that Sir Richard Baker said that it follows as a natural
corollary that it should be withdrawn. Of course if you are not to have
responsible government the argument altogether fails, but if you decide on
having responsible government it seems to me you would be destroying the
only lever which would be left to the House of Representatives which they
could bring to bear upon the Government of the day. It would be necessary
that the House of Representatives should be able to say to the Government,
if they had not their confidence—We decline to allow you to originate a Bill
asking for money. We decline to allow you to ask the Legislature for
money at all if we have no confidence in you." Whilst I submit this to the
Convention, at the same time I do not think that it is necessary that the
power of amending Bills should be withdrawn from the Upper House.

Sir EDWARD BRADDON:
Hear, hear.

Mr. SYMON:
The two things can go together. You can still give the House of
Representatives the power of originating Money Bills without taking the
power from the Senate of amending them. There seems to be a general
opinion that the Senate should have the power of rejecting; then why strain
at a gnat when we are swallowing a camel?

Mr. HIGGINS:
It is a different thing to exercise the power to reject and to exercise the
power to amend.

Mr. SYMON:
I am sorry that I cannot follow my friend in that. I think we might adopt
the phrase which was used at the Convention in 1891 of partial veto and
total veto. If the Senate is to be given the power to reject, and is strong enough to take that position, it will by its rejection throw the whole machinery of Government into confusion at once; but if it had the power to lay its finger on any particular item, and say, "You concede us that," and if the concessions were made, and the business of the Government could go on as comfortably as heretofore, it seems to me, as a matter of compromise and moderation, it would be much better and more prudent to give the power of amendment in detail or partial veto than it would be to confine their power to total rejection, if you have any apprehension that the smaller colonies in the Senate will band together, when they have any object in common, in order to coerce the larger colonies with their bigger representation in the other House. It resolves itself, therefore, into a mere question of convenience. No doubt, as has been pointed out, it might be troublesome to have a Senate going through all the items, as Sir George Turner indicated, in a Tariff Bill, or through items in other Bills that we might easily conceive of; but while if, the Senate insisted upon its rights, it might involve inconvenience in that way, I feel sure we can depend upon the justice and good sense of the representatives in that Chamber not to exert that power further than would be absolutely necessary, or so as to wantonly disarrange the whole functions of Government; and the possession of the power by the Senate in that respect would place in their hands a duty as well as a power which I think we may very confidently believe they will justly exercise. Mr. O'Connor drew a distinction between the rejection and amendment, or partial veto, which, at first sight, impressed one a good deal. He said that in a Taxation Bill, for instance, there might be an amendment made which would deprive the Government of half the revenue they anticipated. If so, the Government would be in a better position than if the Senate entirely rejected the Bill, because in both cases it would mean the rejection of their policy-in the one case wholly, in the other case partially. In the partial case the Executive might consider that they could go on with the Bill as it came back from the Senate; in the other there would be no alternative but to have a deadlock brought about, or to provoke in some other way a conflict between the two Houses.

Sir GEORGE TURNER:
You practically have the control over the Government.

Mr. SYMON:
With the rejection of the Bill you have at least a deadlock, subject of course to conferences or compromises, and, in the other case, by the omission of one item you may be able without any bitterness or trouble to
arrange so that business can go on. There is only one other matter to which I would like to draw the attention of this assembly, and that is with reference to the railways. I am going to interpret clause v. of the resolutions in the same way as my hon. friend Mr. Wise, that the trade and intercourse between the federated colonies, whether by land or sea, should become and remain absolutely free. How can it be possible to have it absolutely free unless the Federal Government has absolute and unfettered control over the railways? Why, under these circumstances, intercolonial freetrade would be, shall I venture to say, a sham unless the railways-those great avenues of trade-were put under the control of the federal authorities. I was not aware until the remark was made that there was any intention to place the Post and Telegraph Departments under the control of the Federation. If those lines, which by means of electricity convey the business messages and goodwill from the people of one part of Australasia to another portion of the continent are to be federalised, I for one do not see why these rails of steel, which by means of your locomotives convey our parcels and merchandise, should not also be federated. You might refuse to federalise the River Murray, and say that the colonies through which the river and its different tributaries pass should be controlled by the respective States. Who is there that would suggest such a course as that? If the great water artery were left under the unfettered control of each State, then we should have another just as mischievous, or I should rather say as prejudicial a position. I have no wish to labor this point or to elaborate the arguments which have already been addressed to the Convention, and which may be repeated in greater detail when we are disposing of the Bill in Committee. I put it to my hon. friend from Tasmania who spoke last in this way: Supposing Tasmania consisted of two States, Hobart and Launceston, and suppose each of these had a separate line of steamers, one to Hobart, and the other to Launceston, and suppose the Hobart line carried its freight to Hobart at half the cost that is charged to Launceston, with a view of diverting the trade from the mainland to the southern instead of to the northern port, surely it would be desirable, if these two States amalgamated, that such a condition of things should exist no longer. If it would be desirable to do away with this sort of thing, I venture to submit it is equally desirable to do that with the railways, so as to prevent the same sort of thing happening with them.

Mr. HENRY:
 Why could that not be done by differential rates?

Mr. SYMON:
 There are two methods
of carrying that out. The one is by federalising the railways, placing them entirely under federal control, which I interpret to mean taking them over, or by giving the federal authority, or some Commission constituted by the federal authority, power to interfere with the different States so as to prevent differential rates. If it can be managed to have a Commission which can regulate these freights, which can put a stop to differential rates, as suggested by Mr. Gordon at the Convention of 1891, and strenuously fought for, I am quite agreeable that that course should be adopted; but I do not believe it is practicable. The arguments which have been used by my hon. friend Mr. Wise seem to me to be conclusive that such a course would not really work. He pointed out that it might apply to privately-owned railways with advantage. It has been shown to this Convention that even in the case of privately-owned railways in England——at any rate in the United States——a Commission in one case and the Bill of 1888 in the other had been found to be inefficacious. But in Australia the railways are State-owned. If you gave power to the federal judiciary, or to a branch of the federal judiciary, or to a Commission in the nature of a judicial body to interfere with these rates, you would immediately constitute a continual source of irritation and discontent on the part of the States who were being interfered with.

Mr. HENRY:
Give them the right of appeal to the Supreme Court.

Mr. SYMON:
Supposing you gave them the right of appeal to the Supreme Court, where would be the sanction by which the decisions of the Supreme Court could be enforced? How is the Supreme Court to enforce an injunction against New South Wales? How is it to enforce an injunction against Victoria to restrain them from making these cut-throat rates?

Mr. GLYNN:
The same difficulty would arise.

Mr. O'CONNOR:
Under the State Commerce Act of America the remedy is against the officers of the corporation; so it should be here against the officials of the railways.

Mr. SYMON:
I am not saying that that is not what might be called a sort of modus vivendi——that it is not a method by which the State Court could operate. But, in the first place, you could not carry into effect very well the judgments or decrees of the Supreme Court against the State.

Mr. ISAACS:
Can you ever assume that the Government of a country would disregard
the opinion of the Supreme Court?

Mr. SYMON:
I am not so sure about it.

Mr. GORDON:
What about Andrew Jackson and John Marshall?

Mr. SYMON:
At any rate the decrees and judgments of the court are not worth much unless they carry with them some effective sanction.

Mr. GLYNN:
It would be a dispute between the States.

Mr. SYMON:
If you could do as is generally clone in the United States, I might refer to the history of the proceedings in the United States, where nearly all the questions which have arisen in respect to the construction of the Constitution have arisen and do arise between individuals. The Supreme Court of the United States will not give judgment upon any abstract question as to the construction of the Constitution unless it comes before them on a dispute between two persons.

Mr. GORDON:
What about the recent case of taxation?

Mr. SYMON:
That was between two persons. Hon. members will understand that I am not wishing to construct barriers to any arrangement that will get over this difficulty. I am endeavoring to offer remarks which may be suggestive to hon. members' minds with a view to consideration. The view that strikes me is that if you have interference by a Commission, or by a federal authority without a Commission, over what each State will consider belongs to itself, you will have a constant source of friction.

Mr. FRASER:
Undoubtedly.

Mr. SYMON:
Therefore I see no middle course between taking over the absolute control of the railways or leaving them to the uncontrolled administration of the colonies, as is now the case. That state of things I should be sorry to see. I believe it would be inimical to Federation. I do not say it ought to be looked upon as essential or an absolute condition of Federation. I do not say that the federal control of the railways should be a sine qua non, but I reserve to myself the right, as a humble representative of South Australia, of taking that position if necessary, because I honestly believe we may as well obliterate that well-expressed sub-division 5 from these admirable
resolutions as to allow the railways to remain as at present.

Mr. GORDON:
    Hear, hear.

Mr. SYMON:
    The people of Australia have everything to fear from the uncontrolled power over the leading lines and the feeders of them by the States. We want all our waterways and railways to be free. There are a number of other matters that I proposed to allude to, but I have already detained this Convention beyond, I think, my fair share of its time, and I would only ask permission to say, in conclusion, that I echo entirely the very grave and weighty words in which my honorable friend Mr. Barton counselled conciliation and concession. I am sure his appeal found an answering chord in the hearts of every one of us. The spirit of Federation is undoubtedly the spirit of compromise. At the same time, I agree with some of the speakers this morning that that is not to be interpreted as meaning that we are to give up too readily the principles which we cherish. It is not to be interpreted as meaning that we are to surrender, so to speak, our discretion. Therefore, I have spoken freely upon those few points to which I have called attention, and for my part, while giving full effect to the spirit of compromise, I shall struggle long and I shall struggle hard, for not only those things which I conceive to be essential, but for whatever I believe may improve and strengthen the edifice which we propose to rear. I start with the determination to listen to everything, and to give up nothing until I am convinced it ought not to be longer fought for. I say further, that when the end of our labors comes, when the fabric comes finished from the loom of this workshop, I shall be prepared to give my assent to it, and to accept it, although it may contain some things which I have fought against, and although it may omit some things which I have fought for. When that time comes I shall ask hon. members to say as Benjamin Franklin said: "Let us doubt a little of our own infallibility, and put our names to the instrument." Let us take it with all its imperfections full upon it, so long as there is nothing fatal to the liberties of the people for whom we are seeking to frame a Constitution. I do not suppose if we were angels from heaven we could frame a Constitution which would be perfect or agreeable to everyone of us. Franklin declared that though he did not approve of some parts of the Constitution of the United States, that splendid monument of statesmanship, he would sacrifice to the public good whatever opinion he entertained of its errors. This is the spirit which I humbly commend to this Convention. The problems are great and vital problems of constructive statesmanship. Destruction or demolition is a very easy task, but the glory of statesmanship is to construct. That, I venture to think, is our mission;
that is the charge laid upon us by this Enabling Act under which we sit. I hope we shall succeed. In spite of the difficulties which I have not been slow to emphasise, I fear no failure. "If we succeed," the Athenian general said to his troops, "if we succeed we shall make Athens the greatest city of Greece." If we in this Convention, representing, as we do—at any rate representing, as I hope we shall do before we finally dissolve—the people of Australia, if we succeed there will arise in Australia a new and beneficent power, great in her civilisation, great in all the arts of peace, and, above and beyond all, great in the comfort and happiness of her people.

Mr. HOLDER:

I move the adjournment of the debate.

Question resolved in the affirmative.

SUSPENSION OF THE STANDING ORDERS.

Mr. HOLDER:

Before we rise there is it formal motion I wish to submit, and which requires the presence of an absolute majority of the Convention. I want to move the suspension of the Standing Orders, because under the Western Australian Enabling Act, and also under the Acts passed in the other colonies, if members are absent for five days their seats become vacant, and as the Western Australian delegates have been absent four days, should any one of them be unable to attend to-morrow, or through misfortune be absent any longer, his seat will be vacant. I also desire to suspend the Standing Orders to meet the case of one of the Victorian delegates who is, we all regret, absent on account of ill-health. Therefore I move:

That the Standing Orders be suspended to enable me to move a motion.

Mr. DEAKIN:

I second the motion.

Question put and passed.

LEAVE OF ABSENCE TO MEMBERS.

Motion by Mr. HOLDER:

That leave of absence for the four days, March 22nd, 23rd, 24th, and 25th, on account of distance, be granted to the representatives for Western Australia; and for the two days, March 24th and 25th, on account of illness, to a representative of Victoria, Mr. Trenwith.

Mr. DEAKIN:

I second the motion.

Question put and passed.

Convention adjourned at 5.33 p.m.
Friday March 26, 1897.

Western Australian Delegates - Messages of Congratulation - Petition - Indebtedness of the Australian Colonies - Returns: Railways - Resolutions to go into Committee - Federal Constitution - Suspension of the Standing Orders - Notices of Motion - Adjournment.

The PRESIDENT took the chair at 10.30 a.m.

WESTERN AUSTRALIAN DELEGATES.

The PRESIDENT:

I have to report to the Convention the receipt of the Western Australian Proclamation as to the time and place of meeting and the certificate of the election of representatives, together with a copy of the Western Australian Act, and, as I notice the Western Australian representatives are in their places, I think I shall correctly interpret the wishes of the Convention when I say that we extend to them a most hearty welcome. I will ask the Clerk to read the certificate of election, and afterwards to ask the representatives to sign the roll.

The Clerk read the certificate of election.

ROLL OF DELEGATES.

The following representatives subscribed the roll:—

The Colony of Western Australia.

The Honorable Sir JOHN FORREST, K.C.M.G., M.L.A. (Premier, Colonial Secretary, and Colonial Treasurer).

The Honorable FREDERICK HENRY PIESSE, M.L.A. (Commissioner of Railways).

The Honorable JOHN WINTHROP HACKETT, M.L.C.

WILLIAM THORLEY LOTON, Esquire, M.L.A.

WALTER HARTWELL JAMES, Esquire, M.L.A.

ALBERT YOUNG HASSELL, Esquire, M.L.A.

ROBERT FREDERICK SHOLL, Esquire, M.L.A.

The Honorable JOHN HOWARD TAYLOR, M.L.C.

MESSAGES OF CONGRATULATION.

The PRESIDENT:
I beg to report to the Convention that I have received telegrams of congratulation to the Convention upon its meeting, and wishes for its success, from the Australasian Federation League of Victoria; the Australian Natives' Association, in annual conference, in Victoria; the Central Queensland Territorial League; and the district council of Kingston.

Sir JOSEPH ABBOTT:
I would like to know if these documents are to be entered in the proceedings or not. At the last Convention all similar documents were entered in the proceedings. I do not know whether that course will be adopted. I think it should, as a matter of record.

The PRESIDENT:
I would suggest that a notice of motion might be given in respect to them. At present it seems to be only necessary to hand them to the Clerk; but, of course, it is competent for any hon. member to move that they be entered.

Sir JOSEPH ABBOTT:
I beg to move:
That these several documents be entered in the proceedings of the Convention.
Question resolved in the affirmative.

PETITION.
Mr. BARTON:
I have a petition to present from ten members and adherents of the Primitive Methodist Church, being citizens of the colony of New South Wales, requesting:—
That in the preamble of the Constitution of the Australian Commonwealth it be recognised that God is the supreme ruler of the world and the ultimate source of all law and authority in nations. That there also be embodied in the said Constitution, or in the Standing Orders of the Federal Parliament, a provision that each daily Session of the Upper and Lower Houses of the Federal Parliament be opened with prayer by the President and the Speaker, or by a chaplain. That the Governor-General be empowered to appoint days of national thanksgiving and humiliation.

The petition is respectfully worded, and I move that it be received.
Question resolved in the affirmative.

INDEBTEDNESS OF THE AUSTRALASIAN COLONIES.
Mr. WALKER:
I beg to move:
That a return be laid upon the table of this Convention showing—
(a) The total public indebtedness of each of the Australasian Colonies,
giving in tabulated form the due date and amount of each loan, with rate of interest it carries, also mentioning in each case the date of latest return to which the statistics apply.

(b) The State debt per head in each of the Australasian Colonies.
(c) The annual interest charge per head on said State debts, showing each colony separately.

Mr. BARTON:
I second the motion.

Mr. LOTON:
I notice in clause (a) we are asked to agree to a return showing the total indebtedness of each of the Australasian Colonies. I do not know whether there is any necessity to include New Zealand.

Mr. WALKER:
I wish New Zealand to be included.
Question resolved in the affirmative.

RETURNS-RAILWAYS.

Dr. QUICK:
I beg to move:
That there be laid upon the table of this Convention a precis of all available official reports showing:

I. The nature of the country lying approximately between the Oodnadatta Railway Station, in South Australia, and the Pine Creek Railway Station in the Northern Territory, its suitability for settlement or otherwise, the length of the line that would have to be constructed to connect these two railway systems, and the probable cost per mile.

II. The nature of the country lying between Lake Torrens and the nearest railway in West Australia, its suitability for settlement or otherwise, the length of line that would have to be constructed to connect the South Australian railway system with that of West Australia, and the probable cost per mile.

III. The nature of the country lying between the Northern Territory Railway and the nearest railway system of Queensland, its suitability for settlement or otherwise, the length of line that would have to be constructed to connect the two systems, and the probable cost per mile.

Mr. BARTON:
I second the motion.
Question resolved in the affirmative.

RESOLUTIONS TO GO INTO COMMITTEE.

Mr. BARTON:
Before the Order of the Day is read I would like to give notice, with the concurrence of the House, of resolutions for Monday to go into Committee, in order that they may be on the Notice Paper for the convenience of hon. members. I take it that I may give notice now.

The PRESIDENT:
I think it would be more regular if a suspension of the Standing Orders were moved.

Sir GEORGE TURNER:
I should be glad if the hon. member would allow this to remain till later in the day, as I wish to consult him on it. The notice can be given after lunch.

Mr. BARTON:
In New South Wales we can give notice at any time.

The PRESIDENT:
I ruled in this matter a day or two ago, and I think it would be more regular if the hon. member did as I have indicated.

Mr. BARTON:
If the hon. member will confer with me I will leave the resolutions till afterwards.

Sir GEORGE TURNER:
I will do it after lunch.

FEDERAL CONSTITUTION.

Debate resumed on resolutions by Mr. Barton (vide page 17).

Mr. HOLDER:
It is with very great diffidence that I rise to take part in the debate in this important Convention. I recognise that this body is the first Australasian Parliament, and as we sit here we sit under the scrutiny of over 3,000,000 of people, and that our work at the end will be subjected to the approval or disapproval of the electors of these States. I rejoice exceedingly in the presence of the representatives from the great colony of West Australia, and I hope that, ere we come to the conclusion of our duties, we shall also have amongst us representatives from the other great Australian colony of Queensland, whose future, I believe, will be second to that of no other colony in the group, unless it be the colony of New South Wales. I regret for many reasons the course of procedure that has been adopted on this occasion. I think time would have been saved, and the debate would have been more direct and pointed, had we a motion before us proposing to go into Committee upon the Commonwealth Bill. However, it is too late now to move in that direction. We have gone so far along the path that we are now treading that it would be more convenient to keep on treading in it. I propose simply to make that passing remark before proceeding to debate
the resolutions before us, except with the utterance of this preliminary observation, that I had not intended to speak at large on this occasion. Had the motion been to take the Commonwealth Bill into consideration in Committee, I should have reserved my remarks until the Committee stage had been reached on the various clauses of the Bill. Seeing that we are asked not to pluck the fruit from the tree, but to go back to the roots, to resolutions almost identically the same as those on which the Commonwealth Bill of 1891 was based, and seeing that we were directly invited by the speech of Mr. Barton, the representative of New South Wales, to express our views as a guide to the Constitutional Committee, which presently will begin its work, and feeling as I do so strongly upon several points, I will address myself to them. Much has been said about the desirability of compromise, but it appears to me that the time for compromise is not yet. It probably will come, almost certainly must come, before we have finished; but to-day what I imagine will be most helpful to the Constitutional Committee and tall have no difficulty in securing the assent of a majority of this Convention. The first of these principles is this: that we are assembled to obtain a Constitution which will give us a true Federation, and I would like to add that what I think we want is it true, democratic Federation.

Mr. ISAACS:  
Hear, hear.

Mr. HOLDER:  
We want something which shall have two parts, which shall be democratic in the fact that it is based on the people's will, and that in it every personal unit of the population shall be recognised and his individuality preserved, and that, on the other hand, shall be a true Federation, in that each State unit shall also have its individuality preserved and its independence assured. I do not think we can afford to dispense with either of these two things. We cannot afford to dispense with the guarantee of the personal individual rights of every citizen of the Commonwealth, nor, on the other hand, can we afford to dispense with the individual or separate rights or interests of each of the separate States—if my hon. friend Mr. O'Connor prefers that term. We cannot neglect to provide for their due recognition. The next principle I shall lay down is this: That in dealing with this federal authority we should confer on it no powers which it cannot exercise more wisely and well and effectively than the States can exercise those powers. I would even go a step further, and lay down as the principle which should govern our conduct: To the States all that is local and relating to one State, to the Federal authority all that is national and
inter-State. I wonder whether I can secure the absolute adherence, no matter where it may lead us, of a majority of this Convention to that principle: To the State everything that is local and relating to one State, to the Federal power everything that is national and of inter-State importance. I pass from these two general principles to a discussion of the only other preliminary I shall have to touch, and that is the question of the appointment of the representative of the British Crown in the person of the Governor-General. I do not take it that the words of the Enabling Act requiring us to frame a Constitution for a Federation "under the Crown" bind us in the matter of whether or not we shall elect our own Governor-General, because I take it that the legal bonds which bind us to the mother-country, to the great British Empire, are chiefly, first the right of veto which the Imperial authorities have over any Acts our local Legislature may pass, and which the Federal Legislature may pass, and next the right of the Imperial Legislature at any time to pass legislation which may affect us, or which may revoke any legislation affecting us. These are the great legal bonds which bind us to the British Empire. But above all this, the greater and wider, and, to my mind, much more important bonds than the legal bonds are those of kinship, of language, and of sympathy that must always bind us to the motherland. The mere appointment by the Crown of the Governor-General is not a real bond. That this is so is recognised to-day in that we have presiding, now and again, in the position of Acting-Governor of one or other of these colonies, gentlemen who so preside by virtue of their position upon the legal bench. In the appointment of the Governor we have only one link, and that link is again and again missing when gentlemen, owing to their legal position, temporarily occupy the office.

Mr. SYMON:
By vice-regal appointment.

Mr. HOLDER:
Yes, of course; the Commission from Her Majesty lies dormant until it is actually called into existence by the absence of the Governor; but we can at this moment, if the necessity arises, appoint a new occupant to the Supreme Court Bench, and that would qualify him to fill the office of Acting-Governor if need required it. Therefore I think it is clear that to that extent it lessens the argument that the main link that binds us to the mother-country is the appointment of the Governor, and shows that it is an argument which has not half so much weight as some of the speakers would have us believe. But I take a very strong position against the election of the Governor-General by the Federation, not because I believe...
it would mean losing a link which binds us to England, but that we should have a man of such power and authority, derived directly from the people, that he would certainly clash with the other powers and authorities we propose to set up under this Constitution. We have four wheels to the State coach—the electors, the two branches of the Legislature, and the Executive—and on these four wheels the State coach will make good progress; but if we bring in a fifth wheel, so strong in power, so based upon the popular will as that it might override or supersede the power or authority of one of these four, at once we should be landed in a most serious difficulty. No comparison could be made by fair analogy with the position in the United States. The President there is very different from anything we propose to provide for in the Governor-General here. We should hesitate very long before we confer upon a Governor-General the powers which are vested in the President of the United States. The President is more powerful in many respects than the Queen of England herself. He combines in his own person, powers, and authorities we would not dream of conferring on anyone. Instead of a Governor-General, we might have in our midst a man who might, for the whole term of his office, defeat the people's representatives and the Executive, and do just as he pleases. So the President of the United States can to-day, not only because of the Constitution, but because of his election by the great body of the people. I hope that we shall not make the mistake of providing for elective Governors, because of the serious risk we should run.

Mr. GLYNN:

There is a unanimity of opinion against it.

Mr. HOLDER:

Yes; and I shall not repeat the arguments which have been used in support of the appointment by the Crown. I pass on, then, to notice the next question, which is the question of the two Houses of the Federal Legislature. After the very able speech which the member for Victoria, Mr. Higgins, made yesterday, I cannot refrain from going one step behind where he began to show the necessity that exists for the constitution not only of two Houses but of two Houses possessing certain characteristics. We would not be content with one House, because under neither of the two possible alternatives would that be satisfactory. We cannot be content with a single House elected on the population basis, because that would be unfair to the smaller States. We could not content ourselves with one House on the basis of States representation, because that would be unfair to the larger States. We are bound, then, to go for two Houses, one of which shall represent the people as units of the
whole Commonwealth, and the other the State units which must have equal power with every other State. If we are to have this State authority maintained by the existence of a Senate, and if we are to have called into existence a Senate for no other purpose than to preserve the rights of the separate States as States, we must take care that the Senate shall be able to preserve those rights. Much has been made of the importance of equal representation in the Senate, but it seems to me that fully as important as the question of equal representation is the question of the relative powers of the two Houses. Equal representation of the States in a manifestly inferior House would be of no value to the smaller States. We might as well have no Senate at all. So far as equal representation of the smaller States in the Senate goes, if the Senators are to have one of their hands tied behind their backs, we may as well throw it away. Therefore I think we must insist upon having a Senate to guard the interests of the smaller States, as we shall have a House, of Representatives to guard the interests of the whole of the Commonwealth. We must insist upon the possession by the States House—and I prefer the wording of this proposal to that of the Commonwealth Bill—we must insist upon such powers being given to the States Council as will enable it to withstand any encroachment on its rights by the National Council. There can be no analogy drawn between the two Houses of Parliament as they exist today in the colonies and the two Houses to be created under the Bill. In the present case one House represents the people, and the other represents classes of the people, but in this instance both Houses will represent the people generally; and therefore I object to the form used in speaking of the House of Representatives as the people's Chamber. It is no more the people's Chamber than the other is. It is simply a Chamber where the people are to be represented, irrespective of grouping, while the other will be a Chamber where the people will be represented with regard to their grouping. Nor do I like the terms Upper and Lower House. I much prefer that we should keep to the resolution, and speak of one as the States Council and the other as the National Assembly, and recognise that both represent the people. I recognise fully the extreme importance of the argument advanced by Sir Richard Baker, who in his speech pointed out a matter which demands our closest attention. He put it that facing this very question of State rights is the probability that either the responsible government system will kill Federation or Federation will kill responsible government. It is essential to true Federation that we should have these two Houses possessed of co-ordinate rights, power, and authority; but can we have two Houses with co-ordinate authority if we are to have the Cabinet system? I believe we recognise that the Cabinet system with responsibility to two Houses is quite impossible.
Sir GEORGE TURNER:
   Hear, hear.
Mr. HOLDER:
   The moment we permit responsibility to one House we raise that House, whichever it may be, to a higher position than the other, and we at once destroy the balance between the two Houses, which it seems to me is essential to the true Spirit of real Federation. I put this question to the test—this question of the responsibility of the Cabinet to one House, and also at the same time the question of the rights of the Senate to alter or amend Money Bills in this way. We are told that to the National House only should the responsibility of the Cabinet be, that to the National House only must be given certain powers relating to Money Bills. Supposing that we, the representatives of the smaller States, were to work the other way, and to claim that to the Senate, and to the Senate only, should be the responsibility of the Cabinet and the right to deal with certain Bills—

Mr. HIGGINS:
   You would have the smaller number of people governing.
Mr. HOLDER:
   Certainly not. We should have the same number of people governing. The test I want to put is this. Would those from the larger colonies, who arc content to do violence to the true principles of Federation by giving superior power to the House of Representatives—would they be content to do another and no greater violence to the true principles of Federation, by giving these larger powers to the Senate? Of course not; because they would not think of placing undue power and undue influence in the hands of the smaller States. This is the way we, representing the smaller States, look at the proposal to place undue influence and authority and power in the hands of the other House in which States rights will not be fully guarded. It may be said there is no need to guard their rights, that the great colonies will do no harm to them. I agree with the remark made yesterday, which is so apropos that I must quote it:

   No; the larger colonies will do no wrong to the smaller States if they cannot, but if they can they may.
Mr. HIGGINS:
   Are you able to give an instance?
Mr. HOLDER:
   Certainly they will not if they cannot, and I want to provide that they cannot, and then there will be no reason to fear that they may.
Mr. HIGGINS:
   Can you give an instance?
Mr. HOLDER:
I will give an example or two. It may be said that I am straining my illustrations, but I want to give illustrations which will tell right home at the present time. Suppose, for instance, in exercising the rights over the rivers which were to be given under the Commonwealth Bill to the Federation, a Bill might be proposed to borrow and expend money to lock the Darling.

Mr. REID:
The Darling is not an intercolonial river; it happens to be in New South Wales.

Mr. HOLDER:
I am aware of that.

Mr. REID:
And you take what you can out of it.

Mr. HOLDER:
Its waters come down and flow past Victoria into South Australia, and I am suggesting—and the interjection rather helps me than otherwise—that this is one of those questions on which the question of States rights may easily be raised. It may be proposed to borrow and expend money to lock the Darling, so that its waters may be available for the use of the settlers on its banks and of others who may settle there. Then serious injury may be done in some degree to Victoria, and in very much greater degree to South Australia.

Mr. HIGGINS:
Would not Victoria help you?

Mr. HOLDER:
She might, but we do not want to be left in the position of suppliants to another colony.

Mr. ISAACS:
She might in any case.

Dr. COCKBURN:
Victoria and South Australia might make an arrangement mutually satisfactory.

Mr. HOLDER:
Should not South Australia have her rights in that matter protected? I take another illustration. The Federal authority is intended to have power to provide lights, and to have power over navigation and matters affecting shipping. Supposing the Federal authority, for the purposes of the trade of the eastern colonies, wanted to open up a large port at Esperance, regardless of the interests of Albany and Perth, ought not Western Australia to have some right to enter a protest or raise some objection
against such a course as that? Should she not, without coming cap in hand to the other States, or without the necessity of anything in the shape of logrolling, have an absolute right to protect herself in a matter which comes so much within her scope and influence? It seems to me that these are illustrations indicating a possible conflict between the States and the Federal Parliament; and, in view of such possibilities, regarding them solely as distant possibilities, we should provide absolute strength in that House whose business and whose only reason for existence will be the protection of the interests of States one against the other. To set up a Senate which will have no power of the purse will be to set up an absolutely worthless body. The member for New South Wales, Mr. Barton, in the able and lucid speech in which he presented the resolutions to the Convention, clearly indicated the importance of the power of the purse, and if we give the power of the purse and the control of the Executive to the House of Representatives we might just as well have no Senate at all.

Sir EDWARD BRADDON:

Hear, hear.

Mr. HOLDER:

If we are to have the Senate for the protection of State rights, we must have a Senate as strong as the House of Representatives.

Mr. HIGGINS:

Will you have responsible government?

Mr. HOLDER:

I come to that point now. Mr. Higgins asks me whether I would have responsible government. I only say that if Federation must kill responsible government, or responsible government kill Federation, I would rather kill responsible government than Federation; and in that sentiment I think I will be supported by a large majority of the members of the Convention. I put it again. If we must kill one or the other I say we can better dispense with responsible government, much as I would regret doing it for many reasons, most of all because we have tried responsible government.

Mr. REID:

You do not need to do that. You can make the Government responsible to the Senate. That would meet your views.

Mr. HOLDER:

I would not advocate that, because it would not be fair, as it would place an undue power in the hands of the States House, and I want no undue power given to either. Let us hold the balance evenly in the interests of true Federation, and then we need not fear. Let the balance be uneven, and we
shall be like a man palling a boat with uneven oars—we will make little progress. A majority of the Convention would accept no proposal which would make the Senate the more powerful of the two Houses. I do hope that we shall not, by any skilful argument or suggestion in favor of maintaining responsible government, be led away from the true principles of Federation or from a clear recognition of the purposes for calling into existence the States House. I am not sure that the conclusion to which Sir Richard Baker arrives is an absolutely final one. It looks to me very much as if it maybe true that we must choose between Federation and responsible government, and I think nothing can absolutely demonstrate which is to be chosen, save practical experience; and I think, therefore, the framers of the Commonwealth Bill acted wisely when they left that question open. Let us try whether these two are compatible or incompatible. If we find they are compatible, let us go on. Under the Commonwealth Bill we can possess the advantage of true Federation and the convenience we have gained under representative government; but if as time goes by we find that the representative of South Australia, Sir Richard Baker, is right, and we must give up one, let the one to be given up be responsible government, and let us put in its stead the Swiss system, or some other system which by that time experience may have demonstrated to be convenient and wise. Let us not to-day do anything that will tie our hands unduly in the future. The representative of New South Wales, Mr. Barton, protested against hide-bound views and speeches. I protest more strongly against a hide-bound Constitution. There is a very great deal indeed in what Mr. Carruthers said yesterday. He showed clearly that there was to be no secession, and there must be none. We cannot provide an easy back door out, for in a lasting Federation there is no secession. But there must be a ready and easy way to, make amendments in the Constitution. It must be elastic and susceptible, not to a wave of public feeling which may be purely temporary, but where there is a growth of public conviction it must be possible to alter the Constitution when we have framed it. What I am afraid of now is that, in providing definitely for responsible government, we may find that clinging to responsible government may lead us to greater sacrifices than it would be to surrender it. I go on now to the question of the franchise of the two Houses, and I regard it as extremely important that the franchise question should be settled within the four corners of the Constitution itself. What are we being asked to do? Five colonies are meeting here to-day, and we are asking them to come into a partnership, and dare we—dare the larger colonies, much more dare the smaller colonies—I will say why, presently—dare we
ask them to come into a Federation, a very important term of which is left
to the unknown future?

Mr. DOBSON:

No; the Federal Parliament.

Mr. HOLDER:

I contend that whatever the franchise may be—whether it may be one man
one vote, as Mr. Higgins advocated yesterday, or whether it be, as I
infinitely prefer, one adult one vote—whatever the franchise may be, in the
four corners of the Constitution we must have the first franchise set out,
subject to amendment. Possibly the Federal Parliament may alter it from
time to time, but in the four corners of the Act of the Constitution the
franchise of the partnership should be included.

Mr. MCMILLAN:

You cannot alter it if you make it on the broadest basis.

Mr. HOLDER:

I am not afraid that the Parliament will make it less broad than we shall
begin with, and that is why I want to set it upon the broadest possible basis.

Mr. MCMILLAN:

Do you mean for the first election?

Mr. HOLDER:

Yes, for reasons I will indicate in a minute. It might be said three plans
have been suggested for meeting the difficulty. One is that every State shall
determine its own franchise for federal affairs; another is that the federal
franchise shall be uniform, but shall be left for the Federal Parliament to
settle; and the third is that the federal franchise shall be settled with the
Constitution. The first is that each State shall settle the franchise for itself;
and in support of this it is sometimes argued that it is not the business of
one colony what the franchise of another may be. Is it not? Let me point to
this fact. Taking once again the Commonwealth Bill as the basis of our
discussion, we should see in the House of Representatives twelve members
representing the colony of South Australia, and I think about eighty-four
representing the two great colonies of New South Wales and Victoria. Do
you not see in a moment that the electors of South Australia have seven
times more interest in the franchise of those two colonies than they have in
their own. It does not matter much to her on what basis our small minority
of twelve members are elected, but it does matter to us, and to all of us,
what the basis is upon which the eighty-four members from the other
colonies are elected. It is equally our business to know that; indeed, it is
more our business than theirs. It does no matter much to Victoria and New
South Wales what our franchise is. Returning their members on their own
franchise they can vote our twelve men down every time. While the
question of the Federal franchise being stated in the Constitution is not a
matter of great importance to the large colonies, because they can
practically determine the issue themselves, it is a matter of extreme
importance to the smaller colonies proposed to be represented in the
Federation. I pass on to the next suggestion, that it should be left to the
Federal Parliament to settle, the members being in the first place elected
under the franchise of each colony. So
far as we are concerned, the results in that instance would be eminently
satisfactory. Our twelve representatives to the Federal Parliament would be
elected upon adult suffrage - one adult one vote. As against our twelve
would be representatives for Tasmania elected - I am speaking now of the
franchise for the more popular branch of the Legislature - upon a property
qualification.
Mr. DOBSON:
   It is democratic enough for anybody.
Mr. HOLDER:
   No one can vote for the Lower House unless he possesses an income of
£60 a year.
Mr. DOBSON:
   No, £40.
Sir GEORGE TURNER:
   It has been reduced since to £40, apparently.
Mr. HOLDER:
   I am only basing my argument on the figures which are before us. I still
claim that I am right in stating that there is a property qualification in
Tasmania, if it be but £40 a year. I think I rightly understood Sir Edward
Braddon to say that in Tasmania one man could have up to twelve votes.
That is a franchise upon which a certain portion of the Federal Parliament
is proposed to be elected under this plan. In Victoria we see a difference,
there being manhood suffrage; but there is also plural voting there, and I
am glad to receive the assurance from Sir George Turner that his opinion is
that Victoria will provide, as she did in her Federal Enabling Bill, that no
elector shall possess more than one vote.
Sir GEORGE TURNER:
   I say more than that, that we ought to provide in this Constitution that the
same thing should apply in all the colonies.
Mr. HOLDER:
   I welcome that as a very material concession. In the case of New South
Wales we should have manhood suffrage without any qualification at all. It
must be apparent that the franchise upon which the first Federal Parliament
is elected will dominate the franchise which that Parliament legislates for, as being the Federal Parliament.

Mr. GLYNN:
If that is correct reforms would never have come.

Mr. HOLDER:
Reforms come very slowly. They have to be fought for inch by inch, and they have to be waited for long years before they come.

Sir WILLIAM ZEAL:
Do not go to extreme measures.

Mr. HOLDER:
I am not going to extreme measures. I am simply putting the points as they appear to me, and while I do not believe for a moment that this is the time for compromise, there may come a time when, at the point of the sword or the mouth of the cannon, speaking figuratively, we may have to accept compromise and offer a compromise before it is asked for, why lay down arms before the battle begins? If he favors womanhood suffrage, why not stick to his guns and help the rest of us; and who knows that this Convention may not signalise itself and the year of the diamond jubilee of Her Majesty by enacting for the great Federation that is coming, one woman as well as one man one vote?

Mr. TRENWITH:
It is not a battle.

Mr. HIGGINS:
I will help you, but at the same time I cannot close my eyes to facts.

Mr. HOLDER:
I cannot shut my eyes to the fact that in all probability Federation will be vetoed in this colony on the popular vote, if the Federation proposes to disfranchise nearly one half of the electors.

Mr. TRENWITH:
Why not make it one vote for one man and woman wherever woman suffrage exists?

Sir WILLIAM ZEAL:
Why force your franchise on Victoria?

Mr. HOLDER:
I must have spoken quite in vain about ten minutes ago, for Sir William Zeal asks: "Why force our franchise on Victoria?" I want no such thing. Victoria may have, for all her own State affairs, just what franchise she pleases, but when it comes to Federal affairs-when the members axe to be elected not to legislate for Victoria alone, but to legislate for Australasia-I
am speaking of a matter which is not a Victorian question, but an
Australasian question. So it appears to me, and so I think it must appear to
the thought of everyone who has followed me.

An HON. MEMBER:
You dictate to us.
Mr. HOLDER:
I do not dictate. It appears to me most unlikely that South Australia will
come in unless this is conceded; and I make no dictation, but simply urge
the point which appears before my mind. I am not going to discuss the
question of what the federal franchise should be. I have not expressed my
view why womanhood should have a vote, for Committee is the stage at
which the matter should be discussed. I should then also have a word to say
as to the very admirable and conscientious way-since women have had a
vote in South Australia-they have exercised the franchise. I will go on now
to the question of the powers and functions to be exercised and enjoyed by
the federal authority. And I remind hon. members of the rule I laid down in
the beginning: to the State, everything that is local and of interest in one
State; to the Federation, everything that is national and of inter-state
concern. Now, applying that rule, we can very materially cut down the
powers to be entrusted to the federal authority in the Commonwealth Bill. I
would point out to hon. members this fact, that whatever we give to the
federal authority the States divest themselves of. It is almost impossible to
make the authorities concurrent. Further, it is much easier to give than to
take back. I think we may safely assume that the States will never get back
any power entrusted in the beginning to the federal authority. I do not think
they ought to get anything back; but this fact should make us cautious. Let
us scrutinise every detail that we propose to give to the federal authority,
so that we may hand over nothing more than is necessary should be handed
over. We can always add to the authorities handed over, but we cannot take
back again.
Mr. GLYNN:
Why not? We can go to the Imperial Parliament, an Act of which can do
anything.
Mr. HOLDER:
We do not want to be going to the Imperial Parliament every now and
again to review our Constitution. I do not see any reason why we should
hand over the posts and telegraphs. Are they not matters in which each
State deals for itself, excepting extra-colonial cables and postal services.
The services on this continent and in Tasmania are matters of local interest
and local concern. If there is one thing more
than another which we should avoid bringing into Federation it is undue centralisation. We, and possibly the other colonies, have felt in the past the mischiefs of centralisation, and we ought to have no more of it than we can help. Is it not centralisation in the extreme if we get a requisition from Central Australia to have two mails instead of one a week, and we have to go to the federal authority to find out whether we can give this extra mail service? Supposing we wanted to change a letter carrier in Adelaide or the suburbs, or say in Brisbane, would it not be absurd to have to go to the federal authority before we could appoint a new letter carrier, or make an alteration in the beat in which he travels? These are matters of purely local interest, and we had better leave them to local control.

Mr. GORDON:
What would you do if one colony refused to carry the mails of another?

Mr. HOLDER:
That would be, as Dr. Cockburn says, practically a declaration of war against another State. I am quite sure that the States will be able to exchange mail matter, and deal with it as purely a local question. I say the same in connection with the railways. We have had railways constructed, not with a view to profit only, but with a view to develop the country. We have railways to-day working at a loss, yet we prefer to work them because certain portions of the country without them would be undeveloped, and perhaps could hardly be occupied. What is the case in South Australia is no doubt the case in other of the colonies. Are we prepared in this colony to hand over there lines of development, these lines which we have built for a certain specific purpose to the federal authority, whose great aim will be not to develop the States-

Mr. FRASER:
Oh yes.

Mr. HOLDER:
No. What interest would the federal authority have in developing a certain State?

MR. FRASER:
Every interest.

Sir WILLIAM ZEAL:
What is the use of Federation?

Mr. HOLDER:
Many thing, could be managed a great deal better by Federation, but in reference to the railways we are not prepared in this colony, and in the other colonies too, to hand over to a federal body, whose only object would
be to make them pay, these lines which we have designed and constructed for a specific reason. They are our local concerns, and we cannot but make local matters of them. In reference, however, to the railways, and to the post, and telegraphs, too, we must be careful to provide against a wrong being done by one colony towards another. We must provide against any colony imposing postage upon the people of a neighboring State that it does not impose upon its own people. We must provide against a State charging rates for that State other than it would charge the people of another State; and we must be careful in providing that there are no differential rates imposed for the purpose of promoting the industry and trade of one State to the detriment and injury of that of another. Reference has been made to the question of making this principle prevail only in the case of the intercolonial railways, but it is not a question of inter-colonial railways at all. Let us abolish to-morrow the Customs-houses of South Australia, and have no duties against intercolonial products and manufactures, and it will be quite possible to provide by a railway tariff that all goods the product or manufacture of other colonies should pay double freight, and we would lose all the benefit of intercolonial freetrade by this. It may be said I am using an extreme illustration. To-day, in the colony of Queensland, and for years past there, a higher rate of freightage on the railways has been charged for flour, bran, and pollard gristed in another colony than has been charged for the same goods gristed in Queensland. In Queensland already the influence of protection is being largely increased to the detriment of the other colonies by these differential rates. What is being done in Queensland may be done in other colonies, if they please; but we must provide that there shall be no undue favor given to any State, and no undue damage done by the action of one State to the trade and commerce of another.

Sir GRAHAM BERRY:

How can you enforce it?

Mr. HOLDER:

Mr. O'Connor put it very clearly the day before yesterday, when he was speaking on this point, and I shall be very glad to follow him in Committee if he thinks fit to propose an amendment to give effect to his views. I do not like the idea of surrendering these railways to the federal authority, but all the advantages to accrue from intercolonial freetrade will be lost unless we provide against differential rates. There are many matters which may be handed over with great advantage to the federal authority, such as Customs and Excise, for instance. There are no subjects which have a broader or a
more national interest than these, and of all others these are the ones which we should first entrust to the care and control of the federal authority. Defence, also, is a subject which must be vested in the Federation. Lighthouses, quarantine, and matters relating to shipping regulations, are all subjects which will find their way naturally into the hands of federal authority; but for the rest, let us keep within our own power all we possibly can. Now I come to the question of finance, and I shall not detain the Convention long, for a reason which will appear presently. I believe that if we are going to face the financial question in the spirit in which many are inclined to face it, we have a most difficult problem before us—in fact, one so difficult, that it may take many months to solve the difficulties connected with it. I have looked at it very closely, and the more closely I look the more difficulties I see. I have read many articles on the question, including the very able articles by Mr. Nash, of New South Wales, and the more I read and study the more difficulties crop up. The greatest difficulty is this—that circumstances change so rapidly. We may adjust things to-day after most earnest consideration, and to-morrow we wake up to find that the statistics on which we based our work—and they may be the statistics of no longer back than six months ago—are no longer applicable, and all our work will have to be done over again. Look at the phenomenal advance which has been made by Western Australia during the last year or two, and we may learn that any settlement to the financial question cannot be a final settlement, but must be open to review almost day by day. And that leads me to the very difficult problem connected with the account system, for which the hon. member for Victoria, Dr. Quick, is one of the ablest advocates. That account system seems to me to possess one or two serious drawbacks. In the first place it involves a most costly system of accounts, and there will be room for infinite friction between the federated colonies. Besides that, we do not want further hampering or fettering of our inter-State commerce, and the moment we say to the collectors of Customs on the various borders—"You shall charge no more duties, but everything else you do to-day you shall do tomorrow," we lose, I was going to say one-half, but I think I may say nine-tenths of the advantages that should come to us from the abolition of Customs duties. I have looked up a few figures which seem to me to be illustrative of this way of dealing with the financial question. Some have proposed, instead of making the difficulty smaller, to make it greater, not even to take Federation as it stands in the Commonwealth Bill, which is now generally admitted to be impracticable, but to make it more difficult by pooling the railways and public debts. What are the facts? The public debts of the Australian Colonies amounted on December 31st, 1896, in New South Wales,
to £44.59 per head of the population; in Victoria, to only £39.92 per head: in South Australia, to £64.78 per head; in Western Australia, to £34.21 per head; in Tasmania, to £48.67 per head; and in Queensland, which is the largest, to £67.50 per head—or an average for Sir JOHN FORREST:

There has been no increase since December.

Mr. HOLDER:

I am very glad to hear it, though I understand there is likely to be an increase. The highest colony is Queensland, with £67.50. I know of no system of taking over the debts which would harmonise differences like those. The thing is impossible. We should want to refine things down to a better basis than the difference between £34 and £67. It has been said that, roughly, the Customs duties and the debts of the colonies balance. So they do as a mass, but let us look at the matter in detail. Let us see how the Customs and Excise revenue comes in. The smallest amount is in South Australia, including the Northern Territory, where the Customs and Excise duties provide per head of population £1 11s. 7d. per annum. That is the minimum, and we come to the highest in Western Australia, where similar duties provide £6 11s. 8d. per head of the population per annum. That may be said to be abnormal, and I admit that it is, but I will come to that which is not abnormal. I take the colony of Queensland, where there is nothing abnormal, and I find that the amount received under similar circumstances is £2 12s. 9d., so that you have a range of from £1 11s. 7d. in South Australia to £2 12s. 9d. in Queensland, and yet the difference between the debts of the two colonies is not great. How can you harmonise such differences by any rule of thumb? If it is done it must be adjusted from day to day by a system of book-keeping, and that involves friction between the States and the Federal Parliament, and the maintenance of a host of statisticians and clerks, which must very considerably add to the cost of government. Mr. Henry points to this fact, which I suppose is within the thought of all of us, that these calculations are based on the figures of the present; but who can say what will be the results of the coming uniform tariff?

Mr. GLYNN:

Are you not leaving the economic benefits out?

Mr. HOLDER:

I am showing the difficulties in the way of settling the matter by any rule of thumb. This problem, I think, is almost insurmountable.

Mr. WALKER:

How did America manage it?
Mr. HOLDER:

We are not in the position of the United States, and I should be sorry to see anything like what occurred there introduced here. We are told that some modified form of the plan adopted in the Commonwealth Bill may be adopted. Mr. Henry yesterday suggested that there should be certain fixed subsidies paid to the States, but that would make the States dependent for their existence on the Federal Parliament, which is most undesirable. What happened in the United States? They had enormous surpluses, and they ladled out the money in enormous pension lists and all sorts of extravagances, and the result of this spendthrift policy is seen to-day.

Mr. BARTON:

The United States were never directed in the Constitution to distribute any surplus.

Mr. HOLDER:

No; but if we provide for a statutory sub-division, we simply make the States dependent for their very existence on the Federal Government. If we do not adopt that policy we leave it open for allotment from year to year, and there will be no question productive of more antagonism between the States than this. The two subjects I have already mentioned will be as nothing compared with it. As I have raised so many difficulties, I may only fairly be asked what do I propose? I think the difficulties are altogether insurmountable, and that the only possible course for us is to cease to seek to untie the Gordian knot or unravel the tangled skein, and cut it at once. If we cut it we save a vast amount of time, difficulty, uncertainty, and friction by a very simple provision. Let us simply avoid all these questions. Let every State collect the Customs and Excise duties under a uniform tariff, and let them manage their own internal affairs in such matters as are not handed over to the Federation. Let the federal authorities make an annual levy upon the States per capita, which levy shall be paid quarterly in advance, and we have at once avoided the difficulty.

Mr. DEAKIN:

A mere confederacy.

Mr. BARTON:

Then you get out of the difficulty of making the States dependent upon the Commonwealth by making the Commonwealth dependent upon the States?

Mr. HOLDER:

I think that is subject to modification when I have explained my plan. The first answer I make to the interjection is this, that I would let each
State collect its own revenue, and as to ascertaining what the cost would be, it would be a simple matter, because the Treasurer of the Commonwealth would have annually to prepare his budget. That would show the true federal revenue; it would show the true federal expenditure, which would be very much larger; and it would show the amount of the levy which each colony would have to pay quarterly in advance until the next budget came round. Every State would collect its own Customs and Excise duties under the Commonwealth tariff.

Mr. LOTON:
How would a State with no Customs duties pay?

Mr. DOBSON:
How would you enforce the payment?

Mr. REID:
The question is knotty enough without interruption.

Mr. HOLDER:
The representative of Tasmania has asked me how I would enforce the payments, and, in answering that I will answer the interjection of Mr. Barton. Just now Mr. Barton said that the plan I suggested would make the Federation entirely dependent upon the States. It would if the States were left to pay or not as they pleased, but if it were provided that these levies were to be paid, and, in the event of non-payment at the due date of the levy, the federal authority could enter and collect the revenue from the Customs or otherwise, there would be no fear of any State repudiating its debt.

Mr. REID:
And will the Commonwealth not repudiate its obligations to the State if you do that?

Mr. HOLDER:
I am not afraid of that. I do not want that the States should be dependent for their existence upon the Commonwealth. If there must be any dependency there would be less danger in making the Federation dependent upon the States than the States dependent upon the Federation. We all believe in the plan of giving certain specified powers to the Federation, and that the residue should belong to the States. We contemplate that a State should be a body possessed of other powers, and in some instances greater powers, than those given for national purposes to the Federation.

Mr. BARTON:
How is that kind of union to be stronger than the articles of the Confederate States in America?

Mr. HOLDER:
We have entered upon a different condition of affairs than those that prevailed at that time. There were then not the national conditions that we propose to call into existence now, and the whole conditions of national life in the States were quite inferior to those here to-day. Is it to be believed that any State is likely to repudiate its obligations to the Federation?

Sir RICHARD BAKER:
Is human nature not the same then as now?

Mr. HOLDER:
Yes; but things are different in the proposed Constitution from the Constitution which was a pure confederacy.

Mr. MCMILLAN:
How would you check federal expenditure? The federal budget might absorb all your Customs revenue.

Mr. HOLDER:
If the federal authorities required for purely federal purposes certain moneys it would have to be paid, and the various States would have to pay it. How much would be required would depend upon the Houses. Each State would elect its representatives who would look after its interests, and each State would elect its senators who would be pledged against extravagance. I do not think we need fear that any State would be trampled upon in the way suggested. The plan which I have outlined appears not to be acceptable to the Convention. But we must either get round the difficulty or we must face it. If it be a difficulty, as I think we shall find, it may be insurmountable; but if we cannot face it let us get round it, and avoid dealing with it. No one would be more pleased than I if our hon. friends Mr. McMillan or Mr. Walker can place before us a solution of the difficulty, and if not they must come in with me. I have only one point more upon which to make a few remarks. It is with reference to the question of the formation of a Supreme Court of Appeal. The argument has been used during the debate that we ought not to try and set up a Supreme Court of Appeal for Australasia because we have not the talent at our disposal. My answer to that is this: Just recently we have seen a judge of one of the Australian courts, and that not in the largest colony either, called to the Judicial Committee of the Privy Council. If he can add information and strength to that body, then I think we have proof that we have within our own borders some not unworthy to be compared to others who are to be found on the Privy Council in England. Some arguments used seem to suggest that ignorance of the facts and surrounding circumstances conduce to a wise decision. I do not agree with that view. The more fully the Court is aware of the surrounding conditions and circumstances under which the
dispute has arisen the more wisely will it be likely to arbitrate in reference to any dispute. I hope that one of the results of Federation will be the formation of a Court of Appeal to which litigants can take their pleas. I feel that I have expressed the sentiments which occupied my mind, and the more I hear from others the more impressed am I with the difficulties of our task I have no fear that we shall be unable to surmount them, but I believe that by fairly meeting them in some way or other we shall overcome the obstacles and shall frame a Constitution for Australasia under which her children can live for generations to come united, strong, and free.

Mr. LYNE:

I should not have attempted to take up the time of this Convention, but as I had not the privilege of being one of the Convention in 1891, I deem it my duty to place on record on the present occasion my ideas in the same manner as other gentlemen in this assemblage have done. I take it that the resolutions which have been tabled and which are before the Convention at the present time are intended to elicit from its members their ideas as to what should be embodied in the proposed draft Bill, and if that is not so I think those resolutions would absolutely fail in their object, and though with the expectation of repeating many of the arguments, dealing as I must of necessity with subjects that have already been discussed by other gentlemen, I am bound to take the course indicated. I remember—it is now a long time since—when one of the first Conventions was held, I think in Melbourne, one of its members, and a leading member—Mr. James Service—said that the lion in the path, as far as the Federation of the colonies was concerned, was the fiscal question. It seems to me that has altogether died a natural death as between the colonies.

Mr. HIGGINS:

Hear, hear.

Mr. LYNE:

If I take the speeches which have gone before, I find that the lions in the path at the present time are more than one, but the principal is that of State rights. I take it that is to be the trouble in connection with this Convention, and next to that the cession of the railways to the Federal Government, and last, perhaps not least as I think has been shown by the gentleman who has just resumed his seat—the question of pooling or amalgamating the debts and assets of the various colonies. These three things seem to me to point to the troubles before us in this Convention, and I shall attempt as shortly as possible to deal with those matters seriatim. I recognise that the speech
just delivered by Mr. Holder is one that has raised many difficulties -
difficulties which will be found hard to overcome. But though agreeing
with him in some respects, I must be allowed to altogether disagree with
him in many others; I think the majority of this Convention will disagree
with him in many of the statements he has made. First of all, he raised the
question

Mr. HOLDER:
  Hear, hear. Certainly.

Mr. LYNE:
I come next to the question of States and State rights. Unfortunately I had
not the privilege and pleasure yesterday of listening to some of the able
speeches delivered, but I took the opportunity of glancing through them as
reported, and I find that the smaller States proposing to enter this
Convention have a very great deal to say about State rights. It was an
ingenious argument used by Mr. Holder, when he said that the smaller
States, especially in the matter of the franchise, had more to consider as
against the larger States, than bad the larger States against the smaller. I
reverse the picture absolutely, and assert that the larger States have more to
consider in connection with the franchise of the smaller States than was put
in the proposition of Mr. Holder. It seems to me that what some of the
smaller States representatives want is not only to govern their small States
as they are doing now, but also to have a very much larger finger in the pie
of governing the larger States than they are entitled to. I take it that in this
particular the larger States must have the predominant power in the
Federation. And if you refer to the history of the creation of the Senate of
the United States of America, you will find, I think, that it was not first
created as the portion of the Parliamentary machinery which it afterwards
became.

Mr. TAYLOR:
  Hear, hear.

Mr. LYNE:
I find that when the originators of the Senate decided to elect that body
they were in this position, that they had very little, scarcely anything, to
guide them in the formation of their Constitution-a very different position
to

that we are in to-day-they are groping to a large extent without any guide;
and when the Senate was created, as it was subsequently created, it was
mainly as a check upon the great power of the President.

Mr. ISAACS:
  Hear, hear.
Mr. LYNE:  
I find that no one in the Convention of 1787 set out with the idea of such a Senate as ultimately emerged from their deliberations. Although it had technically been created as a branch of the Legislature, it was thought of as being first a body with executive functions only. And this, at first, it was. Now that being so, if we create a body such as we propose at present, we do not take the idea embedded in the minds of the members of the Convention of 1787 as to what the powers of the Senate should be. It is no use talking round this question and shirking the duty which devolves upon us, because it would be only wasting time, and for that reason I wish to say that I have always, as long as I have given the matter a thought, been against equal representation in the Senate; and I shall adhere to that unless convincing argument on the other side is used.

Sir PHILIP FYSH:  
We might as well go, then.

Mr. LYNE:  
I should not like Sir Philip Fysh to pack up his portmanteau.

Mr. REID:  
He has to stop and finish this contract somehow. (Laughter)

Mr. LYNE:  
We had better approach this question in a straightforward manner, and say at once what we are prepared to do, and what ideas we have upon the subject. In referring to the powers of the Senate as they exist at the present time in America, what are those powers supposed to be? They are not equal with those of the House of Representatives. They are described by Bryce in a manner with which I entirely concur. The powers of the Senate I take it should be to:

Correct the democratic recklessness of the House of Representatives and the monarchical ambition of the President.

An HON. MEMBER:  
Hear, hear.

Mr. LYNE:  
Another idea of the power of the Senate:

To restrain the impetuosity and fickleness of the popular House, and so guard against the effects of gusto of passion or sudden changes of opinion in the people.

An HON. MEMBER:  
Hear, hear.

Mr. LYNE:
It is also given as another reason that:

The propensity of a single and numerous assembly to yield to the impulse of sudden and violent passion is restrained.

I say the Senate, in the first place, should not be constituted on equal representation. What right has Tasmania to have as strong a power in the administration of New South Wales as New South Wales.

Sir PHILIP FYSH:

What right has Rhode Island to have equal power with Sydney?

Mr. LYNE:

I do not agree with that, either. I do not agree with Tasmania having equal power with New South Wales, and I question whether it is wise for Tasmania to enter the Federation at all. A few hours ago I was reading a letter appearing in one of the morning papers in which I saw it stated, with a good deal of force, that the first thing Tasmania should do would be to join Victoria and go in with Victoria as part of the Federation. That may be wise for Tasmania to do.

An HON. MEMBER:

And overpower New South Wales.

Mr. LYNE:

You cannot overpower New South Wales. I do not think it is a wise thing to adhere to equal representation in the Senate, provided you are to give the Senate reasonably strong power. If you are to make the Senate a nonentity no harm can be done in giving equal representation, but you must do one of two things. You must either give proportionate representation in the Senate, or refuse power to the Senate to stop the will of the people. One or the other must be done, because where would be the use of having a House of Representatives to spend time in preparing and passing legislation when the smaller Chamber had more power, would use it, and could absolutely block any legislation which the House of Representatives sent up? I have heard an argument used by many that there should be one Chamber only, but I do not agree with that argument either. I am favorable to having two Chambers, and the second Chamber should only have the power stated in the above quotations, that is, not to stop legislation, but simply to stay it; and if, after a clear demonstration and expression from the people, certain legislation is required, then the Senate shall be called upon to give way. I read with some degree of pleasure the speech delivered by Sir George Turner, wherein he said he was favorable to the referendum in case, between the Senate and House of Representatives, a deadlock arose. I concur in this
expression, but not to the extent he did. I think we can devise means by which a crisis may be prevented from having the ill effects a crisis usually has. The method I refer to is what is known as the Norwegian system. My friends of the smaller States will say, "If you do that you will overpower the smaller States": but that can be avoided. The way it is applied in the country to which the system belongs is that, when the two Houses are sitting together, a measure must be carried by a two-thirds majority; the possibility of a crisis is then alleviated at any rate, if not absolutely prevented, and the States reasonably protected. Only in important cases that could be laid down with clearness could I agree, so far as I am personally concerned, to the intervention of the referendum. I do not think, after the experience we have had at the late elections, the referendum will be so popular as it has been in the past. I look upon it as one of the most conservative measures that can be introduced.

Mr. Reid:  
Hear, hear.

Mr. Lyne:  
It has been thought by those of the other way of thinking that it was a liberal measure. I think that, so far as the late elections are concerned, those who call themselves the Liberal Party in the various colonies have been almost wiped out.

Mr. Barton:  
That was no referendum.

Mr. Lyne:  
I am speaking of those who call themselves democrats, of the Labor Party, a party which in New South Wales thought it could dominate any election of the whole people, but which has not been able to return a single member of its way of thinking. I say the time has arrived when the referendum will not be so popular as it has been in the past. At the same time I recognise it is a way of getting at the feelings and opinions of the people, and that is what I understood the Premier of Victoria so strongly desired when he advocated a resort to the referendum. I take it, for instance, that in such a case as the alteration of the Constitution, and other such seriously important matters, the referendum could be brought into play, not, however, till every system that is now used, or may be imported into this Bill, had been used, to prevent the loss and annoyance of a crisis. That being the view I take of it, I think the smaller States need not be alarmed that they are to be injured by my proposal to leave the great power in the hands of the people. I read the statement made by Mr. Carruthers, that what was desired was unification, in the same way as it exists in the British Constitution. I do not think, however, these colonies desire
unification at the present time; they desire, I think, a system of Federation
that will be fair to all parties, and they do not desire any system that will be
unreasonable, and under which some of the larger colonies are going to
lose a great deal. I say, and I emphasize it, that of all the colonies which
will lose, if loss it may be called, for the first few years, it is the mother-
colonies of New South Wales, which will lose more than all the other
colonies put together.

Mr. PEACOCK:
How?

Mr. DEAKIN:
Gain more.

Mr. LYNE:
I must be permitted to think that she will lose more, though Mr. Deakin
may think otherwise.

Mr. WISE:
There is one thing-she can afford it much better.

Mr. LYNE:
That may be. If Queensland comes into the Federation, and I hope she
will be represented here, she may say that with her large territory she can
afford it much better than New South Wales; but I say New South Wales is
going to lose more than all the other colonies put together. I dare say
members of the Convention have read the interesting pamphlet published
by Mr. Nash on the financial position, which, I think, clearly demonstrates
what New South Wales's loss would be. He says further-

If New South Wales is coming into the Federation, she will have to be
prepared to give a very great deal. And the question is whether she is going
to get anything in return.

Mr. HOWE:
She will.

Mr. LYNE:
Probably she will by-and-by. I know Mr. Barton will say that she is to
have all the industries form the other colonies concentrated in Sydney,
because she has her coalfields.

Mr. BARTON:
Not necessarily Sydney.

Mr. LYNE:
That may be by-and-by. It is a matter we have to look forward to,

Mr. DOUGLAS:
Hear, hear.

Mr. LYNE:
I think she will be called upon to give up more than Mr. Douglas thinks. She is the wealthiest colony in the group, and has perhaps other advantages, which will commend themselves to gentlemen present, but I think we are here to conserve to some extent the interests of the States we represent as well as deal with questions in reference to the other States. As to the question of the franchise, one gentleman said, Why not have one House and one House only? I think there should be a difference between the franchise of the Senate and the House of Representatives, and what that difference should be, not as Mr. Barton suggested, that the whole of each colony might elect its senators as one electorate; because I think if that is done it will be found only those who are men of means, and who can command wealth, will be able to get into the Senate.

Mr. BARTON:
The election just held was the cheapest ever held. I never spent less.

Mr. lyne:
That was in consequence of the representative character of the honorable gentleman.

Mr. Barton:
No.

Mr. deakin:
It will be cheaper in large constituencies.

Mr. lyne:
I may turn to an example to the contrary. I think they had something of the kind in south Australia a few years ago, and representatives to the Upper House were elected by the colony as one electorate. I believe exactly what I state is likely to occur took place here, or why did this colony alter her system from one electorate to several?

Mr. higgins:
Not because of the expense.

Mr. lyne:
I am told that it was because of the expense, and because only wealthy men could contest the elections.

Mr. Barton:
That was in the Conservative days of this colony.
Mr. Lyne:
If it was in the Conservative days of this colony why does she not return to it?

Mr. Gordon:
Population had too much power in the Upper House.

Mr. LYNE:
Do you not desire that population should have power?

Mr. GORDON:
A fair power.

Mr. LYNE:
I think they should have all the power.

Mr. BARTON:
They mean that the city would have too much power as compared with the country.

Mr. LYNE:
Certainly. If you take the colonies of New South Wales and Victoria you will find the larger proportion of the population in and around Sydney and Melbourne, and these two will dominate the remainder of the colony.

Mr. PEACOCK:
That was not our experience at these elections.

Mr. LYNE:
This election is entirely different to the elections which will take place for the Senate; and I am stating now my opinion only, and I give to you what has been experienced, demonstrated as it has been in this colony by practical result, which should go a great deal further than any theory you can advance to prove what is likely to take place. I would like to see the senators elected from as many districts as the number of senators each colony has to return.

Mr. BARTON:
It would not then represent the State as a whole.

Mr. LYNE:
I think it would. My opinion is that there should be a difference between the House of Representatives and the Senate, and this difference, that the voting age should be raised so that instead of any elector of the age of 21 being allowed to exercise the franchise, he should be 25 or 30 before he is privileged to vote for senators. That would make a great deal of difference, and still carry out the principle of one man one vote. Now, as far as the franchise is concerned, I hope that this Convention will agree to it being
equal for all the colonies, not only for the House of Representatives but also for the Senate; and in view of the remarks of Mr. Holder—I agree with some of them in this particular—I cannot see how it is possible the first election is to take place other than upon the present franchise—a franchise which was described by the Premier of Tasmania as "a sufficiently liberal one." I do not know what he thinks is "a sufficiently liberal franchise." Where there is a £40 property qualification I do not consider a liberal franchise exists. You may depend upon it the qualification over all these colonies under Federation will be universal suffrage. And I would go further—

Sir PHILIP FYSH:

Everyone can earn £40.

Mr. LYNE:

A great many at the present time cannot. I also think we ought to provide in this Bill what the franchise in the future, after the first election, should be for the Senate as well as the House of Representatives; and I would like to say, in answer to the remarks made by Mr. Holder, that, as far as I am personally concerned, I would like to see it further extended, as you have extended it in South Australia, to women. That question ought to come up during this Convention. It is beside the question to imagine that, if we are to have uniform federation, we can have representatives from various States elected upon a different basis. We should enter upon all these questions at the present time, and deal with them as they come before us. There is no use trying—

Mr. DOUGLAS:

What became of the lady who contested the election in South Australia?

Mr. LYNE:

I suppose she had not the requisite qualification, or she would have been elected. That is beside the question. It is reasonable to expect the franchise to be even throughout the whole of the colonies. If it is not so, trouble will arise from the very start. We must frame a Constitution from which there shall be no secession, and one that will prove a binding contract between all the colonies, or else the same troubles which arose in the United States, when

States desired to withdraw from the Federation, will arise here. We must also have a Constitution that can largely be built upon in the future by custom. The Constitution of Great Britain is not upon any hard and fast lines, but expanded by custom and usage. We must, therefore, have a Constitution sufficiently elastic to be built upon, and made stronger and more suitable in the future than we can possibly expect to make it at
present. That being so, we are called upon to exercise the greatest discretion and the greatest consideration. It is singular, perhaps, that we are carrying on this question almost at the same stage in our history as it was conducted in the United States of America. We are about 100 years old. So were the States of America a century old when they began to think upon their union in the same way as we are. It would not be out of place at the present time to point out that on that particular occasion, when the Union was being considered, the representation that was given to the Senate was this:

Originally Congress fixed the ratio of members to population, and the House accordingly grew; but latterly, fearing a too rapid increase, it has fixed the number of members with no regard for any precise ratio of members to population. At present the total number is 329, being, according to the census of 1880, one member to 154,325 souls.

The original number was one member to every 30,000, but afterwards that was increased to 50,000. If the franchise is extended to women, I propose we should have one member to every 100,000; but if we do not extend that to women, then we should have one member to 50,000 only.

Sir GEORGE TURNER:
It is not a question of the number of voters, but the population.

Mr. LYNE:
I thought I made myself clear on that point.

Sir GEORGE TURNER:
You are thinking it is one to so many electors. It will make the same number of votes.

Mr. LYNE:
The Premier of Victoria is right if it applies to the total population. I was only applying it to the number of electors. I will take it on the basis of population, one member to 50,000, which would return near eighty members as the House of Representatives; that would not make the House or the Senate, with an average of six members from each State at the beginning of our Federal Parliament, too large. If there is one thing more than another that the Australasian Colonies are afraid of it is that we will have a large House, too extravagant and too expensive in its character. The desire is to reduce that House to as small a number as would be compatible with the work it has to do. If, as has been suggested by Mr. Holder, it is not to have the control of the Posts and Telegraphs or the Customs, will there be need for a large House? Now, it seems to me, if we did not band over either of these to the Federal Parliament, we might just have a few gentlemen sitting together as a Federal Council.

Mr. BARTON:
It is a question whether you would even want a Senate or a House of Representatives.

Mr. LYNE:

If Mr. Holder's ideas were carried out you would hardly want either. I think he would hand over the question of defence, the question of quarantine, and the question of a Federal Supreme Court.

Mr. HOLDER:

And the framing of a new Customs and Excise Act.

Mr. LYNE:

Framing one, but not collecting the duties. They would not have much to do after the first framing had taken place. All the work then would be handed over to the various States to do it for the Federal Government. We do not want much in the shape of a Federal Parliament, if that is all they are to do. But I desire to speak of a Federal Parliament which will have work far in excess of that referred to by Mr. Holder. I still want to see a Parliament not too large in numbers, with a Senate certainly not more than half the size of the House of Representatives. If we have for the former equal representation in the various colonies as suggested-some six from each colony-there will be about thirty or thirty-six, say at the outside forty-two, members. There would then be about eighty in Representatives. That is a fairly large House, and yet not large. But if we went further, and allowed the number of members to increase according to the increase of population, we do not know to what extent that might go. We had a little experience of this in New South Wales a few years ago, when an amending Bill was brought in allowing an increase in the number of members according to the population of the various electorates. As a result our House was brought up from about ninety members-before we knew where we were-to a House of one hundred and forty-one. Of course we had to reduce this number, and get back nearer to the stage where we were before. In any Bill we may frame at the present time we must fix the maximum number.

Mr. O'CONNOR:

Make the House of Representatives bear a certain proportion to the numbers of the Senate.

Mr. PEACOCK:

Hear, hear.

Mr. LYNE:

The Senate should bear the proportion to the House of Representatives as one-half. That is a fair thing to do.

Mr. PEACOCK:
You mean the other way about.

Mr. LYNE:

No; I do not. I want a Senate about one-half the size in number of the House of Representatives, and the House of Representatives to be elected upon a certain basis to be described in the Draft Bill, neither House to be increased, but a maximum to be fixed by an amendment of the electoral basis for the House of Representatives. At the present time we have in New South Wales a limited number of representatives; but there is no limit as to altering the districts. There is, however, a limit to the number of representatives who can be returned, and by that means only is it possible to restrict the number of members that will be returned for the House of Representatives. Also, by doing that, you restrict the number of members to the Senate. My idea of the proportionate representation in the Senate is to allow the smaller States a minimum number of representatives, but not to equal that of the more populous ones. The proportion would be in comparison to the number given to the larger States. I had thought of a minimum of four to the smaller States, and that they should remain at that minimum until their population arrived at the stage when they would be entitled to an increase.

Mr. WALKER:

How many?

Mr. LYNE:

They would have a maximum of eight. At the present time the colony of Victoria would be entitled to seven or eight, New South Wales to seven or eight-I think to eight-and the other colonies of Tasmania, South Australia, and Western Australia would be entitled-two of them to four, and the third, perhaps, to five, the last-named being South Australia.

Mr. DOUGLAS:

Very good!

Mr. LYNE:

It is all very well for the smaller States to say "very good" in that sarcastic way. They cannot have everything their own way. (Laughter, and hear, hear.) If any of the States have a right to have their own way, it is the larger States. I hear what Mr. Douglas has said; but what would happen if Victoria and New South Wales, for instance, decided to federate? The smaller States would have to come in. (Laughter.)

Mr. DOUGLAS:

They are free and independent.

Mr. LYNE:

It is all very well to say free and independent; but they would be compelled to come in if Victoria, New South Wales, and, say Queensland,
federated.

Mr. BARTON:

Is that the spirit in which we are to consider it?

Mr. LYNE:

No; I am not saying that that is the spirit in which we should consider it, but I am saying, in answer to interjections, that such things could take place. I am not saying that they are going to take place, because I am prepared to give consideration to the full to the claims of the smaller States.

Mr. DOUGLAS:

Very little.

Mr. LYNE:

If a very little, a very just one. These gentlemen may have to thank us for less than I suggest before the thing is done. But that is by the way. I do not mean to say that the arguments used by the various speakers will not affect my ideas beyond those I have formed at present. If we did not come here to consider the views put before us we had better not have come at all.

Mr. HOWE:

You are well pronounced, at all events.

Mr. LYNE:

For this reason I give expression now to my ideas, because they are individual opinions, and let them be combated by others. Equal State rights would be extremely unjust to the larger colonies of the group. There is another thing. If we are to have equal representation I would curb the power of the Senate. I would not allow it to amend Money Bills or reject Money Bills.

Mr. DOUGLAS:

Hear, hear.

Mr. LYNE:

I am very glad to have the concurrence of Mr. Douglas, because that would help to do away with the objection to equal State rights. Of course they have always the power of rejecting any measure sent up from the House of Representatives, but Mr. Wise said he would give the power to amend Customs Bills. It is not a power given to some of the Legislatures at the present time, and, as it is in some respects a tax on the people, the Senate should not have the power of amending line by line a Customs Bill. That would take away their power to a very large extent. I turn now from the construction and the powers of the Senate to another question, which is one of those, I take it, likely to be fought very hard in this Convention, and that is the question of handing over the various railway systems throughout
the colonies. My opinion is that they should not be given over, and I do not think it will meet with the concurrence of the States, at the present time at any rate, to hand over these railways to a federal control. I find the total cost of the railways throughout the colonies amounts to £94,834,000, and that they are yielding, taking the average, 2.97 per cent. It was stated by some of the representatives yesterday that it would cost £4,000,000 to equalise the gauge. Why, it will cost nearer £20,000,000; and I will show how. Of course, I am speaking approximately. We have invested nearly £100,000,000 in the railways; we have the 4ft. 8 1/2in. gauge in New South Wales, the 5ft. 3in. in Victoria, the 5ft. 3in. and 3ft. 6in. in South Australia, 3ft. 6in. in West Australia; of course, Tasmania is out of the question. Queensland, if she comes in, has the 3ft. 6in. gauge, and will anyone who understands anything at all about railway Construction tell me, if you are going to increase this gauge increase cuttings and tunnels to convert a 3ft. 6in. into a 4ft. 8 1/2in. gauge, it will cost only four millions or even ten millions?

An HON. MEMBER:
Are the tunnels not large enough?

Mr. LYNE:
I know in New South Wales they are not for a double line.

Mr. HOLDER:
You have the 4ft. 8 1/2in. gauge there now.

Mr. LYNE:
In some of the colonies they are not. There are several things to consider. You have to equalise the grade, in a great many instances to duplicate the gauge, and to alter the curves. In Queensland, the gauge is 3ft. 6in.; the cuttings and tunnels there are not large enough for a 4ft. 8 1/2in. gauge. Nor are they in some parts of South Australia.

Mr. O'CONNOR:
Broadening the gauge and altering the curves.

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Mr. LYNE:
There are tunnels and lines up and through mountains in various places, with sharp curves, and those who know anything about railway construction will not tell me they will not have to alter the curves. If it is to cost only £4,000,000 it should be done at once without hesitation, but I say in my opinion it will cost three or four times as much as has been suggested to do the work. One reason why I object to the amalgamation, or handing over of railways, is because I think they are a subject for State rather than federal control. It will be more in the interests of the State
Governments to extend the State railways than it would be of the Federal Government to do so. I am not speaking of Victoria or South Australia, because they have extended their railways more than we have in New South Wales, where we are only on the fringe of extension to properly develop the country. We have only 2,600 miles of railway, when we should have 10,000 or 12,000 miles, and these works would be better carried out by the State than the Federal Government. There is one other thing that comes to my mind: the resolutions infer there is to be no differential rate, or, as I may more properly term it, preferential rate over the railways of any of the colonies and also the waterways. Now, I should like to ask the framer of that resolution, Mr. Barton, how he is going to prevent a differential rate over the waterways of the different colonies when the steamers are held by private companies? Is it possible to prevent a differential rate? Take New South Wales, which has differential railway rates to Bourke, to compete with the water carriage from Bourke to South Australia. By this amalgamation of the railways, and by doing away with the differential rates, you prevent the Government of New South Wales obtaining any of the produce from Bourke as it does now. By federating you tie her arms behind her back, and you allow the owners of the steamers, by fixing low rates, to carry the wool and the wheat down the river to Victoria and South Australia.

Mr. FRASER:
To Morgan.

Mr. LYNE:
I say to South Australia and Victoria; I do not particularise any spot. It seems to me to be an almost impossible thing to deal satisfactorily with this differential rating question. Mr. O'Connor very trenchantly put before the Convention the possibilities of dealing with the differential rates in the same way in which they are dealt with in the United States. If you are to do away with these differential rates, I think that is the only thing that can be done. By the appointment of an inter-State commission, giving it certain powers, it would be a simple matter to deal with the question, and would avoid the necessity which might otherwise exist, of handing over the railways to the Federal Parliament. These are questions which will be taken up in Committee, and the details gone into. There are, however, other aspects of this question. I have spoken of differential rates by private companies by land, and have left out the rates between colony and colony by sea. This might act just in the same way. If the railways are run from Sydney to Brisbane, from Sydney to Melbourne, from Melbourne to Adelaide, and perhaps from Adelaide to Perth, differential water-carriage rates might absolutely ruin the whole traffic of the railways under the
Federal Government. How is that to be overcome? These are questions which I cannot answer at present. If we are to do away with the differential rating system, and to abolish the intercolonial tariffs, how are we to have the essence of Federation while a railway barrier exists between the colonies? This is one of the first things to consider. How are we to deal with the differential rates between the colonies, and not have the protective system under it while free waterways exist, which allows of a differential rating system? There is another question which was brought to my mind by the remarks of Mr. Holder—the question of State rights. How these small States would deal with us, and almost wring our necks if they had the opportunity! Take the question put by Mr. Holder as to the waters of the Darling. Are we in New South Wales to be prevented from dealing with the waters of the Darling, including flood waters, because the smaller States think they want these waters? The waters are in New South Wales, and we are not going to give up the right of utilising them on behalf of the producers of our colony.

Mr. GLYNN:
They are subject to the rights of the States lower down.

Mr. LYNE:
They are not subject to any rights of theirs.

Mr. GLYNN:
You claim that they are not, but they are in law.

Sir GEORGE TURNER:
Do not let us discuss the legal question.

Mr. LYNE:
Victoria filches a little from us at the present time.

Sir GEORGE TURNER:
No, no.

Mr. LYNE:
The water belongs to New South Wales, although Victoria has the southern bank of the river.

Sir WILLIAM ZEAL:
The bulk of the water comes from Victoria.

Mr. BARTON:
The Constitution Act of New South Wales gives New South Wales the bed of the river.

Mr. DEAKIN:
We arrived at a draft treaty over that.

Mr. LYNE:
I am only putting forward this case from what I know, and I know that
technically the rights belong to New South Wales. How they are to be enforced is another matter. I have tried to put before the Convention my ideas as to the railways, and I think if we are to have Federation at the present time, we must have it without bringing the railways into the question at all. I am satisfied that if the railways are included in the Convention Bill, there is not much prospect of obtaining the sanction of the people of New South Wales, to whom it has to be referred. I do not know what the feeling is in Victoria; but I suppose it is much the same as in New South Wales. Now I come to the question of finance, and, like the gentlemen who have preceded me, I do not intend to deal with it minutely. I do not think it is possible at this stage for any representative to deal with the question of finance in a manner in which it will have to be dealt with by the Convention in committee later on. In those able articles to which I before referred, Mr. Nash deals in an exhaustive manner with this question of finance, and he shows most conclusively, I think, on the present basis, what the troubles will be, and how much each colony will have to give away. I entirely differ from Mr. Holder in his conclusion that the revenue should be collected by the States, and handed over to the Federal Government. If we are to have a Federal Government let it be a strong one, and how can it exist if any particular State refuses to collect its revenue? You would place it in a secondary position instead of making it a superior power. I certainly advocate that we should give every power that we possibly can to the Federal Government, and that we should hand over the collection of the Customs and the regulation of the tariff to it. I am somewhat doubtful whether the collection of the excise duties should also be handed over, as the conditions in the various colonies are different; but at this moment I will not debate that matter. We will take the Customs in the first instance, and Customs only. I am not like my friend Mr. Wise, who introduced his little fad regarding the non-alienation of the land. That matter should not be left in the hands of the Federal Parliament. Mr. Wise proposed to give the Federal Parliament a large territory to try its hand upon, to experiment on. While I do not propose anything of that kind, let the Federal Government have its capital, and its capital only, with the country around it, if necessary; but not anything like the representative of New South Wales, Mr. Wise, proposed, by giving it Port Darwin and the north-west of South Australia. Against the expression of Mr. Wise, the British idea is in favor of the alienation of land, and a landholder in any British community will not be satisfied unless he has the alienation of his estate, though it may be small. However, that is beside the question. I propose to give to the Federal Government the power to regulate and
collect Customs duties, and return to each of the States the balance not needed for carrying out federal purposes. That places in the hands of the Federal Government a superior power to the power that it would have if it allowed each colony to collect the Customs and hand over at will whatever amount they desired. I shall not go into details, as it is unnecessary, and would take too long; but I would give to the Federal Parliament the power to collect the Customs duties, and hand over the balance to the States in the simplest manner possible. I would like to say one word before resuming my seat in reference to the proposed capital of federated Australia. Of course, every representative, I suppose, would like to see the capital in his own colony.

Sir EDWARD BRADDON:
   No.
Mr. LYNE:
   I am glad to hear that Tasmania would not. We have gained one thing.
Mr. REID:
   They are lying low.
Mr. LYNE:
   For my part I think it can be conceived for a variety of reasons why the capital should be in the mother-colony. I am quite prepared-
Mr. GORDON:
   Which is the mother-colony?
Sir GEORGE TURNER:
   Tasmania.
Mr. REID:
   Cook would not stop to look at it.
Mr. LYNE:
   New South Wales is the mother-colony. This is a subject, I think, that should be decided by the Convention. Let us act with our eyes open. We do not want to be left to the tender mercies of the smaller States in reference to the capital. I do not want to say much about it, but I am justified in giving that opinion, and argument will show that it should be in the mother-colony. The Convention might decide in what territory the capital should be placed, and the exact position be left to the Federal Parliament. I think a compromise of that kind could be effected. I do think in framing the Constitution, in the first place, it should guard the rights that will be included in it, that it should be able to expand sufficiently in the future, by usage, to allow every stranger to come in, and not be so hampered, so dwarfed, that we will have any dissension or trouble, such as has taken place elsewhere. Unless we can adopt a system, such as I think we are trying to do at the present time, based mainly upon the Constitution of
which we know something—the British Constitution—we may perhaps be groping in the dark. If we can do, as I hope we shall, take the Constitution of Great Britain and graft on that Constitution something that will suit the Australian Colonies—perhaps a little more democratic—I think we will be able to do our great work in the way it is desired to be done; if we can engrat, as I have no hesitation in thinking we can, upon it some of the results of experience gained in the United States, it will give satisfaction to the greater portion, if not to the whole, of the Australian Colonies. I do not fear the ideas that have fallen from Sir Richard Baker in this matter. I do not think any British community will take up a Constitution that does not provide for a Cabinet elected in somewhat the same way as unwritten British Constitution provides. I put upon one side altogether the ideas he advanced—that he would revert to the system adopted in Switzerland. Switzerland is a small State, and it may satisfy people there to have the Constitution as it is; but I do not think it would suit Australia. We must have

Mr. ISAACS:

At the outset of my observations, I desire to express, what I am sure we all feel, the deep sense of obligation to my hon. friend Mr. Barton, for his ready compliance with the invitation to provide a convenient basis as a starting point for our deliberations. His ardent and unwearied devotion to the Federal cause removed all doubts as to his willingness to accede to that request; his abilities and experience entirely warranted the anticipation that his efforts would be successful. For my own part, I confess that when first I heard these resolutions read I entertained a strong feeling, even now not wholly removed, as to whether they possessed that definiteness and particularity which, without descending unnecessarily into detail, appeared requisite for enabling us at the earliest possible moment to arrive at a distinct and authoritative—though not necessarily final—expression of our mutual opinion upon the various questions that will engage our attention. The excellent example set by my hon. colleague, Sir George Turner, and generally pursued so far, and which I hope will be continued to be followed, has to a large extent removed the doubts I felt. The admirable manner and conciliatory tone adopted by Mr. Barton, representative of New South Wales, has also to a large extent disarmed the criticism to which the mere form of the resolutions would, under ordinary circumstances, have inevitably exposed them. There is only one thing
more, perhaps, he could have added to the weight of obligation he has placed us under, and that was by expressing in the beginning, as fully as he desired others to do, his own convictions on the various subjects under consideration, so as to enable us to obtain the benefit of his matured thought and convictions; so that we should have had not only a starting point provided by him, but also some indication of his own views. However, we have started on our course, and it is our duty to make the best of the position. We undoubtedly will find difficulties in the way, and I cordially indorse the views so generally expressed by the representatives of the Convention that compromise must play a very prominent part in our transactions, if we hope to attain success. Our mission is to succeed, if by any possibility success is compatible with honor. Failure on our part to arrive at some definite solution will almost assuredly be construed as synonymous with incapacity. The difficulties we are sure to encounter will, I trust, be met in such a manner as to justify the observation that they exist only to be surmounted; and my chief regret in the present instance is that, owing to the vagueness of the resolutions before us, we are not able instantly to come face to face with the problems that await us, and without a moment's loss of time to grapple with the obstacles of more or less serious importance that sooner or later must challenge our advance. I hope that this debate will produce an agreement founded upon honest conviction. So far as that is not possible, concessions must pave the way to concord; but in this connection I shall be perfectly frank. I wish to say, what a majority of the Convention must feel in their hearts, that there are bounds even to compromise. There are limits which no honest man, representing the people behind him, dares to pass. There is all the difference in the world between compromise and surrender.

Mr. PEACOCK:
   Hear, hear.

Mr. ISAACS:
   If that observation is doubted, I would like to ask the man that doubts it, if he is a Tasmanian, whether he is prepared to yield on the question of equal representation in the Senate?

Mr. HENRY:
   If the verdict is against us.

Mr. DOBSON:
   We must bow to the majority in this Convention.

Mr. BARTON:
   Why not outside?

Mr. ISAACS:
If he is a South Australian, is he prepared to disfranchise the women of his colony; if he is a New South Welshman, is he prepared to give way on the question of proportional representation in the people's House; if he is a Victorian is he willing to allow a property qualification for the electors? Now this establishes, I think, beyond any possibility of doubt, the position we must take up; that while we are prepared to admit the necessity—not only the advisability, but the necessity of compromise—for that is very evident from the diverse opinions which have been expressed all round the Chamber, there are limits which cannot be passed. There is a line up to which concession may become at any moment a sacred duty, but to pass that line would be treason; and therefore, when we are asked solemnly and gravely to abandon the principle of responsible government, when we are invited to surrender the latest-born, but, as I think, the noblest child of our constitutional system—a system which has not only nurtured and preserved, but has strengthened the liberties of our people—then, I feel in my heart that we are asked to reverse a century of development; that we are asked to deny an absolute and fundamental principle of our political existence—that we are asked, in short, to do what not only is inexpedient but utterly impossible. To stand here, sent as we are by the people of these colonies, and to forget the struggles and the triumphs which have made our constitutional system what it is—at once the pride and the hope of millions of our fellow subjects in various parts of the Empire, and the admiration, nay, the envy of other nations, both unitary and federal, who have striven in vain to imitate its excellencies—would be to earn for ourselves—I say it with all respect—and to justly earn, the contempt and the execration of those whose trust we bear to this Convention.

Mr. GORDON:

Oh!

Mr. ISAACS:

I am sorry there is any man sitting here who can think so lightly on so important a subject. I feel we have no more right to concede that than any man has to concede his honor; and it is not within the limits of our mandate to go back on our course of development. We are here to increase the powers of self-government, not to take part in a race of retrogression. I have no doubt that expression of dissent was prompted by a full consciousness of the result of responsible government, namely, the corollary that we must have one House supreme. To that I shall presently direct your attention. But I would like to ask, if we are not to have responsible government what is to be the alternative? We are told that the Swiss E Executive. It is another way of having irresponsible government; and I do not know where it would begin or where it would end. We would
be creating for ourselves, contrary to the whole course of English Government, masters-masters of the people-who would be none the less our masters because upon occasions we had the privilege of choosing them. Therefore I take it as an incontrovertible axiom that responsible government is to be the keystone of this federal arch, and if it is so we have advanced a long way in the solution of the difficulties which confront us. We are then prepared for the very first position upon which to frame our Constitution: and here I may be permitted to say one or two words. Many of the opinions which have fallen from my hon. friends in this Chamber have seemed to me to be rather directed to the ordinary circumstances of legislation-an indication of ideas upon measures that might be suited to the transient requirements of the country, and would require to be changed from time to time with the altered conditions of our political existence. And if we bear in mind, as I think we shall in the end, that it is after all a Constitution we have come to frame, a covenant of brotherhood, something constant, the embodiment of permanent political principles under which this nation can live and grow, then I think we shall have a reliable standard by which to decide whether we shall include many of the questions raised here during the last few days. As to how that Constitution is to be framed depends to a very large extent upon the ideal which each man here forms of the nation Australia should be. I am not at this juncture going to dilate upon that, except so far as to say that certain observations which have fallen from some of the representatives have led me to the conclusion, and I regret to say it, that their hopes and aspirations are rather in the direction of a Confederacy than a Federation. That seems to me to be an error, and an error which was exposed a century ago, and from which we must free ourselves if we are to make any advance in the solution of the questions that here await us. I am aware that the principle I am endeavoring to lay down will lead some of those hon. gentlemen logically to the conclusion to which I am endeavoring to bring them; and if they are at all prepared to adopt Federation in the true sense, they must come to the same conclusions as those which we are endeavoring to reach. Now, Sir, I have heard also strong encomiums passed upon the preamble of this resolution, that it is to increase the self-government of the Australian people. I would like to impress upon those hon. gentlemen who have so eloquently drawn attention to those words that it is necessary to regard their various propositions by the light of this preliminary expression. I would like each of those hon. gentlemen to consider in every instance and say, "If I am loyal to the sentiment expressed in these opening words, let me test the proposal before the light. Is it or is it not an increase of self-
government to abolish what is known as the Cabinet system. Is it or is it not an increase of self-government to adopt the referendum"? and so with every proposition made round the Chamber. I believe these words will afford an excellent touchstone to the propositions we have heard asserted and controverted. When we have arrived in our minds at a definite idea of what is to be the basis of the Constitution, we are in a position to measure the worth of the various proposals. The Governor-General has been referred to. Many of the questions which are of great importance here have been so lucidly and clearly dealt with by my colleague, Sir George Turner, that I do not intend to dwell upon them. I intend to direct attention to two or three of what I believe to be the more crucial points that will arise, and therefore, although I shall say nothing upon the other questions, I wish it to be understood that I coincide with the views so eloquently expressed by Sir George Turner. That we should have two Houses of Parliament is beyond the region of debate. With regard to the House of Representatives, it is equally certain that that should be on the basis of proportionate representation. There is no difficulty in regard to that Chamber. It is when we reach the question of the Senate that our trouble will begin. I was very much astonished, and I say it with all deference and most unfeigned respect, to hear it stated in one or two quarters that the Senate was not intended to be an Upper Chamber in the United States, What is the authority for that? You have only to read the debates of the Philadelphia Convention to Flee that it is not correct; you have only to read the works of Mr. Justice Story, Mr. Chancellor Kent, and other recognised American publicists to see that there is no justification for that statement. A moment's reflection upon our historical knowledge of how the United States Senate came into existence will show the fallacy of the contention that it was not intended to be an Upper House where measures would receive that second and calmer consideration generally attributed to an upper Chamber. I remember reading in a paper by a noted American historian a very short and homely anecdote, which demonstrated beyond the possibility of doubt what the intention in providing for the Senate was. When the Fathers of the American Constitution were discussing as to whether there should be a bi-cameral system or not, because there was a natural prejudice in some persons' minds with regard to the House of Lords, one of them asked another, "Why do you want a second Chamber at all?" And the reply was in a very homely fashion by way of a question, "What do you do with your tea when it is too hot?" "Oh," he said, "I pour it into the saucer." "Then," was the instant answer, "the Senate shall be the saucer of this Constitution."
Sir RICHARD BAKER:

Roger Sherman proposed the present Constitution as a compromise between the claims of the larger States and the smaller ones.

Mr. ISAACS:

He did, it is true, but that is not the complete truth. I shall show how that compromise was arrived at as briefly as I possibly can, and then I shall challenge any representative to say whether I am right or wrong in the contention that the original idea of the Senate was to be an Upper Chamber. The fact of equal representation was only arrived at at a later period, and it was by way of compromise. My hon. friend, Mr. Symon, yesterday, referred to what perhaps is the keynote of this contention. He pointed out how the position and powers of the President were regarded by the framers of the Constitution. He did not, however, carry his historical account quite far enough, because it relates to the Senate equally with the President. We all know that at the close of the War of Independence there were a number of States which had been under the rule of the British Empire, and when these States had achieved their independence they found themselves in a position of isolation from the rest of the world, and they formed what is known as the Confederation. In that Confederation there was not, as we understand it, a federal system in the United States—they had a weak form of Government. The States were predominant; the confederate bond was extremely unstable. A few years' experience demonstrated to them that a change was necessary, not only to their prosperity but also to their very existence. Their credit abroad was nothing; their power at home was almost a nullity; for internal government and outward communication they were weak in the extreme; and at last the genius of Hamilton and Bowdoin led to the Philadelphia Convention, This Convention was projected, and it met under circumstances that rendered it certainly irregular, and probably illegal, but its justification was its necessity and success. There was no doubt the Americans cherished in their hearts the traditions of the race from which they sprang—and they saw no danger in providing for the strong Federal Government, which was to supplant the weak confederacy, by adopting, so far as their circumstances would permit, the British Constitution as it was then known and understood. Of course they could not have an hereditary ruler. They knew, however, George III. was a personal ruler; that his Minister, Lord North, was a mere automaton; that the Ministry of that day could not, as the Ministry of the present day does, regard itself as dependent upon the goodwill of the people and not of the Sovereign; and, as was said in an extract quoted yesterday, the Cabinet system was either utterly unknown, or so immature as not to be
recognisable. Therefore they provided a Constitution bearing as much resemblance to the Government of Great Britain as possible. It is true a Privy Council was suggested, also in analogy to the British Privy Council, and it was carefully considered and debated on several occasions. I refer to this additional circumstance to show how closely they tried to keep to the British Constitution; but this proposal was ultimately rejected. They decided upon the bicameral system, they resolved to have two Houses of Parliament; and Roger Sherman himself referred to the rights and privileges of the House of Lords as justifying his claims with regard to the Senate. They decided upon having a Senate and a House of Representatives before they decided what the representation should be. They had to elect the Senate; but they decided to get as close as possible to the House of Lords, making its existence perpetual. They would not appoint its members for life, as they intended to place the Chamber, to some extent, under the control of the people, and they therefore had a process of election with successive retirements. The question arose between the two parties of that Convention as to how the representation was to be based. They had in that Convention, as I hope we will not have here when we have threshed this matter out, two distinct parties, viewing the position from wholly inconsistent standpoints. They had the Nationalist party, and they had the Confederate party. The first aspired to form of the people of the United States with respect to their common affairs, one great undivided people, leaving to them as grouped in their various States the management of their own local affairs, but for common concerns to be and to continue one indissoluble nationality. On the other hand, the Confederate party, led by Randolph and Sherman, clung stoutly to their Confederate system. Jealous of their newly won liberty, they distrusted any control even of those by whose side they had won their independence, and were resolved to sell their reluctant adhesion to the new plan of Federation at the most costly price. The proposal on the one hand was to have both Houses based on proportional representation, and on the other to have both Houses resting upon equal representation of the States. After it was decided to establish two Houses, a resolution was submitted to the Convention that the representation in the Senate should be by equality of States. This was rejected by six votes to five. A resolution that the representation in the Senate should be proportionate to the population was next carried by six votes to five. Then the matter was referred to a committee, which brought up its report in accordance with the previous determination of the Convention. Again, an attempt was made by the Confederate party to have equal representation in the Senate, and on that vote the State of Georgia divided, and its vote did not count. The voting
was thus even-five to five. The Convention had lasted some considerable time, and matters had reached a perilous condition; indeed a deadlock—for even then they had deadlocks—became so imminent that Franklin and Sherman proposed that the proceedings should each day be commenced with prayer, so that they might have the assistance of Divine Providence in their divided and opposing councils. Fearing, apparently, that this would create alarm amongst the people, it was abandoned, and a Select Committee was appointed from all the States to devise a compromise. Their report was brought up, and the question was again submitted to the Convention, and it was only because the State of Massachusetts divided that equal representation was carried by five votes to four. I think I have now made abundantly evident the important fact that the intention of the Convention was to have a Senate first, and

that equal representation came afterwards. Sherman, who came from Connecticut, proposed this compromise. The Nationalist party endeavored to get both Houses established on the basis of proportionate representation the Confederates on the other hand desired both Chambers to be founded on equal representation. A middle course was agreed to after desperate contention, and thus what is known as the "Connecticut Compromise" was arrived at, much to the disgust of those who wished to begin the political career of the United States on the basis of a pure nationality. I emphasise that point, not merely as an historical fact—not merely for its own sake—but mainly for this purpose, that we must not have it in our minds that equal representation in the Senate was accepted as a correct principle. It was a compromise, and being accepted as a compromise, it should not be regarded as a principle upon which to rest further conclusions, and therefore it does not carry with it the corollary that the Senate should have equal power.

Mr. WISE:

If they had not carried equal representation in the Senate, would there have been one nationality in America to-day?

Mr. ISAACS:

I would like to remind the hon. gentleman that, though no one at this hour disputes they are one nationality, it has taken the decisive interpretation of a civil war, costing America not only limitless treasure and measureless suffering, but a million of the lives of her bravest and most patriotic citizens, to establish for ever the fundamental truth that the people are indeed a nation, and not a mere collection of States. But it is only since that fratricidal struggle and that decisive civil war we hear little, if anything, at all as to whether America is one nationality or not.
Doubtless many reforms in the direction of amendment

Mr. WISE:

The Confederate States did not introduce it in their Constitution.

Mr. ISAACS:

The Confederate States had to start the Constitution in hasty and peculiar circumstances, and the very basis of their existence and the foundation of their quarrel was the contention that the States were never more than a Confederacy, and could secede at will. We must also recollect the condition of the Confederacy Constitution at the present time. Now I recognise, as of course we all must, that the insistence by some of the States upon equal representation in the Senate is a fact that we have to reckon with, and I am prepared to concede that, because it is plainly inevitable. I will give in my adhesion to that because it would be waste of time to take any other course; and for another reason, I can sympathise strongly with what are called the smaller States in the fear that they might be placed at a disadvantage. I will give my reasons for saying so. I think the fears are groundless, but I hope I, will not be considered presumptuous when I say that it is not unreasonable for men to entertain that belief. With regard to the question of equal powers, if we once dispose of the idea that the original intention was to base this Senate upon equal representation, we have got rid of the fundamental principle upon which equal powers for the Senate are claimed. It was pointed out by what I may term the master minds of the Convention that there was no danger to the smaller States, because the State rights, considered as rights in a lawyer's sense, are undoubtedly guarded and preserved by the Constitution, and, as Mr. Wilson, of Pennsylvania, almost in the words of one of the representatives here, said, it is not the question of State rights that was so much at issue, as the question of State interests. I repeat it is not an unreasonable thing for men to believe that they may be overpowered by the weight of numbers. The first answer to that is that men do not vote according to the size of their States. Do you find all the people in one particular State voting one way? Not at all. What is there diverse in the interests of these various States? What is there that would lead New South Wales and Victoria to coalesce against any of the other States? How do the interests, industrial, political, or social, of what are called the larger States conflict with similar interests in other States? Why, Sir, artisans in one colony have interests identical with the artisans in another; merchants in one with the merchants of another; and woolgrowers in one with the woolgrowers of another; while the interests of the people are those of one people.
An HON. MEMBER:
What about the lawyers?

Mr. ISAACS:
Lawyers are always the same way. (Laughter.)

Mr. PEACOCK:
That is quite true. (Laughter.)

Mr. ISAACS:
Except for the time being, when they are urging their particular client's cause. I would like to ask any hon. member if he can give a conclusive and clear answer to this question. How is it probable, almost on the verge of possible, that there should be any combination of States, large or small, against others smaller or larger? I recognise that a fear of something unknown, something in the distance, something which is barely possible, might keep out of this Federation the smaller States, unless equal representation is agreed to. But still conceding this we have to ask ourselves this question: For what purpose will States get equal representation? To prevent their interests as distinguished from their rights being imperilled or defeated by larger States. They have that safeguard when they have equal representation, and if it were not for that circumstance-it is the only one that is urged - there could be no objection even to have proportional representation in the Senate. If that safeguard stands there to guard against that particular evil, what else is there to require protection against? It is only as a means of protection that the safeguard has worked well, and yet we have heard-illogically, it is true-advocates of that equal representation, who, having secured the admission of that safeguard, turn round and say, "We want something further as a means of active interference and in order to manage the business of the nation equally with the House of Representatives." In other words, they ask for a shield and they strive to obtain a sword. Not only is the fundamental axiom of their position nonexistent, but I think when the concession itself is considered in its effect and operation and is followed up, they are not quite consistent in asking for anything further. I would like to press this upon my Tasmanian friends. Do they consider that Tasmania, with a population of 166,000-

Mr. REID:
No. 166,500. (Laughter.)

Mr. ISAACS:
Tasmania has about one-eighth of the population of New South Wales, and its population would provide practically one-eighth of the money that New South Wales would provide for carrying on national concerns? Is it
right, or fair, or just that, besides having a safeguard to protect its own peculiar interests which may arise at any time, it should ask for a power to deal with the revenues of the whole nation as great as would be granted to New South Wales?

Mr. O'CONNOR:

How can you draw a line?

Mr. ISAACS:

One cannot draw a line till the occasion arises. All legislation will affect them, but will only affect them equally, in the majority of cases, with the other people of this continent, and in that we should be guided by the population. But it is where their interests are peculiarly at stake that they are to have this equal representation always ready for use in order to peculiarly guard these interests, and they have to judge for themselves when the occasion arises if there is a necessity to do it. Are hon. members resolved in their minds whether the votes of senators shall betaken en bloc or per capita? Have they decided whether Tasmania shall vote one and New South Wales one?

Mr. HOLDER:

Vote per capita.

Mr. ISAACS:

What is the reason of that? Simply because they are there as a National House. They are the contribution of the nation from that particular State to deal per capita with every particular question that arises, and they have the power of voting together when they think the distinctive interests of the State as a whole are imperilled. Then they can vote en bloc if they choose, but on ordinary occasions we may find three Tasmanian representatives voting one way and three another.

Mr. HIGGINS:

As a National House they ought to have equal representation.

Mr. ISAACS:

I would like to point out, before I leave the question of the American Constitution, that it bears on the face of it not only a provision to vote per capita, as indicating that it was not to be intended purely as a House of States, but that there is also provision made that the House of Representatives alone should initiate Money Bills—or rather Bills to raise revenue. Why was that provision put in? Why was that principle conceded if the Senate was to have the same power as the National House? It is plain that the main idea was to have the bi-cameral system, and to have that system, by analogy, as closely as possible to the British Constitution; and that, merely in order to guard the interests of the smaller States, a provision
for extraordinary emergencies was placed in it, namely, that of equal representation. And then, because those States unpatriotically would not come into the Federation on any other basis, the Nationalist party was forced to give way, and to yield to the Connecticut Compromise. And, if we turn to the debates, what do we find was Roger Sherman's opinions about representation at that time? His ground was that the people should have as little to do with the Government as possible. Those were the opinions held a century ago by a series of States which recognised the lawfulness of property in their fellow man—which had not advanced as we have advanced—and can we be astounded if their conclusions were not such as we, at this latter-day stage of political development, ought to arrive at? If we turn to those who have had experience in the working of these institutions, if we turn to men like Mr. Bourinot, who, I suppose, has taken as deep an interest in the working of Federal institutions as any man alive—a man who, in Canada, has a peculiar insight into Federation matters, and lives on the borders of the great Federal Republic. He tells us—

Sir RICHARD BAKER:
Canada has no Federation.

Mr. ISAACS:
I do not understand that statement that Canada has no Federation. It has been recognised by nearly every writer on the subject that Canada is a distinct and real Federation. It is a Federation on the centralising principle.

Dr. COCKBURN:
It is foreign to the idea of Federation.

Mr. ISAACS:
It is a Federation upon the centralisation principle, just as the United States is a Federation on the decentralisation principle, the principle I hope we shall follow. On the other hand, if we read the pages of Bourinot we find out distinctly that the want of the Cabinet system as a responsible government is one of the disadvantages of the United States. Professor Sidgwick also tells us that, in his opinion, a co-ordinate Second Chamber is an alien element in Parliamentary Government when fully developed.

Mr. REID:
Hear, hear.

Mr. ISAACS:
There can be no doubt that the principle of equal powers of the Houses of Legislature is foreign to the principle of responsible government.

Sir WILLIAM ZEAL:
Hear, hear.

Mr. ISAACS:
We cannot have the two. In that respect I cordially agree
with my hon. friend Sir Richard Baker; but if we are called upon to elect between the two, whether we are to have responsible government on the one hand or Federation on the other, I say distinctly that, having regard to our history, our traditions, and our expectant future, there is no room left for hesitancy. I have dealt with that matter rapidly, quite as rapidly as the importance of the subject demands; and I pass on to the question of the power of the Senate in regard to Money Bills. I wish also on this point, because it is extremely instructive, to refer to the debates of the Philadelphian Convention. When it was determined that the Senate should have an existence and equal representation, the question was considered as to its power to originate and amend Money Bills. It was at first resolved in the open Convention that Money Bills should originate in the first branch of the Legislature, but should not be altered or amended in the second House. The Committee of Detail returned that clause, dealing with it in the manner so determined. Then again arose a struggle between the Nationalist and Confederate parties, and, as the result, there was again a compromise. The Confederate party wanted the same powers given to the Senate, both in regard to rejection and amendment, as were possessed by the House of Representatives. The Nationalist party fought stoutly for the same position as existed between the House of Commons and the Lords in England. Once more there was a compromise, and we see that compromise take the form now insisted on as a principle. The provision was that the Senate was not to originate Money Bills, but they might alter or amend them. Because we find that men placed in their peculiar circumstances, without the enlightenment we have from the growth of our Constitution, accept a compromise, is that a reason why we should accept that compromise now? Is it a reason why we here should condemn the validity of a principle that might by the single vote of a single State have been decided the other way? I think not. The more we look into the matter, and the more we see how the Constitution was framed, the less validity must we be disposed to attach to what was a mere compromise and not a principle. Mr. Symon also referred to the question of election of the Senate. I have not heard much about that at this Convention, and I have not been able to gather the sense of the House as to whether we are prepared to have the election by the people. I believe we are. I believe there will be little or no controversy on that point, but to those who, like Mr. Symon, are in doubt. I would like to say, and to say it to every member of this Convention, that the most instructive and most convincing reading on the matter is a paper published by Senator Mitchell in the Forum of June, 1896. I think so much of that paper that I consider it is quite worthy of being put into print and circulated among
members of the Convention. It is written with great power and knowledge.

Mr. DOUGLAS:

What paper?

Mr. ISAACS:

The Forum.

Mr. DOUGLAS:

What date?

Mr. ISAACS:

June, 1896, volume 21. I have the book in Adelaide, and will bring it down to-morrow and hand it to any representative who desires to read it. It is a paper that teems with instruction. It is I believe the latest possible information on the point. It is three years later than Bryce, and has the advantage of showing how far the later United States legislation on the subject has operated. The writer shows that the history of recent years discloses conclusively the bad working of the system of election by State Legislatures. He shows that State Legislatures have frequently failed after numerous struggles, and very turbulent ones, to elect at all. He shows that a few years ago, the Legislature of New York was engaged for the greater part of a session in endeavoring to elect its Senator for the Federal Senate; that, in 1882, the State of Oregon was the whole Session, and at last arrived at a decision; that, in 1893, three States-Washington, Wyoming, Montana-were engaged the whole Session, and failed to elect. There was a new Act passed in 1866 to have uniformity of elections, but this was not in practice found to be sufficient, and another Act had to be passed; but even that did not sufficiently meet the difficulty. In 1895, from January to May, Delaware, after turbulent attempts, did elect a senator, but so irregularly that the United States Senate had a petition presented to it asserting the invalidity of the choice; and, at the time of this senator's writing, the election was disputed on the ground of invalidity. In Kentucky they spent a whole session in a vain endeavor to elect; and three States, Washington, Montana, and Wyoming, were for nearly two years without a representative, owing to the failure to elect. This, as pointed out, cannot arise in a popular election at all; but beyond that there are other reasons why the people of the United States consider there should be a change. First of all there is utter disorganization in the elections of State Legislatures. Candidates are asked when standing for the State Legislature who they will vote for as federal senator; and, as pointed out so graphically in that article, men are elected, not because of their knowledge of State requirements, or because of their skill in finance or other matters on Federation; but, because of their soundness or otherwise, on the question of
the Senatorship for the Federal Senate and-

Mr. DOBSON:

They are elected by the people according to that.

Mr. ISAACS:

The hon. representative must know the system of wire-pulling there is in America.

Mr. PEACOCK:

Hear, hear.

Mr. ISAACS:

Their system of election is totally different to ours. We have no system of "bosses," as they have there; but it would divert me from my course to go into that. There is a change and an important change proposed, and I propose to read shortly—because I know it is an anxious matter to the Convention—a few words with which Mr. Mitchell's article concludes. He says:

The Legislature of no less than ten States, including those of Indiana, Wisconsin, and Ohio, have recently memorialised Congress for the change. The emphasis given to this popular sentiment in various ways is having effect in Congress. The first proposed amendment touching this subject was submitted to the United States Senate by the writer of this article at the first session of the Fiftieth Congress of the Senate in December, 1887, no action being taken. It was again introduced by him in the Fifty-first Congress, and the first speech in support of this proposed change ever delivered in either branch of Congress was by the writer of this article in the Senate, April 22, 1890. In the House of Representatives at the first session of the Fifty-second Congress, no less than seventeen different resolutions were presented upon this subject, and at that Session, January 16, 1893, one of those resolutions proposing an amendment to the Constitution passed the House of Representatives by more than a two-thirds vote; while in the Fifty-third Congress three similar amendments were presented in the Senate, and twelve in the House, by as many different members, and on July 21, 1894, one of these passed the House, the votes being—Yea 141, Nays 60. At the present Session of the Senate, after full discussion, the Senate Committee on Privileges and Elections reported favorably, as a joint resolution proposing this amendment to the Constitution, and it is now pending on the Senate Calendar.

An HON. MEMBER:

Mr. O'Connor has an amendment proposing selection by the whole State by popular election.

Mr. DEAKIN:
It must be by the whole State, it cannot be by half a State.

Mr. ISAACS:
The feeling in favor of the election of the Senate on a popular basis is fast gaining ground in America.

Mr. LYNE:
According to what you say it is practically an elective assembly now.

Mr. ISAACS:
Oh, no; it is not.

Mr. LYNE:
I think it is.

Mr. ISAACS:
It is an assembly elected by what we would know as rings.

Mr. LYNE:
Will not that apply under any system?

Mr. ISAACS:
At all events let us make it directly and actually an election by the people.

Mr. CLARKE:
Or by the newspapers.

Mr. ISAACS:
The question of the franchise I shall only briefly refer to, because my hon. colleague, Sir George Turner, has devoted considerable attention to it. I would only like to say, as to the expression of satisfaction of the Hon. Mr. Holder, that a compromise may be arrived at in this way:

That the Federal Parliament shall have power to prescribe a uniform franchise subject to this qualification: that any person having the right to vote at present for the State Legislature shall not be deprived of the right with regard to the Federal Parliament.

That was proposed by Sir George Turner in the first instance.

Mr. HIGGINS:
Would you allow plural voting?

Mr. ISAACS:
No; I want to absolutely and distinctly say I am against plural voting.

Mr. WISE:
Logically you have to admit it.

Mr. ISAACS:
Certainly not. We are willing to give a voice to every person who now has a voice, but we do not see why that person should speak twice; and on this subject I would point out to those representatives who have said that by depriving the women of South Australia of their right to vote in this
matter you are not taking away any right from them, that their argument is not accurate. Amongst the many subjects with regard to which the women in South Australia have the right to exercise the franchise is one that touches them as nearly as it does the male portion of the community. Why have not women an equal interest in laws of marriage and divorce as men? These are two of the matters, I apprehend, that will be transferred to the Federal Parliament. Shall the women of South Australia be told that these subjects are to be taken from their cognizance? I venture to think that no delegate for South Australia would consider it for a moment. We must, no doubt, compromise on the subject of uniformity, and we must not stand too closely on the logic of the matter. The question of deadlocks has been referred to, and we have been asked if there is any necessity to provide a remedy for them. It is admitted by those who ask this question, that deadlocks are possible. We know that they have occurred, and we know further that they are disastrous, and I do think that there should be some means of putting an end to a strike in the legislature. After all, we must have a safety-valve, and we are not going to provide all this elaborate machinery without a safety-valve; and if our view is correct, that the Legislature, whatever dignity and power it possesses, gets it by the goodwill of the people, we must recognise that the people are superior to the Legislature, and that their convenience and rights must be first consulted. I do not consider for a moment the argument that it will compromise the dignity of Parliament. Parliament has no dignity except such as it receives from its masters. The Houses of Parliament are merely the agents of the people; and I can conceive no businesslike objection to a principal, when he hands over his business to two agents to transact and they cannot agree upon any subject, stepping in and settling it for them. In our own affairs I think none of us would take exception to such a course.

Sir WILLIAM ZEAL:

The principal represents the same clients.

Mr. ISAACS:

I am asking that the people should be allowed to settle their own affairs which their agents cannot settle.

Sir WILLIAM ZEAL:

When they attempt to override one branch of the Legislature?

Mr. ISAACS:

Neither one branch nor two branches together have any rights against those of the people; and it is the business of the people to see that its business is transacted in Parliament, and if that business cannot be transacted by the two organs to which it has been entrusted, is their
business to come to a standstill?

Mr. BARTON:
Would you appeal to the people of the Commonwealth or to the States?

Mr. ISAACS:
There would be an appeal in this way. May I for an instant go back to the present system? What is the final remedy for a collision? You have a dissolution. You have all the expense, turmoil, and trouble of an election by the people, and the people are supposed theoretically to decide the question at issue. We know that they do not, in many instances. We know that elections are often won and lost upon purely personal grounds. We know they are frequently won and lost on by-issues, but when the representatives come back to Parliament the theory is that the people have decided the question. I want to make the theory conform to the practice. If we must have the trouble of an election, let it be done in a way that will least disorganise the business of Parliament, and secure the necessary answer. If we must have an election, whether it be by a dissolution of one or both Houses, then I say the election should be taken simultaneously throughout Australia, and Victoria shall decide for itself "Aye" or "No"; New South Wales shall decide for itself "Aye" or "No"; South Australia and each of the other colonies shall decide for itself "Aye" or "No"; and if you find, in the case of a proposed law, that a majority of the States, large or small, are in favor of it, you have then the answer of the States in the affirmative; and then you must ask the further question, "Do these States so composing the majority contain also the majority of the people of Australia"? If they do not, there is an end of the question, because you must have two things coincident; but if you have a majority of the States and the majority of the people, there is no reason why the law should not pass.

Mr. BARTON:
If it does not come to that, what is the result?

Mr. ISAACS:
The law does not pass.

Mr. WISE:
What would you propose if there was a numerical majority only in one State, the other States being so divided that the majority was given only by the one State?

Mr. ISAACS:
Does the hon. representative mean that there was an absolute tie in the other States?

Mr. WISE:
I mean that the majority in one colony was for it, and in the other
colonies against it.

Mr. ISAACS:

In such a case it would not pass, because you have not a majority of the States. It is exactly the same protection for the large and small States by way of referendum as they have in the Legislature.

Mr. O'CONNOR:

Does that not already exist in the case of Appropriation Bills?

Mr. ISAACS:

I do not mean to put it that in the case of every dispute between the two Houses it is necessary to go to the people. It is not to be an automatic and compulsory referendum of all questions under all circumstances. If the two Houses come to the conclusion that it is a matter that can wait, let it wait; but if it is so urgent that there must be some decision one way or the other, then there must be a resolution to refer it to the people; but it is not given as a matter of course upon every difference between the two Houses. It is only a safety-valve instead of the present absurd practice of saying to the popular Chamber, as in a colony is said to the Legislative Assembly, "No matter whether you are right or wrong, no matter whose fault it is, no matter what your opinions of the merits may be, you have either to submit to the other Chamber, and subordinate what you believe to be the people's will, or penalise yourself by an election."

The election too, not infrequently takes place upon totally different grounds from these and even when you come back and present to the other Chamber the verdict of the people, even then it may be disputed, and there still is no necessary settlement. Therefore, we say that although this process which we propose, subject to modification, of course, is only in the crudest possible state, it is sound in principle and ought to be adopted. I would like to say a word to those who think that we should not go to Switzerland for a Constitution. I would like the hon. member Mr. Barton to consider again—for I am sure he is familiar with all the literature on the subject—that fascinating book by Freeman upon the growth of the English Constitution. The author commences with his journey to Switzerland, gives graphic pictures of the legislation there, and compares it with other legislation. I have not got the book with me, but the meaning which, as I remember, he endeavors to convey is, that, in order to describe the development of the English Constitution, he has to go back to the institutions of the old Teutonic tribes and still surviving in Switzerland. He goes on to show its that the direct and personal process of legislation by the people is there still in work, and proves that it was the original Teutonic
mode of legislation, and that the representative system of procedure in the nationality to which he has the honor to belong was brought into it at a later stage, and was the result of a gradual and prolonged struggle of the people against feudalism for the right of self-government. We, therefore, go to no foreign country for the fundamental basis of the procedure we suggest, but to the ancient traditions of the race. We are gradually taking away the crust that lies over the original germ of self-government, and we are coming back to original principles.

Dr. COCKBURN:
Hear, hear.

Sir WILLIAM ZEAL:
Not shared by all the nationalities.

Mr. ISAACS:
This principle is fast becoming the practice throughout many of the American States. With regard to the amendment of the Constitution, I desire to say that no more difficult problem can present itself to the framers of a Constitution than to make provision for its own amendment. I think it is imperative on us to recognise that we must make some provision for changing circumstances and altered conditions, so as to provide the means of meeting the new requirements of our nation while guarding against undue precipitancy, and at the same time without imperilling or endangering the necessary local autonomy of the States upon the basis of which they enter into the federation. A question has been suggested which bears directly on this matter. If we are to take our minds back to the framing of the American Constitution, and ask ourselves what were the relative positions of the American and British Constitutions at the time of the framing of the American Constitution, we should derive a most instructive lesson. We know that the famous fifth article of the American Constitution was supposed to have solved the problem. We know how it has failed, and how, at the most critical hour in the history of the Great Republic, it failed to respond to the Nation's call made upon it, and resulted in that terrible interpretation with which we are all familiar. Only a few years afterwards-about 1794-there were some famous trials, which hon. members of my own profession will remember. They took place in Scotland, where Thomas Muir and others were tried, convicted, and transported for sedition. What was the sedition? Their crime was one of which, I venture to say, at this day many of the members of this Convention are guilty. Muir's terrible offence was the advocacy of short Parliaments and universal suffrage. Three learned Judges tried the case, and the presiding Judge declared in effect that the British Constitution was the

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most perfect thing in existence, that it was idle to talk about universal suffrage, that landed interests alone had to be considered, and that no person out of Parliament had any right to demand alteration.

Sir JOSEPH ABBOTT:
That is 100 years ago.

Mr. ISAACS:
It is 100 years ago; and we are asked to go back to what was done 100 years ago to frame this Constitution.

Mr. BARTON:
Not at all. Who has pretended that?

Mr. ISAACS:
Some arguments we have heard amount to that. Such was a judicial interpretation of the British Constitution. What is the state of things now-a-days? We know that, in 1832, while the American Constitution, from its rigidity—and rigidity is necessary to a certain extent—was incapable of amendment without enormous, almost insuperable, difficulty, that the British Constitution was, in 1832, without internecine war, practically revolutionised. By the Reform Bill of that year the political centre of gravity was altered, and by that, and the consequential advance in 1867 and 1884, the Government of the Empire has been transferred from a few thousands to many millions of the people. There has been an alteration which would be utterly impossible in the American Constitution; for Dr. Burgess tells us that, according to the census taken in 1880, three millions of the Americans could, under the powers given in the Constitution, have successfully resisted and defied the declared will of forty-five millions of their fellow citizens; and surely that is intolerable, and a mistake we must not follow here. Therefore I cannot follow the provisions of the Commonwealth Bill in this respect, because if hon. representatives look at the provisions of the Commonwealth Bill they will find that the people have no power whatever to change the Constitution unless there is a two-thirds majority in the Senate willing to accede to it. All the people could do under that scheme would be to veto any amendment agreed to by the Senate and the House of Representatives. Therefore there must be some safety-valve, some way of getting over the heads of the representatives, who are only the servants of the people.

Mr. GLYNN:
They have the popular Convention method as an alternative in America, and do not use it.

Mr. ISAACS:
It is so cumbersome that they cannot use it. Under the provisions of their Constitution they need majorities in such a way, and under such
circumstances, that practically the power is useless. Dr. Burgess points out that with tremendous effect. He reminds us that there has been no great amendment, although it was eminently desired, except under the extreme pressure of the civil war. We know that the real amendments—the only amendments strengthening the Constitution, extending the liberties of the people, and recognising their rights—were made at the close of the civil war, when Northern troops were in the Southern States. That is not an example to follow here. In Committee I will refer members to the most eminent publicists who have deplored the rigidity of the American provisions in regard to amendments. It is well known and admitted in America that those provisions are not sufficient. It was recognised by Chief Justice Marshall, of the United States; and in Committee I shall have much pleasure in referring members to the eminent authorities to whom I allude. I do not propose to detain the Convention at any greater length. I have referred to just a few matters which seem to me most urgently demanding our attention. I wish to repeat the remark that, in other respects, I adhere to the views expressed by my hon. leader. I should be guilty of idle affectation if I ventured for an instant to disguise or conceal the deep sense of responsibility that I feel in common with other members of this Convention. We hold in our grasp for good or for ill the gathered aspirations of the whole of our fellow citizens. We stand here clothed, in the presence of these momentous questions, with the highest and most perfect trust ever conferred upon Australians. It is not in our exclusive competency to carry those aspirations to their fruition, but it is—if we are not wise—within our power to delay, or perhaps utterly defeat them. Therefore we should remember to bring to this great work that sentiment of justice which pervades the whole community, that determination which is characteristic of our nation, and, above all, to temper our keenest efforts with the sweet spirit of moderation. I have no fear of failure. I believe that if we enter upon this work in the spirit which undoubtedly animates those whose dearest hopes we are here to represent, we shall soon see the union of Australia an accomplished fact, and that we shall be able to carry this transcendent question from the region of effort and attempt to the realm of achievement. I hope most fervently that this may be the result; that when the portals of the twentieth century, upon whose threshold we now stand, shall open, they shall receive a nation of united purpose and unsevered will, reverent of the past, resolute for the future, strong in our fealty to the splendid Empire of which we form a part, and of unswerving fidelity to those imperishable principles of democracy through which alone we may learn and practise the noblest lessons of
Dr. QUICK:

I feel that I shall speak at considerable disadvantage in following the very brilliant oration which has been delivered by my hon. and learned friend, Mr. Isaacs. Indeed, I cannot but confess that I rise with feelings of considerable embarrassment, if not awe, at the magnitude of the work of addressing a gathering of this importance. I shall not in any way endeavor to emulate, much less excel, the luminous addresses which have been delivered. In fact, I think that some of the addresses which have been delivered up to the present have largely, if not altogether, exhausted most of the matter which is reasonably debatable. At the same time I think a large amount of what has been said has been purely of an academical rather than of a practical character. Before I make my few remarks, which I hope will consist of practical observations and criticism, I desire to express my acknowledgments to the Hon. Sir Joseph Abbott, of New South Wales, for his kindly references to my services in the direction of promoting Australian Federation. I do so merely for the purpose of drawing attention rather to the very great and noble efforts-Herculean efforts, I may say-of Mr. G. H. Reid, the Premier of New South Wales, because, but for his efforts, I am quite sure that this Convention would never have been called together.

Mr. ISAACS:

Hear, hear.

Dr. QUICK:

And he was loyally and ably supported by Sir George Turner, the Premier of Victoria; by Sir Edward Braddon, Premier of Tasmania; by Mr. Kingston, Premier of South Australia; and by Sir John Forrest, Premier of Western Australia. I feel that at this stage of our debate attention ought to be drawn to the advance of time and the value of time. Therefore, in my remarks, I shall not endeavor to say anything more than draw attention to a few of the essentials of Federation and express my views thereon. In the first place we have to consider what our work is, and what are some of the conditions of the success of that work. Our work, of course, is to draft a Constitution; and one of the first conditions of the success of our work is not that it must be ideally perfect, but that it must be a practicable and workable scheme. The second is that it must be a scheme of Federal Government which will square with the existing conditions of Australia at the present time; that it must be capable of growth and expansion, yielding to the altering circumstances of Australian life in the future; and lastly, and above all, that it must be a scheme that will be not merely acceptable to us as delegates, but acceptable to the whole of the people of humanity.
Australia. I think it would be taking a very limited and circumscribed as well as the smaller colonies to come into the Federation. He must not be of the impression that the larger colonies will come into the Federation, or join Federation, at any price. Not at all. But at the same time I am of this opinion, that while we, as representatives of the large colonies, ought not to ask the representatives of the smaller colonies to accept a Constitution which would be repugnant to the views and interests of their constituents, that they also in their turn ought to consider our position in reference to our constituents, and not ask us to accept a Constitution which would be repugnant to their instincts, and which would be bound to be rejected by the referendum. Therefore, I think that anything in the nature of a compromise must take into consideration the interests of all colonies, and not merely the interests of one set of colonies. It may be, that in considering hereafter the possible lines of a compromise or settlement which may be possible to be arrived at or agreed to, some colonies may lay greater stress upon some subjects than other colonies. For instance, speaking for Victoria, at least so far as I am able to gauge the public opinion of that colony, I believe that there the most critical and most vital question of all to be determined is the question of the franchise upon which the Federal Parliament is to be elected, and that unless a franchise of a liberal and democratic character is made the basis upon which the Federal Parliament is to be elected, there will be a considerable danger of our work here, however symmetrical and theoretically perfect it may be, resulting in failure. I say to my hon. friends representing the smaller colonies that I, for one, lay the very greatest stress upon this question of the franchise; and not merely the franchise of one House, but the franchise for the election to both Houses. I do not know whether I shall be on the Constitutional Committee or not, but I venture to suggest to the Constitutional Committee that before they proceed to consider the question of the powers and functions of the Senate they must, as an initial stage, determine what shall be the mode of its constitution and creation; because, according to the liberality of the franchise upon which it is created, according to the mode in which it is created, whether it is responsible to the people as a whole, more or less will rest the solution of what powers may be conferred upon that body.

Mr. PEACOCK:
Hear, hear.

Dr. QUICK:
I have been considering, during the progress of this debate, what are some of the essentials of Federation which have been referred to and
discussed up to the present. I do not propose to discuss, in my few remarks, any of the details of Federation; but I simply propose to refer to some of the essentials of Federation, and dividing those essentials, roughly speaking, into two kinds, so far as they have been disclosed during this debate, I find there are a large number of essentials of Federation which have been practically agreed to, and, therefore, they need not be discussed at any length whatever. There are, on the other hand, a number of the essentials of Federation about which a difference of opinion has arisen. Now, at the outset, I will enumerate what it seems to me at present have been almost, if not quite, unanimously agreed to:

Firstly—There should be a Federal Parliament, consisting of two Chambers.
Secondly—There should be a National Chamber representing the people.
Thirdly—There should be a States Council representing the States.

I had in the word "equally," but it appears that there are two members of this Convention who have dissented from the principle of equal representation of the States in the Senate.

Mr. HIGGINS:

There are more than two.

Dr. QUICK:

Two have spoken—Mr. Higgins, who spoke yesterday, and Mr. Lyne, the leader of the Opposition in New South Wales, who spoke to-day. I may remind my friends from the minor colonies that, although there have been only two Speakers in this Convention whom I have heard dissent from the principle of equal representation of the States in the Senate, there are at the same time a number of our constituents who have dissented from it, and I know, for my own part, I have had considerable difficulty in enforcing that principle, and in explaining it to the satisfaction of some of my constituents. I support the principle of equal representation of the States in the Senate undoubtedly and loyally, and yet I believe it is really a waste of time to discuss Federation unless as an initial step we concede that principle. But I remind my friends from the minor colonies that it is by no means conceded unanimously in some of the larger colonies. It will be our bounden duty, if it is inserted in the Constitution, to advocate and support it before our constituents, and I am prepared to do so, and will do so loyally.

Sir EDWARD BRADDON:

Hear, hear.

Dr. QUICK:

Again I remind the smaller colonies that the principle is not unanimously
conceded.

Sir PHILIP FYSH:
   Hear, hear.

Dr. QUICK:
   And they will need all the support we can give them. I hope that they will remember this when it comes to their turn for helping us with reference to any fundamental principle on which we lay great stress. The fourth essential to Federation, which I think has been practically agreed to, is:

   That there must be a Federal Executive to give effect to the will of the people as expressed by the Federal Parliament.

   That may, of course, raise to some extent the question as to the form of the Executive; whether it should be an Executive dependent on the will of the Federal Parliament from day to day or from week to week, or whether it shall be an elective Executive, as suggested by Sir Richard Baker; because I would point out this, that even an Executive elected by the Federal Parliament would be one that would come within the essence of responsible government, namely, a government dependent on the will of the people as expressed in the Federal Parliament. At any rate it would not be a principle which would be repugnant to our notion of democratic government. I mention this to show that it is open to argument and to consideration-this question which has been raised by Sir Richard Baker. Of course I, for one, feel bound to support the principle of responsible government; but at the same time I came here to learn, and to consider propositions, proposals, and arguments as they may be put forward by hon. members. I would like to know whether the adoption of the system of elective Ministries would in any way solve the question of the powers of the Senate; whether it would in any way be accepted as a solution of the difficulty of the minor colonies? I have heard only one member of a smaller colony argue in support of it, and that was Sir Richard Baker. Of course if the other members representing the smaller colonies do not accept that as a suggested solution of the question it is hardly worth while discussing it. Therefore, at the present stage, I would desire to hear the opinions of the representatives of the smaller colonies upon the point. I would like to know how they regard the question of elective Ministries, and whether they would be prepared to accept it as a solution of the question of the functions and powers of the Senate, and whether it would in any way be regarded as a solution of the difficulty. If it would not, we need not pursue the discussion or waste time in discussing it further. The fifth essential to Federation which has been agreed to is:

   That there should be a judiciary to interpret the federal law and settle
conflicts between State laws and federal laws.

We now come to the consideration of that federal essential about which there has been distinct differences of opinion in this Convention. Now, first, as to what should be the franchise for the people's House? Shall that House be a House elected by the whole of the people or by a section of the people? This, in my opinion, raises the greatest and most important question of all; because, unless you have a democratic government you reduce the chances of success or hopes for the adoption of any Constitution whatever. We have here before us lists showing the diversity of some of the franchises which exist in the various colonies. There is no uniformity of franchise. There is, upon the contrary, a very serious divergence of franchise. Now, as pointed out by the hon. member for South Australia, Mr. Holder, this morning, the people of Victoria are as much interested in the federal franchise of New South Wales as they are interested in the federal franchise of Victoria. I wish to have the attention of Mr. Barton, because I understand he wishes to take notes for his reply; and, as I may not sit upon the Constitutional Committee, I am anxious to impress upon him one or two points. I am pleased to observe that he has affirmed the undoubted right of the Federation to fix down as a principle that the Federation should be master of its own franchise, and that the federal franchise should not be attacked or in any way interfered with by any outside body. That being so, I would like to know why Mr. Barton has not seen fit to give effect to that principle by making provision that the election of the first Federal Parliament should be upon the federal franchise. He says:

I am of the opinion, therefore, that the first Federal Parliament should be elected upon the basis of the popular franchise existing in each colony.

Now, I desire to impress upon the hon. member, and others who may concur with him, this fact—that I believe that is a substantial departure from, and a serious violation of, the federal principle which he set forth, namely, that the Federation should be master of its own franchise; and I want to know why he does not propose to put in some provision determining the nature of the franchise upon which the first election is to take place.

Mr. BARTON:

That is making a franchise for the Federal Parliament, not by it.

Dr. QUICK:

This is the body which will be the fountain-head of the Constitution. It will be the fountain from which the Constitution will proceed, as it is practically the first Federal Parliament. It is a body that is charged with the duty, certainly with the power, of fixing the federal franchise; and I think it is not only within its power to fix the Australian federal franchise, but, if it
is to secure proper safeguards, the people ought to know upon what general
franchise the first Parliament is to be elected. Of course I am aware that he
suggested that after the first federal elections the franchise might be fixed
by the Federal Parliament.

Mr. REID:
Then you would want to have an election as soon as it was fixed upon the
new basis.

Dr. QUICK:
Yes. The people, before they go into Federation, will want to know
what is the franchise basis for the Federal Parliament.

Mr. MCMILLAN:
How can you do that without an Executive?

Dr. QUICK:
I will explain that at a later stage; but I wish to impress upon my friend
the principle for which I am contending. There may be difficulties, but we
are here to solve them. I believe it would take a considerable time before a
federal franchise could be adopted by the Federal Parliament, especially if
there is a difference of opinion between the House of Representatives and
the Senate; and it is quite possible one of the first differences between the
House of Representatives and the Senate would be upon the question of the
franchise. Judging from the difficulties we have experienced in Victoria in
carrying anything like an enlargement of the franchise, we may expect
similar difficulties to occur in the first Federal Parliament, and the result
may be that these provincial franchises, if they receive express recognition
in the Constitution, may continue in operation for a quarter of a century.
There is no guarantee for the early adoption of a federal franchise for the
Federal Parliament.

Mr. LYNE:
Is it possible to alter it before the first election?

Dr. QUICK:
I will deal with that point presently. I do not wish to do my hon. friend
opposite the injustice of saying that there will not be difficulties in the way.
The only difficulties that confront us are those of agreement. There are no
technical difficulties that I can see, and there are no constitutional
difficulties, while there are precedents for the adoption of the course which
I suggest. I might remind my hon. friends that in the Imperial Act, 13 and
14, Chapter 59, by which Victoria was separated from New South Wales
and erected into a State colony, provision was made in that Act for the
franchise upon which the first legislators from the colony of Victoria were
to be elected, and at the same time power was reserved in the mother
Legislature of New South Wales to provide the necessary electoral machinery. That Act was repealed when Victoria received a new Constitution, embodied in 18 and 19, Victoria, Chapter 55, in which a new franchise was created as follows:

Every man of the age of 21 years, being a natural born subject of Her Majesty, or being a naturalized subject or a legally made denizen of Victoria, having resided in the said colony for any one year previous to the date of the registration of electors, who shall have a freehold estate in possession, situate within the electoral district for which his vote is to be given, of the clear value of fifty pounds sterling money, or of the clear annual value of five pounds sterling money above all charges and encumbrances in any way affecting the same; or shall have a leasehold estate in possession, situate as aforesaid, of the annual value of ten pounds sterling money above all charges and encumbrances affecting the same; or shall be a householder within such district, occupying any house, warehouse, countinghouse, office, shop, or other building or premises of the clear annual value of ten pounds sterling money; or shall, in consideration of any payment to the public revenue, be entitled under any law now or hereafter to be in force, to occupy for the space of twelve months or upwards any portion of the Waste Lands District for which his vote is given, or be in receipt of an annual salary of one hundred pounds sterling money, shall be duly registered, and be entitled to vote at the election of a member or members of the Legislative Assembly.

There are thus no technical difficulties in the way of placing in this Federal Constitution the first federal franchise, subject to certain machinery regulations to be carried out by the colonies or provinces within which the first election takes place. The difficulties that stand in the way of the adoption of a federal franchise are simply inherent to those which exist in every assembly similar to this. It may be that it will take a considerable amount of time and, perhaps, labor in evolving a federal franchise to which all the colonies will agree, and perhaps that was the reason which prompted Mr. Barton to abstain from including this in his resolutions.

Mr. BARTON:

I may say that one reason is that it would be difficult to put into the Constitution what would amount to an Electoral Act for each colony.

Dr. QUICK:

I have already anticipated this objection by pointing out that in the Victorian Separation Act, as well as in the Victorian Constitution Act, the necessary arrangements for electoral machinery were left in the first Act to New South Wales, the parent colony, and in the second Act to the colony.
of Victoria, whose restricted Constitution was being superseded by a larger grant of constitutional government.

Mr. BARTON:

The other reason was that the federated people have the right to fix their own franchise, and we ought not to impose any franchise on them until the time comes to fix it.

Dr. QUICK:

This is practically a Federal Parliament.

Mr. REID:

We have to prescribe a franchise in some way.

Dr. QUICK:

By his own statement he would fix a federal franchise by stipulating that it shall be in accordance with what exists in each of the provinces. How could it exist if it were not created or stipulated in some way by a federal instrument?

Mr. O'CONNOR:

Make use of the machinery already in existence.

Dr. QUICK:

Yes; but you do not create a uniform qualification, but a diverse qualification. Therefore, I say it is undoubtedly a departure from the Federal principle which Mr. Barton properly recognised—a departure I can only account for by the suggestion that he anticipates, there may be difficulties in this body here evolving a federal franchise. But, at any rate, I submit that every effort ought to be made to evolve a federal franchise, and to put it in the Federal Constitution, subject to the electoral provisions to be made in the colonies, such as districts, &c., which after all is a mere matter of detail, and might be accepted subject to amendment hereafter by the Federal Parliament should it see fit. At any rate, I submit this for the consideration of my hon. friend when he begins his work to deal with the franchise; and, even if he cannot adopt an absolutely uniform franchise because of certain difficulties which exist, at any rate to adopt a principle which might be common to all franchises, and that principle is the principle of equal voting. Surely no one can suggest for a moment that there would be any difficulty in putting a principle such as this in the Constitution, namely that no person, however qualified that person may be, by any law now or hereafter to be in force, shall vote more than once at any federal election.

Mr. HIGGINS:

The Federal Enabling Act provides that.

Dr. QUICK:

That is a principle which exists in the Act of Parliament under which we
were elected. Therefore, I contend, if we cannot get a federal franchise completely, at any rate, that that principle ought to receive expression in the Federal Constitution, and if it does not receive that expression, in my opinion a most fatal error will be committed.

An HON. MEMBER:

How can that be done?

Dr. QUICK:

There can be no doubt as to the practicability of making such a provision in the Constitution, and at the proper time I shall be prepared to formulate my plan. I do not wish to anticipate matters of detail—matters of machinery that can be put in the Constitution not merely as a declaratory clause—because we are not here merely to pass declaratory resolutions—but as a substratum law enforced by a legal sanction. But I wish here to engage specially the attention of the representatives of the smaller colonies. This principle of equal voting might not be considered a vital matter in their colonies. It might be it is not a burning question in their colonies, it might be that some people lay too great stress upon it, it might be that, as Mr. Fraser says, "it is a bogey."

Mr. FRASER:

So it is.

Dr. QUICK:

But, bogey or not, there are large masses of people in the large colonies who believe it involves a principle of vital importance, and where you have large bodies of people entertaining that view you must not disregard their views.

Sir PHILIP FYSH:

I am with you.

Dr. QUICK:

Again inviting the attention of the Premier of Tasmania, he said that this principle of plural voting crept into his Constitution Act by a coincidence. No doubt it did. Therefore what he and his fellow citizens got by a coincidence, and not by deliberative legislative design, they ought to have no difficulty in yielding, to the demands of other colonies. I hope, when the proper time comes, they will be able to yield to us what we consider a matter of vital consequence, if they wish any concession from us in other matters which they consider of vital importance.

Sir EDWARD BRADDON:

I am quite ready.

Dr. QUICK:
So far as I am concerned, I lay the utmost stress, and attribute the utmost importance to this question of the franchise; and particularly that, for my part, I have pledged myself to my constituents to do what I reasonably can at this Convention not to allow this principle to be shelved or referred back to the provincial Parliaments, because the democracy of Victoria would not accept it. They have been endeavoring to have this principle inserted in the Statute-book for many years. It has been sent to the Upper House year after year and thrown out.

Sir WILLIAM ZEAL:
You have universal suffrage. What more do you want?

Dr. QUICK:
I am not going to argue that question with the President of the Legislative Council. Bills to abolish plural voting have been thrown out time after time by that august Chamber. I am not suggesting that we should interfere with the franchise of the provinces. Reserve, if you like, the plural voting for the provinces, but let the basis of the Federation be equality of voting.

Mr. BARTON:
It would be a very good thing to do that in Victoria to start with.

Sir WILLIAM ZEAL:
How are you going to deal with the South Australian difficulty?

Dr. QUICK:
A principle of this kind put in the Constitution would not in any way enlarge the franchise or reduce it, but merely equalise the voting power of every qualified elector.

Sir WILLIAM ZEAL:
That is the difficulty.

Dr. QUICK:
I am prepared to support it as an electoral principle applicable to all kinds of franchise now and hereafter to be in force.

Sir JOHN FORREST:
Why does not Victoria have it then?

Dr. QUICK:
The people of Victoria want it, but the Legislative Council, in its wisdom, does not want it. I pass on to the next question of federal essentials upon which there is no doubt a difference of opinion, namely, the constitution of the Senate. What shall be its mode of election? Shall its mode of election be fixed by the Constitution, or shall it be left to the option of the States? I submit to Mr. Barton that, in the proposal he has made to refer the mode of election to the Federal Senate to the various provinces, he is to some extent acting in a manner contrary to the federal principles. I submit that this Constitution ought to provide the mode of
constituting the Senate, and that it ought not to leave the constitution of the Senate to be drafted or created by the provincial Legislatures. There again you would lead to diverse methods of electing the Senate. This is a matter of such great importance that the Constitution ought, as a federal principle, to fix the mode of electing the Federal Senate. This will be the first time in the history of federal legislation that it has been proposed to delegate to the provincial Legislatures the determination of the mode of creating and constituting the Federal Senate.

Mr. BARTON:
You mean the way in which we shall elect the representatives? Is it not the plan adopted in Switzerland?

Dr. QUICK:
It may be so in Switzerland, but it certainly is not so in the United States or in the Commonwealth Bill. It is certainly a departure from the precedent of the United States Constitution, and from that important and admirable instrument which my hon. friend Mr. Barton helped to frame, the Commonwealth Bill; because our hon. friend will remember that that Bill determined upon a uniform method of constituting the Senate, namely, the election of the senators by the State Legislatures. That affirmed the principle that the Federal Constitution should keep and retain its hold upon the way in which the Federal Senate is to be elected. Now, however, it is proposed to leave the way optional to the States. I submit that that is not the proper and safe mode. I agree with my hon. friend that the Senate should be elected by the whole of the electors in each State or province as one large constituency, and that there should be no special regard for districts or localities; but I regret that he has not seen his way clear to put it into the Constitution.

It is early yet.

Dr. QUICK:
I hope it will not be lost sight of. I am glad my hon. friend is giving attention to this important proposal, because I attribute great weight to his recommendations at this Convention. The next essential is as to the power of the Senate—whether the Senate shall be placed upon equal terms and have equal powers with those of the House of Representatives in Money Bills. Now, on that point again, I go back to what I said at the beginning of my remarks. I say that the powers of the Senate will depend upon the mode of its election; and when I see the constitution of the Senate, and the mode of its election, I shall be prepared to say what powers I would give it. If the Senate be elected upon a democratic basis by the same federal electors as
elect the House of Representatives, that will be largely paving the way to making any reasonable concessions to the representatives of the smaller States, who wish to increase the Dower of the Senate.

**Sir PHILIP FYSH:**
Very fair.

**Dr. QUICK:**
I should then see no reason for not conceding large powers. But if the Senate is elected by a section of the people, as was suggested, I think, by Mr. Fraser, then I say, "How can you put a House representing a section of the people on the same footing of equality as a House representing the whole of the people?" Surely my hon. friends from Tasmania would not for one moment recommend that as a just political principle. If you want to increase the power of the Senate, you must concede a liberal franchise. When you settle that you go a long way towards settling any dispute between us as to the equality of the powers or functions of the two Houses. I think I have now enumerated most of the essentials of Federation about which there are any serious differences of opinion in this Chamber. I do not intend to take up time by referring to the large number of subjects relating rather to the powers proposed to be conferred upon the Federation. Many of them have been most admirably dealt with by other members, and I shall not presume to take up time by referring to them. I shall therefore bring my remarks to a conclusion by expressing the hope that the result of our deliberations will be to evolve a Constitution that we cannot merely support here, a Constitution that we will not merely give our formal assent to here, and then go back to our colonies and speak against it—for what would be the good of a Constitution of that kind? We want to evolve a Constitution here that we can give our honest and loyal assent to, and afterwards go back to our colonies and urge our constituents to accept. It will be folly for us to adopt a Constitution here merely pro forma, and go back to our colonies either coldly appreciative or actively hostile. I hope the result will be a compromise which all will be able to accept honestly, faithfully, and loyally, and afterwards recommend to the people to receive, adopt, and give effect to.

**Mr. DOBSON:**
I have been called upon by you, Mr. President, somewhat suddenly, as, according to the list of speakers which you bad on your table there are two or three other gentlemen who should have preceded me, and if they wished to change places with me they ought, at least, to have asked my consent. However, the gentlemen from the magnificent colony from which I come are always willing to step into the breach and make themselves useful,
especially in this grand cause; and, therefore, I am willing to get up and contribute my quota to the debate. I think I owe it to Mr. Barton to say that he has reconciled if he has not converted me to the plan—that of proceeding by resolution rather than taking up the Bill of 1891, and going into Committee and discussing the Bill clause by clause. I did not appreciate the educational influence which a debate of this kind would have upon ourselves, and the effect it would also have in educating the people of these colonies, who, sooner or later, will have to approve or reject the result of the work which we are now doing. All our work is in front of us, and we have yet to get into Committee; so that I am satisfied it will take us a considerable time to finish the business. Although some members may think we are now wasting time, I cannot think that any debate which gives us one tithe of the able speeches and arguments we have heard is a waste of time in dealing with a subject like this. We have heard about conciliation and compromise, and I take compromise to be the foundation of all our party government; and so it must be in making a Federal Constitution. I was rather struck, however, with the forcible and neat way in which Mr. Isaacs said that compromise and conciliation must have their bounds, and that anyone who went beyond certain bounds would be, to some extent, a traitor. I think that hon. gentleman, with that command of language which I wish I could imitate, has rather put the question too forcibly; because, if we are to put a limit to compromise beyond which our consciences will not let us go, we might as well give up conciliation and compromise. If we go into Committee, we may have to invoke the Divine aid, as was done on a former occasion, to enlarge the hon. member's limit of compromise. I hope whatever is done we may be able to frame a Constitution which will be acceptable to all. I quite understand that there may be some questions of conviction and conscience on which some will have to give way before we can give our accord to every clause of this Bill. Every one of us, I take it, cannot surrender his judgment entirely to others, but he can assent to the Bill and go to his colony and make the best of it, and ask his people to accept it, even if he does not approve in his conscience of every one of the clauses. Therefore, I hope members will rather enlarge their views of what is meant by the power of conciliation and compromise. I should like now to allude to a matter which has given me much perturbation since the federal movement has been initiated. That has been the fatal blunder we committed in starting the movement with two colonies standing aloof. I am glad that, so far as our friends from West Australia are concerned, the difficulty has been removed. We have yet to deal with the question of Queensland, and I could have wished the Premier of New South Wales had told us the exact purport of the telegram he had received from the Premier...
of that colony, and had taken us into his confidence as to the reply he intended to send. I thought, with most of the other members of the Convention, that the suggestion of Sir Hugh Nelson was that we should nearly com-

plete our work, leave our Bill still in Committee, and then adjourn for a couple of months to enable our Queensland friends to get here. I now gather from the remarks of our friend the Premier of Queensland that that is not what he requires, but that he will be content if we finish our work now, and enable Queensland to discuss the Bill in her Parliament and be represented when the Convention meets to finally put the Bill into shape. I honestly believe any other course would be fraught with danger, and sincerely hope that this Convention will not adjourn until we have completed the work entrusted to us.

Mr. LYNE:
Hear, hear.

Mr. DOBSON:
I believe we should do all we possibly can to give our Queensland friends every possible voice we can in the framing of this Bill, subject to not delaying our work.

Mr. ISAACS:
Hear, hear.

Mr. DOBSON:
With regard to the absence of our friends, I am reminded of what Bismarck said:
If you miss the psychological moment it never comes to you again.

Before passing on to deal with some of the subjects which come before us in the Bill of 1891, I want to say a word or two about the resolutions Mr. Barton has brought before us. I have to express, as other members have done, my satisfaction with the way in which the first line of the resolution reads, that what we are doing now is:
To enlarge the powers of self-government of the people of Australasia.

That is a text with which each member of the Convention can go to his people, and which he can hold up before them as a thing which will give them larger powers. I do not care whether the Bill is on an ultra-democratic, a democratic, a liberal, or a conservative basis. It will be one which will enable the people of Australasia to acquire a larger measure of self-government, and that in itself I take to be a very great blessing. I should like to refer to the clause which deals with territories, although I belong to a colony which will possibly not stand breaking up into one or two States; but when you think of the possibilities for the expansion of the
Australian Commonwealth, and then limit the colonies for the future to those boundaries which separate them from one another now, our limit takes a narrow range indeed. The time may come when rich discoveries may be made of a mineral character, or manufactures may spring up in colonies where they are now little dreamed of, and which may absolutely dwarf the colonies of New South Wales and Victoria, and give other colonies the lead in the industrial race. Therefore our Constitution ought to make ample provision for the division of the States, and for allowing separation, the same as a portion of our friends in Queensland are agitating the English Government to provide for. I take it that one of the foundations of what is called Federal Government is to take very good care that you reserve for the States all those things which are of individual advantage, all those powers which they can better carry out for themselves, and to retain for themselves absolute control over these powers; but at the same time to give to the Federal Government all those powers of common or general concern which a united Government can manage much better for the good of the people than the individual States. Some of the people, and some of the representatives too, are very much afraid that we will give to the Federal Government too much power; but if, as suggested by Mr. Holder, you hand over those matters of general concern to the Federal Government, and retain those of local importance for the States Governments, you absolutely get back far more than you give, and I think here, if Mr. Peacock will promise not to laugh, I will quote a line from a poetess, but I think Mr. Peacock is not in the chamber.

Mr. ISAACS:
Here he is; just in time.

Mr. DOBSON:
The poetess I am about to quote is Mrs. Elizabeth Browning. I think in one of her magnificent poems, "Aurora Leigh," when the hero and the heroine are fixing up their little love affairs, she makes one of them, I forget which, say:

You should give up everything and take all.

That may appear to be a paradox, but it is true, and, as applied to Federation, it is absolutely correct. You are going to give up a great many of your powers, but you are going to get back in every sense of the word, an ampler, a better, and a more effectual administration of your affairs. As stated by Burgess, whom the hon. member Mr. Isaacs quoted:

The purpose of the Legislature is to ascertain what the law ought to be, to determine not what the will of the people commands, but what the reason of the people and the common consciousness requires.
Mr. PEACOCK:
Who is to judge of that?

Mr. REID:
Tasmania.

Mr. DOBSON:
I desire to point out here that such remarks as I am able to make will be based on that view: that it is not the object so much of the Legislature, to find out what is the mere surface will of the people, but what their reasons and their common consciousness demand.

Mr. ISAACS:
That is like the old Roman Consul:
Silence, Romans! I know what is expedient for our country better than you know yourselves.

Mr. DOBSON:
When the hon. member Mr. Isaacs hears my illustration of Dr. Burgess's principle, I think he will admit that that does not apply. I think we will do well to consider not so much the will of the people as to get at what is really the reason and intelligence of the people. Now the object lesson which I will give to hon. members is the question of one man one vote. Here I am going to quote again, not poetry, but George Eliot, who said: England is a country very much governed by phrases.
And a truer remark was never made by a novelist. I will tell the hon. members of one phrase which continued for a long time to govern the apparent will and votes of the people of Victoria, and that was "one man one vote." When it was introduced it got a very considerable start and it was very difficult to catch it. You could not successfully face a meeting of the electors without going in for it. It continued for many years until, at last, it was overtaken by another phrase of "one vote for manhood and another for thrift," and the elections came on in which that question, among others, was one of the principal issues laid before the people of Victoria; and I do not think hon. members upon th

Sir GEORGE TURNER:
Is property, thrift?

Mr. DOBSON:
There is a common opinion all the world over that the people are divided into two classes, those who have and those who have not; and those who have, although some of us have been born with a golden or silver spoon in our mouths, have generally acquired their property by thrift, hard work, industry, and by the sweat of the brow or brain; and the people who, have, require, in my idea, far more consideration than those who have not.

Mr. LYNE:
Is that what the small States will give us?

Mr. DOBSON:

I am dealing with the general principles which govern my ideas, and if they do not coincide with those of Mr. Lyne so much the better, for "in the multitude of counsellors there is wisdom." Let me give you another illustration of Dr. Burgess's principle. We all remember when Mr. Grover Cleveland was elected President of the United States on what we may call a freetrade ticket, and we know that the people of Victoria mere very much astonished to see that their pet idea, protection, should go under, and now you see Cleveland and freetrade going out and protection coming back. It is easy to find out what is the will of the people expressed in gigantic caucuses, in conventions, or in election meetings of 5,000 people; but it is far more difficult to find out what their reason demands. I now want to speak of the crux of the matter—the Constitution which our Legislature is to have. I here desire to thank Sir Richard Baker for having given us one of the most thoughtful and useful speeches on this subject we have yet listened to, and the question he has asked has not been properly answered. Many hon. gentlemen have partly dealt with it, and others have held it up and sailed round it, and I should like to see the speakers who remain, especially my honorable, logical, and eloquent friend, Mr. Deakin, deal with it. Sir Richard Baker's question was this: "Is our system of responsible government consistent and compatible with the federated Constitution we are now trying to enact?" I am inclined to think that no one can safely answer it in the affirmative. I do not honestly believe that responsible government is consistent with a Federal Government. What is to happen then, supposing it were not so? Although hon. members who have spoken on this point have taken a view contrary to Sir Richard Baker, they all seem to have forgotten that one whom we all look upon as an admirable and safe guide in this matter has dealt fully with the point. I refer to Sir Samuel Griffith who, in an address delivered before the Brisbane University, reminded us that the Cabinet system and the number and powers of Ministers who sit in Parliament, and who, as a result of motions of want of confidence, lay down their portfolios, are no part whatever of the written Constitution, but have grown and developed from the Constitution. He then goes on to deal with the point brought before our notice by Sir Richard Baker. Sir Samuel says:

My own opinion is that the practical result would be that it would come to be recognised that the Federal Government must command the general confidence of both Houses of the Legislature, and that less importance would be attached to defeats on minor matters in either House.
There is a great authority on Federation absolutely disagreeing with almost every speaker who has spoken on this point. I therefore urge every speaker to address himself to this matter, because although I do not believe with Sir Richard Baker that either Federal Government will kilt responsible government or that responsible government will kill Federation, I believe that unless you adopt the Swiss system, with some modifications, Federation will to a great extent modify your system of responsible government so as to make that system develop and become adapted to its own federal requirements. It may be a generation to come before we get these immense developments to which reference has been made.

Mr. LYNE:
Would you elect ministries by the, State or by the people?

Mr. DOBSON:
As the Swiss do it.

Mr. LYNE:
How can you and Sir Edward Braddon get on together under those circumstances?

Mr. DOBSON:
Sir Edward Braddon and I will get on very well together at this Convention, and we shall be able to give and take. When you take the risk of engrafting the principle of responsible government upon a Federated Government, think of what you are doing. Federal Government will have eliminated from it almost every party question except taxation, and when once you decide to give over to the Federal Government sufficient revenue for its needs its right to levy taxation will not be enforced once in a generation, and the great cause of party strife-taxation-will then be removed. But if the Cabinet system is adopted you will absolutely be inviting the members of the Federal Parliament to turn themselves into party politicians the moment they enter the floor of the House; you will invite them to create party objects, and to make party strife; you will invite them to look with envy upon the first men who sit on the Treasury Benches; and they will set to work at their caucus meetings to see not what is beat for united Australia, but with what little game and plan they can knock Ministers off the Treasury benches. For these reasons I believe this topic is about the most important which will engage the thoughts of the members of this Convention. Possibly I am using exaggerated words, because I take it that Sir Samuel Griffith has to some extent in the Bill of 1891 provided for this. That Bill leaves the clauses concerning the Executive so general that you can have another system other than responsible government. I take it we shall commit a blunder if
we do not still further try and enlarge these powers dealing with the Executive, so as to give the men employed to preside over the energies of a federated Australian people an opportunity to develop and work out for themselves such a system of Executive Government as will adapt itself to the requirements of the Federal Government. The next question I propose to deal with very briefly indeed is that of equal representation in the Senate. I admire the courage of my friend Mr. Higgins for arguing this point, when he knows that the great bulk of the members of the Convention are against him. I would point out that if Tas. mania is only eight times smaller than New South Wales, New York is eighteen times larger than Rhode Island, and the Canton of Berne is forty-two and a half times larger than the smallest canton in the Swiss Republic. It will be seen therefore that in those two instances there is a much greater disproportion than we shall have in the representation of these colonies.

An HON. MEMBER:
That is just what New York complains of.

Mr. DOBSON:
I do not think we ought to put complaints against absolute facts, and as a matter of fact this equal representation in the Senate has lasted for over a century with eighty-four senators and 500 odd members in the House of Representatives. That shows the wisdom of Mr. Lyne's suggestion that we should have some limit to the number of members.

Mr. ISAACS:
The hon. member will recollect that the Constitution provides that you cannot alter the suffrage of a State in the Senate without that State's consent.

Mr. LYNE:
Or else it would have been altered long ago.

Mr. DOBSON:
I think the suggestion by Mr. O'Connor as to the number of members is a good one. Coming now to the powers of the Senate, if each State is to have equal representation, what is the use of the equal representation in the Upper Chamber unless that body is to have some power? It goes without saying that if the State rights are to be preserved, if the people in the States are to be protected, the Senate must certainly have considerable power. While I do not claim for it the power of initiating Money Bills, I certainly do claim for it the power of amending Money Bills. I do not see how a Federated Government is to be carried on very well without it. The first important Bill which will get to the Senate House will be a Bill to impose uniform Custom duties against the outside world. Do hon. members
contend that the Senate is not to have power to amend any item it likes in
that bill? Is it not to have the power to amend one single item of the 300 or
400 items that compose the Bill? I do not argue that it should have the
power to increase duties or to increase taxation. I would leave that to the
initiative House, the National Assembly.

Sir GEORGE TURNER:
Why?

Mr. DOBSON:
Because we must give something away to our democratic friends. I think
democracy is running a little mad, but I desire to acknowledge the forces
that surround me. We cannot kick them over, and we must give them
something sometimes; but I must see that they do not kick me.

Mr. TRENWITH:
Why only sometimes?

Mr. DOBSON:
All times, if you like. We all know that one of the features of democracy
is its wilful extravagance. I am glad no hon. member denies it.

Sir GEORGE TURNER:
We are all so thunderstruck that we cannot find breath to deny it.

An HON. MEMBER:
You want then a strong Upper Chamber.

Mr. DEAKIN:
The Upper House cannot check the extravagance.

Mr. DOBSON:
Then yon allow democracy to kick you. That is about it. You all know
how strongly sociology is making its way among the people. You all know
the dangers of the State taking up every industry, and wetnursing it. You
all know how many departments have been instituted-departments of
agriculture, produce depots, and so on.

Dr. COCKBURN:
Hear, hear.

Mr. DOBSON:
And departments for finding markets and helping industries. And we
shall find that the democrats will be setting themselves to get Federal
Departments in the interests of labor. You will have them asking in
democratic style for a vote for £10,000 when £5,000 would be sufficient,
and, unless the Senate has power to alter such a Bill, they would be driven
to reject a measure they approve of because they have no power to check
its extravagance. Is that not a good argument why the Senate should have
the power to amend Money Bills? I had the honor of dining last night with Her Majesty's representative. We met in a comfortable house with a member of the grand old aristocracy. Here I stand in a palace of luxury, a palace of expense, a palace of democratic extravagance, and yet South Australia has a large amount of taxation per head, an income tax, and other vexatious little burdens which the people could well spare. Thus we see how desirable it is to arm the Senate with strong powers.

Mr. PEACOCK:
Can you not give New South Wales a turn?

Mr. DOBSON:
One of the first things to be done by the Federal Parliament would be to bring in a Bill to borrow £100,000 to build a Federal House of Parliament, wherever the federal capital might be. Some of the Opposition benches will seize the first opportunity to talk about the democracy of the Australian Colonies, and move to increase the amount to £500,000, with an eye to giving work to an increased number of people. You have, under government by party, strifes and disputes of all kinds. Are you going to have all the evils of representative government, when, by adopting the Swifts system, you may avoid them?

Mr. SOLOMON:
Under the Swiss system you may have just as many evils.

Mr. DOBSON:
I do not think you could possibly have all the evils that attend party strivings. We have heard a great deal—and I am glad of it, because it shows how proud we are of the representative institutions of Great Britain - of the advantages of responsible government and the party system, but have not we all felt at times ashamed of the party system, and a little ashamed of ourselves, too. According to my hon. friend on my right, we are covered with shame all round, and that is just what I want to bring this Convention to. You may be proud of representative institutions, but there are times when we may well feel ashamed of some aspects of them, and I want to save our grand Federal Government from the evils that attend our party systems, and to keep it free from them so,
Mr. ISAACS:

It is a very good argument to show that the people should interfere personally.

Mr. DOBSON:

Well, the hon. member has given us an illustration where the State Parliaments of America have the power to elect senators, and the people are so cunning that they drive a coach and four through the Constitution, and so really the people, and not the State Parliaments, elect the senators.

Sir GEORGE TURNER:

You say we ought to take the example of America. Why not follow that?

Mr. DOBSON:

I accept the example of America when it suits my argument. I would say, let the first House of Representatives be elected on the franchise of the States Parliaments, and afterwards the Federal Parliament can fix its own franchise. But the people of South Australia do not seem willing to trust the Federal Parliament. Hon. members talk a great deal about trusting the people. I do not always trust the people. I very often think the people are not to be trusted, because their wills are formed for them by orators and politicians; but whether I trust the people or not I am going to make up my mind to trust the Federal Parliament. I have heard one hon. gentleman say he will not trust the Federal Parliament to settle the franchise, and I have heard another say he would not trust it to give back to the States that portion of the finances to which they are entitled. If we are not going to trust the Federal Parliament we had better pack up and go home. That is one reason why we should do everything to set that Parliament on a pinnacle above the States Parliaments. I object to the idea of putting into this Bill a uniform franchise for the Federal Government. We shall never agree upon it, and there will be more wrangling at the Committee table on that than on anything else. Why not trust it to the Federal Parliament? Are we going to bring the people of the colonies which have not adult suffrage into line with those which have, or are we going to make the women of South Australia and New Zealand give up their rights in order to make a uniform franchise all over the colonies? This is an exceedingly knotty point, and I think it may very well be postponed and left to the Federal Government. It is suggested that this Convention should fix the franchise upon the lowest and broadest scale which the wit of man can devise, viz., one adult, one vote, instead of waiting to see what the Federal Parliament will enact with the experience of this decade and the result of the working of the present various suffrages before it. I do not believe in any such course. I believe there will be a reaction over this question of the franchise; and, although it is very difficult for a democratic country to go back unless
you send it back before a policeman's baton or a soldier's bayonet, I believe
they will want to go back. So far from the people in Belgium becoming
more democratic and going in for the one man one vote principle, they are
going back, and have lately established for themselves a form of voting
which many may think is a very bad thing. They give a man who is 25
years of age a vote, and a second vote if he takes unto himself a wife, and a
third vote if he has any educational or professional qualification; so that in
the franchise there they recognise education. They acknowledge all those
things which the advanced democrat, but not the true democrat, eliminates.

Some
members talk about governing united Australia upon principles which they
would not listen to for a moment in connection with the conduct of their
own private concerns. I do not think any members who pose as or who are
advanced democrats, would agree to enter into an industry or company,
and give to their working men and every one engaged in the industry, no
matter how ignorant, the same equal voice in the management of it, and
expect to extract dividends out of a competitive market.

Mr. ISAACS:
To whom does the country belong?

Mr. DOBSON:
The country belongs to the people; but the people who are most entitled
to our consideration are the people who are thrifty and intelligent, and have
something to pay our liability.

Mr. ISAACS:
Life and liberty go for nothing, then!

Mr. DOBSON:
Has the hon. member read that admirable book by Mallock-I might say,
those two books of his-in which he so elaborately places brain and
intelligence before Simple manhood, that is, before a man regarded simply
as a being with a head, a stomach, and two legs? I do not believe entirely in
making our Federal franchise as broad as we can, nor in the claim that the
government should be broad Wed on the people's will. There is something
besides the mere will of the people; there is intelligence. So far as I can
make out by reading, if you have a Lower House elected by the people, and
have a Senate elected by Parliamentary representatives, who are one
remove from the people, you have the best basis for obtaining sound and
lasting progress. I do not believe that both Houses should be elected by the
same suffrage. I cannot understand any member advocating the bi-cameral
system, and having all these disputes about the powers of the two Houses-
and here I find I am at issue with the Premier of Tasmania-and then falling
back on a franchise which is exactly on a dead-level, the same for both
Houses. Mr. Trenwith has pointed out to me that I do not quite realise what
a conservative element it is if you have the Senate elected by one whole
electorate. I admit the hon. member is right, that that to some extent is a
conservative element, because I know that in Tasmania a man desiring
election, for the Senate must be a well-known man, or a man who has in
private life distinguished himself greatly. But I desire a fusion of liberal
and conservative notions.

Mr. PEACOCK:
Ho, ho!

Mr. DOBSON:
Oh yes, they are liberal in regard to taxation, I can tell Mr. Peacock, but
not in giving ignorant people the power to govern.

Sir GEORGE TURNER:
That is just what you do.

Mr. DOBSON:
Oh! no. If you want to have a more conservative Senate than you get
from election by one electorate, why not introduce the conservative
element of age? Say that every man should vote for the Senate if he is 25
years of age. Then you would let him sow his wild oats. By the time he is
25 he would begin to be more intelligent, to take an interest in politics, and
to read the newspapers.

Sir GEORGE TURNER:
They get worse as they get older.

Mr. DOBSON:
I agree with the hon. member that as we get older some men get
naughtier.

Sir GEORGE TURNER:
Speak for yourself.

Mr. DOBSON:
I think the man who is 25 years of age is more inclined to take an interest
in politics than the boy who is 21; and with a desire to meet my friends
who are advanced democrats in some way, if they will give me one or two
conservative elements I might agree that we should elect the Senate on a
popular basis, for if this

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Senate is to be a powerful Chamber, it can only be strong because the
people trust it. On the question of deadlocks, I have been taught by my
daily paper, the Mercury, to leave deadlocks alone; and the gentleman who
writes there is a good political economist. He was brought up in the colony
of Victoria, and was writing for a paper there when those serious deadlocks
occurred some thirty years ago. His idea is to let deadlocks alone, and leave them to be settled by the common sense of the members. If you can use that argument with reference to the upper and lower Chambers of a State, you can use it with ten times the force to a Federal Parliament, because party politics do not enter so much into a Federal Parliament. If the powers of the Federal Parliament are limited and seldom require to be exercised on the questions of finance and taxation, you will have very few deadlocks indeed, and it is a poor look-out if we cannot leave it to them to settle the few deadlocks which will occur in their own way. But supposing you do want to provide means for meeting the difficulties of a deadlock, the people's referendum under certain wise regulations would be a very good thing. You can hardly have the two Houses meeting together and voting as one unless you pay great attention to the numbers of each relatively which sit in the two Houses. It would be no use for the two Houses to vote together if there were eighty-four senators and five hundred in the Lower House, as they have it in America.

Mr. O'CONNOR:
We must limit the number of members of the Houses.

Mr. DOBSON:
I think, as Mr. O'Connor suggests, we will have to limit the number of members, or otherwise we will have a faulty Constitution. I think that Mr. Isaacs or Dr. Quick suggested that, in applying the referendum, you should get a majority of the States and a majority of the whole of the voters.

Mr. ISAACS:
Not exactly.

Mr. DOBSON:
Those who are entitled to vote, you mean. I understand some members said that in getting rid of a deadlock by the referendum you would see if there was a majority of the States in favor of any particular proposal, and also a majority of the whole of the voters.

Mr. ISAACS:
That is not quite accurate.

Mr. DOBSON:
I understand if you get a majority of the States and of the people it would be decided in accordance with that. It is an exceedingly good idea and well worthy of consideration.

Mr. ISAACS:
You are not quite correct.

Mr. DOBSON:
In speaking on the question of finance and trade, I find myself dealing with subjects which can only be effectively threshed out at the Committee
table when we have all the figures and facts before us in a concrete form. I would like to say, however, that I certainly think that the Constitution Bill should if possible fix some date on which the uniform tariff is to come into force. You have also to recollect that our producers throughout the whole of the colonies, and especially in the colony to which I belong and in Victoria, consist of two classes; those who have an exportable surplus, and who, after supplying their own limited markets, must find an outside market, to these producers freetrade is the breath of their lives; and on the other hand there is the class of producers who do not quite supply local requirements, and to whom protection is the breath of their life. They say they cannot live without protection, as their industry has been created and established by that system. Therefore you have to consider both classes, who say that they require exactly opposite treatment. The Constitution Bill should consequently fix a date for introducing this uniform Customs tariff with absolute free trade between the whole of the colonies, so that all our protected industries should have reasonable notice that they will have to face the competition of the sister colonies. The important question then come

in of whether we will follow the example of New South Wales, and allow some of the duties to go by degrees. If New South Wales, with all its rich resources-its magnificent land revenues-could not afford to at once take the duties off such articles as sugar, as the sugar industry has been established by protection, what would be the case if the colonies knocked off all the duties in one fell swoop, so that trade should be free? I, as a freetrader, would like to see it done if there would be no injustice; but while some people will gain enormously

Feeding a dog with his own tail.

We must do this as justly and considerately as we can; but all these things can be left to the committee stage.

Mr. TRENWITH:

That would be making both ends meet.

Mr. DOBSON:

There is one question which has given me some little trouble and perplexity, and it is that I find the Constitution of Switzerland, according to the work of Mr. Garran, provides for numerous State guarantees. I am sure it is natural that in a Federation of people speaking four different languages they would be afraid of what was going to happen, like the farmers in my district are, and that they would demand certain State guarantees, as did some of the American States, before they agreed to union. What I am thinking of is this: Suppose some of our people of a protectionist turn of
mind say, "We will not go into the Federation unless you give us a State guarantee that the protective duties will not be removed except by degrees," or suppose some say, "we will not join unless you give us the duty on one particular article;" and others exclaim "we will not join unless you give us protective duties upon two articles." I hope this will not arise, and that we will take the plunge and jump the chasm. I find that I am speaking very glibly about producers who have been served by artificial conditions, and who will have all these local aids removed; but my sense of justice requires that they should be treated as gently as we possibly can. I have a word to say on the question of railways, and here Mr. Symon, who delivered a perfect and admirable speech, rather perplexed me upon the question of differential rates. He told us there were two ways of dealing with the railways; one was to take them over and federate them, and the other was to abolish differential rates. The hon. member sought to point out that the second proposal to abolish differential rates was ineffectual and could not be carried out. I think we shall have to leave the railways alone, but give the Federal Government power to take them over, besides having a clause, preventing one State trying to deprive another of its natural trade by differential rates. I am told that as against States this clause cannot very well be enforced, but that as against private owners you can do it. My experience as a lawyer is exactly contrary to this. If you were to draw an admirable agreement to put a stop to differential rates between private owners, you would have no possible chance of knowing, if one of these private owners were dishonest, whether the agreement would be carried out. But though you cannot apply that clause effectively to dishonest private owners, you can apply it effectively to the State. Is it going to be contended that one of our States is going to turn robber and be a thief towards another one? That is really the only alternative.

Mr. LYNE:
What would you do with waterways?

Mr. DOBSON:
I have not studied waterways, because the question does not arise in Tasmania. I cannot conceive that States as well as private individuals are going to turn dishonest. If that is so, perhaps Mr. Barton will be able to show ways under which the Federal Parliament would be able to deal with States guilty of the practice to which I have referred.

Mr. SYMON:
Put the State in prison.

Mr. DOBSON:
Not exactly.
Sir, GEORGE TURNER:

Put the Premier in gaol for the time being.

Mr. DOBSON:

Whilst I think that the 1891 Bill forms a very admirable basis for framing our Federal Constitution, I cannot help thinking that each one of us will have very good mental exercise if we put that measure entirely out of our thoughts absolutely and entirely, and begin de novo on the question of finance. With regard to giving up duties to the Federal Government, I have seen a scheme advanced in which Customs duties are left absolutely free to the State. Supposing you fix the services you are going to give over to be the Railways, Defence, and Post and Telegraphs, then see how much of your national debt has been spent in providing and creating these public works and these services? The sum of £95,000,000 has been spent on the services named. Taking the interest upon that sum at 3 per cent. it amounts to £2,850,000. Add the annual expense of carrying on those services, namely, £5,844,000, and you get a total cost of £8,694,000. Then the receipts from these four sources I have named total £8,089,000, leaving only a small deficiency of £600,000 odd. As the Post and Telegraph Departments and the Railways are increasing by leaps and bounds, and as each colony is increasing its receipts from these sources, long before the Federal Bill has become law you will find that these services will yield sufficient revenue to more than pay all expenses. They will be paying interest on £95,000,000, leaving roughly half your debt not taken over.

Sir GEORGE TURNER:

What rate of interest did you calculate? You said 3 per cent. interest, and we pay nearly 4 per cent.

Mr. DOBSON:

The figures I am quoting now I took from the Sydney Morning Herald, but the hon. member is quite right, the average is about 3 3/4 per cent. But it does not matter what it is. I am perfectly certain that the receipts for these services would, before the Federal Parliament meets, more than pay the expenses. I only mention this to show that there are several ways of dealing with the finances. If we all follow in the path of the Bill of 1891, and do not try to get new thoughts, we shall make a mistake. Now is our opportunity to profit by that Bill, and to read it in the light of the last six years. It is quite likely that in one colony their contribution of Customs duties might be a trifle more per head-possibly sixpence or a shilling—because they might have a mining population who eat better food than does a working population generally. But when you get a uniform Customs tariff I think a great many of these disparities will disappear. I think we have all
more or less exaggerated the direct financial benefits which we shall derive from Federation, and when we are before the electors and striving to support a grand cause it is only natural we should fall into the language of exaggeration. I think, on the one hand, we have greatly exaggerated—I know some writers have—the amount we should save by the consolidation of our debts. I do not see how we can usefully convert long-dated debentures. I have read with very great pleasure the admirable paper by Sir Philip Fysh in which he gets over the difficulty by creating a sinking fund, but I do not know how that would work out, and even that reduces his saving from a half per cent. to less than a quarter per cent. I am perfectly certain that scores and hundreds of writers and thinkers on this question have all exaggerated the saving we should gain. Conversion can only take place as our debentures come due, and the greatest saving of all would not be in the consolidation of stock,

but must come simply from the natural drop in the value of money. I may say that some months ago I wrote a letter to Mr. Goschen putting several questions to him, but his answer was that he was so much taken up with his own department that I must excuse him not replying. I hope that we have also exaggerated the cost of the Federal Government, and we must try and get a saving effected by attempting to reduce the number of members and their salaries. We shall have to tell our electors when we hold up this Bill for their acceptance that some additional expense will be entailed upon them, and that in addition to their heavy taxation they will have to contribute towards the expenses of the Federal Government. It is impossible to see where we can, by local savings, make up for the expenditure on Federal Government. In Tasmania we cannot. If we reduce the number of members of Parliament we shall have a Parliament so small that we shall have only one Chamber, and we all know what a difficulty it is to carry any reduction of members. In another way we have exaggerated the saving. We shall have one general representative of Her Majesty in the Federal Parliament, but I do not think that such large colonies as New South Wales and Victoria will be content to have the Chief Justice as their Lieutenant-Governor. They would like their Hopetouns, with pleasing manners and long purse, and their Brassey’s; and hardly one colony will agree to appoint its Chief Justice with the moderate salary of Chief Justice, with a possible £500 or £1,000 added. The Federal Government is going to cost us something, and the people may as well make up their minds to the sacrifice. We shall possibly have great difficulty in getting their consent to it. In dealing with the powers of the judiciary it is proposed to establish a Federal Court, which shall act as the interpreter of the Constitution, and as
a court of appeal from the citizens of the various States of Australasia. I do not think there is any question as to the ability of the eminent men who sit upon the colonial benches. That is illustrated by the fact that one of them has gone home to take his seat on the Judicial Committee of Her Majesty's Privy Council. It would be a mistake to take away the privilege of allowing any citizen of a State to appeal to Her Majesty, but the appeal should be so safe-guarded that the rich litigant could not drag the poor litigant across 12,000 miles of sea simply because he had a bigger purse. That ought to be provided against. I do not see any use in taking away a privilege which we have placed in our Constitution, and which some day some man who has a gigantic principle or a large sum of money involved may desire to put into force. If the Federal Court decided against a State the State might very well think the Court was prejudiced; and therefore I think, when the Federal Court has decided against a State right for which the people have been fighting in every possible way, the State should have the right of appeal to Her Majesty's Privy Council. I desire to say one word more on the question of the amendment of the Constitution. While it may appear to be a mistake to make an amendment of the Constitution too easy, I think, on the other hand, it would be a mistake to put too great a barrier in the way of the people having their will, provided that will is in accord with reason and controlled by a strong Senate. Therefore, I think the provisions in the 1891 Bill a little too cumbersome when we come to deal with amendments. There is another question which has not been spoken on yet, unless by the Premier of Tasmania, and that is whether members of local Parliaments should be allowed to sit in the Federal Parliament. As I understand, the Bill of 1891 forbids that, and I think that is an exceedingly wise provision. I do not think any man - I do not care who he is - has time to attend to the affairs of the State Parliament, and to give the time that will be necessary for him to give to the affairs of the Federal Parliament too. In our four millions of people we have numbers of men who are quite as capable and able to govern the people as the men who are in Parliament, when they have been brought into contact with politics and have had a little experience. We shall make a vital mistake if we try to put all the offices and prizes of public life in the hands of a few professional politicians of the Commonwealth, and not encourage private citizens to come forward and take their places in the Parliaments of their country. I am utterly opposed to allowing a man to serve in both Houses, because his duties in one Parliament would be sacrificed in favor of those which he owed to the other. I must apologise for the rather disjointed manner in which I have delivered my remarks.
That is owing to the fact that I was called upon to speak before I had an opportunity of getting my notes in order. If I have added one new point to the debate I have done my duty. I have not prepared a peroration, but will close by saying that if we succeed in framing a Constitution to make one united people in Australia we shall assist the great movement in the old country for Imperial Federation; we shall help the mother-country towards union and the establishment of a great federated empire; we shall help Mr. Chamberlain in the discussion of those large schemes which he has indicated for the industrial prosperity of the united people of Greater Britain and, having welded the mother-country and her colonies into one mighty nation under the Union Jack of Old England, we shall make manifest to the other nations of the world the power and civilization of the Anglo-Saxon race.

Mr. SOLOMON:

I move the adjournment of the debate.

Question resolved in the affirmative.

SUSPENSION OF THE STANDING ORDERS.

Mr. REID:

In the absence of Mr. Barton I beg to move on his behalf:

That the Standing Orders be suspended to enable me to give notice of motion.

I do this because the time for giving notices of motion has expired. The motions are those which Mr. Barton referred to at an early period of the sitting.

Sir GEORGE TURNER:

I second that.

Question resolved in the affirmative.

NOTICES OF MOTION.

Mr. REID:

On behalf of Mr. Barton I beg to give notice that, contingent on his resolution being carried, he will move:—

I. That the resolutions on the conditions under which and the powers with which it is desirable to create a Federal Government be referred to three Committees, with power to send for persons and papers: Committee No. 1 to be for the consideration of Constitutional Machinery and the Distribution of Functions and Powers: Committee No. 2 to be for the consideration of provisions relating to Finance, Taxation, Railways, and Trade Regulation: and Committee No. 3 to be for the consideration of provisions relating to the establishment of a Federal Judiciary.

II. That such Committees do consist of four, three, and two members respectively from each of the colonies represented; that each of the several
delegations do choose the members of its body who are to serve on such Committees; and that the Prime Minister of each colony represented be ex officio a member of each Committee.

III. That Committee No. 2 be instructed to specially consider sub-resolutions III. and V. of Resolution 1, with the view to their being carried into effect on lines just to the several colonies.

IV. That it be an instruction to Committees Nos. 2 and 3 to report their respective conclusions to Committee No. 1.

V. That, upon the result of the deliberations of the several Committees, Committee No. 1 do prepare and submit to this Convention a Bill for the establishment of a Federal Constitution, such Bill to be prepared with as much expedition as is consistent with careful consideration.

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VI. That in each Committee a majority do constitute a quorum.

VII. That such Committees have leave to sit at any time.

ADJOURNMENT.
The Convention adjourned at 5.27 p.m.
Monday March 29, 1897.


The PRESIDENT took the chair at 10.30 a.m.

PETITIONS.

Mr. WALKER:
I have the honor to present a petition respectfully worded from 2,145 electors of New South Wales, members and adherents of the Presbyterian Church. I propose that it be received and read.

The CLERK read the petition, as follows:
That in the preamble of the Constitution of the Australian Commonwealth it be recognised that God is the Supreme Ruler of the world and the ultimate source of all law and authority in nations. That there also be embodied in the said Constitution, or in the Standing Orders of the Federal Parliament, a provision that each daily Session of the Upper and Lower Houses of the Federal Parliament be opened with Prayer by the President and the Speaker, or by a chaplain. That the Governor-General be empowered to appoint days of national thanksgiving and humiliation.

Sir JOSEPH ABBOTT:
I have a similar petition from members of the Church of England in the diocese of Sydney, signed by 2,502 members.

Sir GEORGE TURNER:
I desire to present a petition similar in effect, signed by some 10,000 adults in Victoria.

Mr. MCMILLAN:
I have a similar petition from 794 members of the Congregational Church in New South Wales.

Dr. QUICK:
I have a petition of a similar nature from 100 members of the St Andrew's Presbyterian Church, Bendigo.

Sir GEORGE TURNER:
I have a similar petition, signed by 2,264 adults in Victoria.

Mr. BRUNKER:
I have a petition from the Baptist Church in New South Wales. It is respectfully worded, and contains a prayer. I move that it be received.

Petitions received.

Sir JOSEPH ABBOTT:
I have a petition from the mayor and aldermen of the Borough of
Wentworth, concluding with the following prayer:

That you may decide in favor of this district as the site for the Federal territory, and your petitioners will in duty bound, &c.

Petition received.

Mr. MCMILLAN:

I present a petition from the Council of the Church of England Temperance Society of New South Wales, asking that each State should be allowed to prevent the importation of intoxicating liquors and opium within its borders.

Petition received.

"HANSARD" REPORTING.

Dr. QUICK:

I would like to ask a question, if I am not out of order. I have received several communications from Victoria asking where copies of the daily "Hansard" records of the debates of the Convention can be obtained. I would suggest that arrangements should be made for the sale of copies. If some announcement to that effect were made it would result in the names of many subscribers being sent in.

The PRESIDENT:

I believe that arrangements have been made, with the concurrence, I may say, of the Premier of Victoria and others, to place a number of "Hansards" at the disposal of the various Parliaments. Any other arrangements which may be desired by the representatives for the purpose of giving further publicity to the proceedings I will be happy to have made.

Mr. BARTON:

Upon the subject of "Hansard," if I may be permitted to make a suggestion, I would like to do so. I have heard complaints from several hon. members about the slowness with which they are receiving corrected copies of "Hansard." If I may go so far into debatable matter, it is to say that the gravamen of the complaint seems to be this, that hon. members desire to make comments upon the deliveries of their predecessors in debate, and they find in looking through the reports that there is a difficulty about that, inasmuch as they are not corrected; and without saying more than is needful upon that point, I must say they do need a great deal of correcting, because in some passages the real meaning of the debater is rather hard to decipher. Under these circumstances they feel in this difficulty, that if they make comments they are not quite sure that they are taking their predecessors in debate in the right sense, so that it causes considerable uncertainty. The corrected copies should be furnished with more celerity. I have thought it the right plan to address you upon the
subject.
The PRESIDENT:
It is not impossible that the delay to which Mr. Barton refers may be attributable to some delay on the part of the representatives in correcting and returning their proofs. Whatever the cause, an endeavor will be made to prevent any reason for complaint in the future.

NOTICE OF MOTION.
Mr. BARTON:
I beg to give notice that to-morrow I will move:
That the Convention shall, at 5.30 p.m. this day, suspend its sitting until 7 p.m., at which hour the Convention shall be resumed and the transaction of business continued.
I give notice of this motion more for the purpose of using it, if necessary, so that if there is a reasonable chance of terminating the debate to-morrow night advantage can be taken of it.

Sir GEORGE TURNER:
I would go on to-day.

Mr. BARTON:
I think we can spare the members to-night.

Sir JOHN FORREST:
Contingent on the resolutions moved by Mr. Barton being submitted to the Convention, I will move:
That all the words after "That" in the first line be omitted, and the following words be inserted in lieu thereof, "this Convention do now resolve itself into a Committee of the whole to consider the Commonwealth Bill, 1891."

MODE OF PROCEDURE.
Sir JOHN FORREST:
Before the Orders of the Day are proceeded with I beg to move the adjournment of the Convention for a special purpose. I desire to appeal to hon. members to expedite the proceedings of the Convention as much as is possible. More particularly I appeal to hon. members on behalf of the delegates from Western Australia. The representatives of Western Australia have come a long way under great disadvantage at a very critical time in our political life, and we are bound to return upon the 14th of April. A general election will then be in full swing in Western Australia, and it is absolutely necessary for myself and the other representatives to be in that colony after that date. In fact the writs for the general elections will be issued before that date, and it seems to me, although it is very interesting and very edifying no doubt to listen to hon. members upon the general principles of the Constitution Bill, a great deal of time may be saved if we
deal with the questions one by one rather than deal with the whole scope of
the Bill in set speeches. If hon. members will fall in with the view I have
put, many of us who would have liked to speak at some length upon the
general question of the Constitution Bill may, to some extent, defer the
observations we desired to make till the time when these subjects come
forward in detail one by one, and considerable time will be saved to hon.
members. I merely throw out the suggestion. Probably it will be thought
somewhat selfish on my part, but at the same time I have personally so
many engagements that, as I have said, it is impossible for me to be here
after the 14th of next month. I am

very anxious indeed that we-I mean the Western Australian delegates-
should be able to take part in those portions of the Convention which are
very debatable and controversial. Nine-tenths, no doubt, of the subjects
which will be discussed will be generally agreed upon, but at the same time
there is the one-tenth which will form very debatable ground; and I should
very much like-speaking for myself and the representatives of Western
Australia-that we should have an opportunity, before being bound to leave
for our own colony, of expressing our views on these controversial and
difficult subjects.

The PRESIDENT:

To enable the matter to be discussed, I understand the hon. member to
move:

That the Convention at its rising adjourn till half-past 9 o'clock to-
morrow morning.

Question put.

Mr. PEACOCK:

I will second the motion of the Premier of Western Australia for this
reason, that, in addition to the remarks that that gentleman has offered to
the Convention, I think there is a disposition all round now-having heard
all the delegates occupying prominent positions in the various colonies-that
we should get into the Committee stage as quickly as possible, so as to
report to a Committee of the whole. I can offer these remarks freely for the
reason that I have not yet debated this question. There is no doubt that, had
we time, there is not one delegate but would desire to place on record his
views on this great and important question. But remembering that in
addition to the facts which Sir John Forrest has brought forward-that the
Western Australian delegates must leave at an early stage - that our
Premiers must be leaving shortly, I am prepared, and I believe others are
prepared, to waive the right to speak here on the general question so as to
get to work with as little delay as possible. It would be a serious blow to
the whole movement if unfortunately at this stage of our proceedings we had not finished the draft Bill by the time the Premiers had to leave to visit the old country. I feel it would do the cause a great deal of harm if unfortunately yourself, the Premier of New South Wales, the Premier of Victoria, the Premier of Western Australia, and the Premier of Tasmania were absent from our deliberations when we finally finished our work.

Mr. BARTON:

That is not likely.

Mr. PEACOCK:

I am afraid so, if we debate this matter at full length. I am not going to say that any time has been lost in the debate which took place last week, because every one of us has been educated a great deal by the speeches delivered, and the air has been considerably cleared, so that we are able now to come to much closer quarters with the subject. It is for these reasons, in addition to those mentioned by Sir John Forrest, that I second the resolution.

Mr. BARTON:

I can only regret that my hon. friend Sir John Forrest was not able to be present when the earlier discussion on the mode of procedure took place, because if he had been I am quite sure he would have agreed with me that all that was predicted in favor of the present mode of procedure has been realised. Two modes of procedure were suggested—one to go at once into a discussion of the draft Bill of 1891, taking it clause by clause; the other—Sir JOHN FORREST:

For that there would have been a majority.

Mr. BARTON:

Possibly there might have been, and I should then have regretted that the Convention had adopted an unwise course. The other mode suggested was that we should proceed as we are doing, by way of resolution, and the majority, being in favor of the course, it was adopted. I do not want to delay, proceedings by saying one unnecessary word, but I do say that the procedure by, way of general resolutions was adopted to avoid this assembly committing itself to a definite proposition which might have taken away, to a certain extent, the subsequent freedom of action of hon. members, by deciding on the various points embodied in the draft Bill of 1891. It was believed that by taking this more general course the views and opinions of hon. members would be evolved in such a way that the course of proceedings of this Convention in Select Committee would be considerably smoothed and expedited. I have not the remotest doubt, from the debate as far as it has
gone, although there have been only, three and a half sitting days, that all that was predicted of it has been realised.

An HON. MEMBER:
It is a mistake.

Mr. BARTON:
And it will have the effect that when we go into Committee our labors will be very much expedited. The hon. member may rely on this, that the course now taken is the shorter one, and will result in the Bill being more expeditiously produced and better representing the views of the Convention than would follow on adopting the course he proposes. I ask him to take this assurance from me as a keen watcher of these proceedings.

Sir JOHN FORREST:
Double debate.

Mr. BARTON:
The advantage of the course taken, I think, is that it will avoid a great deal of double debating, as hon. members express their minds fully upon all the questions that arise, and as they are now doing that, they will content themselves in Select Committee with a very short expression of their views when they express them at all. I suppose that something like 60 per cent. of the decisions evolved from the resolutions before the Select Committee will be arrived at in a very short time for each. If we had taken up the Commonwealth Bill we certainly would have had to endure a substantial discussion upon nearly every clause. But now the debate will be upon those points which are really essential; and, even if each of our members reviews those points, the debate in Committee will be shorter than it would otherwise have been. I may mention that the sittings of the 1891 Convention began on March 2nd, and it was only on the 18th of March that the House resolved itself into such committees as it is now proposed to appoint. Sixteen days-that is to say, counting Saturdays and Sundays-elapsed before the House got into Committee. On this occasion I believe eight or nine days will be occupied at the most before these Committees are reached-a saving of eight days. In 1891, the Committees being appointed on March 18th, the Bill was brought up on the 31st - again a lapse of thirteen days. On this occasion there is every reason to expect that ten days will be the time occupied. Before the hon. member and his colleagues leave for Western Australia there will be a Bill, and perhaps some debate in the Committee of the whole House upon the clauses of the Bill, so that they will be able to reasonably represent the views of their constituents in Western Australia. I mention these things, as there is no doubt that, instead of taking, as on the other occasion, thirty-eight days,
there is every reason to expect that on this occasion there will have been occupied something like thirty days at the outside, counting Saturdays and Sundays - probably not more than twenty sitting days.

Motion negatived.

FEDERAL CONSTITUTION

Debate resumed on resolutions by Mr. Barton (vide page 17).

Sir JOHN DOWNER:

I have some slight feeling of delicacy in rising to address the Convention at all after the urgent request of Sir John Forrest that we should proceed to Committee as early as possible. I, who have been here throughout, will assure my friend, who was not here, that at all events, so far as I am concerned, the debate has been fraught with infinite instruction, and has had the effect of completely revolutionising one of my central ideas on a most important branch of the question we have to consider. I will promise Sir John Forrest, however, and the members of the Convention will be equally pleased to hear it, that I will address myself as shortly as possible to the central points which will probably form a matter of discussion and difference; will avoid all rhetoric of every description; and will limit my remarks to the shortest possible space of time. Taking the proposals themselves, and going right to the subject at once, so far as the Governor-General is concerned, we need have no discussion. Such differences as were created at the 1891 Conference on the motion of Sir George Grey, with which some members of the present Government sympathised, have been so eloquently answered by another member of the Government who has taken part in the discussion, that I think it is not necessary for me to say any more on the subject. Leaving that, we come to the question of the authorities which the Federation is to exercise, and the constitution of the Parliament which is to represent it. I think the shorter way will be to take the question of the representative bodies and incidentally deal with the powers of the Federation, because, after all, the conflict which took place in 1891, and the differences of opinion that exist now, are practically on the manner in which the Federation could be formed on fairness and right, doing justice to everybody. Every member who has spoken has emphasised this view, and although some in detail may, in the opinion of myself amongst others, have rather departed from the principle upon which they spoke, I am perfectly certain everyone spoke conscientiously, wad that there is one desire to bring about Federation upon terms that will be satisfactory and just, and prove well in the future. So far as the representative bodies are concerned, all are agreed that there should be a bicameral system. On that there is no
question. All are agreed that there should be a body representing the people, and all are agreed that there should be a body representing the States; and all agree - it would be so whether they agreed or not - that our mission here is not to amalgamate the different colonies into one Government, but to produce a Federation. This is the central point we have to keep in view in all of our discussions. On all other questions we have to ask ourselves to what extent they lead us away from our mission, destroy the independence of the colonies, and make for unification when we intend only union. Bearing that in mind, we have to consider what is to be the constitution of our Houses. So far as the House of Representatives is concerned, there is practically not much difference of opinion, although some. All are agreed that the members of the other House should be returned by the most popular vote that can be obtained. The difference arises from the definition of what is the most popular vote, South Australia considering that the most popular vote is adult suffrage, others considering that it is manhood suffrage, and others again considering that some property qualification ought to be imposed. And on this we, who are returned here under the Bills which the various colonies have passed - with the exception of Western Australia - we who have been returned on adult suffrage, will, I am sure, in justice to ourselves, say that the experiment has not worked badly up to the present time. Now, leaving that just for a moment - I shall return to it afterwards - and coming to the more important question of the constitution of the States Council, I do not want to repeat the argument which has been urged often enough, and which everyone knew before it was argued at all, that there is no possible analogy between our local institutions, our Legislative Councils and Houses of Assembly, and the States House and the House of Representatives to be established under this Constitution.

Mr. DOBSON:

Hear, hear.

Sir JOHN DOWNER:

On that, I think there is no difference of opinion, but gentlemen who have in words expressed that sentiment, have expeditiously proceeded to demolish it by their subsequent utterances. Remembering that this is to be a Federation, and not a single Government, we know we are going very much in the dark; we know we are trusting very much to future developments, and that, although we have some precedents to assist us, there are none of them precisely analogous. And it is possible some of them may be warnings rather than precedents. The United States, which is the nearest analogy, is by no means a perfect one. It has been pointed out -
and I do not want to repeat it at undue length—that the circumstances were
different, that responsible Government as now understood was not then
known, that the American Constitution, which was founded largely on the
writings of Montesquieu -

Mr. ISAACS:
Hear, hear.

Sir JOHN DOWNER:
Was worked out on the assumption that it was impossible—the power
being so much in the king—that the House of Parliament should exercise an
independent judgment whilst they had that indirect influence of the king
through his Ministers over its deliberations. Had Montesquieu written now
he would have written differently, because he would have observed that,
though the people took long to find out what their powers were, they found
them out at last, and the result was that, not by any resolution or Act of
Parliament, but by the ordinary processes of evolution, the present state of
circumstances, that is, responsible government, has come about.

Mr. ISAACS:
Hear, hear.

Sir JOHN DOWNER:
But whilst we remember that, and therefore must see clearly enough that
the American analogy is by no means a perfect one, being founded on a
different condition of the Constitution, still it is impossible for us to avoid
examining and considering how their Constitution has worked; but whether
we consider the American Constitution or more modern Constitutions—
whether we take the American, the Swiss, or the Canadian—the very
foundation on which they all proceeded was that the only possible way of
preventing Federation ultimately resulting in amalgamation was to have the
House representing the States at least coordinate with the House
representing the people.

Mr. ISAACS:
That was not so in Canada.

Sir JOHN DOWNER:
I withdraw the Canadian part. As far as America and Switzerland are
concerned they sought to have a House at least co-ordinate in authority
with the House of Representatives.

Mr. ISAACS:
It is not so in America.

Sir JOHN DOWNER:
I am going to say something about that, because it has been said several
times. I say that it is so in America, and more—

Sir RICHARD BAKER:
Hear, hear.

**Sir JOHN DOWNER:**

The Americans, following the British precedent before them, and wanting to make something as analogous to the Commons and the House of Lords as possible, provided that Money Bills could alone be introduced into the popular branch of the Legislature.

**Sir RICHARD BAKER:**

Taxation Bills.

**Sir JOHN DOWNER:**

At the same time they established a body with an Executive and bestowed on the Senate executive powers, gave them the control of foreign concerns, and internally gave them control of all Government appointments; and, as a result, the American Senate naturally invited into its midst all the more brilliant intellects of the country, and by that more than from any other cause became the pre-eminent body.

**Mr. HIGGINS:**

They were almost all lawyers.

**Sir JOHN DOWNER:**

That would probably be the reason, and I am obliged to my hon. friend for reminding me. So

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that I say, although it is true that there was this limitation on the rights of the American Senate, they gave them power which more than compensated for this reduction in their authority, and even in making that reduction they gave them such absolute power of alteration of Money Bills as to make the introduction of Taxation Bills into the other House a mere matter of arrangement and convenience between the two Houses rather than a substantial derogation from its authority. As far, then, as the American precedent is co

**Sir RICHARD BAKER:**

It was Mr. Higgins.

**Sir JOHN DOWNER:**

Well, it was Mr. Higgins: and at the same time he quoted Bryce to show the injurious effects of mixing up in this way the election of the Senate and the House of Representatives. I have the greatest respect for Mr. Higgins, and I humbly follow Mr. Bryce when Mr. Bryce happens to agree with my own views, but it is singular that this very argument drove me to an identically opposite conclusion. If the Senate is supposed not to represent the people, and it is supposed to be a class House in which the people take but little interest and have but little voice, it should, therefore, not have such authority as the House of Representatives; but we find, as Mr.
Higgins has obligingly reminded us, that is not so at all, but that every constituency, in returning its members to the House of Representatives-the popular House-keeps the lordly Senate in view; and, knowing its importance and knowing its dignity, pledges its members as to the manner in which that body will be constituted.

**Mr. HIGGINS:**
I think you have mistaken the argument. It is that in the election for the States House you mix up federal issues-not in the election for the House of Representatives.

**Sir JOHN DOWNER:**
I say the more you keep the Senate in touch with the people the more it represents the people.

**Mr. HIGGINS:**
I was referring to the election of the Senate by the State Parliaments.

**Sir JOHN DOWNER:**
Precisely; I should have said State Parliaments; and it is a strong argument for the view adopted by the Convention of 1891 that the election of the Senate should come from the State Parliaments rather than from the general body of the people.

**Sir GEORGE TURNER:**
How would you deal with the case where a portion of the House is nominee and not elected? It cannot come from the people then.

**Mr. BARTON:**
I have known a nominee House to represent the people better than an elected House.

**Mr. ISAACS:**
In their own opinion.

**Sir JOHN DOWNER:**
I am not at the present moment discussing the wicked way in which some colonies in Australia elect their representatives, the corrupt methods they adopt, or anything else. I am simply dealing in a spirit of humility with Mr. Higgins and his authority, Mr. Bryce, for the purpose of showing that the arguments which they use in order to establish the fact of the bad manner in which this mode of election of the Senate works in America brings me to an absolutely different conclusion to theirs; and that the question is always actively considered, not merely when the Senate is being appointed, but when those who appoint it are being appointed, and that the appointors are merely delegates to return certain men, is a strong argument against Mr. Higgins, and not in favor of him, and is also a powerful argument in Support of the method proposed in the Bill of 1891. Nevertheless, although I agreed with that view at that time, and can still see much force in it, the
the discussion here and such thought as I have been able to give to the point has altered my opinion. I think now it would be wiser that the Senate should be elected by the people, and I say that to a large extent to try and meet my friend Mr. Deakin, who took a very vehement view upon this subject in 1891, and who told us eloquently and frankly that his great objection to the powers of the Senate was that it was not directly representative of the people. Considering the matter seriously, I ask myself what is it weakens nominee members? They are appointed by the Ministry, and the Ministry may be said to represent the Parliament, and the Parliament in turn to represent the country, so that it may be said the Ministerial appointments are appointments made with the approval of the country. When the appointment is made by Parliament you only shift the matter one further step up or down, whichever way you choose to put it. With election by the Parliaments you have it nearer the people, but when you have it through the representatives of the people and not direct from the fountain head it is through the people and yet not from the people; therefore I have come to the conclusion of Mr. Deakin, that in order to make the States the important body it should be, it must be put in perfect touch with the States it represents, and should be entitled to co-ordinate authority, which I am sure Mr. Deakin will now concede.

Mr. TRENWITH:

Mr. Deakin does not say "yes" to that.

Sir JOHN DOWNER:

It should be placed upon a basis so popular that when it speaks it shall speak with the voice of the people, and we shall have no necessity to go back to barbarous times in order to bring from primitive tribes the referendum or any device of that kind, because you have the certain consciousness that you have the voice of the people already expressed, and sending the matter back to them would only produce the same result. So I congratulate myself in having been able to come to the same conclusion as many gentlemen who are quite as honest and conscientious as I am on this subject, and in seeing now quite clearly that it will be better-in order to put the States Council in the position of authority that it must occupy if amalgamation is to be prevented-to return it on the most popular basis, and so not only to let its members speak with that firmness and authority with which they will speak when they come direct from the people, but to prevent expensive and unsatisfactory expedients in order to obtain the voice of the people in away that will not be so beneficial. Now, whatever difference of opinion there may have been as to the best way to form
federations, every combination of States that ever has federated has always agreed - as I have said before - that the powers should be at least co-ordinate, Here we have to take even more care than they did in America, because we have no foreign affairs to give to the Senate-we have no executive authorities we can bestow upon them. They will from the very nature of their creation, and from the very nature of their powers, be in a position of less authority and dignity than the Senate of America, and that very circumstance ought to make us more careful to take care of the authorities we bestow upon them. It is very difficult in discussing this subject-especially if one does not want to talk all day about it-to consider the constitution of Parliament without considering the constitution of the Executive. The Premier of Tasmania said that he believed in responsible government because we were accustomed to it, that he also believed the Government should be responsible to the House of Representatives alone, but that he also considered it was absolutely imperative that the Senate should have the authority of amending Money Bills in the same way as they did any other Bills, although they should not have the power of initiating them. Mr. Higgins congratulated the Premier of Tasmania on one portion of his utterance, but pointed out what appeared to him to be a necessary inconsistency in another part. He was delighted, he said, when he heard the Premier of Tasmania say that the Government must be responsible to the House of Representatives, but surprised when he heard him say that the States Council should have the authority to alter Money Bills-

Because that would be inconsistent with the Executive being simply responsible to the House of Representatives.

I agree with every word which Mr. Higgins has said in that. What is the good of talking about equality of the Upper House if you have a Government which is solely responsible to the Lower House? Mr. Wise says-

Prohibit them from interfering with the Appropriation Bill, but nothing else.

Why do you legislatively say they shall not touch any Bill? You do it for the purpose of declaring that their powers are not co-ordinate with the other House. Although the letter of your Constitution may seem substantially to put the two Houses fairly on even terms, you will have a general understanding which will be superior to the letter of the Statute, and which will weigh more than the letter of the Statute, even to overriding it, and as a result you will have the Upper House becoming what the general understanding meant it to be, and it will gradually lose its power
and dignity. I want to know where the danger is of giving equal powers to the States Council. The Hon. Mr. Carruthers told us that he did not consider for a moment that the two Houses should have equal powers. He thought they made sufficient concession when they allowed the smaller States to have equal representation in the Senate, and whether they had any particular authority he appeared to consider comparatively immaterial. His view was that the authority must be in the Lower House, and a very singular reason he gave coming from a Liberal. He said, putting it rather cautiously-

If taxation should import representation, and the two should be proportional, how can you call this proportional with the little States with their smaller population possessing as much power as the larger States with their greater populations?

I ask the Hon. Mr. Carruthers is he favorable to representation on that basis? Is that the basis which any liberal colony adopts, that the representation in the franchise should be proportionate to the taxation of its numbers? If so, where is his argument against plurality of voting? The truth was that the hon. gentleman, for the purpose of assisting the discussion on this subject, used arguments absolutely destructive of his well known resistance to plurality of voting. My contention and opinion are that the method adopted in the Commonwealth Bill was the wisest method as far as the Executive was concerned. The appointment should be simply with the Crown, as in the British Constitution, which has worked itself out. Leave this to work itself out. What is responsible government? We are killed by phrases now-a-days. We get a term into our minds and we cannot get away from it. Every government ever formed was responsible to some one or other. In England they may have been responsible to the king. They may have been more amenable to the Lords, but ultimately they became solely amenable to the Commons. There was always responsibility, and who could dream or think that the Government established under the Commonwealth Bill would not be responsible? Responsible, to whom? It is impossible, to use the words of one speaker, that the Government could be responsible to two Houses. I will ask those who say that if they have seriously thought over it. In South Australia at the present time, with the small franchise which exists and with payment of members, the members of the Upper House are becoming more and more influential, more and more determined, less and less solely amenable to the mandate of the Lower House-quite equal to vetoing anything that that House does.

An HON MEMBER:

Do they do it?
Sir JOHN DOWNER:

They do so without the smallest hesitation and without those terrible deadlocks, by exercising this constitutional check, which is the very essential of their being. Lower that franchise a little more, as it probably will be as time goes on, and their authority will become greater and greater. The independence of the members will be more and more, their strength and determination will vastly increase, and who can say that, before long, Ministers will not be responsible to the Legislative Council as well as to the House of Assembly. I know that in other Parliaments, notably in New South Wales, there is not so liberal a form of representation. But that will come, no doubt. The feeling is growing all over the colonies. It will be resisted and resisted, but the ultimate result will be the same. And even in internal government, who can say how long Ministers will only be responsible to one branch of the Legislature. The very essence of that responsibility is gone in democratic communities. The principle that those who pay the taxes should alone vote them, which gives the Commons their power, does not at all apply here as it does in the precedent which we have departed from in substance, but are following in theory. It is only a question of time. It took hundreds of years for the Commons of Great Britain to discover the powers that were reposed in them simply by the provision that the King should impose no taxes without their consent, and that it should be done annually. And as time goes on our Legislative Councils will find out their powers, and although Ministers will continue to be responsible, they will have more to reckon with than they do now. I was very much struck with an illustration by one hon. member, the Premier of Victoria, as to something done in Victoria, I think. A Bill was introduced for a land and income tax, was sent up to the Legislative Council, and I think he said it was blocked, blocked, blocked,

Sir RICHARD BAKER:

New South Wales.

Mr. PEACOCK:

It occurred in both colonies.

Sir JOHN DOWNER:

They sent it up again. Then he said-

At last we were desperate, and withdrew the Bill. We sent up a Bill with the income tax alone, and it was passed.

Sir WILLIAM ZEAL:

That shows the Council was right.

Sir JOHN DOWNER:

I do not care whether the Council was right or not, but it showed that the
Council thought it ought to be able to veto any Bill. It showed the power of the Council when it had to be exercised. It was sent up in that form to force the Council to take something they did not like in order to get something they did not mind, and the Council determined to have an independent voice in the matter, and the Council prevailed.

**Mr. TRENWITH:**
Yes, unfortunately.

**Sir JOHN DOWNER:**
No, I think it was well, because I think it would be well in every community, even in internal concerns, that the provision of the Commonwealth Bill should practically be carried out that only one subject of discussion should be in one Bill. The resolutions generally bind us to nothing specific, and wisely so, but they do mention one thing that might better have been omitted, and that is-

The National Assembly to be elected by districts formed on a population basis, and to possess the sole power of originating all Bills, appropriating revenue, or imposing taxation.

These are very eloquent words. They are words that were in the Queensland Act of Parliament, on which there was an appeal to the Queen in Council, and on which it was held that these words not only gave an exclusive right to the Lower House of introducing Bills, but prevented the Upper House from amending them either. These are the identical words; and I think it would be much wiser to leave them out, and not to bind ourselves down to a matter which is capable of great discussion. Some members say—Trust the people. I say—Trust the people. You have two peoples, or one people with a dual citizenship. Trust them to exercise both of them justly and right, and your trust will not be abused. If you have them both returned on the most liberal franchise— and I am assuming they are to be returned on the most liberal franchise—you have no more right to suppose that the citizens will be false to their citizenship of the Federation than false to their citizenship of the State. I believe that will be the only way you will bring about Federation. When you are trusting the people, making the franchise as liberal as possible, and giving the two Houses co-ordinate jurisdiction, then, I say, leave the responsibility of the Executive to work itself out. At first sight it would seem to be responsible to both Houses. Ultimately it will be so. If it be not so, every derogation of the dignity of the Upper House will be a loss to the individuality of the States, and every derogation from the dignity of the representatives will be a loss to the dignity of federated Australia. These are the principles on which I think you can work out a Constitution.
that will be fair and just to all; and I object to the limitation about the introduction of Money Bills; I object to any understanding that the Executive is to be simply the mouthpiece of the House of Representatives; I object to Money Bills being solely in charge of the House of Representatives, and, although I was delighted with Mr. Wise's speech on the subject, because be explained how very much the importance of this matter was over-estimated, still that does not lead me away from the main point, that the very object of putting this limitation on the authority in the Bill is for the purpose of making the House of Representatives superior, and for the purpose of making the Government responsible to them alone. It is probable, whether Bills are originated in the House of Representatives alone or not, that the results may not be materially different. It is possible, but it may not be so. The limitation, as I have pointed out, is in America more than made up by immense powers, which attract all the best men to the Senate. The limitation here is without the superior advantages which the Senate there offers, and the effect of the limitation would be gradually to throw money matters and other matters more and more into the hands of the House of Representatives, and gradually to weaken the authority of the States Council. Now in Switzerland, which I only referred to incidentally, they recognised this, that the States Council must be quite as important as the National Assembly. There was no difference at all between the powers of either. The Americans followed the English precedent as it existed at the time, the Swiss followed the American precedent with such alterations and adaptations as they considered the altered circumstances required, and they did what every Federation except Canada has done - they recognised the impossibility of preserving the integrity of the States unless the powers of the Senate were absolutely equal to the powers of the House of Representatives.

Mr. HIGGINS:
They have not got responsible government.

Sir JOHN DOWNER:
To the responsible government point I attach very little importance, because I think that will work itself out. It may not be the responsible government we know now, but there will be responsible government safely enough. All I say is: you trust the people, give them the freest institutions, let their voices be heard, and you will be safe.

Mr. ISAACS:
How do you, propose to make the Government responsible if they are in for a fixed time and cannot be removed for that period?

Sir JOHN DOWNER:
I am not aware that I have said they should be in for a fixed time.
Mr. ISAACS:
That is the Swiss plan.

Sir JOHN DOWNER:
I do not go for the Swiss system at all.

Mr. LYNE:
Hear, hear.

Sir JOHN DOWNER:
Although an Australian, I am at heart an Englishman. I am very glad to see other nations copying our lines and following our example; but, so far as they are concerned, Constitutions must be a growth, they cannot be statute made. Other countries are adopting our laws with such alterations as their own national peculiarities and traditions require. That is good for them. It does not follow it is good for us. The Swiss approached the matter with great thought and scientifically framed a Constitution which they thought would copy the American system, but would avoid its abuses, and, to the extent to which that method is responsive to the Swiss character, it will be effective. We, however, do not want to go there. We only know responsible government through the evolution of centuries; but in this instance we will have it evolved not in centuries but in days. The result of this will be a good understanding between the two Houses, great mutual respect, and peace and happiness. These at least are my opinions on that question. Now as to the railway question, because I do not want to speak at great length-

Mr. GRANT:
Would you have the same franchise for each House?

Sir JOHN DOWNER:
I would say about that that I would like to see the same franchise throughout Australia; but I want Federation, and, as I understand that Federation is something done by mutual agreement, I should not have the impertinence to dictate to the nation I wish to make an agreement with the precise terms on which the franchise should be framed. I should be perfectly satisfied that both Houses should be elected on our franchise, but I would not dictate it. I would only dictate that they should be both elected on the most liberal franchise that any colony has. I would leave it to the Federal Parliament to settle what the ultimate franchise should be; and I have no doubt that it will be satisfactory, and that a universal franchise will be adopted. We have not only to consider what proposal is best, but our views should be based on what is most expedient and what is practicable. If the colonies are all agreed that we shall settle the franchise, I would agree to it with the greater pleasure, but if the other colonies, or any
important portion of them, consider that it is a matter for themselves to settle, I would agree with them; and I would not jeopardise the great cause of Federation by a stupid insistence on that which is impracticable. As to the question of the railways, I wish to say very little, because my friend Mr. O'Connor has exactly voiced my sentiments. I think the Commonwealth Bill has almost at present sufficient provisions to deal with the matter. I think that Part IV., sections 11 and 12, substantially deal with the question. As far as giving legislative authority to the Senate, and not sufficient powers of jurisdiction to the Courts, are concerned, that is a matter which can be easily altered later on. This will be an Imperial Act, and the Imperial Parliament may waive the royal prerogative as far as it pleases, and can make the Crown as amenable to the Courts as any of its servants are now. There is no substantial difficulty about that, but I distinctly disagree with the proposition that we have arrived at a sufficient stage to handicap the cause of Federation by taking this big subject into consideration. It will create endless disagreement; endless time will be taken up in attempting to carry it into effect. It may be done eventually, but then only sub modo. It can never be done absolutely, because we know there are so many railways which were never constructed with the idea that they would pay in the ordinary mercantile sense-constructed for the purpose of making valuable territory that is now valueless, and although we may get very little return from them, we get from the whole the return as a going concern-land and railways-and not from the railways alone. I think that nearly all the colonies of Australia will hesitate in the present state of their development to hand over their railways, and thus become helpless in authority and prevented from dealing with matters which are entirely of local concern. It is true in reference to the railways that in some places-a long way off, I hope-the railways are managed in a very unfair way, and by differential rates very unfair results are obtained and unfair injury is done to one colony by another. Now, the Commonwealth Bill has quite sufficient power for that as far as legislation is concerned, and a little alteration will make it quite sufficient as far as jurisdiction is concerned, but I think that is all we are ripe for, because I think it would be unwise at the present state of our effort to overweight this cause of Federation. Mr. Carruthers said the originators of the financial scheme of the Commonwealth Bill had admitted that the scheme was a failure. I suppose Mr. Carruthers means Sir Samuel Griffith, but Sir Samuel Griffith was not the originator of the financial part of the Commonwealth Bill. It was settled by Mr. McMillan, and amongst others, Sir Thomas McIlwraith, Sir Philip Fysh, and Mr.
Munro-in fact, by the Treasurers of different colonies; and I want to know, therefore, if Mr. Carruthers relied simply upon what Sir Samuel Griffith said when he made the remark that those who originated it condemned it. I find that Sir Samuel Griffith has formed his opinion upon statistics based upon the present tariff.

Mr. DEAKIN:
They are all hypothetical.

Sir JOHN DOWNER:
They are worked out on the present system that works out unevenly, and is it any real basis to make calculations by reference to a system which you are passing legislation to alter? The very primary object, the great foundation of this Convention, is the desire to promote intercolonial freetrade, and to have a uniform tariff, and to make calculations upon a basis which we are called upon to alter, has only to be mentioned to show their unsuitability. At the Sydney Convention one of the Queensland delegates said Queensland would be placed in a monstrously unfair position as against South Australia. I mention this to show how fallacious these figures are when you come to examine them. The delegate said Queensland would be taxed 15s. 4d. per head, while South Australia would only have to pay a tax of 8s. 4d. per head; but he forgot that while Queensland would be taxed 15s. 4d. per head they would have had their post office taken over which they were working at a loss of 5s. per head, and we would have lost our post office which we were working at a gain of 2s. per head, and so the result would be 8s. 4d. per head upon both sides. I only mention these as very handy figures to show how very difficult it is to take these figures in the rough, without careful calculation, and make deductions from them. This financial question will give to the gentlemen competent to deal with it (which I do not profess to be) a great deal of trouble, but I believe in the end it will be found that the Commonwealth Bill will only be varied to this extent: that whilst the expenses of government will still be charged according to the population, the return of any surplus will also be according to population. But I hope there will not be any surplus at all.

Mr. PEACOCK:
Hear, hear.

One of my strong reasons-in addition to its being a hindrance in the way of Federation-in opposing the handing over of the railways is that it will give the Federal Government too much money. I do not think that the Gordian knot in reference to the debts of the colonies is such a difficult thing as my friend Mr. Holder imagines. The Customs, of course, will give the Federation a large surplus, and that will have to be returned
unless you do something else. Mr. Holder says that the proposal to take over the debts is impracticable. I do not think so at all. I do not think that the Gordian knot which my hon. friend referred to is a matter of such great difficulty as he appears to think. I think we can easily so arrange the finances of the Federation that whilst I do not, like the Premier of Victoria, want to see them short of funds, care should be taken that they do not have too much. On the whole I think I would rather they had a little too little than a little too much.

Mr. TRENWITH:

They cannot go on with too little.

Sir JOHN DOWNER:

These are all the remarks I wish to offer to the Convention. I am sorry I have detained members so long-longer than I intended. This subject has been one of anxious thought to many of us for many years, and I do not profess to have come now to absolute and final conclusions. I believe that if we take the phrase of the day-this time meaning it, and not merely saying it - and make both Houses liberal, and trust the people, the result will be that our Federation will work out with that fairness and peace that everyone of us desire.

Mr. MCMILLAN:

With Sir John Downer, I feel some diffidence, after the remarks that were made on the formal motion for adjournment this morning, in addressing this Convention at all, and if I thought it was the general wish that the debate should close, or that I should not address it, I should be very willing to give way. Now, it seems to me that, after all, some benefit may accrue from this general debate, and those of us who have something to say that we think will throw light upon the work of the Committee, I think, are entitled to have their say. In the very able, concise, and practical speech of the Premier of Victoria there was one sentiment with which I cannot altogether agree. He said that we were here more in the light of negotiators than of lawmakers. Now, I think if he had said the exact opposite, he would have been nearer the truth. Hon. members will recollect that in the year 1890 there was a tentative effort made towards this great movement of the Federation of the Australian Colonies. But the men who represented the different colonies at that Conference were Ministers of the Crown under Executive appointment; and in the year 1891, as the outcome of the movement, a Convention was held which was the result of a series of resolutions in the different Houses of Parliament. At that time, we met together, not under any Enabling Act; but on the present occasion we are met here, not to do tentative work, not under any unnecessary suspicion of
each other, but by a mandate from our Parliaments, which has been assented to by the people, to absolutely frame a Constitution. Now, I recollect that at those two previous meetings, at which I had the honor to be present, there was some sort of nervous feeling amongst the members lest any unpleasant words, lest any want of judgment, or any appearance of passion might have broken up those meetings into their original elements. Therefore we sat under some kind of restraint. The characteristic of the present meeting is this: We have no fear of any such result. I cannot imagine that we should meet together in this Convention in accordance with the mandate of the people, and return to our several colonies, without carrying out that mandate. It does seem to me that the most practical way in which any member can assist the ultimate workings of this Convention is to say clearly and freely the difficulties he sees in the path of our undertaking. I must say that I am seized more and more of the enormous difficulties that we have to surmount; and I think it is best to make a short statement of those difficulties, for this reason: if the people of the Australian Colonies imagine for one moment that they are going to have a scientific system of Federation, they may wait till the crack of doom. The more we voice forth in this preliminary debate, which I presume will be read throughout the length and breadth of the Australian Colonies, the terrible difficulties we have to encounter, and the more we see them, we will find that it is not a matter of a scientific basis, but a question of practical statesmanship we have got to meet, and the more will the people be satisfied that we have done the best under the circumstances. We have to face, in the first place, the federation of a number of contiguous communities, of which we have no other such example in the world. In the American Constitution, when it was framed, they had to face a somewhat similar position, but there they had instead of six States thirteen States, and the number of States increased by leaps and bounds during the succeeding years. Here we have a number of States, every one of which has all the possibilities of national life, and every one of which can carry out its own national destiny almost independent of the rest; and we also have to face the necessity, while we make it upon a broad democratic basis, of making a strong Central Government which will prevent any of these atoms dominating over the rest. There is no doubt that as the colonies stand now-and belonging to the mother-colony of New South Wales, as I do, I will speak frankly on this - with the increase of population of that colony, with its great territory and its great resources, it-may become, in a short time a dangerously dominating factor in the Australian Colonies. We must see, not to the more immediate present, but
to the long future, because we want, not a temporary, but an indissoluble union, and I trust that that which was left out of the preamble of the American Constitution will be included in ours. Now, I do not intend to weary this Convention by quoting a lot of unnecessary figures, but I will try to get rid of a few at the start; and I think it would be well to give a few figures to show the divergence which exists in the different colonies. The first figures I will take deal with the existing tariffs. If we had a tariff like New South Wales it would bring in £3,285,000.

Mr. DEAKIN:
For what area?

Mr. MCMILLAN:
I mean for all the colonies?

Mr. DEAKIN:
Does that include Queensland and New Zealand?

Mr. MCMILLAN:
No, only the five which are represented here; although I may say that I trust that all our deliberations and all our schemes will be based on the hope of Queensland being represented very soon; and if there is sacrifice necessary then it should be made with a view to that colony being included, because we do not want in the future any colony to have to negotiate for certain conditions. We want one uniform Constitution under which all may live. I have said that the Customs and Excise duties, according to the New South Wales tariff, would be £3,285,945; with the Victorian it would be £7,310,781; with the South Australian, £6,294,249; with the Western Australian, £4,922,214; and with the Tasmanian, £7,748,759. Now, I mention these figures and those I shall subsequently refer to for this reason. We have heard a great deal about compromise; but we must not only have compromise, but sacrifice. When you consider the variety of production of these colonies, the difference in their wealth, varied powers of consumption, all of which will be found in that valuable and interesting book, Coghlan's "Seven Colonies of Australasia, 1895-6," you will clearly see, as I said before, that we can have no scientific basis and no mere compromise, but sacrifice, must be considered. This involves other important questions—it involves the question of the position of the freetrade policy of New South Wales, and I will give figures to show how difficult the task of the finances may be. The total existing tariff of the different colonies represented at this Convention is £4,292,000, according to the latest statistics compiled by our statisticians.

An HON. MEMBER:
Is that all the duties?

Mr. MCMILLAN:

Of that amount spirits realise £1,522,000 and specific duties £1,516,000. Now, here is the question: you have to make up the gap, and if you went upon the all-round principle of ad valorem duties it would take 22 1/2 per cent. ad valorem to make up the gap. Clearly, that is a very serious thing for New South Wales with her freetrade policy. Therefore some great sacrifices must be considered.

Sir GEORGE TURNER:

Can you give the items of each colony?

Mr. MCMILLAN:

No; but I can get them afterwards and lay them upon the table of the House.

Sir GEORGE TURNER:

How much of that does New South Wales contribute?

Mr. MCMILLAN:

In the Convention of 1891 we had another colony represented, and there has been an enormous fall in the receipts from Customs of the different colonies. The amount surprised me, and I referred to Mr. Coghlan again, as I thought he had made a mistake. These figures show a tremendous change and how absolutely difficult it is to embody a scheme on any scientific basis. Now, we will take the wealth of the different colonies. No; I will pass that over, as I do not wish to deal too much in figures. A great deal of interest is taken in the question of the surplus, and I only refer to that incidentally now. There was a very stupid mistake made by the Finance Committee of the 1891 Convention, of which I was a member, but the intention was clear, and if they had worked it out in the same arithmetical way as Sir Samuel Griffith did they would have avoided the mistake. I take Sir Samuel Griffith's figures, which are from the Year Book of 1896, and I take Mr. Coghlan's "Population of the Seven Colonies, 1895-6," and I can give my figures in detail to any member who may like to see them. I will, however, just give an instance to show the absolute impossibility of getting at a definite result. When you work out the problem it brings out this result: that the surplus to be distributed would mean per head to New South Wales, £1 8s. 7d.; Victoria, £1 13s. 5d.; Queensland, £2 1s. 7d.; South Australia, £1 5s. 7d.; Tasmania, £1 10s. 2d.; and West Australia, £4 16s. 8d. I think these figures are sufficient to show the absolute impossibility of coming to a conclusion at the present time. It shows us that there are two things that are necessary in looking at the work before us. First, that we have got to make the best of a very difficult task, with the judgment and wisdom we possess, and trust to its working out; and also that in some of
the questions now insoluble we must trust to the wisdom and judgment and patriotism of the men who will form the Federal Parliament in the years to come. There are some things of a more humorous character which attract one's attention. We have got here some gentlemen on the opposite benches of Victoria who hold advanced political views. We have here, too, gentlemen from South Australia who also hold equally advanced views; but if you change them from one colony to another they differ materially on federal questions. Victoria desires to a very great extent to emasculate the Upper Chamber, but these gentlemen from South Australia want to keep it in full possession of its privileges, as an essential condition of Federal Government. This shows that even among ourselves there are divergences in political views—democrats or tories, whatever we may be—which make it necessary for us to come together to make the best of a very difficult matter. We talk about a democratic federation; but it is the plan for one map to dub himself a democrat and another a tory, and if you ask him for a definition of either he cannot give it. I trust this question of an extreme democracy will be made subversive to the idea of bringing out a good and sound and workable system. I did not intend, as there has been a large amount of debate on this question, to offer my views, as naturally a layman in the midst of such a company of distinguished lawyers—we have heard speeches from some of them which would be a credit to any assembly in the world—in the midst of this atmosphere so profoundly legal, I feel some little diffidence in giving my views; but I have heard some arguments which were so absolutely subversive of the true principles of Federal Government and the bi-cameral system of Government, that I should like to say a word or two upon them. Now the first thing is that we must have two Houses; and I think that in this matter we have been inclined too much to consider the second Chamber entirely as a States House, without considering that the principle of bi-cameral government is also introduced. Now, I take it that, no matter how extreme or democratic many hon. members may be in this Convention, if we were going to have a unified form of government, we would have a Government with two Houses of Parliament. Therefore we must not lose sight of the characteristic necessities of that kind of Government. Now take, for instance, its practical working. There will be two sets of questions that will be debated in the Federal Parliament. In the first place you will have questions, no doubt, which refer to the particular interests of the States, and on these questions, whatever they may be, this Second Chamber will be essentially a States Council; but are there not to be questions on which disagreements may occur which refer to the interests
of the people as a whole? Are there not questions which may be considered by a popular Assembly which has got out of touch with the people and the country, and which requires the firm and moderating hand of another Chamber to keep it in check? Therefore I feel strongly that in all these questions about the Senate - which is, I believe, the best term we can use - we must keep fairly in view the necessities of bi-cameral government. Now, I give in my adhesion with my friend Sir John Downer to the fullest possible franchise for electing the members of the Senate; and I am glad that this was practically acknowledged by nearly all the candidates in New South Wales who have the honor of a seat here to-day. I say that because I am glad it was acknowledged and approved of before we were elected ourselves; otherwise it might have been said that as we were the elect of the people we were more anxious to see it adopted now that it had been tried. I think that, with only one or two exceptions, candidates for the Convention in New South Wales were all in favor of electing the members of the Senate by the vote of the people as a whole. Now we must recollect that we talk a great deal about the interests, the democratic interests, connected with the government of the country, but you want to have your government a good government, and you want to have it a strong government. You might have 100 men elected by Legislatures to one branch of the Federal Parliament, and these men might represent the various interests, yet you might not get as much brains boiled down in the whole lot of them as would make a statesman, and therefore you must recollect that if this Senate is to be a Chamber not merely representing States rights, but to be a great moderating assembly - an assembly in which the judgment and wisdom and patriotism of the country is represented - you must make that Chamber of a character which will insure that judgment, and which will introduce within its walls men of that character. If you attempt to emasculate the powers of that House, and to degrade it into a mere recording angel of the other assembly, then you will not get men of intelligence and character to enter it. It should be the blue ribbon of political life; it should be represented by men who have won their spurs in other assemblies; it should be represented by men of high character who could not enter political

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life perhaps under any other circumstances; it ought, in fact, to be the Chamber where judgment, and wisdom, and moderation should rule. There is much less chance of this dreaded deadlock if you get that class of men who feel the responsibility of their position, and who have experience and wisdom, than if you attempt to degrade the Senate and admit a lower grade of men into it, because you must recollect this, that in Parliament we are
not like a lot of alien policemen watching one another, and we are not some wonderful contrivance to satisfy the plutocrats and the capitalists; but the two Houses of Parliament are simply machinery for carrying on good government. It is all very well to talk about finances and the insoluble questions which will meet us here, and which will meet us in the future, but it is not so much a question of the difficulties which meet us, but the calibre of the men who will have to solve them. If it is necessary in a bicameral system of government to have coordinate powers in the Second Chamber, it is doubly necessary in a federal system of national government, because I believe more in the expression "national" government than "federal" government, and in the midst of all these difficulties which will face us it will be more the sentiment of national union than any other which will solve the problem. There is another thing which it may be as well to debate alongside this question of the Senate, and it is the question of deadlocks. In the first instance, however, I will say what I mean by the dignity and co-ordinate powers of the Senate. I do not think that is a matter of practical government-and we can only judge of the future by the present-that you can give the power of amendment to the Senate in the ordinary Appropriation Bill-of the Bill which has innumerable items for carrying on the public service of the country. That Bill is based on the provisions of Bills of taxation, in which I believe the Senate should have practically co-ordinate powers for two reasons. It seems to me that, outside the Appropriation Bill, which I cannot say logically should not be open to amendment except on practical grounds, in matters of all other other kinds it is a ridiculous thing to say that you may veto but you cannot give suggestions. Now, we know that proposal was made, and it was embodied in the Commonwealth Bill of 1891, by which, forsooth, the Senate would send an ad misericordiam appeal to the Lower House, and, cap in hand, ask them to be good enough to take into consideration the suggestions they had to make. Is that not an undignified and slavish way of dealing with a co-ordinate House? We come to the question of deadlocks, and I think this has been made a tremendous bogey. Now, if we do away with deadlocks we tire liable to do away with the one great thing likely to prevent the corruption of the popular branch of the Legislature.

Mr. ISAACS:
In America the corruption is the other way.

Mr. MCMILLAN:
I have the greatest admiration for my hon. friend Mr. Isaacs, and for his magnificent speech, showing so much legal learning and knowledge of constitutional history, but I say the more we keep to our own conditions the
better; and in dealing with responsible government we are simply trying to make a government based upon the present system, which will include the federal idea. Mr. O'Connor has suggested that you should have a second Session of Parliament if there was a deadlock over an ordinary Appropriation Bill, but you cannot wait for another Session of Parliament for an Appropriation Bill, and if you had another Session of Parliament it would result in a farce, for all a Government would have to do would be to prorogue for two or three days and meet again. I wish hon. members to see that the vetoing of the Appropriation Bill would be one of the, extreme steps of the Senate - that it would be practically, if they were in the wrong, inviting a revolution in the country. There is a very thin line between a deadlock and a revolution. There is no doubt if it were proved by experience that it often occurred it would be necessary to have some mechanical appliances, but I do not see that under the present circumstances we should anticipate them. In matters of deadlock the plan to solve the difficulty to be practical must be one to gain time. Outside the Appropriation Bill there is no piece of legislation introduced into Parliament that cannot bide a wee, and there is nothing more dangerous than the hasty piling up of legislation simply for the purpose of doing something. Let us see for a moment what are the elements we have to face. I myself thought at one time that in this election for the Senate there should be some property qualification, and I thought every man who voted in a block vote should pay some tax, but I am willing to waive that. We have now new proposals or the election of a Senate, and this has been one of the most interesting pieces of political evolution during the last two or three years. We have got a Senate the members of which are elected by a block vote, instead of by a log-rolling Parliament. It will strengthen rather than weaken it, for we get down to the bedrock of democracy. We should believe that in the election for the Senate the best men-the men who have given good service to the country, who have long records of public work behind them-will be selected, and we will have the right stamp of men to carry on the legislative work. If we have these men do you think it is likely they would attempt to do the only one thing that can throw the country into confusion-throw out the Appropriation Bill? We must not consider that these men going into this Council are lunatics, and I say no man, unless he were a lunatic, would dare to throw out an Appropriation Bill unless he felt he had an utterly corrupt Assembly to deal with. Again, according to the Bill, every three years one-half of the senators will retire for election. Every three years, as often as the popular branch of the Legislature, these hon. members will go for election, and they will go back probably at a time
when these burning questions are upon the tapis. Do you mean to tell me it is credible - if there is an extreme tension between the two Houses upon some vital and important question-when those men go back to their constituencies, who are practically the same people as the other constituencies, they will not have the sense to gather up all the public opinion of the day, so that when they go back-renewing one-half of their own House - they will not so permeate the other half with their views as to make it impossible to continue opposition to the will of the people? It seems to me that by a happy concurrence of circumstances, such as those which affected the making of the American Constitution, we have now evolved a kind of Senate and machinery which do away with a great many of what are called the democratic objections. Now, it seems to me there is practically no essential difference in this matter-outside the Appropriation Bill-between a Money Bill and any other Bill whatever.

Mr. LYNE:
Would you give them power to amend Taxation Bills?

Mr. MCMILLAN:
Certainly I would give them the power to amend Taxation Bills. Take a Loan Bill, for instance. Supposing you had a recklessly extravagant Government - and we must take every possible contingency that might occur in the future-supposing you had a Parliament with a corrupt Ministry, supposing you had that little game going on which might be possible under certain circumstances in regard to the expenditure of public money under different States-the game of "Scratch me and I'll scratch you"-and supposing there was a Bill introduced which required a loan of ten millions of money when it was clear that probably five millions of money was nearer the amount that should be raised, do you mean to tell me there is any common sense in sending that Bill up to a House and asking them either to veto it or pass it when they are willing to pass £5,000,000, but not £10,000,000? The thing is really absurd. As I have said before, this process of suggestion is inimical to all that condition of prestige, dignity, and power which should distinguish this Chamber, which makes this Chamber practically the recognition of our national existence, the one continuous Chamber to which we will look for the continuity of our national life, and the one Chamber which, I believe, should contain all the best elements of the nation which may be wanted at any time to keep us from absolute destruction.

Mr. BARTON:
That depends on whether it represents the people.
Mr. HIGGINS:

But a Loan Bill is not a Taxation Bill.

Mr. MCMILLAN:

The same logical argument about the people applies to every Bill. You might just as well say that the whole argument of the hon. member simply leads to one Chamber, that you must put nothing between the will of the people, that you must have no check upon the Government and no safeguard against a corrupt House. I say most distinctly, and feel it as one of the strongest of my political faiths, that no country and no nation is safe that gives up absolutely into the hands of one man or one Assembly the whole of its rights and privileges. Now, with regard to the House of Representatives, I need not say anything further. That House must have the initiation of Money Bills, and I believe with those who say it, that where you have responsible government, as we understand it, that House must in certain matters dominate; that is to say, while the other House upon all matters must have co-ordinate powers, the House which has the purse must have the Executive. For instance, in spite of what was said by Sir John Downer, can you imagine the Treasurer being in the Upper House in the Federal Parliament? Can you imagine all the machinery of the Government which goes on from day to day, and which must be made in one Chamber and not in two, being outside the popular branch of the Legislature? Therefore, it does seem to me that if you have responsible government at all the price you pay for it is, to a certain extent, the power of initiation in one Chamber and the sitting of the principal members of the Executive in that Chamber which holds the purse strings. You cannot, if you want an ideal government and if you want to carry on the government on the principles to which we have been used in years gone by, ignore the principle to which I have just alluded. There is no doubt that there is great difficulty in the Federal Government in regard to this matter of responsibility, and there may be dangers in the future to face where the selection of Ministers may be, to a great extent, from one or two colonies. Sir John Macdonald—who had the fathering, and, if not the fathering, the nursing, of the Canadian system of government—was sufficiently shrewd to make a sort of mosaic of his Ministry or Cabinet by selecting men representing different States and interests, and so successful was he—and I think it is a very dangerous thing to be so successful—that for fourteen years that eminent statesman carried on without any interruption. Therefore the position of Canada in some matters at the present time, until we see it work a little longer, is no exact analogy for us. It comes back to the same thing. A great deal will depend, not exactly upon the interests represented, but upon the character of the men who represent them. A great deal must
depend upon the judgment and wisdom of the men who form the first Federal Parliament. While dealing now with constitutional matters I would like to say a word or two about the franchise. I think it is a very reasonable thing, for those who take up the view, that the first franchise should be upon the most liberal principles, because they contend that the first work of the new Parliament will be work that may fix the destiny of the people for a long period of years. The first Parliament, which will sit for three years, will have a great work to perform. It will have the making of the tariff, the assimilation of different laws, and will do probably a larger amount of concentrated work in those three years than will ever be done in the future. I see great reason for having as nearly an ideal franchise as possible for the first Parliament. You can have no Executive until you have your Parliament, and unless you have some arrangement with the different States to carry out honestly and fairly the system you lay down I do not see how you are going to have your Parliament elected except on the franchise at present existing in each State. No doubt they would be free to say we will have the principle of one man one vote. That might be done, but, on the other hand, it would be very difficult. Certain arrangements would have to be made, and if it were done you could not be perfectly certain it was honestly carried out. I should be glad to agree to a franchise which would be decided on by Parliament hereafter. Now, there are just a couple of things I would like to say with regard to the powers to be handed over to the Federal Government. There seem to be two principles on which to decide what powers are to be handed over to the national government. In the first place, you must hand over what is necessary to give it sovereign power. I take it that we want to establish a strong, stable national government, which will reflect our national life, and by which we will be able to confront the whole outside world. In the next place, we must not have anything taken from the States which they can properly carry out as their own local work; and deducible from these it seems to me there will be one other difficulty which we shall have to face. Look at the matter from a proper scientific basis, and it seems to me that once you give over power to the Central Government it will be very difficult to restrict it by this Constitution. In other words, to give an illustration, if we give over the railways to the Central Government, it seems to me that to put in the Constitution specific restrictions upon their powers to deal with the railways would be difficult upon a scientific basis. At the same time our work will bristle with unscientific things which are necessary for the work we have to do. With regard to Customs and taxation, we all agree that the
powers should be given over. I must dissent from the very interesting speech by my hon. friend Mr. Henry in thinking that a moment could be lost from the time this Constitution comes into power or the general election takes place. Not a moment should be lost in giving over those necessary powers.

Sir PHILIP FYSH:

Hear, hear.

Mr. MCMILLAN:

And as to allowing a long time to people to get used to certain conditions and not hurry them, it is kinder to be often hurried, so that matters may, soon reach the new level. At the same time there will be an enormous difficulty in dealing with the tariffs. You will have a certain surplus to give back, and this surplus will have to be of a definite character. You will have a certain central revenue to provide for, and you must make the Customs sufficiently large and expansive to work all these different things. Therefore it seems to me that we ought to have, for the first five years, a tariff upon very broad principles, and leave it for the future to find out all those differentiations-if I may use the term-which may guide us to a purely freetrade or a purely protective tariff. The tariff of the first Parliament will have to be met by certain broad, liberal principles to carry on the finances of the country, and not with any distinctive policy. The post and telegraph departments are, of course, to be given up. There is no logic in giving them up, but, as a matter of necessity and convenience and safety. We do not expect to get any revenue out of them. It would be absurd to expect a surplus from the Central Government. With the necessities of modern life we want quickness of transmission and absolute secrecy of postage.

Mr. DOBSON:

When will you fix it that the tariff of the new Parliament should come into operation?

Mr. MCMILLAN:

I do not think any Parliament will cause any tariff to come into operation at once. They would probably make it come in twelve months after it passed.

Sir GEORGE TURNER:

You would have that effect because when you increase the duties would it not have the effect of swamping the country by the goods imported in the meantime to avoid the duty?

Mr. MCMILLAN:

It might; but I have found that there is not such a tremendous amount of
such operations carried on as most people imagine.

Mr. TRENWITH:

That is not the question before us.

Mr. MCMILLAN:

It is not; but very often a question of immediate financial need takes place, and, under that, consideration is not given to the traders, because the Treasurer feels that every day he is losing that which would come in under the new tariff. I do not think he would be, but what he lost in one way he would probably gain in another. Now, I come to a question which is one of the most practical and one of the most interesting, of the whole of the matters before us. That is the question of the surplus. Now, this question is very intimately bound up with the railways. I should like first to refer to the error made in the Bill of 1891. In that Bill the following will be found, and I consider myself as responsible as anyone else for it. In the Bill of 1891, in the portion dealing with finances, it says:

And the surplus shall, until uniform duties of Customs have been imposed, be returned to the several States or parts of the Commonwealth in proportion to the amount of revenue raised therein respectively.

Of course, if that were done it would simply mean the ignoring of the differentiations of expenditure. In my addresses to the electors of New South Wales I put as concisely as I could what I thought the words should be:

Each State would be credited in the first instance with the whole of the revenue derived from taxation on services taken over by the Federal Government. It would then be debited with either the actual expenditure on such services or the amount each State would appear to have saved, according to its latest Blue Book of annual expenditure.

In addition it would be debited with its own proportion of the cost of the Central Government pure and simple. Supposing the revenue that you get from one State was £2,000,000; supposing the expenditure was £500,000; then there would be £1,500,000 returned to that State, less its proportion, according to population, of the expenditure of the Central Government. Supposing its proportion was £200,000 then £1,300,000 would be returned to that State; and there is no doubt that as the matter stands at present you could not have a fairer or more equitable system, because it exactly puts each State, apart from its contribution to the Central Government, where it was before. But when you come to look at what would be the result in the future if you admitted a population basis, the whole thing would fall to the ground. Many gentlemen have said:

Let things go on for the first twelve months or so till the Federal Parliament has made its own tariff, and then divide the surplus on a
population basis.

I will tell you what would happen if you did that—New South Wales would gain £319,500.

Sir GEORGE TURNER:

Is that considering a uniform tariff or the present tariff?

Mr. MCMILLAN:

I am taking it this way—the average per head of population at present means a range of figures, as I have already pointed out, from £1 8s. 7d. to £4 16s. 8d. The average per head is £1 13s. 7d. Therefore the simplest way is to take the distribution for each colony on the basis of £1 13s. 7d. per head, and I will show what the results would be if that were done on a purely population basis. I will take the first case fully. New South Wales would get now, under the system I have outlined, £1 8s. 7d. per head, and, by the average system, £1 13s. 7d.; therefore New South Wales would gain £319,500, Victoria would gain £9,800, Queensland would lose £184,200, South Australia would gain £143,000, Tasmania would gain £27,500, and Western Australia would lose £319,300. These figures show clearly that you cannot have any definite arrangement at the present time, and it seems to me that I am asking for a temporary solution of the difficulty when I suggest that we must take as a basis the time when the Commonwealth Bill comes into operation. In the first place the whole of the revenue from each State which would be handed over to the Federal Government would be credited to that State. It would then be ascertained what would be the amount saved arising out of the expenses of management, and from the balance thus accruing would be deducted the special charges for the Central Government. The scheme I suggest is the only way in which we can keep the finances in touch with each State Parliament.

Sir WILLIAM ZEAL:

Are yours hard and fast lines?

Mr. MCMILLAN:

I say for a period. If hon. members look at these figures they will see that they can lay down no scientific rule, but you must give to these State Parliaments and Treasurers a specific sum that they will be absolutely able to calculate upon. Therefore, as I said early in my address, we must resort to unscientific expedients.

Mr. DEAKIN:

Why not give them exactly the sum they will surrender by the loss of their Customs and post office revenue?

Mr. MCMILLAN:
I might do that exactly, but you cannot without paying the cost of administration. After the Central Government has calculated what it has spent itself, it would return to each colony the balance, after deducting per head the charge for the Central Government.

Mr. O'CONNOR:
How would you ascertain what proportion they have contributed?

Mr. MCMILLAN:
By a bookkeeping system in the first place, or by their own Blue Books, from which it can be ascertained for any colony in the group.

Sir WILLIAM ZEAL:
From the present Blue Books?

Mr. MCMILLAN:
Yes; or by the Blue Book for the year previous to the Commonwealth coming into existence. Now, as regards this fearful attempt at national accounts, this terrible analysis of all classes of expenditure; much, as a business man, I am fond of this sort of thing in some ways, I say it would be impossible, as a federal matter on true federal principles, to bring about such a system, and I imagine that another item of expenditure would be necessary if it were adopted—a vote for a lunatic asylum. Now there is another error into which some of my friends, for whom I have the greatest respect, have fallen, and it is this, they have got elaborate plans for covering up this surplus. They say that if you eliminate a certain amount of the States expenditure and pass it, with the liabilities or without the liabilities, to the Central Government, you get rid of this vexed question; but suppose you cover up that surplus, you only do so for a time. Do you think that the population, the revenue, and the material progress of the different States are going to stand still? In five years after you cover it up it will come to the front again. There is no analogy in our position and the position of the United States, and if you say that this surplus, which will be a continual matter of bickering and ill-will, can be covered up in this manner, you mistake the whole thing.

Mr. BARTON:
Does not the cost of government usually increase as the Customs revenue increases?

Mr. MCMILLAN:
There is a large amount of surplus Customs revenue which has practically nothing to do with covering up the expenditure on particular matters handed over to the Central Government, and this revenue, of course, you cannot discriminate in regard to the different points. As the country increases in connection with the development of its land, and the
populations are doubled and the money is required, the States will say: "We are giving you double Customs revenue, and our people are paying double for certain services." Under present circumstances, as far as it is possible to forecast, I say that this thing must be continually cropping up and causing trouble.

Mr. PEACOCK:

Unless you give them the railways.

Mr. MCMILLAN:

This brings me to the question of the railways. Now I want to lay this down, that you have to debate every question on its merits, and that it is a bad thing politically, as in other things, to try to get out of one difficulty by getting into a bigger one. Before I touch on the question of the distribution of the surplus Customs duty, I may say parenthetically that I will call attention to the condition of the railways a little more closely than has been done by any member up to the present time. As a man of business, and

An HON. MEMBER:

And partially Queensland.

Mr. MCMILLAN:

I will preface what I am going to say by remarking that I would put in the Constitution the power, subject to the adhesion and will of the States, to take over the railways and make them a federal property.

Mr. BARTON:

A clause in the Bill of 1891 covers that.

Mr. MCMILLAN:

I wish to point out from a political point of view, as I said a short time ago, it is a very difficult thing, once you give over power, to restrict it. Once you give over the railways to the Federal Government, you give over a great power. You are dealing with a sovereign national power, and I doubt very much—although I am willing, as I said, not to stand upon any doctrinaire views—I doubt very much, if we put in the Bill that we give over the railways, we can impose restriction upon them afterwards. There are other things. Suppose you have a large inter-network of railway communication, do you not think that the very working of these railways by a central political power would interfere with the character of the local life; and do you think it is a wise thing to have a great body of servants running over the whole of the colonies—not like the postmasters—but a great army of servants practically dominating the highways of the country, and quite independent of local opinion? Do you not think it is dangerous, and do you not think it is a great political power? Would
anyone like to see the enormous railway systems of the United States under one executive? There are now 70,000 postmen in the hollow of their hands, but would anyone like to see half a million of men dominated by a central power? I say this Convention is not competent to draw up any scheme of the kind. We might sit here for twelve months and not arrive at a solution. The difficulty would be to make safeguards. There is a close connection between the settlement of land and the making of railways. In New South Wales we have two-thirds of the territory unalienated from the Crown, and we get two millions of revenue from it; and we want to make that land, which in many places is a desert, to flower like a garden; and we think that large schemes of irrigation ought to be the handmaiden of a railway system. In times gone by irrigation should have gone hand in hand with the railway system, and from that very point of view at the present moment I am strongly of the opinion—much as I like this general control under one head—that it would be unwise to place the railways under the Federal Government. There is another reason. It is a simple thing to say, "Give over the railways to the Federal Government," but we cannot give over the railways without giving the Parliament power to construct in the future and, in the first place, as a matter of common sense, is it likely that a central body is better able to judge whether lines are needed in provinces than the provinces themselves? Some people have said:

Oh, give over the railways to the Federal Government, and then make your own branch lines on your own account.

That is to say, make a branch line on your own account that would not pay for ten years, perhaps; and then when it begins to pay hand it over to the Federal Government, or, as one proposal puts it:

The Federal Government should build the railway, and charge you annually with the lose,

Take a practical case. Supposing your railways pay 3 3/4 per cent. on the capital, you can raise money at 3 1/2 per cent., and you want to construct a railway into part of your own territory for productive purposes. If you borrow your money at 3 1/2 per cent. and your railways yield 3 3/4 per cent., you can afford to lose for ten years on that branch line; but if you make and own an isolated fragment you lose year by year.

Mr. LYNE:

What about uniformity of gauge?

Mr. MCMILLAN:

No doubt there are many ideal things we should like to see in Australia. No doubt we should like to see an ideal Federation. But before I come to the break-of-gauge question I would like to ask any of the hon. members who know of the unfortunate bickerings, the log-rolling, and the
heartburning which occur in our local Parliament when the Minister of Public Works brings down his railway budget, is that going to be any better, but will it not be intensified in the case of a fight between the two Houses in regard to the construction of any line of railway under a Federal Government?

Mr. FRASER:

Does not your standing Railways Committee propose these works?

Mr. MCMILLAN:

That is all very nice, but the Government has to initiate them. Our Standing Works Committee has been very wrongly used. It is simply a check for the House on the Government, but unfortunately Governments have been too prone—when their followers were anxious to get some of their beautiful lines of railways—to say:

Oh, very well, we will hand it over to the Public Works Committee, knowing very well they would never hear of it again. But the Government must ultimately take the responsibility, and the Government under a federal system would make all its lines on federal principles. It would make its lines to pay, and if you wanted a non-paying line you would have to construct it yourself.

Sir WILLIAM ZEAL:

Could you not refer the question of making these unproductive lines to the States Parliaments?

Mr. MCMILLAN:

No; you could not do that. I feel that I have already occupied more than my fair share of the time.

Sir GEORGE TURNER:

Well occupied.

Mr. MCMILLAN:

I have not altogether finished with the question of railways, and I come to that interesting matter, railway rates. There are three distinct kinds of rates now understood amongst the railway managers. First there is mileage, next there are differential rates, and lastly there are preferential rates. If the whole railway system of a country, or series of colonies, could be worked on the basis of mileage, it would simplify matters very much; but at the same time I am advised by railway experts that it would be impossible to carry out any system of railway on business principles unless you had differential rates. It will be clear to everybody that as you advance in the civilisation of and the opening up of new country, you must give inducements of a differential character to enable people who take up their abode there and relieve the congested condition of centres of population to
compete with those nearer the market. With preferential rates we have a
different matter before us. They simply mean this, that you try to induce
trade through your territory by giving greater advantages to your neighbors
than you give to your own people. I think there should be a very specific
clause in our Constitution Bill absolutely abnegating that principle, and I
think that in the Constitution there should be power, subject to the consent
of the individual States, to take over at any time the railway systems, which
will practically satisfy all those who are advocates of one uniform system.
It does not follow that the future should be a political system at all. I look
upon the Central Government as a great negotiator in regard to questions
between States, and there is no doubt that we should have in it one high
centralising power instead of a lot of disconnected atoms, able to deal with
the different colonies on the basis of common sense and mutual interest in
bringing about settlements for the benefit of all. I look forward to the time
when this great railway system shall become a similar network to that you
have in the United States, and one central system outside political control
will dominate the whole of the railways of Australia. Now, I come to the
question of gauge, and this again is a matter for the future. If it is to be
found as a great national object that we should make a uniform gauge for
military and other purposes there is no reason why a grant should not be
made by the Central Government for this and other purposes according as
the necessity arises. What I mean to say is that the question of uniform
gauge is not one that is absolutely set aside by our not handing over to the
Constitution the control of the railways to the Central Government. It is a
matter that will have to be done gradually. It will probably be commenced
with a grand trunk line for military purposes, and then no doubt ultimately
the 4ft. 8 1/2 in. gauge will dominate the whole of the Australian system.

Mr. HIGGINS:

Is not far too much made of it by military men?

Mr. MCMILLAN:

I do not know. It does not matter so much for the transport of troops; but
for the munitions of war it means a terrible waste of time to have to
transport them from one system to another. I hold, as I said before, that this
is not a matter which this Convention can deal with beyond the boundaries
I have indicated. When you have this Central Government, with the ablest
men connected with its administration from all parts of Australia, we shall
have a better basis to act upon than any basis we have at present. I shall not
touch on the question of trade being diverted along the waterways of the
different colonies. We can better leave that matter
to the Committee. I now come to the question of the debt of the colonies.
We must recollect that the debts are divided into two parts. First you have the great railway debt of the colonies, which at the present time, taking Queensland into consideration, is £110,332,778, but outside of that is a debt of £69,412,307; and it is a very proper thing to keep these debts separate. These debts of £69,412,307 differentiate themselves into two parts. Of course a great mass of these debts have been incurred for reproductive works, but when you speak of reproductive works you use a big word and a loose term. That divides itself again into what you may call interest-bearing assets, and others; because in many cases, under democratic rule, many things which were self-supporting have been swept away, and are now a complete charge on the State Government. Speaking of the surplus which will have to be handed back to the colonial governments, and which is bound up to a certain extent with the debt of the colonies, I would point out that as the debts come near to maturity, for those covered by a high rate of interest there will have to be some capitalising at a certain rate, and then it may gradually be taken over in that way by the Central Government; but, when we talk of giving over to the Federal Government the whole of the debts for the purposes of consolidation, we scarcely see what a tremendously large order that is. When you consider the various rates of interest dominating in connection with these debts, and when you consider the different times when they mature and all the differentiation, you will see that the task of making a complete scheme now is utterly beyond the power of the Convention. It is very well to talk about consolidation and having a process of conversion by which you can save half a million a year. You would no doubt save money under a certain scheme if you created a sinking fund, but I do not believe any one of the colonies would, for the sake of waiting twenty years, increase the capital debt for all time. Who will tell us upon what terms-we can go to the English creditors? Better wait until we have our Federal Government formed. When you have your Central Treasury, and your Central Executive composed of the beat talent and knowledge of Australia, and when you have your Agent-General, or whatever you may call him, for all the colonies-when the English people hear you speak with the voice of one people-you may be able to draw up a scheme for the conversion of your debts. I must say that the only common-sense scheme up to the present time is to allow these debts to die a natural death, to let them mature, and then you can borrow at a rate perhaps far beyond your present dreams. In order to show the position I had a return prepared, from which I find that in New South Wales we have between this time and 1912 £13,082,150 of debt maturing, the interest on which ranges from 6 to 3 per cent., but it is mostly 4 and 5 per cent., although some of it is 4 1/2 per
cent. We have 3 1/2 per cent. stock maturing between 1912 and 1924 to the extent of £29,346,200; so that between now and 1924, which is not a long period in the history of a nation, we have, out of a total debt of

Sir GEORGE TURNER:
Can the States afford to give up that surplus and allow it to be capitalised?

Mr. MCMILLAN:
If the States have to pay so much interest, and if they can capitalise it at the rate of that interest, it will be quite the same operation, but if you form your Federal Government now-and I trust you will—you will not get the Federal Government to buy up at the present rate; but it is possible that, as time goes on, some arrangement, which may entail a little loss to the Central Government and a little to the States, may be entered into. The only way I can see of putting an end to that surplus will be by the purchase of a certain amount of the debt and making it a debt of the Central Government. At the same time it will give rise to a great deal of complication and trouble when we have two classes of debt, and I do not shut my eyes to that difficulty for a moment. It is a difficulty which must be met in the future. It is scarcely possible for the Central Government to carry on without incurring loans for different purposes, and this loan would be a federal debt, and it would be exasperating to see a great difference between the quotations of the stock of the Central Government and those of the different States; so that, while I speak as I do with regard to the practical purposes of the present, I hold myself absolutely free as to any scheme which may be generated in the future. I am sorry that I have taken up so much time. I have nothing further to say, and I do not think I am equal to a peroration, as I have a bad verbal memory; but I do hope that, as the result of compromise and sacrifice in this great Convention, we shall be able to build up a federal power or national government which shall be a strength to this country, which shall reflect from its centre all the best elements of our national life, and which will be so strong and indissoluble as to make us one nation for all time to come.

Sir PHILIP FYSH:
I am afraid that, before I resume my seat, our friends, the representatives of the various Governments, will arrive at the conclusion that, during the past week, in accepting the hospitality of our friends in as happy a manner as I could, I have been too prodigal with my voice, for I have found that, however much I have lubricated it, I believe before I close it will not have the mellifluous tone I desire it to have. Still, voice or no voice, I deem it my duty to express my convictions on the various subjects which are
before the Convention. And, in doing so, I shall attempt to offer no
dogmatic conclusions, but to offer those facts or those opinions which have
been coming to one who, since the 1891 Convention in Sydney, has been
groping, possibly in the dark with respect to very many of those questions-
but while groping in the dark, and not having found the way clearly out of
some of the problems—yet sees daylight ahead of them; and I hope we shall
not go from this Convention without having prepared for the people that
for which I believe they hope, and after which they aspire—a deed of
partnership which shall be regarded as the national will of the Australian
federated people. But I find it desirable before I launch out into
generalities, or rather, in avoiding generalities, if possible, to follow the
admirable direction which has been given to our thoughts this afternoon
and this morning by my predecessor and friend, Mr. McMillan. I had
thought up till this morning that really some of the most difficult questions
with which we have to deal had not been touched upon, or, if touched
upon, not in such a manner as possibly we should desire, and in such a
manner as to carry weight, if not conviction to those whose servants we
are—the people of Australia. My friend Mr. Henry essayed to do so, but he
arrived at his conclusions without having given us the figures which led
him to them; and therefore, to that extent, a great portion of his conclusions
will perhaps not be so useful as I had hoped they might have been. If I talk
about being useful in this sense, I fear I am rather bringing hon. members
to anticipate that which can hardly arise. I am not prepared to bring
conviction

home to their minds upon the various fiscal problems which are before us.
I do not think, up to the present time, there has been any solution offered.
We shall only find the solution of the fiscal problems in the experiment
which is, here, or in the experience which must come to us by time, if even
that time be soon or in two years. There is such an ever-changing position
in our Blue Books and the information contained therein; there is such an
ever-changing population of the people, and with it an ever-changing state
of our fiscal matters, of our Customs, and various other revenues, that to
attempt now to state for the information of the people what may be the
result of a Federation, even although this Convention advances lines upon
which your financial representation shall be drawn up, we shall arrive at
conclusions safe for to-day but absolutely unreliable for to-morrow. I have
watched during past years the changes which have taken place in the
colony of Tasmania, with which I am so proud to have been associated for
so long a period of years, and with whose life and progress I have been
connected. I have therefore been able to watch, and I have seen during
three or four years statements which have been made with respect to the accounts between the Federation and the State which would be alarming in the extreme, and yet perfectly equitable. The statement made in 1891-when our Customs revenue was 25 per cent. higher than it was in 1894-the statement and account between the two parties would have shown to Tasmania that she was in a happy, a thriving, and prosperous condition, and might possibly have led her to presume on surpluses the Federation would have given back to her, and she, thinking she had many good years before her, might have been led into public works and other extravagances. But only a few years have rolled by, and a great change has taken place, and we find, after making up a balance on the same lines - on the figures represented by the consumption of the people in 1894-what a miserable failure there would have been. Then, if we turn to our friends in Western Australia, and look at their proportion of Customs duties, we find that, owing to the influx of population which has been credited to them month after month at the rate of 1,000 a week, without enlarging their Customs tariff, they are receiving £5 12s. per head per annum; whilst, so far as this colony is concerned, in 1894 the amount was £1 9s. per head; as far as New South Wales is concerned, it was £1 19s. per head; as far as Queensland is concerned, it was £2 12s.; and, so far as Victoria and Tasmania are concerned, it was about 40s. per head. Here you see we have a variety of circumstances associated with the various colonies, showing to you at once that there is no common basis upon which the accounts between the two can be stated, unless we are going to do one of two things. We shall either have to adopt the system of accounts, the bookkeeping which my friend Mr. Henry so much objects to, or the system against which I have already presented several figures. We began with Sir Thomas McIlwraith's proposal in 1891. Sir Samuel Griffith followed, I followed those two, and since then we have had Mr. Nash, Dr. Quick, Mr. Henry, Mr. Owen and our friend Mr. Walker here, all of whom have tried to elucidate the problem of giving to the people the balance they have considered reliable for the time. But there comes my difficulty, that in attempting to portray how fair it might have been, or how equitable might have been the figures of Dr. Quick, or Mr. Walker-and I believe they have been founded on equitable bases-they failed from having no instructions from a properly constituted body as to what should be the basis of the calculations so made. Until the Convention will make a line of demarcation and tell the Financial Committee on what lines it should proceed, I hold that it is impossible for the Financial Committee to begin work. It commenced work in
1891 without any such instructions. It came to conclusions, but with those conclusions we have never been satisfied. And if I may appear to cast difficulties in the way, though my great desire would be to clear them away, yet I want, in casting these difficulties in the way, to show the members of the Convention that the matter lies very much in their own hands, if they will give the proper time to their consideration. I hope my friend Sir John Forrest will not only concede to me and others that this matter is important, but will realise that I have no desire to weary our friends from Western Australia. We are glad to have them here. We all want to get our work done as quickly as possible, particularly as some of our friends are going to leave us. We have our own Parliaments waiting for us, and we had better solve this problem of our financial position before we leave this chamber; but we can solve it only by a series of resolutions given to the Financial Committee. First of all, the question which I believe drew us to this chamber to-day is the question of whether we are to be one people financially or not, the question of whether we will get rid of the border duties, or whether we will have this perpetual war of the tariffs; and I hope the presence of members to-day is an indication that we are determined to break down the border Customs, so that at any rate, as far as that is concerned, we may be entirely one people. The question is, how are we going to return Customs receipts to colonies at so much per head of population, or in proportion to the amount which is collected in each State. I hardly followed Mr. McMillan when he said he differed from the Bill of 1891. I would like to follow Mr. Holder, and cut the Gordian knot. I am so thoroughly a federalist that I would be prepared to say, "Let us consider ourselves a new people gathering together for the purposes of the future, disregarding the advantages which each has gathered, the advantages which have come to New South Wales by reason of her hundred years of life, so that we may federate with others who have had a shorter existence."

That would be a federal start, but we can hardly expect that to-day. We know the foundation of the movement is selfish personal interests, and we know that only the leaders of public thought can minister to the federal spirit, and advise the public, and lead them on into the consideration of all the advantages of Federation. We hope that we will no longer be parochial, but will be one people united together in finance, defence, and everything else. I fear that the proposal for keeping State accounts - bookkeeping between each State and the Federal Parliament-will be the only solution, much as I dislike it, and it may be necessary to keep officers on the borders, not to check and examine our brother's luggage as he passes to and fro, but to learn what revenue belongs to one State and what to another. Much as I dislike that, I fear we have not yet arrived at any better method.
When we have arrived at that stage the proper solution will be to give back to the State in the proportion in which the duties have been collected in that State. That would be a true Federation. Although you may have a uniform tariff, even then you will find a dissimilarity between the consumption in one State and the consumption in another.

Mr. BARTON:
Not for long.

Sir PHILIP FYS:
Take Queensland, for instance, with its great number of the working classes, with their freer habit of drinking whisky and smoking tobacco; although this may appear to be a detail, it is a very important detail, seeing that the duty on tobacco and spirits is nearly one third of the whole of the Customs duties of Australasia. And when we remember that the spirits consumed in one country amount to six gallons per head, whilst in another country they may only amount to three gallons per head, we can easily see that even at the same rate of 12s. per gallon on spirits, the consumption in one country will very much exceed the consumption in another, and make very disproportionate the amount received for Customs duties in each district. For such reasons as these, as far as Western Australia is concerned, I conclude with regret there is no hope of that colony joining in Federation at the present moment.

Sir WILLIAM ZEAL:
Let her representatives speak for themselves.

Sir PHILIP FYS:
It is our duty to anticipate possibilities, because, if you are going to refer these matters to your Financial Committee, that committee should know whether there is any prospect of Western Australia being included, because it makes so serious a difference whether she be or not. But if she is going to be included, and will come in on terms of equality, let us know it in order that the Financial Committee may better be able to see what is equitable between the States, and between a colony which is growing in population so rapidly and those which are developing more slowly. Then it becomes absolutely necessary that your committee should receive instructions under the head of "excise." We are a people at present who can consume 170,000 tons of sugar per annum. I have it from Sir Hugh Nelson that, in the course of the next four or five years, Queensland will be able to overtake the whole of that demand. With an average tariff of £5 per ton on sugar-in some places it is £6 per ton, and in Western Australia it is nothing—this item is a very important one to deal with, producing as it does £850,000 of revenue per annum. If, therefore, we are to have a uniform
tariff, what instructions are you going to give your committee with respect to the question of excise?

**An HON. MEMBER:**
That tariff can be put on some other article.

**Sir PHILIP FYSH:**
We cannot afford to forego £850,000 of revenue on sugar. We cannot afford to forego the revenue we are now receiving from brandies and spirits manufactured in the colonies, and therefore if we are going to deal in a spirit of equality at all with our neighbors who manufacture these articles, it must be on the lines of giving to them certain advantages which will bring them within the Federation.

**Mr. GLYNN:**
You shift the receipts from one line to another.

**Sir PHILIP FYSH:**
How can you shift a receipt of that nature? Are we going to give to Queensland a direct bounty of £850,000 per annum, and let the remaining States be bereft of so important an amount of revenue.

**An HON. MEMBER:**
We virtually give it to our people, not to Queensland.

**Sir PHILIP FYSH:**
We do give it to our people, but we cannot afford to do it.

**Mr. FRASER:**
Beetroot sugar will be grown all over Australia in a year or two.

**Sir PHILIP FYSH:**
I think it will be better—although I do not mind an interjection or two—to let me proceed on my own course, and from those who differ from me in this matter we should be glad to hear how they are going to cut the Gordian knot and overcome the difficulty as to how the Federal Parliament is going to do with a smaller amount of revenue from Customs, to the extent of £850,000, which amount represents the duty on sugar at the present moment? I am putting these items before the Convention, not to elicit a difference of opinion, expressed by way of interjections. That may be worth something. I do not think that, in proceeding with these resolutions, a "Hear, hear" from an hon. member or silence on the part of a great number is going to convey to Mr. Barton or the Financial or Constitutional Committees instructions as to the purposes of this Convention. Therefore I have gone into these matters to point out how exceedingly difficult is the problem as to the clearest course we should take. An important question arose with regard to the Post and Telegraph
Department, and I was sorry to hear Mr. Holder dealing with the matter in such a provincial spirit. He overlooked the great advantage it will be to the whole of Australasia to have a uniform stamp instead of the different stamps that we have to purchase now when travelling. Is there anything more likely to weld us together as one family than by sending out our children throughout the length and breadth of the land, whereby we federate the colonies and have a domestic interest in each? Is there any better way of federating than to know that, wherever we travel in Australia, the same Queen's head, on whatever it may be, tracks us? By that means we should secure not only the convenience of the public but would set another seal on the proposal that we should have uniformity, and be as nearly as possible one great co-partnership. Then I come to the question of losses on these departments, which it was said totalled £200,000. I have seen a return prepared by the statisticians during the past few days pointing out that during four years the loss was £370,000 a year; but since then we have, by economy in most of the States, and by the extension of business, reduced the loss to something less than £100,000. If £100,000 or £150,000 a year loss is debited to New South Wales and Victoria, whilst South Australia and Tasmania are now making a profit over their post and telegraph business, what instructions will you give to the Committee as to the basis under which they are to be taken over? How is it going to be adjusted? Will they be taken over regardless of whether a profit or loss exists? Standing in South Australia, I am reminded of what its Government has done, and to them we owe our thanks for the very great energy they displayed in putting up an overland line from here to the North. Though done by an individual State, it was a federal work, and South Australia only has been the loser, but I am glad to know now that she no longer is a loser. If we take over her debt, there remains also that sum which she has willingly contributed to the advantages of the people of Australia in the past. Then we come to that serious question of railways; and I may say that I am only glancing very rapidly over these heads. I was very gratified to find, after listening to the thoroughly federal spirit in which Mr. O'Connor addressed himself to the matter, that he and Mr. Wise had re-echoed the sentiment that we are to regard our railways as not giving local advantages to anyone—that the railways incidentally belong to the State in which they are constructed, but should not be utilised to give to one State an advantage against another—which would not be Federation—and therefore I trust the spirit which announced such a statement as this on the part of my friends from New South Wales will be taken up by all of us. Let us see whether it is not advisable that the railways should be regarded from the commercial
rather than the political standpoint. In a small colony like Tasmania, with respect to the railways, I can speak of political pressure which has been baneful, but take the troubles of Victoria during the last few years and her present position of embarrassment in connection with the losses on the railways, or take the splendid position of New South Wales with her 3.34 per cent. profit on her railways, and see the position there. Where are the reports of Mr. Eddy and the reports of the Commission which sat in Victoria a short time ago? We have one friend from Tasmania here, who sat on the Commission, Mr. Grant, and we know from the published reports what the conclusion was. There need be no secrecy in connection with the matter. The conclusion of the Commissioners was, and I believe the conclusion of Mr. Eddy tallied with their idea, that railways should be regarded as commercial, and not political undertakings. So soon as they become commercial enterprises so soon will they be more advantageous to the people as a whole. I do not speak of the railways as wanting them to be thoroughly self-supporting, nor as necessarily recouping all of the interest paid upon them; but I look upon the railways as the adjuncts to the success of the people, as auxiliaries to the success of individual producers and others who receive back by the saving of time they effect and the means of social intercourse which they afford; and if we in Tasmania lose 2 per cent. on the railways we have this knowledge that we could better lose 4 per cent. than be without them. If we took a poll of the people to-morrow and asked if they would return to the old system they would say "no," because of the conveniences the railways afford and the saving of time. It could easily be computed that from the fares charged, rates of mileage, and other charges, even in the construction of our railways the collateral or auxiliary advantages to the people far more than recoup the loss made by the State. I do not desire that the producers shall be in any way denuded of the advantages they have been receiving, but I desire that these shall be separated from the railway and these political levers which have been far too long associated with them; and therefore I think we might adopt the suggestion of Mr. O'Connor and take over the railways, or, if we do not take over the railways as a debt, take up the responsibility of the interest, but we must take care, in connection with the tariff, that we do not in the Constitution give a promise of intercolonial freetrade to the people, while under the railway system they may be robbed of the advantages which they expect to receive. Therefore, if there should be no better way, let us give in our adhesion to the proposal of Mr. O'Connor, and constitute Commissioners who shall settle our tariffs. That involves a very serious point, as to how far the State can be relied upon to carry out the tariff
which will be imposed by the Federal Government. It was a question which was involved in the early days of the American Confederation, when the States, notwithstanding their agreement, and when it was to their interest to support the war, refused to pay their share of the cost and stood aloof. It is a difficulty with respect to this point, but I think our railways might be readily associated with us. Our Federation begins immediately with railways costing £110,000,000. I have cut out Western Australia, as being outside the continental system, and Tasmania, being an island, for the same reason. These railways are producing an average return of 3 1/4 per cent. per annum. on the cost of construction, and therefore the Federation takes over a live asset which, if necessary, could be disposed of to any English company at, probably, thirty years' purchase. The Federation would thus get a good asset for the liability it takes over, and it will have the further value of giving to the people the advantages of a federated system with an equal tariff, as much so in connection with the railways as in connection with the Customs. I think I may pass on now to the next point, and that is the question of the cost of defences. We shall probably be all agreed that the whole of the defence expenditure up to the present time shall be borne by the Federation. If you do anything more than proceed on the lines of the Convention of 1891 you must instruct your Financial Committee that the expenditure in connection with the construction of the various fortifications shall be taken over. You are also going to take over matters affecting quarantine and shipping. If we are going to be the lighters of our maritime highways, a Federal Marine Board will be as absolutely necessary as the existing Marine Boards of the various colonies. If we are going to take over the responsibility of lighting the beacons and wharves, as was proposed in the Bill of 1891, you must give instructions to the Finance Committee to make provision for taking over the cost of those lighthouses, etc. These works must be the responsibility of the Federal Government, if it takes the revenues which are to be raised therefrom. I may now pass to the ques-

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Civil Government and a Federal Parliament. It embraces the Lieutenant-Governor, it embraces payment of members, it embraces a judiciary, and all these expenses; but it is very certain, from the investigations that subsequently took place, that the £639,000 is altogether an extravagant estimate. I cannot follow Sir Samuel Griffith when, in addition to the £639,000, he has added for Lieutenant-Governors' salaries and the Governor-General something like £230,000. I think he must have overlooked the fact that £639,000 had already been provided. It is very certain that, in connection with the Financial Committee, they ought to receive our instructions as to what they are to do with the various expenses which are to be incurred in the payment of members. I presume that is hardly a question for discussion. I have not heard anyone raise the issue. I take it for granted that every member who attends the Federal Convention will certainly have to be recognised as a professional or other man leaving home for business, and must be recouped for the expenditure and loss he incurs. It is very well to attend local Parliaments without pay, and with us we get no pay. We do refund some small amount of expenditure necessary in travelling to and from Parliament; but if the delegates from Tasmania, Western Australia, and South Australia had to follow our New South Wales friends to Moss Vale, or our Victorian friends to Mount Macedon, we should expect them to be paid. Or come to Hobart if you please—I have no desire to see you there, as it is hardly the point or place to be discussed, except for a holiday, and I should like to see our friends there then, especially Mr. Barton.

Mr. BARTON:

It depends whether it is summer or winter.

Sir PHILIP FYSH:

If members are to travel long distances you must have a class of politicians who are ready to give themselves up to that particular class of work for two or three months, and they must be paid. If we give the Financial Committee instructions as to what the Lieutenant-Governor is to be paid we should state in the Bill how that Lieutenant-Governor is to be elected. I shall ask Mr. Barton to bear with me a moment while I refer to a subject of great interest to his mind, though I speak with no authority, the federal judiciary. I remember, however, the speeches of 1891, and the federal spirit which caused Mr. Barton to say:—

Australia should be self-contained.

There are only two or three appeals annually to the Privy Council at home, and our friends dealing with the law have told us that we have upon the benches in Australia men equal, if not superior, to those who sit on those benches at home-
Mr. BARTON:
They have improved in that respect in England since.

Sir PHILIP FYSH:
And that we should not have a system of dragging litigants across the sea to settle a few points elsewhere. If we want to cut down expenses is it not possible, for a number of years at any rate, to have our own Chief Justices as the Federal Court of Appeal. Then we have put down £750,000 as the cost of defence, while we also have a constabulary costing us upwards of £800,000 a year, or altogether £1,550,000

for two forces which are in no way combined, though they might possibly be. Some of the members may remember having read that very interesting article in one of the magazines during the past year, written by a military man who had served in th

No; this is only a tentative measure. Let us see how this takes on. There is no hurry, and, so far as Tasmania is concerned, we must sink half the advantages we must realise, but if you wait for that period of Federation to which we are sanguine the time is drawing near, and if you watch for that time and we get consolidation of debts and unification of debts at 3 per cent., you will be able to deal advantageously as one people. The seven debts will be backed up by the guarantee of the seven States, and when you are in that happy position you will be able to go to the financiers at home and offer them this joint guarantee; you may offer what to you may seem a small advantage, but what is a great advantage, of a larger debt instead of a smaller debt, incongruous though it may appear.

The series of advantages which would come to these colonies by having a unified debt of £220,000,000 thrown upon the English market and dealt with like English consols are dealt with would give an advantage almost at once. I am not speaking only from my own experience, or my own knowledge. I have put forward my own proposals, and I am happy to say I have been encouraged by home friends and financial authorities—encouraged over and over again, right up to within the last month, by those who know the signs of the time, and they say-

If you unify your debt into Australasian console at the rate of 3 per cent., or 21 per cent., and give length to it as well as substance, you will realise all the advantage which the £600,000,000 of the national debt of England is doing.

Sir WILLIAM ZEAL:
Tell us how you would do it.

Sir PHILIP FYSH:
Let me go my own way. I say that the unification would give the
advantage of a larger debt of £220,000,000—or, take the six colonies, £170,000,000—and instead of separate debts, where we compete against one another in the money market, watching that one does not get in before the other, or giving to the syndicates at home 2 per cent., which represents the sum they always expect as the margin between your price and the face value—when we have this one debt we will experience what Mr. Goschen told the people in 1888 had been his experience—that when you offered to the people redeemable stock at short dates the rise in the market was but 4 per cent, while in respect to irredeemable stock of the same face value the rise in the same time was 16 per cent. He quoted that as a reason in favor of long dates. Now I want to speak of the debts of Australasia, and to say that if we as a Federal Government are to take them over there comes the very serious question as to how each individual State is to be permitted to double-bank the debt already in existence. Supposing we are taking over the payment of the interest on the debt. it is certain that all the States must to some extent be prepared to give up a certain proportion of their State rights in respect to unlimited indulgence in debt. Take the example of Tasmania. Presuming that the £7,500,000 of debt is consolidated with the Australasian debt, it would be imprudent for that colony—it would be detrimental to the interests even of the federated debt—that she should be allowed immediately to pile up a local debt which would appear as a second mortgage upon her properties. Although we do not speak of mortgaging property in connection with the national debt, the lender takes as his mortgage the personal covenant of the people to pay the interest. It is only a personal covenant, without a territorial or realty mortgage; but if the people have given their personal covenant to the Federal Parliament for their debt, they should not be permitted to incur a new debt. There should be some check upon it; and I shall ask members of the Convention if it would not be an exceedingly wise thing for the States to bind themselves with respect to new debts. It might not suit Western Australia to do so at present, but I should hail it with great satisfaction if Tasmania bound herself, much as I wish each State to retain as many rights as possible, and the Federal Parliament to take only those which they can manage to the advantage of the colonies. It would be to the advantage of the colonies if, before they borrowed any more money, they had to prove their case to the Federal Parliament, just as the shire councils have to do whose debts are guaranteed by the Victorian Government.

Sir GEORGE TURNER:

No, we do not.
Sir PHILIP FYSH:
What about the waterworks?

Sir WILLIAM ZEAL:
They are national debts.

Sir GEORGE TURNER:
We lend the waterworks money.

Sir PHILIP FYSH:
There are debts in connection with Victoria and each of the other colonies, which are local within the States, in respect to which the local Government are guarantors of the interest and therefore of the debt. How much better it would be that when we as States desire to float a loan for any work, the approval of the Federal Parliament should have to be obtained for it. If the States, without that approval, were still determined to go into debt, they would be thrown back upon their own responsibility and resources. An hon. member has asked me how I propose to convert the debt. I will finish my remarks upon debt-consolidation by saying that in the references to the subject in the Commonwealth Bill of 1891 members will recollect that the little word "may" appeared. There was no promise made for the Federal Parliament to take over the debt, but there was power to do so when it was convenient. I hope we will be able to get into a better position than that during this Convention, and will be able to give some hope to the Financial Committee that if they bring in a practical proposal, instead of the word "may," the Constitution will include the word "shall," so that the proposal I have in view shall take place as early as possible.

Sir WILLIAM ZEAL:
Most of your debentures are held in England, how can you say "shall" to those holders?

Sir PHILIP FYSH:
The hon. member has misunderstood what I was speaking about. I was not speaking of conversion, but of consolidation. If the Federal Parliament would take over the debts henceforth you would have seven names behind the interest instead of one.

Sir WILLIAM ZEAL:
And the debentures will go up in value as a consequence.

Sir PHILIP FYSH:
Undoubtedly. The hon. member has admitted the whole of my case in reference to consolidation. One of the advantages of the consolidation will be the increased facility it will give for conversion.

Sir EDWARD BRADDON:
You can never have conversion unless your stocks stand high.

Sir PHILIP FYSH:

Mr. McMillan put the case fairly to you that if the Federal Parliament does not exercise the power unwisely, injudiciously, or without forethought, when it goes into the market it will find trustees at home who are willing to invest at a reasonable price at the time when the debentures are falling due, because if it gives them nothing else, it will give an equivalent in value to-day for the stock which is upon the market. I am so astonished to find newspaper and other writers writing of conversion as though it was something by which we were going to rob our creditors at home, as if they were such fools that they were incapable of taking care of themselves. There was no scheme of conversion ever put forward that did not give an equivalent when it was optional with the holders. Mr. Goschen in 1888, to all those holders who had a year to run, offered a premium of 5s. to induce them to come in, and although the 5s. did not represent the full amount of difference in the interest, they did come in. Now I am speaking of cases in which it was optional with the Treasurer. It was optional with Mr. Goschen, because the periods had run out for which the interest was guaranteed. But it was not so with respect to the thirteen millions held by the Bank of England, and when Mr. Goschen was asked what about that thirteen millions he made a very significant remark, which members will be surprised to hear repeated:

It is too early yet to talk about force of law.

That latent power was quite sufficient for the Bank of England, with its thirteen millions, and as a matter of Imperial policy, it was its duty to come in. Although it had time to do it, it did not claim the equivalent, and did come in. There have been in this century, in the twenties, in the forties, and in the eighties, three major conversions. The first conversion - Vansittart's - was 152 millions, the second - Goulburn's-249 millions, and the last conversion-Goschen's-500 millions. Then there were three minor conversions-Robinson's, Childers's, and Gladstone's. We call them minor conversions because so little of them were taken up; and in "Hansard" we have the full reasons given for this. I must mention that almost simultaneously with the submission of Gladstone's scheme to the people there were European troubles, and we know when these are brewing they impede financial or fiscal reforms. With respect to the others, people were invited to come in under the terms of the Act which stated:

All those who do not within a certain period give notice that they will not accept, shall be taken to have accepted the terms.

Whether through carelessness or indifference, there was only about 3 per cent. under Vansittart's scheme who did not accept; under Goulburn's only
2 1/2 per cent.; and you know how unique was the result of Mr. Goschen's conversion of 1888. I have pointed out that we are told that as we consolidate and give therefore better security, and as we give a larger amount of capital to work

upon each of these three being great advantages to those who were consolidated and converted—we believe we should realise some of there advantages in the course of our pursuits. The Imperial or National Debt stood for a long time at about £800,000,000, but during the past thirty-nine years over a quarter of that debt has been paid off or redeemed by balances of revenue over expenditure, which, through the instrumentality of the Commissioners for the Reduction of the National Debt, has been used in that way. But upon the top of that there has been £200,000,000 taken up by Government departments, such as the Post Office Savings Bank, and so they have reduced the debt to an investment stock of about £400,000,000, or just one half of what it was thirty-nine years ago. I have it on the best financial authorities in connection with this conversion that we have come to this condition, that for years past, although the English people have been accumulating half a million of money a day, or £180,000,000 a year, there is no increasing stock for them to invest in safely, but, on the contrary, an absolutely diminishing stock. You put yourself, therefore, in the position that if the colonies during the next five or ten years go to the English market for two hundred millions of stock, unified in the way I have described, we can place Australian stocks in equally as high favor as the Imperial consols, and in a superior position to those of any other part of the world. I should like to remind members of the splendid position we have already reached with our seven separate debts. In May last I had occasion to value the effective rate of interest on the bases of the Stock Exchange prices of May, 1896, and I found that for Imperial 2 3/4 per cents., which are to fall automatically in 1893 to 2 1/2 per cent., the effective rate of interest was £2 2s. If you went into the market and bought at the prices of the day—about £112— the value you would be receiving for the money, after getting up an annuity to pay for the premium, was £2 2s. The position of the United States was £3; the position of the great Germanic Confederation was £3 1s. 3d.; and the position of the Australian Colonies under the Crown, enjoying the advantages of associations with the largest and most important commercial centre of the world - Australasia, small though she may be, only equal in population to Canada, only equal in population to the people of America when she took up her Constitution in 1787 - theirs was 3,900,000 and we are 4,200,000 - yet we stood in the most advantageous position of being, so far as the effective rate of interest was concerned, next
to the mother-country at £2 18s. 3d., and happily for Tasmania, she stood at £2 16s. 6d. So that here you have your colonies already standing next in importance to the Imperial consols, and when you carry out the purpose, which I hope is in the minds of many besides myself, I am perfectly satisfied our stock will be as popular as Imperial consols, with every possibility of our gaining money for our use at as low a rate as Imperial consols carry. I think the conversion, if effected, would bring about a saving of about £800,000 per annum. I have taken care to publish a statement with respect to this conversion, and I can really not occupy the time of the Convention by doing more than call attention to the fact that, in December, 1895, the debt of the colonies, including New Zealand, was £210,000,000, on which the interest amounted to £8,100,000. A capital value of 3 per cent. par would have added £25,500,000 to your debt, but by it you would have reduced your interest to £7,000,000, or you would have saved about £1,000,000, and you would have had to have put by £225,000 a year, or nearly a quarter of a million as a redemption fund, and you would have to make proper provision year by year for the premium which you would have to give to the holder as an equivalent for what he was holding. This would have brought about a saving of £837,000 per annum for all Australasia.

Sir GEORGE TURNER:
Do you allow anything for expenses?

Sir PHILIP FYSH:
No; but what is the position of the holder of the stock? He was holding a face value of £3 10s. per cent., for I worked it out at that figure, and I was to give him £110, according to the market value at 3 per cent. on which the Government would put by a sinking fund. Proprietors and trustees immediately would have received a face value of £110, which would have given them £3 6s. per cent., and which would have left me a margin of profit. I have pointed out that in the course of fifty years we would have to pay it off, but it would place the people in the position of being in possession of money at 3 per cent. for public works on which we have been paying 5 and 6 per cent. This is a matter for the future Treasurer to consider. was glad to find Mr. McMillan speaking as he did, but these matters must be brought to the front, and the purchase can only be carried out when you have one people, and so soon as you are in that position so soon, I am satisfied-unless there should be some serious change in the financial matters of the old world-will you realise the advantage of saving that £800,000. Not only that, but it is generally admitted by all writers on fiscal matters that you will certainly save 1/2 per cent. by reason of your
unification. I will not pursue that matter any further, and I have just opened it in order to give members an opportunity of considering it. I have explained that I desire that a tentative instruction should be given to the Financial Committee before it proceeds to work to bring up a report on this matter. No body of men selected from this Convention can attempt to bring up a report unless it knows the minds of the great majority of the members; and to bring up a report before the various statistics are provided for us which the statisticians are preparing, and which would be recommendations possibly of the Financial Committee, would not be worth anything. I can see the element of discord in the Financial Committee before we start-how one is leaning in the direction of no accounts to be kept, another tacking on the railways, and another something else; and these incongruities must be settled before the Finance Committee can undertake its work. Turning to the Commonwealth Bill of 1891, I see around me friends whom at that Convention in that year I met for the first time. I am glad to see them here again. From South Australia there are yourself, sir, with Sir John Downer, Sir Richard Baker, Mr. Gordon, and Dr. Cockburn; from Victoria, Mr. Deakin; from Western Australia, Sir John Forrest, Mr. Hackett, and Sir James Lee Steere; and from Tasmania we have also a large sprinkling of the members of the 1891 Convention. What does this mean? Does it mean that there is any mandate from the people that we shall come here to destroy the Bill of 1891? I hear some hon. members talk as though they were sent here specially to destroy that Bill, and yet they come and address themselves to this question. The people, to a large extent, expected to have the main features of the Bill, and sent us to see how far it could be amended. I consider, however, that we have made considerable progress during these six years, and have far more hope to-day of bringing to a happy fruition this Federation than ever before. We are indebted for the resolutions of 1897 to our friend who took so prominent a part in the 1891 Convention, Mr. Barton; we have given him the highest post of honor as Leader of this Convention. We have had the benefit of his thought and his conclusions, arrived at satisfactorily, stage by stage, solidifying them as he went on. I congratulate him on the fact that New South Wales, who did not appear to be leading in this particular movement, has come to the front of the movement at last, and taken seriously the whole matter into her hands. In respect to the resolutions, we see only the offspring of the 1891 resolutions. What change have we from Sir Henry Parkes's resolutions? I have looked around for the Premiers who were at that gathering, We miss Sir Henry Parkes and Sir Samuel Griffith, Sir Harry Atkinson, Mr. Munro and Mr. Playford, and Sir
John Forrest, and I only remain of the seven Premiers then present. I well remember what took place in respect to the resolutions of 1891. They were framed in Sir Henry Parkes's office in a spirit of liberality. Now, these resolutions of 1897 are almost akin therewith. Mr. Barton certainly has put in one clause with respect to the recognition of the territory of the States, and he has amended another in one respect as to the power of the Senate by striking out words which were inserted in 1891. The 1891 Bill said the Senate should have the power to reject, but not to amend, but Mr. Barton's proposal is silent as to the Senate having any power to reject or to amend. Round these points-and they are the only two-we have had a great deal of discussion, on one point particularly, and I feel it to be my duty to roughly run through several of these great points of difference, because I should be exceedingly sorry for the Convention and Australasia to regard Tasmania as being at all represented by what I must tell Mr. Dobson was the illiberal spirit of his speech with respect to what should be the method of representation. I am so thoroughly at issue with him on the subject, and so many in Tasmania will be at issue with him, that I must say we do not understand his principle of one vote for manhood, one for thrift, another one for double thrift, and another for some particular advantage our great grandmother left us in her will. We do not believe in anything of the kind, but we do believe in one man one vote, though it so happens we have one man and twelve votes. Still we come here as the representatives of one man one vote. In Tasmania we have many electorates, and as in a great many the elections occur on the same day, only in a few is a man able to exercise his vote in more than one, and we practically reduce it to one man one vote. But I am reminded by my own experience that the system is a bugbear, a bogey, that it makes no difference whatever. I have taken out the numbers, 1,200 voters of one House and 1,500 voters of another, who have more than one vote. I have known them to record their votes, and if my friend Mr. Nicholas J. Brown were here now he might recall the positions when he and I were in antagonism, and I would give him the benefit of being a true conservative and take for myself whatever disadvantages there is in being a true liberal-I do not think we know much of radicals in Tasmania. I will state what was discovered, and it was what Disraeli discovered when the Ballot Bill was introduced. The liberals thought they were going to intercede for the working classes and agriculturists, and free them from their fetters. But they found they were not in fetters. The ballot Aid not cast for the liberals, but for the conservatives. There is in fact no homogeneity to be discovered with respect of any body of men; and even here, where you have organisations of trades unions carried on as you have, you may have homogeneity for
particular purposes, but as a rule these bodies are politically heterogeneous. Mr. Brown and I divided the men who have twelve votes. I have no doubt about it that when the time comes we shall give up our present system gladly. We are running in the direction of voting as our neighbors do. If we have been a good old tory country in the past, how can we continue to be so when Victoria is constantly sending her miners over to us imbued with the knowledge that they have voted on manhood suffrage, and when we are sending our manufacturers to them to learn the advantages to be obtained from that system? These people are so intermingled that so surely as there shall be agitations in one colony which appear to give advantage to the people so surely shall the people in another make the same cry, and the cry shall meet with some response from the Ministry who are servants of the people, and who shall give way, and give the most liberal franchise all round. So far as that is concerned I hope to agree with the proposal put forward by Mr. Barton. So far as the Federal Parliament is concerned we will elect members to it in our way until the Federal Parliament shall step in and give us a new and better way.

Mr. CARRUTHERS:
The elections will be upon a popular footing.

Sir PHILIP FYSH:
We will elect the members in our own way, and of course it will be on a popular footing; and directly we become a federated people I hope the Federal Parliament will give us an Electoral Act, so that we may be elected under one qualification; and here I do not think Mr. Holder foresaw what would be the result if the other States took up the same provincial position which he took up. I use the term with apologies to him, because he is a man so broad, and brought up in a liberal school I would emulate, but in speaking of Federation I try to get rid of the parochial idea, and forget South Australia, Victoria, Tasmania, and know one name only, and that Australia. That is the spirit of Federation, and if Mr. Holder wants to impose his franchise upon all the others, whether it is one man one vote or includes woman suffrage, he must not take up that position. I hope that the federal franchise will embrace us all so thoroughly that the South Australians will not be disfranchised, will not be so seriously left out in the cold that they will no longer have the federal instincts and aspirations. I can contemplate what might be a cause of contention if we each took up separate lines of argument. Now I come to one of the most important lines of argument we have to discuss, and that is responsible government. Now, I followed our friend Mr. Isaacs right through that academic, historical speech of his, and enjoyed it immensely, but I kept on remarking "That is
not how I read Bryce," and I found myself on one or two occasions remembering the hon. member as an advocate and arriving at the conclusion that he was biased by his client. I am not an advocate, I am not biased by my client, unless you say that my client is my thoughts. My thoughts have led me in the direction of believing that we must have a Government responsible directly to the people or to the House of Representatives. I remember well what Bryce tells us on this point. He says the Constitution was being framed, at a time when the Hanoverian kings were demanding that which lost King Charles his head—the re-establishment of the divine right of kings. They knew nothing of ministerial responsibility except to the king. So much was this so, that even the great Pitt himself demanded at last that he should be at liberty to introduce a measure for Catholic emancipation—the righteousness of which was delayed for another fifty Years because of this irresponsibility to the people, but the king demanding that the matter should never be heard of again, took upon himself the serious responsibility of trying to see that this was so. Now we know that the king can do no wrong. Someone must take the responsibility for him, whatever he does. Knowing this circumstance of which Bryce wrote, the framers of the American Constitution established three powers - the Congress, the President, and the Ministry—and these were three separate powers keeping check upon each other. The Ministers were not collectively responsible to the President, but only individually; and so in that way the three powers would act as a corrective of each other. But had those people—the framers of this Constitution—the sixty years' experience of responsible government that we have had since the Reform Bill of 1832 how would they have framed it? I am perfectly satisfied that those individual members in this Convention who may not like the reform of responsible government, and who have taken on with the thoughts of such men as Freeman so ably quoted by Mr. Clarke at the last Convention, would not find the system they advocate work out in practice satisfactorily. It sounds very nice, but we know that if we had a body of irresponsible men as Ministers they would very soon be too powerful, and neglect the interests of the State, looking after their own interests rather than the interests of the people. The British people are so fond of these old institutions under which we live that they will never take up with the innovation which is sometimes suggested. They like to have someone who is immediately responsible. Their Constitution is a "codeless myriad of precedents," where "freedom broadens slowly down from precedent to precedent," till at last we have come to the position that, as far as human
matters can be perfect, we are attempting to perfect the ministerial system, and our people like it. I believe we shall have to live under it. I believe further that it will have a responsibility mainly to the House of Representatives, and that we cannot place the two Houses—as has been suggested under the Norwegian sy

Mr. HOLDER:
That is not more the people's House than the other.

Sir PHILIP FYSH:
I beg pardon. You have been liberalising the franchise of your Legislative Council, I know.

Mr. HOLDER:
This will be the same franchise for both Houses.

Sir PHILIP FYSH:
Supposing it is. You cannot elect them on exactly the same system. You may have the same franchise, but as far as Tasmania is concerned we should get a very different class of men for our Senate elected by Tasmania as one electorate to that which we should get for our House of Representatives were they elected by several electorates.

Sir JOHN FORREST:
Which will be best?

Sir PHILIP FYSH:
Both will be best. There must be a check, and you cannot have parliamentary work checked except by a Second Chamber, and you cannot have that without friction; and when there is friction there is no absolute need of deadlocks. Therefore I am rather at issue with Mr. Isaacs, for I say there need not be any deadlocks. As Mr. Bryce has observed, the Senate of the United States has stood the test of 100 years and has grown in the estimation of the people. Now it is elected by Congress.

Mr. ISAACS:
It is not elected by Congress, and it is not run in the interests of the people.

Mr. BARTON:
It is elected by the State Parliaments.

Sir PHILIP FYSH:
I mean by the Legislatures of the States, as we proposed under the Commonwealth Bill of 1891. I should prefer to follow that practice. We gave way in 1891 with respect to the power of the Senate to amend, but we hope to change our position now, and to give the Senate full power to amend Bills. We can only wisely do that by making the Senate a popular branch of the Legislature. You have made the Upper House more powerful in Victoria, and stopped deadlocks, and we have made it more popular in
I agree with both Mr. Wise and Mr. O'Connor that if we could limit this amendment by the Senate of the Appropriation Bill, it would be far better. There are many other points I wish to touch upon, only they would take up too much time. There are the powers of Parliaments, questions of compromise, the question of election, and the House of Representatives. There is one matter to which I must refer, and that is State rights. I hold as strongly and sturdily to the position as do the members of the United States Legislature to the principle that State rights must be thoroughly conserved and reserved. As to the question of what we shall give to the Federation in our deed of partnership, that is a work which can be far better done by a Federal Parliament than by the Federal States.

**Mr. Higgins:**

That is a true protection of the States.

**Sir Philip Fysh:**

Our protection is to follow the American system. I would have nothing to do with the Canadian system. We must reserve fully our rights, and in the schedule of the Commonwealth Bill will be a list of the powers handed, over to the Federal Parliament. Well, Mr. President, I will not proceed any further; but I have been so imbued with the federal spirit that from time to time as I have gone among my own constituents I have tried to inspire them with a little ardor, and make them think the cause is theirs, and in Tasmania we have men who think the cause is theirs. A large majority of the people there if asked tomorrow "yes" or "no," would vote "yes" with respect to Federation. I hope we will do that which is beat in the eyes of the people and for the colonies; always remembering we are a nation rising out of the wilderness, a people endowed with gifts and institutions which cost our forefathers in the old country years of struggle to secure; that we are a spectacle to the world of what human effort is capable of. Think of what our forefathers have done in building up this great empire. We are the sons of men whose deeds have made the empire. How they fought together, and bled together, as Englishmen, as Scotchmen, and as Irishmen; and suffered in order that they might hand down to us, their children, the blessings of civil and religious liberty! And I ask what are we going to do for the generation which is to follow us? We may say we have built up a great people and country, and be proud of our achievement, but what we have done is but an earnest of what they will do. We have, however, handicapped them with seven colonies and seven voices which are not heard, seven defences not organised, seven Parliaments and seven warring
Sir JOHN FORREST:

I do not propose to address this august assembly at any great length, because I feel that I am probably not so competent to address it as it has been addressed by some of the speakers who have preceded me; but I desire to say a few words in regard to the subject, and especially on a few important points. First of all I feel, speaking on behalf of my colleagues of Western Australia, I should like to congratulate you, Mr. President, and the people, of South Australia, upon the honor that has been conferred upon you, by being elected President of this Convention. I feel quite sure that a wise selection has been made, and we can rely with the utmost confidence on your judgment in guiding the deliberations of this Convention. I have listened with much attention during Friday and to-day to the speeches which have been addressed to this Convention. I should like at once to say that the observations made by me this morning were made with no intention of deprecating the debate which has already taken place. I think it would have been impossible to have undertaken this great work without some introductory debate such as we have had the pleasure of listening to. My observations were directed to the prolongation of the debate on the series of resolutions which my friend Mr. Barton has proposed, because I think that this debate is based on resolutions on which I think we are all agreed, and we may very fitly deal with the Bill of 1891 rather than with mere abstract expressions. I had the honor of being present in 1891 at the Sydney Convention, and, of course, in common with all others who were there, I have an advantage which those who were not present at that Convention have not, because we spent a considerable time in discussing all the points which are being raised on the present occasion. It is only right, therefore, that those who are here for the first time should have the privilege of speaking, and we should have the advantage of listening to them on many of the points, especially on those about which there is any controversy. I am glad to find that there is a general feeling through this
Convention-I was under the impression that there was not—that the Convention Bill of 1891 should be taken as the basis of the measure which we intend to frame. Of course it goes without saying that it would be impossible to construct any measure of Federal Government unless five-sixths of the clauses in the Commonwealth Bill of 1891, either in the words of that measure or words to the same purport, found a place in it, and therefore it is idle for any of us to talk about ignoring the Bill of 1891. I should like specially to acknowledge, and I am sure every one else will do so also, what we owe to those great men who took part in framing that measure in 1891, but who are no longer amongst us. Some have gone to

Undiscovered country from whose bourne no traveller returns, and others are elsewhere; and I have only to mention the names of the late Sir Henry Parkes and Sir Samuel Griffith as being amongst those who are absent. Everyone will admit that it is a matter for sincere regret that they are not with us to assist in the work we are undertaking. Many others also who took a prominent part in the consideration of that great measure are absent. Of the speeches that were made on Friday, one I wish to specially refer to is that of Dr. Quick, which I listened to with great attention. I was struck with this feeling: that it was useless importing into this Bill everything that he thought was necessary in the Federation Bill, for if we all desire to import into a Bill of this kind everything that we think should be there, I feel certain that we shall not arrive at any conclusions at all. It would be impossible for every member to expect that clauses should be inserted in a Bill of this sort which would meet their particular views, and I lean very much to the attitude taken by Sir Henry Parkes and others in 1891, that we should deal in this Bill with the general questions, leaving as far as possible all minor matters to the jurisdiction and control of the States. For instance, there is the great question of the franchise upon which the members of the House of Representatives and the Senate are to be elected, and it seems to me that the plan we adopted in 1891 of leaving the House of Representatives to be elected on the franchise of the more numerous body of the States Legislatures was one that should commend itself to most persons. At any rate, it commended itself to me then, and I have seen no reason to alter

my opinion at the present time. I do not propose to deal with many points to-day, and I deal with a few more readily because I am aware that, having urged upon the House this morning that no time should be lost in getting to the crucial parts of the Bill, it would ill befit me to make a long speech in regard to questions which can be dealt with quite as well in Committee, as
on the present occasion, With regard to the Constitution generally, I am of opinion that it should be based upon the system that we all know so well, and are all accustomed to. That is the system of responsible government. We have lived under it and understand it. It is a Constitution we have grown up with all our lives, and is the Constitution of the great mother-country, and I see no reason why we should run away to the United States or to Switzerland for a Constitution. I prefer to stand by the old British Constitution. Let us try to work it out. I believe with Sir John Downer that there will be an evolution in these matters, and probably constitutional government as we understand it to-day may not be understood as such ten years hence. As it is, the change has been considerable during the last few years, and so it will probably as time goes on, but that we may leave to the statesmen and Parliaments of the future. Speaking as to the representation of the State which is smaller at the present time in population than any other, but which, I hope, will be one of the largest in population in the future, we must look to the future, and we must insist here that equal powers should be given to the Senate in all respects except perhaps as to the initiation of Money Bills. I think perhaps we may dispense with that. I have no objection myself to leave to the Lower House, as we call it, the initiation of Money Bills, but I am not indisposed at the present moment to concede also-I am merely speaking for myself-that the Appropriation Bill should not be amended by the Upper House. I have had, of course, as you all know, some experience of Political life, and speaking as the result of my own experience I should be indeed sorry, after having had the trouble of getting the Appropriation Bill through the Lower House, to commence de novo and go over the same ground again in the Upper House; and perhaps that may influence my views on this point. It seems to me however, that if Federation is to be a real Federation of these colonies, it would not be reasonable—I will not put it any stronger—for the larger colonies to expect that the Lower House, in which colonies such as I represent which have but a few members, should have the sole power of taxation over all the properties of the smaller States, and that the Senate which we send there to look after our State rights should have no power in regard to Taxation and Loan Bills except to reject them. It might be undesirable, nay, even impossible, for the Senate to reject a Taxation Bill. The Government might require the money, and everyone might concede that fact, so that I think the States Council should have the power to reduce the amount. That I think is a reasonable proposition, looking at it from the point of view from which I look at it, seeing the small representation these States would have in the Lower House.

Mr. LYNE:
Has your Council the power to amend now?

Mr. BARTON:

You had a little trouble about it last year, I think.

Sir JOHN FORREST:

We say they have not. In our Constitution at the present time we have imported the provision of the Commonwealth Bill of 1891, by which the Upper House can return at any stage a Money Bill to the Lower House with a suggestion, whether it is an Appropriation Bill or any other Bill, and if the Lower House does not choose to amend that Bill as suggested by the Upper House, the only power left to the Council is either to accept the Bill or reject it. The next subject I propose to deal with is the mode of election of the Senate. We have heard a good deal, and I have noticed that a great change of opinion has come over some of those members who sat with me in 1891. At that time the Convention was almost unanimous that the mode of election should be the mode adopted by the State Legislatures of the United States of America, that is, that the Senate should be elected by the State Legislatures; but I notice that there seems to be a disposition to give up what was almost the unanimous opinion of that Convention, and to adopt some other scheme which may be very good theoretically, but for which, however, there is no precedent, unless perhaps it is the precedent of the elections to this Convention. Now, I am very glad to find that there is a generally expressed opinion that the people have been most wise in the selection of the representatives to this Convention. I am glad to admit it, but at the same time I do not think we should base too much upon one event. I think we want a little more experience than one election before we can form a definite opinion, and therefore I would have liked to have heard the reason why those who voted with me in 1891 for the election of the senators by the State Legislatures—and there were only six who voted against it—have changed their opinions.

Mr. GORDON:

There are three here now who voted against it.

Sir JOHN FORREST:

I am glad to hear that, and probably they have changed their opinions since. At any rate, there were only six out of about fifty who voted against that mode of election. Now it has been stated during this debate that one of the reasons why so much objection is taken to the State Legislatures electing the members to the Senate is that some have nominee Houses. I should think that might be easily got over. If the nominee Houses are not thought well of by the people and are not considered sufficiently liberal I suppose it is easy for the people of the colony to alter the law in regard to
it. I have not heard of any determined attempt upon the part of those Ministries who preside over the destinies of the colonies having nominee houses to get rid of them or change them if they are not satisfied with them.

Mr. REID:
We like the frying pan better than the fire.

Sir JOHN FORREST:
In Queensland and New South Wales they are part of the Legislature of the country and make laws for the Government of the country, and the liberty of the people is entrusted to them, and I have yet to learn that they are not as high-minded, patriotic, and honest, and as good a set of men as any men elected. If they are not, do you think the people in those colonies would allow them to remain and take their share in the legislation of the colony, if they are not satisfied with the way they are doing their duty? Sir John Downer, in his admirable speech this morning, told us if the election of the Senate was by the people that the Senate would be much stronger, in fact it was the only way he saw in which to make the Senate that strong body which he desired it should be. Well, as I just now stated, in the Convention of 1891 only six persons thought that way, and I do not think even they went so far as to say in what way they desired they should be elected; but, at any rate, they disapproved of the plan we adopted. I would like to point out that in the United States of America the Senate has been elected by the Houses of Legislature for over 100 years.

Mr. PEACOCK:
It has worked very badly.

Sir JOHN FORREST:
It is easy to say that, but if it has worked badly why have there not been greater attempts on the part of Congress and the people to alter the system.

Mr. TRENWITH:
Their Constitution is so rigid that they cannot.

Sir JOHN FORREST:
They can if they make a determined effort. The Senate of the United States is a far more distinguished body than that of the House of Representatives in America. If it is elected in a way which is so much disapproved of, how is it that it still retains its prestige? Why has it got the executive power? Because it has held it, and exercised it satisfactorily. It was not that in the beginning the House had this power, so much as on account of the character of the men elected to it, and yet it is a body nominated by the State Parliaments.

Mr. DEAKIN:
Those should take who have the power, and those should keep who can.

Sir JOHN FORREST:

It is the strongest, ablest, and most august body in the United States.

Mr. DEAKIN:

It has just thrown out the Arbitration Treaty.

Sir JOHN FORREST:

I do not care about that. I think, for the reasons stated, that in these early days we should be willing to take a precedent which has been established for the last hundred years, and which found favor in the Convention of 1891, when only six delegates voted against it, rather than run after something which seems in theory very good, and which the other day, on one occasion, mind you, appears to have worked well. I would ask hon. members to be cautious in this matter, and to take more notice of experience than of mere theory. We have experience in one case, and in the other no experience and no precedent to follow. I am not altogether opposed to the proposal which Sir John Downer now favors. I should not object to the senators being elected by the whole colony, because I think those who have distinguished themselves and have won their spurs in the service of the country would have a better chance of being returned than those who have done nothing for the country; but I think there are a good many disadvantages in that mode of electing. The first is that the people would not, except in the case of well-known men, know whom they were voting for. It would give rise to combinations, and cliques, and societies in order to run persons on particular tickets, and the voter would not know whom he was voting for unless one or two prominent persons were among the candidates. I should like the elector to know whom he was voting for, and he should know something of his antecedents and his claims to the confidence of the people. It would be almost impossible in a large colony to personally canvass or visit the various settlers, and the canvassing would be done by societies and cliques, which, to my mind, would be very objectionable. At the same time I admit with pleasure that the elections which have recently taken place for this Convention have been very successful.

Sir EDWARD BRADDON:

They will go on improving.

Sir JOHN FORREST:

But I would prefer the experience of 100 years in America to one election in Australia. However, that matter can perhaps be better dealt with in Committee. There is another objection to the mode of election in the colony as one electorate. You would have the Houses, I think, too much alike.
Mr. LYNE:
Hear, hear.

Sir JOHN FORREST:
That, I think, would not be a good thing, although I am prepared to admit that the duties of the two would not be exactly the same, and that the duties would be looked upon by members of the two Houses from a different standpoint. Therefore, perhaps, the objection I have just raised might not be so great as it at first appears. The plan we adopted in 1891 commended itself to me because we had a long-established precedent, and looked at today it seems to me that if you take the larger colonies of Victoria and New South Wales with 100 members of

Parliament-after making due allowance for all sorts of combinations and for log-rolling-can anyone suppose that 100 men, representatives of the people in both Houses of Parliament, meeting together to choose three or four men to be members of the Senate, would not discharge that duty fairly, honestly, and well? I think they would. Public opinion is too strong, and men's sense of right and honor is too strong to allow of them voting for persons to serve this friend and that friend. My idea is that they would feel their responsibility, and return the very best men the country could produce. I think I have already referred to the powers of the Senate, and expressed the opinion that they should be co-ordinate with those of the House of Representatives. The Senate should have equal powers in regard to all Bills, except the Appropriation Bill, which they should not have power to amend, but should have power to reject.

Mr. HIGGINS:
Even Taxation Bills?

Sir JOHN FORREST:
Taxation Bills certainly. The Senate should have coordinate powers in regard to all Bills, except the Appropriation Bill, which, as was so lucidly placed before us by my hon. friend Mr. McMillan, would stop the business of the country, and is altogether unlike any other measure because there is no other measure which cannot afford to wait a little while without doing any very serious damage to the country. There is another matter to which I would like to draw the attention of those who consider themselves very democratic. I myself, in my own country, am considered a liberal, but when I come over here somehow people look at me as if I were a conservative. But I would like to say this from the point of view of hon. members who are what they may call democratic, their proud boast at the present time-in fact, almost their sole argument-is to talk about the people's House; but which would be the people's House if one House was elected by
the various constituencies of the colony, and the other House was elected by the whole colony voting as one electorate? There would be a great dispute then between the members of the two Houses as to which was the people's House.

Mr. HOLDER:
Both.

Sir JOHN FORREST:
They would both be, and the House elected by the whole people of the colony would have the best right to be termed the people's House.

Mr. HIGGINS:
With equal representation of the small States it would not be the people's House.

Sir JOHN FORREST:
I am sure there would be some plan found by which one side would argue that the Senate ought not to be considered the people's House. However, the other side would certainly maintain that they had more right to be considered the people's House than the Lower House.

Mr. TRENWITH:
The other side will maintain it.

Sir JOHN FORREST:
In regard to the franchise I am of opinion that the plan adopted at the first election for the House of Representatives should be that which finds a place in the Commonwealth Bill of 1891. I cannot understand how anyone who really desires that we should come to any definite conclusions on this occasion should object to that. The franchise of all these colonies, if I may except Tasmania—and I think that may be included—is manhood suffrage. We have manhood suffrage in all the colonies, but in Victoria, Western Australia, and Queensland there is plural voting.

An HON. MEMBER:
Do not forget Tasmania.

Mr. LYNE:
They give a man twelve votes in Tasmania.

Sir JOHN FORREST:
The franchise in Western Australia is exactly the same as in Victoria; we have plural voting in both cases.

Mr. FRASER:
Which has no effect.

Sir JOHN FORREST:
I think it has some little effect. I should not be inclined to say it has no
effect, or else I would do away with it. We look at it from a practical point of view, and we think that where our interests are we should have something to say in the matter. We think that where we have invested our capital and other people's capital in far-away districts, we should have something to say as to the persons those districts should return. With that view we have adopted plural voting. I do not for a moment say it has no effect in Western Australia. It has some effect, especially in the far-away districts where the population is very sparse. While I am in favor of the franchise for the Lower House being that provided by the state for the election of the more numerous House, I should not object to give to the Federal Parliament the power to frame whatever franchise they might think desirable. It would be impossible at the present time for us all to agree here in regard to the franchise which is to find a place in this Bill for the Lower House. We are willing that South Australia should have her own franchise, and every other colony should have its own; so in the same way we desire that Western Australia should have her own. It would be a most confusing thing if at the present time we tried to frame a franchise that would be applicable to all. I think that is altogether unnecessary now, and we might fairly leave that to the decision of the Federal Parliament hereafter. I would like to say one or two words with regard to the financial question, which is the most difficult of all the problems we have to solve. I admit that the financial question is a troublesome one; though it does not appear to be so difficult the more you examine it. The plan adopted in the 1891 Bill requires a little alteration, but it was not unreasonable in many respects. The revenue received or due to a colony, less the expenditure of the upkeep of the Central Government and of the departments, should be returned to the colony, and vice versa. If it were not for the re-exporting no great difficulties would arise. We will take, for instance, raw materials imported into South Australia and exported into Western Australia. The duty on them would have been collected in South Australia and the goods used in Western Australia. Under the system I propose the duty should be transferred to the colony where the goods are used, but it would be a difficult thing to follow the goods; indeed, it would be almost impossible. To do so would necessitate the erection of Custom Houses on the same lines as we have at present. The only plan I see to get over the question is to take an average for several years and then readjust. By that means you would give and take. Some would gain and some would lose. If it were not for the re-exporting it would be easy. When goods came into a colony and were re-exported, I cannot see how they would be traced, and how the revenue could be transferred to the proper colony. With regard to the control of the railways, I must disagree with those who desire that the
railways should be under the control of the Federal Government. It might suit a colony such as Victoria or New South Wales, where they have so many means of communication, for the Federation to have control, but for Western Australia it would be altogether out of the question to allow an outside control in a matter which does not concern in any way the other colonies. We are isolated. We are almost like an island in the Indian Ocean. When we come to these colonies we have to travel 1,000 miles by sea. We have no other means of communication except by a long and tedious journey overland, and to put the control of the railways in the hands of people who do not care a straw about them is most absurd. The railway system of our colony is mixed up with the daily life of the people. It is the life-blood of the whole community. The railway and the land work together, and they are the main factors in the prosperity and life of the people. The railway is a means of transit for the farmer who works the land. We have no other means of communication. Seeing how closely the railways and the land system are interwoven it would make life and government intolerable if we had no control over the management of our lines. To a lesser extent the same applies to the post offices. I should not object to hand them over to the central authority, but I see no advantage in a colony like Western Australia handing over the post offices to the central authority.

Mr. LYNE:

What would you hand over?

Sir JOHN FORREST:

That is for you to say. The post offices and telegraphs are intimately connected with everyone. What would have happened if during the last three or four years our post offices had been under the control of the central authority? It would have saved the Government a lot of trouble. Thousands of miles of telegraphs, and tens of thousands of miles of postal routes have been established at great cost. The whole of the resources of the Government were required to keep pace with the times, and would the clamor and noise of the people have reached the central authority as it reached the Government in Perth? No. No central government far away removed from the centre of operations would have been able to cope with the difficulties that have arisen during the last three years as the local government were able to. I come to the observation of the member for New South Wales who asked what are we to leave to the Central Government? I have asked this question myself several times and I have had to confess to myself that there are few things that the Central Government can do as well as the local Government, but still there are some things which the Central
Government can better perform, and the great one is to administer matters of defence. There is no doubt that the Federal Government is far better able to take charge of military matters than the local Governments. Then as regards the Customs I am prepared to say that this is a matter which I would leave to the Central Government. I do not think that they are better able to judge what is taxable in the interests of a colony than the Government of that colony, and especially in the case of a colony isolated as the one I have the honor to represent is. Still, I recognise that this and the general power of taxation must be left to the Central Government, although I do so somewhat reluctantly. Then the Federal Parliament should have control of the postal and telegraph departments, though I am quite certain that it would be all against the interests of Western Australia to have it so. Quarantine is a fit subject for federal control, and so are harbors and lights, but at the same time I do not think the Central Government would look after the lights on the various coasts half so well as the local Governments. They would not know so well where the lights were required, and those in charge of the lights would not perform their work so efficiently as if under the eye of the local authorities. While I am prepared to assist in passing this Bill, and while I believe in a Central Government, I am at a loss, and I honestly confess it, to satisfy myself where the gain comes in for the colony I have the honor to represent. Still, though we may have to sacrifice something in the first instance it will be for the eventual good and happiness of the whole, so I am prepared to throw in my lot with the other colonies of Australia. I will give an instance to members from which they will be able to judge from my standpoint. Of course it will be said that the year I take is an extraordinarily abnormal one; that may be so, but facts are hard things to get over. I will give the year 1896, and I have taken a paper prepared by the Government Statist of Western Australia, which shows that if the Federal Government had at the beginning of 1896 taken over the Customs, post and telegraph, money order, defence, and harbor and lights departments of Western Australia, we would have made a first loss of £857,979, or a proportion of 35 per cent. of the total revenue. There is a fact for me to have to face.

Sir GEORGE TURNER:

Does that include the return of the surplus?

Sir JOHN FORREST:

No.

Sir GEORGE TURNER:

Then it would not be all loss.
The money, however, would have to be handed over, and of course we would afterwards get some of it back.

Sir GEORGE TURNER:
You might get back more than you paid.

Sir JOHN FORREST:
I do not wish to gain anything for my colony which the others would not gain. So long as she would not lose by the transaction I am perfectly satisfied, because I believe that eventually it must be to the good of all of us. One thing it will do to perhaps many of us engaged in political life. It will lift us up politically, and we are influenced by this to some extent, for even those in the large colonies must feel at times the contracted nature of the public life. It will be a great thing in Australia to lift up politics out of the mud into which they sometimes get. It will be of great benefit in being able to make for the whole of Australia general laws. We must always remember, as Mr. McMillan has said, that we are not in the same position as the States of America - those thirteen States which are now forty-two States and some "territories." We have immense territories here which contain all the elements of empire in most of our boundaries, each one of us. In Western Australia we have a small population with 3,000 miles of coastline; we have a revenue of two and a half millions of money; we have a population of about 140,000 people, and a territory of 640,000,000 acres of land. A great deal of it is not good, but I may say that is not an index, as a great portion of our prosperity of late years has come from quarters we had thought not fit for habitation, and that may happen again. Perhaps that which is barren now may be the home of teeming millions. Most of this territory is in the hands of the Crown. Western Australia is larger than most of Europe, is eight times larger than Great Britain, and bigger than France, Germany, Italy, and Austria all put together. So surely there is room for an empire; but we are all one people. We all belong to the same nation, and we do not want to live under different laws, to be separated by hostile tariffs and by imaginary lines drawn across a map, separating one colony from another. I do not propose to say anything more, on this occasion. I have only touched upon a few of the points, but we shall have another opportunity in Committee of discussing other portions. I hope we may get on with the business as quickly as we can. There are only a few points, which I can count on the fingers of one hand, for discussion. All the rest we are agreed upon. During the next fortnight I hope with my colleagues that we shall be able to do something, and not have to say to ourselves when we return to our colony that we have been over to the Convention, and just when we got to the work we had to return and leave it unfinished. I desire also to inform hon. members that in order to expedite business, and
in order to get to work on the Bill as soon as possible, no other member from Western Australia intends to speak on the present occasion. I am sure my thanks are due to them, for I am sure some of them would have liked very much to have spoken; but they will have an opportunity of doing so when the Bill is in Committee.

Mr. SOLOMON:

Before discussing the main points of the resolutions before us, I desire to express my thanks to the hon. member representing New South Wales, Mr. Barton, for presenting these resolutions in the precise form that he has done. At first I was inclined, with many other hon. members of the Convention, to think that perhaps it would have been better if we had taken the Commonwealth Bill of 1891 as the basis of our work, but now I think that perhaps we have economised time by taking the resolutions submitted by Mr. Barton as the basis for our debate. More especially so, as during the course of the debate I have had the pleasure of listening to many members who have not hesitated, any more than I shall myself, to express themselves on the details of the resolutions, and also on the more important points involved in this Federation question. I also can indorse with pleasure the remarks of the Premier of Western Australia, when he said how much all of us were indebted to those gentlemen who formed the Convention of 1891 for the concise and masterly piece of work they have given, not only to us as a guide, but to the whole of the Australian people as a guide to what Federation ought to be, and a guide which I think we will to a great extent follow. I think, in no ungrudging spirit, the thanks of the members of the Convention who were not members of the Convention of 1891 will be readily accorded to the Premier and others who were, and whose work will be taken as the basis of any measure this Convention will frame, not perhaps in its entirety, but certainly as regards the bulk of its machinery clauses, and probably three-fourths of its general clauses. Coming to the resolutions submitted by Mr. Barton, the first one, which deals with the protection of the present powers and privileges of the various States, is perhaps one of the most important. In this perhaps we have really the very highest of our federal aspirations, not that the States should be absorbed in one Central Parliament, but that the States for various common purposes, principally of a commercial and financial nature, should surrender just as much of those public matters and public departments as can be better, more efficiently, and more economically managed by a Central Government than by seven isolated Governments. And, after all, this Federation scheme, if we come to divest it of its sentimental aspects altogether, seems to me to be nothing more nor less in plain English than a partnership-a partnership
which several States enter into, not with any sentimental ideas of kinship, but because there are several commercial and financial matters of interest to all their people, and for purposes of defence, which is perhaps the only sentimental part of it, which can be better dealt with by one Central Government than by six or seven Governments. And as we enter into ordinary partnerships in everyday life, partnerships in which sometimes very large interests are at stake, a considerable degree of caution and care surrounds the basis of those partnerships, so that the conditions will be equitable to all parties, conditions that will prevent friction in the future, and avoid questions arising that may lead to trouble or dissolution, or desire for dissolution of

to be admitted now, and I am proud that it is so, that the position of Governor-General is not to be made the subject for the election of the people, but that the Governor-General shall be nominated by Her Majesty the Queen in precisely the same manner as the Governor is now nominated. Now, as to the question of the two Houses, there is no doubt a large section of this Convention is at one in regard to this question, and although it has been suggested that some other form of Constitution might be more fitting it is admitted that the Constitution we are so well acquainted with, and what we term responsible government, is the better form, and as a majority of the Convention are in favor of the two Houses I would not delay upon the question. Sir Richard Baker, one of the representatives for South Australia, raised the question of the advisableness or otherwise of adopting this responsible government as a basis of our Constitution, and he raised many doubts in the minds of members of this Convention by the new light he threw upon the question and, although I am prepared to admit the view taken by Sir Richard Baker is worthy of thoughtful consideration, still I think from our experiences of the past, the experiences of the mother-country and the development of her Constitution over hundreds of years, that it should be sufficient for us at this stage to take that for our copy. It is far better to take the Constitution which the mother-country has adopted, the Constitution which the whole of the self-governing colonies of Australia have adopted, and which is so familiar to the whole of the people, than to launch out into new experiences. The constitutions of Switzerland, America, and Canada, all have admirable features, and no doubt all of them have faults; and these are Constitutions that arise out of circumstances which do not prevail at the present time in Australia. Here in Australia the colonies which are about to federate, although they have been under separate governments, have not like the now United States of America, been under governments, the forms of which were in many instances
agonistic to one another. The people of the Australian Colonies have never been at one another's throats in the horrors of warfare. They have been under a common Crown; they have always had the protecting power of England around them; and they have had the lessons of the mother-country to guide them. They have Constitutions which have been in fact almost on the same lines, except as regards the franchise. In adopting Federation, it would be wise to move on lines with which we are acquainted, and to have a Constitution that we know something about; for though there may be some evils in the system we have followed, it is better to put up with them than to fly to others which we know not of. The question of the constitution of the two Houses and their manner of election is one upon which there will perhaps be the greatest amount of debate, and at the same time it is one of those which the Constitutional Committee, when it is appointed, should have the fullest possible knowledge of the opinions of the various delegates upon. The question of the powers of the two Houses seems to be one upon which we are likely to clash. It is first of all admitted, at least admitted by the majority in the Convention-and therefore it is not necessary for me to enlarge upon it-that in the Senate, or rather, what in the resolutions which are before me is termed the States Assembly, but a better name for which I think would be the States Council, the States as States, or colonies as colonies, shall be equally represented. This has been conceded even by the larger colonies, larger numerically, who may be inclined to think that, as in the House of Representatives, so in the States Assembly, population should have a greater amount of consideration. Having conceded this point as to equal representation of each colony in the States Assembly, it is also sought by some of those who recognise the equity of this concession that the powers of the States Assembly should be limited in regard to dealing with Money Bills. Now as this federal scheme is after all a commercial partnership, and as the power of the purse will perhaps be the greatest power which either body of the Legislature can wield, I think this point with regard to the control of the finances of the Federal Parliament is perhaps the most important that we have to deal with. It is all very well for hon. members to say that it would be impossible to permit both Houses to have the same powers in dealing with financial questions. It is all very well for some to urge that it would be impossible that the control of the Executive, their appointment and their dismissal, should be in the hands of the House of Representatives, while, on the other hand, the power of amending Money Bills in detail should be conceded to the States Assembly. But it appears to me that without this power of amending
Money Bills in detail the power to protect States rights is nothing but a delusion and a snare. It is all very well for our hon. friend Mr. Isaacs to talk of the smaller States-

Asking for a shield, and eventually demanding a sword.

But if this power of dealing with Money Bills is denied to the Chamber in which the States are represented, the shield that he would give to them is a shield of painted cardboard and the sword a sword of tin.

Mr. BARTON:
They would not ask for a shield unless somebody else had a sword.

Mr. GLYNN:
They want the tin.

Mr. SOLOMON:
However much we may be inclined to trust the numerically larger colonies in most matters in regard to the Commonwealth, however much we may be prepared to concede that they should have a slightly larger representation in the people's House, we still must - for the protection of the small States-insist on having co-equal powers in the Senate in regard to dealing with financial questions, not perhaps in regard to the origination of Money Bills, because this we might well concede to the people's House; but in regard to the amendments in detail in such Money Bills, or of such Bills as seek to deal with the funds to which all the States have contributed. In these matters, if we want to protect the smaller States against unwisely-used power on the part of the larger States, we must endeavor to come to some reasonable arrangement to increase the powers of the Senate. As to the constitution of the House of Representatives, the point as to the number of members which each colony is to have seems, to some extent, to have been conceded by many speakers. Not many have alluded to the enormous predominance of members which the two larger States will have in that House; but a great many have seemed by their silence to admit that the terms of the Commonwealth Bill of 1891, in which it was proposed to give each State proportionate representation in the form of one member for every 30,000 of its populations, should be adopted. I can see no reason why that should be adopted; but, on the other hand, I can see very grave reasons why it should not be adopted. Irrespective of whether the powers of the Senate or the States Assembly are increased in regard to Money Bills, I say that whether the representation is on the basis of one member for every 30,000 of each colony's population, as proposed in the Commonwealth Bill, or of one member for every 40,000 of its population, as proposed by the Premier of Victoria, Sir George Turner, the predominance of members in this Lower Chamber is far greater than the smaller States can justly and fairly accede to. Again, the number of
members some 120 odd-in this Federal Parliament, which is only going to deal with perhaps half a dozen important subjects, seems to be too large for the purposes of good work and for the purposes of economy. Of course destructive criticism is much more simple than to suggest a means of alteration, but at the same time, in the face of considerable opposition from gentlemen in this colony to whom I have propounded a different scheme, I will endeavor to show members of this Convention, that there is a better scheme for representation in the Houses of Representatives than that included within the four corners of the Commonwealth Bill. I have previously described this Federation as a partnership, and a partnership to a large extent for commercial purposes. Thinking over the manner in which the shareholders in that partnership should be represented, it struck me that as in all large joint-stock companies we do not have representation precisely on the scale of the number of shares held by each individual partner, but on a sliding scale, so in reference to this Federation scheme we have a partnership which is to consist of six or seven colonies having varied populations-some of these colonies having immense tracts of territory, others having very small tracts of territory-and it is proposed in this partnership that the territories which have the largest population, irrespective of their area, should have absolute representation in the people's House in proportion to their population. I ask hon. members, especially those from the other colonies who have given their adherence to this scheme, how they would like precisely the same scheme to be adopted with regard to the election of their Houses of Assembly in their respective colonies, and how they would like, that while the city and suburbs would have such largely-increased representation in their local Parliaments, the country and the outside districts, where the producers-the bone and sinew of the colonies-dwell, should be represented by a miserably small proportion of members? This would not work well, either in regard to the city and suburbs of Melbourne or of Sydney, and some of the members who now believe in this particular federal scheme would be the first to jump at the idea of representation on a population basis in their own local Parliaments. I am sure a scheme such as we adopt in private partnerships, in joint-stock companies, etc., where the shareholders do not have votes in proportion to the number of shares they hold, but on a sliding scale, would be much more equitable, and give us a more workable House. The proportionate representation in the National Assembly should be on a sliding scale, as follows:—First 100,000 of population, six representatives; second 100,000, three representatives; third 100,000, two representatives; any additional 100,000, one representative.
Mr. HIGGINS:  
You are dealing with the Senate.

Mr. SOLOMON:  
No; the House of Representatives. Under the Commonwealth Bill, and according to the latest statistics I have in my hand, New South Wales, with 1,300,000 population, would be entitled to forty-three representatives; Victoria, with 1,200,000 population, to forty; Queensland, with 480,000 population, to sixteen; South Australia, with 360,000 population, to twelve; Western Australia, with 150,000 population, to five; and Tasmania, with 165,000 population, to five or six. Under my scheme New South Wales would have twenty-one members, Victoria twenty, Queensland twelve, South Australia eleven, Western Australia six, and Tasmania six, making a total of seventy-six members. You will see that under the Commonwealth Bill it is provided that New South Wales and Victoria would have eighty-three members as against thirty-nine members for the rest of the colonies, while on the other hand we find that even under this sliding scale scheme, which I think is the more equitable one, Victoria and New South Wales must have forty-one members out of seventy-six members of the House, while the other four colonies would only muster thirty-five members if they combined together. Surely these are principles which

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are to be considered fairly, first of all on the question of a workable House of seventy-six members, and next on the ground that greater economy would be effected than in a House of 120, and the preponderance in my scheme would be quite sufficient to give to larger colonies. Mere population alone should not be considered. Surely the possibilities of such a territory as that which has been described by Sir John Forrest are worthy of some consideration, and I will submit, with all deference to the Convention, and especially when in Committee, the proposal that there is no need whatever for us to take the Commonwealth Bill idea of how we are going to have representation, and I will offer the suggestion that we should fix some sliding scale which will not give such an immense predominance to two States as eighty-three to thirty-nine representatives from the other colonies. If the small colonies are really and in fact represented on an equality of basis in the Senate, and if the question of the amendment of Money Bills is conceded to the Senate, then perhaps there is not so much importance in the overwhelming numbers which certain States will have in the House of Representatives. If, on the other hand, this power to amend Money Bills, and control to some extent the finances of the Federation is denied, it behoves all of the representatives of the smaller States to be specially careful of the Constitution and the number of
representatives given in the Lower House.

Mr. ISAACS:

What you really want is a confederation.

Mr. SOLOMON:

I cannot see that such an argument can be drawn from my remarks. What I really want is Federation on wise and just lines that will be fair to all of the colonies. Surely members will concede that no colonies should preponderate. It is fair and reasonable that there should be a desire for the small States to be properly represented, and to prevent two or more States having a large preponderance of the representatives.

Mr. HIGGINS:

Who is to predominate?

Mr. SOLOMON:

The majority will predominate, but there should not be an unfair predomination. What I wish to prevent is two colonies, owing to the fact that they have two and a half millions of people, having control of the finances and legislation of the Federal Parliament simply because they have these two and a half millions of people against the one and a half millions in the other colonies.

Mr. MCMILLAN:

There is a probability of their being on opposite sides of the House.

Mr. SOLOMON:

I do not think the people of this or any other small colony would count very much upon that probability. The probability is that these two colonies, which join each other by boundaries, and whose railways are a perfect network, will have more in common and more to protect than the whole of the other small States combined. Not for one instant do I propose that they should have only the same amount of representation in the House of Representatives. I did not suggest it, but I do suggest that the sliding scale which I have given is a fair and equitable one. As a matter of fact it still gives them the predominance of five or six votes. What I maintain is that the scale provided for in the Commonwealth Bill is not fair, and that, with all due deference to those who oppose equality of power in the two Houses, unless the Senate has co-ordinate powers with the House of Representatives with regard to money matters, the greatest care must be exercised with regard to the representation of the colonies in the House of Representatives. Next we come to the question of the various departments to be handed over to the Central Government; and on this point I find as the debate has proceeded, that difficulties which I had never imagined have been shown to exist, and that in regard to the railways and the con-

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solidation of the bonded debt, experts in financial matters have demonstrated so many difficulties that the more I look at the question the more I see the necessity of leaving the consideration of these great subjects to the Committees which will be appointed by the Convention, which will have the assistance, which members have not, of the statistical experts. Sir Philip Fysh gave us a most valuable and interesting contribution to our debate, which was perhaps one of the clearest and most practical, with the exception of that of Mr. McMillan, that the Convention has had the pleasure of listening to on the subject of the finances. His speech bristled with matters about which there are difficulties. He started by telling us that even if we consolidated our debt of some £180,000,000 we would have to give up so many benefits to the present bondholders that at the finish there would seem to be very little left in the way of advantage to the colonies. I do not say that his figures are correct, as he seems to have taken a rather pessimistic view in dealing with this great subject. The question of the consolidation of the bonded debt is, perhaps, one of the most important that we will have to consider, and I admit that we cannot in one Act, whether by Act of Parliament, or by Act of the Federal Parliament, say to the bondholders, "You shall hand over your bonds at a certain price, and we will give you other bonds at a certain rate." If we desire the bondholders to give us any proportion of the advantage we must be prepared to treat them fairly, and to give them the market value for their bonds.

Sir WILLIAM ZEAL:

Suppose they will not make any terms, you cannot coerce them.

Mr. SOLOMON:

It is hardly advisable to start by supposing anything of the kind. When we have thought out a scheme to offer to the bondholders, which will give them a fair and equitable price for their bonds, perhaps by means of an additional currency of the present bonds, or by the issue of fresh bonds altogether, it will be time enough for them to say whether they will accept it or not. To begin by shaking hands with difficulties we have not yet met is not the way to consider this matter. Sir Philip Fysh, giving a supposititious case, put it that we might have to give bonds having a currency of fifty years and bearing interest at 3 per cent., and then pay the present holders the market price of their bonds; and he put it that if we did this we should perhaps gain a million per annum. But of that million £250,000 would go into the sinking fund for the premium we should have to provide for the bondholders, and another £250,000 would go for interest on that premium and other expenses.

Sir WILLIAM ZEAL:

That is if we agree to sell.
Mr. SOLOMON:
I do not think there is very much doubt of that. You can offer these bondholders equal, if not better, value.

An HON. MEMBER:
Better security.

Mr. SOLOMON:
A better security as a whole, and a stock that would be worth so many sovereigns whenever they took it, as the Consols are taken; and if you can offer these terms to the bondholders they will accept them.

Mr. GLYNN:
In a hundred years' experience in England they have never done it.

Mr. SOLOMON:
They have never been offered the same terms. If the hon. member will wait he will see the terms I would offer. At the present time the colonies are holding bonds of various dates up to forty-five years, and if those bondholders could exchange their bonds, especially as to the earlier-dated bonds offered on the London Stock Exchange, and have in their places bonds bearing interest at 2 3/4 or 3 per cent. with a longer currency, they will be perfectly willing to come in, especially if they have an additional currency as well. What is the cry of the money markets of England and the Continent? They cannot find decent securities for their money. With the accumulation of money in England and the Continent, they are anxious to find legitimate investments even at 2 1/2 per cent. or 2 3/4 per cent. What a small amount the total indebtedness of Australia is! It is only a matter of 200 millions. And on 112 millions of it the colonies are receiving—I allude, of course, to the railways—over and above working expenses, 3 per cent. This would be one of the securities which the bondholders would have behind their new issue of bonds. I do not profess to be a financial expert, I do not profess to be able to feel the pulse of the London or Continental money market, but I am sure of this, that if the Treasurer or the financial agents of the Federal Government are sufficiently liberal, and do not attempt to get an advantage over the bondholders, they will have very little difficulty in bringing the new issue into favor.

An HON. MEMBER:
Where will the safety come in?

Mr. SOLOMON:
The safety will come in in the long-dated bonds.
An HON. MEMBER:

If you make a loss.

Mr. SOLOMON:

There will be less expenditure during the term of years during which our bonds are current. It would undoubtedly be a great advantage to the whole of Australia if we could consolidate her present debt at a much lower rate of interest, and with regard to the future loans the new bonds which they issued at a lower rate of interest would be taken as a guide for the rate of interest to be charged for future loans. And surely when these colonies are federated we do not expect that our borrowings are to entirely cease. We surely expect with these immense territories, hundreds of millions of acres of which have been hardly trodden by the foot of man, that we shall require from the English or other moneylenders some large loans for the construction of railways and other public works for the future development of these territories. We do not think it likely that our population is to remain as it is now, or that the immense tracts of country which have remained practically idle will remain so, and we can hardly expect that our revenues to be derived from the taxpayers will not only be sufficient to pay our interest and our contribution to the Central Parliament, but also sufficient to construct those immense lines of railway which will be required to develop the interior portions of Australia.

Sir WILLIAM ZEAL:

Our national debt is already very large.

Mr. SOLOMON:

Still, at the back of our debt of £180,000,000 we have our railways, which have cost £112,000,000 in round figures; we have in addition the whole of our buildings, our Customs Houses, our telegraph offices, our lighthouses, our bridges, our main roads, and a host of other public institutions, all of which are really good security for every penny of our national debt. There is no fear now, and there never has been any fear, of the colonies repudiating any portion of the interest they have to pay.

Mr. BARTON:

Hear, hear.

Mr. SOLOMON:

And that in spite of three or four years of as hard times in regard to our leading producing industries as the colonies have ever experienced. I think, Sir, at this stage I might ask leave to continue my remarks to-morrow.

Leave given.

Mr. BARTON:

I move:
That the debate be adjourned.
Question resolved in the affirmative.
ADJOURNMENT.
Convention adjourned at 5.30 p.m.

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Tuesday March 30, 1897.


The PRESIDENT took the chair at 10.30 a.m.

PETITIONS.

Mr. REID:
I beg to present a petition to this honorable Convention from the Salvation Army in New South Wales. It is signed by 1,029 persons, and prays for the recognition of God as the Supreme Ruler of the world in the preamble of the Federal Constitution. It is in due form, and I beg to move that it be received.

Mr. BARTON:
I desire to present a petition from 1,084 members and adherents of the Australasian Wesleyan Methodist Church, citizens of New South Wales, praying that in the preamble of the Constitution to be framed there should be a recognition of God as the Supreme Ruler, that each daily session of the Upper and Lower House of Parliament be opened with prayer, and that the Governor-General be empowered to appoint days of national thanksgiving and humiliation. The petition is in due form, and contains a prayer.

Mr. BRUNKER:
I have a petition from 1,500 members of the Women's Christian Temperance Union of New South Wales praying that there may be an acknowledgment of God in the Federal Constitution, and in the opening ceremonies of the daily sessions of the Federal Parliament. The petition is respectfully worded, and contains a prayer. It is signed by 1,500 residents in New South Wales. I beg to move that the petition be received.

Mr. BRUNKER:
I have a petition from 1,500 members of the Women's Christian Temperance Union of New South Wales, praying that there may be inserted in the Federal Constitution a clause reserving to each colony the right to legislate as to the importation, manufacture, and sale of alcoholic liquors and opium. I beg to move that the petition be received.

Mr. CARRUTHERS:
I beg to present a petition from 292 adherents of the Primitive Methodist Church of New South Wales, similar to that presented by Mr. Barton. The petition is respectfully worded, and concludes with a prayer. I move that it
be received.

Petitions received.

NOTICE OF MOTION.

Mr. BARTON:

I give notice of motion for to-morrow, it of course being contingent on the debate not being concluded to-day:

That the Convention shall, at 5.30 p.m. this day, suspend its sitting until 7 p.m., at which hour the Convention shall be resumed and the transaction of business continued.

POWERS OF COMMITTEES.

Sir RICHARD BAKER:

Before the business of the day is called upon, I wish to call attention to a question of practice and procedure which is somewhat important. In the original resolutions as moved by Mr. Barton there are some words to which I have strong objection, but I did not move to excise those words because I considered it was understood that the committees which are to be appointed are to have a free hand, and that the resolutions which are to be referred to them are not in any way mandatory, but that the committees can consider, discuss, and arrive at any conclusion they think fit. I mention this matter so that it may be beyond discussion when the committees have been settled; that it may not be asserted that we were a party to these resolutions, and that the committee cannot alter them. I wish to call attention to that point, and ask your ruling.

Mr. BARTON:

Is there any particular portion to which you allude?

Sir RICHARD BAKER:

Yes,

and to possess the sole power of originating all Bills appropriating revenue or imposing taxation.

In the short speech which I had the honor to make to this Convention I stated that though that has been the ordinary parliamentary proceeding, I would have moved to strike these words out, but inasmuch as I understood that these were only preliminary resolutions, not intended to be binding on the committees appointed to consider them, I refrained from making any amendments. I wish to ask you, and perhaps Mr. Barton may also be able to state whether in his opinion I am right or wrong in the conclusions to which I have arrived.

Mr. BARTON:

I shall not attempt to anticipate any decision of the Chair, but I would only say that my leaning is altogether on the side of the greatest freedom
on the part of committees, so that they may have, by their own decisions, and by the work of the drafting committee whom they shall appoint, so free a hand as to enable everything that has been evolved during this debate, as well as during the sittings in Committee, to be considered on the question of whether it should be embodied in the Bill. That is the design with which I moved the resolutions, and if your ruling goes in favor of the matter being left quite open to the Committee by the resolutions being referred in the manner intended, then I shall be all the more pleased.

The PRESIDENT:

I could have wished that my attention had been previously drawn to this matter, but what I take it is this: that the duties of the Committee will be fixed by the instructions which are given by the House in relation to their appointment. These instructions at the present moment form the subject of a contingent notice of motion, and I am under the impression that if the notice of motion is carried in the form in which it appears on the paper with reference to the appointment of the committees, the Committee will have a fairly free hand in connection with the preparation of the Constitution, though, of course, that can be made more clear if desired by the Convention when the resolutions for the appointment of the Committee come on for discussion.

Mr. BARTON:

Hear, hear.

SITTINGS OF THE CONVENTION.

Mr. BARTON:

I desire to move the following motion standing in my name—

That the Convention shall, at 5.30 p.m. this day, suspend its sitting until 7 p.m., at which hour the Convention shall be resumed and the transaction of business continued.

Question resolved in the affirmative.

FEDERAL CONSTITUTION.

Debate resumed on resolutions by Mr. Barton (vide page 17).

Mr. SOLOMON:

Last evening, when the time arrived for the adjournment of the Convention, I had almost finished dealing with that portion of our business which relates to the consolidation of loans. It seemed to me during the discussion of this most important point, in listening to the speeches of the hon. member for New South Wales, Mr. McMillan, and the hon. member for Tasmania, Sir Philip Fysh, that both these gentleman took rather a pessimistic view of the possibilities of a consolidation of our bonded debt for the whole of Australasia which would lead to any degree of saving. I am inclined to think that both those hon. gentlemen, and some others,
including the hon. member, Sir William Zeal, are disposed to omit the consideration of the most important fact that, in issuing new bonds for the whole of the debt of Australasia, we will give several advantages to the present bondholders—first of all, the advantage of having one bond with a greater degree of security; and secondly, that we may effect a considerable saving by making these bonds of longer date than the existing bonds which we ask them to return. However, I admit I am not in the position of some hon. members to discuss this question as fully as I would like, because up to the present time none of us have before us the work of the statistical experts, which would show us the amounts of the various bonds becoming due, the dates at which they mature, and the amount of interest which is payable on these bonds. Without the whole of those details with reference to all classes of bonds, which so far are not on our files to guide us, it would be impossible to fully indicate what the probable saving might be by the consolidation of the whole of our loans. Therefore I am of opinion that perhaps it would be better to leave the discussion on this part of the financial question until after the Financial Committees have dealt with it, and until light has been thrown upon it by statistical experts. The next question of importance, perhaps, is the handing over of the various railways to the Federal Parliament, and the arguments that have been used in favor of this system have principally been based upon the supposition that, in the first place, great economies could be made by doing away with lines which at present only duplicate the work, and, in the second place, that control could be obtained over the various lines which at present are not paying owing to the establishment of differential rates. It has been pointed out that it would be useless to have intercolonial freetrade and remove the whole of the border duties between the colonies if, on the other hand, the railways were permitted to have differential rates which would deprive us of all the advantage of intercolonial freetrade. On the question of handing over the railways to the Federal Parliament it seems to me that the majority of the members who have spoken are not inclined to give them to the Federal Parliament, which will not have sufficient revenue from Customs alone to pay for the expenses of the Commonwealth and also to pay the interest on the whole of the loans. It seems to me that, supposing the difficulties in regard to handing over these railways are decided to be insurmountable, it will then perhaps be better to adopt the system shadowed forth by the Hon. Mr. O'Connor, I think it was, that these matters should be dealt with by a system of account-keeping, so that each colony should be credited with the net amount of the revenue, of its railways, and still retain the full control and management of them.
Mr. O’CONNOR:

It was not I who advocated that.

Mr. SOLOMON:

Then I am mistaken. I know it was one of the members of the Convention who shadowed forth that that should be the system adopted. Whether it is so or not, it appears to me that it would be an excellent system. In the first place, it would give to the Federal Parliament three millions or thereabouts of revenue. In the next place, without any interference with the local control of the railways of the different colonies, it would still give to the Federal Parliament a sufficient degree of control, enabling them—that is, if supported by sufficiently definite clauses in the Bill—to deal with the question of differential rates. There are two clauses in the Commonwealth Bill of 1891 which some members of this Convention have alluded to as being quite competent to deal with this question. In my opinion, and in the opinion of a great many other members, those two clauses which deal with the restriction of trade are too indefinite to permit interference by the Federal Parliament with the rates to be charged on any of the intercolonial railway lines. At the same time many advantages could be gained by handing over the whole of these railway lines, though, on the other side, interference with the colonies and with proposed future lines for local purposes of development, might be somewhat harassing. Still it would have been better perhaps in the history of nearly all of the colonies if the construction of some of the railways had been under some central governing power. I have only to look at our own colony of South Australia to see that in two portions of the railway system, that at the north end of the southern system and that at the north end between Palmerston and Pine Creek, we have an annual loss of £120,000, and these lines, perhaps too hastily constructed, are a fair example of a great many lines in other colonies. If the whole ded to ripen public opinion for some degree of Federation which will remove these difficulties. It seems that all of the colonies, without exception, are to a great extent of opinion that a uniform tariff should be established, and that the whole of the Customs revenue should be the first portion of the revenues of the Central Federal Parliament. What this revenue of the whole of the Customs will possibly yield it is indeed a very difficult matter to prophesy. We know, for instance, that there will be a considerable amount of loss as compared with the present revenues through Customs, owing to the removal of the border duties. That loss will of course be represented by the whole of the duties imposed at the present time between one colony and another on their
respective products and manufactures. Then again we had pointed out to us by one of the speakers yesterday, Mr. McMillan or Sir Philip Fysh, that, supposing Queensland is able to supply the whole of the demand of the colonies for sugar, there will be a loss of duty on this one line of £180,000 a year. Of course at the present time we know Queensland is not in a position to supply the whole of the markets of the colonies. It was said by Sir Philip Fysh that this would be virtually making a present of this £180,000 to Queensland, and I interjected that instead of giving Queensland any great advantage for her products we would really be making a present, not to that colony alone, but to the whole of the taxpayers, from one end of Australia to the other. After all, what has been the great demand of the democratic section for many years past? Intercolonial freetrade on the one hand, and the removal of the duties on the necessaries of life on the other. And if, by establishing intercolonial freetrade, we can give a market to our neighboring colony of Queensland for her sugar, and can find a free and open one for the reception of our wine, jams, preserves, and products of a more temperate clime, and at the same time give the people of the whole of the colonies free sugar, we will be doing a good stroke of business. As to the manner in which this £180,000, and the other £800,000 lost in connection with the duties on other lines of products, is to be made up, is a question which may be safely left to the Federal Parliament. If we attempt to go into all these small details, and to provide for every contingency, we will land ourselves in tremendous difficulties. The main points for us to consider are how far we will trust the Federal Parliament in the administration of the various subjects, and in this category I think the majority of the Convention will place the dealing with the tariffs. It is difficult to estimate how these tariffs will work out, and, although Mr. Reid may throw some light on the subject when he speaks, it is difficult to prophesy how far the colonies will come into line in connection with a uniform tariff. New South Wales has the freest tariff in the whole of the colonies, and on the other hand Victoria has the most oppressive. To bring these two colonies together on a uniform tariff which will meet with the approval of both, and of the other colonies, without too much sacrifice of revenue, will be a problem for the Federal Parliament. As to the amount which is likely to accrue from the Customs, it has been put severally at £6,000,000, £7,000,000, and £8,000,000. Supposing we take it at the lowest sum, we find there will be undoubtedly a large surplus, after paying the expenses of the Federal Parliament, and the question arises-and on this there has been considerable debate - as to how it is to be dealt with.
On the one hand we have the suggestion in the Commonwealth Bill that it should be repaid to the different colonies pro rata, and on the other it is proposed that it should be repaid in proportion to the population, and not in proportion to the contribution. The difficulties of both these systems have been discussed. Then we find another view of the question, as indicated by Mr. Holder, who said that he saw so much difficulty in drawing any line between the two courses that we should not deal with this monetary question, and that each colony should pay its contribution to the Federal Parliament. This would be a simple an easy mode of getting out of the difficulty; but the point raised by other speakers that the difficulty of collection might lead to disruption, and perhaps to civil war, appears to me to set aside the strength of Mr. Holder's argument. In my opinion it would be much better to adopt the course indicated by some members, and that is to transfer the bonded debt, or a portion of it, to the Federal Government. The latter course I certainly would prefer; and then the surplus could be utilised by the Central Parliament in the payment of the interest upon the bonded debt. It is also suggested in the Commonwealth Bill, and has been suggested by the resolutions, that the Central Parliament shall have, in addition to the control of the Customs revenue, further powers of taxation. In what direction this further taxation might be I am unable to imagine.

**Mr. BROWN:**

Excise.

**Mr. SOLOMON:**

Undoubtedly excise is definitely dealt with in the proposals as to Customs duties; the imposition of uniform tariffs and dealing with excise come under the same head. Of course it is suggested that the excise duties could be extended, but in case of extreme urgency—in case of a sudden demand for large sums of money for defence, or some such purpose—it seems to me there would be very great difficulty in at once obtaining the necessary funds, and therefore I am inclined to think that so long as the funds of the Commonwealth are safeguarded by proper representation in the States Assembly, it will not be at all dangerous for the Commonwealth to have a surplus in hand, a surplus which might readily be invested in State bonds and kept against such contingencies. Again, on the control of the railways, there is one point I appear to have missed, and that is this: if the whole of the colonies decide to federate, South Australia will bring into the Federation an immense tract of country known as the Northern Territory, a tract of country having a small length of non-paying railway line on the north, and a small length of railway line in South Australia at the south end. It has for many years been the desire of many South Australians to construct the railway between these two points—Oodnadatta.
on the south, and Pine Creek on the north—for the purpose of opening up this vast tract of country, the resources of which at the present time are absolutely unknown to the people. As to the value of that tract of country, it is impossible to

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speak, but our experience at the north end of the colony, in which we have found rich deposits of all kinds of minerals, and the experience at the south end, in the Macdonnell Ranges, points to the probability of there being equally rich deposits of gold, silver, and other minerals in that belt of unknown country, as have been recently discovered in hitherto unknown portions of Western Australia. It seems to me that if the Central Government were to take over the whole of the railways there would be little difficulty in building this 900 miles of railway as a national undertaking. At the present moment the position taken by South Australia's Government and South Australia's people is that first of all they will not do the work themselves, as they do not feel inclined to involve the colony in an immense increase of bonded debt to construct this line, and on the other hand they will not accept offers from British capitalists or others to construct the line on the land grant system.

\textbf{Mr. FRASER:}

Have they had them?

\textbf{Mr. SOLOMON:}

Undoubtedly they have. I should be extremely sorry, as representing the north end of the country, if the proposal to take over the railways is not adopted, as it would bring with it the possibility of constructing that line, which would bring immense possibilities to that country. The question of the post and telegraph departments and their being placed under the control of the Central Parliament does not appear to me to be of anything like so great importance, because, after all, there is a good deal in the argument of some of the speakers that the administration of a post and telegraph department involves so much detail work with outlying districts, especially in the larger colonies, that very little good could come from removing the seat of control from local bodies to the Central Parliament. At the same time it appears to me that some medium course might be adopted, so that, while, on the one hand the control of local post offices and small local telegraph lines might remain in the hands of the colonies, the control of what might be termed national lines, such as the telegraph line between Adelaide and Port Darwin, which is for the benefit of the whole of Australia—and I was pleased so hear Sir Philip Fysh pay a justly deserved compliment to the originators of that scheme—might be handed over to the Central Parliament, so that all questions in regard to ocean mail services,
questions in which the whole of the Australian Colonies are equally interested, might also be dealt with, not by promiscuous conferences of Ministers and officers controlling the post and telegraph departments as now, but by the Central Parliament, and so that the calling of tenders for our ocean mail service might be better managed by the Central Parliament than by the local bodies. As to the question of the military and naval control that seems to me to require no argument whatever. It appears that most of the members of this Convention are at one in this opinion, that the whole control of the naval and military forces should be placed in the hands of the Central Parliament. I was at first somewhat inclined to be timid as to the possibility of the central Federal Parliament launching out in a heavy expenditure for a large standing army, or for a vastly increased naval force; but if the main points which I have alluded to before, and which I strongly advocate as to the control of the finances in the States Assembly, where the rights of the States will be protected, are conceded, we need have little fear with regard to that head. But this is certainly one of the items which, without that concession, without the right to control the expenditure in the Assembly where the States are equally represented, might at some future time prove a great danger. Next in importance is the question of the establishment of a Federal Court of Appeal, and it has been suggested that this Federal Court of Appeal should not be a final Court of Appeal, that while establishing it we should still give to litigants the full right of appeal to the Privy Council. I think it would be a farce to establish any Court of Appeal in such circumstances, and the only way in which a difficulty which might occur could be met appears to me to be that this Federal Court of Appeal should be absolutely final in all matters except such as relate to disputes between States. There might be a difficulty where disputes might occur between States-for instance, with regard to the river ways, which have been alluded to-and these disputes might lead to heated feeling and to heated arguments, and the States where the disputes occurred might be indisposed to trust them for settlement to the local Court of Appeal. In that case undoubtedly the best and most proper course would be to leave the appeal open to the Privy Council in England. In speaking yesterday afternoon in regard to the Constitution of the Federal Parliament I dealt entirely with the question of the number of representatives which each State should have in the respective Houses, but I omitted one point upon which I now desire to say a few words. I believe the representatives in both these Houses-in the House of Representatives, where the people are to be represented as a whole, and in the States Assembly, where the people are to be represented as States-should
undoubtedly be upon the broadest possible franchise, and in the hands of the people. The Commonwealth Bill of 1891 laid it down upon the one hand that while the House of Representatives should be elected by the people upon the same franchise as that for the popular House in the colony, on the other hand the election of the Senate should be left in the hands of the local Legislatures. This appears to me to be a dangerous and most unpopular scheme. From what I can learn of the opinion of the electors of this colony at any rate, all of them would seek to have the fullest possible voice in the selection of their representatives to represent them as a State in the States Assembly. There has been some question raised as to the desirability of a uniform franchise for the first Parliament, and it has been pointed out by some that it would be wise that this should be laid down in black and white in the Bill we are here to formulate. Now, I am inclined to think that such a course would lead to a tremendous lot of trouble, and therefore I would say that the proposals of some members of this Convention that instead of its being laid down-instead of our attempting to dictate to the other colonies as to a uniform suffrage of the first Parliament-we should leave each State to decide upon it for themselves. I am sure for one thing, that if the representatives of South Australia were to go back with a Bill drafted in such a form as to provide that the election of both Houses of the Federal Parliament should be only upon manhood suffrage, and not upon adult suffrage, we would have very great difficulty in persuading the people of South Australia to accept such a Constitution. Whether South Australia has gone in advance of the times or not in providing for adult suffrage, and giving her women as well as men a vote, is a matter for reasonable discussion, but having once given adult suffrage to the people of South Australia, it is little use to attempt to go back upon it. To my mind the best and safest course, if we desire to have the Federation approved of by the people, is to leave to each State the manner in which the representatives for the Federal Parliament shal

which are of grave importance. Like other members of the Convention, I have no desire to force my opinions as to representation in the Lower House-or as to the sliding scale and other questions-upon the Convention. I throw these matters out merely as suggestions for the consideration of hon. members, and with them I shall be equally willing to discuss all those points which have been raised fairly, and for the purpose of establishing this Federation on some reasonable terms-not upon any terms-which will be accepted by the people, and to give and take in the kindest possible spirit.

Mr. REID:
I beg to congratulate you, Sir, as one of the prominent leaders of the Federal movement, upon the most distinguished position to which you have been elected. Personally, I would have preferred your more active participation in the business of this Convention upon the floor of the House, but I am entirely reconciled to your present position owing to the fact that we can hope to have the full benefit of your assistance in the various committees which will probably be appointed. I have never concealed from myself the grave difficulties of the task which is before those who desire the Federation of the Australian Colonies. Those difficulties are large when we consider the geographical conditions of the colonies, when we consider that the six colonies occupy a small island and a vast continent, that five of them divide a coastline of 8,000 miles, that each has a metropolis which is a seaport, each capital distant from 500 to 1,000 miles from its nearest neighbor, all possessing more or less instincts of commercial rivalry. It is also another element of difficulty in our case that we have six separate systems of Government, which are marked by radical political differences, that we have five or six fiscal tariffs which also present inequalities-inequalities so serious that if you attempt to apply even a uniform tariff to them all they remain still of the utmost gravity. The difficulties which surrounded earlier federations were not so great in these respects as ours.

Dr. QUICK:
Hear, hear.

Mr. REID:
The United States federated under a pressure which happily does not overshadow our present deliberations. They were flanked by two powerful hostile nations-Great Britain on the St. Lawrence, and Spain in command of the Mississippi-and the perils of the Confederate States were eminently calculated to double the desire for compromise. Our happier fate it is to endeavor to work out this problem under circumstances which will enable us to pursue our deliberations with the utmost freedom, and yet I do hope that, although no danger of war overshadows us at the present time, we will never forget that such dangers may come upon us at any moment.

Mr. FRASER:
Hear, hear.

Mr. REID:
At any moment we may be compelled to rush into an alliance which may lack those elements of wisdom and deliberation which are now within reach of the Australian Colonies. Consequently I feel that we should have just as earnest a desire to complete our union as if those great dangers which attended the confederation of other countries were upon us. Another
grave difficulty which confronts us arises from the great diversity of revenue, of population, and of development which marks the various colonies, but I, as one of the representatives of the oldest, and in some respects, perhaps, the richest of the Australian Colonies, do not come into this Convention with any desire to make too much of such considerations. Development is altogether too immature to enable us definitely to pronounce where the ultimate greatness of the Australian people will rest. Colonies which to-day are insignificant in their population are possessed of territory so vast, and so full of possibilities, it is quite possible that in days to come they may occupy the position of leadership, which it is the privilege of New

South Wales to occupy to-day. It seems to me that although in matters of finance it will be necessary to pay some attention to figures, and to reach exactness as closely as we can, when we deal with the broad constitutional principles which are to be placed in this Federal Constitution we must lay absolutely aside any thought of our local politics, of our varying degrees of development, the number of our population, or the extent of our influence; we must absolutely forget our boundaries, and bring a common judgment and conscience to bear upon these matters, because what is expected of us by every elector, who sent us here is not that we shall make a good bargain, but that we shall bring into existence a system of government which will prove equal to the varying conditions of the future, whether of prosperity or adversity, of peace or war. I bring my own mind into this matter absolutely upon those lines. To secure the best principles for this Constitution is the one great duty which we have to discharge, and when we have found the right principles, we must then exercise our ingenuity in adjusting the details so as to meet with the least amount of opposition in the respective colonies which we represent. Before coming to what I regard as the most difficult points of our work, I should like to glance at one or two matters. In the first place, I think every member of this Convention will agree with me that wherever we possibly can we must put the stamp of economy upon this federal machine. It is one of the calamities of our task that these several colonies are already grievously overweighted with expensive official administration, which cramps the pioneer energies of Australasia. We have already six or seven complete and pretentious systems of government, the proportion of which should absolutely disappear when this Federation is happily consummated, and one of the greatest inducements to my mind to the taxpayers of Australia to pray for Federation is the fact that when the larger affairs of Australia are centralised in a Federation, the local affairs can be placed upon an
infinitely more sound and economical basis. That I regard as one of the far-reaching, substantial advantages of the work in which we are engaged. If we hope that the virtues of economy shall be brought home to the official authorities in the different colonies, we will do well to set them a good example; and one of the defects, to my mind, in the draft Bill of 1891 was the appearance of, I would not say extravagance, but of altogether too expensive a financial basis for the Houses of Parliament. If Parliaments are to bring home to the people economy, they must begin by Setting their own house in order, and I say at once that this Federal Parliament, instead of having a membership in the two Houses of 168, should be brought down to a membership in the two Houses of something like ninety-six; instead of a basis for the States Assembly of eight for each colony, I would suggest, with my friend, Sir George Turner, that the basis should be six; instead of a basis for the House of Representatives of one representative for every 30,000 I think that was it-of the population, I would suggest one representative for every 60,000 of the population, giving the smaller States the maximum which the Federal Bill allows.

Mr. HIGGINS:
The minimum.

Mr. REID:
Yes, the minimum; maximum to them. That would be a change which certainly should recommend itself to the representatives, I will not say of the smaller States—because that term always seems to me to be entirely mistaken—I will say to the smaller populations, because in the Draft Bill the Lower House—and again I do not object to those familiar phrases to which we are accustomed—had an advantage of seventy-two members over the Senate. Under my suggestion, however, there would be a difference of only twenty-four. My reasons for this basis are simply these, that, having regard to the work which it is proposed to allot to the Federal Parliament, it should not contain a larger number of members than ninety-six. Then, again, without seeming to belittle the system of payment of members, I think that the annual allowance might well be fixed at £300, with a certain allowance for travelling common to all Federations, which are generally of great extent.

Sir GEORGE TURNER:
That would come to as much as £500 without travelling expenses, as proposed in the Commonwealth Bill.

Mr. REID:
Oh, no.

Sir GEORGE TURNER:
More, I should think.

Mr. REID:
The allowance I would strictly limit to something like £50.

Sir GEORGE TURNER:
It would depend on where the Parliament sat.

Mr. REID:
The free railway passes help one along very comfortably.

Mr. TRENWITH:
They do not pay hotel bills.

Mr. REID:
Of course, if my friend Sir Joseph Abbott has his way, and the capital is fixed somewhere in the internal wilds of New South Wales, I admit that my figures would be inadequate. I see, however, the chance of saving something like £50,000 per year on the figures of the draft Bill. I make no difficulty about equality of representation in the Senate. As to the franchise of the Senate, I think, in the interests of those who wish to make it a strong national body, that they should not follow the American method.

Mr. ISAACS:
Hear, hear.

Mr. REID:
We have had some experience of the results of the system of election by the legislature of men to positions of emolument in New South Wales which, I think, none of us would like to see repeated in connection with the Senate of a united Australia. In the interests of those who wish to see this Senate an honored and powerful body, I respectfully submit that the franchise should be

Broad based upon the people's will.

As to the objection that under such circumstances we should have a uniform franchise for both Houses, I would point out that the difference between an election such as I would like to see for the Senate, making the whole community an electorate, will be considerable enough when its results are compared with those of a system which divides the colonies into a number of districts. Then I also think that we would do well to face this question of the franchise provisionally, leaving to the Federal Parliament the power of alteration, of course.

Mr. ISAACS:
Hear, hear.

Mr. REID:
The Federal Enabling Acts contain a provision which, added to the clause in the draft Bill which prescribes for the basis of election to the House of Representatives the rolls for the more numerous House of the State
Mr. REID:

Under that provision no person was allowed to vote more than once.

Sir GEORGE TURNER:

Hear, hear.

Mr. REID:

Add that provision to the provision in the draft Bill and you have an interim settlement of this matter, which gets over the South Australian difficulty completely, and leaves the electoral systems of the various colonies untouched except for this one purpose. Now, my reason for making a point of this is that the first Federal Parliament in many respects will have far more important work to do than any of its successors. If there ever was a time or ever can be a Parliament to which as broad a franchise as possible should be applied, that Parliament is not the second Parliament of the Federation or the third, but the first; and so I put that matter into a position of importance, and in doing so I am encouraged by the result of the experiments in the various colonies under the Federal Enabling Acts.

Sir EDWARD BRADDOCK:

Hear, hear.

Mr. REID:

I think every member of this Convention will admit that, although it was but one, single experiment, which we must not forget, still as an experiment it was eminently satisfactory, at any rate to the moderate men of these colonies. Passing away from that point I come to a question which I am glad to say is diminishing in size and cloudiness under the admirable speeches which have been delivered up to this point in this Convention. I mean the question of State rights. It has always seemed to me that those who spoke too much at large on this question from every point of view entirely forgot the scope which this Federation is to assume; that is to say, if we are going to proceed on the lines of the Bill of 1891, which I am prepared to do. If you go over the list of subjects which that Bill prescribes for the Federal Parliament, and if you follow, as I am prepared to do, a valuable provision of that Bill that what is not expressly handed over to the federal power remains vested in the several colonies, taking those two points together, you can absolutely examine the whole scope of the federal powers. It may have any number of developments in the future, but all those developments must follow within the lines of its powers, and when you look at those powers, I think this
question of State rights ceases to press so seriously as it used to do upon
the various representatives of these colonies. Every State right which is a
legitimate right must be placed in the Constitution. Only there will a right
lie safe. When we come to the distinction which my friend Mr. O'Connor
so happily drew, by a change of terms, when we come to the question of
State interests, then I confess that if there is anyone - and I do not think
there can be in this assembly-who is prepared to indulge in the enterprise
of expressing in the terms of a federal compact safeguards which will be
adequate to the protection at all times of all States interests, he is a
gentleman whose activity I envy, but whose labors will be absolutely
fruitless.

Mr. ISAACS:

Hear, hear,

Mr. REID:

When we come to the flexible varying interests of the future, it is
absolutely impossible to do more than to lay down sound general
principles. In the application of these sound general principles we all,
whether we represent a population of 1,200,000 souls or a population of
150,000 souls, must equally and absolutely rely upon the wisdom and
justice of those who will administer the federal power; so I say to the
States who have rights, let us recognise them in the deed, and to those who
have interests, let us all, large or small, trust to the justice of the Parliament
and the Executive of the Commonwealth. Those States that are in fear of
being overshadowed by the combination possible between Victoria and and
New South Wales indulge in a conjecture which experience, unfortunately,
has never justified. So far as I can judge of the possibilities of the future, if
any combination be possible it is not that. The combinations of the future,
as far as they seem to me to touch the vital powers of this Federation, will
be combinations with reference to matters of finances. It will be a calamity
of the future if any Government submitting Estimates, whether an
Appropriation Bill or other Estimates, submits Estimates framed on a basis
unjust to any State in the Commonwealth. I do not at present wish to touch
the crucial points; I am preferring to deal, before doing that, with some
matters which are of sufficient importance to mention, and upon which I
may be able to add something to what has already been said. As I have said
with reference to the powers of the Federation, subject to a few minor
alterations, I entirely accept the scope of the draft Bill of 1891. There is a
possibility of confusion in the construction of the clauses which confer
these powers and the clauses which refer to State legislation on subjects of
the same kind, which must be regretted. Clause 52 of the Bill does not give
exclusive power on the long list of subjects therein mentioned to the
Commonwealth. It gives concurrent authority to legislate; the States Chapter contains the power for State legislation on these subjects until other provision is made; and there is another clause which provides that when the law of a State and the law of the Commonwealth conflict the law of the Commonwealth shall prevail. Now, we must have a Bill so drawn, that that illimitable field of ingenuity for the legal profession which might arise in the federal courts on questions as to whether State laws and federal laws were inconsistent, is avoided. We must make it clear that the moment the Federal Parliament legislates on one of those points enumerated in clause 52, that instant the whole State law on the subject is dead. There cannot be two laws, one Federal and one State, on the same subject. But that I merely mention as almost a verbal criticism, because there is no doubt, whatever that the intention of the framers was not to propose any complication of the kind. I come to a very important chapter in the draft Bill, and I think hon. members will see I am following the structure of the draft Bill. Much as I have criticised that Bill, I have no hesitation in saying that if fifty Parliaments sat for three months they could not construct a better basis for our deliberation than is ready to our hands. In my opinion, and I am not criticising this stage of the procedure, because it was common to all our proposals, and is serving an admirable and useful purpose, but after this general interchange of opinion I must say I will deeply regret if we are not prepared in the open light of day before the public of these colonies to enter upon a revision of that draft Bill.

Mr. DEAKIN:
As to finance also?

Mr. REID:
No, we must have a Financial Committee, because that Bill left that subject in a condition which, we all admit, forms no basis for settlement; but as to every other matter, we all admit that that Bill is a perfect basis for amendment and settlement. I think-and knowing as I do that the strong prejudice which followed the Bill of 1891 is owing to the fact that most of its vital compromises were fought out in the dark-I think it will be a thousand pities if we, not the delegates of a Parliament, but the representatives of the people, fight out these compromises in the dark. We will afterwards have to fight them out in the open, and I say, "Let us fight them out in the open all through." But in this I somewhat digress. With reference to this matter of a Federal Judicature, there is one criticism which is not a verbal one, I think, that I wish to make. There is one example in the Constitution of the United States, which we would do well to follow. The Supreme Court of the United States is not a court created by Parliament, as
the draft Bill proposed our Federal Court should be. It is a court embedded in the Constitution itself, and it is essential to the just exercise of federal powers that this Supreme Court shall be strong enough to do what is right—strong enough to act as the guardian of all the rights and liberties of the States and people of Australia. I am glad that Mr. Barton agrees with me in this respect. It is almost a verbal criticism, but there is more behind it than a verbal criticism.

Mr. BARTON:
I think it is very important indeed.

Mr. WISE:
The mistake was admitted.

Mr. DEAKIN:
Especially as to the power of increase of the judiciary.

Mr. REID:
It was admitted some time afterwards. Now I come to the very important question as to whether the Supreme Court is to be a Court of Final Appeal for Australia or not. I at once confess that I heartily approve of the solution of that matter contained in the draft Bill. It should be, in my humble judgment, a Court of Final Appeal if it is to be a Court of Appeal at all. At the same time there is a provision in the Commonwealth Bill, which perhaps is scarcely neces-

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sary, because it is one of the inherent rights of the subjects of Her Majesty the Queen, that it is within the competency of Her Majesty in Council, in the event of any appeal, to bring about a review of the decision of the Federal Court in the highest tribunal of the Empire. With that provision, I am in favor of a Court of Final Appeal. If it is not to be a Court of Final Appeal, then as a Court of Appeal it is simply adding another pitfall.

Mr. TRENWITH:
Hear, hear.

Mr. REID:
It is simply adding another pitfall to the unfortunate persons who are compelled to litigate. The difficulty might be got over in a clumsy, perhaps, and, to my mind, unsatisfactory method, in this way: that it might be used as a Court of Appeal if both parties agreed that its decision as between them should be final; but that is a mere clumsy sort of expedient which I do not suggest, and I say broadly if it is to be a Court of Appeal it must be a final Court of Appeal, or it should not be a Court of Appeal at all.

Mr. TRENWITH:
So far as we can make it.
Mr. REID:
Yes; I quite agree with the hon. gentleman. Here is another matter which I might incidentally mention, following on the lines of the Bill to which I have referred. To my mind there is a matter which calls for serious consideration in connection with the question of intercolonial freetrade. It is a universal admission that one of the main motives for Federation is the destruction of our intercolonial fiscal boundaries.

Mr. PEACOCK:
Hear, hear.

Mr. REID:
I believe that is generally admitted, and certainly it is a matter in the very essence of the contract, but unfortunately on this vital matter the provisions of the draft Bill left us in this position: that the hostile tariffs might remain in existence for an indefinite period, for many years perhaps, because until a uniform tariff is agreed upon the old state of things continues, and we see at once that unless the Federal Parliament is tied down to some reasonable period within which this work must be completed, the temptation on the part of the State that did not like the proposed tariff so well as its own, to prevent uniform tariff legislation, is apparent. We must not put temptation in the way of any State to play a false part to this union, because without this free intercourse of the people of Australia, without the destruction of these tariff walls between us, I say all this Federation would be a sham. We must provide in our Constitution a liberal time within which this uniform tariff, which means this intercolonial freetrade, shall commence. Giving a reasonable time to the Federal Parliament to perform this most difficult task means, under any circumstances, one or two years, during which these fiscal differences will continue. I merely suggest, therefore, whether it is not possible in some way to bring about the benefits of intercolonial freetrade to some extent upon the establishment of the Federal Constitution. But this is a matter attended with difficulty, and I am certainly not here to raise difficulties, but rather to endeavor to smooth them. After these observations, I come to the Scylla and Charybdis of this federal enterprise. There is not the slightest doubt in my mind that this Federation will become an accomplished fact if we can hit upon a solution of the difficulties as to executive responsibility and the difficulties as to the rights of the two Houses over Money Bills in such a manner as to commend our work to the people of all the colonies. That is the great difficulty which faces us, and Sir Richard Baker, who has rendered many eminent services to the cause of Federation, never rendered a greater service than when he, in a few simple words, raised those issues in a most statesmanlike and conciliatory manner. Considering the strength of the
views expressed by him and some other hon. gentle-
men who sympathised with him, I hail as one of the happy auguries of our labors the attitude they have assumed. They have recognised, as we all must do, when we come to close quarters upon the vital principles of this Constitution, that we are landed in a great difficulty. Study history as you will, it does not completely cover the ground we have to deal with. All that we can do is, as the result of our study of other Federations and of British and colonial Constitutions, to arrive at an agreement upon this point, and if we do not our labors probably will be all in vain. What model are we substantially to follow—not on every detail, not to the length of every adjustment or compromise, but what historical model, amongst all the historical models, will we prefer to take as the one that must be followed more closely than any other?

Mr. ISAACS:

The British.

Mr. REID:

I should think so. I think there can be only one answer to that question. I say it with great respect, because these are most difficult matters, and no man is more likely to be wrong than the man who expresses his opinions in too positive a manner. I confess that one of my difficulties has been a habit of putting my opinions in too positive and pugnacious a way, and my anxiety, like every other member of the Convention, in addressing this assemblage, is to endeavor to get rid of that defect and to express my views with due submission to the better intelligence of this great body. I admit that the subject is altogether one so difficult that it becomes us to approach it in an attitude of the deepest humility. But as a result of my studies I have come to the conclusion, in the first place, that it is absolutely impossible to take the Constitution of the United States as our leading model. The reasons for that conclusion are so obvious that I will simply glance at them. In the first place the Americans, doing their best in those days, thought a King was indispensable, but took care to keep his Ministers out of Parliament, because at that time - this view was taken by my gifted friends Mr. Isaacs, Sir George Turner, and Sir John Downer - it was the fact that the King had his pliant tools leading Parliament which gave him most of his power for mischief, and the people of the United States, not having reached that stage at which the monarch had become dependent on the Parliament, got over the difficulty by putting the monarch and his Ministers outside of Parliament. It appears to me that if there is one merit by which the British Constitution is distinguished above every other Constitution in the world it is the lesson which it affords of firm, flexible,
incessant, popular control over the instruments of executive power. We may say Great Britain is not a Federation. That is true, but no Federation this world has ever known has had to provide and maintain institutions of law and order over a larger number of countries and races than the British Parliament, and in this sense I speak of the two Houses alike. One of the glories of that Parliament is that it is a whispering gallery for all the just grievances of all the races which are subject to the rule of Queen Victoria.  

Mr. TRENWITH:

A whispering gallery?

Mr. REID:

Whispering in the sense that there is no outrage so distant from the seat of the Imperial power, that there is no wrong vested in ever so humble a subject of the throne, that has not there a chance of being heard. Yes, it is more than a whispering gallery, this British Parliament, because it has shown singular efficiency in redressing the wrongs of the various divisions and races of that vast Empire. I fear the American President, with all his absolute power over his Ministers, with powers transcending in many respects the powers known to monarchs in these days, has not been equally successful in redressing the wrongs of many thousands of people in the United States; has not even been powerful enough to protect the faithful servants of the State from one of the most cruel systems of organised injustice that ever disgraced a people; has failed even in the relationship between the head of the Executive and those humble, faithful instruments. All these were given over to the rings. That solemn judgment which the genius of the authors of the American Constitution thought they had established for the election of the man clothed with these vast powers—to what has it degenerated? There is no doubt majesty in numbers, but behind the millions of voters there is a system of wires, held perhaps sometimes in the worst hands, which make a mockery of the free choice of the American people, which attaches, it may be, to the exercise of that free choice marks of everlasting reproach. I rejoice to think that amidst all the struggles for power and place—and they have been fierce enough—which have been waged in Great Britain, the powers of the Constitution have proved admirably adapted to protect the purity of the judicial bench, inviolability of tenure in the public service, and to maintain a system of efficient and economical government which, considering the vast and varied responsibilities of the British Empire, has, in my mind, been one of the marvels of history. I say, with due submission to my friends from all parts of Australasia, let us, as far as we can, follow upon lines which, after all, have constituted the strongest ties of the empire,
and which have helped to maintain, with singular steadiness, the power of Great Britain during centuries of crises in the surrounding countries. There is another great reason for adopting the British Constitution as our leading model, and it is this: that it is the model of the Constitutions of the colonies comprised in this Federation. That is a substantial argument in its favor. Then, if we take the British Constitution as our model, the Executive must be responsible to one House.

Mr. ISAACS:
Hear, hear.

Mr. REID:
The homely saying that
No man can serve two masters
applies absolutely to this proposition. Divided control means weakened responsibility. In order to maintain that rigid responsibility, without which responsible government is worse than useless, the controlling power must be clearly vested somewhere. Well, then, I think we are forced to the conclusion that the Executive of the Federation must be responsible to the House of Representatives. Now the next great difficulty is as to Money Bills. No reader of the history of the British Constitution can help seeing that this, after all, is the most important point in any Constitution. The power which holds the purse no doubt is the power which predominates everywhere, and I do not wish to advance my argument by concealing its significance, and so if we are to follow the British Constitution the power of the purse must be in one set of hands. The stability of the British Executive and the stability of British finance began when that state of things began. Finance has this double significance: it is not only the most vital matter amongst constitutional powers, but it is also the most vital matter of every day life to the people at large. I sympathise entirely with those honorable gentlemen who happen to represent colonies whose power in the popular House will be so limited, with their anxiety to see how they can accept that principle, and yet leave in the Constitution somewhere power strong enough to prevent gross injustice.

Sir EDWARD BRADDON:
Hear, hear.

Mr. REID:
It would be wrong in a matter where single control is so essential to expect a power to interfere in trifles. But I admit that we must here deviate from the British Constitution and give the Senate powers which have ceased practically to belong to the House of Lords for a long period. We know well that for some time past the House of Lords has
given up any pretence to financial control, any pretence to amending the Appropriation Bill or throwing it out, any pretence to amending a Taxation Bill or throwing it out; and when my honorable friend, whose gifted speech I greatly admired-I allude to the representative from New South Wales, Mr. Wise-thought that these matters about Money Bills were among the antiquities, he was quite right as far as Great Britain is concerned, but they are anything but antiquities to the gentlemen representing the smaller States who are drafting this Constitution, because the whole question is brought up in the most acute form, and it is a vital question. I admit that to face this federal difficulty in a Federal Constitution we must deviate from the strict lines of the British Constitution. The question is, how far can we deviate with safety, not to the larger States, not to this colony or that, but with safety to the proper working of the federal machine, which is not a local matter, which is a matter vital to hon. members, because if we construct a machine which will not work we had better have left the work alone; so that is a vital point, and I say at once I am prepared to meet my friends to the farthest possible point of conciliation, until I come to a proposition which, in my judgment and conscience, and speaking of the Federation as a whole, will not work well for the Commonwealth. If the Senate were allowed the power of amending Money Bills, the financial control resembles that exercised in the two Houses of the United States Congress. There both Houses have equal powers with reference to Money Bills. I wish for a moment, and only for a moment, to dwell upon the working of that system. The successful working of that system was only possible under one condition - a treasury so full that the two Houses working as hard as they were able to do could not get rid of the money. In such circumstances both Houses displayed wonderful unanimity in squandering the public revenue, absorbing a gigantic surplus amounting to $150,000,000 or $200,000,000 a year.

An HON. MEMBER: Not now.

Mr. REID: Some years ago the ingenuity of these two Houses in passing Money Bills was so enormous, and their activity so indomitable, that tens of thousands of money Bills went rattling through them both to recognise the valuable services of a number of doubtful individuals, rendered in the dim past if rendered at all; and in that way the nation was saddled with a pension system of $150,000,000 a year. No wonder their finances ran out. If we could think that the system would soon die with the veterans there might be perhaps room for forgetfulness, but there was, I believe, an
ingenious provision that if an old veteran happened to contract a matrimonial alliance with a young maid of seventeen the pension lasted during her life as well. So long as money is plentiful, I do not know that any harm would be done by giving both House sa chance of spending it, but the finances of this Federation will not bear. I hope, such experiments. The taxation imposed upon this Federation, from my view, should be strictly limited according to the interests of the States as a whole. In any case the expenditure should be strictly limited, as in that matter the States have as large an interest as the Federation, because, under anything like the sort of Customs tariff which my friends opposite from Victoria would like to establish, it would be essentially vital to the States that a very large sum should come back to them. Now let me press this principle upon those who are in favor of the amending of Money Bills by the Senate as a principle of right and justice-if you nationalise the area and incidence of taxation you must nationalise the power and representation of the taxpayer. The fallacy of the contention for equal power in the Senate over Money Bills is-I think, with great respect-very easily disposed of. If our federal finances were based upon an equal contribution into the Federal Treasury by each of the States that form the alliance my contention would disappear. The States would be absolutely entitled to equal power - not in one House, but in two Houses-of voting away the taxation as derived from the States as States; but, inasmuch as the whole burden-and we must remember that, so far as the people of Australia are concerned, the whole burden of this Federation rests upon those who provide the money-of finding the money is placed on a national basis, it cannot be handled on a provincial basis. I put that as a principle based upon honesty and fairness. But, again I wish to deviate, in fair recognition of the position of the States.

Sir EDWARD BRADDON:

Hear, hear.

Mr. REID:

I admit that there should be a reserve power in this Constitution which should enable the Senate, based on an equality of States, to veto an unjust Bill -

Mr. ISAACS:

To prevent any injustice.

Mr. REID:

To prevent a wrong; and therefore I say that States should have-not as an antiquated maxim of the British Constitution, never to be used, but as a really living right put in the Federal compact in black and white-the right
of exercising their power to reject any Bill which to their minds is permeated by any serious wrong or injustice.

Mr. HOWE:

And the whole machinery is thrown out of order.

Mr. REID:

Now I come to that. In the first place the machinery can only fall into disorder over finance. Finance is the steam power which works the federal engine. So long as the finances are not subject to any indefinite collapse the Federation will work: but I admit I have always contended that one of the vital points about this machine should be that it must contain within itself something which will enable it in times of enormous strain to work on, because if we construct a machine knowing, as we must, that in the days to come it will have to bear enormous strains, if we construct a machine which affords no solution of such a crisis, we construct a machine at the risk of its breaking down at the point where it should be strongest. We presume that the Federal Government will have an ordinary degree of business ability and good sense. We are sure the Senate will possess all these qualities. Now let me remind hon. members that the federal finances are not altogether so full of such burning elements as provincial finance not altogether; to some extent they are. What is the motive of a common-sense Government in submitting Estimates? It knows there is an absolute power of veto against injustice. It knows that the weaker States in the Lower House are the strongest in the Upper House, that while they are as seventeen to sixty-one upon the basis I have mentioned in the Lower House they are as thirty to twenty in the Senate. Now, especially when you consider the precise amount which is to be contributed by the smaller States at present—New South Wales may be a small State some day—when you consider the amounts that are at stake in order to secure that each State will have as much money spent in it as it contributes, I do not think there is much danger that the Federal Parliament will act with gross injustice to the smaller States. Allow me just to mention that I have prepared a scheme of federal expenditure which may be useful by-and-bye to the Financial Committee. I include the postal and telegraphic charges. The Federation will pay something like £3,028,000, and taking off the expenditure for post and telegraph services, which will be made up by revenue upon the other side of the account, that large total is reduced to £1,518,840. This will partly be met by large savings in the annual expenditure of the various States. But let us take the amount each colony will have to pay to the annual expenditure. New South Wales will have to pay £628,000, Victoria £568,000, South A

Sir GEORGE TURNER:
Mr. REID:

Yes; so that the three smaller States, having eighteen senators would contribute something over £300,000, against nearly £1,200,000 contributed by States represented by twelve senators. To get over this fear of injustice, although it seems to me out of place in a Constitution, I would be quite willing to have a stipulation in the federal compact that the whole amount contributed to the federal exchequer by the smaller States should be spent within their own boundaries.

Mr. TRENWITH:

How would you do with defences then? Military experts think that certain points should be specially defended.

Mr. REID:

That might be, but, as representing one of the larger populations, I wish to say at once that in all financial matters within the bounds of reason I wish to act in the most generous way towards the other communities, because I do not at all forget that, small as the contribution of these States is, so far as their population goes it is an equal contribution with our own. If the expenditure was on the federal basis each State would pay £303,000 to this annual expenditure; so I say, if the smaller States are willing to base finance on the equality of the States and to pay an equal share with us, I give up all my contentions about Money Bills; but if, on the other hand, they prefer the national basis, then I think the national basis of the British Constitution should follow our financial arrangements, with this living power given to the States, that they should have the power of throwing out any Bill—whether of taxation, or even perhaps of appropriation, if there is a provision against a deadlock—if in their opinion that Bill is of such a character that it would be grossly unjust to let it pass. Now, I do not believe in our little estimates of expenditure there will be the slightest danger. Let us remember the financial problem involved in defence, and here it is that the larger populations and the wealthier States make a substantial sacrifice in entering into this compact. Above all other points, what is the central point which this alliance is to secure? It is to secure that the whole strength of population, of wealth, of resources in all the colonies shall be pledged in defence of the integrity of every acre of Australasian soil. We, in New South Wales, with, our twelve or thirteen hundred thousand people, with our capacity for raising without any effort a revenue amounting to nine or ten millions a year, we pledge every man within our boundaries and every pound of our power of raising money to the last shilling in defence of your great coastline of Western Australia, of your great coastline of South...
Australia. It is a serious undertaking, it is a substantial sacrifice, because, after all, above all questions of finance comes the question of strength to vindicate your rights, comes the question of resources to maintain the integrity of your island; and there is, I say, a sacrifice real and substantial in that term of the bond that we do not pledge ourselves on a population basis or on a Federal basis, but we pledge ourselves to the last shilling of our resources.

Mr. FRASER:
You would do that without Federation.

Mr. BARTON:
You could not do it so effectively without Federation.

Mr. REID:
I ask my hon. friend, Mr. Fraser, who, although a man of very keen commercial spirit, is not destitute of a keen sense of honour, would that be a worthy part to play?

Mr. FRASER:
On our part?

Mr. REID:
On our part; and it is a part we would play probably without reference to finance. But that being the attitude we are assuming, it will be seen that after all our position is one not destitute of a sacrifice to Federation.

Mr. PEACOCK:
Hear, hear. That is the point.

Mr. REID:
Now I wish to clear away another matter. I entirely sympathise with those hon. members who wish to put an end to the vague state, politically understood, of the expression "Money Bills." I entirely agree that in this Federation the class of Bills which should not be amended in the Senate should be of the smallest possible number. For instance, the Appropriation Bill, the Taxation Bill, and the Loan Bill, and I say frankly at once, for I do not believe in keeping things behind, that of those three, if it meant saving Federation, I would be willing to give up one-the Loan Bill. As far as the Appropriation Bill and the Taxation Bill are concerned, I say that we safeguard the smaller States by giving them the power of redress against injustice - a power which is not a figment or a fiction, but a living reality-to throw out a Bill which they feel will justify that course. Now we must come to some provision which, if the two Houses happen to get into obstinate conflict, will save an unfortunate people from the ruin which would eventuate, and the financial collapse which would result in the future. There must be some such provision, in my humble judgment,
and I have always thought so, and I am of the same opinion now. The
question is, "What should it be?" There are several suggestions. There is
the suggestion of the two Houses sitting together, which would much more
strongly recommend itself to the representatives of the smaller States if the
difference between the two Houses, instead of being seventy-two, as is
stated in the Commonwealth Bill, was only twenty-four, as in the scheme I
suggest. That, I think hon. members will see, is a very serious change in
the overwhelming preponderance of the Lower House.

Mr. DEAKIN:

What numbers do you propose?

Mr. REID:

I propose that the Senate for the six colonies should consist of thirty-six
members, and the House of Representatives for the same number of
colonies, of sixty members, or one for every 60,000. Now the difference
between a combined sitting of 124 members of the Lower House and forty-
eight of the Upper, and sixty of the Lower meeting thirty-six of the Upper,
is a very serious one for the smaller States. That is one proposal which I do
not at all feel enamoured of, but which I am willing to accept on the
condition that we must have some provision to afford to the Lower House,
and to the whole of the Australian communities, a guarantee against a
deadlock, in which we might not be the sufferers, but which might cripple
the financial and industrial prosperity of the whole of those communities.
We must keep in mind that the people have a common interest in this
machinery, if it is to work at all, being so constructed that at some unhappy
moment it will not explode and scatter destruction on all sides. There must
be within the machine some latent power which, on a given pressure, will
protect the Australian people from that catastrophe.

Mr. FRASER:

After a lapse of time.

Mr. REID:

When an explosion comes a lapse of time is very immaterial to those
near it.

Mr. TRENWITH:

Mr. Fraser means, would you allow a lapse of time, that is, some time to
intervene between the coming of the conflict and the settling of it?

Mr. REID:

Certainly. In the first place we are not ignorant of the various ways of
Parliamentary compromises which can be resorted to under our Standing
Orders, and we may hope that there will be no more serious difficulties
than present themselves at present to us; but, certainly, there should be no
interval. For instance, a Bill should be rejected in two consecutive sessions.
I do not disguise from myself the fact that, say in the case of the rejection of an Appropriation Bill—which I do not suppose will happen, but supposing it did happen—it would be in the power of the Executive to prorogue Parliament and re-assemble for another session in two days, so that the measure might be dealt with in a week. That would not afford much time, but still it would afford some time for reflection and perhaps for a modification of the Bill. There is another suggestion which has been made, and that is the dissolution of the Lower House. This is an old-fashioned method, which has never been satisfactory in the settlement of these matters; it is an old-fashioned clumsy form in which the referendum exists under the British Constitution, a most unsatisfactory thing, and the result must be that things would be left very much as they are. Let us suppose that the representatives of South Australia, Tasmania, and Western Australia were bitterly opposed to a Loan Bill or an Appropriation Bill, on the ground that it was grossly unjust to those colonies, their senators could probably go to their colonies with a tolerable degree of safety on the question. It would be like a member of a local Parliament going to his constituents on the subject of a bridge which they had been agitating for years, and being simply shouldered back to Parliament again to protect, their rights and interests. I do not think, even if we dissolved both Houses, that that would be a satisfactory solution, and above all I do not wish to dissolve this Senate. If those who wish to put this Senate on a strong basis will only harmonize with the strength of the Senate the elasticity of the system, so that there shall be in certain matters scope for the predominance of the representatives of the people in matters of taxation, and for the principle I have mentioned, then I say no man will be found more anxious to see that Senate placed in a lofty and immovable position.

An HON. MEMBER:
Destroy it.

Mr. REID:
If the Senate to be placed in an immovable position, it must not ask to be an immovable dictator of the Commonwealth. That must not be. So I go with those who wish to make a strong and stable Senate; but on the question of taxation, which is, as I have said, collected on a national basis, the national representatives should in justice predominate.

Mr. HOLDER:
How about the referendum?

Mr. REID:
I say, with all respect to the referendum, which I am quite willing to arrange for in our Provincial Assembly, and which is a system for which I have the highest possible respect-a system which I think in some form or another will be amongst the reforms of the future-that I must submit when I consider the enormous area of the Federation, and the scattered state of its population, that there never was a more unfavorable arena for the referendum than this. It may be justified, and it was justifiable when the people were asked to give authority to representatives to frame a National Constitution; but I should be sorry to see that organ used for the determination of internal matters which might be of small moment. Suppose that there was some bitter conflict over a sum of £20,000 or £30,000 in a Loan Bill, which might be a small matter to the more populous colonies, but a larger one to the smaller, it would perhaps cost three times the amount involved in carrying out the referendum. I must, however, admit that if Parliament had come to a deadlock, it might be worth many times £20,000 to remove the strain, because then the very life of the Federation would be at stake, so that, on reflection, if no better method can be found, I would disregard the expense, because a safety-valve is absolutely essential in the manufacture of a Constitution. There is no good machine ever invented, which is subject to pressure or strain, that is not so designed that, in the event of carelessness, or stupidity, or madness on the part of those who are using it, there springs into action some latent contrivance to save the apparatus, and with it the life and property in its neighborhood, and we, in framing this piece of political mechanism, must not disregard the cardinal rule which the humblest mechanic adopts.

Mr. HIGGINS:

It is an extreme power held in reserve for extreme cases.

Mr. REID:

It would be a power, which even the strongest Government would Shrink from employing. If I may be allowed, I would draw an illustration to show how even a man so impulsive and pugnacious as myself may be overweighted by the sense of responsibility. Members may recollect that the Government of which I was a member found itself engaged in a cardinal conflict with our local Senate over a certain Bill which we considered vital. Well, I did not fulminate in the House, I simply dissolved it, and went to the country to get the requisite power to pass that measure. When I got the power, instead of seeking to overbear the other Chamber, instead of insisting-backed up as I was by the popular verdict upon every letter of the thing which the public had approved of my demanding-I im
Mr. O'CONNOR:
You would have got nothing if you had not adopted the wise course you did.

Mr. REID:
My honorable friend is perfectly right, but is imperfect in his history.

Mr. BARTON:
The Premier called my honorable friend and the Council "old fossils," just as if they had been the referendum.

Mr. REID:
I do not think they are old fossils.

Mr. BARTON:
They are platonic fossils.

Mr. REID:
I made and published my conciliatory proposals before I went into conference. I went into the conference with those proposals, while my honorable friends from the other Chamber were sent in sworn almost on the Bible not to surrender, but they did surrender; and there is a bit of unwritten history in that, and while I was flushed with victory my honorable friend was pallid with defeat. Now, in our Constitution there is a safety-valve against a deadlock, and, as I say, this safety-valve was not applied to the difficulty to which I have referred. I have too proper a sense of the importance of preserving the influence of the Second Chamber to endeavor to go to such an extreme as to use that safety-valve. To lightly go to such an extreme, without exhausting the other modes of settling a difficulty, or finding it impossible to arrive at a reasonable compromise, would be the act of a madman. And I say in reference to this Constitution it must be, on a broader scale, on a nobler scale than our local politics. The whole wisdom of the Convention, I trust and believe, will be far above allowing the possibility of risk to the strength and harmony of the Constitution. But we cannot be blind to the teachings of experience. We know that such calamities do occur. We do know that they are a distress to the community in which they occur. If there is one thing which we ought to strive above all other things to effect, it is the peaceful and harmonious working of the Constitution. With some security of some kind against the danger of a fatal strain I would be perfectly content to concede the right on proper occasions to the Senate to reject Money Bills. Now I want to leave that question, and say a word or two upon the financial difficulties which stare us in the face. I have had prepared a scheme of federal expenditure as closely as I could fix such a problematical matter, which shows that the total expenditure of the Commonwealth, working on the basis of the draft Bill, will be £3,028,000
a year, of which £1,618,000 will be for the postal and telegraph service, which will be made up, or nearly so, by corresponding revenue. The estimated revenue from posts and telegraphs on a uniform tariff equal to that of Victoria, South Australia, and Tasmania would be £1,626,800; the mint would yield £39,000; navigation and shipping, £181,000; Appeal Court, bankruptcy, patents, and other services, £24,300-making a total of £1,871,100, leaving £1,156,000 to be raised by federal taxation. Taking the freetrade tariff of New South Wales as it will stand on July 1st next, that is, mainly a tariff from narcotics and stimulants, and taking the average imports of the five colonies for the three years 1893-4-5, which is a very fair basis to take, the tariff of New South Wales on the basis of intercolonial freetrade would yield an annual revenue of £3,258,000, leaving a surplus for return to the States of £2,100,000. On the Victorian tariff of January, 1896, the surplus for return to the States would be £5,240,000; on the basis of South Australian tariff of 1894 the surplus would be £4,499,000; on the basis of the Western Australian tariff of 1895, the surplus would be £3,123,000; on the basis of the Tasmanian tariff of 1894 the surplus would be £5,730,000.

Sir GEORGE TURNER:
 Including border duties?

Mr. REID:
 As if there had been intercolonial freetrade during the three years. Then a difficulty, and it is a serious one, comes up, and no matter what uniform tariff you impose on these Australian Colonies, the result of that uniform tariff on different colonies will be most unequal.

Mr. GLYNN:
 Would it upset your figures?

Mr. REID:
 No; only their application. I will show how inequalities would arise. These figures would be the result of a uniform tariff on the facts, but the figures I am about to mention would represent the inequality of returning the Customs duties on a uniform basis of population. For instance, if the uniform federal tariff were the present tariff of Victoria, on the facts of these three years I have mentioned, on the basis of intercolonial freetrade, this result would be brought out: if the money were afterwards distributed on the basis of population - Western Australia would suffer a loss of its own money paid by its own people of £271,200 a year; on the basis of the South Australian tariff Western Australia would suffer a loss of £365,980 a year; on the basis of the Tasmanian tariff Western Australia would suffer a loss of £244,285 a year; and on the basis of the New South Wales tariff
Western Australia would suffer a loss of £127,000 a year. The loss inflicted upon New South Wales by a uniform Victorian tariff in the distribution would be £668,545, whilst Victoria would gain £811,925, a difference of £1,480,470 between these two colonies if the money was distributed on the basis of population. I have got other figures, with which I do not want to weary the Convention, but they follow similar lines. They show, no matter what tariff you take to serve as a basis, an inequality which will add to the trouble of our Financial Committee. Upon the financial point I think we must try to arrive at a definite basis of financial expenditure; that is, the ordinary annual expenditure of the Federation, with a fair margin. Unless you get that there will be no certainty either in federal or provincial finance, because the finances of the States will all hang upon the finances of the Federation if the Federation collects the Customs duties.

Mr. MCMILLAN:
   How would you estimate it?

Mr. REID:
   That is the point. It is a very difficult thing to do. I quite admit if this were a Government with vague

   general powers such as a nation has it would be absolutely impossible, but with a limited Federation, in which the sphere of the Federal Government is tied down to definite services and subjects, I do not know that the question is quite insoluble.

An HON. MEMBER:
   What about a time of war?

Mr. REID:
   Of course a state of war or danger would be met by the unlimited power which the Commonwealth will have in taxation, whether Customs or otherwise. We must give it unlimited power to meet emergencies, and, having given that, then if it is possible to limit expenditure in normal years, it would be possible to give some certainty to the provincial finances. because otherwise a province will never know what its finances are until two years or so after the federal year is over. The interest upon the various public debts is more than enough to absorb any surplus which any colony is likely to get from the Federation. As to the question of railways, I confess to a change of opinion. I was strongly of the opinion that unless the railways were handed over to the Commonwealth-a course which I felt to be full of difficulties-it would be impossible to give the Commonwealth any power of control over the local railways; but I have become-in the
spirit which we ought all to feel in wishing to remove everything unfederal, or the exercise of any anti-federal power—convinced that as part of this great work upon which we are engaged some power should either be indicated or established to prevent abuses. It is impossible to prevent differential rates with the working of our railway systems. I am going to this extent, that the one thing which I think no railway system should be allowed to do after Federation is to have two rates for the same goods between the same points—one rate for the goods of the inhabitants of one colony and another rate for the goods of the inhabitants of another colony.

Mr. BARTON:
I have some clauses prepared to cover that.

Mr. REID:
I will go to that extent. I think we ought to do so. There is no doubt that New South Wales and Victoria have been involved in painful competition over that matter, and we must put an end to it. Each State must have full right to fix its own rates, but in fixing its own rates there must not be one rate for the produce of one man and another rate for the produce of another man.

Sir WILLIAM ZEAL:
Suppose that results in a loss to a colony; will the Federation recompense that colony?

Mr. REID:
If it is possible for a colony to work this system of differential rates profitably, by making large rebates to other people in another colony, it shows there is an opening for reducing the rates to its own people who pay for railways. Each colony will be put in precisely the same position. If it is a hardship to Victoria it will be equally hard upon us, because we will be compelled to quote a uniform rate quite irrespective of our desire to compete with Victorian railways.

Mr. MCMILLAN:
If a colony suffers any great loss it may make it up through taxation.

Mr. LYNE:
Would you not agree to any long distance rates?

Mr. REID:
It would be impossible to assert a power to interfere with the management of the railways, so long as there are not two rates charged to two individuals between two points for the same goods.

Mr. BARTON:
Or preference given to one port over another?

Mr. REID:
I really feel I have trespassed on the indulgence of this Convention at too
great length. However, I am very grateful to hon. members for the attention which they have bestowed upon my speech. I shall always be proud to remember that the other Australian Governments asked me two years ago, when the Federation movement was in sore straits, to take the leadership, and put the mother-colony in the van. I loyally accepted that task, and I hope the Government of New South Wales have loyally acted up to it. We have been strengthened by the co-operation of the Governments and the Parliaments of the colonies represented in this Convention in the most thorough and loyal manner. I have never concealed the confidence which I feel in the wisdom and stability of the Australian constituencies. They have placed on us a very solemn and momentous task. Whilst I have expressed freely and fearlessly my opinions, I will not have the slightest hesitation to go as far as reason and justice will allow me to go to meet the various difficulties which may be suggested by other members of the Convention, for it really is, after all, in the courtesy of our intercourse, in the kindliness of our differences, in the breadth and liberality of our views, in our perfect readiness to yield to superior argument, and above all in our indomitable resolve to crown this movement with success, that the full significance and grandeur of this Convention will reveal itself. We, I hope, will faithfully discharge the trust committed to us. I hope we will truly voice the patriotism and brotherly instincts of the Australasian people. I hope that, since they have called us to this task, we will be enabled to fashion a fabric of national government which shall be strong enough to withstand the shocks of time, which shall be elastic enough to overtake the mightiest possibilities of this grand new world of ours, and which will be just enough to do no wrong to any man.

Mr. DEAKIN:

It is but natural that, in addressing an assembly of this description, we should be at every turn confronted with memories of its predecessor in these colonies. The Convention which sat in the City of Sydney in 1891 gave a first tentative form to the proposals for federation with which we had been familiar for many years. It is but natural that presence in such an assembly should remain one of the recollections - the deepest recollections-of a lifetime, and it is perhaps inevitable that at every stage of the proceedings which we are here witnessing one should be struck with the similarities and differences between the two gatherings. To these even frequent allusions may not be out of place, since the aim of both gatherings was the and his adhesion meant a great deal-to the principles of responsible government, as exhibited in the British Constitution. From an entirely
different standpoint, under precisely similar circumstances, with very
different arguments, the present Premier of New South Wales has arrived
at exactly the same conclusion; and, taking into account the masterful
ability of his speech, the position he occupies, and the influence he rightly
wields, I believe we shall discover that his speech of to-day presents just
such another turning point in the development of the thought of this
Convention. It should fix the form of the future Federal Executive, and its
relation to its Parliament. Another happy parallel in our proceedings has
been the unanimity with which the Hon. E. Barton was chosen to fill the
high office of Leader of the Convention, enjoyed by the distinguished
federalist Sir S. Griffith in 1891. Our work is safe in his capable hands. I
must confess that the urgency with which the necessity of compromise has
been put forward is rather apt to provoke in the minds of many a reflex
determination not easily to part with our own opinions or yield to anything
like a general flux of thought. I have not yet been able to note any general
departure from what I have understood to be the customary modes of
thought and opinions of those who have addressed this Chamber, but I do
begin to feel, or think I feel, one of those undercurrents of feeling which
sway even thoughtful and deliberate minds, and cause them to be drawn
together by one common influence. My own opinions seem more
malleable, and more capable of modification than I supposed while
listening to speeches which I do not hesitate to say, so far as my poor
judgment enables me to speak, are no whit inferior to those which ushered
in the Commonwealth Bill of 1891. Those speeches have been delivered
here in accordance with exactly the same procedure as was followed there,
but have exhibited, in many cases, an entirely different standpoint—a
changed atmosphere, an emergence of new points of view. Following
speech after speech, starting in most cases from different, and sometimes
from antagonistic, standpoints, it has become possible to gather what, if I
understand it aright, is the general sense of this Convention on some grave
issues which we are called upon to reconsider. recognise that the old
problems of 1891 have every one emerged, but almost all with new faces.
The natural processes of political thought in later years, and the discussions
which we have listened to here combine together to present these old
problems, to me at all events, in many cases in a new light. Had it not been
for this, I should not have ventured to trespass upon the limited time that
remains to us. If the point of view at which I have arrived be not new to
others, I may be pardoned for the belief that it is by the presentation even
of merely personal views that others may be, as I have been, largely,
assisted. In the Commonwealth Bill it was my misfortune to be in the
minority, and sometimes a small minority, on certain important points. On
one or two of these points it appears to me that there is a prospect now that I may happen to be with the majority.

Mr. GORDON:

Hear, hear.

Mr. DEAKIN:

Nevertheless I would like to clear the way by admitting that were it a question to-day, as it was in 1891, of accepting the Commonwealth Bill or postponing Federation even for a few years, I should, without hesitation, accept the Commonwealth Bill. At the same time, as this Convention is assembled under a fresh mandate, delivered directly from the peoples of the several colonies, giving us immediate and direct authority to speak for them to the best of our power, I hold myself in no sense bound by any vote or speech in that Convention of 1891.

[W.286] starts here

Willing as I am to accept the Commonwealth Bill, I recognise the obligation, now laid upon us as a distinct obligation, to draft the best Constitution possible under the circumstances in which we find ourselves. I had at one time noted portions of those speeches of my predecessors in this debate which most appealed to me, with some idea of commenting on them should the opportunity arise, but I am about to abandon them because, though I am anxious to ex-press my indebtedness to many members for particular arguments on particular points - that personal obligation cannot stand against the general sense of urgency that is upon us to approach, after this thoughtful, useful, and essential discussion, the consideration of the details to which we must necessarily give form and shape without further delay. To pass without further preliminary to the first problem which confronted us in the Convention of 1891, in identically the same words in which it is presented to us here, I join in expressing, with my brother delegates, our acknowledgments to Sir Richard Baker for the searching speech in which he followed the opener of this debate. We were confronted with exactly the same problem in 1891, but on that occasion the challenge came from the lips of a member who was rarely heard in that Convention, but whose speeches contained the essence of the views of those who agreed with him, delivered in classic form and nervous English which few of them could hope to rival. Mr. Hackett, on the 12th of March, 1891, told us that-

Either responsible government will kill Federation, or Federation, in the form in which we will be prepared to accept it, will kill responsible government.

I am the more reminded of this, because at that time, those who, like
myself, differed from the standpoint of Mr. Hackett, had the great advantage and satisfaction of having on our side the mature judgment and experience of no less a person than Sir Richard Baker. He had issued a manual which we had in our hands in 1891, in which, on pages 44, 45, and 46, he expressed his then opinion in regard to the possible forms the Executive of the Federation might assume. He pointed out to us that the Americans were not satisfied with the mode of conducting public business. Hon. members will see what he said on page 44—

Some of them have cast longing eyes on England, and advocate the introduction of responsible government as the only cure for the evils under which they are suffering.

He now recommends for our approval the Swiss form of Executive. Then he was able to say:

In the first place we knew very little about it. It is said to work well in Switzerland, but even if that is so, it would be the rashest of assumptions to conclude that it would work well in Australia.

He went on to add:

The soil, the climate, the physical and political environment of Switzerland, the history, feelings, and sentiments of its people are so different from ours, and must exercise so important an influence on the working of its political institutions that any conclusions drawn from them is, to say the least, hazardous. In the past, experience has shown that all political institutions which have been lasting are of slow growth; that the ideas and sentiments which give rise to such institutions, and ensure their utility, must be as it were engrained in the people; and that imported and transplanted exotics have never flourished.

I should seek in vain to express in language equally concise and well chosen the objections which operate upon my mind, and, probably, upon the minds of others, in regard to the application to our Federal Government of the system of the Swiss Executive.

Sir RICHARD BAKER:

You forget that, in the second edition of that book, I said I had altered my mind after hearing the objections.

Mr. DEAKIN:

If I had remembered that, I would have done the hon. member the justice of stating it, but it does not affect the purpose to which I wish to put this quotation, where finally he sums up:

If the Swiss experiment is to be tried, let it be tried somewhere where it does not succeed; and let us adhere to the system of responsible
government, under which we have been born and bred, and which, with all its faults and imperfections, has worked at least as well as any other system adapted to Republican institutions.

Now whilst we are all aware that the hon. gentleman has changed his opinion, and no doubt has in his own mind good reason for changing his opinion, it is unfortunate that he did not favor us with a statement of a single reason which has led him to depart from that weighty argument then placed before us. He told us that he favored the Swiss Executive. He might have told us that he admired the beautiful scenery of that interesting country, but as to how he proposed to transfer its glacial Alpine heights and acclimatise them upon the sunny plains of Australia, he left us entirely in the dark. Consequently I feel justified in sparing the time of this Convention by putting in his own words, much better than I can express it, what seem to be unanswerable objections to the recommendation which he made to this Convention. In addition to that I might add that, as the hon. the Premier of New South Wales indicated this morning, we find the ground of choice by no means free and clear for such an innovation. In point of fact, those who ask us to accept the Swiss Executive do so forgetting that it would be introduced as an intermediary government above colonies which will preserve responsible government as we have always known it-so far, at all events, as we can at present judge. The peoples in these colonies have been trained wholly under responsible government and live in those colonies under that form of government, having above them the Imperial Government of England based upon exactly the same lines, upon the same principles, and upon the same traditions. It is actually suggested that between these responsible governments-the Imperial Government above and the responsible governments of the States below-in an Empire which has known no other form of government-we should interpose an entirely novel form with which our people are absolutely unfamiliar. Surely Federation, as we know it, is surrounded by problems enough, and difficulties enough, which must be surmounted in order to win the adherence of the people of the several colonies, without adding to these sometimes unpalatable proposals this entirely unexpected, and, to my mind unnecessary innovation of requiring them not merely to vote aye or nay for union, but of voting for the union to accept also what is to us an entirely new and untried system of government. Of course, the facts are, as the authorities upon the Swiss Government remind us, that the constitution which, in its present form, does not date back half a century, is slowly changing its form. We are told that their ministers, who previously were extremely limited in their departmental authority, are acquiring more and more influence. We are told
that the inclination to elect the Executive as one whole on party lines is becoming more and more manifest. I may add to those who think to force the Swiss form of government upon this country, upon a people politically earnest and politically alert, your mere paper constitution would be twisted between their fingers in twelve months back into its present shape. Your Executive would be made answerable as a whole to the electors-

Mr. BARTON:

Supposing the Parliament were elected of sixty protectionists, and forty freetraders, what escape would there be from the protectionists electing the whole Ministry?

Mr. DEAKIN:

I know of no escape. I am obliged to the hon. member for the illustration; and it appears to me that while Sir Richard Baker laid us all under an obligation, as Mr. Wise has said, compelling us to return upon ourselves, and re-think our conclusions, we need no longer debate the possibility, at this time at any rate, of the adoption of a new form of government—a new form which we could not induce or compel the people of Australia to accept. The influence of party government upon the working of our institutions was first indicated by the late Mr. Macrossan in 1891. It is a most fruitful influence hitherto ignored in this debate, and to which I shall recur. I am perfectly aware, as Mr. Dobson reminded us, that responsible government, as we use it, may not be theoretically perfect as a form, nor may it effectually prohibit the manifestations of human nature-political human nature especially—as we are more or less acquainted with it. Apparently, because that hon. gentleman has seen party spirit degraded to small and petty things, he would contend that what we need is a mere change in its form. I would venture to reply that no change of form known to us, and no form I am acquainted with in the civilised or uncivilised world, can confine, or is capable of seriously altering, the political spirit under which the inhabitants elect to work it. The Constitution of the United States, which has a supreme Senate, and an independent Executive, certainly has not shown us any improvement upon party Government as we know it in the mother-country and here. We all recognise that, not only would it be impossible for us to frame an ideally - perfect, and scientifically - flawless Constitution, but that if we did devise it any people would speedily reduce it in its operation to their own level. Be the form adopted what we will, the reliance which we place upon the future of Australia will never be based upon the form of its Government, but always upon the intelligence, the conscience, and the judgment of the people. True, we find in responsible
Government - to say no more - the promptest, the most sympathetic means of expression and execution of the popular will consistent with deliberate consideration of the problems to be solved. We find that the closeness of touch existing between the executive Government and the people as a whole has not only in the past been found the best guarantee for those liberties, the gradual conquest and co-ordination of which have made the honor and the glory of our mother-land, but this closeness of touch with the Executive has become an essential in these colonies, and must be also in the Federal future before us. Any proposal to place the Executive above or beyond Parliament and two or three removes from the vote of the people, as it is certainly contrary to our present practice, would, I think, be equally foreign to our political aspirations. Then as to the constitution of the national House, nothing, I take it, need be said; but as to the constitution and powers of the Second Chamber, here again, as in Sydney in 1891, much has been said, and possibly something remains to be said. The argument, as it affects my mind, is not one which I might employ were I sitting in one of the legislative Chambers of our colony either supporting or opposing Ministerial proposals of the day. I realise, as we all realise, that we are under an implicit obligation to look at both sides of each problem, and to place ourselves as far as possible in the position of those from whom we are compelled to differ. I take it we are anxious not to differ; we are anxious to agree. We are not here to differ; we are here to agree. But we are also to remember that our individual or collective agreement is perfectly idle and futile unless it be an agreement that carries with it the approval of those whom we represent. An authority, to whom we have often referred since 1890, an authority to whom our indebtedness is almost incalculable, is the Hon. Mr. Bryce; and here, it will not be out of place if I express the obligation we owe to Mr. Garran, of Sydney, for his excellent literary labors on this question. His work is one of the most lucid and well digested political handbooks which we possess on this important subject. I was saying that the position we are placed in as representatives is this: that we should accept only those proposals upon which we can carry our constituents.

Mr. Bryce reminds us-and were he not so great an authority it would be an extremely hazardous proposition to quote; in fact I should hesitate to quote it from an authority less high-that if the United States Constitution had been submitted to the United States people at the time it was framed it would certainly have been rejected. The Canadian Constitution when it was framed was not submitted to its people. We are placed in an entirely
different position, therefore, to the founders either of the Canadian or of the United States Constitutions. We are compelled, and fortunately so, to submit these proposals to our constituents—a condition that enormously increases the burden of the task which devolves upon us. Our duty, therefore, is to discuss in the fullest manner possible the whole of our difficulties in order that our motives and proposals may be clearly understood. We are under obligation to assent to no scheme simply for the sake of arriving at an agreement here, when we know within our own minds that to propose such a scheme to our own people would be to ensure its rejection. Anxious as we are to conciliate and study each other's susceptibilities, we must not mislead. We are bound to look forward to ultimate results, and steer so as to avoid a final disaster. Of course it would be possible to use arguments of this kind having something in them of the nature of a threat, but my colleagues will do me the justice of recognising that this is far from me. It is because our proposals have to be remitted to the referendum in the more populous and the less populous States that I have been casting about in my mind to see if it were not possible to find some line of argument and compromise which would enable us to go to our several constituents and place before them a scheme which they would all accept. It is absolutely necessary that this Convention should carry the more populous States; it is equally necessary it should carry the less populous States, and, if possible, carry them both together. In 1891 we adopted the referendum in order to obtain the popular verdict upon that Constitution. In this instance our Enabling Bills have been printed for it in advance. Let me ask my colleagues to place themselves in the position of representatives of the more populous States particularly, while I indicate to them a consideration which also obtains in regard to the less populous States. What is the principle upon which our present form of government is erected, and upon which it is worked from day to day? What is that principle to which we appeal because it constitutes our final arbiter in all political discussions, and to which we must appeal in the last resort? I am not here to argue as to whether it should be the sole arbiter. The sole arbiter, the sole Court of Appeal, which constitutionally we have come to recognise in this country, or in the mother-country, is the rule of the majority. Upon the ultimate rule of the majority the British Constitution swings as upon a pivot, and upon that principle it rests. Our whole history is the history of a struggle to give more and more effect to that principle, and the whole occasion of the existence of our parties, whether in the colonies or in the mother-country, is the division between those who frankly and fully accept the principle of the rule of the majority, and those who, for one reason or another, accept it only with qualification.
Mr. DOBSON:
Do you accept it without qualification of any sort?

Mr. DEAKIN:
If the hon. member will ask that question a little later I will try to answer it. That being the guiding principle of the whole of our political actions, and the determining factor in all British Governments—the principle more than any other that the people have been accustomed to put their political reliance upon—have the delegates present realised the difficulties in which we are placed upon the very threshold of any scheme of Federation by the proposition that that principle should not only be departed from, but absolutely reversed?

Mr. WISE:
If that principle were in full force in Victoria, Melbourne and the suburbs would return nearly half the members.

Mr. DEAKIN:
The hon. member's remark refers to another branch of the subject. It refers to the electoral conditions of the country and to the divisions we make of the colony in order to recognise the different interests. There is a difference with us as there is with most colonies, I think, between the numerical strength of a constituency returning a member in the country, and the numerical strength of a constituency returning a member in town.

Mr. WISE:
So it is with us.

Mr. REID:
There is no difference with us.

Mr. DEAKIN:
That difference with us is based upon a distinction between the sacrifices imposed upon the respective voters. It is scarcely a qualification, and practically the principle of the rule of the majority is not departed from. That being the case, if our hon. colleagues realise the position, they will see how we shall be placed when facing our constituents to discuss with them the basis of the second Chamber for a Federal Government, because that second Chamber is to be based on the principle of the rule of the minority and not of the rule of the majority.

Sir RICHARD BAKER:
No, the rule of the majority of the States.

Mr. DEAKIN:
A majority of the States representing probably a minority of the people—the rule in the States Council of a minority of the nation.

Sir RICHARD BAKER:
Mr. DEAKIN:

Less imaginary than the picture which has been continually drawn showing the populous States uniting together to oppress the less populous States. That is highly improbable, and I will give reasons, if my colleagues will follow me. I wish them to realise the difficulty at the outset. When we go to our constituents to propose to them the adoption of the principle of equal representation in the Senate, we must have the whole force of the political training, the prepossessions, and the instinct of our people against us. We shall have the almost insurmountable difficulty of asking them to reverse the principle of political action under which they have lived, under which they have learned their politics, and under which they have conducted their own affairs. I want that realised, because it has been assumed in this discussion that the principle of equal representation is conceded without argument, because it represents no sacrifice. It will, however, require a great deal of argument, and it certainly represents a great sacrifice.

Mr. PEACOCK:

Hear, hear.

Mr. DEAKIN:

My hon. colleagues were ready to put cases, about which I shall say a word or two in a few moments, extreme cases under which the populous States were to unite together to oppress those which were less populous. We shall be confronted on the platform with equally extreme cases put from the opposite point of view—as indeed I have noticed them put from various platforms in the recent elections—pointing out that under such a proposal as that of equal representation in the Senate it would be possible for the populous colonies to carry a particular measure at their general elections by hundreds of thousands of votes, and yet that measure could be rejected in the Senate, not only by an absolute minority, of the people of the nation as a whole, but by an almost insignificant minority. Deducting the minority in the Upper Chamber who would agree with the majority in the populous States, it might come to this: that hundreds of votes in the State election of members for the Senate might negative the decision which had been carried.
by hundreds of thousands of votes in the election of members for the popular House. This illustration is not a whit more extreme than some of those which have been put to us. I put it, in order that all may fairly realise what we shall have to meet when we stand on the platform and advocate equal representation in the Senate.

Mr. GLYNN:

The same thing takes place here.

Mr. DEAKIN:

We have an instance of its working. This Convention is a Council of the States, and we are here with equal representation. We are here as a Council of the States, and the people will very justly, properly, and reasonably, look at the result of our decisions as indicating what they may expect from the Council of States when it is permanently established. It was a happy spirit of conciliation which pervaded the speech of the Premier of New South Wales from his first word to his last-and I trust that that self-same spirit will actuate the whole of this Convention. We should be anxious, and deeply anxious, to be able to show to the constituencies of the more populous and the less populous States that all these problems have been fairly and frankly considered; and that the populous States are asked to make a sacrifice, a great sacrifice, an unexampled sacrifice for Federation. It is one which they will be justified in making for that great cause. I have never varied from the doctrine that equality of representation in the Council of States is the only possible means of representation. We are, therefore, thoroughly justified in asking our colleagues to realise that there is too much disposition to suppose that this sacrifice has been made by us already, and there was no question of any difficulty in having this conceded. So far for that point, which was passed over lightly in Sydney, and probably too lightly. Beyond that, when we have conceded equal representation in the Senate, we have by no means finished with the concessions proposed to be made to the Council of States. I prefer using the expression "Council of States" to any other. In the States Council we propose to give continuity and a fixed tenure, and render it superior to all possible dissolution. By those three conditions alone it is elevated into a position of sup

should draw to its ranks the best men in the community; yet we cannot afford to see that Chamber placed in such a position of vantage as will necessarily cause the Constitution to commence its career, not with any fine balance, as required in the theory of Sir Richard Baker and Sir John Downer, but with its balance heavily weighted in favor of the Council. It appears to me that, when we have agreed to that, not only must responsible
government be preserved, but that the Executive of the day must be responsible, primarily and mainly to the National House. We have even then barely redressed the balance if you are comparing House and House and measuring the power of resistance that will exist in a Council protected against dissolution and with a lengthy tenure of office against the propelling power of the National House. A Council strengthened in these respects will be in possession of a power of resistance such as we have never witnessed in these colonies before-and we have proved that much less exalted Upper Chambers exercise more than sufficient power of resistance—but this one will have a power equal, if not superior, to the driving force which should exist in the other Chamber. The Council of the States will be represented on the Executive, will have great influence on the Executive, will be capable of causing it to re-shape, re-model, or lay aside its measures. It will have all those powers by which such Assemblies have sometimes been able to make an Executive quail and surrender, at the price of penalising its supporters. Under these circumstances, even when we have made the Executive chiefly responsible to the National House, in my opinion, you have not yet arrived at the working adjustment required for an efficient Federation; and it is from this standpoint that I approach the question whether there should not be, and must not be under any Federation with responsible government, what has been sometimes termed a predominant Chamber. Must there not be a chamber of initiative, a chamber in which the most important Bills are first analysed and sifted. Its predominance should not be sufficient to render its driving force irresistible. Some brake is essential, as our experience has proved; and it should be an effective brake, capable of responding to those who, under this proposed Federal Constitution, would have the power of applying it, namely, the whole body of the people as grouped in the States; but it must not be a brake so powerful as to render the vehicle of the Constitution absolutely immovable. Checks and balances are essential, but motive power is, after all, even more essential than such restraints. There are the weighty reasons urged in the statesmanlike speech of Mr. O'Connor: the absolute necessity which exists that the Queen's Government should be carried on, that the public creditor should be paid, faith kept with the public service, the honor of the country preserved untarnished. In this Federation, the Government having charge of the Customs and excise, in a sense controls the trade and commerce of the country, and if an absolute deadlock occurred, its servants being unpaid, might absolutely prohibit all import and export until the dispute between the two Chambers was settled. It is with that possibility of rare, let us hope impossible, conflicts of that kind before us that, it seems to me, a well-balanced Constitution requires
of necessity that these measures on which the Government and country live, so to speak, from day to day the Government shall not be capable of being paralysed by a Chamber which is not capable of being brought into immediate contact with its constituents at the time the difficulty arises. Of course it must be recollected at every stage of the argument upon all these points that the States are only parting with a small part of their powers of self-government, and that the Federal Government has but a strictly defined and
limited sphere of action. The delicate problem, whether it is possible for responsible government to exist with two co-equal Chambers, has not been essayed in any Federation. The only case approaching it is in the French Republic. Since it has been established that republic has passed through one serious crisis involving the resignation of one of its Presidents and a threatened civil war. It was on the occasion when President MacMahon endeavored to support a Government against the wish of the Chamber of Deputies, who had the power of the purse. The end of that struggle was not the despotism or its alternative, a revolution, which might have arisen, but the retirement of the gallant soldier.

Mr. WISE:
Was that not got over by a dissolution of the Lower House?

Mr. DEAKIN:
The Lower House was dissolved, but the people returned a majority in favor of the policy advocated by their predecessors, and rather than face the humiliation of surrender, or risk a coup d'etat, the President resigned.

Mr. WISE:
It shows that public opinion will always prevail.

Mr. DEAKIN:
It may be an evidence of public opinion prevailing, but it cast on the public the duty of deciding between civil war and the untimely expulsion of the President. Since then the late Cabinet, a Radical Ministry, has been driven from office by the action of the Senate alone. Are we prepared to accept such contingencies in Australia? In his most taking and persuasive speech Mr. Wise stated that he considered the possibility of deadlocks the price paid for the privileges of constitutional government, but to me it seems the price paid for neglecting to secure a perfect means of self-adjustment in that government.

Mr. ISAACS:
It is all the difference between guessing and ascertaining public opinion.

Mr. DEAKIN:
The money power naturally belongs to the National House in all Anglo-
Saxon communities. The United States, when they faced the question of coequal Houses 100 years ago, made its Senate the chief of the two legislative bodies, and, although the Executive was placed outside the House of Representatives, the power of initiating Money Bills was strictly confined to the inferior House. Even without the Executive Government dependent upon it, without equality of powers, the inferior House—because it was the National House in the United States—was entrusted 100 years ago with the sole power of initiation. This arose from no antiquarian reasons, but from the very living and present reasons, set out so convincingly by the Premier of New South Wales, that I do not propose to develop them at any length. It appears to me that the representatives of the less populous States decline to distinguish sufficiently between the money powers and the general powers to be conferred by a Constitution. Now the distinction is no mere fantasy. It should be recognised in the forefront of the Constitution. In the exercise of both powers there are instances in which it is possible that State interests may be put in jeopardy. State rights cannot be put in such jeopardy; they are enshrined and preserved under the Constitution and protected by the courts to be established under that Constitution. But as regards State interests, what proportion of the business of the Federation will involve their consideration? If hon. members ask themselves how many measures presented to the United States Congress are questions which are even supposed by the imagination of any suspicious member to involve State interests, hon. members, I venture to say, will not only search their Bryce, but search the records of Congress in vain to discover more than the most insignificant fraction. Hon. members representing the less populous States fail to remember that what is proposed to be granted them is co-ordinate power over the whole legislation of the Federation, not only over that which relates to State interests—which, however important to the States, if and when their interests are impinged upon, involve but an insignificant fraction of the business of the nation—but under the Federal Constitution in order to secure the States against the rare possibilities of any injury they are given co-ordinate power over all legislation.

Mr. DOUGLAS:

Why should not one Chamber be equal with the other?

Mr. DEAKIN:

I do not quite understand the hon. gentleman's interjection.

An HON. MEMBER:

He means as regards general legislation.
Mr. DEAKIN:  
I should say that one Chamber should be equal with the other in general legislation, but that I would not give co-equal powers to the Chamber a majority in which often represents a mere minority.

An HON. MEMBER:  
May not State interests be involved in Money Bills?

Mr. DEAKIN:  
State interests may arise in regard to Money Bills, but possibly in a smaller proportion than in general legislation. Take the ordinary services of the year, the payment of the public service, the payments of creditors, and the various disbursements which are made throughout the country—in how many of those items are State interests likely to be affected? You may say the erection of a new post office or of a new telegraph station here or there will affect some particular locality, and you may say that through that locality in an indirect and petty fashion some State interests may now and then be touched upon. But it is surely perfectly true that ninety-nine hundredths of the Appropriation Bills will hardly touch State interests, even in that trifling way. In regard to Taxation Bills how are State interests to be affected? It is the people of the States who are taxed, not as citizens of the States, but as citizens of the nation, because in the proposed Federation taxation would be absolutely equal upon each and all of them.

Sir Edward BRADDON:  
You are begging the whole question.

Mr. DEAKIN:  
I am begging no question in this regard. The first principle of true Federation is that taxes are levied, not upon States, but individuals, be they resident in Tasmania, New South Wales, Victoria, or any other part of Australia. No distinction is made. How, then, can it be said that this equal levy can affect any State interest? What is affected is the interest of the taxpayer as a federal taxpayer, and only as a federal citizen. In this one matter there is no dual citizenship.

Mr. BARTON:  
But, as you argue, to tax under the Commonwealth by so much do you diminish the taxation power from which the States have to draw their only income and from the same persons.

Mr. REID:  
That leaves the argument as it is.

Mr. DEAKIN:  
My argument is that every State has all its citizens taxed in the same way.
Mr. MCMILLAN:
Supposing you had an excise duty on any article particularly connected with one State?

Mr. DEAKIN:
I will deal with excise separately. First with regard to taxation. Undoubtedly it affects all taxpayers in the same manner.

Mr. HOLDER:
An excise on sugar would not.

Mr. DEAKIN:
I will deal with excise directly. I do not see why this point should be confused. If you tax every taxpayer alike you deal with each one as the citizen of the nation, and he gains nothing or loses nothing by belonging to any State. Every State and every citizen in every State has the same motives for resisting or supporting this taxation, and it can be no question of the more po
others. State interests do not arise, as all have the same, and, as States, no one interest is opposed to another. The matter of excise is continually relied upon. It is said that the Federal Government may impose excise upon one particular industry, because that one particular industry may be carried on in one colony and not in another. That is absolutely so. It is just one of those possibilities which justifies what otherwise would be unjustifiable-our constituents reposing in the Councils of the States the absolute power to veto Money Bills as well as all other measures. It is just because the Federal Parliament might, by the imposition of excise or a bounty, affect State interests, that we take the absolute precaution, and in order to guarantee them against even a fractional injustice, we give the Senate power over the whole range of Money Bills. Here, as in the former case, the generosity of the gift implies a large concession from the populous States. Passing on next to the amendment of Money Bills-the crux in 1891 as now I dare say my argument is somewhat imperfect, but, as it appears to me, not only do reason and experience absolutely require that financial responsibility should rest in one Chamber, but justice requires that it should do so. That Chamber represents the majority of the people as a people. It is a national Chamber. Who pays the taxation? Who pays the majority of the taxation? The majority of the people.

Sir WILLIAM ZEAL:
The ratepayers.

Mr. DEAKIN:
No, not the ratepayers. It is claimed in our colony, whether true or not, that those who are not ratepayers pay a greater portion of the indirect
taxation than they should, and it is largely on indirect taxation that the Federal Parliament must rely for revenue. Put the converse of our position. Are the members in this Convention prepared to put the power of taxation—if the right of amending Money Bills means anything it means the right of absolutely shaping and directing taxation—in the hands of the minority? Dare either protectionists or freetraders permit the States Council to alter their tariff? Could any greater peril be provided for the future than permission to the few to tax the majority?

Mr. GLYNN:
Why give the veto?

Mr. DEAKIN:
Well, a veto is more than a mere negative. It is a negative pregnant, so to speak, but much more pregnant and dangerous if it be a veto in detail as well as a veto of the whole. It might mean an interference with the fiscal policy of the country. If the Senate decided to take the important step of rejecting the financial policy of the Executive, what would happen? It would thus challenge the policy of the Government, and the Government would consult the electors. This may be regarded as penalising them for introducing a measure in accordance with the views of the people; but, if the Government is returned at the election, it will be clear that the policy of the Government is approved, I take it that the Council of the States will have fulfilled its office. It will have satisfied itself that the majority of the people who find the money have decided that it should be raised in the way suggested by the Government.

Mr. LYNE:
Would you give a second power of veto after a dissolution?

Mr. DEAKIN:
I am afraid the power of veto must remain absolute; otherwise, in times of excitement, it might lead to coercion and disruption. I would leave to the Upper Chamber the absolute power of veto, and trust to the good sense of the community, and to the final fairness of public opinion, to bring it into harmony with the popular Chamber. In any Constitution which is expected to prove workable and discharge its duties from day to day, so as to retain the goodwill of the people, the introduction of a power to the second Chamber to alter and thus to direct taxation, and Lo alter Appropriation Bills, would mean the introduction at the very outset of its career of a piece of mechanism which would be likely in the end to lead to disastrous conflict. A strong permanent and influential Council of the States is an indispensable element of a federal Constitution, but it is no derogation
from its dignity to require that, in order to ensure safe practical
workableness, it must undertake the high offices of revision and
reconsideration, rather than of initiative or detail in finance. Here there
cannot be a perfect similarity of duties between the two Chambers. When
two men ride the same horse one must sit behind. Now, there is one matter
to which I would like, if I could put italics in my voice, to call special
attention. I have been arguing on the lines I have followed until now
because I think it is the only fair way of meeting those with whom I desire
to argue. I have hitherto accepted their manner of looking at these
difficulties instead of my own. I personally hold a very different view as to
the way in which this Constitution is likely to be worked, as the
consequence of framing it in unfamiliar form, operated upon by the
different forces which experience has taught us are certain to come into
play upon it. The assumption throughout in this Convention is that the
States Council is to be the guardian of what are termed State rights or State
interests. Mr. Higgins, in the course of an able examination of this part of
the question, read from Mr. Bryce a passage which showed that after 100
years of American experience they had never been able to distinguish
between the Senate and the House of Representatives as the guardian of
State rights. Have my hon. colleagues weighed the full force and
significance of that most important negative fact? Here is a Union which
was rent in pieces by a question of State rights; for it was upon the
discussion of State rights that arose the conflict which re-wrote some
clauses of the Constitution in the blood of a million Americans, which for
five years threatened the very existence of the Republic. It was the
crowning culmination of a long struggle waged between South and North
upon more than one question, upon a variety of issues: not merely slavery,
not merely freetrade and protection, but all were at last focussed in one
principle - the right of the States to secede and to govern their own affairs,
which is the most absolute State right. Have hon. members realised the
force of the fact that these rights were never more claimed or protected in
the senate than in the House of Representatives, or that it was even
supposed that either House was the guardian of State rights? Although our
special Senate is to be created nominally to protect State interests and
rights, as a matter of fact and history, if we trust to American experience,
we can say that State rights will never be more dependent upon the State
Councils of Australia than they will be upon the House of Representatives;
and they will be fought for as earnestly in the House of Representatives as
in the States Council. As a matter of fact this is another instance in which
the wise and great founders of the American Constitution find the event
falsifying their prediction. The Senate was intended to protect the States in
all such struggles as those in regard to the Kansas dispute and the Mason and Dixie line; yet the Senate was never one whit in advance of the House of Representatives in defending State interests. The key to this matter, I submit, is to be sought elsewhere. It is the key to the whole position, and the perfect antidote to all the fears of the less populous States of which we have been hearing so much ever since 1891. The complexion that will be given to our politics, especially as responsible government is to be preserved, must necessarily be exactly the same complexion that we find in colonial Parliaments to-day; that is to say, so far from it being natural or customary for the more populous States to combine against the less populous States, such conflicts are never likely to arise; they never have arisen in America, and they never ought to arise here. From the first day that the Federation is consummated - Heaven hasten that day - the people will divide themselves into two parties, not as in France of entirely opposite views and invincible antagonisms - Legitimists, Republicans, and Bonapartists; but parties only divided by the line of "more progress and faster," and "less progress and slower," in other words, Liberals and Conservatives. The instant Federation is accomplished the two Houses will be elected on that basis. State rights and State interests, I venture to say, will never be mentioned because they will never be imperilled. Both sides, in order to secure support, will make the first plank of their platform the maintenance and defence of State interests. If the representatives in the National Assembly from the less populous States are relatively few, on such issues they will always be compact, and need I ask whether the experience of our Legislature shows that compact bodies, however small, are likely to be ignored under our system of party Government? Is it not the small compact parties, sometimes called factions, held together by a common principle, who often hold the fate of Ministries and Executives in their hands? I say that, if ever State interests were imperilled, the votes of the representatives affected in the National House-small in number although they might be on that subject would be unanimous-would be eagerly sought for by both sides. From the first day of Federation, as far forward as we can venture to see or prophesy, the politics of our Federation will be determined without the least regard to the more populous or the less populous States. The very first watchwords will undoubtedly be protection and freetrade. State interests will not be questioned or mentioned. The whole continent will range itself on one side or another of this question. It will divide every district, every city, every hamlet, and many households. There will be two distinct camps, and each camp will be anxious to secure votes in every State by the most absolute of
pledges to study all its interests.

Mr. BARTON:
   I thought we were going to say good-bye to all that.

Mr. DEAKIN:
   When that question is settled by the passing of the tariff, there may be
   some slight alteration in the grouping of members, because, unfortunately,
   all liberals are not protectionists, though they clearly ought to be.

Mr. REID:
   On the principle of standing on your head.

Mr. DEAKIN:
   Well, if it came to standing on his head, I can understand the reluctance
   of the hon. member to engage in an exercise of that description.

Mr. BARTON:
   My hon. friend may contrast the operations of standing on his own head,
   and dancing on nothing.

Mr. REID:
   Our friend Mr. Peacock stands on his laugh.

Mr. DEAKIN:
   When that dividing question, which does not in all of the colonies
   accurately represent the difference between liberal and conservative, is
   withdrawn, inevitably the two parties will at once emerge-those who
   consider they should march in agreement with the advanced political
   thought of their time, and their rivals who think it too soon to take that
   particular step, and who desire to go more slowly.

Mr. DOBSON:
   You may go "like a crab, backwards."

Mr. TRENWITH:
   Well, you ought to know.

Mr. DEAKIN:
   Whichever way parties may move, one thing is certain, namely, that their
   division into the more populous States on the one side, and the less
   populous States on the other side, is the last possible eventuality of a
   thousand eventualities which are more likely to occur. We shall have party
   government

   and party contests in which the alliances will be among men of similar
   opinions, and will be in no way influenced by their residence in one State
   or another. The guardianship of State interests is so secure under these
   conditions that their protection in any special way becomes comparatively
   immaterial. It is not a matter of speculation as to whether there will be
   these alliances between the populous States. When we have adopted
responsible government, we have necessarily adopted party government, and we have to be guided by experience as to how it works. It may be hard to prophesy what all the results will be, but, though neither a prophet nor the son of a prophet, no man need fear that whatever political struggles arise will very rarely indeed, even remotely, relate to State rights or interests. There is always the possibility of the referendum being applied in the event of a question of this sort being raised, and if representatives of the less populous States choose to demand the referendum requiring a vote to be counted by States as well as by the nation, I have no doubt that this Convention would lend an attentive ear to a reasonable request; at least, as far as I am concerned, they have only to make that demand to have it conceded. They would then have the most absolute guarantee possible, not only for the protection of their interests, but for the preservation of a State veto by popular vote upon all disputed issues. My object is that the members of the less populous colonies in this Convention may be able to go back to their constituencies, and be sure of winning their adhesion to the new Constitution, just as we wish to go back to our constituents with a similarly successful result. Let me offer an illustration of the real and relative impor

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ably could be hidden in South Australia so that you would have to look a long time before finding them. Supposing they were deposited in Western Australia you would never find them at all, if we are to judge from the description which Sir John Forrest gave of the extent of his colony yesterday. If we sufficiently recollect this fact we shall see that no comparison is possible between such colonies as we possess and the States of the American Union. There, by their number they neutralise and balance one another, but there is practically no balance of power probable here. It is easily conceivable in the course of time that Western Australia, as her Premier has said, might outstrip us, and, judging by her area, might easily outstrip all the other States placed together; and what would then become of us in face of the overwhelming alliance possible between Western Australia, with her millions of people, and the great territory of South Australia, with her millions? Where would the unhappy colonies to the east be considered? The point I wish to put is this: that so far from our Federal Government over-aweing the States, it is more probable that the States will over-awe the Federal Government. Take the colony of New South Wales, with her immense resources and possibilities and present position, and remember if the Federation does not acquire her railway system what a difficulty there will be in imposing those conditions which Mr. O'Connor and others desire to see imposed in regard to the prohibition of differential
rates, uniformity of gauge, and other questions of railway administration. Have members asked themselves what they can expect if a great and populous colony declined to be bound by the dictates of the Federal Government? As it seems to me each of these colonies is yet but the germ of, and a comparatively minute germ of, the States which they may reasonably hope to become-enormous in territory, populous, and wealthy. If it appears to anyone of those great powers, larger than European empires and populated almost to the same extent, that the Federal Government is not yielding to its demands, such a State may easily be a greater danger to the Federal Government than the Federal Government could be to the State. I recognise the almost insuperable difficulties that surround the transfer of the railways to any Federal Government; but still I feel much more impressed than when I entered the Convention with the importance of having these enormous agencies of production, if at all possible, at some time, and the sooner the better, placed in the hands of the Central Government. It may be, as Mr. McMillan said, that there is great danger in transferring so vast an organisation to the Federal Government, but the Federal Government would have the national interest first and chiefly to consider, whereas the States can scarcely be prevented, if they ought to be prevented, from more or less directly competing against each other by the construction of rival lines-lines which, in the opinion of the Federal Government, might be considered unnecessary. It follows upon these reflections that, gigantic as are our difficulties in taking over the railways, it is a matter which is well worthy of our most mature consideration. Whether they be taken over or not, it appears to me certain that the Federal Government as proposed to be created, with its limited scope and its authority chiefly on the seaboard, will be a comparatively feeble power when opposed to the great States growing up in this continent. It is for this reason also that we should calmly and cautiously scrutinise every proposal regarding the finances which involves any future bargaining between the Federal Government and the States Governments. I do not intend to enter into a consideration of a subject which must be attempted exhaustively hereafter. We shall require as a solution of the problem that it shall be a solution arrived at as in America, which will deal with the finances of the colonies as they are at present, which shall cause them to lose nothing, not a single penny, by the creation of a

Federal Government, but which will leave to the Federal Government the whole of the future increases of those vast sources of revenue intended to be transferred to it. Those increases Federation will hasten. We need not fear to give to the Federal Government a large revenue. We can require

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them to assume the existing State debts; and in regard to an ultimate surplus those who have had anything to do with the administration of post offices, telegraph lines, and railways will have no fear of any surplus being found with the Federal Government for any time. Rates of postage, or of railway carriage, can readily and cautiously be reduced as any surplus permits. For my part it appears to me that one of the tasks which will devolve on those who form the Federal Government will be the due, cautious, deliberate - but unceasing - development of those vast unoccupied tracts in the north-west of Western Australia, if she be willing to part with them, and of the Northern Territory of South Australia, which is, I believe, willing to part with it. There are great areas of this continent larger than kingdoms which require to be dealt with, not perhaps as States, but as territories, and which will provide means for a wise expenditure of the federal surplus for many years to come. With all these tasks before the Federal Government, I think there is little fear of rendering it too wealthy. I have one word further to say with regard to the finances. Whatever the Financial Committee may do, and no doubt they will scrutinise their accounts figure by figure and decimal by decimal, we as a Convention ought not to lose sight of the future. We should say to ourselves that, whatever the bargain struck may be-and it must be largely an impromptu, or rule of thumb, settlement-we will, with a common tariff and absolute intercolonial freetrade, secure such a wonderful development of our national resources as will enable us not only to carry easily the cost of the new government, but will re-introduce a tide of prosperity-not transient, but permanent-into Australasia. New South Wales, I think, with all due deference to one of its representatives, has the most golden prospects. Her commanding natural position, her superb port, the wealth and population with which she commences her career, mark her out as certain to gain the greatest advantages flowing from Federation. If I turn to the colony in which I stand, whose Customs revenue bears the least favorable proportion to its debt, and which has started the heroic enterprise of connecting the south with the north and settling her tropical lands-with her territory enlarged by the trade of one portion of New South Wales, which she is rich enough to spare and yet find much more equally rich within her own territory, and with a part even of Victoria nearer to her seaboard than our own-I say that to South Australia will flow the second advantage of this union. But I do not now pretend to distribute the advantages among the colonies. I do not ignore the fact that Victoria hopes by the permanent advantages which will be given her productiveness to reap her reward for the undoubted sacrifices which she will be called upon to bear. Tasmania, with the markets of the continent thrown open to her and with her
attractions, will have a future before her which she has longed for for many years, and which she has not yet been able to obtain. As for Western Australia, the Federal Government, whether asked to take over the railways or not, may make a connection that will bring our mails from Albany, and also undertake the development of the north-west territory of that colony. There are prizes for all to gain. The Hon. the Premier of the western colony would not confess to her reaping any advantages; but we have only to realise his shrewd business knowledge and tact to be sure that in one remote corner of that capacious brain of his is worked out a sum showing the substantial advantages of Federation to Western Aus-

tralia. Why is he here? Those who know that hon. gentleman know that it is far from him to take distant tours during a general election for nothing. But, whatever the Finance Committee may propose, the Convention as a whole should take large views, and, seeing that there is indisputable gain to each and all, should not scrutinise to the last farthing or decimal any proposition which does not bear upon its face the stamp of absolute injustice. To sum up finally, with the National House and responsible government it appears to me that Australia as a nation will have nothing to fear; while with the States Council and, if they choose to demand it, a States referendum conceded, the States and their interests will have equally little to dread. As for the strain which is certain to be imposed in the future upon this Constitution, when these colonies, having then their tens of millions and their great potentialities, are sought to be brought into line by the Federal Government and show some sign of resistance and a too independent self-reliance, the same law-abiding quality which has brought the United States of America through all its trials and difficulties may be trusted to supply the centripetal force capable of keeping us together, provide the Constitution to be drafted be framed on sound lines within which centrifugal tendencies are not unduly fostered. I trust that all of us recognise that upon this Convention rests the responsibility of framing a Constitution for all time—that upon this Convention, and upon this Convention alone, rests the whole burden of Federation at the present moment. It is perhaps possible for us to fail altogether in our high aim, and we may easily fall far short of its final achievement; yet it is certain to be long before such another opportunity can present itself. The electors have set a great machinery in motion. The people of the whole continent have been moved and have responded. They have sent us here, and it would be the most unfortunate circumstance in our history if by any chance we could believe that, called into being under such auspicious circumstances, this Convention separated without drafting a Constitution which upon the face
of it would commend itself to just and thoughtful minds. Political opportunities of this sort if missed rarely return again in the same generation. It is now known as an historical fact that the great power in the east of Europe whose despotical government constitutes perhaps one of the greatest menaces of the progress of political liberty in that portion of the world—the Empire of Russia, which remains a despotism today—had a comparatively liberal Constitution drafted and only awaiting its Emperor's signature to be affixed to it on the very day of his death. That untoward event has sufficed to check ever since, and evidently will bar for many years yet to come, the prospects which that magnificent nation then enjoyed of securing, after years of desperate agitation, an instalment of representative institutions. Should we fail in our task, it is as easily possible that decades may pass by before another such opportunity as this can present itself. The absence of Queensland from this Convention, once most ardent in its aspirations for union, is but the last of a long series of dangers of the cross currents of provincialism which we have still to encounter; and if the opportunity now offered does pass by we cannot but remember that we have failed in a task which has been twice successfully accomplished under circumstances less favorable, although from external causes more pressing. The United States of America when founded constituted a far smaller area than that which we propose to bring into this Federation; it possessed a smaller population; it possessed less attractive prospects. The Dominion of Canada as established was smaller in area, smaller in population, and less hopeful in outlook. Where they have succeeded why should we fail? Is it possible when the Australian people for the first time have emerged as an Australian people, represented in an Australian Assembly to draft an Australian Constitution, that its great promise should disappear unfulfilled? Why should it if we are at once true to ourselves and loyal to each other? Rather than that any word of mine should have chilled or have deterred any of those who have come here in the hope that by mutual concessions an acceptable Constitution may be framed, I would that my tongue should have been withered at its roots. If any word of mine can have brought discord where there should be harmony, or can have repelled when it should have attracted—if any of my arguments have had that effect—it is my bitter misfortune; it has been farthest from my intention. The Constitution we seek to prepare is worthy of any and every personal sacrifice, for it is no ordinary measure, and must exercise no short-lived influence, since it preludes the advent of a nation. Awed as I feel by the fact that we come from, that we speak to, and that we act for a great constituency, awed as I
feel in the presence of those who sent us here, I am more awed by the thought of the constituency which is not visible, but which awaits the result of our labors—we are the trustees for

POWER OF SELECT COMMITTEES.

The PRESIDENT:

I must ask that order be maintained in the gallery, however eloquent the provocation. I may say that since this morning I have had the opportunity of considering the point of order that has been raised, and am now prepared to rule definitely on it. I rule, therefore, that if paragraph 5 of the contingent resolutions be carried in the form in which it appears in the paper, although the attention of the Constitutional Committee will be directed to the original resolutions, still no limitation whatever will be imposed upon their discretion in framing the Federal Constitution. I believe that this ruling will give effect, not only to the literal meaning of the contingent resolution, but also to the intention of the Convention with reference to the tabling and discussion of the original resolutions.

FEDERAL CONSTITUTION-RESOLUTIONS.

Debate continued.

Mr. CLARKE:

I rise with very great diffidence to continue this discussion. We have heard an eloquent speech from Mr. Reid, and we have also heard an eloquent speech from Mr. Deakin, and it is very difficult for any ordinary speaker to continue the debate when the echoes of such eloquent voices are still ringing in this Chamber. If I may be allowed to substitute the name of Mr. Deakin for that of Brutus, I might say—

I am no orator, as Deakin is,

But, as you know me all, a plain blunt man.

I intend to speak my sentiments on this question very plainly, and I think it is the duty of all of us to give very plain expression to our views. In saying this I do not wish to detract in the slightest from the value of the speeches we have heard, because it is an acknowledged fact that when Mr. Reid and Mr. Deakin speak they cannot help being eloquent. I was one of those who at the start thought we ought to proceed without delay into Committee on the Bill of 1891, and, although I hold the same view still, I do not for one moment regret that I have been given the opportunity of hearing the very many excellent speeches that have been delivered in this debate. I think, however, a great mistake has been made, for if we want to grasp the real difficulties of the situation it would have been much better if this assemblage, instead of listening to the speeches of those whom I may call juveniles, had been favored instead with the ripe experience and matured thoughts of the leaders of the Convention of 1891. I think it would
have been much more instructive if we had heard
the views of the great leaders of the federal movement in these colonies.
The matters upon which I wish to speak are few in number, and I shall
endeavor to make my remarks concerning them as brief as possible. I am
glad to be able to say that, although a number of members have spoken,
only two of them have disputed the rights of the smaller States to equal
representation in the Senate.

Mr. LYNE:
Four.

Mr. CLARKE:
Only two unconditionally have repudiated the right of the smaller States
to equal representation in the Senate. One of these, Mr. Lyne-who, by the
way, Tasmania has lent to the mother-colony-has denied the rights of the
smaller States to equal representation, and he has promulgated a scheme
under which the two larger colonies would have sixteen representatives
between them in the Senate, while the three smaller colonies combined
would have only thirteen—that is to say, the two larger colonies together
would have a majority of three in the Senate and an overwhelming
majority in the House of Representatives. That is a system which no doubt
would very admirably suit New South Wales and Victoria, but it is a
system which the smaller colonies would not entertain for one single
moment. Mr. Higgins also has disputed our right; and when I heard these
gentlemen denying in calm and deliberate tones the right of the smaller
States to equal representation in the Senate, I began to ask myself: On what
basis have we come to this assembly at all? The answer is that we come
here as coequal States. Has there ever been a federal assembly in Australia
at which the right of the colonies to be treated as equals was not recognised
by each of them having equal representation in the assembly?

Mr. HIGGINS:
We are not in partnership yet.

Mr. CLARKE:
I know we are not, but we want to get into one. And when this great
movement was put on a proper footing by an arrangement among the
Premiers to take the people into their confidence, how were the colonies
invited to take part in this federal gathering? Were we asked to send
members here on the basis of population? If that had been one of the terms,
do any of you think the representatives of Tasmania would be here to-day?
No; but the invitation given to us recognised our right as co-equal States,
recognised the right of Tasmania as a State equal in all the attributes of
sovereignty to any of the colonies in the group. This brings me to a
question put by Mr. Higgins. He asks why should 160,000 people in Tasmania have the same voice in the Senate as the much larger population of New South Wales? I shall tell him it is because Tasmania is a State just as much as Victoria and the mother-colony are States, and because she possesses in the same degree the same attributes of sovereignty. I do not propose to follow Mr. Isaacs into an historical discussion upon the Connecticut compromise. We can afford to leave out historical discussions at the present time. It is true that the proposal made at the Philadelphia Convention which secured for each State equal representation in the Senate has been known as the Connecticut Compromise; but whether various schemes of representation were proposed during those deliberations or not, the one which was ultimately adopted and embodied in the Constitution of the United States became, to my mind, one of the principles of that Constitution, and on this point I beg leave to differ from Mr. Isaacs when he says we cannot base our claim on any principle. At all events, if we cannot base our claim to equal representation upon any historical principle, we can be at least original enough to discover a principle for ourselves, and I think the smaller States can lay down this principle, that unless the right of equal representation is conceded, they will have nothing to do with any scheme of Federation.

Mr. BARTON:

Is it not rather previous to say that?

Mr. CLARKE:

No; because I think it is the one of the vital principles of Federation. I should like to know from Mr. Lyne and Mr. Higgins, who have denied the right of the smaller States to equal representation, what sort of an union it is they want. They say that 160,000 people in Tasmania are only entitled to the same voice in the Senate as 160,000 in Victoria. I join issue with them at once, and say their argument is bad, because we are not going into this Federation simply as so many units of population. We are to be treated as separate political entities, and not treated as so many units of population. In accordance with the scheme of Mr. Lyne, and the arguments used by him and Mr. Higgins, a man is simply a man wherever he is, and 160,000 people in Tasmania would have no more voice in the Senate than 160,000 in New South Wales. The argument used by these gentlemen blots out altogether our existence as a separate colony. It blots out our own separate sovereignty and our separate State life, and, if carried into effect, would establish not a Federation, but a unification of these colonies, and reduce the State Parliaments to the position of municipal bodies. I desire to say a word in reference to the election of the representatives of the Senate. In my
opinion each State should be one constituency, and if we adopt this system we will do away with the possibility of gerrymandering that so disgraces public life in America, and has even found its way to Switzerland. If the various local Parliaments have the right, either in the matter of electing members to the House of Representatives or to the Senate, of cutting up the colonies into electoral districts, it will open the way to that political corruption which has taken place in America, and which has disgraced public life there—the system of gerrymandering. I am, therefore, in favor of making each colony one electorate for the Senate. I have listened with very much pleasure to the speech delivered by Mr. Deakin, and I heard him declare that he is in favor of the rule of the majority. I am in favor of the rule of the people. I do not want a majority of the population in any particular colony to return all the members for that colony. I want to see the wishes of the people take effect, and in order to carry out the wishes of the people, and make Parliament a reflex of the opinion of the people we must introduce some such system of election as the Hare system. Under that method of election the views of the minority are taken into account, and it would be a fatal mistake—as we are establishing a Federation and want to establish it on proper lines—if we do not introduce some system by which the opinions of the minority would be respected to some extent. I therefore think that the Hare system of election ought to be adopted, both in reference to the Senate and the House of Representatives. Under the Commonwealth Bill of 1891 it was proposed—in reference to the House of Representatives—to give power to the local Parliaments to cut up the colonies into various electorates. I think that the Federal Parliament, however, ought to retain control over this matter, because we know the same power was given to the local Legislatures in America, and in the course of time the corrupt system of gerrymandering grew up, under which the various local Legislatures cut up the States from time to time into electorates to suit their own political purposes. The Federal Parliament ought therefore to retain control over this matter, so that at any time it could step in if the local States attempted to do any wrong. As to the franchise, I consider there ought to be a uniform franchise for both Houses. I recognise the great difficulties which have been pointed out in reference to this subject during the course of the debate. If we put into the Federal Constitution a provision that adult suffrage shall be the suffrage on which both Houses shall be elected it is possible that some, like my friend Mr. Dobson, whose conservative speech on Friday last seemed to many members like an echo of the olden time might find it very difficult to accept Federation on such terms. On the
other hand, if we leave it to the Federal Parliament to frame a federal franchise it is quite possible that the women of South Australia would be running a great risk. On the whole, I am in favor of Mr. Isaacs' suggestion that manhood suffrage should be adopted as the federal franchise, with a proviso that in any colony where women have a vote for the local legislature they should not be deprived of their vote for the election for the Federal Parliament. With regard to the powers of the Senate, I think that it ought to have power to amend Money Bills except the annual Appropriation Bill. Members of this Convention seem to be greatly taken with the distinction drawn here last week between the different kinds of Money Bills. If they would only take the trouble to look at the debates of 1891 they would find that the very distinction which evoked so much praise here a few days ago was drawn by that very able statesman, Sir Samuel Griffith. Members of the Convention who object to give the Senate power to amend Money Bills are yet in favor of giving the Senate power to reject them in toto. The opinions of Sir Samuel Griffith are so weighty on this point that I would like, with the permission of the Convention, just to read a passage from the speech delivered by him on March 17th, 1891. Sir Samuel said:

As far as the ordinary Appropriation Bill is concerned, I do not think that the matter is worth fighting about. Most of the argument used has been made to apply to Money Bills generally—a class which none can describe in a few words, for almost any sort of Bill can be made into a Money Bill. Most of the argument has been applied to these in order to show that the ordinary machinery of government could not go on if the Senate could interfere with Money Bills. Why? If that means that the ordinary machinery of government could not go on, if the Senate interfered with the Appropriation Bill, I could understand the argument. But it must be remembered that it is not proposed to deny the Senate the power of veto. Surely if the Senate wanted to stop the machinery of government the way to do that would be to throw out the Appropriation Bill. That would effectually, stop the machinery of government. I, for my part, am much inclined to think that the power of absolute rejection is a much more dangerous power than the power of amendment; yet it is the power that must be conceded. We all admit that; and in a Federation there is much more likelihood of that power of rejection being used than there is of the power of amendment being used. It is said that the Upper Houses in the Australian Colonies are coerced by putting things; in the Appropriation Bill. So they are in the United Kingdom. Why? Because they are part of the same community, living in the same place, and elected by or chosen from the same class of people; but let it be borne in mind that in the
Federal Constitution the members of the Senate would come from different parts of Australia, and be charged with the duty of protecting the rights of their own States, and if they saw that those rights could be protected only by rejecting a measure absolutely, and not by any smaller or milder action, I am sure that they would not hesitate to reject it and take the consequences.

I think that the views of this veteran statesman ought to commend themselves to the

Mr. LYNE:

What class of Bills comes under the definition of Money Bills?

Mr. CLARKE:

That is a thing I am not competent to say; neither do I think that any member of the Convention is competent to define what is a Money Bill. I am satisfied with the distinction drawn by Sir Samuel Griffith, and I think we could get out of the difficulty if the members of Victoria and New South Wales were to look at the matter in the same way as Sir Samuel Griffith, and give to the smaller States the power to amend Money Bills, except the annual Appropriation Bill. Mr. Higgins gave us an illustration of what happened in Victoria. He told us that the Government of the day introduced a Bill dealing with the imposition of an income and land tax, and that the Upper House in that colony was favorable to an income tax, but disapproved of a land tax. As it could not amend it, it was obliged to throw out the whole measure.
question of deadlocks, I do not think there is any necessity whatever to introduce any provision into the Constitution to deal with the Subject. The members whom the people of Australia will send to the Federal Parliament will, I hope, be reasonable men, with a high sense of the responsibility of their position, and of the magnitude of the interests committed to their charge. We do not want at the present time to frame a thoroughly perfect machine of government. No constitution was ever yet perfect, and none ever will be. Mr. Gladstone has written on the subject, and I cannot do better than read one or two sentences from his remarks. He says of the English Constitution:

More, it must be admitted, than any other, it leaves open doors which lead into blind alleys, for it presumes more boldly than any other the good sense and the good faith of those who work it.

Then he says:

If, unhappily, these personages meet together on the great arena of a nation's fortunes, as jockeys meet upon a racecourse, each to urge to the uttermost, as against the others, the power of the animal he rides, or, as counsel in a court, each to procure the victory for his client, without respect to any other interest or right, then this boasted Constitution of ours is neither more nor less than a heap of absurdities.

He goes on to say:

The depositories of power will all respect one another, will evince a consciousness that they are working in a common interest for a common end, they will be possessed together with not less than an average intelligence, with not less than an average sense of equity and of the public interests and rights. When these reasonable expectations fail, then it must be admitted the British Constitution will be in danger.

These reasonable expectations have never failed in the old country, and I hope they will never fail in Australasia. The representatives of Victoria want to introduce a system of referendum to the States and to the people.

Sir WILLIAM ZEAL:

Some of them.

Mr. CLARKE:

I should say some of them. This, to my mind, seems to be an admission that, in their opinion, the reasonable expectations to which Mr. Gladstone referred will not be found in these colonies, and that the men whom Australia will send to the Federal Parliament will be less qualified to guide the destinies of their country than their brothers at home.

Mr. ISAACS:

There is a safety-valve in the British Constitution.

Mr. CLARKE:
There is no safety-valve in the British Constitution like the referendum. However, if those representatives of Victoria who wish to insert this admission of inferiority into the Constitution insist on it, I am willing to concede it if they abandon their objection to giving the Senate power to amend Money Bills, with the one exception to which I have referred.

Mr. ISAACS:

It is no concession at all.

Mr. CLARKE:

If we adopt the system they want it will not bring us any nearer to a settlement.

Mr. ISAACS:

Why do you call it a concession?

Mr. CLARKE:

Because you want the referendum, and I am willing to concede it on the condition I have stated.

Mr. ISAACS:

I am not asking for it in the interests of Victoria alone.

Mr. CLARKE:

I was much struck in reading the reports of 1891 with the speech that was made at that Convention by Sir Richard Baker. I think Mr. Deakin said today that Sir Richard Baker had changed his mind on the subject since the last Convention, but on referring to the debates of 1891 I find that on the 18th of March he advocated the same principle that he advocated here a few days ago—the principle of the Swiss Constitution. His speech is reported on pages 465 and 466 in the report of the proceedings of that Convention, and it is a very able argument. It was very forcibly laid before the Convention of 1891, and I am glad to say that it was laid before us a few days ago with equal emphasis and lucidity. I appreciate the difficulties which Sir Richard Baker has pointed out. I admit that we must start with responsible government, but we must also have the system of two Houses co-ordinate in every respect, except with regard to the one matter to which I have referred. We cannot hope, as I said before, to frame a thoroughly perfect Constitution, but the genius of our people will, in the course of time, evolve what is necessary to make the principles of responsible government and of two almost co-ordinate Houses work well together. With regard to the matter of the Federal Supreme Court I think it is a very moot point whether we should permit appeals from its decisions to the Privy Council, and on that matter I shall reserve my opinion until we get into Committee. I think, however, that we should adopt a different procedure with reference to the establishment of a Supreme Court to that
which is set out in the Commonwealth Bill. Instead of giving the Parliament of the Commonwealth power to establish a Supreme Court we should embody it in the Constitution itself, so that it should not be in the competence of that Parliament to establish a second Supreme Court if it thought fit. I agree to a large extent with Mr. Wise with regard to the manner in which the judges should be appointed, but, on the other hand, there is a danger in allowing the Federal Assembly to appoint the judges. This point is very clearly set out by Dicey in his "The Law of the Constitution," in which he says-

Judges, further, must be appointed by some authority which is not judicial, and where decisions of a court control the action of Government there exists an irresistible temptation to appoint magistrates who agree (honestly it may be) with the views of the Executive. A strong argument expressed against Mr. Blaine's election was, that he would have the opportunity, as President, of nominating four judges, and that a politician allied with railway companies was likely to pack the Supreme Court with men certain to wrest the law in favor of mercantile corporations. The accusation may have been baseless; the fact that it should have been made and that even Republicans should declare that the time had come when Democrats should no longer be excluded from the Bench of the United States tells plainly enough of the special evils which must be weighed against the undoubted benefits of making the courts rather than the Legislature the arbiters of the Constitution.

There is one matter to which my friend Sir Edward Braddon has alluded, and that is the question whether or not members of the Federal Parliament should be eligible to sit in the local Parliaments and vice versa. I consider the matter might be very well left to the local Parliaments. Let us leave it perfectly open for any pan, who is of course qualified in a proper way, to become a member of the Federal Parliament, and if the local States at any time find, after experience, that it is inconvenient or wrong for a man to sit in both Houses it will be open to them to pass laws disqualifying him from sitting in the local Parliament. I think it could very well be left to the local States to deal with these matters should the necessity arise. I do not intend to say anything on the question of finance or the railways further than this, that, in my opinion, we ought to retain to the States as large a measure of home rule as possible; but while extremely anxious to do this, I wish to so frame the Constitution that the Federal Parliament should not be put in the position contended for by Mr. Holder. That gentleman, in his able and admirable speech, suggested a scheme of confederation which resembled in its utter
inefficiency the system which was originally in vogue in America, and which it was found so necessary to alter. I do not propose to address this Convention at any further length, but I desire to compliment the various gentlemen who have spoken upon the admirable manner in which they have conducted this debate. They have shown a true appreciation of the difficulties of the situation, and a spirit of compromise as to many matters which, I hope, will result in the establishment of the great principle we all have in view. Let us cultivate this spirit more and more, and show the people who sent us here that we know the seasons when to take occasion by the band, and make the bounds of freedom wider yet.

Sir EDWARD BRADDON:

Mr. President—With the view of shortening the debate, I wish to make a brief statement, and that is that my hon. colleagues, the representatives of Tasmania, who have not addressed themselves to this Convention have, applied to themselves the self-denying ordinance, and have agreed not to speak on this occasion. Mr. Brown, with that object, has yielded place to Mr. Clarke.

Mr. WALKER:

I was one of those who hailed with satisfaction the chance of coming to visit this beautiful city of Adelaide, as it seemed to me only fair in the interests of Federation that we should have an opportunity of meeting in another capital. Hitherto meetings have been held at Sydney, Melbourne, and Hobart, and I trust that when we have an adjourned meeting for the final revision of the Constitution, that by that time, Queensland being within the Convention, we shall meet at Brisbane, and thereby prevent any anti-federal spirit existing in Queensland. It is only my intention to speak very briefly on a few of the constitutional points, and to enlarge to some little extent upon the financial aspect of this question. I have derived very great pleasure from hearing the speech of Sir George Turner, which was so very practical, but I shall restrict my remarks as much as possible, because I think that Mr. Barton and other hon. members who will be entrusted with the drafting of this Constitution, have by this time a pretty good idea of the consensus of opinion upon most points. I may say with regard to Tasmania—we have heard allusions to "little Tasmania" more than once—that, although Tasmania is not very large in area, it is twice the size of Switzerland, a country with three millions of inhabitants, and rather larger than the country I have the honor to come from, Scotland; and if Scotland is able to support 4,000,000 people, with its rigorous climate, surely Tasmania may hope in time to have quite 4,000,000 also. When I was there the other day, an elderly retired merchant informed me that he was not without hopes that in close upon five years Tasmania would have a
population not far short of New South Wales to-day. Believing as I do in equal representation of the States in the Senate—we have no idea what the population of the various States will be within the next fifty years—and although on the face of it it might look rather singular that New South Wales or Victoria should have the same representation in that House as the less populous States—I think the time may come when we shall be very glad that we had adopted this plan. With regard to the number of members of the two Houses, our friend the Premier of New South Wales said he was willing that the National Assembly should have one member for every 60,000. It seems t

Sir GEORGE TURNER:
Did he not say that if there were free trade it would be four millions?

Mr. MCMILLAN:
Taking the New South Wales tariff as it will be in July next.

Mr. BARTON:
With certain duties remitted.

Mr. WALKER:
Four millions of money is a small revenue for the Federal Government; and I was particularly struck, therefore, with the magnificent speech of our honorable friend Mr. Deakin, in which he evidently thought there was a considerable waste of power. We should, I think, give the Parliament some work to do, and that work I take it should include the full control and management of the railways of Australasia. We speak about intercolonial freetrade. To carry that to the necessary issue we should undoubtedly transfer those railways, and thereby fulfil the fifth clause in the first resolution:

That the trade and intercourse between the Federated Colonies, whether by land or sea, shall become and remain absolutely free.

I do not believe that the railways will be absolutely free so long as their control is left in the hands of the States. I do not think goods will have proper and expeditious conveyance from one part of the country to another until there is a uniform gauge, but I will not anticipate that part of my remarks. With regard to the franchise I recognise the force of the remark that the House which has the broadest franchise will be the predominating partner—the good old British idea that responsible government representing the largest number is the correct principle in government. It appears to me hon. members are straining at a gnat and swallowing a camel in allowing the Senate to veto a Bill, but not to accept at the same time any amendments in the same Bill. I admit that I retain a free mind on this
matter, awaiting further guidance. I have been largely educated in federal principles since this Convention met - in listening to the magnificent speeches we have heard and in noticing the tone of them. Surely in these respects we have reason to be proud of the Convention. Now, as regards a matter we have heard little about-as to the federal capital. It seems to me that we must distinctly mention in the Constitution that the federal capital must be on federal territory, and

must not be one of the existing capitals. With regard to the position, we are not called upon at present to say, as that, undoubtedly, ought to be settled by the Federal Parliament. There is a great deal of force in the idea that it should be placed comparatively accessible to the two colonies with largest population, probably between Sydney and Melbourne. I have heard some hon. members suggest some place on the dividing line between New South Wales and Victoria, and it is possible that may be acceptable hereafter. I met an old South Australian this morning, and he had rather a novel idea. He suggested that the federal capital of Australia ought to be London. He said all the Premiers were going there shortly, and he thought it would be a favorable opportunity for all the federal representatives of the people to accompany them. We ought to recognise in Federation that defence is a very important matter. The first consideration undoubtedly is to be able to defend ourselves. On this point I thoroughly agree that the total cost of defence, as well as quarantine, should be borne by the federal authorities. There is one colony which is not represented here which we hope will be seen here later—that is Queensland. One member, Mr. Higgins, referred to the necessities of Queensland. He seemed to have the idea that some provision would be required by that State for maintaining the control of its present system of colored labor within certain districts perhaps for some short time further. I need scarcely say that, having lived in that colony for twenty-five years, and having travelled over it from one corner to another, I know there are places in Queensland where, had it not been for the employment of colored labor, many white people would not have been where they are now; that is to say, where colored labor is employed very large business is, in consequence, done by white people. No doubt if we were at some future date to meet at Brisbane we would have an opportunity of seeing for ourselves that the employment of a certain proportion of colored labor is, in certain localities, necessary for the profitable carrying on of the sugar industry. We could visit Bundaberg, and see how happy many of those men are. We could see there magnificent plantations and a splendid refinery, and if we walked the streets on a Saturday night we would be impressed with the comfortable appearance of many of the
Mr. HOLDER:

If members go there they will come back stronger against colored labor than ever.

Mr. WALKER:

I beg to differ from Mr. Holder. Now I come to the question of federal finance. In glancing through a paper, kindly supplied to me by Sir John Forrest, on "The Cost of Federal Finance," by Mr. Owen, the Government Actuary of Western Australia, I find an extract from a work which has already been very worthily praised by Mr. Deakin. The extract is from "The Coming Commonwealth," by Mr. Garran, in which he says-

The conditions which a perfect system of federal finance should satisfy are: That such a system shall-

1. Be fair to all the States, not only at the date of union, but in view of their probable growth and other contingencies.

2. Be so far final as to offer no encouragement to constant tinkering or agitation for better terms on behalf of one State or another.

3. Be nevertheless so far elastic as to be adaptable to changing conditions.

I hope in anything I have to say today I shall not depart from any one of these excellent principles. In regard to statistics bearing upon this matter one cannot but deplore that the States do not end the financial year on the same day, and I trust that when Federation is accomplished the States will see it is consistent with States rights to make their financial years end at the same time. It will undoubtedly simplify correspondence between the Minister of Finance in the Federal Government and the local Treasurers. The proposed union, I take it, will have a commercial basis. There can be very little doubt but that the Customs revenue must be transferred to the Federal Government, and hereafter, when the Financial Committee meets, we shall, no doubt, have a strong discussion as to the basis on which net proceeds from Customs will be divided. To the average man who has not investigated the matter, it seems fair and just that the Customs duties should be distributed on a population basis all over the territory, but, unfortunately, when we come to look into it there must be a great deal to be said in favor of distributing in some proportion to be ascertained as to how much is contributed by each State. I admit that since the Bathurst Convention, where I had to speak on the financial question, I have had to modify some of my views. Adhering to the lines of the Commonwealth Bill of 1891. I tried to follow out the idea of paying drawbacks on dutiable goods sent across the border between each colony, so that each colony
might have the benefit of the duties on these goods, but, as has already been pointed out, it is practically impossible. When you import an article into Melbourne and afterwards export it in its manufactured form it is simply impossible to say what portion of the duty is represented in the value of the manufactured article. Under these circumstances I recognise Mr. McMillan has grasped the position, and I am quite willing to follow in his footsteps in this matter. Now, with regard to the position between the Federal Government and the State Governments I take up the ground that this is largely a book-keeping matter, of one State having to pay so much and another State to receive so much. The position I take up is this: that the Federal Government will credit each State with its due proportion of the Customs and excise duties. If the railways are placed under the control of the Federal Government it will also credit each State with the net income, and upon the other side, if the consolidation of the debt takes place, it will debit each State with its proportion of the expenses of the Federal Government, and the amount of its interest on the consolidated debt, and thereafter hand the balance over to them in monthly instalments if so arranged. I took the opportunity of working out from Coghlan, a few months ago, a table which I will show to any one who likes to see it, and by it each colony on the previous basis I have mentioned comes out with a surplus. If in the case of the railways New South Wales gains a larger profit, New South Wales will reap the benefit, and as the railways are now going ahead in Western Australia, that colony will have the benefit. I may be asked at this stage what do you estimate as the total cost of the Federal Government? You will have to transfer to the Federal Government the cost of defences, quarantine, lighthouses, buoys, and so forth, and also charge them with the interest on the cost of fortifications in all the colonies. I think the annual expenditure transferred will represent about £700,000, and the cost of the Federal Government should be covered by about £300,000; so that the total cost need not exceed £1,000,000, or, say, at the rate of 2s. per head of the population for new expenditure. As against that you may say, what advantages shall we have, irrespective of prestige? If time permitted it would not be difficult to show these, and one of them will be that hereafter there will be the saving of interest on the consolidated debt.

Mr. HOLDER:
We will lose a million by the adoption of intercolonial freetrade.

Mr. WALKER:
To remedy that we shall have to instruct the Treasurer to produce a tariff that will give us as much as we now obtain by the outside and other duties.

Mr. BARTON:
Well, that would increase the burdens of the people.
Mr. WALKER:

Before going further into details in connection with the railways, I may mention that in regard to posts and telegraphs South Australia has a profit of something like £47,000 a year, whereas New South Wales has a loss of £69,000 a year. It would be manifestly unfair to South Australia, therefore, that her profit upon this department should be taken and put into the common purse to pay practically the loss of New South Wales. To get over that difficulty I take it that after we have had a few years' experience of a uniform postal rate, we shall be able to see the relative profit and loss of each colony, and if South Australia still shows a profit we shall have to capitalise the amount and credit her therewith.

Sir GEORGE TURNER:

New South Wales gains £60,000 by your system of defence.

Mr. WALKER:

I am thoroughly in favor of proceeding upon a proper business basis, and of not allowing any one place to have an advantage at the expense of another.

Mr. HIGGINS:

Are the books in the South Australian Post Office kept on the same principle as the books in New South Wales?

Mr. WALKER:

Of course, if a Federal Government is formed there will be one system of books in the departments in every State. The matter will rectify itself in a short time. Now you may say, "Where comes in the benefit?" Because, as my hon. friend Mr. Reid has said:—

We shall have to justify the cost of this Government to those who sent us here.

A strong anti-federalist in Sydney the other day, whose name I need not give, speaking to me, said:

So I see you are going to increase the cost of government still more to an already over-governed community.

& J think we can give some little comfort. With regard to the non-political control of the railways, I was glad to notice that Mr. McMillan, though opposed to handing over the railways to the Federal Government, recognised that in course of time, when we have a uniform gauge, the cost of procuring such should be borne by the Federal Government. Otherwise, if the question of a uniform gauge is left to the States, I fear we shall never have a uniform gauge. I do not want to go into details on this matter, because I believe the Premier of New South Wales and the other Premiers
will see their way clear to allow their Chief Commissioners and other high railway officials to give evidence before the Committee to be appointed to look into finance and trade matters. As a non-expert I should be quite willing and be perfectly satisfied to accept the recommendations of the experts. Until I see them I hold to the opinion that it will be in the interests of Federation that there should be a federal non-political control of the railways. Many persons are under the impression that under the Federal Government the railways will be pooled. No one believes that under Federation the States will be pooled. Then, why should they entertain the idea that the railways will be pooled? It will really practically amount to this: if we consolidate the debts of these colonies the railways will be hypothecated by each State to the Federal Government as a security with the addition of the Customs duties to make provision for each State's share of the interest. Another advantage, which is a small one in the minds of some people, is that when the railways are under federal control we may hope to see all rolling-stock made in these colonies and extensive workshops built to meet the demands. I am told by a railway expert that if all the railways were placed under one board there would be such a large amount of work to be done that it would pay well to have the railway workshops established here. I am aware that it would be a very difficult thing to show any great advantage at present time to Tasmania or Western Australia to come in under the railway board, but it seems to me that in connection with each of these colonies we can leave the matter in abeyance until they apply to be brought in. So anxious am I to see Western Australia connected with other portions of Australia that I hope the Federal Government will see their way clear to have a railway line connecting that colony with Port Augusta. Then when that is accomplished no doubt they will begin to see that there are advantages to be gained in being in the Federation, at any rate from a railway point of view. With regard to the advantages of uniformity I will take the liberty of giving you a quotation from a report made by Mr. Eddy at the opening of the Hawkesbury Bridge, New South Wales. Mr. Eddy said:—

The opening of the bridge over the Hawkesbury by His Excellency the Governor, Lord Carrington, on May 11th, marked a great event in the railway history of Australia, as it enabled passengers and goods to be conveyed by railway between four of the capital cities of the continent, but it is much to be regretted that, although this is true in regard to the continuous railway system, yet the inconvenience, delay, and expense of transhipment has to be suffered by all traffic owing to the lines having been constructed on three different gauges. The question of a universal gauge is
of such vast importance to this great continent, both from a commercial point of view and also from a military standpoint, that we cannot too earnestly urge upon the Government the necessity of pressing the question upon the Governments of the other colonies, as we feel certain that if the break of gauge is allowed to continue the consequent inconvenience and cost will in a few years be so great as to render the adoption of a universal gauge imperative. Every year the change is delayed the mileage of rolling-stock increases and the cost of altering the gauge becomes greater. If the question could be settled at once, and the change carried out in about four years' time, and all additions to the rolling-stock constructed with a knowledge that at the end of that period it would have to be adapted to the requirements of the universal gauge, the cost of making the alteration would be found to be comparatively trifling if divided between the four colonies affected.

With regard to the delay arising from fixing the break of gauge, I find that in Ohio, after trying all sorts of mechanical appliances, they altered 10,000 miles of line from the 5ft. gauge to the 4ft. 8 1/2in. gauge in one week.

Sir GEORGE TURNER:
How long will it take to alter the rolling stock?

Mr. WALKER:
I am not an authority. I believe on the Great Western line in England they altered the gauge in thirty hours.

Sir GEORGE TURNER:
That was only moving a rail.

Mr. WALKER:
It has been said that in America they have an Inter-State Commission, and if Federation takes place here, I propose that we should have a Federal railway, and it may also be necessary to have a States Commission representing the Federal Government and the State Governments. However, I shall not go into that subject now, but I shall be prepared to state my proposal fully to the Committee next week. An excellent suggestion has been made by a member of the Upper House of this colony, regarding the difficulty of looking after the money received by the Federal Government, and which ought to be returned to the respective States. He states-

Why not have a Federal Finance and Audit Department, permanently established, beyond the reach of the Federal Government, which will receive and allot all Federal revenue—at any rate, all the revenues that the Federal Government is not directly empowered to receive, such as Customs, &c.? It seems to me, in the institution of such a department, with
a clear, business-like, and commercial statement of how the State accounts were to be kept, we have provided against all surplus, against any attempt of the States to badger the Federal Government, or cajole them, and take away any opportunity for the Federal Government to act extravagantly with the money of the States.

We hear a great deal about the Federal Government having too much money, but I must admit that it seems to me it is generally the deficits that trouble the people, and not the surpluses, but still there seems to be a general opinion that the Federal Government is going to have too much money. I have a suggestion to make as to the way in which that danger may be removed. The way I propose is that we should try to consolidate our debts. However, Sir Philip Fysh has spoken on that subject, and I do not intend to follow him, or Mr. McMillan either, at present. I am one of those old fashioned people who think it will probably be better to consolidate the loans as they mature. Mr. Nash has told us that if we consolidate our debts at the present time, something like one million could be saved; but I am inclined to think it would be better to wait until our respective loans mature. I presume and hope that when the Premiers of the colonies go home to England shortly, as they intend doing, they will see the English authorities, and endeavor to have the Australasian consols placed on the list of stocks in which trustees are empowered to invest the funds under their charge. If by the consolidation of our debts we could in time save 2 1/2 millions a year, this would enable us to largely reduce our Customs duties, and free the people of heavy burdens which they at present have to bear. I desire to acknowledge my indebtedness to Dr. Quick for a paper which contains a large amount of valuable information in reference to the consolidation of our debts. With regard to this consolidation, we know that in everyday life, when we value a security, we want to know what return it brings in. When we know what return it brings in, we have some idea what its capital value is. The debt of these colonies, which we trust will federate, is something like £180,000,000, out of which £110,000,000 in round numbers represents the cost of the railways; but if we transfer to the Federal Government the Customs, producing £6,000,000 plus another £3,000,000, which is about the railway earnings, we give it an income of £9,000,000. With such a guarantee to offer the British investor, surely the Federal Government would have no difficulty in effecting a great saving in interest. I am aware that it is not probable that at the present time the Convention will agree to take over the railways, nor perhaps will it be desirable to do so without some delay, but I should like to see a clause
in the Constitution making it mandatory on the Federal Government to take them when it is deemed by it desirable to do so.

**Sir GEORGE TURNER:**
Without the consent of the States?

**Mr. WALKER:**
Yes. With regard to Australasian consols, it seems to me that when we have to offer them they should be interminable, except at our own option, say after forty years.

**Sir GEORGE TURNER:**
Twenty-five years would be long enough.

**Mr. WALKER:**
Of course, we must recognise that trustees and others like investments which will not be disturbed for many years, and you will get a better price if it is a long time before you can redeem them. It seems to me that when we have these Australasian consols we should issue them with the right to redeem them after a certain time, as it was because such a power was retained by the Imperial Government that Mr. Goschen was enabled to make such a grand success of his conversion of the National Debt. We know in connection with the colony of Western Australia that if they have merely to rely on the federal tariff for revenue they could not possibly afford to come into the Federation. It seems, therefore, to me, that in the Constitution power must be given to treat that colony in an exceptional manner for some time. How that is to be done it is difficult to say, but, at the first blush, it would appear that the best way would be to give them permission to have a little extra tariff on their own account, as otherwise they could not afford to lose the revenue.

**Mr. LYNE:**
A tariff within a tariff.

**Mr. WALKER:**
I do not see otherwise how you can do it. I presume that it is understood that the name of the new Government is to be the Commonwealth of Australasia, and not of Australia, as I believe if once we federate, sooner or later, the great colony of New Zealand will come in.

**Mr. BARTON:**
Not for along time.

**Mr. WALKER:**
As has already been said, if we could agree to this scheme of Federation, nothing could better celebrate the record year of Her Majesty's reign. I am aware, Sir, that I have not done justice to this theme; but, on the other hand; I hope I have not trespassed too long on the attention of the House. It
appears to me there may be railways undertaken for strategic purposes by the Federal Government, not only that one to Western Australia, but one to connect us with Port Darwin. There is a magnificent harbor there, and sooner or later we ought to make use of it. We ought to have a naval depot there for contingencies that may arise.

Mr. SOLOMON:

It would have been there instead of at Thursday Island if justice had been done.

Mr. WALKER:

I should say at both, as unfortunately we are not owners of New Guinea. Had we obtained by cession or otherwise the portion belonging to the Dutch, who do little colonisation, and the portion belonging to Germany, New Guinea would have been an appendage of Australia. Port Darwin is too magnificent a port to be allowed to remain idle. If we ever make this Transcontinental railway it will be an important station on the postal route to England and the East. We must, of course, proceed in the spirit of compromise, and as a representative of New South Wales I shall be sorry if after such a splendid commencement as we have made we should allow private views to prevent the public having something from our work. I feel disposed to support my honorable friend Mr. Reid about responsible government, but I want to reserve my opinion. I have heard so many good speeches and am not a lawyer that I want to think the question out so as to vote in a proper way when in Committee. I think the States Council should have power to amend Loan Bills, whether or not they should have power to amend Taxation Bills. If you give them the power to veto a Taxation Bill and not to amend it it seems to me like straining at the gnat and swallowing the camel. Very often a short amendment would have the desired effect. I thank the Convention for the quiet way they have heard my remarks, and I trust we shall proceed with our work and get into Committee as soon as possible.

Mr. GORDON:

I propose to make a very short speech in addressing myself to these questions which have been so fully and so ably discussed. I shall jettison everything in the way of rhetorical embellishment, both for reasons of brevity, and, I am not ashamed to confess, because I know that my poor wares of this kind would be overshadowed completely by the admirable productions we have had from honorable members during the course of this debate. But with one's natural love for his offspring, no matter how humble, I would ask the Premier of New South Wales if, when as captain of the ship he happens upon the flotsam and jetsam on the "Unknown sea of Federation," he will rescue it for the sake of memories of other days.
When I heard one hon. member describe the resolutions as a text, and when I heard the Hon. Mr. Barton himself say that one part of them was an inspiration, the combination of text and inspiration inclined me to be a little shy of dealing with them in a mixed assembly.

But I must be a little courageous with regard to one matter of which I have been reminded by the Hon. Sir Richard Baker. In the last line but one of sub-section A of the resolutions I shall move before I sit down

That the word "for" be inserted after the word "Bills,"

making it read:

To possess the sole power of originating all Bills for appropriating revenue, or imposing taxation,

so as to make it perfectly clear that the sole power of origination shall be confined to Bills specially of that class and shall not be extended or be claimed to be extended to Bills which only incidentally require some provision from the national exchequer.

**Mr. BARTON:**

I should like to say, Mr. President, that that was really my intention, that it was purely a slip that the word "for" was not inserted. The word is in the Constitution Bill dealing with that, and with the concurrence of the Convention I think that word should be inserted now.

**HON. MEMBERS:**

Hear, hear.

**Mr. GORDON:**

I take it that will be done then. I would like, with the permission of this distinguished assemblage, to confine, my remarks to a few general observations, which will nevertheless have a particular bearing. Admittedly, any attempt to deal with this question is one of very great difficulty. No one can be otherwise than daunted by its difficulties and its magnitude. The well-known dictum of Freeman, that the federal form of government is a delicate and highly artificial structure which ill bears transplanting to soil not properly prepared for it, was never more signally justified than by our present deliberations. One of the greatest of our difficulties is, in my humble opinion, the doubt whether or not the soil, as represented by the necessities and desires of the people of the colonies, is properly prepared. In the evolution of history, as in the same law in nature, a premature step or a step too quickly taken means in the end delay, not progress. Judging from the comparatively small interest taken in the recent elections, as well as from the tenor or this debate, I think it is very much
open to doubt whether there is such a general desire for Federation as will make the erection of the delicate federal structure altogether an easy matter. Men of the British race are very slow to transfer their allegiance to new governmental masters, to change the forms of government the working of which they know, to which they are accustomed, and upon which they have relied. It must be remembered that the results of our deliberations have to be referred to the people. There are reasons which we should not entirely overlook which cause many, to regard the Federation movement with extreme caution, and with some apprehension as to its effects upon their immediate interests. The ordinary citizen is compelled by his necessities to take somewhat short views. Intercolonial freetrade will undoubtedly change the manufacturing centres, and with them the residences of the masses of labor must also change. This will be an immediate but not a permanent disadvantage. We have to show to the people of the colonies who will be affected in this way that this immediate dislocation of trade will be of ultimate and permanent advantage to them, as I believe it will be. Even in the case of the American States, pressed as they were by dangers from without and dissensions within-bankrupt as a Confederacy and bankrupt as States-the men of genius who led the Federal movement had the greatest difficulty in securing the adhesion of the people to their proposals. This difficulty is ten times enhanced in these colonies, where no such urgent reasons exist; where each of the colonies stands high in the credit of the world's markets, equal in that respect if not better than many of the ancient European countries. These remarks are in themselves trite, but they are necessary to the short argument which I shall make, and the point of which is, that in the Constitution we are about to formulate,

we should make the smallest draft which can be made consistently with cohesion, upon the allegiance of the people of these States to the Governments under which they at present live. They are the governments to which they are accustomed; they are the governments they have themselves moulded into effective legislative machines under which a greater share of political liberty is experienced than in any countries the world ever saw. Young as they are, the colonies have histories and traditions to which they have become attached, and they are justly proud of the social and political conditions which their genius has largely created. It is an easy gibe to call this attachment parochial. I have heard that objectionable word used a good many times in the course of this debate. Cannot hon. members see that this admirable attachment to existing institutions is the best guarantee of loyalty to the new government we seek to create, when once fealty is given to it? Do not let me be misunderstood.
I have no wish to decry the national ideal which has been adorned and exalted with so much moving rhetoric during this debate. I have worshipped a little at that shrine myself, though never, of course, in language so graceful or so noble as I have been privileged to listen to here. But when the music of these speeches we have listened to has died away, I have asked myself more than once, as each member no doubt has, what answer shall I give to the people when they ask what benefits they will get under the new government proposed? How much, in addition to their present advantages, is this government going to promote the liberty and happiness of the people of these States beyond the happy stage they have at present reached, and which they have reached by the exercise of those very powers which they are now to surrender to a new government? For it must be evident that if, in addition to the powers and utilities proposed to be conferred by the Commonwealth Bill, the States surrender also their railways they will have little or no control either over their social development or over those commercial arteries through which, as Sir John Forrest said, the lifeblood of the colonies flows. We are raising a new government in Australia, the exact operations and effects of which, I venture to submit, there is no man in this Assembly able to predict. Though we have every belief in its success, it is entirely an experiment.

Mr. Howe:

We have the experiments of other countries to guide us.

Mr. Gordon:

We have the experience of very few Federations, and of none under similar conditions. If I had to say now whether I would rather see a United Australia in the same condition as America is now, or whether I would rather have the separate States of Australasia in the condition in which they are now, I would not hesitate to hold up both hands for the maintenance of the present conditions.

Sir William Zeal:

If a European war broke out, and Great Britain stood alone, where would you be then?

Mr. Gordon:

I do not share the fears of the hon. member as regards the safety of Australia in the event of a European war. As a Minister of Defence for three years I have studied this question pretty closely. Some of the most eminent naval and military authorities point out that there is no power in the world at present that in the event of a war could afford to detach an invading force that the Australian Colonies, with even their present means of defence, would not be able to eat up in a month. The same might also be said of a naval attack. No European nation has squadrons to spare which
our present defence by the Imperial men-of-war and the local gunboats is not sufficient to meet. The danger from flying cruisers along our enormous coastline would always exist.

Sir WILLIAM ZEAL:

How could you prevent the Japanese from taking Port Darwin?

An HON. MEMBER:

How could you protect the commerce?

Mr. GORDON:

The hon. member may not have the confidence in the English Government that I have. I have every hope that England will continue to protect us to the same extent as now. The commerce of Australia is part of British commerce, and so long as Great Britain is mistress of the seas she will protect it. When she ceases to be mistress of the seas I think we may all hand in our checks, whether we are federated or not.

Mr. HOWE:

All the more reason why we should federate.

Mr. GORDON:

If England ceased to be mistress of the seas Federated Australia would not be able to protect its commerce against naval powers which overcame the greatest navy the world has ever had. But all these questions are hypothetical, and are leading me away from the point I wish to make.

Sir JOHN DOWNER:

Are you speaking against Federation?

Mr. GORDON:

If the hon. member will allow me I hope I will convince him I am not against a Federation which involves a reasonable surrender by the States. I am attempting to lay down, perhaps out of abundant caution, one or two principles by which I humbly think we should be guided, and by which I think the people will expect us to be guided in framing this Constitution. Many hon. members are protesting against surrendering more power than is necessary, but while they are protesting with their mouths their hearts are not in the business, and they are agreeing to surrender everything. They are stripping themselves of their clothes, and the only thing that will be left to them will be the tattoo marks which expressed their early attachment to their States. The genius, at any rate of South Australian politics, has been local government; but proposals which embrace, amongst other things, the surrender of railways, telegraphs, and post offices take us back to a huge system of centralisation. I agree entirely with Sir John Forrest in his concise and businesslike remarks on this head. So far as South Australia is
concerned, we have nothing to gain in the way of additional social advantages as distinguished from purely commercial advantages by Federation. We are already in the very van of social progress, while some of the other colonies are halting behind us. But we have, I admit, a good deal to gain commercially from a fair compact with our neighbors, just as we have a good deal to give.

Mr. FRASER:

But nationally you gain.

Mr. GORDON:

Undoubtedly Australia will gain in national strength, but at the same time there are powers proposed to be surrendered, which the colonies can, I submit, control better themselves.

Mr. ISAACS:

Surely this question was determined when the Enabling Bill was passed?

Mr. GORDON:

I have not the hon. member's rapidity of argument and conclusion. If he follows me he will see that I am only speaking by way of attempting a limitation of the surrenders which it is proposed to give to the Federal Government. I say when we submit to the contract we make here we shall have to prove to the people that the powers we surrender can be better used than heretofore. They will not be content with eloquent assurances that it is all right. We must demonstrate to them that the proposals are advantageous. And now let me with great rapidity look at some of the proposals in the light of the proposition that the draft upon the allegiance of the people to their States Governments should be as small as possible, and that the disturbance to local conditions should be as little as possible. I shall make my articles of belief brief and categorical. I see no great advantage in handing over the post offices. The advantage so loyally mentioned by Sir Philip Fysh of having the same Queen's head upon all Australian stamps does not seem to compensate for the creation of a large body of federal servants in each State beyond the control of the State Government, and owing their allegiance to the superior power; and further, I fully coincide, as an old post office Minister, in the remarks made by e time being they are employed. There must, however, be vested in the Federal Government ample authority to prevent both preferential railway rates and the building of competitive railway lines. Some hon. members may remember that I ineffectually sought to have this power incorporated in the Bill of 1891. It is encouraging to find that opinion has changed. It has been argued that the provision will be inoperative because a similar authority over railways in
America and England has failed. But I point out that there is only a seeming analogy between the cases. Both in England and America the lines are owned privately. Their proprietors are bound neither by any bond of honor between themselves nor by any obligation to the Governments. They are purely commercial adventurers. In the case of the colonies the contracting parties will be sovereign States, whose public honor will be pledged. To doubt their adhering in good faith to any contract they solemnly agree to is to poison at its very source the fountain of justice and good faith upon which the Commonwealth, if it is to stand at all, must stand. I have no doubt whatever that any contract entered into between the States would be fully and amply maintained, and that the difficulties which in America and England have been found in dealing with private companies would not exist. The hon. the Premier of New South Wales has made a very handsome recognition of the necessity for the vesting of this power in the federal authority. The hon. gentleman is representing the colony which could best of all maintain its position in the fight of railway tariffs. We are all grateful for the concession he makes. But I hope that the hon. gentleman in reconsidering the question will be disposed to go a little further than he has stated he is prepared to go, and will agree to the federal authority having the power to prevent, also, the building of any railway which would have the direct, unmistakeable effect of diverting trade from its proper outlet. Of course, the judge in this matter would be the federal authority. The hon. member will see that I have in my mind's eye the railway that is threatened to be built from the Barrier to a distant point in New South Wales. All the experts who have inquired into the matter agree that it would never pay. If the railway were built it would be only for the purpose of taking away the trade from the South Australian ports—Port Pirie and Port Augusta. Mr. Reid rather qualified his adhesion to the principle I wish to lay down, but I do not doubt that, on consideration, he will agree that any measure should be prevented which would have the designed effect of diverting trade from its natural channels within the Commonwealth. I am exceedingly glad to be supported in my view on these questions by so eminent a railway expert as Mr. Grant, the representative of Tasmania. I only repeat that once the agreement is entered into there will be no breach of it. If we are to anticipate breaches of faith in such matters as this, our troubles will not end with the wedding bells, but will only begin with them. And now just a word on the financial problem. I think I should be more than human if I did not remind hon. members that I was the only member of the 1891 Convention who boldly ventured to say that the
financial proposals of the Commonwealth Bill were clumsy and inequitable: and such is now the view of those best qualified to express an opinion. I am glad to know in regard to this financial problem, that some of those of more mature experience than myself who supported the proposals in the Bill of 1891 so vigorously, have since reconsidered the question, and now partially support the view which I took. I have struggled in vain to master the subject in connection with our present proposals, and to find a solution of the difficulties. I have read and re-read the disquisitions of Sir Samuel Griffith, Dr. Quick, and notably Mr. Nash, who has entered upon a long, exceedingly coherent and sustained examination of all the financial propositions, but I have come out of the study more confused and confounded than ever.

Mr. REID:
You should read them after you study them.

Mr. GORDON:
I am dealing merely with what appear to be little more than conjectures on this question, and if we place the conjectures of the experts in juxtaposition, I do not know that a prettier problem was ever submitted to an innocent amateur financier. In addition to these attempts at its solution, I have listened to the very able speeches made by Mr. McMillan, Mr. Walker, and other acknowledged masters of the art of financing, but I have come out more confounded and confused still, and I venture to think that everyone else is in the same position.

Mr. REID:
Only a method of bookkeeping.

Mr. GORDON:
Mr. McMillan practically admits with regard to the schemes of the other financial experts that madness lies that way; and he admits that even his own scheme it is only a milder form of lunacy which is to be periodically tempered by intervals of lucidity. Each of these financial experts launches himself upon a troubled sea in a financial cockle boat of his own design, most of them taking in water and none able to make a port. Out of all this confusion which exists in the minds of the men who, if there were any solution, would be the men to find it, comes the clear, simple, understandable, and workable proposition which I advocated in 1891, and which has since had the indorsement of eminent authorities, not the least of whom is the hon. member, my old colleague, Mr. Holder. You may be assured that what he states to be right in matters of finance is not far from wrong.

Mr. GLYNN:
You have been colleagues.
Mr. GORDON:

That is why I know so well the value of his opinion. No scheme which has been propounded and which involves the collection of the Customs duties by the Central Government gives either satisfaction or justice all round. It contains the germ of discontent, and, as Mr. McMillan has suggested, might lead possibly to revolution. Let us examine the problem. The object to be achieved is to secure a contribution per capita from the people of each State towards the expense of the Federal Government. Except for considerations which I shall presently mention, the obvious way of achieving this is for each State to collect the tax and pay it over to the Central Government. We are told, however, that this scheme is inherently vicious because it makes the Federal Government dependent to some extent or, as others say, wholly dependent on the State. For the sake of argument I will admit that, but I do not propose that there should be no ultimate and direct resort for the Central Government as was the case in the American Confederacy, which broke down because the Government had no power to enforce its demands upon the individuals of the Commonwealth. But what is to prevent our giving the Federal Government the power, if any State makes default, to assume not only the collection of the Customs duties, but to impose any other form of taxation upon its people it chooses to exercise. I am sure that every State is so secure in its belief in its own honor that it would grant any penal power to the Federal Government in case of default. The American Confederacy had no such reserve power upon the individuals of the States to secure their quotas of either men or money. Where, then, if this is granted, is the argument that this scheme is vicious, because it allows no direct control by the Federal Government over the individual of the State? It vanishes into thin air, and those members who have been so impressed by the essays of Hamilton will, I beg with much respect, reconsider the whole matter. The weakness of the American Confederacy was that the compact between the States gave the central authority no power over the individuals of the State. The Confederacy asked for quotas of men and money, and when the States, either through inability or unwillingness, failed to comply with the requests, the only way to enforce the request was by actual entry into the defaulting State. They had no power over the individual units of the State. I propose to improve that by giving the Federal authority unlimited power of taxing individuals, that power to be held in reserve.

Mr. GLYNN:

How would it work in intercolonial free trade?

Mr. GORDON:
We know what the population is, and the contribution would be per capita.

Mr. GLYNN:
How would you know the amount each State received?

Mr. GORDON:
If it is agreed that the contribution should be per capita you must ascertain how many people there are in each State. The calculation would be a simple matter.

Mr. WALKER:
How do you divide the Customs receipts?

Mr. GORDON:
Let each State receive its Customs receipts as it does now.

A MEMBER:
They would go over the border.

Mr. GORDON:
Every scheme has its disadvantages, and if the hon. member can show a scheme with fewer disadvantages I would adopt it.

Mr. WALKER:
By your scheme the goods come into Victoria and are consumed in New South Wales.

Mr. GORDON:
Admittedly there are inequalities, but there is no scheme that avoids them. There is no scheme that has less elements of future discontent and quarrelling than this. It contains the advantages of practicability, of directness, and of being understood by the people.

Mr. DOBSON:
Can you quote an authority?

Mr. GORDON:
With very much submission I advocate this scheme, and if it is to be dismissed on the ground of inequalities between the colonies, then it should be shown that these are greater than the admitted inequalities of any other scheme; because I maintain, with much respect, that it cannot be dismissed on the grounds on which it has hitherto been dismissed, namely, that it will not allow the federal authority to operate upon the individual; for I propose that the fullest powers shall be given to the federal authority.

An HON. MEMBER:
What power?

Mr. GORDON:
The fullest powers of taxation. I believe, as I have said, that every colony
is so confirmed in its belief in its own honor and reputation in connection with the engagements entered into, that I do not think there is any fear of either of the States repudiating their obligations to the Federal Government.

Mr. GLYNN:
How would it be in the case of the federal authority being in default?

Mr. GORDON:
These sovereign States, with the credit in the markets of the world, are not likely to make default.

Mr. REID:
In your experience you have known more than one Taxation Bill suffer for a very small default.

Mr. GORDON:
I cannot catch my hon. friend's allusion. The American Confederation had no such reserve as I propose to give the federal authority. But would any colony dare to repudiate its liabilities to the central authority without ruining its credit in the markets of the world?

Mr. GLYNN:
They were six years' interest behind.

Mr. REID:
What! the Australian Colonies?

Mr. GLYNN:
No; the American colonies.

Mr. GORDON:
Yes; the Confederacy was absolutely bankrupt. Too much has been made of the example of the outworn States of America. Even if it were proposed to give no more powers against States than the Confederacy had - though no one proposes so narrow a foundation - our colonies are in a

Mr. DOBSON:
Supposing it is a refusal to pay on some religious dispute.

Mr. GORDON:
I cannot agree that that is a reasonable contingency. I am afraid that the religious views of the colonies are not strong enough to enable them to take such a pronounced step. The fact is that none of the colonies would repudiate their obligations, and any colonies that did would become revolutionary on other grounds. It is as easy to suppose that any colony would revolt as that it would repudiate its obligations to the central authority. Mr. Barton said that if the States would not trust the Federal Government why ask the Federal Government to trust the States? I do not think that is the question. I have no more doubt of the honor of the Central
Government to the States than I have of the honor of the States. Our difficulty is to find a method to discharge the obligations which these bodies must incur to each other, which shall be simple, efficacious, and not irritable. I know, of course, the reasoning of Hamilton on this question, but while there was great force in his theories, as applied to the conditions of his time, they do not apply to the circumstances of our colonies.

Mr. DOBSON:
If the Federal Government has a surplus, can you not trust it to deal with the money under the Constitution?

Mr. GORDON:
One great difficulty under the distribution of surplus scheme will be for the people to know exactly what they have to pay. I submit with much confidence that the balance of advantage is much in favor of the simple, direct, and easily understood scheme which I advocate. It has for all practical purposes the constitutional strength of the other proposals, and it is infinitely simpler. It conforms to my proposition that State conditions should be disturbed as little as possible. On the question of the consolidation of loans, it occurs to me in passing that no allowance has been made in the calculations which we have listened to for the greater rate of interest which the States will have to pay for their State loans, for I suppose the States will have to finance for local purposes. Directly you elevate the Federal Parliament into the position of a first-class borrower, you reduce each of the States into the position of an inferior body.

Mr. WALKER:
They can borrow at 3 per cent. through the Central Government.

Mr. GORDON:
In reply to that I say that if this distinguished assemblage is anything like what the Senate is going to be—although I cannot conceive that this highly Conservative body is anything like the assemblage which will represent the final views of the people—that you would not get the Senate to authorise the borrowing of money for many such social schemes as have been carried in South Australia, and to carry on which money would have to be borrowed. I doubt whether we would have got our village settlements scheme through such an assemblage as this, nor do I think we would have established our State Bank.

Mr. WALKER:
Hear, hear.

Mr. GORDON:
There is the view of one hon. member at once, though he knows little
about the special circumstances of this colony. The hon. member, who has not devoted much attention to this village settlements scheme admits he would object to the borrowing of money through the central authority for such purposes as I have mentioned. Here you would have a strangling grip on the policy of a colony such as South Australia, if, as appears likely, the States Government would have to pay heavier interest than it does now for schemes which the Federal Government would not approve. I protest with the strongest language of which I am capable, against every artery through which the life of local government flows being handed over to the Central Government. My hon. friend Mr. Walker might be in the Federal Assembly, and he says he would veto such institutions as our State Bank and Village Settlements, which I regard as among our most useful institutions.

Dr. COCKBURN:
   Hear, hear.

Mr. DOBSON:
   Time will show.

Mr. WALKER:
   So long as you have a surplus coming to you, you can do whatever you like with it.

Mr. GORDON:
   If the hon. member knows anything of our finances, he must know that the surplus coming to the colonies after payment of current charges is not sufficient to enable them to establish such schemes as the village settlements.

Mr. WALKER:
   A good job too.

Mr. GORDON:
   Again the hon. member condemns one of our institutions of which we are most proud; one which cleared our streets of many who were starving.

Mr. SOLOMON:
   A most expensive charity.

MR. GORDON:
   The hon. member cannot divest himself of the idea that he is leader of the Opposition. The village settlements scheme is one of the most beneficent and useful schemes established in any country in the world. I wish I could show many hon. members the people on these settlements who had no homes of their own before they went there. I have been somewhat diverted from my argument that the saving to be achieved by the federal authority borrowing is to be somewhat discounted by the higher rate the colonies would have to pay for their State borrowing. For there must still exist some
things upon which the States must borrow upon their own account. I instanced the village settlements, and the hon. member replied, "Why, come to the Central Government, and we will give you the money." I asked if he would give us money for the village settlements, and he said "No."

Mr. WALKER:
We have given you one village settlement-Broken Hill.

Mr. GORDON:
And we have taken great care of it; but I protest against Broken Hill being considered a village settlement of New South Wales. It was started and developed by South Australia. It is distinctly South Australian, and it would never have been exploited by the somewhat easy-going New South Wales.

Mr. BARTON:
Do you want it?

Mr. GORDON:
I have left myself little time to discuss the constitutional questions. With regard to the question of responsible government, I am not going to take up much time with regard to it. I do not by any means regard it with such sacred awe as does Mr. Isaacs. I am sorry if my irreverent interjection disturbed his glow-

Mr. REID:
I do not wonder that some of the Ministries only lasted a month.

Mr. GORDON:
I only hope that the hon. member's tenure of office in New South Wales will be as long as one of the Ministries I refer to. I am sure it would be for the benefit of New South Wales.

Mr. ISAACS:
Was it carried?

Mr. GORDON:
It was proposed, and had many supporters. There is also a very large body of educated public opinion in England against responsible government, whose cry is "Americanise our great institutions." It is
supported by Sir Henry Maine, a publicist and brilliant essayist. The hon.
member overstated even the extreme opposite opinion when he said that
anyone who opposed responsible government was execrable.

Mr. ISAACS:
You put it a little stronger than I did.

Mr. GORDON:
Execrable was the word. There is a strong feeling in South Australia in
favor of the Swiss method of electing Ministers, and there is the solemn
assertion of a Parliamentary Committee or Commission in New Zealand
which absolutely condemns party government. Responsible government is
on its trial. It is not ancient. It has really sprung into force within the lives
of our grandfathers. While sorry that I interrupted Mr. Isaacs, I think that,
on consideration, he will see that his suggestion was not justified by the
present state of political opinion. The conversion of Sir Richard Baker is
clearly due to the fact I have just mentioned, that twice in the Legislative
Council I have advocated this system. He was in opposition at the time, but
like a man of reason and a man of courage, having listened to arguments
which no reasonable man could hear and resist, he changed his opinion.

Mr. DEAKIN:
I forgive him, then.

Mr. GORDON:
While I am not advocating by any means the assertion in the Bill that the
Federal Government should be worked upon any other than the responsible
government system, I protest against any particular system being imposed
on the Federal Government. I contend for freedom. As Mr. Wise so well
put it: the genius of the Federal Parliament will be equal to any necessity
that may arise and will mould the machine which we entrust to their hands
in a manner that will redound to the credit of Australia and the advantage
of its people. I have never been able to see any fatal result to all that is best
in responsible government in a recognition of the individual as
distinguished from the corporate responsibility of ministers.

Mr. ISAACS:
Responsible to whom?

Mr. GORDON:
Responsible to both Houses of Parliament. Just a word on the question of
the powers of the Senate. A great deal of interesting history has been
quoted as to the genesis of the American Senate and the intentions of its
founders. I do not think this helps us very much. The flowers of a hundred
years have bloomed and perished on the graves of these gentlemen, and the
political machine they constructed has acquired an importance which they
may or may not have intended.
Mr. ISAACS:

Because it was asserted, then, that it was not intended to make the Senate of the United States an Upper House.

Mr. GORDON:

Whoever made that assertion uttered one which is comparatively idle as affecting the point at issue. The genesis of the American Senate has not much more to do with our present position than the evolutionary struggles of our anthropoid ancestors have to do with our actions in this Convention. We have to consider the Senate as a going concern, and to gather what lessons we can from it as it exists to-day. Equal representation in the Senate is necessary, and this is I think generally conceded. I lay it down as an absolute proposition that if we are to make this a fair partnership we must have equal representation in the Senate. We have had two excellent speeches from an intellectual point of view from Mr. Higgins and Mr. Deakin, but both of whom appeared to look at the question with one eye shut. The remarkable ability and the great learning of those two gentlemen enabled them to conceal the fact that they had not fully mastered the federal idea. Neither of them has been able to see the essential difference between an Upper House in a homogeneous State and a Senate in a Federation. I am quite unable to follow the hon. members, who are both generally logical, and combine with logic rhetorical brilliancy. When they have time to think about this important difference they will, I hope, come round to my view of the question. There is nothing in Mr. Higgins's argument as adduced from Mr. Bryce's book to the effect that the equal representation in the American Senate has been of no service in preventing infractions of States.

Mr. HIGGINS:

I say there were no differences of interest. You might as well say there was no steep hill because there was a brake in the wheel of your buggy. The brake turns out to be unnecessary.

Mr. GORDON:

If I am at all misrepresenting what the hon. member has said, there is no one more sorry than I am. I understood him to argue that the equal representation in the American Senate had not been of use in preventing differences in the States.

Mr. HIGGINS:

No differences of interest arising between the large or populous States and the small or less populous States.

Mr. GORDON:

The conditions here are not similar to those in America. In America the
Government does not own the railways, telegraphs, and post offices.

Dr. COCKBURN:
The post offices.

Mr. GORDON:
Well, they do not own the railways, which are the most fruitful source of revenue, and therefore highly probable sources of trouble. The conditions under which the Senate and the Lower House have to operate here and in America are, to my mind, essentially different. Our conditions compel us to take the greatest care of our State interests, to take the greatest care that the constitutional compact shall be so arranged that every germ of dissension amongst us may be avoided as far as possible. Mr. Deakin, in his somewhat sweeping statement with regard to the liability of the population of the larger colonies for the financial needs of the Federal Parliament, forgot that the Parliament will have powers to impose taxation in any way it pleases. Supposing the Federal Parliament imposed a land tax, would the landless millions of Victoria pay that? No. It would be South Australia, Western Australia, and New South Wales that would have to pay it, so that the conclusion he drew that the whole of the financial responsibility would fall on the populous colonies was wrong, and cannot be sustained on a complete examination of the partnership arrangement proposed to be made between the colonies. Land is the principal subject for taxation, and not the people. The people can avoid the tax by going away. The land always remains, and so long as land is a subject to taxation by the federal authority the colonies owning the largest landed estates bring in security for their full share of the federal debts.

Mr. HIGGINS:
Land more than the man?

Mr. GORDON:
As the ultimate resort for taxation I should say yes. I just desire to point out to my hon. friend that we give an asset which is responsible for every federal debt in the landed estates which we have developed at a cost of so much money and many lives. I am not going to labor the question of the privileges of the Senate. I am free to admit that sweet reasonableness has been displayed by the leaders from the larger colonies. No man who wishes to face these troubles, and be fair all round, can conceal the difficulty which lies wrapped up in the question of the powers of the Senate, and all will admit that on the whole the disposition of both sides has been so reasonable that no doubt a solution will be arrived at. I am the more nervous on this question of a strong Senate when I find myself standing shoulder to shoulder with such a lion of democracy as Dr. Cockburn, and a
gentleman whose political opinions are such a curious survival as are those of the hon. member Mr. Dobson. It makes me just a little suspicious of the position—of course not suspicious of either of them as far as their honorable intentions are concerned, nor of their desire to benefit their country. While fighting, as in duty bound, for equal representation and equal powers in the Senate, I think that there is a good deal in the contention that the annual Appropriation Bill should not be amended if it were possible to define in the Constitution that the Appropriation Bill should contain absolutely only the charges proper to the carrying on of the Government, and that there should be no tacking on of loan money items. With this suggestion: I think it a question in which give and take may fairly obtain. There are two essentials—equal representation in the Senate and for that body practically co-ordinate power with the House of Representatives. All those who recognise what are the essentials to a true union will admit these essentials. They are necessary for the protection of the liberties and the purses of the States. I shall advocate a Federal franchise upon the basis of adult suffrage, but if I cannot get that I shall be content for my part with, at least, manhood suffrage everywhere and adult suffrage in the States which possess that admirable franchise. I advocate a Final Federal Court of Appeal for Australia—final in all matters except those involving Imperial concerns. No case should be remitted to the Privy Council except on a certificate of the Federal Court that it was of this nature. On such a certificate it should at once go on to the Privy Council without further cost. My hon. friend Mr. O'Connor was mistaken, I think, when he said that no Colonial Court could hope to equal the Privy Council in ability. I venture to think that I could select from the Bar-leaders present in this assembly, to go no further, a bench as strong and as independent as any which has ever sat in any part of Her Majesty's dominions. I will not further trespass on the exceeding good nature of hon. members. I will only add the hope that when our epitaph as nation-builders comes to be written it will be:

"They builded better than they knew."

Mr. TRENWITH:

I rise with very great diffidence to address myself to the question we have to consider at this stage of the debate. The debate has been all through an exceptionally able one, and this day is perhaps the most distinguished of all the days that the Convention has sat. The debate to-day, I am sure, may be said to have reached its highest altitude, and unfortunately for me, at any rate, in having to speak at all, my views in the main have been expressed,
some obligation to state my views in view of the fact that this discussion is
taken in Committee. The speech that I have just listened to has interested
me in some measure, and I feel a good deal in doubt as to whether to take it
altogether seriously. I do not know whether the hon. gentleman was really
stating his views or whether he was out for a night and was entertaining
himself and us. Certainly those views which he claimed to hold seriously
were, to my mind, of a most extraordinary character. With a modesty that
must be peculiar to himself he declared he was, of all the men who had
discussed this important question, the only one who had discovered a real
solution of the financial difficulty. He certainly mentioned incidentally that
the study of this subject had a tendency to create insanity. However, he
positively assured us, at any rate, that he was all right up to now. The
scheme he proposes is that the contributions to the federal authority should
be made upon demand from the various States per capita, and that if any of
the States should be dissatisfied with the amount of the demand and should
default, that then, and not till then, the central authority might step in and
take action in reference to the individual State. It seems to me so obvious
that this is impracticable that I cannot believe it was submitted seriously,
that the central authority should have to ask for a certain amount of money
from the States which, of course, to meet the requirements of the central
authority, must be paid promptly; but of the amounts of which the States
would have had no knowledge until they were asked, and consequently
were literally unprepared to meet them. Supposing they were prepared to
meet the in some instances, and some one or more did default, then the
central authority would step in and take action to obtain it from the
individual citizen. Does he mean that as it is a per capita demand, a per
capita claim, the central authority has to ask each individual citizen to pay
his or her share? Because if he does there is no doubt there will be a great
deal of inconvenience on the part of many citizens in complying with the
demand. Or does he mean that in some general way the central authority is
to institute proceedings to raise the amount in default by some form of
taxation; if he does that, whenever such a contingency arises, the central
authority will then have to create all the necessary machinery.

Mr. BARTON:
The Commonwealth will have to seize the assets of the defaulting States.

Mr. TRENWITH:
And when it ceases to be in antagonism, and agrees to comply voluntarily, will all this machinery have to be disbanded? It does seem to
me to be a difficult scheme to understand. The hon. gentleman said that
there is no scheme without an objection. This particular scheme appears to have one objection, and that is that it is absolutely unworkable. He commenced his speech in a manner which astonished me more than his conclusion, by declaring that Federation was undesirable and impracticable in the interests of Australasia. It was suggested to me when he was speaking that his position here must be very like that of the fly in the amber, the sole consideration of which was how in the world he got there. The hon. member commenced by saying that it was extremely doubtful whether these colonies are ripe for Federation yet. Then he followed that by illustrations of the impossibility and difficulty of grafting Federation upon these colonies. Defences would be handed over, if handed over at all, with very considerable danger and possible difficulty; post offices certainly should not be handed over, because the interests of the States would suffer; and railways under no conditions should be taken over by the central authority. The substance of it all is that if the central authority is constituted it shall have nothing to do; if that is ultimately decided his financial scheme will suit admirably. But it did occur to me that we were called here because the States of Australasia were ripe for Federation, because they were longing for Federation, because they were expecting that we would prepare legislative machinery under which they could federate with advantage, and that the time for discussing why we should federate and the benefit of Federation was passed. That question has been answered a hundred times by the declaration that we have discovered that there are some things that we cannot do at all separated, and some others we can do much better federated. The Act under which we are authorised to be here declares in effect that the colonies represented here at any rate are ripe for Federation. The hon. member himself, I understand, took part in the discussion on an Enabling Act here to declare that the people should be called upon to elect a Convention. Clearly it was trifling with the people to ask them to elect a Convention and at the same time to honestly hold the opinion that the colonies were not ripe for Federation. We are here authorised, commanded, to do what we can in the light of the experience of the world to prepare a Federal Constitution.

Mr. BARTON:

And we have undertaken to do it.

Mr. TRENWITH:

We have undertaken to do it, as has been aptly suggested by Mr. Barton, and I hope in the spirit of liberality. We shall have grievous differences—some of them very hard indeed to reconcile, some perhaps impossible to reconcile; but every man owes it to his own honor and to those who sent
him here that he shall by every means in his power endeavor to reconcile them. We are here to frame a Constitution—not for South Australia, not for Victoria, not for New South Wales, not for any colony singly, but for all the colonies of Australasia—a Constitution that will not give to one an undue advantage over another.

Mr. BARTON:
Hear, hear.

Mr. TRENWITH:
And we ought, if we can, to consider ourselves not representatives of any particular State, but rather as representatives of Australasia—

Sir PHILIP FYSH:
Hear, hear.

Mr. TRENWITH:
Entrusted with the duty of doing the best we can for Australia, and making a Constitution that will give all the advantages that are possible from central government and federal management of such things as cannot be managed locally to secure to the representative States the most absolute and complete autonomy with reference to domestic legislation, and to create, if I may so express it, a nation of sovereign States with a sovereign Central Government within an area prescribed for it. This seems to me to be the consideration to which we must bend our attention, and to which we must bend our energies, and it brings us naturally to the consideration—what form of government? It seems to me that is the first question. Subsequently we shall have to consider, having decided what form of central government, what objects of government we shall hand over to the central authority. In view of the jealous, and properly jealous, manner in which the peoples of the various States have consideration for the importance of the power of their States, it seems to me that it will be wise to hand no more over than is absolutely necessary, at any rate for the first time to time that Parliamentary government is on its trial, and that it is not by any means settled yet whether it is the best form of government that can be adopted, I think it will be generally admitted that there is no better form of government known to us.

Sir EDWARD BRADDON:
It has been on its trial for a long time.

Mr. TRENWITH:
And I think it will be on its trial for many centuries yet to come. This involves the consideration of what sort of Parliament? The world furnishes illustrations of different Parliaments—Parliaments of one House, Parliaments of two Houses, Parliaments elected by all the people,
Parliaments elected by some of the people, and it seems to me, at any rate for this Central Government for which we are commissioned to provide machinery, it would be wise to have a Parliament of two Houses. I have said, and I feel very sure, that, with reference to our State Governments, we could have been governed better by one House than we have been by two; but we have to consider that we are dealing now with an altogether larger constituency to what is presented in any of our colonies. We have practically two units of representation. We have first, and most important of all it seems to my mind, the people of the various colonies; and then we have the various colonies themselves as separate States. And I think, in accord with everything that has been previously urged here, that we must have a People's House-and I prefer to call it the People's House-and a States House. How shall these Houses be fashioned? becomes the next consideration. Shall they represent the people in proportion to their numbers, or shall they represent the States equally without regard to population? It is not necessary to argue that the People's House, at any rate, should represent the States in proportion to their population, because that is generally admitted, but the hon. member for Tasmania, Mr. Clarke, said this afternoon that there had been no disputing practically with reference to the right of the States to be represented equally in the States Council. Now I think that contention was inaccurate. I think there has already been some objection urged to the justice of that form of State Council. Certainly my hon. friend Mr. Higgins voiced that objection, but what I desire to urge is that even those who have admitted that, for the purpose of Federation, it will be desirable to grant representation to the States in the States Council, are not all agreed that that is a perfectly equitable and just arrangement; but they make that concession, to put it in the words of Mr. Deakin,

They make that sacrifice.

**Mr. LYNE:**

No.

**Mr. TRENWITH:**

They make that sacrifice out of regard for their opinion of the importance of Federation.

**Mr. BROWN:**

They may want it themselves twenty years hence.

**Mr. TRENWITH:**

The question we are dealing with, as Mr. Holder put it when Mr. Higgins was dealing with it, is a question of principle. We ought to, as far as we can, dissociate our minds from the fact that we represent individual States. For my part, I feel I represent my native country, Tasmania, just as much as I represent Victoria—that is to say, I believe Victoria sent me here to
represent Australia in this matter, and to endeavor to secure a solution of the difficulty that will be for the benefit of Australia without regard to individual States: and the assumption upon which hon. members act in connection with this subject is to my mind fallacious. It is urged we must have equal representation of the States in the Senate, or else we will not get Federation; and some go to the length of saying that all the Federations of importance in the world have equal representation in the Senate. That seems to me to be where the fallacy is. So far as I know there is only one Federation in the world where there is equal representation in the Senate, and that is the United States of America. It is urged that it is so in Switzerland, but it is not so. There are twenty-five separate governments in Switzerland, and there are only forty-four senators. There are half cantonments, all of which are to all intents and purposes complete cantonments. So far as Switzerland is concerned they are independent States, having separate governments, but sending one instead of two representatives to the Switzerland Senate. Thus, I think my contention is correct, that even Switzerland, which I admit approximates to equal representation in the Senate, does not possess equal representation in the Senate. In the others, which may be said to be examples of the present day federation - Canada and Germany - there is not even the pretence to equal representation of the States in the Senate. The small States in Canada are bunched together and, for federal purposes, called single States. Germany—of course, everyone knows, may be said to be among the most successful of recent federations—is perhaps the most striking example in history of the immense advantage of federation. Germany—within the recollection of almost everyone here—was a number of isolated petty principalities, and Germany has almost, as if by magic, sprung into the position of a first-class power in Europe since it was federated, and there they have no equal representation in the Senate.

Sir JOHN DOWNER:
Since it became an Empire.

Mr. TRENWITH:
Since it was federated; and in Germany there is no equal representation of States. They vary from sixteen in Prussia to one representative in four or five of the smaller States. What would be an equitable adjustment of this difficulty—because it is a difficulty, and I am here for my part to bridge over difficulties, to meet them, and, where I can to remove them—it seems to me, would be a compromise between equal representation and proportional representation, something on the lines suggested by Mr. Solomon with reference to the people's House. That is, that some clear and substantial
representation in Senate should be given to every State, and that after that a proportional representation should be adopted. However, in order to get the advantages of Federation, I would be willing to go the length of giving equal representation in the Senate if, in conjunction with that condition, there were provided some proper means of securing that ultimately, when a difference should arise between the People's House or the House representing all the people as people and the States House, and after time for deliberation has been given, and the people have had an opportunity of clearly looking at the matter in dispute—the people's will should become law. Now, there are several modes suggested for bridging over difficulties between the two Chambers. I, like my hon. friend Mr. Reid, am not particular whether they are called the Upper or Lower House, or whether they are called the People's House, and another place, or what they are called, but, certainly, the House that represents the people on the basis of population must be fairly and properly described as the people's House, and the House which represents the States equally, without regard to population, cannot possibly be called the People's House, no matter how elected.

An HON. MEMBER:
If elected on the popular basis?

Mr. TRENWITH:
Not even if elected on the popular basis. Let me take an illustration, and I do so without any desire and without any likelihood of giving offence. But take the two extremes at this Convention. We have New South Wales with its 1,200,000 odd inhabitants, and we have Western Australia with its 130,000 odd inhabitants. Both colonies are represented in the Senate, we will assume, by ten representatives. The representatives of Western Australia each of them, or the voters in Western Australia each of them, would have ten times more control over public affairs than a single voter in New South Wales. How can you call such a House the people's House?

Mr. HIGGINS:
Hear, hear.

Mr. TRENWITH:
It has been artfully and ingeniously endeavored to be shown that if you elect the Senate by the popular vote-adult sufferage, if you will—it is impossible to have a House more representative than that is—that is to say, if you elect it to represent the people of the country in the country—but if you elect it to represent the people of the country in conjunction with another Senate of equal number, representing a greater number of people, it
cannot be called the people's House of both those colonies. In the other respect the House of Representatives can truly be called the people's House of both colonies, because it represents every unit in each of the States equally. Now, the question of the franchise is, to my mind, an extremely important one, and I am pleased beyond measure at the tone of the debate on this question so far, because it shows the immense educational work that has been done in that connection within recent years. I see around me gentlemen of transcendent ability, who, only within the last half-a-dozen years, declared that it would be disastrous to allow the Senate to be chosen by any other body than the Parliaments of the various colonies. I see now that there is scarcely one of them who does not approve of the Senate being elected on the broadest possible franchise. My own impression is that it should be elected by the whole colony as one constituency. My reasons for that are twofold. The first is that that would give the highest possible satisfaction to all the electors—a very important consideration in connection with the question with which we are dealing. It would give a much more suitable House to have imposed upon it the duty of criticising the work of the House of Representatives. It is obvious that no novice could find his way into the Federal Senate. The men who would get there would need to have given some years of earnest and honest public service in some other walk of life, and have given a guarantee to the people that they possess the necessary ability and integrity. What we lay down is that a young man would not be able to get there, but that no man would be shut out from there. They could prove their fitness for this, the highest of all positions, by working hard and well in some other walks of public life. It will be urged by some, I have no doubt, that a House so constituted would be the fittest House of the two to deal with all important questions. I respectfully submit, however, in this connection, that legislation always is undertaken on behalf of the people, and in the interests of the people, and in these colonies, at any rate, we have gone upon the assumption that the people are the best judges of their own requirements, and that while it may be well to have the most able men, it is possible that, in their opinion, it would be better for the people themselves, ultimately, to be the arbiters of their own destiny. I know Mr. Dobson will probably call this the march of what he describes as the dangerous advance of democracy; but whether it is dangerous or not, it is a rule in these colonies to a very large extent, and it is daily becoming more so. The question of the franchise for both Houses—whether it should be manhood suffrage, or whether it should be adult suffrage, whether it should be a restricted franchise, as to some extent they have in Queensland and Tasmania, or whether it should be plural voting, as I regret to say we have in Victoria—is a question that it seems to me this
Convention must deal with. I know there are those who urge that the local Parliaments or the people of the various States may be permitted to decide that subsequently in the Federal Parliament, in the first instance electing the Federal Parliament by their local methods. I respectfully submit there are reasons why that is unwise. First of all I have no hesitation in saying that no franchise except that in operation in South Australia is in accord with the general political sentiment of the people of Australasia. I submit that, and I will submit reasons why I think so. If that be so, we have to remember that whatever Constitution we devise will have no effect unless it commends itself to the electors of Australasia. Thus, while we are bound to draw up a Constitution that in our opinion is as perfect as we can make it, we are bound also at the same time, and together with that thought, to consider whether that Constitution will receive acceptance at the hands of the people. Now, why am I justified in assuming that the Constitution of South Australia is the Constitution that is most in accord with the wishes of the electors of Australasia? One reason is, and a strong one, that two colonies have already adopted it, and that the people of Australasia in all of the colonies have been clamoring for a broader franchise. I remember my native colony of Tasmania, when I was in it many years ago, was said to be ruled by cliques, at any rate it is true that an immense number of the effective males of the colony had no vote.

Sir EDWARD BRADDOON:

They have it now.

Mr. TRENWITH:

Yes; they have it now, but how did they get it. They got it by continually clamoring for a broader franchise, showing they were not satisfied with the restrictive cliqueism that prevailed, and that they wanted each man to have something to say in each election and to do something to impress his footprints upon the history of their colony. In New South Wales they have only recently

I hold that it is extremely important that we shall have an honored and respected check.

That was his language, and it is mine—a check; not something which can impede for all time, but something honored and respected which can check, something which can say:

What you are doing we believe to be dangerous. Take time. Let the people see what you are doing, and it is possible what may be a popular wave of delusion may blow over.

If after this time has expired and discussion has taken place in the two Houses, and in the press and on the platform, there is still an
insurmountable difficulty in the two Houses coming together then there must be some means by which the people's will may become law. If we look at it we will see that the two Houses are the agents of the people; they are the hand, I may put it, with which the people give effect to their economic wishes. When the agents fall out the people have the right to demand what any commercial man would demand if the agents he had sent out to do business had fallen out, that they should sit back for a time and let him settle the dispute. Therefore, I favor what is known as the referendum as a means of settling disputes. My honorable friend Mr. Barton interjected the other day that the referendum was a Teutonic fossil, but I differ from him, as in the Constitution of his colony, in Victoria, and in the United Kingdom we have in a cumbersome and awkward form the principle of the referendum as in every Constitution in the British Constitution with which I am acquainted. When a dispute arises either between the two Houses, or between two sections of the Lower House, as to the policy of the Government, we now resort in a clumsy and unsatisfactory manner to the referendum by dissolving the House and asking the people to speak on the issue. Unfortunately we mix up with it a hundred other issues, with the result that in nine cases out of ten we fail to settle the matter. In the House of Commons hon. members know that, although the term of the British Parliament is nominally seven years, it very rarely indeed reaches that term, because for some reason or other the cumbersome English system of referendum is resorted to, and my hon. friend Mr. Reid to-day, in eloquent language and with dramatic gesture, indicated that the British Constitution as represented by the mother Parliament is a whispering gallery, in which the slightest breath of oppression in any part of that Empire upon which the sun never ceases to shine is heard with such force that it secures attention and redress. We need not be afraid of him introducing a principle which we see by experience rarely, if ever, gives entire satisfaction because of the other disadvantages which are involved in it. We have other questions, such as whether we like the candidate. Which one of us, after hearing Mr. Reid to-day, could vote against him, whether we were protectionists or freetraders; and if we could, how great must be our devotion to the political situation, having in view the great qualifications of the man? But if we differed on one point and agreed with him on several others, and the point on which we were asked to vote against him was the one we would lose his support on the other points. While I would not go to Germany for my boots, I would go to the ends of the earth for a better system, and we are bound to ransack the earth to secure all advantages which experience can give us, because there is no light so useful for the guidance of our footsteps
in the future as the light of past experience, and we must not reject any lessons taught by any part of the world, whether English or not, because how few institutions there would be in England if there were only those that were English. I earnestly hope, therefore, that the referendum will be attached to this Constitution Bill. However, if the foreign character of the institution is in the minds of some hon. members so great a bar that they cannot accept it on that account there is another suggestion which it seems to me would possibly meet the difficulty—not the one of both Houses sitting together. I am strongly opposed to that, particularly if it is proposed to give equal representation in the Senate to the States without regard to their population, because if we adopted that in such a Constitution the result would be that the minority in the people's House joined with the majority in the States House would carry a Bill against the people. But they might provide that there may be a reasonable delay in the event of a dispute between the two Chambers. The Bill should lie over and again be brought up in the people's House, and if again passed and again rejected it could again lie over until a general election to the people's House had intervened, and if passed again with the full sanction of the people of all the Federation it should become law without regard to the sanction of the States House. This, it seems to me, would be a perfectly safe and sufficiently slow solution of the difficulty between the two Houses.

Mr. O’CONNOR:

That would be three Sessions?

Mr. TRENWITH:

Yes; with a general election intervening.

Mr. WISE:

It is much better than a referendum, at any rate.

Mr. TRENWITH:

It would remove the difficulty, and my object is to remove that, for I am not anxious—if I had the power—to ride roughshod over the convictions of many hon. members.

An HON. MEMBER:

It would be necessary to have three Sessions, but a general election must intervene.

Mr. TRENWITH:

I should be better pleased to have one rejection and a general election intervening.

Mr. WISE:

It would be an advantage to preserve the responsibility of Parliament.
Mr. TRENWITH:

I do not care much for the responsibility of Parliament. I think I may leave this aspect of the case, and go at once to the character of the executive. The difference between a federation and a confederation, of course, is that one body creates machinery for doing its will and the other body only machinery expressing its will. The Executive is absolutely inseparable from a true Federation, and we have in the federations, it is acknowledged, four distinct forms of Executive. We have the American Executive, which, I think, with all deference to them, hon. members are in the wrong in saying is not a responsible Executive. But I feel I am correct in saying that the American people sought to make it a compromise between the responsible government, of which they had some knowledge, and autocratic government. They made their little king—if I may so express it—only capable of exercising certain autocratic powers for a period but they did not leave him absolutely autocratic, because they associated him with the Senate in the performance of certain administrative acts. They endeavored to make the chief administrator responsible, and did make him responsible, to the Senate, and they considered the Senate responsible to the States. In Switzerland they have a sort of responsibility. They saw, as I see, some of the evils of responsible government. Nobody is more willing to own them than I am, although I think we must adopt them in connection with this Federation. I shall be glad myself to see some modification of the Swiss system of Executive adopted in the State to which I belong, but I am showing that irresponsibility does not exist in the Swiss executive. It is responsible directly to the Parliaments for its administration. It is responsible in a different way to that to which we are accustomed. Individual members of the Executive are responsible for their individual administration. It is not responsible—and that is the marked difference between it and the British responsible government—for the measures that it introduces or the legislative matters that it recommends. But while I hold that a modification of the Swiss system with the executive in Parliament instead of out of it, would in my opinion be a better form of Executive than we have, I feel that we must keep in mind that when we are done with this Constitution it has to go to the people. Whatever anyone has to say about it, the people must ultimately accept the result of our labors before it can have effect, and as they must necessarily be largely unacquainted with the intricacies of this intricate question it will be wise to adopt that form of government with which the people are familiar, and of which they have knowledge. I would favour a clause providing for the Executive, a clause very similar to that of the Commonwealth Bill of 1891, for the reason that that clause left it open for the Parliament to adopt practically what form of
Executive it chose. It did not say in definite or distinct terms how the Executive should be constituted, and if my views are right upon this point what would probably happen if we adopted a similar clause at any rate for the first? Our recognised form of constitutional government would be adopted. And if as time went on some reform in the matter of the Executive took place in the various States that reform could be without any alteration of the Constitution imported into the Central or Federal Government. It seems to me that would be a wise method of proceeding. There is a point I have not heard touched upon yet that, to my mind, is of as great importance as any I have heard. That is the question of the alteration of the Constitution. All experience teaches that rigid Constitutions, too rigid Constitutions, are extremely unwise and irksome to the people who are governed under them. I have no hesitation in expressing my opinion that if the American people had the opportunity of framing their Constitution now it would be a very different Constitution to that which they framed a century ago. I have no hesitation in expressing the opinion that the Americans would be glad of the opportunity of framing their Constitution anew, and that the difficulty of altering the American Constitution has often given rise to heart-burnings and to bad feeling and to great difficulty in government already in America. I believe that it will give rise to still greater difficulty, and possibly, and not improbably, to civil war in order to remove its irksome character. Recent experience of the world shows that both in legislation and in every other incident of our daily life the world travels with immensely greater rapidity than it did in times that are past, and that what might be admirably adapted for our requirements to-day would probably altogether inadequately meet the requirements of the people of these colonies fifty years hence, or perhaps in even a shorter time; and therefore, it seems to me, we must provide in the Constitution ready means of altering the Constitution. We have in this connection examples by which we may be guided or warned, and I think we are justified in using the experience of the past as a guide wherever the machinery upon which we are gazing has shown itself to have worked smoothly, and well, and we ought in the interests of those who have sent us here to be warned by the experience of the past, wherever the machinery we are considering has worked with friction or disadvantage to the peoples associated with it. The American Constitution proves conclusively that we must adopt a very much readier means of altering our Constitution than that provided in the American Constitution. Again, it seems to me we can go with advantage to Switzerland. In the Republic of Switzerland they provide that the people, as represented in both Houses of Parliament, can
alter the Constitution by a majority, and of course they have a safeguard, as, if anything is done that the people do not desire to have consummated, they can demand a referendum in connection with it; and they have a further provision, which I think we ought to adopt, that when a sufficient number of the people think it desirable that the Constitution should be amended, they can demand a referendum upon that question. The question must be put to the whole people -

Do you desire an amendment of the Constitution?

and if the reply is in the affirmative, both Houses are dissolved - and this seems to me to be a democratic idea that we might well follow, at any rate in connection with the alteration of the Constitution - both Houses are dissolved, and an election takes place on the single issue of Constitutional reform, and then, after a Bill has been drawn up, it does not become law until it is ratified by the people of the States. While I agree that ultimately, in matters of general legislation, the people, the majority of the people, should be the governing power, in connection with matters of the alteration of the Constitution, it seems to me equitable that the States also should have to acquiesce. Now, my reason is this, that when we federate - if we do - we shall federate under a Constitution that we have seen before us, the powers of which we clearly and properly understand, and we go into it as States, as well as individuals, with our eyes open. If it is proposed to alter that Constitution, then the States as well as the individuals must be permitted again to say whether they will submit to that alteration. That seems to me to be a sufficient protection of States rights. The State, in the first instance, agrees to hand over certain governmental functions. Having handed them over they cannot logically claim to hold them in their hand, but in reference to questions that they have not handed over they have the right to be asked, and ought to be asked, if any subsequent steps are taken, just as they will be asked, before they come into this Federation. Those who urge that State rights may be infringed unless we give the States as States the power to veto legislation for all time, seem to overlook the fact that the Constitution is the guardian of the State rights, but what is handed over with the Constitution is all that can be dealt with by the Parliament selected under the Constitution; and if we have a proper Federal Parliament with a proper Federal Supreme Court the Constitution will be the guardian of the State rights, and the High Court of the Federation will be the guardian of the Constitution. That seems to me to be adequate and complete protection as far as it ought to be given to State rights, as far as any person can reasonably ask. If we give more than that we infringe State rights. If we give representation in the Senate upon equal terms, without
regard to population, we shall create the possibility of the rights of the large States being infringed by combination with the smaller States. I admit this is a highly improbable contingency, and I do not wish to press any argument an inch further than it can be legitimately pressed, but it is the answer to that very improbable contingency that the large States may combine to oppress the smaller ones. Either of these are unlikely to happen in Australia. I have warrant for this assumption in the surroundings of our local government. We have local States Parliaments representing large and small constituencies, representing wealthy and poor constituencies, but do we ever hear of the large and wealthy constituencies improperly combining to injure the smaller constituencies? So far as my experience goes it is almost all the other way about. The large, populous, and wealthy constituencies are continually taxing themselves to assist the poorer and smaller constituencies. We have a remarkable instance of it to-day in Victoria. We have a very small population upon the Murray called Mildura, immensely removed by distance from most of the rest of the colony, at present extremely poor, in the greatest financial straits, and extremely small numerically. We have the whole of the rest of the colony combining to tax itself to lift these few poor people out of the difficulty into which they have got. Then, in the distribution of our municipal subsidies, we have always gone upon the plan of taxing the whole people to procure revenue, out of which we have subsidised our municipalities, not in the proportion of size or numerical strength, but in proportion to their necessities.

Mr. DEAKIN:
And poverty!

Mr. TRENWITH:
If there were advantages, the less they have of combination to help themselves, the more we have given them as municipal subsidies out of the general revenue. In that we are not alone. I think it is characteristic of all our local affairs. In connection with our postal system we charge uniform rates of postage, but in the remote districts, some of our letters cost 3s. or 4s. or 5s. to deliver; but we never grumble. Wherever we can, and continually, we are extending the postal conveniences in the interests of these poor, numerically weak outlying districts. Now, have we any right to assume that, if we create a strong Central Government charged with the duty of legislating on Federal questions within the area prescribed for all the colonies, the people will be less generously treated than they have been in connection with local government within their own State. But if we do assume it, bad as it is that minorities should be subjugated by
majorities for base or selfish ends, it is not so bad as that majorities should be subjugated by minorities for base or selfish ends. This possibility is involved in the proposal which has been submitted. I think at this hour, and in view of the fact I have previously urged that my views in the main on all questions perhaps but this question of State representation have been presented to-day twice at any rate in the most eloquent manner it is possible to conceive, I may be excused for bringing my remarks to a close. But I would say in conclusion: we do owe to each other the duty of earnestly determining to go as far as we possibly can in the direction of meeting the aspirations that we know to be in the minds of the people without regard so much to what our own opinions are, in order that this question of Federation may be consummated, trusting to the people of the future to deal as intelligently with their affairs as we in the past have dealt with ours. We have to remember that a great— an awful—trust has been reposed in us. We have in our bands the destinies of a nation, the possibilities of which no man can properly conceive—a young nation without a history, a nation without a flag that has braved a thousand years the battle and the breeze, but a nation that is making a history in a very extraordinary manner; and this baby nation has been placed in our arms. We are entrusted, if I may so express it, with the nursing and development of it, and if we do our duty we shall create here amid these southern seas a national man who shall stand amid the waves—a national giant so deporting himself as to give to the people comfort and happiness in excess of that possessed in any other part of the world—so deporting himself as to create the admiration and excite the envy of the civilised world

The PRESIDENT: The hon. member for South Australia, Dr. Cockburn.

Sir WILLIAM ZEAL: Before Dr. Cockburn speaks I would like to ask Mr. Trenwith a question with the leave of the House. He said just now that the Victorian Legislative Council had thrown out the Plural Voting Bill three times.

Mr. TRENWITH: I would like to answer that question. I have so recently concluded my speech that it is hardly a break. My impression is that Mr. Duncan Gillies—

Sir WILLIAM ZEAL: In 1891.

Mr. TRENWITH: Mr. Duncan Gillies introduced a Bill to abolish plural voting, and it was either rejected by the Upper House in Victoria or not dealt with.

Sir WILLIAM ZEAL: No. Certain amendments were made in it, and the Government allowed
the Bill to lapse in the Legislative Council.

Mr. TRENWITH:
I would respectfully submit that that is synonymous with not dealing with it. At any rate they twice rejected it.

Sir WILLIAM ZEAL:
The hon. member is again wrong.

Dr. COCKBURN:
I feel it to be an honor to which I shall look back with pleasure for the rest of my life to have had an opportunity of hearing the debates to which we have listened during the past week. I had the pleasure and honor of being a member of both of the Conferences that have been held with regard to Federation, and I say without hesitation, bearing in mind the speeches that were then delivered, that neither of those Conventions witnessed the high-water mark reached by this Convention, whether as regards the eloquence, the practical nature of the speeches, or their grasp of the subject. I do not think that time has been wasted by the discussion which has taken place, for public opinion has been forming, condensing, and taking shape within this Chamber during the past week. The only astonishing part of the proceedings is that those who have been most luminous in debate were those who wished to hide their light under a bushel by remaining silent, and I am pleased to know that we did not go straight into Committee, as was at the first suggested.

Mr. REID:
That was not my proposal.

Dr. COCKBURN:
It was the proposal of some, and I am glad it was not acted upon, and that this preliminary debate has taken place. I think that when we go into Committee tomorrow we shall be in a position to get on with the work much more speedily than we could have anticipated a week ago. I will not occupy the time of the Convention any longer with preliminary remarks, but I will go at once into the heart of the subject where all the clash of swords has taken place. It affords me much surprise and some degree of pain to find that on the question of what powers should be ceded to the respective Houses in the Federal Parliament I find myself at variance with hon. members with whom on almost every other political opinion I am in accord. It seems to me that Governments, whether they be unified or federated, are nothing but utilitarian devices framed for the purpose of securing and maintaining the happiness and prosperity of the people. I think our prosperity in the past has been due to one striking feature of our
modes of government. We have prospered so far as individual colonies, and the prosperity of the component parts of Australia has been hitherto so great because, up to the present, we have enjoyed the inestimable advantages of managing our own affairs; we have the blessings of autonomy, and I am glad to see that Mr. Barton, in his resolutions, has emphasised this matter, and that our Federal scheme is to enlarge the powers of self-government of the people of Australia, and that it is not to destroy but to preserve our autonomy and to secure the rights of self-government which we at present enjoy by safeguarding us against all possible aggression. The point is this: how are we best to secure the powers of self-government in a Federation. How are we to guard against these powers being unduly encroached upon by the federal or central authority. Because just in so far as we give up powers out of our own hands to a federal authority just so far we abandon our autonomy and our control over those powers. What we want to guard against is giving up more than is necessary in the first instance, and against any subsequent encroachment by the federal authority upon our State governments; and it is for this purpose only that I am among those who advocate that one House in the Federal Parliament should be specially charged with the duty of safeguarding State rights; which are simply the means to secure State interests, those State interests being nothing more than the rights of self-government which we at present enjoy.

Mr. HIGGINS:

Federate the law.

Dr. COCKBURN:

There is administration as well as law. Above all there is a vortex that continually tends to draw everything to the centre, and to increase the centralizing powers; and what I wish to see is a buttress erected to prevent the drawing to the centre of more than we actually intend. We want to protect local government against centralisation. Here there is real danger. I do not care how carefully we limit the enumeration of the powers we give to the federal authority, in the exercise of those powers there is a danger of encroachment, unless we take care from the outset to guard against it. Mr. Reid has said it is impossible to foresee the State interests of the future. What, then, is the wisest thing we can do? As we cannot foresee the conditions of the future, the State interests of the future, the wisest thing we can do is to erect in the Constitution a sufficient guardian for those interests so as to protect them in the unforeseen conditions of the future. There is danger in Federation of encroachment upon State governments. In this matter we cannot be guided by our own experience, for the simple
reason that we have had no experience whatever in the working of federal government; therefore we have to look abroad to see what has occurred in other places, and we must to a certain extent allow ourselves to be guided by authorities who have seen and closely watched the working of Federation in other parts of the world. May I be allowed therefore to quote a few sentences from an authority on federal government, and the working of the powers under federal government, from a book written by Mr. Watson, of Canada, who at the time-I do not know whether he is now-was the librarian of the Ontario Parliament.

Mr. DEAKIN:
A local Parliament.

Dr. COCKBURN:
Yes, that is true; and therefore a man no doubt who understands the principles of local government. As we have no experience ourselves we must be guided by authorities in these matters. This writer says:

It is the solemn duty of each of the British North American provinces keenly to watch and promptly repel any attempt, faint or forcible, which the federal government or a federal court might be disposed to make on the rights and privileges of the members of the confederation. The history of the federal idea on this continent is fraught with important warnings. Its great aim in the United States has been since the infancy of the Constitution to become strong at the expense of the separate sovereignties which were the original sources of federal existence. The words federal authority and centralization have become on the southern side of the frontier almost equivalent expressions. But States rights and provincial rights are the strongest bulwarks against despotism. In a Federation diversity is freedom, uniformity is bondage.

The fear consequently of possible federal encroachment is not a fanciful one; it is a real one.

Sir EDWARD BRADDON:
Hear, hear.

Dr. COCKBURN:
This author is a writer, not only of Canadian experience, but of the whole continent, as he is a neighbor of the great Federation of the United States.

Mr. HIGGINS:
When was that written?

Dr. COCKBURN:
I am not able to say.

Mr. HIGGINS:
If it were shortly after the Canadian Act was passed it would not apply, as that Act was far too sweeping in giving federal powers.
Dr. COCKBURN:
I cannot say when it was written.

Mr. BARTON:
Do those words not express the fears of a man who lives under a system in which there is no substantial power in the Senate?

Dr. COCKBURN:
He had the experience of the United States before him, which has two co-ordinate Houses.

Mr. BARTON:
Singularly enough there is only one Parliament in Ontario.

Dr. COCKBURN:
I do not see that that has anything to do with the question.

Mr. BARTON:
It has a great deal.

Dr. COCKBURN:
What he deals with is the possibility of the powers of the States being swallowed up in the powers of the central vortex. Power tends to beget power, and we have to be careful in giving power to know exactly what we are giving, and to see that those powers do not imply more than we mean. As we cannot foresee what the States interests are likely to be in the years to come, we want a permanent guardian of these States rights, in order that we may preserve the richest prize we have inherited from our forefathers-local self-government. We must have a strong House to guard against any possible federal encroachment on the rights of the States, because local government, self-government, and government by the people are analogous terms.

Mr. ISAACS:
You cannot have local government where the powers are confided to the Federal Government.

Dr. COCKBURN:
States rights, home rule, and government by the people I look upon as synonymous. Centralisation is opposed to all three, and there can be no government by the people if the Government is far distant from the people.

Sir GRAHAM BERRY:
You are against Federation altogether.

Dr. COCKBURN:
This preservation of local government is the very spirit of Federation as against unification-

Mr. FRASER:
You are against unification.
Dr. COCKBURN:

Yes; and what surprises me is this: that in so many speeches we have heard hon. members who hold similar views to those I hold in general politics, speak in favor of unification and not Federation. I do not think we were ever sent here to consider unification; we were sent here to frame a Federation, and we want a Federation that will preserve the rights of our local governments from start to finish. I learned with a great degree of surprise and no small degree of pain that I am at variance with others with whom I would like to be fighting shoulder to shoulder on the question of government by the people. The question of which are small States and which are large States should not be considered; small and large, rich and poor, in reference to the present condition of these States, are adjectives which should not be used. Our finances are those of the nursery compared with what the future will be, and our largest populations are only, as it were, a handful of people settled on our littoral. I say this question of State rights is a great principle, and I cannot think we are driven apart only by any pettifogging differences in regard to our local politics; but it is only in the nature of things that the representatives of the large colonies should not share the fear of the smaller colonies, because they are to have an overwhelming preponderance of representation in the House of Representatives. We must dispose of the terms "large" and "small," and think of the great principle which is an essential, I think, to Federation—that the two Houses should represent the people truly, and should have co-ordinate powers. They should represent the people in two groups. One should represent the people grouped as a whole, and the other should represent them as grouped in the States. Of course majorities must rule, for there would be no possible good government without majorities ruling, but I do not think the majority in South Australia should be governed by the majority in Victoria, or in New South Wales. In every case the majority should rule, but that does not mean that the majority of one colony is to coerce the majority of another. If we wish to defend and perpetuate the doctrine of the rule of majorities, we must guard against the possibility of this occurring.

Mr. ISAACS:

By your own view three colonies could coerce two.

Dr. COCKBURN:

Now, sir, we find that even in America, where there is a powerful Senate, the States may be gradually encroached upon and be reduced to comparative insignificance. The local Parliaments have been so reduced in importance that the majority of them do not meet more frequently than once in two years.
Mr. DEAKIN:
Their constituents would not allow them. They put it in their Constitution.

Dr. COCKBURN:
It means that they have been degraded. They are now looked down upon as shorn of their prestige.

Mr. HIGGINS:
Owing to federal politics being brought into State politics.

Dr. COCKBURN:
I admit there is something in that. American politics have been generally debased because local Parliaments have been mixed up with federal elections. I must thank the honorable member for reminding me of that. But that is not the whole question. There have been encroachments from time to time by federal authority on local Parliaments. The fact that these encroachments may occur even in America, where the Senate, guarding the State rights, is created with such powers, should be a warning to us to avoid any such possibility, because if anything occurred to sap the prestige and unduly diminish the importance of our local Parliaments we should be irretrievable losers in the future; for I take it that it is to our local Parliaments that we must look if we wish to perpetuate the rule by the majority and by the people. We want to provide against anything threatening the existence of the local Parliaments. Some of the speeches delivered by hon. gentlemen from the other colonies have struck me as being much more towards unification, and towards the abolition of local Parliaments than I cared to have heard. A good many have spoken as though they looked for a United Australia to be consummated by the destruction of the local Parliaments, or at any rate by reducing them so as to be of very little significance. Some of the arguments which were urged against State rights, against co-ordinate Houses, against the power of the Senate being co-equal to that of the House of Representatives, struck me very forcibly as being arguments based altogether on a false principle. The Hon. Mr. Reid made use of a sentence to this effect:

Those from whom the taxation was raised should govern the expenditure.

And the Hon. Mr. Carruthers said:

The proposal seems to me to be indisputable that those who pay the taxes and find the money should have the right to mould the finances of the country.

It seems to me that these two statements are founded upon a fallacy, and amount to nothing less than a heresy in regard to the rights of the people to
take part in the government of the country. If you are going to lay down as a general proposition that those who pay taxation should have the right to dictate the expenditure, you are practically abolishing the principle of one man one vote, and you are substituting for it the general proposition that there shall be plurality of votes in proportion to the taxation paid by the individual.

Mr. HIGGINS:
With one vote one man it would be more men more votes.

Dr. COCKBURN:
There are two elements in a Federation - the federal authority and that of the States and the interests of both must be considered.

Mr. REID:
Supposing the State does not contribute a single sixpence.

Dr. COCKBURN:
The people in the States contribute their taxation.

Mr. REID:
Their powers are recognised.

Dr. COCKBURN:
And their local Government should be recognised also. To say that the people who contribute taxation should be those who have the chief voice in the expenditure of money strikes at the very root of that for which we have been contending for many years, and practically amounts to this, that we should abolish the citizens' roll altogether, and substitute for it the ratepayers' roll.

Mr. HIGGINS:
The State has no right apart from the people, but they have rights apart from the State.

Dr. COCKBURN:
I quite agree with that. The State is still the people grouped definitely in that State, although also grouped in the whole of Australia. In the one case the people are grouped as the people of the State; in the other case the people are grouped as the people of the whole of Australia; in each case their privileges are to be respected, seeing that Federation is nothing more nor less than an ingenious device to maintain in equilibrium these two units—the unit of the people of the State and the unit of the whole people. It seems to me that arguments which strike at the very root of our ideas of representation cannot carry much weight.

Mr. BARTON:
Mr. Reid's objection is that the States House had no right to interfere with matters of taxation, for this reason, that as the revenue of the
Federation was found by the taxpayer, who pay the federal taxes, they do not pay them over again for special purposes in such a way that the Senate can represent that taxation in the Federal Parliament.

Dr. COCKBURN:

It seems to me that once we consider the question of the origin whence the Government derives the revenue as determining its expenditure we enter on an argument which will land us in a very different position to that we anticipated. In advocating States rights, which are nothing more nor less than a means of safeguarding State interests, we are simply advocating what those who believe in the rule of the people have at all times advocated and stood for. In the whole history of the Continent of America State rights have been associated with democracy, and the opponents of State rights were usually monarchists in disguise.

Mr. DEAKIN:

The States right people wanted slavery in disguise.

Dr. COCKBURN:

Of course they made a fatal mistake in that. It was unfortunate that the advocates of the liberty of the State should claim as a consequence of that liberty the right to enslave their fellow-creatures. Still after a century of national life, and in spite of that error, the States rights party is the predominant party in America; and so I think it should always be in Federation, seeing that federation is not a unification, but simply a provision to ensure local government and to protect autonomy. I would like to say, as the hon. member Mr. Trenwith says, that in Switzerland, there is a slight exception with regard to the representation of the States in the Senate; still only three of the cantons are divided into half-cantons, with one representative, as opposed to twenty-two, which have equal representation, and it is no more the exception there than in America, where, in addition to the various States, there are territories which have not the same amount of representation. I say that in looking to models for guidance—and this is a matter in which we must look to others for guidance, seeing that nowhere in our experience, and nowhere under the British Crown, has the principle of Federation been established—we ought to take the best patterns for imitation, and I take it that the best patterns are the United States and Switzerland. In these co-ordinate Houses and equal representation have been established from the first.

Mr. HIGGINS:

How about Canada and Germany? They have not equal representation.

Dr. COCKBURN:

The hon. member knows Canada is not a true Federation, neither is Germany.
Mr. HIGGINS:
I dispute that.

Mr. WALKER:
Where is there true Federation? The United States approached most nearly.

Mr. HIGGINS:
That is because they have equal representation.

Dr. COCKBURN:
Because the very element of Federation is recognised there, because the bulwark is recognised to be the protection by the Senate of State rights and State interests; and if you do not protect these State rights and State interests you interfere with the spirit and genius of Federation.

Mr. HIGGINS:
Why is Canada not a Federation? Is it because it has not equal representation?

Dr. COCKBURN:
Yes; equal representation is the essence of Federation,

Mr. HIGGINS:
Then you are arguing in a circle. You say no Federation is without equal representation in the Senate; and when I mention Canada, you say

Canada is not a Federation because it has not equal representation.

Dr. COCKBURN:
I say that the very resolutions we are considering are framed to enlarge the powers of self-government, but centralisation is opposed to the idea of self-government. A centralised, a distant Government sooner or later is bound to degenerate into a tyranny. It is out of reach of the people; it is out of their sight, out of their hearing, and, consequently, becomes blind and deaf to their requirements.

Mr. ISAACS:
You give the Federal Government power, but you will not let them exercise it.

Dr. COCKBURN:
We should see that the powers we give them in the first instance are exercised in such a manner as we intended; and for that purpose I say we require to erect a barrier against that centralisation, which is the inevitable tendency on the part of large powers. As I have already said, power begets power, and the tendency always is for powers to become greater. Another hon. member, Mr. Deakin, said he did not see how, touching the question of States rights, the question of the Appropriation Bill could affect States rights; now, it seems to me, it is very easy to get an instance of such a case.
In the draft Bill of 1891 it is proposed to hand over ocean beacons and buoys and ocean lighthouses and lightships to the federal authority. It is quite easy to imagine that there might be an Appropriation Bill which would give undue advantage to one port at the expense of another in the way of lighting. Another power proposed to be given over is river navigation for the common purposes of two or more States, and under that power you might have an Appropriation Bill in which the interests and rights of a State might be most seriously infringed by an expenditure of money on some rival port, or on some rival mode of communication.

Sir WILLIAM ZEAL:
That might tell either for or against your argument.

Dr. COCKBURN:
It might be the case. The interests of the States might be jeopardised, if not adequately represented. I am taking a case that might occur, and I see there is danger in the appropriation of money that State rights and interests might be infringed. Even in regard to taxation Mr. Deakin said he did not see how taxation could threaten State rights. I simply mention the question of excise as one which might have a most disastrous effect upon the industry of any one colony; or again a protective tariff might be so framed as to infringe the interests of some particular State.

Mr. ISAACS:
How can you prevent it, by your system?

Dr. COCKBURN:
I only say I would do my utmost to prevent it. I do not say it would be prevented. I would do my utmost to prevent it by placing the guardianship of State interests in a body which would be able to protect them, and not in a body merely established for the sake of appearances; because we want a real not a sham States Council. We do not want a House that has the appearance of having equal representation, but we do want a House that will not suffer in comparison with the House of Representatives.

Mr. REID:
Upon the financial basis South Australia seems to lay down do we want the Federation at all?

Mr. GLYNN:
Not South Australia.

Mr. HOWE:
Hear, hear.

Dr. COCKBURN:
Yes, we want a Federation; but not a Federation to absorb our local powers of self-government and our local Parliament.

Mr. HIGGINS:
No one wants it.

Dr. COCKBURN:

No; but I am afraid that our wishes may not be carried out. Our rights are in danger if we do not safeguard them for the future

-and there is no doubt that we are not so likely to have the privileges we most highly prize taken away from us if we have a guardian of those privileges especially erected to protect them. Of course, we should be careful not to concede to the central authority any powers which we can efficiently exercise upon our own account. The major premise, the very essence of Federation as opposed to unification, is the protection and the maintenance of local Government. It seems to me that the argument that the machinery should be framed first, and then powers given so as to find the machinery something to do, is bad. I have heard it said by some if we do not give over such and such powers the machinery of the Federal Government will not be fully employed. That seems to be the wrong way of going to work. We should first draw up a Est of our requirements, and then frame the machinery to carry out our intentions. But we seem chiefly to have been considering the machinery, and then trying to find something for the machinery to do; and I must say, upon this point, that I was one of those who were not in favour of taking the Commonwealth Bill altogether as a base of operations. If we are going to successfully build for all time we must go to work from a business point of view, and decide first what we want, and then the way to give effect to our wishes. I will not occupy the time of the Convention any longer with this very much vexed question of State rights. I can only say that I hope now, and at any future time, in considering this question we shall divest ourselves of selfish interests and consider it on a broad principle—a principle in which large and small States are equally interested, if we want to construct a real Federation. To show how temporary and evanescent may be the relative positions of States, one has only to call to mind that when the Constitution of America was being framed New York was one of the small States. Let us remember that just in so far as we are animated by a principle, we are entitled to fight for it, but in so far as we are only trying to make better terms for our own particular colony we are mere pettifoggers. The views I have expressed are from an honest conviction, that the best interests of all lie in guarding the sovereignty of the States which are a party to the Federation; and that it is to preserve, not to destroy, them that the Federation should come into existence. I take it that Australian prosperity is going to be the sum of the welfare of the component parts of Australia. I can not help feeling that Australian patriotism should be founded on the patriotism we we at present...
feel towards the States which we serve. I have no sympathy with those who ask us to come here prepared to forget our allegiance to, and in fact the very existence of, the States to whose service we are in honor bound.

An HON. MEMBER:
Who has asked it?
Dr. COCKBURN:
It has been asked over and over again.
Mr. GLYNN:
You might kill yourself with over caution.
Dr. COCKBURN:
When going into unknown territory it is well to be extra cautious.
Mr. HOWE:
What about Switzerland? You are always quoting it.
Dr. COCKBURN:
I am willing to take a lesson from any part of the world, wherever it comes from; and even supposing we got one of those glaciers from the mountains of Switzerland, which were mentioned by Mr. Deakin, and transported it to our arid plains, we would hail it with delight.
Mr. REID:
Hear, hear.
Mr. DEAKIN:
It would help to fill that reservoir of yours.
Dr. COCKBURN:
It is a pity we have to go outside our own experience in this matter. We cannot take a model either from the mother-country or from any of the communities under the British Crown in this respect, for the simple reason that none of them are Federations. Much as we desire to take our model from the Government of Great Britain we cannot do it.
Mr. HOWE:
Take it from Switzerland.
Dr. COCKBURN:
Much as I desire to follow Mr. Reid in his desire to make a model Parliament after the pattern of England, I do not think it can be done, for you cannot make a Federation out of a unification. However much we may admire the Government of England as a pattern, it is altogether foreign to the genius of Federation. It is carried on under a Parliamentary sovereignty, which is absolutely opposed to the whole spirit of Federation. In the very essence of the compact it is impossible.
Mr. REID:
I cannot understand why you were so anxious to get us over here then. We did not come for a picnic, but to do something.

Dr. COCKBURN:
Some are trying to get a Constitution which is in no sense a Federation.

Mr. REID:
The temperature has gone down a good deal, surely.

Mr. BARTON:
You want to make a mill and give us nothing to grind in it.

Dr. COCKBURN:
Mr. Reid is here to frame a Constitution Bill, and he wants to do it after the model of England. You might as well try to make a pear after the model of a peach.

Mr. DEAKIN:
You would make a fine pear.

Dr. COCKBURN:
We should depart no more than is absolutely necessary from our old traditions, though the departure must in many respects be a radical one. I think there has been a good deal of confusion with regard to responsible government under Federation. Now, I think we should draw a distinction between party government and responsible government. The hon. member, Mr. Dobson, declaimed against the evils of party government as inseparably connected with responsible government; but I would ask hon. members to turn to America, where there is no responsible government, and yet party government has there developed in greater evils than are known in England, where responsible government exists. We should not have party government, but at the same time we ought not to do away with responsible government; although, on the other hand, we should have to do away with the Cabinet system, which makes Ministers responsible to the Cabinet instead of to their real masters-Parliament. I do not think it is necessary to abolish responsible government under Federation, but I do not think that the Cabinet system is possible. There is no difficulty whatever with Houses of co-ordinate powers in having Ministers responsible to both Houses. I suggest that we should take a leaf out of the book of Switzerland in this respect.

Mr. GLYNN:
Supposing the Houses differed, would not the Ministry be supreme.

Dr. COCKBURN:
I do not think that follows. I think there is no difficulty in framing an Executive responsible to both Houses. The scheme I advocate is that the two Houses elect an Executive from their members, one from each State,
so as to have each State fully represented in the Executive Council.

Mr. HIGGINS:
Would you have a joint sitting?

Dr. COCKBURN:
I would not object to a joint sitting for that purpose. I would not give these Ministers any permanent tenure. I would not, as in Switzerland, have them elected for three years, so that they could hold office subject to no control. I would make it possible for one or more of the Ministers to be removed at any time by an adverse vote. The Ministers, as a rule, would be elected every session, but any of them would be liable to removal in order to keep the Ministry in touch with the Parliament, and to increase their responsibility to the Parliament and the people. This will not in any way abolish responsible government. It will make Ministers more responsible than ever.

Mr. GLYNN:
There would be a State row when a Minister was removed.

Dr. COCKBURN:
It would not be a party row. I would just like to say one word in reference to the remarks of Mr. Dobson—and I think he was posing as a humorist in much of what he said.

Mr. DEAKIN:
He has been one of your stanchest supporters.

Dr. COCKBURN:
I regret that Mr. Deakin has not seen aright on this subject of State rights, although he has been searching for the truth for six years, since last we met in Convention. When Mr. Dobson was making his charge of extravagance against democracy he cited as an example this chamber in which we are meeting. This chamber was not erected by a democracy. It was erected when South Australia was practically under an oligarchic rule. A democracy would not have built it. A democracy, instead of being extravagant, scans very closely every item of expenditure, and is far less likely to incur debts than any other form of government I am aware of. I am surprised that such views with regard to a democracy should obtain. I believe it to be the best form of government possible, and not only the best because it is the safest, but the best because it is the highest and purest. I should like to read on this subject three or four lines from an authority who is recognised as an expert in the matter of Federation which we are considering; they are from a lecture by Professor Freeman before no less an august assemblage than the University of Cambridge. After describing a democracy he says:
Such is pure democracy, the government of the whole people, and not of a part of it only, as carried out in its full perfection in a single city. It is a form of government which works up the faculties of man to a higher pitch than any other; it is the form of government which gives the freest scope to the inborn genius of the whole community, and of every member of it.

That is an ideal form of government, not a form lightly to be spoken of or easily to be destroyed. It is the highest form of Government of which human nature is capable. Now, with regard to one or two matters in the resolutions, I understand you, Mr. President, to rule that these resolutions when carried will not be binding upon the Committee in regard their strict letter. If it were not so, I would feel it incumbent to move some amendment, but under these circumstances, we can be content, if we are not to be bound by the letter, to allow them to go without amendment. I would mention one matter which has not received attention, and it is with regard to the sole power to give bounties being vested in the Federal Parliament. I look at the adjoining colony of Victoria, and I ask what is the industry from which that colony at the present moment derives the most advantage, and which, during the last decade, has developed more than any other? There is no doubt that it is the dairy industry, and its development is solely due to the wisdom of the Victorian legislature in giving a bonus on butter sent out to the markets of the world.

Mr. WISE:
We started the export dairy industry long before Victoria.

Dr. COCKBURN:
Then I am sorry that New South Wales has not been able to make better speed in their good work. The dominating position of Victoria in this connection is solely due to the wisdom of granting that bounty. I do not think it would be wise for the federal compact to prevent the possibility of any of the States adopting a measure of this sort for the development of its resources. We shall have to consider the question when we come into Committee, and see whether some power to do this cannot be left in the hands of the States. If we confine the power to give such bounties to the Federal Parliament,

we shall find that it will not be exercised. These measures are all more or less experimental, and it is only the individual States that will undertake them. If you wait for public opinion of the whole of Australia to be educated up to the initiative on such questions you will wait for ever. The Federal Parliament will be exceedingly cautious, and will require before embarking on any course, to be shown that it has been successfully pursued elsewhere.
Mr. GLYNN:
How can you prevent a non-bounty State taking advantage of a bounty State?

Dr. COCKBURN:
That is a matter which can be dealt with in Committee.

Mr. GLYNN:
It is an important objection.

Mr. HOWE:
There can be no intercolonial freetrade if you have anything like that.

Dr. COCKBURN:
It would not apply to Australasia, but to the markets beyond our shores. The question of the railways has been so ably dealt with that I shall say nothing more than that I do not see how they can possibly be handed over to the Federal Parliament. I would deprecate the railways being run on a strictly commercial basis, because it is necessary to develop the country, even if there is a small loss to the railways. And then with regard to finance, the question of the federal contribution, which has been so ably argued by some of my colleagues, I will not say more than that I agree with them. I think a levy affords the only firm footing for the federal revenue; and those who are lost in the weary waste of waters will sooner or later come to dry land and find a firm footing in that mode of meeting the difficulty which, although not free from objections, offers the least. Now, sir, several names have been mentioned with regret as having been present at the 1891 Convention and absent from these deliberations. One name has not yet been mentioned, and it belongs to one of the greatest sons of Greater Britain—that of Sir George Grey—who, when the history of all comes to be written, will stand as one of the greatest men of Australasia; and sir, although his name has not been mentioned, still allusions have been made to an amendment that he moved in the Convention of 1891, with a view that the Governor-General—

Mr. HOWE:
Should be elected.

Dr. COCKBURN:
No. Sir George Grey held that view, but the amendment he moved was that the mode of the appointment should be left to the future. He proposed that the words "appointed by the Queen" be struck out, and the words "There shall be" a Governor-General inserted. I had the honor to vote with him, and I did so, not with the view that the Governor-General should necessarily be elected by the people, but that the question should be left over to the development of the future. I think the machinery of electing the Governor-General direct by the people would be too huge when brought
into comparison with the work to be done by the occupant of the office; but I think some means should be contrived of taking Australasian opinion on the question as to who is to occupy this important position. Important it is, although not so important as anyone occupying a presidential position in a Federation, and I think steps should be taken to leave the mode of appointment open. I am sorry Sir George Grey is not here to argue this point with the eloquence with which he used so intensely to interest and convince us.

**Mr. Howe (quoting from "Hansard"):**

He said in moving the amendment that the Governor-General should be elected.

**Dr. Cockburn:**

He did not intend that to be in the Constitution. His words did not indicate any such desire. He wished to strike out the words Appointed by the Queen.

**Mr. Trenwith:**

And leave it open.

**Dr. Cockburn:**

Why should it not be left open? Much has been said about severing the connection with the mother-country.

**Mr. Barton:**

If you leave out these words Appointed by the Queen who is to appoint him?

**Dr. Cockburn:**

He might, I admit, be appointed by the Crown in the same sense as Ministries are appointed by the Governor, it would be well that the appointment should not take place till after the wishes of Australasia had been consulted. Far from this severing the tie with England, it seems to me that the only possibility of friction lies in this question of the appointment of a Governor-General. The appointment of an unsuitable Governor-General without consultation with the Federal Parliament, would be just the very thing to cause ill-feeling where no ill-feeling should be engendered. To talk of this being the only tie binding us to the mother-country when we are bound by a legislative union, and when the Imperial Parliament has the power to pass any Act it chooses which will be binding upon Australia, is to use words without meaning. If we turn to America again we find that while the American colonies were an integral part of the British Empire two at least of those States elected their own Governors, and there were others, where, if they did not practically elect their own
Governors, the Governors were not appointed by the Crown. I see no chance whatever of any such amendment being carried, and therefore it would be idle to bring it forward. I only mention it as due to the memory of one who is not here to defend himself, for there is no more loyal son of Great Britain than Sir George Grey, and he certainly would have been the last to make any proposal which would have the effect of severing the tie binding us to the mother-country, to that country which he loves so well and for which he fought so long, and it is a mistake to think that the proposal he made would have the effect which it is stated it would have.

Sir WILLIAM ZEAL:
Did anyone attack him?

Dr. COCKBURN:
No; but the matter was ref

Mr. HIGGINS:
Yes.

Dr. COCKBURN:
And, therefore, I look to those in the neighboring colony whose sympathies are in this direction to assist us in extending the franchise to the women of federated Australia. In New South Wales also a resolution was carried embodying the principle, and to that colony also I think we have a right to look for assistance. With regard to the referendum that again is embodied in the very conditions under which we meet. Some hon. members of this Convention have said that the referendum is too intricate a machine for the people to understand. But I would point out that we are met under the condition that our work of framing this Constitution—this most intricate Bill—will be referred to the referendum of the people of Australia, for their confirmation. Therefore, I think, that the question of the widest possible franchise and the question of the referendum are questions which are really admitted by our being assembled in conclave under the respective Acts which called us together. I will not detain the Convention longer. No time has been lost in the debate which has taken place. We are about to erect an edifice which is to endure for all time. We must avoid undue haste. We must give the building time to settle. Each course must be laid duly and in order, and time must be given for the consolidation of the edifice as it is erected. Above all this we must avoid anything of the lath and plaster order of constitution, and we must not allow any considerations with regard to personal convenience to interfere with our devotion to this, the greatest work on which any people could be engaged. In America the Convention sat five months with closed doors framing their Constitution, and if we succeed in our work in three or
four weeks we ought to think that we have accomplished a wonder. We are performing a work which only once falls to the lot of a people to accomplish. We are framing a Constitution which will encompass, pervade, and influence every community, every Government, every institution, and every family in this our homeland of Australia, and it behoves us not only on account of the magnitude of the work in which we are engaged, but also because we wish our memories to be held in esteem by those who will come after us, to bend ourselves with all devotion to our task. We shall not escape censure if we do not lay down the foundations broad and strong, and rear the edifice in such a manner that it will protect not only the national life as a whole, but also all its component elements. If we unduly sacrifice any of those powers and privileges we at present enjoy, without getting adequate recompense in return, then posterity will not hold us blameless. But I have no fear whatever of the result of this Convention. We are met here together in the best possible spirit, every speech has been framed in the most conciliatory spirit possible, but at the same time, while we conciliate in matters of detail, we must also stand fast to our principles, and we must remember that the object of federation is twofold. It is to develop a nation and to maintain its component parts, and it is a nice compromise and balance between these two, neither to overlook the rights of the States nor the claims of this nation. A mistake on either hand will result in the defeat of the object we have in view. If, bearing in mind these objects, we patiently address ourselves to our task, then I think not only will our work endure, and our names be handed down with respect to the third and the fourth generations, but millions yet unborn will be taught to revere for all time the names of those who, in this year 1897, were assembled in this National Convention.

Mr. HOWE:
I move:
That the debate be now adjourned.
Question resolved in the affirmative.

ADJOURNMENT.
The Convention adjourned at 10.31 p.m.
Wednesday March 31, 1897.


The PRESIDENT took the chair at 10.30 a.m.

PETITIONS.

Dr. QUICK:
I have the honor to present a petition, signed by the President and Secretary of the Wesleyan Methodist Church of Victoria and Tasmania, representing the members and adherents of the Wesleyan Methodist Church to the number of 130,000. The prayer of the petition is that the preamble of the Constitution of the Australasian Commonwealth shall contain a provision recognising God as the Supreme Ruler of the world; that there be embodied in the Bill a provision that the daily Session of the Upper and Lower House of the Federal Parliament be opened with prayer; and that the Governor-General be empowered to appoint days of national thanksgiving and humiliation. The petition is respectfully worded and concludes with a prayer. I move that it be received.

Mr. HOLDER:
I have seven petitions, one from the Wesleyan Church, signed by 1,115 persons; one from the Baptist Church, signed by 907 persons; one from the Congregational Church, signed by 508 persons; one from the Bible Christian Church, signed by 528 persons; one from the Presbyterian Church, signed by 266 persons; one from the Primitive Methodist Church, signed by 185 persons; and one from the Salvation Army, signed by 623 persons—in all 4,130 signatures. They are respectfully worded and contain the same prayer as the petition presented by Dr. Quick. I simply move that they be received.

Mr. WISE:
I have a petition from 390 residents of Sydney. It is respectfully worded, and concludes with a prayer:
That in the preamble of the Constitution of the Australian Commonwealth it be recognised that God is the Supreme Ruler of the world and the ultimate source of all law and authority in nations. That there also be embodied in the said Constitution, or in the Standing Orders of the Federal Parliament, a provision that each daily Session of the Upper and Lower Houses of the Federal Parliament be opened with prayer.
by the President and the Speaker, or by a chaplain; that the Governor-
General be empowered to appoint days of national thanksgiving and
humiliation.

I move that it be received.

Sir PHILIP FYSH:

I have a similar petition from nine members of the Presbyterian Church
of Tasmania. It contains a similar prayer. I move that it be received.

Petitions received.

Mr. MCMILLAN:

I have a petition from the Independent Order of Rechabites, praying that
some provision may be placed in the Constitution enabling any one State to
prohibit the introduction of liquor. I move that the petition be received.

Petition received.

SITTINGS OF THE CONVENTION.

Mr. BARTON:

Under the circumstances it will not be necessary for me to move the
following notice of motion standing in my name:

That the Convention shall, at 5.30 p.m. this day, suspend its sitting until 7
p.m., at which hour the Convention shall be resumed, and the transaction
of business continued.

FEDERAL CONSTITUTION.

Debate resumed on resolutions by Mr. Barton (vide page 17).

Mr. HOWE:

I take this opportunity of congratulating you, sir, on the high position
which this Convention has placed you in. I know from my long
acquaintance with you and your ability that the dignity of the position will
not suffer in your hands. I also congratulate Mr. Barton on the position to
which he has been appointed by this Convention. I hold it to be a great
honor for any man to be chosen to lead the Parliament in any of these
colonies; but when we find that a Convention such as this is, elected by the
people of the whole of Australia, has conferred this honor on Mr. Barton, it
is one indeed which can but seldom fall to the lot of any man. Whilst
saying this, I am not unmindful of the deep obligation we are under to Mr.
Barton in accepting a position both difficult and onerous. I feel, however,
that he combines all the traits necessary to a successful leader—he has tact,
ability, patience, and much self-denial, and it is in these traits chiefly that
he will so guide our deliberations that the outcome of our work will be a
credit to ourselves and an everlasting monument to

the capacity of our leader, Mr. Barton. I also—although I do it in all
humility—beg to endorse the remarks which have fallen from various
speakers of acknowledged ability that the speeches which have been delivered on this occasion excel the speeches of 1891. I have been a student of federal history, but I have gathered more from the speeches delivered within these walls than I have been able to understand in perusing the opinions of representatives at other Conventions. I think in the forefront of the speeches that have been delivered stands out in bold relief that of the leader of the Legislative Assembly in New South Wales, Mr. Reid. I was afraid, from my previous knowledge of Federation and from the knowledge I had by repute of Mr. Reid, that he was not altogether heart and soul with us in the cause of Federation. If I had any such misgivings, however, after listening to the earnest, the able, and the well thought out speech of the leader of the House in New South Wales, they were all dispelled, and I look upon him now as a worthy leader of the Federation movement in Australasia. Now, sir, I am a federationist, and there will be no uncertain sound or misunderstanding concerning my views, while I hope the remarks I make will be brief. From speeches that have been delivered here by the leaders of the people in the various colonies of Australasia I have now come to look upon Federation as a live thing, and not the inanimate matter that we have always viewed it. Federation has come to be regarded as a water-logged hulk which is anxiously waiting for a pilot to take and guide her into the harbor of victory. We have found the pilot in Mr. Reid, Now we want to find the tug. We want those who believe earnestly in the Federation cause to act in the same spirit as Mr. Reid has manifested, and when we get that I am positive that the people of the various colonies will be so enamored of Federation that they will become the tug, and, having already secured the pilot, Federation will be brought into the harbor of repose in the hearts of the people of Australia. I have more hope of Federation becoming an accomplished fact than I had a short time ago; and I am all the more convinced after hearing the views expressed by the leaders in the various colonies in that definite and explicit manner in which they have placed them before this assembly. I therefore predict that Federation will come, and will come sooner than even the most ardent federationist expected a few months ago. Our leader invited those who had not the privilege of being at the previous Conference to speak our minds frankly, and give our opinions freely on different points, to enable the committees which will be appointed to formulate such a measure as will commend itself to the people of Australia. I cannot understand anyone coming here, considering the methods by which we are appointed, and making anti-federal speeches.

Mr. BARTON:

Hear, hear.
Mr. Howe:
I take it that we are appointed under an Enabling Bill for a certain purpose.

Mr. Solomon:
Hear, hear.

Mr. Howe:
The purposes of our meeting are clearly defined, and it is set out in the Enabling Bill that we are to meet in Convention together to formulate a federal measure which we hope will commend itself to the people of Australasia.

Mr. Reid:
Hear, hear.

Mr. Howe:
These are the objects we have to carry out, and the expressed mandate of the people was that we should meet together and do our best to bring into life a federal measure under which the whole of Australasia will become united. I cannot conceive any hon. member, being sent here for this purpose, deliberately getting up in the House and, by his speech and the opinions he advances, endeavoring to throw cold water on a scheme which the majority of us here have so much at heart, and also trying to create barriers and place obstacles in a way that we are not asked by the people to do. Now this leads me to the speech of our Treasurer, Mr. Holder. We all admire his conscientiousness and ability, but when he strikes the note of confederation, I say that he can scarcely understand the mandate of the people. We do not want to create in our midst a danger that means, in time very likely of necessity, destruction not only to the confederated authority, but to the States themselves; and any authority based upon the sufferance of the States is bound to become an object of danger. Besides we have in history examples of confederation. The great leaders of the federal movement in America had established a confederacy, and when that was done they could see very well that unless the Confederate States were brought together, and the confederacy was departed from and a true Federation entered into, the whole thing would fall to pieces. We do not want anything of that sort to happen in Australasia, and consequently I can scarcely excuse any gentleman of such ability as is possessed by the Treasurer when he comes down and advocates a cause which he knows from the test of time cannot be enduring or lasting. Then I was very much struck with a remark that fell from my hon. friend Mr. Gordon. I cannot at all understand the position he took up. He says that the workers have nothing to gain by Federation—that the only immediate prospect they had...
was a cheapening of manufactures and a lowering of wages. Now I say that these are dangerous and injurious propositions to place before the workers of the colonies. We know that the workers in these colonies predominate, and we know that Federation cannot be carried out unless we have the assistance of the workers of Australia.

HON. MEMBERS:

Hear, hear.

Mr. HOWE:

And if our leading politicians are going to perambulate these colonies and preach the doctrine of cheapening manufactures and lowering wages then I say farewell, and for a long time farewell, to Federation. I hope we can prove to the satisfaction of the workers themselves that Federation will give them more continuous labor or work at remunerative prices, and I shall endeavor to do this. We know that union among nations, as among individuals, if on a just basis is the keystone of the arch that leads to peace, prosperity, and happiness, and if that is so in the individual case surely the federation of Australia will also give a greater and a more enduring peace to the mass of the people, a greater amount of progress to Australia, because federated Australasia can undertake works of great magnitude such as would be impossible for any individual State to undertake. Consequently the union of Australasia means the development of our vast resources in a greater degree; and if this is the case will it not give more continued labor to the workmen? Will not our producers also benefit under Federation? And if Federation will lead to the increase of production will not the workers be benefited thereby? Of course they will. Consequently Federation does not mean to the workers inconvenience, the lowering of wages, or less employment. The workers are the first to feel the progress effected by a country, as unfortunately also they are the first to feel the retrogression or decay of a country. As to the Bill of 1891, those who have read it and studied its provisions can come to no other conclusion than that, as far as it goes, it is a Bill that will remain as a monument to the ability and wisdom of those who formulated it; and I also hope that those gentlemen who did so will remember that they owe something considerable to the framers of the American Constitution, for, after all, the Bill of 1891 copies the American Constitution to a very great extent. This does not make it any the less valuable to this Convention, for we have in it the mighty brain-power of the great men of America of those days and now of Aus-

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tralasia; and this Convention gathered together from the various colonies
with the experience gained since the formulation of the measure in 1891 up to the present time should be able to submit to the people a Bill that will be adopted by them all. I favor Federation for various reasons. I think we have arrived at that stage in our national life when it is necessary for our own protection to advocate Federation. We must remember that we have a population now in Australasia of nearly 4,000,000 souls—a population greater than America had when she was driven by the idiotic bungling on the part of the King and his Ministers to fight for and gain her independence. We have no such cause—and under the British crown we never shall. At the present moment we have Australasia enjoying greater liberties under our Constitution than the people of the great American Union have under theirs, and not only that, but we are bound by the crimson thread of kinship to one of the greatest nations the world has ever seen. I favor Federation for purposes of defence.

Mr. GORDON:

Hear, hear.

Mr. HOWE:

I am glad to hear that cheer, and I took objection to the position taken up by Mr. Gordon last evening. He considers that all we have to do is to look after the commerce of Australia, and as the commerce of Australia belongs chiefly, he said, to England, England is quite capable of looking after that. I think a nation of 4,000,000 people should be in a position to look after her own commerce to a great extent, and not depend entirely upon the mother country. We must remember the position of the mother country at the present time. It is a critical one. Students of history, and those who watch passing events tell us that a world's war is not a remote contingency. We are numerous enough and wealthy enough to have an efficient defence force of our own, but I recognise that those States, as they are disunited and disconnected, cannot have an adequate defence force efficient enough to repel any attack upon Australia. Therefore I consider Federation for defence is to be commended, and that is the reason I approve of it for this particular purpose. What position is the mother country in at present? She may have to withdraw at any moment her forces from Australian waters. A world's war may break out at any time, and she may be involved in a death struggle for her very existence, and it is not right that we should say:

Let England protect her commerce; so long as her flag floats supreme over every sea no danger will arise.

I do not hold with that view. Let us show that we are worthy of her protection. Let us show her we are willing to do all we can to protect ourselves, and let us prove to her that we are worthy sons of worthy sires. It is not right that England, who has done so much for us, and is still
willing to protect us to the last breath, should have to say when such a contingency arose, that she would be unable to give that protection we have no right to depend upon. The great outcome of Federation will be intercolonial freetrade, and it is the greatest boon we have to get. There is no way of bringing it about without Federation, and if we could, perhaps I would not be such an ardent federationist as I am. That is, perhaps, another answer to the hon. member's remarks. Intercolonial freetrade-I am sorry to have to put it from a provincial aspect-from the geographical aspect will increase our commerce by leaps and bounds. And the workmen of South Australia will participate in the benefits that will accrue to the country. I have no fear, as Mr. Gordon has, of our trade and commerce going to the other colonies if this is brought about. We have it in evidence before a Commission of which the Treasurer of this colony was chairman. We took evidence from all kinds of people engaged in manufactures in this country, and the result was very gratifying to those who advocate moderate protection, for we brought into being industries that are likely to be permanent; and we can only come to the conclusion, by reading the evidence of that Commission and the recommendations of that Commission, that the industries now established in South Australia, that the owners of those industries, and that the workmen themselves are quite able to compete at any time with similar industries in the other colonies whenever intercolonial freetrade is brought about. I think I have stated the case correctly. What have we to fear from intercolonial freetrade? What have the workmen, the artisans to fear? Their homes will not be lessened in value, they will not have to seek in other lands for employment, wages will not be lowered, neither will the cost of manufacturing be such as to induce the manufacturers to reduce the wages of the workmen. I emphasise this point, because I consider that without the assistance of the worker, the mechanic, and the artisan-all men who earn their livelihood by the sweat of their brow-we cannot have freetrade; because if it gets abroad, and they get it into their heads, that they will be losers by Federation, they will be against it. Men will be set against men, brothers against brothers, and Federation will be retarded, and very likely much to the regret of the hon. members who appeal to the sympathy of those people to whom I have alluded. Now, Sir George Turner said that when he was approaching the South Australian border he was afraid that he was going to be molested by the Defence Force of South Australia, and that he was almost terrified at the very name of Protector. Well, if the hon. member had known much about the ideal Government that has existed in this colony for some years past, he would have had no such fear, because we have been economising,
and we have economised the Defence Force of South Australia out of existence. True we have the Protector, and Sir George must know that in the history of England that word was once a word of terror to evildoers. I have no doubt that Sir George had in his mind that he was holding territory that did not quite belong to him.

Sir GEORGE TURNER:

We have had it for fifty years.

Mr. HOWE:

The very name of the Protector would be a terror to all these land acquisitioners who know they hold land they are not legally or morally entitled to. Now, I favor Federation as, a means for the settlement of territorial disputes. I am sure Sir George will have no objection to submit this question of the disputed boundary to the Federal Parliament, by whom, I believe, equity and justice would be done. It is these little questions of riparian rights and boundary disputes that lead to enmity between the colonies and to unfriendliness between the administrators of the various Governments, and I can see that Federation will enable us to settle these disputes. A question for Federation, and one which is likely to endanger our commerce in a great degree, is the question of riparian rights. We have endeavored to get the New South Wales and Victorian Governments to meet us on various occasions. We have appointed Commissions to meet Commissions they have appointed; but somehow or other we have never been able to bring these Commissions together. The New South Wales Government takes the position that the waters that form in their colony belong to them, and that they can divert and use them as they think proper.

Sir JOSEPH ABBOTT:

No harm has arisen.

Mr. HOWE:

No; but if you carry out the works you contemplate it will, and I think you have been in the forefront of the agitation in this respect. I understand it is the policy of New South Wales to irrigate millions of acres of land. Well, then, I say that, from all I have been able to gather in studying this question, if you do this you will endanger the navigation of the River Murray, but you do not mind that; you say:

The waters are ours, they belong to us, we hold possession of the bed of the river.

The Imperial Parliament may have given you that, but it does not say you are entitled to the waters thereof; and I question whether you can legally divert the water from its proper channel so as to endanger the navigation of the river. Experts have told us that if New South Wales carries out the
irrigation works she has in contemplation—and we know that the New South Wales people when they contemplate anything, will generally accomplish it—will endanger the navigation of the river.

**Sir JOSEPH ABBOTT:**

Only Victoria has up to the present diverted any of the water.

**Mr. HOWE:**

Poor Victoria. We are not so concerned about the waters of Victoria as we are about the waters of New South Wales; and I am only saying this question cannot be settled—we never will get a settlement of it until Federation obtains; then I expect we will get a settlement. I therefore favor Federation for this purpose. There are a great many reasons for which I favor it, and there is one in particular whereby the workers of these colonies would gain. I know that Federation is impossible unless we are assisted by the workers of these colonies. There is one question, I think, that can only be settled by federated Australia. I believe every Statesman in these colonies has given deep thought to what is known as old-age pensions. It is a question that is coming, and would have come in Australia before, if we had been united. Among the workers all over the world there is a fear that in their old age they will be dependent upon the cold charity of the State in which they live, or be a drag upon their kindred, who can little afford to keep them in the declining years of their lives. It is lamentable that people who have given their best labors to a country in the declining years of their lives should have nowhere on earth to lay their heads unless it is provided by the charity of the State, or they are a drag upon their kindred, who cannot afford to maintain them.

**Mr. HIGGINS:**

That is a matter for the State Parliament and not the Federal Parliament.

**Mr. HOWE:**

No; the States cannot undertake it, the population is too migratory. I am using this as an argument that we should go into Federation, so that we could give a guarantee to all the workers in these colonies that, in their declining years they will not want, but will have sufficient to maintain them, to enable them to hold their heads up as independent men, and so that they will not need the charity of the State or be a drag upon the relations who can ill afford to maintain them. When I say workers, I embrace all classes of people in receipt of salaries and who earn their bread by the sweat of their brow, and this is a line I hope that the members will point out to the workers that will reconcile them to the fact that instead of having anything to lose they will have something to gain in Federation. I have given some reasons, but many more could be advanced why the Federation will benefit the great mass of people of Australia. Now, we
must have some machinery to carry out the proposed Federation in a proper manner, and, in the first place, it is proposed to federate under the Crown. I think we are all agreed as to that, and it scarcely requires any argument upon my part. I think the consensus of opinion of the Convention is that we cannot and will not listen to any advance that may be made to cut the painter from the mother-country. Now as to the appointment of a Governor General. I am very glad that some of those who attended the Convention of 1891 have seen fit to alter the position they then took up, and to find that they are now in favor of the Governor-General being appointed by the Queen instead of being elected by the people. You, sir, I think, held the opinion in 1891, that it would be better to leave the appointment to the people. I am very glad, and I compliment you that you see your way clear to depart from the position you then took up, and that you are now an advocate for the position being in the gift of the Queen.

The PRESIDENT-I do not wish to interrupt the hon. representative, but I may just as well say, since he has appealed to me, that the views I expressed in 1891 are the same as I hold now.

Mr. HOWE-Well, I am very sorry I have misrepresented you or your ideas in any form, but it is scarcely my fault, and I will read to you an extract from your speech

HON. MEMBERS:
Order, order.

Mr. HOWE:
Well, I apologise for my mistake. I am in favor of the appointment being in the hands of the Queen; and I hope that those who took a certain position in the 1891 Convention will see the advisability of the appointment being in the hands of the Queen. An elective Governor-General would occupy a position superior, perhaps, to that of the Premier of Australia. One thing, however, I cannot concede, is that he would be more of a despot if elected by the people than he would be if appointed by the Queen. His duties will be written within the four corners of the Act, and in this respect it matters not, therefore, whether he is appointed by the Queen or elected by the people. I come now to the two Houses, the Senate and the House of Representatives; and this is where the full partnership of the States comes in. If it were not for the Senate, and the methods by which it is proposed to be formed, I would not be the ardent advocate of Federation that I am. When we look to the House of Representatives and see how the smaller States will be dominated there it is only right and just that we should have
equal representation in the Senate. The full partnership comes in here, but it is just proposed to make it a little one-sided, inasmuch as they will not give its co-equal powers with the House of Representatives. I consider that it would be a mistake for the small colonies to accept anything less than the suggestions thrown out here, namely, to give the Senate the power to amend Money Bills. If we do not give them the power to amend all Bills - the same power as will obtain in the House of Representatives - we will run the chance of being simply appanages of larger colonies. It will not be a full partnership. This is a point I lay great stress upon, and one that I am not ready to give way upon. Unless we have equal powers in the Senate with the House of Representatives, to amend all Bills that may be submitted to them, I should not pledge myself to go thoroughly in for Federation. Why, Mr. Reid stated yesterday that if they had the right of veto that would be sufficient. If a measure were sent to the Upper House, and they did not like it, they would veto it. What would be the consequence? The whole machinery of Government would be thrown out of gear, which would lead to much strife, and be the means of almost capsizing Federation. I think the safety-valve, which has been alluded to so often, is to give senators the power of amendment, because under this there is no other road open to them, and no other way out of the difficulty.

Mr. TRENWITH:

There is no other way for them to dominate legislation.

Mr. HOWE:

Is it likely they would seek to do anything unbecoming? The domination of the Lower House is so great and complete, that unless you give co-equal powers to the Senate, there is a danger that Federation will not come for some time yet. There is no question that giving this right of amendment to the Senate is the safety-valve whereby Federation can be accomplished and endured. The position is this: The Lower House assents to a certain Bill, but the Upper House, having the extreme power of veto, can throw it out. Supposing the Senate wants a certain clause in the Bill to be amended, it is done, and then forwarded to the Lower House. It may be sent back to the Senate again in its original form, and

Rather than veto this Bill we should give in to the Lower House; rather than take the risk of throwing the machinery out of order, we should pass the Bill without amendment.

The only course open to them, if this is not done, is the right of veto. We can fairly give this right to the Senate, and trust to the intelligence of that Chamber. The House of Representatives can listen, at all events, and give due weight to any amendment made in the Bill. If they do not agree with it
they can return it to the Senate again, and if the Upper Chamber persists in the amendment a conference can be held, as is done in this colony, between the two Houses. Here by giving a little and taking a little we have been able to settle difficulties that at the first blush looked overwhelming. This is the safety-valve that will give long life to Federation. If you take this right away from the Senators, I am positive that rather than submit to any injustice, they will have no hesitation in vetoing a Bill which they otherwise would have passed. I maintain that the right of amendment is conducive to the best interests of the larger States; and it is all very well for some members to say, as they have said, that if the larger States agree to join the Federation, the smaller States will be compelled to join also. I do not hold with this at all. I take it that however wealthy they are, and however populous these larger States may be, they would be weak if even one State stood out of the federal movement. It is only by the whole being united that they can become strong. Take only one niche of the continent out, and its Federation cannot be so strong and enduring as we would like to see it. Consequently, I hope those who represent the larger States will consider the question, and not say, because they are wealthy and powerful, that they can federate without the smaller States. That very weakness would be the means, very likely, of leading to their severance altogether.

Now, as to the mode of election, I believe in both Houses being elected by its people under the franchise obtaining in the various colonies. I believe the Senate and House of Representatives should be elected by the people who vote for the more numerous Houses in the various colonies. I think this is a fair basis, and on it the Federation would be established according to the will of a free people. So far as the franchise is concerned I do not think that we have any right—although we consider we are in the van of progress—to dictate to the other colonies as to how they shall send their representatives to the Federal Parliament. So long as each colony adopts its own methods, its own franchise which obtains now, and sends its, representatives to the Federal Parliament that is all we can expect. How would we like to be told by members representing the larger and more populous colonies,

You will have to, if you wish to come into the Federation, abandon your adult suffrage.

Our reply would be at once that we would stand out of Federation for all time rather than abandon that which we possess, and we have no right either to dictate to them as to how they shall return their representatives. I remember Mr. Deakin, a gentleman who is considered a Radical member for a certain district in Victoria, saying distinctly that, although they had plural voting in Victoria, in so far as he himself was concerned and the
knowledge which he had of the people and the representatives of Victoria, that if that were abandoned to-morrow be did not think it would make any difference to the personnel of the House. By that I am not advocating plural voting, but I think it shows us that we have no right to dictate to the colonies as to how they shall send their representatives to the Federal Parliament. I believe in a uniform franchise for the Federal Parliament, and I am quite willing to do as was suggested at the Bathurst Convention: I am willing to agree that the Federal Parliament shall be allowed to formulate a franchise of its own, so that the people of the whole of Australia shall be under one franchise as far as the Federal Parliament is concerned. I hope when it is adopted that the Hare-Spence system of voting will be approved by the Federal Parliament.

Mr. DEAKIN: First catch your hare.

Mr. HOWE: And then everyone, whether they are in the majority or the minority, will know they are fairly represented in the great Federal Parliament. I think I have given my reasons as briefly as I can why I advocate Federation, but there is just one item I cannot allow to pass without alluding to, and that is our railway system. I recognise that it is necessary that the Federal Government should have control of the railways for federal purposes, but I do dread to give the central authority the control of our State railways. If we do so we place ourselves at the mercy of the Federal Parliament, and in a country like this, sparsely populated and undeveloped, and in which a great mineral development may take place, we do not know when we may be called upon to make a railway to a certain point. If we place the power of development by this means under the Federal Government we must be subservient to the federal authority as far as developmental construction is concerned. It would not be in the power of any State to construct a mile of railway unless we got a Bill passed through the Federal Parliament. When we know the difficulty that exists even in our own little House, where the people are conversant with the country, of impressing them with the desirability of any great work, how much more difficult will it be to impress a greater number of delegates who know little or nothing of our country? This is the danger I foresee, and I think it would act as a bar to progress. I started by saying that I am a Federationist. These are my views, I may be wrong, but I am willing to modify them if I am proved to be so. I want Federation, but I do not want it at any cost. Although South Australia wants Federation it will not submit to injustice. I am, of course, speaking my own individual opinion; and, should South Australia say that she is...
willing to part with the railways to the Federation, I would bow to that
decision. I would have no objection to a clause being inserted in the Bill
providing that the Central Government should be permitted to take over the
railways with the consent of the State, but not otherwise. I think I have
made myself clear on the attitude I shall assume on the powers of the
Senate, on the railways, and on the other points to which I have alluded. I
do not think that any Convention has met under more favorable auspices.
We have gentlemen of position, of great eloquence, and learning,
possessed of vocabularies and the flowers of the English language in
abundance, and when we find these men coming forward and advocating
Federation in the earnest manner in which they have, I say the outlook is
brighter than I have ever known it before, and I am here to assist those
gentlemen in bringing it to a successful issue. Although I have expressed,
perhaps too definitely, some of my views, I am willing to listen to all the
arguments, and I am willing to give and take. Some people say that the
time has not arrived yet for Federation, and ask what we are to gain by
Federation, and assert that there is no danger from outside foes, but those
are not the voices of federationists. Those are the voices of the sluggard,
of the mercenary, and of the foolhardy. I say we will not listen to those
voices. We are sent here for a specific object, and that is to the best of our
ability-and we have able men here—to draft a Bill that will meet with the
acceptance of the whole people of Australia. We are capable of doing this
work. But I say further than this. If the leading politicians of these
colonies, after having evolved this Bill, will take the

Sir WILLIAM ZEAL:
I shall not attempt, after the many able and exhaustive speeches made by
members, who have addressed themselves to particular subjects, to repeat
arguments which have been better expressed by others, but there are
features which have not been dealt with with sufficient explicitness, and
which, from the action of certain members of the South Australian
delegation, require comment. In making this explanation I shall endeavor to be as brief as possible. I allude to one fact of which some members probably may not be aware, viz., that on October 6th next a period of thirty years will have elapsed since the first Dominion Parliament was opened in Canada by Viscount Monk. I trust that we will be able to so push forward our work so that thirty years after the inauguration of the Federal Government in Canada, the Federal Government of Australia will be an accomplished fact. Considering also that it will be the sexagenary of our beloved Queen, it will be a great compliment to Her Majesty to make these two dates uniform. With reference to the remarks of certain of the South Australian delegates, I was pained to hear the pessimistic tones in which those gentlemen expressed themselves. I feel sure those expressions are not indorsed by you, Mr. President. I think those members should have taken a larger view of the question, and not have supposed that the two colonies of New South Wales and Victoria would enter into a conspiracy to deprive them of their rights. I point out to these gentlemen that there are many advantages which South Australia, and South Australia alone, will possess from the Federation. Does not she possess within her borders for hundreds of miles both banks of that noble river the Murray, the mouth of which is also on her shores? If the South Australian Parliament shows that enterprise that has always characterised it, does it not lie within its power to develop the territory from Wentworth to the Murray mouth on both sides of that wonderful river? It is idle for those South Australian delegates who have animadverted upon New South Wales to say that she has no rights and privileges over the Murray where it flows through Riverina, to say that she shall not, if acting justly, do what she likes with her own. The New South Wales Government cannot take this water from this river otherwise than by spreading it over the earth's surface, and the water by the law of gravitation must return to the Murray, and must in the natural course of things pass by way of Wentworth into the sea. Always conceding that New South Wales acts in a neighborly way, South Australia has nothing to lose by Federation, and much to gain, in connection with the utilisation of the waters of the Murray. The South Australian delegates further propose that the Federal Government should take over the responsibility of all items of expenditure, but they would not give the Federal Government any revenue to meet that expenditure.

Mr. SOLOMON:
No.

Sir WILLIAM ZEAL:
That is practically the outcome of what they say. They also propose that the Federal Government shall only have the control of defence, light-
houses, quarantine regulations, and ports and harbors bordering on the seacoast.

Mr. SOLOMON:
Not the majority of the delegates.

Sir WILLIAM ZEAL:
I am speaking of a certain portion of them. Surely the South Australian delegates must know that Victoria has less seaboard than any of his good sense to say whether some compromise cannot be effected in the way I have suggested. I am sure that, knowing the desire the members have for pressing on the business, and for conveniencing the Premiers who desire to visit the mother-country, we cannot do better than make our proceedings as brief as possible, and emulate those business people who would not spend days dealing with matters which could be settled in a shorter space of time.

Mr. BARTON:
I think the hon. member will find that the proceeding which is proposed to be taken is the most expeditious when it is explained.

Sir WILLIAM ZEAL:
I am very pleased to hear that. I would now like to deal with the railway question, and I say that although I am strongly in favor of handing over the State railways to federal control I do not intend to press that matter on the notice of the Convention except in an ordinary way. I impress upon the Convention the desirability of the federal body at some future time obtaining the control of these railways if the necessities of the Federal Government demand it. If we give that power it is as much as at present we should require to do, though I am convinced that if evidence is taken from such men as Mr. Eddy, the South Australian Commissioner, and the Railway Commissioner of Victoria, their evidence will, I believe, warrant us in supporting the handing over of the railways. I come now to the question of the Commonwealth Bill; and I say that, with some exception as to the manner in which the Senate is elected, the remuneration of the delegates, and certain minor matters, I accept the Commonwealth Bill as a whole. The question of the constitution of the Senate is one that interests me exceedingly from the position which I have the honor to hold in Victoria. I was sorry to hear the remarks of Sir George Turner, which were all made in good part, and which I take in the same spirit, reflecting upon what he was pleased to consider the obstruction to legislation offered in the Legislative Council of Victoria. There is no greater mistake possible than for him to make such an assertion. Mr. Trenwith quoted the instance of the Council throwing out the plural voting bill upon three occasions. He is altogether mistaken.
Mr. TRENWITH:
   Perhaps, technically, I am wrong, but in effect I was right.

Sir WILLIAM ZEAL:
   The Council did what they considered was right.

Mr. TRENWITH:
   Three times the measure passed the Assembly, and it is not law yet.

Sir WILLIAM ZEAL:
   If the Legislative Assembly, in introducing measures to the Legislative Council, attaches conditions to Bills that the Council cannot accept the Council says: If you attach objectionable conditions we will not pass your Bills, we will not have an obnoxious measure forced upon the country merely for the sake of giving effect to the fads of certain sections of the Legislative Assembly.

Mr. HIGGINS:
   What is a fad?

Sir WILLIAM ZEAL:
   It is unnecessary to go into the designation of a fad; but, from my point of view, many arguments and positions which Mr. Higgins takes up partake very much of that designation.

Mr. HIGGINS:
   I might say the same to you.

Sir WILLIAM ZEAL:
   Yes; and we are both entitled to our opinions. No statement that cannot be borne out in fact should be made against a legislative body that has practically co ordinate powers with the other branch of the Legislature. The Council does not ask anything but what is fair and right, and upon the other hand they demand the same privileges from the Assembly which the Council concedes to them. The Legislative Council voices the opinion of 180,000 odd of the best of the citizens of Victoria, men whose names are of the best, men who have borne the burden and heat of the day, in contrast to those who have no stake in the colony, and who could leave it and the burden of contributing to the State funds by the ratepayers.

Mr. TRENWITH:
   May we say our criticisms have not been of the members, but of the Constitution?

Sir WILLIAM ZEAL:
   We are aware of it, and there is no one more aware than I am of the manly and straightforward way Mr. Trenwith has dealt with the Legislative Council; and I am proud to say that Mr. Trenwith, who represents a certain section of the community, is a firmer friend of the Legislative Council than
many of those who advocate measures of no advantage to the community. Mr. Higgins says that the Victorian Legislative Council by throwing out the Land and Income Tax Bill affords a glaring example of the iniquity that marks the doings of that body.

Mr. HIGGINS:
No; I referred to it as an example of the power of veto. I did not say one word about iniquity.

Sir WILLIAM ZEAL:
He implied that it was an iniquitous thing for the Council to exercise its own powers, and he led us to believe the Council had done something very wrong. The fact is that at the present time every man in Victoria owning an estate above 640 acres has to pay as taxes to the State 3d. per acre for fourth-class land, 6d. for third-class land, 9d. for second-class land, and 1s. for first-class land, from which he gets an exemption of 640 acres. In other words, if a man owns 20,000 acres in Victoria he pays £1,000 a year in land tax, less £32 exemption. That being so, when the Legislative Assembly sent up a Land Tax Bill which raised certain novel and unheard-of conditions, the Legislative Council said:

 Much as we are averse to another land tax, and much as we are averse to class legislation, if these two measures are dissevered, and a Bill is sent up initiating and providing for an income tax, the Council will pass it.

The Council did pass it, and the income tax of 1s. 4d. in the £1 shows that the Legislative Council was prepared to meet the emergencies of the State in a fair and liberal spirit. I also point out that there is no place in the world other than Victoria—where the income tax reaches 1s. 4d. in the £1.

Mr. SOLOMON:
Very nearly time they came into a Federation.

Sir WILLIAM ZEAL:
Yes, I think so. Mr. Isaacs instanced the Insolvency Bill.

Mr. ISAACS:
I did not say a word about it. I never mentioned it.

Sir WILLIAM ZEAL:
The hon. member animadverted on the Legislative Coun-
cil on account of their treatment of the Insolvency Bill. What the Council did in the case of the Insolvency Bill was-

Mr. ISAACS:
I did not mention it.

Dr. COCKBURN:
Perhaps he should have said it. It does not matter whether he did or not.

Sir WILLIAM ZEAL:
The Insolvency Bill contained a provision that all estates passing through the Insolvency Court should be liable to a tax of 5 per cent. on the assets. The Legislative Council said that this was a most unfair impost, but they agreed that if the Government would modify the impost to 2 1/2 per cent. they would pass the Bill. They sent the Bill back, and, instead of the hon. member accepting it in that spirit, he allowed the Bill to lapse.

Mr. ISAACS:
That is all wrong.

Mr. TRENWITH:
It shows that our two Houses get into conflict.

Sir WILLIAM ZEAL:
During the time that the Legislative Council of Victoria has been in existence—since 1881—it has only thrown out twenty-five Bills out of 725. If that shows anything at all it shows that the Council is doing in a moderate measure what the electors created it to do.

Mr. TRENWITH:
How many Bills have they permitted to lapse?

Sir WILLIAM ZEAL:
The Legislative Council has nothing to do with Bills lapsing. That is entirely within the control of the Government, as the hon. member well knows.

Mr. ISAACS:
How many have they emasculated?

Sir WILLIAM ZEAL:
If the hon. member means that the Council has allowed equal justice to be dealt out to all people, I concede his criticism. But if he adopts conditions that cannot be accepted without imposing an injustice on certain classes, then I say that the Council has very properly emasculated his Bill. I only say this by the way; for years past there have been deliberate attacks made on this legislative body, deliberate misrepresentations, based mainly on fiction, with just a little truth thrown in, and I feel it to be my duty to expose these misrepresentations. With reference to the powers and the provisions of the Senate, I do not go so far as many hon. members in saying that the Senate should have coordinate powers with the House of Representatives. I accept the proposition that the People's House, as it has been called, should have a greater control in money matters. Bills are initiated in the popular Chamber, and naturally members of the Government are more cognisant and better empowered to speak of what is required by the Government than members in the Senate can possibly be. But it would be a perfectly fair and just position to take up, a perfectly fair power to concede to the Senate, that they should have the power of
suggestion in certain items, because as Government is carried on there
should be no factious spirit shown between the two branches of the
Legislature. In the case of the majority of measures, I say that the Senate
should exercise co-ordinate powers with the House of Representatives.

Sir GRAHAM BERRY:
Including Bills imposing taxation?

Sir WILLIAM ZEAL:
I would modify that to a great extent; because I am sure that none of the
members of the body to which I belong wish to embarrass the Government;
but where Bills are sent to the Upper House indirectly affecting taxation,
but which purposes are not solely for revenue, there is no reason why
Houses constituted as Legislative Councils are, should not have power to
deal with these matters. I speak from forty years' experience in Victoria,
and I can testify to the fact that plural voting is practically a myth. With the
exception of the city and suburbs, it cannot be resorted to. A man may have
property
in the country, but no man will go perambulating about the country merely
to record his vote. Plural voting is practically confined to Melbourne. If I
take an office in the city surely I am entitled, owing to the payment of rent
and taxes, to the same consideration as I am when renting a house in the
city and suburbs. That has been the law in Victoria, and it has worked well,
and it is also a recognised spirit of municipal government. I do not know
whether others share the same advantages as Victoria does under municipal
government, for there votes are given to the ratepayers according to the
value of their property.

Mr. ISAACS:
No one objects to it so long as it is confined to municipal governme

Sir WILLIAM ZEAL:
Yes; but the best proof of the value of plural voting is the success of
municipal government in this respect. Men who have to pay ways and
means for the carrying on of the Government should get some
consideration, for it is not the men who are here to-day and gone to-
morrow who are held responsible. Take the case of a man to-day, in South
Australia, who has nothing. and consequently no responsibility, supposing
he goes to Melbourne the next day, is he to receive the same consideration
as the unfortunate man who has property in a place upon which he has to
pay taxes, and must therefore remain in that place? I cannot understand any
one seeing it from any other point of view; it is really wresting a power
from one class and giving it to another, without any shadow of reason to
support the claim.
Mr. HIGGINS:
That is an old argument which was exploded sixty years ago.

Sir WILLIAM ZEAL:
I do not know whether that is a fact. I believe I have honestly stated the case, and I think my hon. friend must see the matter in the same light. Whether he does so or not I will not try to convince him or Mr. Issacs, because I know they have very pronounced views on this subject. With the exception of these remarks, I am at one with the framers of the Constitution Bill, which I will do my best to support in Committee, believing as I do that it will be of advantage to the future of Australia. With respect to the mother colony of New South Wales, I am very pleased to find the generous and statesmanlike way in which they have promoted their claims in this Convention. It seems to me they have not unduly taken up a position which the mother colony is justly entitled to arrogate to herself. Anyone who knows as I do that great colony, with its enormous natural resources, must be convinced that it contains within itself the elements of future greatness which do not appertain to other colonies; and when we find that colony coming here and placing her future and present welfare before us as she has, we are bound to sink all petty and parochial differences in order to try to come to a mutual understanding that will benefit not only the colonies as a whole, but also the colonies individually.

Mr. BRUNKER:
I feel it would prove a vain effort on my part, Mr. President, if I attempted to find words sufficiently expressive to convey to you and the members of your Government my deep sense of gratitude for the singular kindness which the representatives of New South Wales have received at your hands and at the hands of your Government since they arrived in South Australia for the purpose of attending to their duties in connection with this Convention. I feel that I am expressing the wishes of my fellow colleagues in thus conveying to you this our united thanks. At this late stage of the debate I shall not attempt to force upon this Convention any arguments in detail for the purpose of laboring or prolonging the discussion. I feel that I shall have an opportunity in Committee of dealing with details upon the construction of the Bill, which I am sure will be presented to us in a form that will have embodied in it the principles of equity and justice, and such, I hope, as may be presentable to the people who have conceded to us the right and the honor of representing them in this great assembly, brought together for the purpose of debating a question of greater importance than any hitherto submitted to any assembly in the Southern Hemisphere. I am one of those
who have had the advantage of experience, and who have watched the rise and progress not only of New South Wales, but of the whole of the various colonies in this Southern Hemisphere, and, although I have not had the personal advantage that some members have had, I have carefully watched by study what their progress has been, and I feel convinced the time has arrived when we are prepared to federate, in short, to establish a system of Federation that will break down for ever the great barriers which have for so long obstructed our progress, and have encouraged the rivalries and jealousies which have prevailed to the disadvantage of the people of these great colonies. I said I had had some advantages in watching the rise and progress of the colonies, and I can say, to the honor of New South Wales, that, notwithstanding the eloquence and ability and practical knowledge which has been displayed in this debate during the last ten days, I remember when New South Wales in nation building stood in the forefront in 1853, and that such men as the Hon. Wm. C. Wentworth, Sir James Martin, and other great giants of those days, placed not only New South Wales, but the sister colonies, in the proud position they have since occupied by establishing one of the most free and liberal Constitutions that exist in any part of the world. The Constitution which was then implanted on the Statute Book was framed by men of ability; and I feel proud, as an Australian, to stand here to-day and with all sincerity to express the wish that these principles of equality, justice, and freedom which have prevailed under that Constitution may prevail under the Constitution which I hope may emanate from our hands before we disperse. I would wish to offer a few words of advice without being considered presumptuous to many of those whom I have heard use arguments throughout the discussion with regard to the positions of the larger and the smaller colonies. I am one of those who remember when the city of Sydney, one of the greatest commercial cities in the Southern Hemisphere, had obtained nothing like the dimensions of the city in which we are now assembled. I remember various parts of New South Wales and of the other colonies which had scarcely been trodden by the foot of man, but which have since grown into such importance that they are peopled by a sturdy yeomanry, who have broken down the forests and rendered the land the most productive in any portion of the British dominion. I am one of those who believe more strongly in the vast resources of these great colonies than most people. I believe that their resources are unequalled in any part of the world and all that we require for the purpose of increasing our wealth is their development, and that development can only be obtained by a thrifty and enterprising population. I say, if we strengthen the position of the various colonies by the system of government which we are now endeavoring to
introduce, we will do that which will tend to more largely help the
development of these colonies than any other object we can attain. I feel
thoroughly assured that, notwithstanding the many differences of opinion
which exist just now with regard to the position of the smaller as compared
with the larger colonies, we, as representatives, and I am sure that I speak
for the Convention generally, will have no desire to enter into conflict in
framing a Constitution. The smaller colonies may at any rate expect to
receive from the representatives of New South Wales that fair
consideration which we believe they

are justly entitled to; we will assuredly treat them as brothers, and act as
one body for the good of Australia as a whole. There is no reason why a
people of one origin, a people who speak the same language, who have the
same love of freedom and liberty, and the same hatred of oppression,
should stand against one another, maintaining rivalries and jealousies
which should never exist I am speaking in generalities, as I do not wish to
enter into details with regard to the great, important, and delicate question
with which we have to deal. I shall refrain from that course in
consideration of the members of the Convention. Many of us are doubtless
conservators of time, and if there is one to whom that attribute may be
conceded in our own Assembly more than another it is myself, and I think I
can appeal to Sir Joseph Abbot to say that I have not given him much
trouble by my presence in the Assembly. I might elaborate very much upon
the condition of the colonies generally, and the doubts which are likely to
accrué from Federation, but I shall not do that now; I shall have a full
opportunity in committee. But I should like to say that, with a favorable
climate, a good soil, and fortunate commercial locality, these colonies in
the future should be the home of the most enlightened, free, and intelligent
people of the world. I might detain this Convention at considerable length
in referring to the inexhaustible wealth of our pastoral and agricultural
resources, to the enormous wealth of our mineral resources, gold, silver,
copper, iron, coal, and other things which conduce so fully to a country's
greatness. With this taken into consideration, the results of the future are, I
am sure, still more difficult to estimate. Now I do not refer to this in an
egotistical spirit, but only desire to impress upon the members of this
Convention the vast responsibility which we as representatives owe to the
Commonwealth. We each have a duty to perform, and it is impossible to
over-estimate the influence which every representative of this Convention
may have upon the future of this great country. It matters not what position
we occupy, where we are located, or what is our nationality, if as true
colonists we do our duty well, the future is full of promise, not only to the
present generation but to those who are to come after us; and, unless as
time advances and the circumstances and conditions of the colonies change
most materially, our future is assured beyond all peradventure; and this fair
land, dedicated by our ancestors to liberty and freedom, will become so
firmly affixed to the soil that it shall live for all time, and continue to shine
as a beacon-light to the whole world, showing that an intelligent people
are capable of self-government.

The PRESIDENT:
If no other representative desires to speak, I will now call upon the
representative of New South Wales, Mr. Barton, to reply.

Mr. BARTON:
If I had doubts or tremors - as indeed I had at the outset of these
proceedings-in facing the dignity bestowed upon me of leading this
Convention, they have been much increased by the splendid debate to
which I have listened. The debate has been one which-is worthy of this
Convention, and worthy of the intellect of the country from which this
Convention springs. I was a member of the Convention of 1891, and heard
the debates of that body, and able indeed were those debates, because,
while there were a few speeches which aimed at oratory, nearly every
speech delivered, I think I may say every one, was an instruction and an
education to those of experience, to those even well educated in public life,
who formed that great gathering. Yet I may well compare the debate now
closing with the prime debates of that aggregation of statesmen. I do not
think, whatever other results might have taken place in the election that has
just been decided by the electors of Australia, that there could have been
obtained by any alteration in results, a debate that would much more have
helped the desires of those - if I may say so as one of them
- who most insisted upon the present method of procedure, or have been
more instructive than have been the speeches which I have heard delivered
here. It is not for me to particularise, but I think we may claim with pride
that we had a noble speech yesterday from the Premier of New South
Wales, and an equally noble speech, if I may say so, from the hon. member
Mr. Deakin. For in these speeches, the closeness of their reasoning was an
enlightenment; the ardour of their aspiration was something to warm the
heart of every hon. member who listened to them; and the dignity of their
language was something to uplift us to the level of the task that we have to
perform. Hearing such speeches, and such excellent speeches as were
delivered by other hon. members, whom I think I may well be relieved
from particularising, I think I may be pardoned for again expressing the
difficulty and tremor which I feel in having had laid upon me the task of

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leading such a splendid assembly in the deliberations which are to ensue. However, that task has been accepted and must be performed. And first, I would like, before proceeding to reply generally to the debate, to say that I do not wish in that reply to be thought too controversial; and, like my hon. friend Mr. Reid, I do not desire that my words should be taken as expressing too deep-seated conviction, too much of that condition which has been called cock-sureness; because I realise, with every member of this Convention, that we are now upon the threshold of that stage in our deliberations in which the principle of mutual concession must prevail; and upon the application of that principle the success of our whole deliberations will depend. I must first, be fore replying to the arguments which have been advanced, discharge myself of a duty. The hon. and learned member, Mr. Symon, was kind enough to compliment me upon certain words which are to be found in the beginning of these resolutions—these words: In order to enlarge the powers of self-government of the people of Australasia.

I may say at once that these words are the suggestion of another hon. member of this Convention—a gentleman who has also laid us under a debt of thanks by the masterly speech which be delivered-Mr. Wise. I do agree very fully with Mr. Symon, now that I have been able to confess that those words are not my own, and I wish to express the feeling that they are an immense improvement upon the form the resolutions would have presented without them, because they do express the object, the very object, for which we are here. They may dispel the very doubts and fears which, notwithstanding the occurrence of these words, have been so frequently expressed by some of the delegates during these debates; doubts and fears which I think the course of events since 1891 should have dispelled, and which I hope will be dispelled before we have concluded our deliberations, which clearly have for their object the enlargement of the power of self-government of our people. This was clearly the intention of the people of Australia when they took steps to confer upon the people a dual citizenship, and it would have been a mistake if the views of those who elected us were not inserted in these resolutions. I would like to say a few words upon a subject so much pressed upon us by several delegates: the necessity for economy in the Federal Government. I wish to ask delegates to look at this question, not from the standpoint upon which we are now placed, but to endeavor to realise the accomplishment of Federation, and then to ask themselves whether we should take such particular pains to impose limitations of economy upon a people who will be constituted as ourselves, who will indeed be ourselves, and will therefore - it cannot be
denied - have as much claim to be considered their own masters as to how their proceedings shall be conducted, when we are indeed forming a nation whose life is bound up in their Constitution. We may claim that it is their money; that it will be by taxes on the federated people that the Federal Government's revenue will be raised. It will be by the Federal Parliament that that money will be expended, and as there is no question between any two members of this Convention that both chambers of that legislature are to be elected, why should we impose a limit of economy upon the nation when the next steps we take show that this nation, in our judgment, will be better fitted to deal with it than we, before the Constitution is made, will be able to do. It is for us to give them adequate revenue and endeavor to provide for their necessities upon a scale adequate in some degree to the work which we foresee they will have to undertake; and having done that, the question of economy in future proceedings must be the sole charge of a free people, though that free people will, in one sense, be ourselves. At any rate, in the true sense, it will be the federation of the people of Australia. Leave the question of economy to them, so long as you take care that in the machine you are creating you are not wasting more money than is necessary to make it perfect. I have heard arguments in one or two quarters that seem to indicate an endeavour to make the people more sure that the federated people of Australia shall be more economical when they are constituted a nation. It seems to me this is a question that must be left to the federated people of Australia. Give them a Parliament which is large enough for the purpose of carrying out their object - and upon that point we may well discuss the question of the representation. Give them a source of revenue which is adequate, and all questions which may arise for the determination of that Parliament, and the questions which relate to the distribution of the revenue which is given to them, are questions for them, subject to any legal check which the Constitution imposes upon them. I would like again, before I leave this part of the subject, in order that it may not be supposed I am aiming in the wrong direction, to say I quite agree with Mr. Reid that the Parliament ought not to be too large for its work. Mr. Reid suggested that there should be a representative for every 60,000 inhabitants. That would give a National Assembly of sixty members. That is half the basis of representation proposed by the Commonwealth Bill. In that Bill the National Assembly or House of Representative - we have not yet named it would consist of 120 members. Looking at the authority and the power that will really be conferred-and as to this there does not seem to be any general disposition to extend the powers conferred under the Commonwealth Bill - I can agree that some larger number than 30,000
should be the number forming the basis for the election of the representatives. Looking at the ambit of the powers to be conferred, it might be thought that the number of sixty members would give us a House of Representatives which, compared with the extreme numbers of the House of Representatives or Assembly of some constituent State, would be rather dwarfed by comparison in numbers.

Mr. SOLOMON:

They will reduce them.

Mr. BARTON:

I was about to allude to that. There may be an alteration in that way, but we who have occupied seats in these popular Chambers know the extreme reluctance they have to cut down the numbers. We, in New South Wales, know of the difficulty we had in trying to reduce the number from 141 down to 125. It was reduced by sixteen, and it was no small difficulty to do it. If I had been able I should have included a provision for reducing the number to 100, but the great fear was that in my endeavour so to reduce the number I should risk a measure for which the people were crying at that time. Now let us apply that to the conditions which will surround us when we federate. We shall have these same Parliaments of our States, and we have seen from this debate how jealously they watch, how vigilant they are, lest any shred of authority, lest any particle of individuality be taken from them even for the most necessary purposes. It will be seen therefore that it would be with the utmost difficulty that we should be able to reduce the number of any of these Houses, and yet if we must limit, as has been suggested, the number of representatives in the National Assembly we should have a probable outcry that that House is belittled by the comparison. One State in the United States has, if I remember rightly, a representation in what is called its Lower Chamber—I do not like the term—of something over 275 representatives. And that is 100 years after that Federation, which was supposed, not indeed to take away the individuality of the States, but to render it at any rate possible for States which had surrendered part of their work to the Commonwealth in order that it might be done more efficiently with their own help, to cut down representation in their own Legislatures with a view to economy. Therefore we must take care that the basis of representation in our National Assembly should be wide enough to prevent its lines being extravagant, and yet that it should be ample enough to secure the carrying out of all those measures of national concern which are certainly of greater ambit and purview.

Mr. REID:

May not the greater importance of the federal electorates tend to redress
that want of balance?

Mr. BARTON:

I do not quite see that. I do not know yet whether we are going to provide for single electorates for our National Assembly. I know if we make electorates large enough to return three or four members we shall have a great outcry about the expense of conducting elections. If we reduce it to single electorates-with all that has been said in their favor-they frequently result in the Parliament being bereft of half its best intellects in order that certain local interests may be represented. Without expressing too positive opinions on the subject—because I wish to guard against that—I would like to express the opinion that we must not seek in any way to belittle the Parliament which we are about to make by rendering its importance and its attributes, even apparently, less distinguished than those of the States which compose the Federation. Before proceeding to some of the more important questions which have been discussed—and I say important only in relation to the time and elaboration of the discussion that has been bestowed upon them—I should like to make a short reference to one argument that has been used with regard to the federal judiciary. It has been suggested that the federal judicature should consist of the Chief Justices of the various colonies. I beg to say that, so far as I am advised, I entirely dissent from that proposal. I think that that would be a provision which would make totally against the value of the federal judiciary for the work which it has to perform. One of the smallest objections is that in these colonies—if there are any where it is not a provision of law—the strong feeling prevails that no judge should sit on appeal from his own decision, and it is a very plain provision in New South Wales.

Mr. PEACOCK:

And in Victoria.

Mr. BARTON:

I am glad to hear that, because I had a strong suspicion that it was so. Whether or not it is in all the colonies a provision of law that no judge shall sit on appeal from his own decision, it ought very speedily under the powers given by the Constitution to be a provision of law for the Commonwealth, and if it once becomes so I should like to know what capacity, what adequacy, for this work will be left amongst the half-dozen Chief Justices who will at their sittings have to decide on appeals from half a dozen States. And, when we bear in mind that in every appeal from a colony the Chief Justice of that particular State must not take part in the hearing, there would be still less chance of forming a court that would be acceptable or satisfactory as a Federal Court
of Final Appeal. There is another strong objection. If this is to be a Federal Court it must not spring from any provincial origin. If the object of the court is federal, and if it is to be made an arbiter between State and State and between State and Commonwealth, if it is right that it should be a federal instrument-and clearly it must be so, because it is one of the essentials of a Federal Constitution-well, then it must be equally clear that it must not owe its origin to provincial appointments. What I am going to say now I do not utter disrespectfully, but we have seen cases, and we cannot deny it, of judges, appointed with the very highest encomiums and expectations from Bar and public, who have turned out to be, in the performance of their duty, not so strong as was supposed, perhaps not even so impartial as was anticipated, or in other respects not quite so well up to their work. If such a provision were carried into effect the Federal Executive would not have a chance of deliberating upon the question, but must take the judge provided, even though the results attending his appointment were not such as were expected. How can all that be right, or how can it give us a Court of Appeal which will encourage the people to select this tribunal as their Court of Appeal in preference to the Privy Council? If there is to be, as is suggested by my friends Mr. O'Connor and Mr. Deakin, a right of choice for the appellants whether they will go to the Australasian Court of Appeal or to the Privy Council, then, inasmuch as we find that the components of the Privy Council have lately year by year been stronger Judges, how is it likely that appellants will, even with the inducement of less expenses, use the Federal Court of Appeal in preference to the Privy Council if they find it is constituted in such a way as allows of no intervention in regard to its composition on the part of the Federal Government? Is it likely that that which we desire-that a respondent in an appeal should not have to go practically 12,000 miles away when there is no necessity for it-will be fulfilled, if we give this choice or option, and at the same time allow our Federal Court of Appeal to be a body which the Federal Government have no hand in forming, and a body that cannot be improved, whatever mistake may have been made in the original selection? I will not waste time in farther argument on that subject, because commonsense and reason combine in declaring that the Federal Executive must be free in the choice of its court, which is to be a safety-valve in the Federal Constitution. I pass on to the question of finance, but I am not about to trouble the Convention with any views of mine upon the question of collecting revenue, or the distribution of a surplus, because I recognise fully the fact that I have only once in my life participated in a financial debate. I hope therefore to leave a question of this kind to persons who have shown aptitude for the discussion. I am sure that I shall not be a
member of the Committee of Finance, Trade, and Taxation, and it is to
gentlemen like Sir George Turner, Sir Philip Fysh, Mr. McMillan, and
others who could be named, that we must leave, I think, a great deal of the
discussion of these questions. But I should like to say a few words upon a
matter which is inextricably associated with the question of finance, and
that is the question of the railways. I may say that to me it was a pleasure
to find so large a preponderance of members of this Convention agreeing
to the proposition that the railways should remain the properties of the
States that constructed them. In that respect I speak with much greater
certainty, and, a much greater feeling of conviction than upon many
matters which I shall presently address myself to. It is conceded that the
lands are the property of the province, and it is conceded that

they are not to pass to the Federation, because it is alike granted that, while
the Federation is a body which has most to do with our external outlook,
the provinces will have most to do with the regulation and management of
provincial affairs. Amongst such, it is necessary that we class the landed
territory of each province. If the land is the possession of the province let
us consider what railways were created for. Were they not created for the
development of the land, and are they not as much an instrument for the
development of the land as the roads and bridges, and do we hear any
suggestion that the roads and bridges should pass to the Federation? It
would be absurd to assert it; yet if the railways are to pass the two are pari
ratione.

Mr. SYMON:
They are not pari ratione.

Mr. BARTON:
Well, Sir, they exist for the same purpose as the roads and bridges,
namely, for the development of the land which we, the people of the
individual colonies, mean to retain. There is something which inherently
makes them a provincial and not a federal property.

Mr. GLYNN:
You cannot work the roads and bridges by amalgamation.

Mr. BARTON:
You might, but with a considerable lack of that local knowledge which is
so necessary for the satisfactory working of roads and bridges. Let us take
care before we hand over the railways that we do not hand over something
which requires a great deal of local knowledge to manage. If ever these
railways are banded over it will have to be when the people of the various
colonies have become accustomed to look on them from the standpoint that
they can be made more useful by the Federal Parliament, and it may be that
in the growth of the federal spirit the people will begin to say for themselves that the railways are so much a matter of common concern and interest that they may be with advantage taken over by the Federation; but that is easily provided for. In the Bill of 1891 in clause 52 there is a subsection which seems to be particularly applicable to this purpose. Among other subjects of legislation which are in that Bill

Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to the State or States by whose Parliament or Parliaments the matter was referred and to such other States as may afterwards adopt the law.

This clause with verbal amendments would meet the whole case of these railways if at any time a majority of the House of Representatives and a majority of the Council of the States should choose to say that they should be taken over, having first obtained permission from the local Parliament. Let us wait until that time, and not undertake to do anything specific in that direction now, which would interfere with the powers and privileges of any States. Territories which include the landed properties of the States have been conceded to be theirs for ever, and the railways have been constructed by these States themselves for the development and improvement of their territories. The hon. member, Sir William Zeal, has said something about preferential rates.

Sir WILLIAM ZEAL:
Differential.

Mr. BARTON:
Well, differential. There is a distinction drawn by several members between differential and preferential rates. I think that the difference is admirably expressed in a book which has been written upon "The Public Regulation of Railways." It was written by Mr. W. R. Dabney, formerly chairman of the Committee on Railways and Internal Navigation, in the Legislature of Virginia, and was published in 1889. It contains an analysis of the Inter-States Commerce Act, and is in every respect particularly valuable. I am about to quote a short passage, which, to my mind, emphasises the distinction between differential and preferential rates, and it is a differential rate which is aimed at in this passage which occurs in a decision given by the Inter-State Commerce Commission:

It is a very familiar rule in the transportation of freights by railroads, and has become axiomatic, that while the aggregate charge is continually increasing the further the freight is carried, yet the rate per ton per mile is
constantly growing less all the time. In consequence of the existence of this rule the aggregate charge continues to be loss in proportion every hundred miles after the first, arising out of the character and nature of the service performed and the cost of the service, and thus it is that staple commodities and merchandise are enabled to bear the charges of transportation from and to the most distant portions of our country. Examples showing the universality of this rule may be seen in the tariffs of the railroad companies generally in the United States, where their length is sufficient to admit of its application. . . . . The Act to regulate commerce, so far from throwing hampering restrictions or obstacles in the way of the operation of this salutary rule, gives it all the benefit and aid of its sanction and safeguards by providing that the carrier shall be entitled to recover a reasonable compensation for the services performed upon open published rates, against which no competitor can take advantage by allowing shippers secret rebates and drawbacks in order to get the business.

That is a fair definition of a differential rate, as opposed to a preferential rate. A preferential rate is a rate which prefers one port against another port, or a citizen against another citizen; a rate which is imposed for the purpose of attracting trade from one port and giving it to another. A rate which does this in such a manner as to make preferential charges quite apart from that salutary rule which is the essence of the Inter-States Commerce Act, is a preferential rate-a rate by which a citizen outside the bounds of a colony or State is treated preferentially as against the citizen who is within its bounds. Allow me to give an instance. Suppose, for the sake of argument, that there is a place called Echuca on the River Murray, and two important ports called Sydney and Melbourne. Of course members will recognise that in all I say I am speaking, whatever my tone may be assumed to be, with the utmost desire to promote conciliation. Suppose, further, that there is a railway running from Sydney to the country to the south-west, and a railway running in the direction of Echuca from Melbourne in order to tap the Murray. Suppose such a rate as this is established, that the New South Wales producer living 250 miles from Echuca can have his wool carted to that interesting place and thence carried by rail from end to end of Victoria to Melbourne at a charge of 2s. 9d. per bale. Suppose also that there is a quiet drawback, or bonus, or whatever you may like to call it, to the carrier of 6d. per bale. Then suppose that the unfortunate producer of Victoria, having raised his wool in that patriotic colony, wishes to have it carried over the same distance to the same port and finds that he is charged 6s. 1d. per bale. That is what I would mean by a preferential rate. And that would be an instance of the very thing which the Inter-States Commerce Act not only condemned but abolished, that is
the attempt to give preference to one part of the Commonwealth over any other part.

Sir WILLIAM ZEAL:

Does not that show the necessity for federal control?

Mr. BARTON:

It shows the necessity for a clause in the Constitution to deal with such matters. There is a useful clause in the Commonwealth Bill which I do not think we should be above adopting. It is the power given at the beginning of Section 52 for the regulation of trade and commerce with other countries and among the several States, and if we were to add to the words "trade and commerce" the word "traffic" we should have something distinctly federal in its operation. There is a clause in the Constitution of the United States in almost the identical words that are in the Draft Bill of 1891.

Mr. GLYNN:

The Act is not effective.

Mr. BARTON:

I do not think that if the hon. member looked at the book from which I have been reading he would have said the Act has not been effective. In these colonies there are only half a dozen proprietaries instead of say a hundred private proprietaries, as in the United States, and the scope of such an Act need not be so wide and its administration one-tenth so difficult here.

Mr. GLYNN:

I quoted from a book five years later.

Mr. BARTON:

The Act might not have been so entirely effective as the framers intended it to be; but in that case we shall have to pass a better one. In the meantime what shall we do? As I shall not be a member of the Committee on Railways I would suggest that we should have a clause or two drawn up ready to deal with a difficulty of this kind. I have a clause prepared in rough draft which deals with this subject, and I do not see why I should not read it now.

Mr. HIGGINS:

I understand that these preferential rates have been held void as against the Constitution of the States?

Mr. BARTON:

They have been held void as against the provisions of the Inter-States Commerce Act.

Mr. HIGGINS:

Before that.
Mr. BARTON:
They may well have been held to be against the provisions of the Constitution. I will read a clause in the Commonwealth Bill. It is the first clause under the heading "Equality of Trade."

Sir WILLIAM ZEAL:
What you are quoting are the results from competition of private companies.

Mr. BARTON:
I am aware of that.

Sir WILLIAM ZEAL:
Are not our railways State railways?

Mr. BARTON:
That does not cure the mischief. I will read the clause which exists in the Commonwealth Bill, clause 11, chapter iv.:

Preference shall not be given by any law or regulation of commerce or revenue to the ports of one part of the Commonwealth over those of another part of the Commonwealth.

I would suggest that there should be a clause something like the following, but more condensed:—

No law or regulation of trade, commerce, revenue, or traffic shall be made by the Commonwealth or any State, or by any authority or corporation constituted by the Commonwealth, or any State, or by any individual purporting to act under the authority of the Commonwealth or any State, which shall have the effect of giving preference to any port or ports of one part of the Commonwealth over the port or ports of any other part of the Commonwealth, or which shall have the effect of giving any undue or unreasonable advantage to the inhabitants of one part of the Commonwealth over the inhabitants of any other part of the Commonwealth, or which shall have the effect of unfairly diverting trade, commerce, or traffic from one part of the Commonwealth to another, and the Parliament of the Commonwealth may make laws for carrying out the provisions of this section, and for annulling any law or regulation of trade, commerce, revenue, or traffic contrary thereto, or having the effect of derogating in any way from freedom of trade or commerce between the different parts of the Commonwealth.

That clause in a somewhat shorter form would meet the difficulty, except as to one matter that has been pointed out by my friend Mr. Symon, the difficulty that the prerogative of the Crown may intervene. That difficulty can be overcome by another very short clause, and the reason I have not read out the draft of a clause on that subject is that it will require some little time to consider it properly, especially as to whether the scope of it
may not be further increased.

Mr. O'CONNOR:
In order that the Constitution may bind the Crown?

Mr. BARTON:
Yes.

Mr. REID:
A general clause to that effect might be provided.

Mr. BARTON:
I have provided there a provision which may be imperfect, but it is difficult to provide in any concise clause for the overcoming of this difficulty of preferential rates.

An HON. MEMBER:
What is the difference between preferential and differential rates?

Mr. BARTON:
I shall endeavor again to show the difference between preferential and differential rates. Mr. Dabney says in effect that a preferential rate is a competitive rate between railway and railway, whether they belong to the State or not, so framed as to give an unfair preference to place over place, or to citizen over citizen. A differential rate is a rate which provides that as you increase the distance of haulage you may diminish the rate paid for haulage, provided that in the aggregate you do not charge less for haulage to the more distant part than you do to the less distant part.

Mr. ISAACS:
It would, I understand, rest with the decision of the court as to whether any minimum should be declared void.

Mr. BARTON:
It would rest with the tribunals of the Commonwealth to declare any particular regulation of traffic void. If any suit arose between party and party it would be regulated at once by any person appealing against a rate exacted by a State railway and suing for a refund. So far in regard to this question of preferential rates, and if we provide in some such manner as here outlined for the abolition of preferential rates and charges there is no further need for the Convention to take into consideration precisely the question of amalgamating the railways. The feeling against amalgamating the railways is so strong in every one of the colonies that the people would not consent to its being placed in the Constitution.

Mr. WISE:
I do not think anyone is prepared to do more than give the
Commonwealth power to take the railways over.

Mr. BARTON:
I have said we might well agree to a clause giving that power, but not without the consent of the owners of the railway.

Mr. WISE:
That is the point.

Mr. BARTON:
Then I shall submit that, inasmuch as these railways are not in essence a subject of federal property, it would not be fair to give the Commonwealth power of resumption over the railways, even if they paid a fair price, because the railways, being so inherently connected with the development of the States, it should be for the local Parliaments to say whether they would hand them over or not.

Mr. WISE:
Would you admit federal railways?

Mr. BARTON:
I grant that in time it may be necessary to provide for the construction of a federal railway for strategic purposes. If the hon. member wants to make any proposition of that kind it will be respectfully listened to, but as we are situated at presents for all strategic purposes, so far as the military commandants have enlightened us, the present railways are sufficient for carriage to any likely point of attack. If other necessities arise they may be dealt with as they arise. Of course the Commonwealth must have power, and, indeed it would have power without express provision to take possession of and to control any means of carriage that exist for the purpose of the transport of men, munitions of war, and the commissariat in times of war. That is as it ought to be, and to this extent, therefore, I suggest that, for greater clearness, power should be given to use the lines of railways, and if further necessities arise they may be dealt with. Then, so far as we know, we shall have provided for any emergencies we can foresee. I grant that trouble may arise over the break of gauge, but even if no legislation is passed to deal with the railways in the direction of enforcing the constitutional provisions I have outlined, there may still be a board appointed with the added functions of an advisory body, whose suggestions would be accepted in the same way as the suggestions of the Board of Trade are now accepted by railway authorities in England, and so from day to day the extinction of the break of gauge would draw nearer. Upon this railway question I do not profess to be able to speak with any great knowledge or experience, but I suppose the conclusion which the
Convention has come to is that intercolonial trade must be free, or Federation is a mockery; and resting upon that principle are the rights of the Commonwealth to insist that preferential rates must be entirely abolished. At that point the right of the Commonwealth to interfere with the railways should cease, and its rights having ceased, it should go no further. It is said we have too large a revenue if the railways are not taken over. I admit the distribution of the surplus seems to present a great difficulty to the best financiers of this Convention; and in this connection I should like to say a word about the evils of a system which involves too much book-keeping between the States and the Commonwealth. One does not require to be a financial expert to know that matters of book-keeping and financial interchange between the States and the Commonwealth are among the most dangerous that can obtain: We know from the experience of Canada that the provisions which exist in its law, for certain doles or grants per capita to be made to the States, have been productive of a great deal of whatever political corruption there has been in that Dominion. We know that however stiffly we may provide by our local Acts that there shall be no relation between the Central Government and the local and municipal bodies, there is always the endeavor by the latter to get the better of them.

Sir GEORGE TURNER:
There is always something too national for the shire council.

Mr. BARTON:
Yes; there are always national works. We do not want that kind of thing between the State and the Commonwealth, and we must avoid it. We must avoid monthly or quarterly accounts and debits between States and the Commonwealth. It has been suggested that this difficulty would be reduced by taking over the debts of the various colonies. Here again it is impossible for me to speak with any degree of knowledge, but I listened with attention to the speech of Sir Philip Fysh, who threw a great deal of light upon the subject, and his speech went a long way towards reconciling one's mind to the question of what to do with any surplus unnecessarily in the hands of the Federation. Some tell us that the credit of the Commonwealth will not be a better credit than the credit of the States. That is founded upon the falsest assumption. It is founded upon the assumption that the credit of a community depends upon its assets. That is not the security for the payment of the public debts. No one could point this out more clearly than it was pointed out by Sir George Turner. It is the existence of a strong and stable Government, such as you will have under Federation, and the existence of a people under it whose constitution is a guarantee that their efforts at the attainment of prosperity will be unhampered—it is that which
makes the credit of a nation. The very fact of several States joining in a Commonwealth which has such a strong and stable Government will also help to improve the credit of those States. So that the result of Federation in the first place would be an improvement in the provincial credit; and if you carried out a scheme such as has been suggested for the consolidation and conversion of the public debts of the colonies, by that process you would not only keep the credit of the States unimpaired, but, you would improve it, and you would hand over the public debts to a central power, whose credit would be higher still. Otherwise, what appears inevitable, namely the existence of a surplus in the hands of the Commonwealth—though I did not hold that opinion when I entered this Convention, and that again shows the benefit of this discussion—would seem to present very great difficulties, and deserves the serious attention of the Committee upon finance and trade.

The existence of anything in the shape of an absolutely inevitable and unnecessary surplus is a thing much to be deprecated, and one likely to give rise to that state of things that has been termed in Canada "agitation for better terms," one which will lead not to union but to disunion, and will be a provocative of friction as well as an incentive to plunder. I hold that opinion very strongly. However, if there must be a surplus there must be some basis of distribution. I leave the discussion of the whole question to the Committee of Finance, Trade, and Taxation, but I think that the Convention itself should endeavor to show that it has some consensus of opinion on this subject, and, while it does not wish to interfere with the Commonwealth in the full exercise of its powers or prevent it from raising Customs taxation and from voting the appropriations which are necessary for the purpose of giving life to the powers with which we invest it, it is necessary to prevent anything in the shape of an unnecessary surplus. We should try and avoid such a mistake as to confer upon the Commonwealth a surplus as to which there would be necessarily some method of distribution involving haggling amongst the States, and which if not distributed might lead to incentives to extravagance and perhaps to corruption in a body which it is the desire of all to keep as pure as we trust it will be efficient. Other proposals might be made on that head, but it is clear now from what I have heard in the debate on this question that we should, at any rate in our Finance, Trade, and Taxation Committee, as well as in committee of the whole House, endeavor to prevent any action of ours bringing about of necessity a surplus to be distributed under conditions of such great danger as might ensue. We have had a proposal
from Mr. Holder, to solve that difficulty by allowing the States to collect the revenue and then hand over periodical doles to the Federation. The first objection to that is that a union constituted on such principles is not a Federation. Any body which lives upon doles, or annual, half-yearly, quarterly, or whatever they may be, payments of the States to that body, is not a Federation at all. It depends for its lifeblood upon the States and not upon the individual citizen, and so far as it depends upon that, so far as that principle of the individuality of the citizen in his power of control, and in his capacity as a source of revenue is departed from, to that very extent you abandon Federation and set up some other form of Government. All that is a matter of principle which cannot possibly be abandoned. We have had other gentlemen making proposals. There was another gentleman representing South Australia who made similar proposals, and I take theme proposals, if I may venture to say so without any disrespect to these gentlemen, as being wholly anti-federal and not in accordance with the charge which we stand here to perform. We are sent here charged with the duty of framing a Federal Constitution, and those who come here to substitute for Federation something which has not its attributes and powers, come here to give us something which the citizens have told us to avoid. Efforts like these are not in accordance with the statutory obligation and task which has been laid before us; they are not in obedience to the command with which we have been sent here, and if they are carried into effect they will be an actual fraud upon the duty we stand here committed to discharge. It needs only that that should be stated—provided the principle is accepted that doles from the States are not a medium of Federation—to show that it is not in our scope to accept such proposals, and that they must be abandoned entirely as being anti-federal. We are here to frame a Federal Constitution. The seventh section of the Enabling Act makes our duty clear, and we cannot accept these proposals to which I have referred and still keep to our statutory duty. The same gentlemen have made other proposals by which they wish to cut down the attributes of the Commonwealth in such a way that there would be practically nothing left for the Commonwealth to perform. What is the use of erecting this complicated piece of machinery if the States are to continue to do everything for themselves? Our labors here rest upon the position that there are functions which none of the States can perform effectively for the whole, and also that there are numerous things which can only be performed effectively for the States as a whole by the passing of a uniform law which would govern the whole of the States as one. The States have sent us here charged with the duty of arriving at a
Federal Constitution, and we are charged, further, with the duty of giving a Constitution embodying such powers as will make it strong and effective, and giving it such power that even if, with a certain degree of efficiency, certain things could be performed locally, they could be still better performed by a central control over the whole. I admit that I consider the control of the post offices and telegraphs has the elements of this principle. It is all very well to urge that there is an efficient system in operation in South Australia, and that it pays. I do not wonder it pays when one has to put a twopenny stamp on a town letter, and that one cannot communicate with a friend in New South Wales, by telegraph, without paying two shillings. The charges are so high as to amount to a public inconvenience.

Mr. HOLDER:
We do not charge higher than the other colonies.

Mr. BARTON:
We charge only a penny for a letter in New South Wales, and a shilling for a telegram to Victoria.

Mr. HOLDER:
We charge the same from Adelaide to Sydney as they charge from Sydney to Adelaide.

Mr. BARTON:
We at any rate have always been ready to accept low charges reciprocally with the other colonies, and if the result of our liberal policy has been that the departments do not make a profit, it is not a reason for not federating the posts and telegraphs, but rather for coming to such an arrangement between all the colonies.

Mr. HOLDER:
They are purely local matters.

Mr. BARTON:
I say that they are not purely local matters, as they include the subsidising of mail lines, the arrangement of transcontinental telegraphs, and the arrangement of oceanic cables. It is not in the interests of Oodnadatta but in the interests of Australia that we should place all these matters under one common control. Mr. Holder does not represent Oodnadatta—we heard a great deal about Oodnadatta last night—but I do say that the suggestions to leave the control of such matters as the post and telegraphs to the local Governments comes from a mind not accustomed to the consideration of the largeness of the project.

Mr. HOLDER:
That is distinctly unfair.

Mr. BARTON:
I believe I am not unfair; but if the hon. member thinks I am, I regret it,
and if it turns out that I am so the hon. member will find me most ready to apologize. If we are to have the control of such matters as mail subsidies, transcontinental telegraphs, and oceanic cables in the hands of the Federal Government, it would be an unwise and injudicious policy to take away from that body the control of the reticulation, on which these other matters are based.

**Dr. COCKBURN:**

They are separate from federal matters.

**Mr. BARTON:**

It would be a division which would hamper the Federal Government by the inconvenience of the arrangement which would follow on their division. If we are to confine the Commonwealth to a body which is to simply frame a Customs tariff, and to take charge of such matters as quarantine, ocean lighthouses, and some little interference with buoys and beacons, it is a pity that the States have gone to the expense-in one instance I believe of between £30,000 and £40,000-of holding the election in order to be represented here. Let me not be unfair, because this very question brings me to the question of the protection of the States. There is no one who holds more strongly than I do that it is necessary to provide for the maintenance of the proper individuality of the States. Those who took part in the Convention of 1891 can bear witness in that respect. I recognise the great difficulties there are in the way of maintaining the full individuality of the States, and at the same time adhering to our well known form of responsible government; but I believe that they can be surmounted, and that it would be a shame on us if we, in the first instance, charged with the framing of our Constitution, did not make an effort to surmount them. Recognising these difficulties, I believe that the States which happen to be the less populous, should be dealt with liberally and generously. The State interests must be conserved, not only by safeguarding their full right to exercise all functions reserved to them, but by making the powers to be exercised by them so certain that there can be no doubt, even if the matter is referred to the Supreme Court, about the clearness of the definition.

**Sir RICHARD BAKER:**

There is the danger of the powers overlapping.

**Mr. BARTON:**

I am coming to that in a minute. We have not only to attempt to safeguard State rights by placing provisions for that purpose in the Constitution, but we must also take great care to make the machinery as fully applicable to the preservation of those interests which are erroneously
called State rights as if they also were set down in the bond. There have been cases of overlapping, as we find in the records of the United States, and the reports of the Privy Council in the case of Canada. We know that there is constant liability to overlapping; that when the federal body exercises its powers of legislation which are definitely given to it, if the utmost care and the utmost precision are not exercised to confine the legislative operations within the circle of the power given in the Constitution, there will be these cases of overlapping in the federal law, which would constitute an encroachment upon the competency and individuality of the States. These cases must arise, and they form one of the strongest arguments for a second Chamber in the Federation, and for arming that Chamber with competent powers to prevent that overlapping. When such cases occur, you have to call in the machinery of the Federal Court, and may be afterwards the machinery of the Privy Council; but is it not better that there should be in the Constitution an element in the shape of a second Chamber, which will do its utmost to try and keep these powers, which will keep legislation within Constitutional limits, and prevent resort to authorities external to Parliament? That is one of the strongest necessities it seems to me for a second Chamber. If the principle is not conceded that federal laws require the assent of the people and the assent of the States, why is it that the most democratic amongst us concede two Houses? I suppose there are some among us who will say that in a separate form of government, a government not united or federated, they would get along very well with one Chamber instead of two. But the most democratic—even if they are not representatives of this hospitable State in which we are now sitting, South Australia, there are those of Tasmania, and others—who would urge this, that even if they might not be reconciled to a second Chamber in their own colony as a separate State, they would not be reconciled to a Federation without a second Chamber. Why is this, unless it be a recognition of the fact that the laws require the assent of the people and also of the States? With a National Assembly as the sole Chamber the clear tendency must be to engulf State interests. If you have the States Assembly alone with equal representation, there would, I think, be a clear tendency to that kind of loose confederation in which the Union would be dependent upon the States. If that were the principle of the Federation we should have something very little better than the principle of even the Federal Council at Hobart or the abolished Articles of Confederation of the United States. It is recognised that neither of these things will do; that you must have two Chambers, one Chamber for the representation of national interests and the
other Chamber for the representation of State interests. If you depart from that principle you must be giving too great power to the national interests or too great power to the State interests and the golden mean is reached by granting these two Chambers. This is, of course, an elementary proposition; and the reason I refer to it I will make clear enough. The reason is that if you have your body constituted in either of the ways I have spoken of, neither of the conditions would make a Federation; and as we come here charged to make a Federal Constitution, we cannot make a piece of legislative machinery of that kind. We must not make our legislative machinery so that we shall have either unification on the one hand, or a confederacy on the other. Clearly, then, the intention of two Houses is to make the principle a rule of daily governance. Though it might happen that such necessity might not arise in more than a fractional part of the proceedings of the Commonwealth, still the principle must be inserted as a rule of daily governance, because there will be no day on which the necessity for the exercise of that principle might not arise. Then the mere concession of the principle of two Houses is enough to show that one must rest on the basis of proportional population, the other on State entities. This is the gist of the matter, that there are two different entities to be preserved. They are both necessary to constitute a Federation. One unit is the individual citizen, and the other unit is the State entity. We are bound to confess that both the individual citizen as represented in the National Assembly and the individual State as represented in the States Council must have their powers, and you must provide so that in each case the majority of the units shall prevail. I do say that you must so protect your Constitution that you will not have a majority of citizens dominating the State interests, or the State interests dominating the national life; but it must be so constituted that the interests they each represent are firmly embedded in the Constitution, and you must leave the future to the evolution of those two legislative bodies, which command the respect of both entities of the Federation, namely, the majority of the citizens, and the majority of the States. At the same time attacks have been made in the course of debate by the representatives of both extremes. We have almost been told, on the one band, that the mere principle of numbers should control all the operations of the Federated Commonwealth, and on the other hand, that the principle of State entity should be so strong that in all circumstances, and no matter in what emergency, the greatest functions of a Commonwealth are not to obtain. I hold that neither one nor the other, but the middle course, is the just one. Then if these interests must be preserved in general legislation are they to be defenceless in the financial legislation? That is the question which next forces itself upon us. If it is
conceded as a matter of reason - and I think it is by the majority of the Convention—that these interests are existent and therefore deserve preservation in ordinary legislation, how is it that these claims are not to be regarded in legislation relating to money? We know there are a number of propositions of legislation containing money proposals that commonly come under the name of Money Bills. They are, however, erroneously so called. There are many Bills which have for their object the making of a tax or appropriation, and they are Money Bills pure and simple. There are others which are for carrying out general projects of legislation, and which contain money provisions which will be charges on the people—provisions which are incidental to the carrying out of a higher legislative object. They are not Money Bills, though they are so called, but they are precisely the class of Bills in regard to which, without any infringement of the principle of constitutional government, a free hand to amend or veto in detail must be conceded to the States Assembly representing the different States. But I concede this at the outset: that if the principle is adopted which I suggested in opening this debate, and the suffrage of the electorate of the Senate is left in the hands of each individual State, we may get a House of the States a little weaker by the operation, because you may not secure that the House of the States will be representative by the direct action of the voters in the States - you may have some of them elected, for instance, by the State Parliament, some of them in various other ways, and there may be direct and indirect representation. But if you concede that the House of the States is to be chosen by the direct action of the electors, for the whole of the colony without the restrictions of electoral districts, then you have the principle of popular representation absolutely faithfully preserved in the Senate. Therefore there is very much more reason why we should concede the principle that they should have the same hand in moulding the financial legislation of the Commonwealth. Just as the National Assembly rests upon the individual citizenship of the people, the States House, although it rests upon the action of the States as entities, if it is elected on a popular vote upon the widest possible footing, cannot be distinguished from the House of Representatives in the attribute of popular representation. Can the States Assembly be less representative when elected on that basis than the House of Representatives? If this is so, then we have to face the dilemma raised by Sir John Downer, who put it that supposing it were conceded that under a bi-cameral Constitution the predominance must be given to that Chamber which represents the citizenship of the people, meaning the National Assembly; yet if we had a Second Chamber, in which the citizens of the States were equally represented, how were you to say it was a compliance
with the idea of popular representation that the money power was to be wholly in the hands of one? I admit the difficulty, and I am not prepared with so ready an answer as some, because although it might be urged that the citizen does not pay twice over when he pays the Commonwealth tax which originated in the popular assembly, still, he cannot forget that although a citizen of the State he has to pay that tax.

Mr. ISAACS:

Is not the true principle of federation this: that you first select such matters as are all admittedly collective interests, distinct from purely local interests, and then in the legislation in regard to these matters you endeavor as far as possible to obliterate what are, after all, merely arbitrary lines.

Mr. BARTON:

I think my friend has stated the principle with correctness. But the position remains the same. It is inevitable that almost every project of law will have the appearance of benefiting or injuring some individual State, and, if that proposition be, accompanied by proposals involving expenditure or the raising of money, there should be some representation of State interests in the Commonwealth.

Mr. ISAACS:

Put it there for protection.

Mr. BARTON:

You put it there for protection, and if it is to be a protection it must be one that can be effectively exercised, and effectively exercised in all the turmoil of legislative action.

Mr. ISAACS:

Not necessarily.

Mr. BARTON:

It is not necessary that it arises on every occasion, but there are very few occasions on which, when you deal with a question which affects as a whole the Commonwealth, there will not be some interests of a State involved demanding protection - perhaps not seriously assailed, perhaps seriously assailed-but it is after all for those who represent the people in the State to judge of that and accord it the protection which they deem necessary. That is all I claim. I am not now contending against the principle of responsible government. I wish it to be distinctly understood that I believe that all that is necessary can be done, and yet with the doing of it all we can preserve the principle of responsible government. Sir John Forrest put the matter in a very practical light when he said:

If you have a National Assembly elected by the individual citizens, by districts and in proportion to population, and if you have the entire
population of each State on a similar suffrage electing its equal quota to the Senate, which will be the people's House?

Some say the National Assembly under such circumstances would be the people's House; others say that both would be the people's Houses. There are some, however, who will be of opinion that the people will stand better on two legs than one.

Mr. REID:

It would not do to fight one another, then, would it?

Mr. BARTON:

I think the man who owns both legs will take care. I think the gentleman concerned who is both a citizen of the Commonwealth and the citizen of a State, may very well be left to take care of his pair of legs and see that one does not inflict damage on the other. But you must take care not to make him lopsided, though some of your propositions go that way.

Mr. O'CONNOR:

He will have to put his best leg foremost.

Mr. BARTON:

Yes; but what I would suggest is that you had better let him find that out for himself. If you elect your quota to the Senate on your widest suffrage and without division of your electorates, does that representation rest on citizenship or does it not? If it does, it must be allotted the power which accompanies Citizenship. If it does not, why and how does it live? I have urged before that we must rely on responsible Government. In 1891, as well as now, I have conceded that the ultimate responsibility may have to be in one House only; but I believe we must choose between responsible Government and the Swiss or the United States system; and I believe we can make provision here which may result in the operation of responsible government. Sir John Downer appears to think we can do that, and yet make the Executive of the day responsible to both Chambers. I do not at present see how that could be worked out, and we must, therefore, face the problem of constituting for ourselves that responsible government under which we have been accustomed to live, and of endeavoring to make it a principle of the federal system, or adopt Sir Richard Baker's suggestion, and take in an adaptation of the Swiss principle, which is founded on the American, or an adaptation of the American principle itself. Now it has been well, and thoroughly well pointed out, that the American form of constitution was an attempt to photograph the English Constitution, under which men who had broken away from the empire were then living. The ideals of responsible government had not then been reached. If that constitution had been made much later, there would be a much nearer approach to the responsible form of government than in that constitution.
As for the Swiss Constitution, I do not believe that they had reached in the latest development of their constitution a proper conception of the safeguards of liberty embodied in the English Constitution. They made some sort of copy of the United States Constitution, but are we to resort to that any more than they did? It is too much of a far cry for us, and we have advanced too far in political development and political thought to go back to the United States system for our Executive. As to the idea of doing away with party government by adopting the Swiss form, let us look at the facts. I will give an illustration and imagine the application of that Constitution to ourselves. Suppose the leading questions of the day were protection and free trade. You want a Parliament of 100, out of which you get your Ministry. We must suppose there is a majority for one or the other of those principles. Let us suppose that a majority of sixty is in favor of protection, and the minority of forty in favor of free trade. Will anyone tell me—will any of you who have been accustomed to the British Constitution to give effect to your party ideas and votes tell me—that when you come to the election of your Ministry under the Swiss form of government you will not vote by ticket for a set of Ministers to reproduce that power of partisan government, without which you have been unable to live hitherto?

Mr. ISAACS:

Unless as in Switzerland they are mere heads of departments.

Mr. BARTON:

They occupy a much more restricted place, and this in itself is a total subversion of our ideas of responsible government, which the people of this country would not look at. I think it was Mr. Symon who in his able speech laid down that you cannot do away with that ideal and that form of political life which centuries of development have given to those who live under the British Constitution, a development which was moulded by their fathers; and if you import anything like the Swiss or the United States Constitution into ours you would not be able to do away with party government, because the conditions under which you live would assert themselves.

Sir RICHARD BAKER:

The Federal Constitution is not the British Constitution.

Mr. BARTON:

I do not say it is, but it is our bounden duty to work out our salvation by a form we know best in preference to that about which we know little. If we are to place the ultimate responsibility in one House, and we have a form we know and can wield, we are bound to try and work out our salvation by
that; and, although it may be an experiment as regards Federation, it is better to take as an experiment the application to the Federal system of the well-known form of responsible government than to make the double experiment of adapting to one new system—that of Federation—a second system borrowed from Switzerland or America and foreign to the habits and unsuited to the genius of our people.

An HON. MEMBER:

You subordinate Federation to responsible government.

Mr. BARTON:

I do not think I do, because I have not expressed myself fully on it. We must choose between that form of responsible government and the Swiss and United States systems, and I cannot believe that our people, while adopting the federal system, which I believe can be made a cohesive and lasting form of government, can at the same time adapt itself to the Swiss or United States form of internal government.

Mr. DOBSON:

Would it not adapt itself to the fact that it has to get the consent of both Houses?

Mr. BARTON:

I am urging that you ought to give a larger power to the States Council than to the Upper House.

Mr. DOBSON:

The French Senate have turned out a Ministry.

Mr. BARTON:

They may have done so, but if you only look to the operation of the French system you will see that under it there are a few more changes of Ministry than changes of season, and we do not want that. We do not want anything that will operate to substitute the unstable for the stable. We do not want, either, a system under which, when the Government may be corrupt or blind to the convenience and interests of the people, the people are deprived of the sacred privilege of turning it out. The people of these colonies are too well accustomed to their freedom to submit to any kind of rule under which it could be said:

You have to take this man as your president, and you have to take these men as your Ministry, and they will have to sit there for four years in defiance of your wishes.

We as a people would never submit to it, and we would never submit to any form of government which deprived us of our freedom in case of the
Ministry being proved unfit for their work. I was going to say this, that if we adhere to our ideal of responsible government, and if we adhere to the Cabinet system, there is nothing to prevent the States Assembly having much larger power in money matters than we would give to a local Upper House. Why should we not secure to a certain extent veto in detail to the States Assembly without violating responsible government? I am convinced that there is a way to do it, and if there were no other I have only to look to the Bill of 1891 to find a way. It has been called a compromise. In chapter I., clauses 54 and 55, these conditions are contained, and I think it is well to read them before we go into Committee, because it is advisable that we should all know what was done in 1891. Clause 54 says:

Laws appropriating any part of the public revenue, or imposing any tax or impost, shall originate in the House of Representatives.

Clause 55 says:

The Senate shall have equal power with the House of Representatives in respect of all proposed laws, except laws imposing taxation and laws appropriating the necessary supplies for the ordinary annual services of the Government:

This does not propose that Tax Bills or the Annual Appropriation Bill should be amended. It goes on to say: which the Senate may affirm or reject but may not amend. But the Senate may not amend any proposed law in such a manner as to increase any proposed charge or burden on the people.

I think the Senate would generally be found, in such a Constitution as will be evolved, from what I have heard of this debate, rather prone to prevent unnecessary taxation and unnecessary expenditure. The second part of the clause says:

Laws imposing taxation shall deal with the imposition of taxation only.

The third:

Laws imposing taxation, except laws imposing duties of Customs on imports, shall deal with one subject of taxation only.

The Customs Bill may be considered as dealing with one subject, although there may be many items in it. The fourth part of the clause says:-

The expenditure for services other than the ordinary annual services of the Government shall not be authorised by the same law as that which appropriates the supplies for such ordinary annual services, but shall be authorised by a separate law or laws.

That is to say that the ordinary annual Appropriation Bill shall contain only the ordinary appropriation for the services of the year and if there are other appropriations they must be sent up in separate Bills.
Sir GEORGE TURNER:
That is difficult to define.

Mr. BARTON:
It is no doubt difficult, but I do not think it is very difficult.

Mr. ISAACS:
If the question were to arise before the court regarding the inclusion of other appropriations it might render the Act null and void.

Mr. BARTON:
This Act if passed will be agreed to by the Imperial Parliament—the sovereign Parliament of Great Britain.

Mr. ISAACS:
If the hon. member will permit me I will make myself clear. A Bill passed by the Federal Parliament may contain something which the court may hold renders it null and void.

Mr. BARTON:
It is possible, but if that is his only objection I think the hon. member will find that the Committee will seek to make this clause more strict and binding. It lays down a principle, however, which I approve, and surely there is enough skill in constitutional law and draughtsmanship amongst us to make what is meant in this clause so definite that the court would have no doubt about its construction.

Mr. O’CONNOR:
The difficulty may be between the two Houses.

Mr. ISAACS:
The Bill may pass and someone take exception to it, with the result that the Supreme Court may set it aside.

Mr. BARTON:
There is enough ability in this Convention to define that matter in such a way that we may have still the advantage of such a provision. Then comes in another sub-section to which much exception has been taken in this Convention. It reads:

In the case of a proposed Law which the Senate may not amend, the Senate may at any stage return it to the House of Representatives with a message requesting the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications.

The objection my friends, Sir George Turner and Mr. McMillan, have taken to this clause is that if the suggestions are rejected the States House would be belittled. I do not follow that at all. I do not see how if one House rejects the proposition of the other, as must continually be the case in
matters where their powers are co-ordinate, the other House is belittled.

Mr. SYMON:

Make it "amendment" straight out.

Mr. BARTON:

You must look at it in this way, that you would then give power to amend Taxation Bills and the Appropriation Bill, but I do not think a majority of members will agree to that. We have to make our machine workable whatever we do, and I for one think that if the Bill contains only the annual expenditure for ordinary services of the year, it would be not only a very serious thing, but an extremely culpable thing, for any House to reject the ordinary annual services for the year. If you come to a Bill for the ordinary annual services under provisions like these, which put "tacking" out of the question, there can be no excuse except resentment or revenge for rejecting it. If, therefore, you take this power of suggestion as applying merely to a Taxation Act and the ordinary annual Appropriation Act - for those are the only cases in which amendments under this proposition of 1891 are not allowed-surely it is power enough to give when you remember that a veto or rejection would be a thing which would throw the whole country into confusion, and would only be proposed on account of resentment or revenge. The government of the country must be carried on, and with the government its public and annual services, and if those Bills which involve the salaries of the public service and ordinary appropriations were to be rejected, why-Senate or no Senate-the whole country of Australia, with a voice as strong in the smaller States as in the larger States, would condemn such a course. It is only in respect to these two matters this power of suggestion has been proposed. I find in the "Practice of the Legislative Council of South Australia," written by the very learned Clerk of this Convention, Mr. Blackmore, the nature of the compact which has actually been between the two Houses from 1857. It is not a Statute, but it exists in such a way that it can be understood. Hon. members will find it on pages 182 and 183 of that book. I will refer hon. members to another book, the "Practice of the House of Assembly," in which Mr. Blackmore, on pages beginning at 333 and going on for some dozen pages or more, has defined the whole process of the negotiations which took place, and has given in full the resolutions and messages of both Chambers. I am informed-and I think there are gentlemen in this Chamber who can say whether I am right or wrong-that this plan has worked with considerable success in South Australia. Mr. Playford, now Agent-General for the colony in London, but then Premier of South Australia, made strong reference in the debates in 1891 to the question, and I am further informed
that while there have been occasional differences in the carrying out of this work of legislation, and making suggestions—the House to whom the suggestion is made either adopting or rejecting them—the average result has been an improvement in the relations of the two Houses, and a considerable improvement in many cases of the legislation sent from one House to the other. I really cannot see why the adoption of the process of suggestion should belittle either House. In those cases in which suggestion was provided in the 1891 Bill I would not concede the power of amendment, but the power of suggestion there sought to be given to the Senate is one that we might well import into the Constitution as a means of settling differences, to prevent such a calamity as a deadlock or the rejection of the ordinary Appropriation Bill.

Mr. Reid:
It is just possible that the power of suggesting these amendments might provoke that calamity.

Mr. Barton:
We must not be so conservative as all that; and I do not think my friend is generally so conservative. I do not think if we see a proposition made which has worked well in the light of experience—

Mr. Reid:
We do not get it here.

Mr. Barton:
Well, we have very good authorities. We have such authorities here as Sir Richard Baker.

Mr. Reid:
Hear, hear.

Mr. Barton:
And Mr. Playford. Mr. Reid: Hear, hear, and Mr. Blackmore.

Mr. Barton:
Mr. Playford is a politician of long experience, and has held high positions here. I say why should we hesitate to adopt such a plan when it is a proposal which, on the face of it, is consistent with, and has a tendency to, courtesy and good feeling between the two branches of the Legislature? Surely we will adopt that proposal, instead of running away from any difficulties which we cannot very well state, but only imagine, while we have before us the fact that it has promoted courtesy and good faith in legislation.

Sir John Downer:
That is only compromise.

Mr. Barton:
I dare say it is compromise. I am not so uncompromising as my hon.
friend Sir John Downer, or some other gentlemen who sit near him; but I may say that I honour gentlemen who, having once arrived at opinions, are reluctant to give them up readily. I think, however, that we are here to compromise, and, that we shall have to compromise to obtain the assent of those who sent us here to do what we are doing. It is said that to concede the powers of which I have spoken, would impair responsible government. I cannot say, nor can any man, that that would be the effect. If the object is to have responsibility to one House alone, I say the responsibility is not taken away from that House. We should not withhold the power to amend in the case of Bills which are not strictly Money Bills. The additional power is in the cases of certain classes of Money Bills, to have them sent up separately as to the objects which each defines with the power of rejection or veto as to each Bill separately sent up, instead of having them sent up in such a state that the Second Chamber would only have the intolerable and unfair alternative of either rejecting the Bill—which, though it might contain a legislative proposal which would be distasteful, might also contain a quite separable proposal with which it would agree—or else accepting a taxation they believed to be injurious to the community in order to pass the proposal to which they did not object. We should at all hazards avoid this. Why should there be such a difficulty about there being a veto allowed in matters of detail. Veto is no such uncommon thing. I believe it exists in the Imperial Parliament. May, under the head of "Rejection by the House of Lords of Provisions Creating a Charge," says:

The right of the Lords to reject a Money Bill has been held to include a right to admit provisions creating charges upon the people when such provisions form a separate subject in a Bill which the Lords are otherwise entitled to amend. The claim of privilege cannot therefore be raised by the Commons regarding amendments of such Bills, whereby a whole clause, or series of clauses, has been omitted by the Lords; which, though relating to a charge and not admitting of amendment, yet concerned a subject separable from the general objects of the Bill.

So it is here, if two legislative proposals for expenditure outside the annual services of the year, or two propositions for taxation are submitted. If they are embodied in one Bill, I take it, it is an unfair provision, because it does not enable the Senate to exercise its power of veto on one proposal, though it may not be in favor of both.

Sir GEORGE TURNER:
One might depend entirely on the other.

Mr. BARTON:
That would not be a case of two separable propositions.
Sir GEORGE TURNER:
Take the Land and Income Tax Bill.

Mr. BARTON:
They are proposals which should never be in one Bill together. If there are two propositions more dissimilar in their incidence than a land and an income tax they are hard to suggest. One of them—the income tax—comes from the earnings or profits of the people, or of that portion of the people who, I was almost guilty of saying, are to "hump the swag"—at any rate they are to bear the burden. But the other—if a tax on the unimproved value of land—has no relation to the earnings or the thrift or the solvency of the person owning the land, and taxes that land on its unimproved value whether the owner makes a profit out of it or not. I am not attacking these forms of taxation, but I do say this: that it is impossible to imagine two taxes more diverse their very root, and I think Sir George Turner could not have selected a better example of two taxes which ought not to be included in one Bill. I venture to say this is undoubtedly cutting down the right of the Senate to protect the State, and preventing them from voting upon matters that should be put separately. I believe most of these matters have been well, and fairly dealt with in the Bill of 1891. I know some members are ready to accept the proposal providing that a referendum is also prescribed. I will go into that directly. have heard it said that if there are two Chambers in the Federation, and a proposal is carried in one by a majority, and in the other Chamber, representing the States, the majority of the representatives, who do not represent the larger population, negative the proposal, that House takes control. We have heard it said that if there are two Chambers in the Federation, and a proposal is carried in one by a majority, and in the other Chamber, representing the States, the majority of the representatives, who do not represent the larger population, negative the proposal, that House takes control. We have heard it said that veto means control; I think we have heard it argued here, and I ask those who think the right of veto means the right of control to consider this question: Will they in their own colony allow the second Chamber to have the sole right of initiation and amendment of Money Bills, and agree that they keep control of the Government by giving only the veto to the Lower House?

Mr. HIGGINS:
That is not the argument at all.

Mr. BARTON:
That is very often "not the argument," which cuts too near home. It may not be argued here in so many words, but it is asserted out of doors over and over again that where you have the majority in the one House affirming proposals, and representatives in the other House—of course these will be representatives—which re-

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resents the vote of the majority of the States, but not necessarily of the people rejecting them, then that House takes away the control from the
Lower House in matters of taxation and expenditure. No more absurd proposal could be laid down, and if it were true then the very converse shows what would be the effect.

**Mr. TRENWITH:**

Suppose the Victorian Assembly resolved upon the adoption of free trade and the Council persistently rejected it, does not the Council control the people of Victoria, and compel them to continue in a direction against their wish?

**Mr. BARTON:**

Yes, in a sense; but not in the sense in which it is proposed. Put it the other way: if there is a reluctance in one Chamber to initiate a proposal that is in accord with the public wish, and which the other Chamber would pass, that is controlling the people as much against its will as it is possible to imagine.

**Mr. ISAACS:**

The answer to that is that the popular House is supposed, so long as it lives, to represent the popular will.

**Mr. BARTON:**

If you have two Houses, both elected upon a popular vote, which are you going to say is the popular House?

**Mr. ISAACS:**

Are you not forgetting the rights of representation?

**Mr. BARTON:**

It does not apply in this case, because in one you represent entities and in the other population; because one represents individual citizens and the other represents the States by the vote of the majority of their citizens. If you put the House that represents State entities upon a popular basis you cannot say it does not represent the population.

**Mr. TRENWITH:**

It represents individuals in the ratio of ten to one.

**Mr. BARTON:**

It is a contradiction in terms. Talking about ten to one does not change the matter a bit. We might just as well be in a bookmaker's ring to hear that. Both represent the people, and among them both represent the whole people.

**Mr. SYMON:**

It would not make a wrong horse win.

**Mr. BARTON:**

I am not trying to discount the principle that the Government must be responsible to one House, but within the operation of that principle we can grant much greater liberty to a Chamber which is one of the essentials of
the Federation than we could give to a Chamber which is not one of the elements of any Federation. We are told of the difficulty of persuading electors to adopt a measure founded on compromise. I admit that upon this matter, if we are to be successful, we must compromise. My hon. friend Mr. Carruthers was right when he said there is always a difficulty in persuading the electors to accept a measure founded on compromise. But we must face that difficulty, because we cannot make a Federal Constitution without compromise. We must be ready—as we start from this point at the termination of this debate—to submit our views to compromise, provided we do not give up a principle which is so dear to ourselves, and so much an essence of our political action that it cannot be foregone at any price. But if there is a difficulty to get the electors of one State to agree on a measure founded on compromise, I ask is not every great measure founded in that way? But if our measure is not fa [P.387] starts here cause the sword is in the hand of the other party.

**Mr. ISAACS:**

The other party may not have a sword.

**Mr. BARTON:**

Then the shield would not be asked for. True, the shieldless party might wake up from a nightmare when the gas is out, and, having seen a sword in its sleep, it might reach out for a shield. But is that the way the hon. member wishes us to take him?

**Mr. ISAACS:**

We offer them a shield.

**Mr. BARTON:**

Yes, on the condition that you have the sword. I would like to carry my friend a little further. Of what use is the shield if the sword is persistently wielded? If the shield is in the hand of one party and the sword in the hand of the other, I know which is likely to die.

**Mr. REID:**

It is of some use, you know, if the fellow who has the shield does not die for six years anyhow.

**Mr. BARTON:**

I think he is very likely to die if he only has a shield whilst the other fellow has a sword. Even my hon. friend would be capable of the active exercise which would give him victory in such a case.

**Mr. REID:**

I would have to go on killing him for six years, and then he would not die.

**Mr. BARTON:**
The sword is not drawn yet, and Mr. Isaacs may talk about a shield, which Mr. Solomon suspected was made of cardboard. But I would like the hon. gentleman to analyse this expression; because if it is true that there are States amongst us who want a shield, that can only be because there is a sword in some one else's hand. I do not think my hon. friend has put the situation exactly in that case. If there is to be a battle, it is right that both parties should wield swords, and that both should have a shield; otherwise they would not be equal contracting parties to the fight. Is it fair to ourselves, however, that we should consider a matter from that standpoint? I think not. On the other hand, we are going into these subsequent discussions, which I hope will result in some concessions being made on all sides, so that, as a result of our deliberations, we may find that none of us want shields or desire to carry swords. We ought to enter into these negotiations with such ideas obliterated—negotiations which can only be successful if all elements of that kind be swept away—and I should like them to come like peaceful citizens to the banquet, and not say before they sit down, "Wait for a moment until I go and fetch my bludgeon."

Mr. ISAACS:
The sword illustration is an imaginary one all round.

Mr. BARTON:
I am sure my hon. friend does not mean it in any other sense. It is said that under the system which is proposed there will be deadlocks, one expression used during the debate being that

We must provide for them or the machinery will go to pieces.

There was a quotation from a speech by Mr. Gladstone partly used by my hon. friend Mr. Clark, the representative of Tasmania, yesterday, and which was also used by Sir Henry Parkes at the Convention in 1891, and it is a very useful one when we consider the stage at which we have arrived. I will only quote the latter part of it. It is as follows:—

The undoubted competency of each reaches even to the paralysis or destruction of the rest. The House of Commons is entitled to refuse every shilling of the supplies. That House and also the House of Lords is entitled to refuse its assent to every Bill presented to it. The Crown is entitled to make a thousand Peers to-day and as many tomorrow; it may dissolve all and every Parliament before it proceeds to business; may pardon the most atrocious crimes; may declare war against all the world; may conclude treaties involving unlimited responsibilities, and even vast expenditure without the consent, nay, without the knowledge, of the Parliament, but in reversal of policy already known and sanctioned by the nation. But the assumption is that the depositories of power will all respect one another; will evince a consciousness that they are working in a common interest for
a common end; and they will be possessed, together with not less than an average intelli-
geance, of not less than an average sense of equity and of the public interest of right. When these reasonable expectations fail, then, it must be admitted, the British Constitution will be in danger.

Mr. TRENWITH:
That assumption has sometimes been falsified.

Mr. BARTON:
Every assumption is more or less falsified in politics. There is only one way out of the difficulties of Legislatures, and that is to make them the depositories of common sense when they know who their master is, when they know under what principles they are there, and when they know the limit to which reasonable objection can extend. While there have been instances of conflict having been carried beyond reasonable grounds, the clause I have read from the Bill of 1891 provided against the possibility of the recurrence of cases of that kind, or almost the possibility, and, for the rest, if we must provide for deadlocks—and it seems to be a large portion of the intention of this Convention to provide for deadlocks—we are referred to the Teutons. I have the book, "The Growth of the British Constitution," which my learned friend Mr. Isaacs referred, and I should like to read one passage which shows the circumstances under which we get something from the Teutons. On page 8 the author, Mr. Freeman, says:—

In the institutions of Uri and Appenzell, and in other of the Swiss Cantons, which have never departed from the primeval model, we may see the institutions of our own forefathers, the institutions which were once common to the whole Teutonic race, institutions whose outward form has necessarily passed away from greater States, but which contain the germs out of which every free Constitution in the world has grown. Let us look back to the earliest picture which history can give us of the political and social being of our own forefathers. In the Germany of Tacitus we have the picture of our institutions of the Teutonic race before our branch of that race sailed from the mouths of the Elbe and the Weser to seek new homes by the Humber and the Thames. There, in the picture of our forefathers and brethren, seventeen hundred years back, the full Teutonic assembly, the armed assembly of the whole of the people, is set before us well-nigh the same in every essential point as it may still be seen in, Uri, Unterwalden, Glarus, and Appenzell. One point, however, must be borne in mind. In the assemblies of those small Cantons it is only the most democratic side of the old Teutonic Constitution which comes prominently into eight. The Commonwealth of Uri, by the peculiar circumstances of its history, grew
into an independent and sovereign State. But in its origin it was not a
nation; it was not even a tribe. The Landesgemeiden of which I have been
speaking are the assemblies, not of a nation, but of a district; they answer
in our own land, not to the assemblies of the whole kingdom, but to the
lesser assemblies of the shire or the hundred. But they are not, on that
account, any the less worthy of our notice; they do not, on that account,
throw any less light on the common political heritage which belongs alike
to Swabia and to England. In every Teutonic land which still keeps any
footsteps of its ancient institutions the local divisions are not simply
administrative districts traced out for convenience on the map. In fact, they
are not divisions at all; they are not divisions of the kingdom, but the
earlier elements out of whose union the kingdom grew. Yorkshire by that
name is younger than England, but Yorkshire by its elder name of Deira is
older than England; and Yorkshire or Deira itself is younger than the
smaller districts of which it is made up, Craven, Cleveland, Holderness,
and others. The Landesgemeinde of Uri answers, not to an assembly of all
England, not to an assembly of all Deiri, but to an assembly of Holderness
or Cleveland. But in the old Teutonic system the greater aggregate was
simply organised after the model of the lesser elements, out of whose union
it was formed. In fact, for the political unit, for the atom which joined with
its fellow atoms to form the political whole, we must go to areas yet
smaller than those of Holderness and Uri. That unit, that atom, the true
kernel of all our political life, must be looked for in Switzerland in the
Gemeinde or Commune; in England-smile not while I say it-in the parish
vestry.

Mr. ISAACS:

But he says, notwithstanding that, it forms the basis of the whole political
Constitution, and he says more, that we are coming back to it.

Mr. BARTON:

We go to the Teutons for the referendum. These are the circumstances
under which the referendum arose, and why should we be told to go to the
Teutons to seek for such expedients? It was said by one hon. member

[644] that our modern dissolution arises out of the referendum. It may arise out
of it, but the germ of the modern dissolution is not in the referendum. I
think it was Mr. Trenwith who attempted to show that the referendum was
applied through the power of dissolution.

Mr. TRENWITH:

I said it was an application of the principle, but in a clumsy manner.

Mr. BARTON:
He proceeded to argue that the germ of it was to be found in the referendum.

Mr. ISAACS:
I do not think you are doing Mr. Trenwith justice.

Mr. BARTON:
I think I am. I had a note which I made at the time, and on which I am making this statement.

Mr. TRENWITH:
I did not use the word "germ" at all.

Mr. BARTON:
Mr. Trenwith is such a fair debater that I must be more than abundantly fair to him. If I have misquoted him, I apologise; but my argument is not affected. We have been asked to go to the Teutons, but I suppose there were others before the Tuetons who decided matters in the same way.

Dr. COCKBURN:
Greece and Rome.

Mr. BARTON:
And others before them. Wherever you found a tribe congregated together the affairs of that tribe were settled by their little referendum, and we may go back to the cave-dwellers, who were quite as familiar with their referendum as with their megatherium. How does that recommend the referendum to us? We are told that we have gone back 100 years to the time when men were imprisoned for sedition by advocating short Parliaments and manhood suffrage, but if it is a sin to go back 100 years, which I claim we have not done, what term must be applied to that sort of political research which with a political spade and mattock goes to dig up the referendum from amongst the bones of the megatherium.

Mr. ISAACS:
My hon. friend misunderstood me. My advocacy of the referendum rests on its utility and its application to our Constitution.

Mr. BARTON:
It would be an unwieldy thing for our higher civilisation, and would only be the means of promoting trouble and inconvenience. The principle of the referendum is found embodied not in our Constitution, but in our very Parliament itself. The referendum was the casual meeting together of the nomadic nations for the purpose of settling emergent questions, but when population increased, it was no longer possible to gather the tribe together under a tree or to learn the will of these small democracies by calling them together, it was found necessary to appoint representatives to settle matters. That principle we have in our form of referendum by parliamentary elections. As much as we want of the referendum we have in our
Parliament, but some members wish us to go back to the rude implement of the nomad tribes, which is altogether too unwieldy and unsuitable for our more highly civilized form of Constitution.

We have found it necessary for Federation.

Mr. BARTON:

Is it not a fact that a pertinent question has been put to every gentleman who has spoken which he has found it almost impossible to answer.

Suppose your referendum or your other expedient to be tried, and still there is no agreement, what would you propose?" has been the question, and he says:

I do not know;
or else he says:
Resign or dissolve.

We do not want the referendum if we want responsible government, and I cannot reconcile in my mind, if I may say so with every respect, the attitude of those who so earnestly insist upon the preservation of responsible government in our Constitution, and yet want to give the referendum a greater influence in it even than at present.

Mr. ISAACS:

Responsible government means responsibility to the people.

Mr. BARTON:

Who has denied it? Why does the hon. member trouble me by telling me that responsible government means responsibility to the people? My learned friend has misunderstood my remarks from the start, as all through I have admitted that the ultimate responsibility must be to the National Assembly, and I do not need the instruction from my friend that responsible government means responsibility to the people.

Mr. TRENWITH:

And when your legislative machinery cannot agree in its various parts how are you to get the will of the people without reference to them?

Mr. BARTON:

When our legislative machinery does not agree in its various parts, I believe in the expediency of a dissolution far more than in the expediency of the referendum. I am perfectly agreeable to the referendum as a means of deciding the national will in certain events. When it comes to a question whether a new Constitution shall be created, or when the citizens are asked whether the Constitution shall be changed, then I admit that you may as well take the vote, because of the unique character of the decision, and because in such cases it does not whittle away the principle of responsible government; but when it comes to an everyday matter I do not see the
Mr. REID:
It does not follow from that that it is not a good modern implement.

Mr. BARTON:
I do not think my learned friend need to have told me that, because I do not admit the advantage of the application of the referendum in a general way; for the referendum for an ordinary question is unwieldy and too expensive.

Mr. WISE:
If you have enough referendum you can dispense with, Parliament altogether.

Mr. TRENWITH:
It would cost less than a dissolution at any time.

Mr. BARTON:
If it costs as much as a general election in New South Wales it will cost about £40,000, and I suppose it will cost £20,000 or £30,000 in Victoria.

Sir GEORGE TURNER:
It will cost less than that in Victoria.

Mr. BARTON:
I do not want to continue this speech at very great length. I want to finish within a reasonable time, and would point out to my friends opposite, as I have already pointed out, that the referendum may be resorted to when the matter is one like that of the making of a new Constitution, or when it is such a matter as the acceptance of a new Constitution or the amendment of the Constitution in a vital particular; but for daily use, it is certainly an inconvenient, an unwieldy, and an unnecessarily expensive implement. And I also contend, that with regard to the amendment of the Constitution or the acceptance of a new Constitution it is not in conflict with the principle of ministerial responsibility, and when you find any such conflict, then you should give up one or the other. Let us see what becomes of the referendum when applied in its fullest sense. Let us take the referendum as a court of appeal between the two Parliaments as a substitute for ministerial, dissolution, or facing the people, what is the result then?

Mr. FRASER:
Or the reduction of a number of members in the colony of Victoria.

Mr. BARTON:
That is the longest stretch of inference I have heard in the debate. What is the result of it upon the principle of responsible government? Our general conclusion is that if a Ministry cannot carry on without the confidence of the country it ought to resign. When a Ministry finds it is in conflict with the popular branch of the Legislature, and not with the other, and that the
difference cannot be solved, in ordinary circumstances it could resign, and
make way for those who can carry on the Government, or it
would dissolve and ask for a renewal of the confidence of the people; but if
the referendum is made an ordinary means of evading an appeal to the
people, the Ministry may have its vital measures rejected; but on the Swiss
plan that Ministry may stay in office as long as it likes, though it may be
defeated on the referendum over and over again. Will anyone tell me that
that is compatible with the principle of responsible government. Does it not
undermine that very principle? Does it not sap it? If a Ministry can stay in
office by a continuation of those processes -and at enormous expense,
mark you-after having its measures rejected, and can say, "We shall wait
until the expiry of our Parliament, when the people will support us.
Certainly we have lost our Land Bill, our Railway Bill, and our Customs
Bill, but the people will support us." Cannot hon. members see that so long
as that process goes on that Ministry which should have accepted its
responsibility and faced the people can stay in office and flout that very
principle which those who want this concession say still should be
implanted in our Constitution as an essential of British political
Government? Let me go a little further. What a convenient institution, it
has been suggested to me, that is to save an hon. member from making up
his mind. We have our real referendum in our system of Parliament which
has led to the outgrowth of responsible Government, but to hold up this
other expedient to save shivering Ministries and the very souls of trembling
legislators, is not the principle we want embodied in our Constitution. We
do not want to go back 1,700 years, after the magnificent political
development which has occurred. When we want to plant responsible
Government in our Constitution we do not want to dig up from some depth
or other a poison which is to destroy that noble tree. I should like to say a
little more about this referendum. I should like to apply another allusion of
Freeman's to it. In his description of this tendency of growth, Freeman
says:

Everywhere we find the king, the senate and the assembly of the people,
and the distribution of power is not essentially changed when the highest
personal authority is transferred from the hands of a king chosen for life to
the hands of consuls chosen for a year. The likeness between the earliest
political institution of the Greek, the Italian, and the Teutonic, is so close,
so striking in every detail, that we can hardly fail to see it in possession
handed on from the earliest times, a possession which Greek, Italian, and
Teuton already had in the days before the separation, in those unrecorded
but still authentic times when Greek, Italian, and Teuton were still a single
people, speaking a single tongue.

Here we have the King, here we have the Senate, here we have the Assembly of the people; but because of our greater number and because of our civilisation, the Assembly of the people is an elected body, and not a mere gathering of warriors clashing their spears. Freeman goes on:

I have referred more than once to the picture of our race in its earliest recorded times, as set before us by the greatest Roman historians in the Germany of Tacitus. Let me now set before you some special points of his description in his own words, as well as I am able to clothe them in an English dress.

Here is Freeman's translation of the passage from Tacitus:

They chose their kings on account of their nobility, their leaders on account of their valour. Nor have the kings an unbounded or arbitrary power, and the leaders rule rather by their example than by the right of command; if they are ready, if they are forward, if they are foremost in leading the van, they hold the first place in honor.

That is not to be gained by giving them irresponsibility. Then Freeman goes on:

On smaller matters the chiefs debate, on greater matters all men; but so that those things whose final decision rests with the whole people are first handled by the chiefs. . . . The multitude sits armed in such order as it thinks good; silence is proclaimed by the priests, who have also the right of enforcing it. Presently the king, or chief, according to the age of each, according to his birth, according to his glory in war or his eloquence, is listened to, speaking rather by the influence of persuasion than by the power of commanding.

And listen to this:

If their opinions give offence they are thrust aside with a shout; if they are approved the hearers clash their spears. It is held to be the most honorable kind of applause to use their weapons to signify approval.

Now we know why the shield is wanted and the sword is wielded.

Mr. ISAACS:

It is very clever, but very unfair.

Mr. BARTON:

It is not unfair; I have not twisted any argument, but my friend is astonished to find his arguments lead to certain conclusions.

Mr. ISAACS:

Will the hon. member hear me for a moment?

Mr. BARTON:

When I have finished my speech; I think he has interrupted me quite
enough. I have said enough to explain certain affections for the referendum by those who say they have an affection for responsible government. Give us responsible government, but, in heaven's name, give it to us entirely intact, and not coupled with those conditions which make for its early undoing. Let us crawl into office as we may, and shelve every question by the referendum so that we and the cowards who support us may hold perpetual office. When the vital question has been asked, "Well, if your referendum shows that you have not both a majority of the people and a majority of the States, what then?" is not the answer, to use a familiar school and college phrase, "I am stumped." Well, then, if you must have some way out of a deadlock, if the common sense which Mr. Gladstone was satisfied to trust is not to be imputed to our federated people, if you must have some little patent fastened on the boiler, let us select the easiest and cheapest way. The real way out of the difficulty is conciliation, conference, and common sense; but if you want a manufactured way, let us have the easiest and cheapest way out of the difficulty; and I would rather have the system proposed by Mr. O'Connor. I do not say I advocate that. I cannot see any satisfactory solution in the referendum, because if the House of Representatives represents the people, and the Senate represents the States, we shall have the same answer from the referendum as from the Legislature; and the right thing to do when you get the answer of the Legislature is to dissolve, and face the people.

Sir WILLIAM ZEAL:
Dissolve both Houses?

Mr. BARTON:
I have not come to that conclusion yet.

Sir WILLIAM ZEAL:
The man who commences the assault should be locked up first.

Mr. BARTON:
If it becomes necessary as we consider the matter in Committee, I may not hold my hand. I believe with Mr. Higgins the time for compromises has not come yet. Now I come to say a last few words, for I will not go into other questions that were debated, because I wish not to press unduly on the time of this House. There was something said by Dr. Quick as to the suffrage to which I wish to give my answer, but I think we can discuss it in Committee, and I should like to appeal to the members upon this question. There is a necessity for many compromises, but it has been well and truly said by Mr. Higgins that the time for compromises was not during the debate. It was a time for uttering our opinions, and these resolutions were framed for that purpose, not, as some suppose, for the purpose of restricting debate, but so that we might touch the essential points, and
everything which springs from them. We have had full and free discussion, and I think we have each treated each other with extreme courtesy. Mr. Higgins said the time for compromises has not come yet, but that is not because we may not afterwards agree in one direction or another. The time for compromise, then, has not come, and therefore the time for fully committing ourselves has not arrived, because our final determination of questions not generally admitted must in nearly every case be a compromise. Why does one say: "Good-bye to Federation if I cannot secure adult suffrage." What necessity for an expression of that kind? Why does another say: "Good-bye to Federation if I cannot secure co-ordinate powers to the two Houses." If we can frame a Constitution which approaches to a true and just Federation, while retaining that principle as to which the majority of us may come to a conclusion that it is vital, why should one say: "I will not have a Federation because I cannot get this"; and another: "I will not have a Federation because I cannot get that." It is the things that are vital that concern us. If anyone will tell us it is vital to the binding together of the various colonies in eternal bonds that adult suffrage should prevail and that every woman should have a vote, even in the colonies where they have not asked for it, I will tell that gentleman that he is misconceiving the purposes for which we have met. We can only arrive at Federation by the securing of principles which are just as essentials, and as regards those matters which are not essentials we should be traitors to our cause if we said we would not take Federation without them. Now, in the true spirit of compromise let us enter upon that stage which is assigned to us if we carry these resolutions, trusting each in his fellows' honesty and patriotism. I would ask the Convention what it is that is at their doors? The state of Europe at the present time is one which borders on a bloody and disastrous war. There are those who have said, and said it so often that the saying of it amounts to a mere fatuity: "Oh, Federation will come some day, and it will only come under the influence of some impelling danger." That phrase has been repeated so often by these people that they cannot see when an impelling danger is in their view. The Marquis di Rudini, the Premier of Italy, has told the Italian people in a manifesto that. "Nothing but the maintenance of the concert of the Great Powers can save Europe from a disastrous war." Are there any of us so utterly bereft of reason that we can not see this: If the nation to which we belong—even England herself - was ever in such a position that her navy was not equal to more than keeping in check the navies of other powers, then would that be the time for us to federate? Seeing such a combination against her, is there any one of us who would care to sit down and say, the
British navy is to be our final protection? Was it so our fathers won what they have? Is it so they have kept it? What ought we to do, then? Are we to fold our hands, and with these smouldering fires, which at any time may burst into ravenous conflagration, full in our view, to say that the danger is not now and near? If any such contingency as that at which I have pointed arises, what will be our duty? What is good enough to have is good enough to keep. If we can enter upon a Federation which will give us those powers of defence—for they will never be aggressive—by which we can repel invasion we can grave for ourselves letters upon the record of the world's history which will tell, till that record is no more, that we are not unfaithful to our trust to the Empire, and not unworthy of the mother who bore us. But if we are to sit down in this languid way and say, "I will not take Federation because I cannot get this pet theory or fad of mine"—of course the man never calls it a fad, I am only translating him—then we shall never gain Federation. If we act in that spirit, or go on refusing the benefits of union which are offered us, then when the fire leaves smouldering and rushes forth in flame we shall be sore grieved that we listened to the idle tongue that spoke such words. This is the time of our danger; every day is the time of our danger. If we were not in a time of danger how idle it is for us to think that it is only with the enemy at our doors that we are to federate, and then only in a crude, ignorant, ill-assorted, and ill-formed alliance, which must only invoke disaster. But when, alert and ready, we have arrived at a fair settlement and have formed a just Constitution, it will be our shield and our pride when the day of attack shall dawn. Let us enter into these committees not with the base thought of wresting this or that from one neighbour or another, but with the pure resolve to accept any reasonable Constitution which will secure for us the justice embodied in the mandate of those who sent us here.

Mr. ISAACS:

On a question of personal explanation I would like to say—

The PRESIDENT:

I think, as the hon. representative of New South Wales has replied, that closes the debate.

Mr. ISAACS:

I do not wish to go against your wish.

Mr. BARTON:

May I support the request of my learned friend. It is my wish that he should have the right of explanation.

The PRESIDENT:
The representative of Victoria can only explain with regard to any material part of his speech.

Mr. ISAACS:

I am sure no one would allow any personal feeling to enter into this debate; it is too noble and too high a matter, and I should be the last one to dream of such a thing. The question that was referred to may be misunderstood, and if I occupy a minute or two I shall not be losing the time or wasting the attention of this Convention.

Sir JOHN DOWNER:

On a point of order I object to this. Any personal explanation no doubt will be allowed, but if we are to be governed by the standing orders I submit that the hon. gentleman cannot give a speech. If the hon. gentleman is misrepresented in any shape or form he can explain it simply.

The PRESIDENT:

The representative of Victoria will only be in order in explaining himself in regard to some material part of his speech; and I ask him to confine any remarks he desires to make to such explanation.

Mr. ISAACS:

I have no desire to transgress the Standing Orders, but I think that in an assembly of this kind a little more latitude should be given in debate than in the technical proceedings of Houses of Parliament. I do not wish to be misunderstood as to the way I based my remarks on the referendum. Not for an instant did I base my advocacy of it upon its ancient origin. I dwelt to a large extent upon its utility and adaptability to our Constitution, and its most recent adoption in America by millions of people since 1890. It is successfully used there. The only reference I made to Mr. Freeman's work was when Mr. Barton said he did not wish to go to a foreign country for his Constitution. It was only a passing remark of mine that, although we based our adherence to that great principle of the referendum, upon its advantages, its inherent advantages and capability of adaptation to our circumstances, it would even then lie open to reproach that it was a foreign Constitution, because Freeman, in whose company I am free to bear any jibes that may be cast, says:

It is deeply embedded in the earliest traditions of the early Teutonic races.

Sir RICHARD BAKER:

I rise to a point of order. I should like to make another speech, and I dare say other representatives would like to make another speech, but they would be entirely out of order in so doing, and I object to any one delegate being allowed to make a speech after the mover of the motion has replied. I submit that, according to the Standing Orders, the only point upon which
the hon. member can address the Convention is to show the manner in which he has been misrepresented.

Mr. ISAACS:
If there is any objection to my explaining I waive my right.

The PRESIDENT:
There is no doubt as to the position, and I must ask the hon. member to confine his remarks to an explanation.

Mr. ISAACS:
Rather than be the means of other objections being raised I will waive my right.

The PRESIDENT:
The motion before the Convention is:
That, in order to enlarge the power of self-government of the people of Australasia, it is desirable to create a Federal Government which shall exercise authority throughout the Federated Colonies, subject to the following principal conditions:—

I. That the powers, privileges, and territories of the several existing colonies shall remain intact, except in respect of such surrenders as may be agreed upon to secure uniformity of law and administration in matters of common concern.

II. That, after the establishment of the Federal Government, there shall be no alteration of the territorial possessions or boundaries of any colony without the consent of the colony or colonies concerned.

III. That the exclusive power to impose and collect duties of Customs and Excise, and to give bounties, shall be vested in the Federal Parliament.

IV. That the exclusive control of the Military and Naval Defences of the Federated Colonies shall be vested in the Federal Parliament.

V. That the trade and intercourse between the Federated Colonies, whether by land or sea, shall become and remain absolutely free.

Subject to the carrying out of these, and such other conditions as may be hereafter deemed necessary, this Convention approves of the framing of a Federal Constitution. which shall establish—

(a) A Parliament to consist of two Houses, namely, a States Assembly or Senate, and a National Assembly or House of Representatives: the States Assembly to consist of representatives of each colony, to hold office for such periods and be chosen in such manner as will best secure to that Chamber a perpetual existence, combined with definite responsibility to the people of the State which shall have chosen them: the National Assembly to be elected by districts formed on a population basis, and to possess the sole power of originating all Bills, appropriating revenue, or
imposing taxation.

(b) An Executive, consisting of a Governor-General, to be appointed by the Queen, and of such persons as from time to time may be appointed as his advisers.

(c) A Supreme Federal Court, which shall also be the High Court of Appeal for each Colony in the Federation.

I do not know whether the Convention is still desirous that I should put the paragraphs seriatim or en bloc.

HON. MEMBERS:

En bloc.

Question resolved in the affirmative.

APPOINTMENT OF COMMITTEES.

Mr. BARTON:

I ask leave to amend my contingent notice of motion by adding the following paragraph:

That the chairman of each committee have leave to give publicity to its resolutions as arrived at from day to day; and that the proceedings, as recorded by the Clerk, of each committee be made public so soon as Committee No. I shall have submitted a Bill to this Convention.

Leave granted.

Mr. BARTON:

I move:

I. That the resolutions on the conditions under which and the powers with which it is desirable to create a Federal Government be referred to three committees, with power to send for persons and papers Committee No. 1 to be for the consideration of constitutional machinery and the distribution of functions and powers; Committee No. 2 to be for the considera-of provisions relating to finance, taxation, railways, and trade regulation; and Committee No. 3 to be for the consideration of provisions relating to the establishment of a federal judiciary.

II. That such Committees do consist of four, three, and two members resex officio a member of each Committee.

III. That Committee No. 2 be instructed to specially consider sub-resolutions III. and V. of Resolution 1, with the view to their being carried into effect on lines just to the several colonies.

IV. That it be an instruction to Committee Nos. 2 and 3 to report their respective conclusions to Committee No. 1.

V. That, upon the result of the deliberations of the several committees,
Committee No. 1 do prepare and submit to this Convention a Bill for the establishment of a Federal Constitution, such Bill to be prepared with as much expedition as is consistent with careful consideration.

VI. That in each committee a majority do constitute a quorum.

VII. That such committees have leave to sit at any time.

With the addition of the paragraph which the Convention has just allowed me to add.

Sir JOHN FORREST:

There is on the notice paper an amendment in my name, but I do not propose to proceed with it. I should like to say that my object in giving notice of the amendment was to obtain greater expedition in the work in which we are engaged, but after having had the benefit of conferring with Mr. Barton, and having been assured that the procedure which he now proposes will result in greater expedition, I may say I have been largely guided by his advice in this matter, and I am sure many others have also been largely guided by his opinion—and as I desire to assist and work with him in every way in the responsible position he occupies, I do not propose to move the amendment.

The question was resolved in the affirmative.

Mr. BARTON:

I think some consideration has been given by the various delegations to the question of which of them will represent them on the various Committees. If you will leave the chair, Mr. President, for a few minutes it will give them the opportunity of handing me the names.

Sir GEORGE TURNER:

Say till half-past 4.

The PRESIDENT:

So long as that?

Mr. BARTON:

There has been some consideration, but there may be some alterations.

At 3.58 p.m. the Convention adjourned until 4.30 p.m.

On resuming.

Mr. BARTON:

Mr. President, since you left the chair for a few minutes the various delegations have arrived at a conclusion as to those of their members who, in their opinion, should sit on the committees, and as they have courteously given the names to me I shall hand the list to the Clerk and ask that the names may be read to the Convention.

The PRESIDENT:

Let them be read.
The CLERK:
The Committees will consist of-
CONSTITUTIONAL COMMITTEE.
FOR NEW SOUTH WALES.
Honorable Sir J. P. Abbott.
Mr. Barton.
Honorable J. H. Carruthers.
Honorable R. E. O'Connor.
FOR SOUTH AUSTRALIA.
Honorable Sir R. C. Baker.
Honorable J. A. Cockburn.
Honorable Sir J. W. Downer.
Honorable J. H. Gordon.
FOR TASMANIA.
Honorable N. J. Brown.
Honorable A. Douglas.
Honorable N. E. Lewis.
Honorable W. Moore.
FOR VICTORIA.
Honorable A. Deakin.
Honorable I. A. Isaacs.
Dr. Quick.
Mr. Trenwith.
FOR WESTERN AUSTRALIA.
Honorable J. W. Hackett.
Mr. Hassell.
Honorable Sir J. G. Lee-Steere.
Mr. Sholl.
FINANCE COMMITTEE.
FOR NEW SOUTH WALES:
Honorable J. N. Brunker.
Mr. Lyne.
Mr. McMillan.

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FINANCE COMMITTEE-continued.
FOR SOUTH AUSTRALIA:
Honorable F. W. Holder.
Honorable J. H. Howe.
Mr. Solomon.
FOR TASMANIA:
Sir P. O. Fysh.
Honorable C. H. Grant.
Honorable J. Henry.
FOR VICTORIA:
Sir G. Berry.
Honorable S. Fraser.
Sir W. Zeal.
FOR WESTERN AUSTRALIA:
Mr. Loton.
Honorable F. H. Piesse.
Honorable J. H. Taylor.
THE JUDICIARY COMMITTEE
FOR NEW SOUTH WALES:
Mr. Walker.
Mr. Wise.
FOR SOUTH AUSTRALIA:
Mr. Glynn.
Mr. Symon.
FOR TASMANIA:
Mr. Clarke.
Honorable H. Dobson.
FOR VICTORIA
Mr. Higgins.
Honorable A. J. Peacock.
FOR WESTERN AUSTRALIA:
Mr. James.
Mr. Leake.
And the Prime Minister of each colony represented at the Convention is ex officio a member of each Committee.

Mr. BARTON:
I would suggest before the adjournment is moved that the gentlemen on the various Committees would kindly meet together to elect their chairmen, so that they may get to work at once tomorrow. I would suggest that instead of any lengthened adjournment being taken-inasmuch as the work of the Committees may not be so long as some think it may be-you should take the chair, Mr. President, at 10.30 every day as usual. That would give an opportunity for notices of motion and for obtaining returns and such other matters as may be necessary for the committees, and by that means when the Constitutional Committee brings up its report the Convention would then be able to go into Committee to consider the Bill without any delay.
Sir RICHARD BAKER:
Before the question is put I should like to say that the Legislative Council Chamber will be at the disposal of the Constitutional Committee, that being by far the largest Committee in number.

The PRESIDENT:
Of course if no resolution is moved fixing any other time of meeting, on the adjournment, this Convention will meet every day except Saturday at half-past 10 o'clock.

Sir JOSEPH ABBOTT:
I would like to suggest that these Committees be appointed by the House. They have not been appointed yet. We do not know who they are.

The PRESIDENT:
I take it that effect has been given, as intended by the resolutions, to the mode of appointment provided with reference to the selection of the Committees, and that selection has been communicated to this Convention.

Sir PHILIP FYSH:
How can the Clerk of the House record them?

Mr. TRENWITH:
In order to avoid any objection hereafter a formal resolution should be passed to clothe the Committees with authority.

Mr. BARTON:
I will move, if it is necessary to remove objections:
That the names as recorded by the Clerk at the table be the names of the several Committees appointed under the resolutions.

Mr. TRENWITH:
I second that motion.
Question resolved in the affirmative.

ADJOURNMENT.
Convention adjourned at 4.58 p.m.
Thursday April 1, 1897.

Petitions - Adjournment.

The PRESIDENT took the chair at 10.30 a.m.

PETITIONS.

Mr. LYNE:
I beg to present a petition from twenty citizens of New South Wales, members and adherents of the Congregational Church of Australia and Tasmania, praying for the recognition of God in the preamble of the Constitution of the Federation, and that the proceedings of the Federal Parliament be opened with prayer. The petition is respectfully worded. I move that it be received.

Sir JOHN DOWNER:
I have a similar petition to present from 1,969 members of the Church of England in South Australia. It is respectfully worded, and contains a prayer. I move that it be received.

Petitions received.

ADJOURNMENT.
The Convention adjourned at 10.32 a.m.
Friday April 2, 1897.

Petition - Suspension of Standing Orders - Sittings of Select Committees - Personal Explanation - Papers - Adjournment.

The PRESIDENT took the chair at 10.30 a.m.

PETITION.

Mr. BRUNKER:
I have the honor to present a petition from the members and adherents of the Church of England in Australia and Tasmania. It is respectfully worded, and contains the usual prayer, and I move that it be received.

Petition received.

SITTINGS OF SELECT COMMITTEES.

Mr. WISE:
I desire to move, with the concurrence of the Convention, the suspension of the Standing Orders, to enable me to move a motion without notice. The motion I desire to move, if the Standing Orders are suspended, is one which will allow, if it is carried, any member of the Convention, by permission of the Chairman, to be present at the proceedings of any of the Committees of the Convention now sitting. I therefore move:

That the Standing Orders be suspended, to allow me to move a motion without notice.

Dr. QUICK:
I rise to second that motion, and in doing so I think it will probably be advisable to add to the proposition that the press be enabled to be present, as well as members of Convention, at the meetings of the Select Committees, because I find in to-day's papers, in Adelaide, there is not a correct statement of the proceedings of the Constitutional Committee; in fact there are very serious mistakes indeed, to which I intended to have drawn attention, apart from the motion of the hon. member. I find it is stated-

The PRESIDENT:
I would suggest that the better plan would be to suspend the Standing Orders first, and then discuss the matter on the motion to be submitted by Mr. Wise.

Dr. QUICK:
I wish to support any proposition which will enable proper publicity to be given to the proceedings of these committees. I do not feel justified in stating what the mistake is, under the circumstances, because it might involve a question of privilege, but it would certainly remove a great deal
of misapprehension which may hereafter arise as to the proceedings of these committees if proper publicity were given to them, and I appeal to Mr. Barton to support me in that view of the question.

Mr. BARTON:

There has been a gross breach of privilege, because there has been a breach of the secrecy of the committees already committed.

Question resolved in the affirmative.

Mr. WISE:

I move—

That the Standing Orders be suspended to enable any representative, by permission of the Chairman, to be present at the proceedings in Committee of the Convention.

I limit my motion as originally proposed - of course, it will be competent for any member to move an amendment-but my motion is designed merely to allow of any members of the Convention, after they have done their work, or who may not be at the time engaged on any committee work, to be present at the deliberations of any other committee. I understand that the Standing Orders of South Australia, under which we are working - and probably other members, like myself, were ignorant of it - prevent any member being present at the deliberations of the committees - though they entitle them to be present when the committees are taking evidence. With us, select committees are almost always open to the public. When the committees were appointed, I was not aware that members of the Convention would be excluded.

Mr. HIGGINS:

Would you open these committees to all the public?

Mr. WISE:

My motion is confined simply to members of the Convention. I put the words "by permission of the Chairman," in the motion, so that if it is desired, for any reason at all, that the deliberations should be confined to the members of the Committee, the Chairman would have it in his power to ask any member of the Convention not on the Committee to retire.

Sir PHILIP FYSH:

I rise to second that proposal; because I recognise in it an opportunity to obtain the presence at some of our committees of gentlemen who have given special attention to some of the special work of the committees. The exigencies of the position during the last day or two have unfortunately excluded from our committees experts who have special knowledge, and who may be useful in aiding the deliberations of these committees. It is no secret that the Finance Committee would be very glad to have the presence
of gentlemen who have made a special study of the financial questions
during the past few months, and we regret that they are not present. If they
come as visitors, and the Chairman gives them an opportunity of taking
part in our deliberations other than voting -

An HON. MEMBER:
They cannot do that.

Sir PHILIP FYSH:
Other than voting. I am quite sure that the Committee will be glad to see
them. I hail in this proposal a good opportunity of making such an
improvement. I reserve entirely the objection against the suggestion which
has been hinted at, that the committees should be open to the press. We
intend to get our work done as promptly as possible, but we cannot do that
with the intricacies which are associated with the work of these committees
if we are to be invited to address ourselves again to the public, as we have
been doing during the past fortnight.

Mr. BARTON:
If that motion is to be carried, I should like to have this amendment
added:
Under the same limitation as to publicity as is imposed on members of
the Committee visited.

I should like to mention to you what I conceive to have already been a
grave mistake committed. I have only seen one of this morning's papers,
and I find that there must have been information somehow obtained by the
press, which is outside the limits of the leave confided to me as Chairman
of the Constitutional Committee. You will remember, air, that the
resolution passed was that the Chairman have leave to give publicity to the
resolutions of the Committee. I have strictly adhered to that. I have gone no
further than that, and have given the press the resolutions that were passed;
so strictly, as I feel in duty bound to do, have I interpreted the leave given
to me, that when a debate has taken place, and a proposition has been
negatived, I considered that to be, no part

Mr. BARTON:
Of that I am not Sure, because I have not had the time to look into it. In
the leave given in these resolutions appointing committees, the record of
the proceedings to be kept by the Clerk is not supposed to be divulged in
any way except under these terms: When No. 1 committee reports; that is
to say, when it has prepared and submitted its Bill, this record, kept by the
Clerk, may be given publicity to. That stage has been entirely anticipated,
and matters of record, such as divisions and matters not of record, such as
questions of debate, have been obtained by some means or other quite
contrary to the leave given to the Committee, which was confined to the
resolutions come to from day to day. Now I need not assure you, Mr.
President, that I have not been a participant in that. By some means or
other, whether by most astute cross-examination resulting in admissions-
but I take it that no member of a committee would allow himself to be
cross-examined for such a purpose-or by other means, the members of the
press have obtained information—by no means correct, I am told—but at the
same time information which ought not to have been communicated to the
press, even in a mistaken form, when we consider the obligation of honor
that is imposed upon us by that resolution. I think it is right to mention this
matter to you, sir, in order that the leave given in the resolution may be
strictly interpreted and adhered to with loyalty.

Mr. WISE:
I am willing to accept that, but I may say that I never understood that the
proceedings of the Committee were to be so secret.

Mr. LYNE:
This, I think, only shows the objection there is to these committees sitting
in secrecy. For my part I do not think there is anything secret in connection
with the work of the committee. So far as the Finance Committee is
concerned, I do not think much information has leaked out in connection
with that.

Mr. WISE:
Perhaps there was nothing to communicate.

Mr. LYNE:
I do not want Mr. Wise to cross-examine me now, as representatives of
the press have done some members, and are apt to do. It is a most difficult
thing not to allow them to get some information through their cross-
examination. I think if the members of the press are excluded from the
committees, and we are bound to secrecy, that when we get the Bill in the
House or in Committee we will have a great many more speeches than we
would if the deliberations of the committees were open to the public.

Mr. PEACOCK:
Hear, hear.

Mr. LYNE:
I think it would do away altogether with the accusations that the committees are sitting in secrecy if we allowed members to be present, and it would shorten the time in the end, because we would have fewer speeches when the Bill comes before the House. I suggest—I do not wish to move any motion—but I suggest that it is advisable and wise to allow the representatives of the press to be present at these committee meetings.

Mr. BARTON:
We shall have an enormous amount of talking to the gallery if we do.

Sir JAMES LEE STEERE:
I support the suggestion of Mr. Wise. I think it is done in other colonies, and I know that in our colony members are allowed to be present when a committee is deliberating. I am glad this subject has been brought forward, because I intended to allude to it in the Constitutional Committee this morning, as the accounts published in some portions of the press are very misleading. It says in the account published in the Register—

I should not have mentioned it unless it had been made public in the press, as I considered we were bound to secrecy, but as the matter has been published in the press, that secrecy has not been observed—

Mr. PEACOCK:
Are you going to give us the correct statement?

Sir JAMES LEE STEERE:
It says in the Register that the Constitutional Committee agreed to adhere to the title, "The Commonwealth of Australia," and from that anyone would think it was unanimously agreed to—

Mr. PEACOCK:
And was it not?

The PRESIDENT:
I think it has been well stated that the proceedings of the Select Committees should be regarded as confidential and should not be divulged; and I do not think that rule has been in any way relaxed by the fact that the press has in some way obtained some information on the subject. I suggest therefore to the representative of Western Australia that it would be more in accordance with the Standing Orders as they exist that no reference should be made to what was done or what was not done by the committees.

Sir JOHN DOWNER:
I do not think it is necessary that we should impose the duty on the Chairman of a Committee of deciding whether or not any member of the Convention should be admitted to its proceedings. I think the members of the Convention should be free to attend the proceedings of any committee.
I agree altogether that our proceedings at this stage will be shortened by their being treated as confidential, and that it will be quite impossible to draft a Bill if the public are looking on all the time. When we appointed these committees, I understood that we practically absorbed all the members of the Convention, and assuming that they would all be engaged during the whole of the time, we did not think it necessary to make provision for the members of one Committee being able to attend the deliberations of another. I think, however, that it would be expedient that members should be able to attend any of the committees, and that it will shorten debates hereafter if they had the opportunity of hearing the deliberations of committees. Of course they should not vote-

Mr. BARTON:

Or hold communication with the members of the committee.

Sir JOHN DOWNER:

Precisely. I would suggest to Mr. Wise that he should amend the motion by striking out the words:

With the consent of the Chairman.

Mr. ISAACS:

I think there can be no doubt that every member of the Convention should have access to the committees. I think it is a difficult position that a member of the Finance Committee, for instance, when some difference arises which he either did or did not anticipate, should feel himself under an obligation not to inform his co-delegates what has been done, and to ask their advice and guidance. It would be absurd that a man should be placed in that position, and I therefore think, as far as members of the Convention are concerned, there should be no limit to their communication with each other. With regard to the admission of the press there is more in the suggestion than would warrant us in dismissing it without a moment's consideration. There is one important matter which we should not lose sight of, and that is that the Constitution we frame must meet its fate at the hands of the people hereafter. I am afraid it is impossible to preserve absolute secrecy in regard to our deliberations; and while it is difficult to say that any member has violated the obligation of honor that rests on him, as well as the resolution that binds him, still we will find that the gentlemen of the press—always enterprising in discharging their duty to the public—will publish statements which they believe to be correct, but which may have the effect of misleading the public and creating a bad impression. Consequently, it is worthy of our best consideration whether we should not face the disadvantage of open committees, rather than the certain disadvantage of incorrect information being distributed, which may
lead to the public prejudging the work of the Convention to its injury.

Mr. BARTON:

If you are going to allow members of the press to attend the proceedings of the committee, the talking will be so much to the gallery that the committees will last a month.

Mr. ISAACS:

I think that we are all anxious to get through as quickly as possible, and that on the whole it is preferable that we should have publicity, and have correct information from the outset, so that the public may watch these proceedings which really concern them most vitally throughout, and we shall have the undoubted advantage, through every stage, of public criticism on our determinations, so that we may be better enabled to see how far we should adhere to the conclusions as we go along.

Mr. BARTON:

I should be extremely sorry indeed to preside over the deliberations of a committee conducted in that way.

Mr. ISAACS:

Yet your course is a matter for general determination. Personally I am absolutely opposed to the principle of secrecy. So far as we can have publicity, we should have it. There are disadvantages undoubtedly, but it seems to me that the advantages of publicity on the whole outweigh the disadvantages.

Sir JOSEPH ABBOTT:

If the determinations of these committees were in any way final then I would certainly say admit the press. When the Bill is before the Convention with the committees' reports, the press and public will know exactly what alterations have been made, and they will see what the conclusions by these committees are; but these conclusions do not bind the Convention in the slightest degree. Every clause will be open to debate and amendment by the Convention itself, then publicity can be given. But if publicity is given to our proceedings at this stage these proceedings will be interminable. I do not of course desire to divulge anything that has been done, but the meetings of the Committee at the present time are more of a conversational character than otherwise. If we have the press present then we will have the debates over and over again.

Mr. BARTON:

And magnificent orations!

Sir JOSEPH ABBOTT:

And much the same character of debate here when the Convention is considering the Bill in Committee of the whole.

Mr. TRENWITH:
I think that the press ought not to be admitted, for the special reason that our business in committee is business undertaken for the purpose, if possible, of getting as near as we can together in our conclusions. Our whole attitude during this Convention is to be that of compromise. We may arrive at decisions personally in committee and subsequently may have to depart from them in the interest of compromise, and we should not be subjected to the danger of being pilloried, and referred to as having voted one way on one occasion and another way on another occasion. That seems to me to be a very important consideration.

Sir GEORGE TURNER:
There is no record of the debates.

Mr. TRENWITH:
However, I deprecate very strongly the language used by Mr. Barton about talking to the galleries. I think I may use to him the same remark that he applied to Mr. Carruthers when Mr. Carruthers used the word "subterfuge." I would say to Mr. Barton that the Convention is composed of men as incapable as he is of talking to the galleries."

Mr. REID:
I have had very considerable experience of the powers of the press in obtaining information. I have been on secret conferences in another colony, every member of which loyally observed their pledges to keep secrecy, and yet something like a two-column report of our proceedings appeared in the daily press.

Sir GEORGE TURNER:
Supposed proceedings!

Mr. REID:
Three-fourths of which were by some mental powers known to journalists evolved without any foundation in fact. When we were engaged in a very friendly conference of a very important character, dealing with such a matter as the Land and Income Tax Bill of New South Wales, and my speeches were of a most moderate character, next morning I was depicted as trailing the head of Charles I. over the Committee Chamber, and indulging in most fearful threats against some very innocent old gentlemen in another place. Do what you will, if you shut your doors you will have more mischief through secrecy than through publicity. But I am not now going back on the decision of this Convention. We must have some sort of order and regularity in these proceedings. I ventured to express my views on these matters at an earlier stage, but I am to adhere loyally to the procedure which has guided us. I have been represented in the press as logrolling and intriguing to prevent this Convention arriving at
any result whatever. Every member here knows these statements are absolutely without foundation.

Mr. BARTON:

Hear, hear.

Mr. REID:

Still I suffer and say nothing. We have resolved upon a certain course of procedure, and we must continue to make the best of it, and I am sure any information which got out—if any got out-did not get out through any gentleman on this Constitutional Committee. I know the members of the press; probably one of them was hanging on to an open skylight. (Laughter.)

Sir EDWARD BRADDON:

I would like to submit that we are at present in these Select Committees engaged in the work of drafting a Bill, and we should be no more subject to the close scrutiny and criticism of the press in that respect than should the meetings of Cabinet Ministers of any colony who are engaged in discussing any particular measure they are drafting.

Mr. BARTON:

Might I have the indulgence of the House to make a suggestion before the debate closes. I do not mind submitting myself to the cross-examination of the press, because it generally results in my cross-examining them.

Mr. REID:

You think so.

Mr. BARTON:

I do not think they have ever got anything out of me which I did not want to give them. I suggest that the proper plan when any members of any Committee is interrogated by members of the press or anyone else would, to save himself from all responsibility, be to refer his questioner to the Chairman of the Committee.

Dr. QUICK:

My hon. friend Mr. Barton seemed to suggest that the information which was published in the press appeared through a violation on the part of some members of the condition of secrecy. I would only point out to him that on the face of it the information is so inaccurate that it could not have proceeded from any member of the committee. The numbers are wrong; the motions are wrong. At any rate, the information was of so inaccurate a character as to be calculated to mislead, and I suggest that the Chairman should take the earliest opportunity of correcting that information. I think it is only right and proper that the information published should be correct.

Mr. BARTON:
I have said already, from my place here, that the information is garbled and inaccurate.

Dr. QUICK:

I think it is a mistake that the statement should go forth that members and committees have committed

a breach of their obligations by imparting information to the press.

Mr. WISE:

I have nothing to add in reply except to say that I accept the amendment of Mr. Barton.

The PRESIDENT:

I would like to say with regard to the suggestion by Sir Philip Fysh that if the motion is carried in the form proposed, though it will permit the attendance of members, it will in no way authorise their participation in the proceedings.

Question resolved in the affirmative.

PERSONAL EXPLANATION.

Mr. WISE:

Before the Convention adjourns I would like to say by way of personal explanation that for my part, as for the committee with which I am connected, the Judiciary Committee, I did not know it was secret, and for my part I have spoken quite freely of the work done; but I have in no way stated anything incorrect or given false information.

They are not Secret Committees, but Select Committees governed by the Standing Orders.

Mr. WISE:

I understand that. If anything has appeared about the Judiciary Committee I do not think it has—or anything to which any member of the committee might object, I freely take the blame upon myself, but I erred through ignorance.

PAPERS.

The CLERK laid upon the table of the House, to the order of the Convention, March 24th:

Copies of papers—Break of gauge, existence of preferential and differential rates, New South Wales; extract of Railways Commissioners' annual report, South Australia; break of gauge, existence of preferential and differential rates, amalgamation of railways, South Australia.

Mr. HOLDER:

I suppose the proper course will be to move that the reports be printed, but I would have liked to have seen them first. If the Convention is agreeable I move:
That the reports be printed.

Mr. WALKER:
I second that.
Question resolved in the affirmative.

ADJOURNMENT.
The Convention adjourned at 11.2 a.m.
Monday April 5, 1897.

Petitions-Adjournment.

The PRESIDENT took the chair at 10.30 a.m.

PETITIONS.

Mr. WALKER:
I have the honor to present a petition from 402 members of the Presbyterian Church of Australia and Tasmania, resident in New South Wales. Its object is that the preamble of the Constitution of the Australian Commonwealth shall recognise the Supreme Ruler of the world. I beg to move that the petition, which is respectfully worded, be received.

Mr. HOLDER:
I have six petitions to present,-one from 103 Congregationalists, sixty-six Bible Christians, forty-six Presbyterians, twenty-nine Wesleyans, and thirty-eight members of the Salvation Army, residents of South Australia. They are similar to the petition just presented.

Sir JOSEPH ABBOTT:
I have a similar petition, signed by 2,447 residents of the diocese of Sydney.

Sir GEORGE TURNER:
I have a similar petition from members of the Church of England in Australia and Tasmania.

Mr. GLYNN:
I have a similar petition, signed by the Right Rev. John O'Reilly (Archbishop of Adelaide), James Maher (Bishop of Port Augusta), and Anthony Strele (Administrator of Palmerston and Victoria in the Northern Territory portion of South Australia), on behalf of the Catholic community resident in South Australia.

Mr. BARTON:
I have a petition to present from the Committee of the Sydney Rescue Work Society, under the signature of the director, praying that provision be made in the Federal Constitution to preserve to each State the right to prevent the importation of intoxicating liquors and also the importation of opium.

Petitions received.

ADJOURNMENT.

The Convention adjourned at 10.33 a.m.
Tuesday April 6, 1897.

Petitions-Notice of Motion-Adjournment.

The PRESIDENT took the chair at 10.30 a.m.

PETITIONS.

Mr. SOLOMON:
I have a petition to present from 1,201 electors, praying that neither the Federal Government nor Parliament shall make any law respecting religion, or prohibiting the free exercise thereof. I move that it be received and read.
Carried.
The petition was as follows:
We, the undersigned, adult residents of Melbourne, Victoria, believing that religion and the State should be kept entirely separate, that religious legislation is subversive of good government, contrary to the principles of sound religion, and can result only in religious persecution, hereby humbly, but most earnestly, petition your honorable body not to insert any religious clause or measure in the Constitution of the Australian Commonwealth which might be taken as a basis for such legislation; but that a declaration be made in the Constitution stating that neither the Federal Government nor any State Parliament shall make any law respecting religion, or prohibiting the free exercise thereof,
Signed by 544 adult residents of Victoria, 321 of South Australia, 276 of Tasmania, and 60 of New South Wales. Total, 1,201.

Sir PHILIP FYSH:
I have a petition from 119 members of certain churches in Tasmania, praying for the recognition of God as the Supreme Ruler of the world in the preamble of the Constitution of the Australian Commonwealth.

Dr. QUICK:
I have a petition to present from certain adherents of the Wesleyan Church, Golden-square, Bendigo, praying that provision be made in the Constitution Bill for the recognition of a Supreme Ruler, and that the daily Sessions of the Upper and Lower Houses of Parliament be opened with prayer.

Mr. REID:
I have to present a petition from 1,007 members of the Salvation Army praying that in the preamble of the Commonwealth Bill there should be a recognition of the Supreme Ruler of the world.
Petitions received.
NOTICE OF MOTION.
Mr. GRANT:
I beg to give notice that to-morrow I will move:
Inasmuch as there are now in Adelaide chief representatives of the railway systems of New South Wales, Victoria, South Australia, and West Australia, this Convention considers the present time a favorable opportunity for these representatives conferring together as to the possibility of agreement upon a uniform gauge for the railways of Australia, and requests that they would forthwith take this matter into their consideration.

ADJOURNMENT.
The Convention adjourned at 10.35 a.m.
Wednesday April 7, 1897.

Petitions - Notices of Motion - Uniform Railway Gauge - Adjournment.

The PRESIDENT took the chair at 10.30 a.m.

PETITIONS.

Mr. BARTON:
I have to present a petition from citizens of the colony of Victoria, being members of the Church of England in Australia and Tasmania, similar to the petitions already presented, asking that in the preamble for the Constitution it be recognised that God is the Supreme Ruler of the world, and that the meetings of the Federal Parliament be opened with prayer. It is in due form and concludes with the usual prayer.

Mr. SOLOMON:
I have a petition, signed by 1,663 electors of Victoria, New South Wales, and South Australia. It is in due form and concludes with the prayer:
That neither the Federal Government nor the State Parliament shall make any law respecting religion, or prohibiting the free exercise thereof.
It, is similar to that presented yesterday.
Petitions received.

NOTICES OF MOTION.

Sir JOHN FORREST:
I beg to give notice for Thursday, the 8th of April, that I will move:
That five days' leave of absence be granted to the Hon. Mr. Hackett on account of urgent private affairs.

Sir JOHN FORREST:
I beg also to give notice that:
Contingent on the House going into Committee of the whole to consider the proposed Commonwealth Bill, it be an instruction to the Committee to deal with the powers of the "States Assembly" in regard to money Bills, clauses 54, 65, and 56, before dealing with any other portion of the Bill.

Mr. LYNE:
Does that mean you want us to deal with that first?

Mr. PEACOCK:
Of course.

OVERCOMING THE BREAK OF GAUGE.

Mr. GRANT rose to move:
That inasmuch as there are now in Adelaide chief representatives of the
railway systems of New South Wales, Victoria, South Australia, and West Australia, this Convention consider the present time a favorable opportunity for these representatives conferring together as to the possibility of agreeing upon an uniform gauge for the railways of Australia, and request that they would forthwith take this matter into their consideration.

He said: In rising to move this I am under some difficulty, because I believe the Governments of the various colonies have already taken the matter into consideration, and this motion may interfere with the result of their deliberations. I can have no possible wish to do that, because it is an object which will commend itself to every member of this Convention, that the representatives of the railway systems in the colonies being here present should take into consideration the establishment of an uniform gauge at some early period. I do not propose that it should be done at once, but I think we should look forward to an uniform gauge for the whole of Australia. There is no need for me to delay the House with any arguments in favor of this course, because the matter has been so fully debated for so many years past that every member of this Convention must be convinced of the desirability of it. I would like, however, to amplify my motion with the permission of this Convention, so that effect might be given to such a resolution. I am aware it is somewhat outside the scope of this Convention.

Sir GEORGE TURNER:

Hear, hear.

Mr. GRANT:

I am aware that the Convention has no power to dictate to the representatives of the railway systems of the colonies that they should take into consideration the question of uniformity of gauge. Still the present seems a most opportune moment for the consideration of the subject, because they are assembled together and have not much to do, as I understand that the Finance Committee, before whom they were summoned to give evidence, are not quite ready to take their evidence, and no possible harm can result from their deliberations on this subject. Therefore, without further preface, I will submit the motion and ask the permission of the Convention to add the words:

And at as early a date as possible report as to the necessary procedure to facilitate this object.

Leave granted to amend.

Sir GEORGE TURNER:

With regard to the notice of motion as printed, I would not object to it,
although it is clearly outside our authority to deal with a matter of that sort at all. We are here for the purpose of framing a Constitution, and not for the purpose of making any inquiry into the gauges of the Australian railways; but I would not raise any objection to our passing a resolution as representative men that these officers should confer on the matter. I, however, strongly object to passing any resolution requesting the Railway Commissioners to furnish this report, which in our position would practically amount to a direction to them to report to the Convention. If we have a report, it seems to me that we must do something with it; but as we cannot, it is unreasonable to direct these men to bring up a report as quickly as possible. I do not object to the motion as printed, although I do not know that any good can come of it; but if the amendment is insisted on I must vote against it.

Mr. REID:
I hope that Mr. Grant will withdraw this motion. I fully recognise the importance of the matter that it contains, but I think it extremely probable that the various Governments will be able to set on foot an inquiry into all the phases of this very important matter, which will come perhaps not in time for this Convention, but for general information throughout the colonies, and will afford means of looking at this matter. I happen to know that the wildest statements have been made as to the cost of carrying out a uniform gauge, sums of from £10,000,000 to £20,000,000 having been mentioned; but I also happen to know on perhaps as good an authority as it is possible to get, speaking on a subject about which there is no certainty, that the cost will be under £2,000,000.

Sir WILLIAM ZEAL:
That is a great mistake.

Mr. REID:
There is always a certain amount of convenience in allowing one to finish a sentence. I am speaking of carrying the line from the Queensland border through New South Wales, through Victoria, into South Australia as far as the, 5ft. 3in. gauge.

Mr. LYNE:
Is that the main trunk line?

Mr. REID:
Yes; and the interest charged upon that would be about £60,000 a year, divided between the three colonies in such proportion as might be just. I think the Governments are agreed that the whole matter is one upon which the public, as well as the Governments, are entitled to information; and if the hon. member would withdraw this motion I think he will find that in a very few days-certainly I am prepared to agree to it, and I think my hon.
friend the Premier of Victoria, and my hon. friend the Premier of South Australia also are—that the Railway Commissioners of the various colonies will be invited to meet and discuss this matter—to go into it fully and prepare a report for general information. That will no doubt suit my honorable friend from Tasmania

Mr. Grant:

I am well aware that the matter would be far better dealt with in the way suggested by Mr. Reid, and therefore I am quite willing to withdraw the motion; but I understand that this subject has been under consideration for twenty years and upwards—that is, as regards a conference between the parties. I want, if possible, to force their hand or facilitate the movement in having this conference. But, having the assurance of the Premier of New South Wales that the matter will forthwith be taken into consideration, and that the public will have the necessary information, I will, with the consent of my seconder and the permission of the Convention, ask leave to withdraw the motion.

Mr. Trenwith:

On a question of order, Mr. President, I should like to say as regards permission being given to withdraw the motion, that there is a danger in accepting such resolutions, which are clearly outside the province of this Convention, and if such abstract resolutions are permitted we may, at a later stage of our proceedings, have other abstract resolutions also outside our province. I want you, Sir, to rule whether this is a motion that can be accepted by this Convention.

The President:

On that I think that, although we are here for the purpose of framing a Constitution for federated Australia, the acquisition of information which might be of use in the framing of that Constitution is within our province, and that the resolution does not go further than suggest a ready means for obtaining such information.

Motion withdrawn.

Adjournment.

The Convention adjourned at 10.44 a.m.
Thursday April 8, 1897.

Petitions - Notice of Motion - Leave of Absence to a Member - Return, Queensland Railways - Adjournment.

The PRESIDENT took the chair at 10.30 a.m.
PETITIONS.
Sir EDWARD BRADDON:
I have a petition to present, dealing with the question of the importation of intoxicating liquors. It contains three signatures.
Mr. HOLDER:
I have a similar petition to present, signed by forty-two Wesleyans, twenty-four Bible Christians, and 555 members of the Salvation Army.
Petitions received.
Mr. HOLDER:
I have a petition to present from the Women's Christian Temperance Union of South Australia, in reference to the prohibition of the importation of intoxicants and opium. I move that it be received and read.
Question resolved in the affirmative.
The petition was as follows:
The humble petition of the Women's Christian Temperance Union of South Australia. showeth: That a State or States may hereafter desire to enact prohibition, and prayeth that provision be made in the Federal Constitution to preserve to each State the right to prevent the importation of intoxicating liquors. The petition further humbly showeth that the want of such a provision in the Constitution of the United States of America has led to many and serious abuses, which have interfered in an important way with the enforce-of prohibitory laws The petition further prayeth that the same liberty may be accorded in each State as to the importation of opium. And your petitioners, as in duty bound, will ever pray.
E. W. NICHOLLS, President.
MAY KELLY, Hon. Treasurer.
MARY F. GEORGE, Hon. Secretary.
NOTICE OF MOTION.
Mr. BARTON:
I give notice that to-morrow I will move:
That this Convention at its rising adjourn till 11.15 a.m. on Monday, the 12th inst.
That is in connection with the visit I understand several members are about to pay to Broken Hill.
LEAVE OF ABSENCE TO MR. HACKETT.

Sir JOHN FORREST:
I move:
That five days' leave of absence be granted to the Honorable J. W. Hackett, on account of urgent private affairs.

Mr. DEAKIN:
I second the motion.

Question resolved in the affirmative.

RETURN-QUEENSLAND RAILWAYS.

The CLERK laid on the table, to order of the Convention of March 24th, a letter from the secretary of the Queensland Railways Commissioners in reference to differential rates; also a copy of an Act of the Queensland Legislature to aid in securing Queensland traffic to Queensland railways.

Mr. HOLDER:
I move:
That the return be printed.

Question resolved in the affirmative.

ADJOURNMENT.

The Convention adjourned at 10.35 a.m.
Friday April 9, 1897.

Petitions - "Hansard" Reports - Suspension of Standing Orders - Money Clauses in the Constitution Bill - Notice of Motion - Hour of Meeting Adjournment.

The PRESIDENT took the chair at 10.30 a.m.

PETITIONS.

Mr. WALKER:

I have the honor to present a petition from the Central Queensland Territorial Separation League. It is respectfully worded and ends with a prayer. I move that it be received and read.

Question resolved in the affirmative.

The petition was as follows:

To the Honorable the Representatives of the Colonies of New South Wales, Victoria, South Australia, Western Australia, and Tasmania, respectively, in Federal Convention assembled.

The Memorial of the Executive Committee of the Central Queensland Territorial Separation League

Respectfully sheweth:

That your memorialists have noted with regret the failure of the Government and Parliament of Queensland to provide for the election of representatives of the colony at the Federal Convention.

That your memorialists desire to draw the attention of the Convention to the following facts:—

(1) That, by Acts passed by the Parliament of Queensland, that colony has for certain administrative purposes been divided into three parts, described as the Southern Division, the Central Division, and the Northern Division, respectively, with the several boundaries described in the first schedule to this memorial.

(2) That in every one of the Government Financial Separation Bills introduced unsuccessfully into the Queensland Parliament from time to time since 1871, the colony was proposed to be divided into three parts—South, Centre, and North.

(3) That in the Session of 1890 the proposals of Sir Samuel Griffith, then Chief Secretary, included a federative division of the colony into three provinces with separate Governments and Legislatures, and, whenever an Australian Federal Commonwealth was formed, the merging of the three provinces into the Federation as three separate States.

(4) That, in 1891, similar proposals were submitted by Sir S. Griffith, and
in 1892 he introduced the Queensland Constitution Bill for the same purpose, and in doing so stated that the conditions and requirements of the different parts of Queensland were different, and that the large area of the Central Division justified its erection into a separate province.

(5) That the Queensland Federal Enabling Bill, introduced last year, provided for the three divisions being constituted as separate electorates.

The Premier, Sir Hugh Nelson, when moving the second reading of this Bill, said:—"Take the Northern and Central Districts. We all know that they have a perfectly legitimate aspiration, that they are looking forward to the day when they will be formed into separate States. Why should they not? I propose that they shall of necessity be represented at this Convention by dividing the colony into three electorates-Northern, Central, and Southern, each sending its own representatives. This is a burning question with the electors of the Northern and Central districts."

(6) That the said Central Division of the colony of Queensland embraces a self-contained territory of about 210,000 square miles, having its principal outlets at the ports of Gladstone, St. Lawrence, and Rockhampton, respectively, and extending westward to the eastern boundary of South Australia.

(7) That the eastern watershed of the above-mentioned division is served by the Dawson, Nogoa, and Isaacs river systems debouching as the Fitzroy river into Koppel Bay, while the western watershed of the division is secured by the Barcoo, Thomson, and Diamantina river systems.

(8) That the eastern watershed of the Central Division contains a considerable agricultural area in the vicinity of Rockhampton, one important sugar plantation, with well-equipped mill, producing over 1,500 tons of sugar per annum; and a large extent of good pastoral country, giving employment to three large meat export works. That this rich area also includes the Crocodile Goldfield, in which the celebrated Mount Morgan mine and township are situated.

(9) That the division comprises also the famous Peak Downs and other rich plains country immediately to the eastward of Drummond Range, in which wheat is now being planted on a considerable scale, and which is destined, in the opinion of agricultural experts, to become the principal wheat-growing district of the colony.

That in addition to great deposits of copper and coal the Peak Downs Goldfield has been worked for over thirty years, and still furnishes remunerative occupation to an increasing number of miners.

(10) That the western area of the Central Division comprises an immense extent of wool-growing country unsurpassed in Australia. That
although its development has until lately been retarded by want of surface water, it has now been found to be liberally endowed with artesian springs of great volume, some hundreds of which have already been tapped by bores varying from 500ft. to 4,300ft. in depth. That boring is still being vigorously carried on in the district, and that as the leases of runs expire they are being rapidly made available as grazing farms, varying from 2,500 to 20,000 acres in extent.

That, in consequence of this development, the wool shipped from the Central Division ports already exceeds one moiety of the entire wool produce of Queensland, while Rockhampton has attained the position of an outlet for exports of a greater annual value than any other Australian port north of Sydney.

That, according to the official returns, the live stock assets of the Central Division include 2,000,000 cattle and 10,000,000 sheep.

(11) That the Central Division of Queensland possesses in addition to three branch railways a great trunk line running a distance of 425 miles westerly from Rockhampton, approximately along the tropical line to Longreach, on the Thomson river, and is about to be extended from Rockhampton some twenty-eight miles to deep water at Broadmount, close to the mouth of the Fitzroy river, where it is intended that the railway trucks shall discharge exports into and receive imports from the large ocean-going steamships which now carry the oversea trade between Australia and the mother-country.

(12) That the population of the Central Division, according to last returns, is estimated to be 54,764, or more than double the population of the whole colony of Queensland at the time it was separated from New South Wales.

(13) That the revenue of the Central Division for the past year, as shown by the official returns was £729,858, or £13 6s. 6d. per capita, not including Customs duties paid on goods re-exported from South Queensland, and imported into Central Queensland. That, in other respects, the sum stated does not truly represent the amount of revenue raised by the Central Division, the actual amount being considerably in excess of that stated.

(14) That the inhabitants of the Central Division have for many years desired the privilege of self government, and to that end have repeatedly and almost unanimously claimed the boon from the Parliament of Queensland, as well as by petition from the Imperial Government. They rely not only upon the provision made in past Imperial legislation for the protection and benefit of communities placed in the position of the petitioners, but also upon the implied promise of the Duke of Newcastle in
his despatch of the 18th August, 1858, addressed to Sir William Denison, the Governor of New South Wales, in which he stated that "it will be desirable that the Crown should possess the power of dividing further the territory now created into the colony of Queensland by detaching from it such northern portions as may hereafter be found fit to be erected into separate colonies"; and also upon his despatch to the Governor of Queensland, Sir George Bowen, dated September 14th, 1861, in which he said, "I am not prepared to abandon on behalf of Her Majesty's Government the power to deal with districts not yet settled as the wishes and conveniences of the future settlers may require."

(15) That while such claim was formally acknowledged by the Queensland Government proposals of 1890 and 1891, and by the Constitution Bill introduced by the Government into the Queensland Parliament in 1892, and while such claim has also been practically admitted by more than one of Her Majesty's Principal Secretaries of State for the Colonies, your memorialists' wishes have not yet been acceded to.

(16) That Mr. Chamberlain, Her Majesty's Secretary of State for the Colonies, in his despatch of the 15th January last, expressed the opinion "that the people of Central Queensland will no doubt find the Federal Parliament when constituted ready to listen to any reasonable scheme which may be submitted to it with the object of giving them that independent control of their local affairs which they now seek."

(17) That a clause of the Commonwealth Bill of 1891 contains the provision that subsequent to the passing of the Act of Union no State shall be subdivided except with the sanction of the Parliament of that State; and your memorialists have reason to apprehend, that the same provision will be contained in the Constitution Bill of the Convention.

(18) That the enacting of such a provision would be calamitous to the Central and Northern Divisions of Queensland, and leave them perpetually at the mercy of the more numerous but less productive populations of the Southern Division.

That, as an act of simple justice, your memorialists, therefore, pray that provision may be made in the Constitution Bill of the Convention for the admission of the present colony of Queensland into the Federation as three separate autonomous provinces or States.

And your memorialists will ever pray, &c., &c.

(Signed) G. S. CURTIS, M.L.A., Chairman.

For and on behalf of Executive Committee of the Central, Queensland Territorial Separation League.

Rockhampton, March 31st, 1897.
Mr. MCMILLAN:
I have to present a petition from the New South Wales Christian Endeavor Union with regard to the prohibition of liquor coming into a particular State. It is respectfully worded and contains a prayer.
Petition received.
"HANSARD" REPORTS.
Dr. QUICK:
I would like to ask a question with reference to the "Hansard," seeing that the Treasurer of South Australia is in his place. I would like to know what arrangements have been made for the sale of "Hansard" reports to the general public, to whom application has to be made in order to become subscribers, and how much will be charged for them.
Mr. HOLDER:
I imagine that the absolute settlement of this question will be a matter for the Convention or a committee of it, subject to the approval of the Convention. Copies of the daily "Hansard" can be obtained from the Government Printer on application. I think the price fixed is 4d. Perhaps that amount was decided upon on the basis of the large "Hansard" published during the first week, but I cannot speak positively on that point.
Mr. WALKER:
I made application to the Government Printer for copies of the revised "Hansard," and it seems there are no corrected proofs available. Unless we have these "Hansard," as it stands, is so inaccurate that it is practically useless.
Mr. HOLDER:
I believe the corrected copies are being printed off.
SUSPENSION OF STANDING ORDERS.
Sir JOHN FORREST:
I desire to move that the Standing Orders be suspended to enable me to move a motion. I wish to move:
That it be an instruction to any Committee of the whole, to whom the proposed draft Bill shall be referred, that all conditions relating to Money Bills and the relative powers of the two Houses be first considered.
My reason for asking that the Standing Orders be suspended is only to save time; in fact, the principal object, I wish to inform hon. members, is that myself and colleagues may have an opportunity of dealing with the most important matter which is the subject of controversy in the draft Bill. As I have already informed the House, we have to leave for Western Australia on Wednesday, and we have it from our friend Mr. Barton that on Monday morning he hopes to be able to place the draft Bill on the table for the information of hon. members. Now, if on Monday morning this matter,
which I now bring before the House, is to be discussed, besides other matters which are to be dealt with, the whole of Monday will have passed before we can consider any portion of the draft Bill.

Sir GEORGE TURNER:
You are blocking the Finance Committee from getting on with its important work this morning. You are causing just as much delay.

Sir JOSEPH ABBOTT:
I rise to a point of order. I will take your ruling, Sir, as to whether it is competent for an hon. member to move this motion, of which he has given no notice. He has already given notice of a motion similar to the one tabled now, and he asks this House to suspend the Standing Orders.

Sir JOHN FORREST:
You can vote against it if you do not like it.

Sir JOSEPH ABBOTT:
Will the hon. member be good enough to allow me to go on. I am raising a point of order that it is not competent for the hon. member to anticipate a motion which he himself had previously given notice of. The Convention is not responsible for the fact that he placed on the business paper that notice of motion to be discussed at a certain time, and while that notice of motion is on the business paper it is incompetent for him to anticipate it. If the Convention were to suspend the Standing Orders for the purpose of allowing him to submit his motion he will be anticipating the motion which he has already placed on the notice paper. Standing Order 426, page 120, says:

In cases of urgent necessity any Standing Order or Orders of the House may be suspended on motion duly made and seconded without notice, provided that such motion has the concurrence of an absolute majority of the whole members of the House of Assembly.

Mr. BARTON:
Where is the urgent necessity of this?

Sir JOSEPH ABBOTT:
The hon. member has given notice of this motion, and therefore he himself has said it is not a matter of urgent necessity.

Sir JOHN FORREST:
I said nothing of the kind.

Sir JOSEPH ABBOTT:
By giving notice of motion the hon. member has said it.

Sir JOHN FORREST:
That was by inadvertence.

Sir JOSEPH ABBOTT:
I wish the hon. member would try to control himself. He has a big leadership, and he ought to be able to.

**Sir JOHN FORREST:**

YOU must not misrepresent me.

**Sir JOSEPH ABBOTT:**

The hon. member has misrepresented himself, because he has given notice of this motion. and therefore could not have regarded it as a matter of urgent public importance. He has properly given notice of a motion to deal with the matter at the right time, and that is when the House proposes to go into Committee on the Bill. The hon. member has not withdrawn the contingent notice of motion, and while that contingent notice is on the business paper I submit, with all respect, that he cannot anticipate it by asking the Convention to do now something which he has given notice of. I hold in my hand that excellent compilation by the Clerk of this Convention of the decisions of Speakers of the House of Commons. On page 119 you will see this:

When a Bill is before the House it is not competent by a motion on the same subject to anticipate discussion.

By parity of reasoning when a motion is before the House it is not competent to anticipate the same subject.

**Mr. BARTON:**

That has been ruled hundreds of times.

**Sir JOSEPH ABBOTT:**

The practice is so well known that I can hardly understand anyone professing to doubt what it is. In this particular case referred to in the decisions:

Mr. Newdegate gave notice that he intended on the order being read for the second reading of the Bill to move that the order be discharged; and further gave notice that he proposed to move on a subsequent day a motion that it was expedient that Her Majesty's Government should introduce a Bill on the subject. Mr. Speaker said: "I may state that the practice of this House is this: If the House should order a Bill relating to a certain subject to be read a second time on a given day, it will not anticipate the discussion on the matter which it has so ordered by a motion on the same subject; and therefore if the hon. member postpones the second reading of a Bill to a later day than the resolutions of which he has given notice that resolution could not be proceeded with."

Now, I submit that while the hon. member has got that notice of motion on the business paper it is not within his power, according to parliamentary practice, to move any motion which may anticipate discussion in reference to it. What the hon. member proposes to do now is to ask this House
immediately, without any notice to members who may be absent, to depart from what is the reasonable practice, and a fair practice, in all bodies similar to this; that is, to inform every member of the Convention what the business is that is to be disposed of.

Mr. BARTON:
We were expecting this motion on Monday, and it is brought on to-day.

Sir JOSEPH ABBOTT:
Unless he can satisfy the Convention that this is a matter of such urgent importance as to justify the suspension of the Standing Orders, he cannot move the motion.

Sir JOHN FORREST:
You would not give me the opportunity to do so.

Sir JOSEPH ABBOTT:
The hon. member is master of his own business, and has given notice of a contingent motion to be moved at the proper time, and my contention is that while that notice of motion is on the business paper of the Convention, it is not competent for the hon. representative to do what he now proposes.

The PRESIDENT:
On the point of order that the Standing Orders prohibit the moving of a resolution without notice, and also prohibit the anticipation of debate-

Mr. BARTON:
If you are about to rule, Mr. President, may I say something on this point of order? This is a motion for the suspension of the Standing Orders to enable notice to be dispensed with, and no portion of the Standing Orders is affected except the ordinary requirement of notice, which will be dispensed with if this notice is carried. I would say, in support of the view which Sir Joseph Abbott has taken, that if the hon. member's motion is carried he will be able to bring on a motion which will anticipate debate on a motion of which he has given notice for Monday next. He cannot do that. It is an argument against the suspension of the Standing Orders that, if he gives notice of motion for a future date, he confesses that it is not a matter of instant necessity, and consequently he finds himself in a contradictory position. He confesses by giving notice that it is not a matter of moment, and now he asks the Convention to declare that it is a matter of urgency.

Sir JOHN FORREST:
I did not know that I could do it. I deny that I did not regard it as a matter of urgency.

Mr. BARTON:
We are all supposed to know what is the ordinary Parliamentary procedure, and if the hon. member did not, the consequences must fall on
his own head. I will not anticipate discussion on the motion of which he has given notice, but, as Sir John Forrest stated that the money clauses are the most important in the draft Bill, I wish to point out-

The PRESIDENT:

I would ask the hon. representative to confine himself to the point of order.

Mr. BARTON:

I would not have referred to the point except that the hon. member touched on it.

The PRESIDENT:

The hon. representative from Western Australia had not concluded his speech when he was interrupted by the point of order.

Mr. BARTON:

The position is as strong as it can be against the hon. member, and I say so without any desire to block him in any way, as I intend to meet his contingent motion dealing with the money clauses, when it comes on, simply on the merits. I, however, submit that the matter must be left at its present stage, and that is to deal with it on the contingent notice of motion on the motion to go into Committee. He is asking us to suspend the Standing Orders in order to enable him to move a motion which will compel us to deal with one portion of a Bill which is not yet before the Convention, and he can give us no reason for making one portion of the Bill more important than another until that Bill is laid before the Convention.

The PRESIDENT:

There is no doubt that the Standing Orders prevent the moving of a motion without notice, or one which anticipates debate, and if the Standing Orders are suspended then two rules must be abrogated, as the hon. representative will then have the right to move a motion without notice, and one which also anticipates debate. It has been put that all that the hon. representative seeks to do is to suspend the Standing Orders to enable him to move a motion without notice. That is not so. He has asked the Convention to suspend the Standing Orders for the purpose of allowing him to submit a motion which he sets out without notice, and which would also anticipate debate on a resolution of which notice has been given; and so, if the Convention now assents to the suspension of the Standing Orders, as asked by the hon. representative, it assents to two things—the moving of a motion without notice, and the moving of a motion which anticipates debate. Therefore, if the leave is given, the hon. representative will be perfectly in order in doing that which
he desires. The point has been further put that by the action of the representative in giving contingent notice of this motion, he has admitted that it is not a matter of urgent necessity; but, in reply to that, I take it that the representative, in moving the suspension of the Standing Orders, gives the Convention his assurance that it is a matter of urgent necessity; and, further, I also take it that which may form the subject of a notice of motion, and which may not be a matter of urgent necessity on one day, by lapse of time may well become a matter of necessity afterwards. And in all these circumstances I rule that the representative is in order in moving the motion which he had submitted to the Convention. At the same time I would point out that the Standing Orders provide a remedy for any abuse of this power, because they require an absolute majority of the House to the carrying of the necessary motion, and should that not be obtained the permission to move a motion without notice and which anticipates debate will not be given.

Sir JOHN FORREST:

I was beginning to explain for the information of hon. members, when the point of order was raised, that my reason for moving the suspension of the Standing Orders was that if we did not proceed with this matter to-day the whole of Monday would probably be taken up in discussing this and other matters; and as the representatives of Western Australia, who are one-fifth in number of this Convention, have to leave for Western Australia on Wednesday, by dealing with this subject at the present time it would give us an opportunity of discussing and I hope of voting upon a matter which we consider to be of the very gravest importance to our colony. It has been said—I do not know that it has been said in this Convention, but it has been said—that Western Australia is indifferent to Federation, and I believe that some have gone so far as to say that we have no right to be here through being in that position. I would like to point out for the information of hon. members that there are no ten delegates in this assembly who have come here at greater inconvenience, and at a more inconvenient time, than we have. I think that that fact alone should show that we do take some interest in this matter, and that we wish to take part in a subject of such vital importance to us, not only at the present time, but in the future. Hon. members are aware that at present there is a general election going on in Western Australia, and that almost every member here is a candidate for that election; and it is well known to honorable members that I am the leader of a political party in Western Australia, and therefore my presence has been required there all the while I have been here, and under all these circumstances perhaps I am not going too far in asking some little consideration from hon. members. I may say that we came here...
at very great inconvenience, and at a very inconvenient time, and we also came here with the assurance that it would take but a very short time to deal with this matter. I am certain of this, that if we had known that it was to take so long to deal with this great subject, and that we would have to return before having an opportunity of voting upon any vital part of the Bill, we would not have been here. It would have been impossible for us to come here on those conditions. I was assured by one leader of a Government that it would take ten days, and by a leader in another colony
[7] starts here
that the utmost it would take would be three weeks; yet we have been nearly three weeks already, and we have not yet got into Committee of the whole on the Bill. This, then, is another reason why I ask for consideration, that the time which has been occupied is much greater than the Premiers anticipated. I should be sorry, and I am sure every hon. member would be sorry, if the Western Australian delegates had to go away without having an opportunity of voting on what we consider the most important part of the Bill on which there is a great divergence of opinion, and the most controversial between the colonies. It was said before we came here by the press, by responsible persons, and the heads of Governments, that they were most anxious that Western Australia should be represented. It was urged upon me by all of them time after time that I should do all I could to have Western Australia represented, and I promised on my return to do all that was possible. I did what was possible. I had to summon our legislature in order to amend our Enabling Bill. That meant some trouble, and was most unusual. Then I had to hurry away here three days after I had made my political speech to the electors of the colony, to come away for a month in the middle of a political struggle more acute than any other that has taken place in Western Australia. I may be told, "If you cannot stay, we will have to do without you. We can show you no special consideration at all."

Mr. PEACOCK:
Who says that?

Sir JOHN FORREST:
It may be said. If that is not the feeling I hope members will vote for this motion.

The PRESIDENT:
The hon. member must confine his remarks to the motion for the suspension of the Standing Orders.

Sir JOHN FORREST:
I must say that if hon. members desire that the Western Australian delegates shall take part in any discussion for two days-on Monday and
Tuesday—on the Bill Mr. Barton hopes to place before us, they must approve of the only means that are available to give us that opportunity.

Mr. SOLOMON:
I second the motion.

Mr. BARTON:
I find myself bound to oppose the motion of the hon. member for the suspension of the Standing Orders for the purpose which he has indicated, and I suppose as he has canvassed that purpose, I may with equal justice be allowed to canvass it in my reply. The hon. member has pointed out that he and his colleagues have come here at great inconvenience. That may be true, but it is equally true of nearly every member who has come.

Sir JOHN FORREST:
I do not know about "equally true."

Mr. BARTON:
Some have come a great distance, some at political inconvenience, some at great personal inconvenience, and some have suffered monetary loss—perhaps disastrous monetary loss in certain cases—by coming here. We all suffer some loss, and it is not to be urged against the whole of the remaining members of the Convention that because one body of gentlemen have come here at some inconvenience they are to override the proper deliberations of members, all of whom, excepting perhaps the South Australians, come here at serious loss or inconvenience themselves. We must look at the matter all round in order to be just, and looking at it all round, while we admit that every consideration should be extended to the hon. members from Western Australia, that consideration must not be extended with the result of dislocating and putting into disorder the business of this Convention. The hon. member says the purpose of the suspension of the Standing Orders is to allow him to move a motion which will enable him to take certain clauses of the Bill out of their order. Now, I would have no objection to a motion that we should take the principal clauses of the Bill upon each important subject treated in the Bill, and discuss these in proper order; but when

we consider that the object which the hon. member has in view involves this: that he wishes to discuss the money clauses of the Bill before this Convention has had the opportunity of dealing with the constitution of the two Houses proposed to be created, and whose duties will include what will be set out in the money clauses, it seems to me that the object for which he states he wishes the Standing Orders to be suspended is totally unreasonable. We have a Bill which must, if it is framed upon anything like the groundwork of the Bill of 1891, deal first, among other things,
with the constitution of the Senate, its qualifications, and the nature of its electorate, if it is to be elected; again, with the constitution of the House of Representatives, its qualifications, and the nature of its electoral representation; and then with the question whether members of this House, or either of the Houses, should receive remuneration for their services.

Sir JOHN FORREST:
That is very important.

Mr. BARTON:
Then with the question, if we take things in the order of the Bill of 1891-which has been so much approved by this Convention that it is most likely that any Bill prepared will take things in similar order-of the powers of the Parliament. Before you consider the money clauses of the Bill, and the relative powers of the two Houses in regard to money, it is essential to consider what powers of legislation you will give to the Parliament. Then there are the questions of the nature of the Executive Government, of finance and trade, and of the amendment of the Constitution. If the purpose is to suspend the Standing Orders so as to carry a motion to allow of this discussion of the relations of the Houses to Money Bills, is it to be contended for a moment that it is a right thing that this Convention should deal with these proposed powers of the two Houses inter se before we have before us that part of the Bill treating of finance and trade? Why plunge into a discussion beforehand of the powers inter se of the two Houses when we have not considered those important questions, the discussion of which is probably at the bottom of the powers which we will give to the two Houses? I am perfectly willing to meet the hon. member; I am willing to eliminate and to postpone all clauses which are merely machinery clauses, and do not relate to vital principles; but, for the reasons stated, I must object to a motion having for its object the taking out of its order the consideration of the clauses relating to Money Bills and the postponement of the discussion of matters which are in their nature anterior to the subject of money clauses. Then there is the constitution of the two Houses. Before dealing with the money clauses we should surely know how the Houses are to be elected, and the powers which we will give to them; if, for instance, it is intended to allow each Chamber-

The PRESIDENT:
I wish to make a suggestion-

Mr. BARTON:
I was only putting an illustration.

The PRESIDENT:
I would suggest to the representative that probably he may consider these remarks are more pertinent to the motion which is intended to be dealt with
than to the motion now before the House. It is merely for the suspension of the Standing Orders.

Mr. BARTON:

I am not going one whit further than traversing the reasons given by my hon. friend for the suspension of the Standing Orders-

Mr. SYMON:

I rise to a point of order. The whole question, as you put it, Sir, is whether these Standing Orders are to be suspended to enable this discussion in which we are about to be launched to take place. Now, if we are to be launched into a discussion without the suspension of the Standing Orders, we may be debating the subject the whole day, and the Finance Committee or any other Committee that has work to do will be delayed in doing it. I do ask you to rule that we should be confined to the particular motion of whether the Standing Orders are to be suspended or not.

Mr. BARTON:

There is no necessity for any ruling, as I shall abstain from discussing anything that is indicated in the hon. member's point of order.

The PRESIDENT:

The assurance of the hon. member will obviate any necessity for a ruling.

Mr. BARTON:

The hon. member Sir John Forrest stated in his speech that these clauses—and, I suppose, I may deal with matters which the hon. member was allowed to deal with—

The PRESIDENT:

I did not understand the representative of Western Australia to discuss the clauses at all. His arguments were chiefly confined to the question of urgency, that he might have an opportunity of moving a certain resolution to which effect might be given next Monday.

Mr. BARTON:

I am not going to infringe the spirit of your ruling, Sir, but when the representative of Western Australia states that portion of an expected Bill is the most important portion of that Bill, and it is for that reason he wishes to have the Standing Orders suspended, I only wish to meet that statement by representing this: that there must in any Constitution Bill be other matters which are quite as important as the powers of the Houses between themselves—so their relationship to each other in respect of Money Bills—and it would not be right to suspend the Standing Orders for the purpose of the whole machinery of that Bill in Committee being dislocated.

Sir EDWARD BRADDON:
I hope the Convention will give Sir John Forrest the opportunity he desires of securing the suspension of the Standing Orders with a view to enabling him and the other Western Australian representatives to be present during the discussion of the more important features of the Constitution Bill. I think it would be not only a matter of courtesy on the part of hon. members of the Convention to do this, but a matter of policy also. I trust no one will be able to say at any time that, for any object whatever, the representatives of any colony at this Convention were shut out from a discussion by an accident which they could not foresee or counteract.

Mr. TRENWITH:

I admit it would be extremely undesirable to suspend the Standing Orders for the purpose indicated, namely, to arrange now in what order we will take the discussion of a Bill which we have not seen. Supposing the Standing Orders are suspended, how can we know what is the best way to deal with the Bill when we do not know what the Bill is itself? We would be practically discussing the question in the dark. That seems a sufficient reason for refusing the suspension of the Standing Orders. If the question were a matter of urgency, and we had the necessary information upon which to proceed when the Standing Orders were suspended, there might be some reason for it; but when the Standing Orders are suspended - supposing they are - we shall then be in absolute ignorance of the provisions of the Bill, and consequently unable to arrive at a conclusion, in the language of the proposed motion, as to which are the more important portions of the Bill. This, it seems to me, is a sufficient reason for voting against the suspension of the Standing Orders.

The motion for the suspension of the Standing Orders was then put.

The PRESIDENT:

As the House is not unanimous there must be a division.

A division was taken and resulted as follows:—

Ayes, 26; noes, 14; majority, 12.

Ayes.

Braddon, Sir Edward Holder, Mr.

Brown, Mr. Howe, Mr.

Clarke, Mr. Leake, Mr.

Cockburn, Dr. Lee Steere, Sir James

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AYES-continued.

Dobson, Mr. Lewis, Mr.

Douglas, Mr. Loton, Mr.
Downer, Sir John Moore, Mr.
Forrest, Sir John Sholl, Mr.
Fysh, Sir Philip Solomon, Mr.
Glynn, Mr. Symon, Mr.
Grant, Mr. Taylor, Mr.
Hassell, Mr. Walker, Mr.
Henry, Mr. Zeal, Sir William

NOES.
Abbott, Sir Joseph Lyne, Mr.
Barton, Mr. McMillan, Mr.
Berry, Sir Graham O'Connor, Mr.
Brunker, Mr. Peacock, Mr.
Deakin, Mr. Quick, Dr.
Higgins, Mr. Trenwith, Mr.
Isaacs, Mr. Turner, Sir George

Question resolved in the affirmative.

The PRESIDENT:
There are twenty-six ayes and fourteen noes, a majority of twelve for the ayes. As there is a majority of the whole House, the Standing Orders are suspended as desired.

Sir JOHN FORREST:
I do not intend to say many words; in fact, I think I have said all that I desired to say in moving the suspension of the Standing Orders. I am very sorry indeed to have to urge this matter upon hon. members, and to act contrary to the wishes of an important section of the House; but I am compelled to do it in the interests of the colony I represent. Whatever may have been my private feelings, I cannot help trying my best to have a means provided by which the representatives from Western Australia will be enabled to take part in the discussion, and I hope vote upon, a matter which we consider of most vital interest in the Bill. As to the argument of Mr. Barton that the Bill is not before us, and that we do not therefore know its provisions, I am of opinion that we know very well what will be its provisions. We have seen in the daily press the conclusions that have been arrived at, and many of us have been on the Constitutional Committee; and, therefore, to argue that the Bill is not before us is really -if I may say so, respectfully-splitting straws. We know very well what the Bill will be when it comes before us, because we have taken part, many of us, in the discussions, and those who have not taken part have seen the conclusions arrived at in the committees. Therefore, I can see none of the inconvenience which my friend Mr. Barton seems to find in discussing one portion of the Bill before the other portions. In fact, I think, when we get
the Bill into our hands on Monday, we will be astonished at the very few alterations on the Bill of 1891.

Mr. BARTON:
   Some radical ones.

Sir JOHN FORREST:
   And the radical ones, which are very easily understood, are not many. For instance, there is the mode of election to the Senate.

Mr. HOWE:
   Do not give it away.

Sir JOSEPH ABBOTT:
   Oh, that is only trifling.

Sir JOHN FORREST:
   And the power of the Senate has been altered in some respects, not very materially, but in the direction which the colony I represent desires.

Dr. QUICK:
   Why, then, are you so anxious to have it discussed?

Sir JOHN FORREST:
   Because we wish the decisions arrived at by the Constitutional Committee to be upheld in the Convention, and if we are not here when they come forward they may not be. Surely that is good enough reason for what we desire. I cannot agree that the question of the mode adopted in connection with the constitution of the two Houses has anything whatever to do with the question I want decided, that is, the relative powers of the two Houses. Whatever may be its constitution I desire that the Senate should have the powers which a good majority in Committee have agreed that it ought to possess. The constitution of the two Houses does not affect the point at issue, for I desire that the House which represents the States shall have the power of amending all Bills, taxation, Customs, and all others, with the exception of the Appropriation Bill, which we are willing should not be amended, but may be rejected by the States House. This is the decision arrived at in committee, and, on behalf of the colony which I represent, I wish to take part in upholding that decision in the Committee of the whole. It is not a question whether we should have the Senate elected by a whole colony or by divisions of a colony, or even by members of the Parliament; but I want for the Senate co-ordinate powers to amend all Bills, with the exception of the Appropriation Bill. I think members should have some consideration for the West Australian representatives, and should assist us to take part in the discussion on this important matter; but if, on the other hand, they will not give us this opportunity, and should
the decision of the Constitutional Committee be reversed, it cannot be said that the decision, without our votes, is the deliberate judgment of this Convention, because ten members will be absent, and those ten members would have voted for the views I advocate.

Sir JOSEPH ABBOTT:
Argument or no argument?

Hon. MEMBERS:
Hear, hear. Nominees.

Sir JOHN FORREST:
I notice that when a division takes place on any important matter affecting the interests of their States, the representatives of the colonies of New South Wales and Victoria vote together on a motion.

Sir JOSEPH ABBOTT:
No.

Sir JOHN FORREST:
Look at the last division list.

Mr. BARTON:
May I remind the hon. representative that he carried his motion just now by the vote of a member for New South Wales.

Mr. ISAACS:
And member for Victoria too.

Sir JOHN FORREST:
That was due to the spirit of fair play. I thank those hon. members for giving us the consideration that I think we are fairly entitled to. When it comes, however, to a matter of pounds Shillings and pence, you will find that the representatives will look after the interests of the colony they represent. We found it so in 1891, and we find it so now. I have not conferred with my co-delegates, but I know that their view is that the smaller colonies should be protected. While we are willing that the larger colonies should have the preponderating power in the House of Representatives on the basis of population-and that we should have very few members there-we say that we ought to have equal powers in the Senate. I will say no more, but submit the motion to the judgment and consideration of members.

Sir JAMES LEE STEERE:
I second the motion, which I think is one which must commend itself to the favorable consideration of members, because it is not only our colony which will be affected by the absence of its representatives when the discussion takes place, but there are representatives of other colonies who will be. I wish to take particular notice of the observation that the
representatives of Western Australia were the nominees of the Government. I wish to say distinctly that the Government took no part in influencing the elections.

Dr. QUICK:
You are not elected by the people, at any rate.

Sir JAMES LEE STEERE:
We were elected by the representatives of the people, which is far better.

Dr. QUICK:
In your own opinion.

Sir JAMES LEE STEERE:
Now, with reference to these particular clauses which it is proposed to deal with first, if the motion of my honourable colleague is assented to by this Convention, I cannot see that they will be governed by any other clauses so far as to prejudice discussion. We have a very strong feeling in our colony—and I believe it is the same in all the smaller colonies—that, in order to safeguard our interests, it is necessary that the States Assembly should have equal power with the House of Representatives in amending Money Bills; and I really cannot see that the discussion will be affected by any previous clauses in the Bill. For that reason I hope that the motion of my honorable colleague will be agreed to by this Convention.

Hon. MEMBERS:
Divide, divide!

Mr. HIGGINS:
As I apprehend that this motion will go to a division, I wish to say a few words to explain my vote. I am quite sure that every member of this Convention is equally desirous with the hon. member Sir John Forrest of having Western Australia in this Federation, and of having the Western Australian representatives in our deliberations. But to pass from that, I cannot help recalling the words used by Sir John Forrest in his speech in the opening debate. The hon. gentleman then said:

While I am prepared to assist in passing this Bill, and while I believe in a Central Government, I am at a loss—and I honestly confess it—to satisfy myself—

Mr. SOLOMON:
On a point of order, Mr. President, is the hon. member in order in quoting from "Hansard"?

The PRESIDENT:
It is not entirely regular, but in view of the fact that there are
representatives here who are not well acquainted with the Standing Orders, I do not think that the hon. member will insist upon the point of order.

Mr. HIGGINS:
I am speaking from memory with the assistance of a certain document. Sir John Forrest said:
"I am at a loss - and I honestly confess it-to satisfy myself where the gain comes in for the colony I have the honor to represent. Still, though we may have to sacrifice something in the first instance, it will be for the eventual good and happiness of the whole, so I am prepared to throw in my lot with the other colonies of Australia."

The position is this: that this Federation, which the other colonies regard as vital to the growth and prosperity of Australia, is regarded as a matter of comparative convenience by the hon. the Premier of Western Australia.

Sir JOHN FORREST:
My words were justified.

Mr. HIGGINS:
We have come to this Convention to make compromises in order to achieve Federation, and to vote on this matter-and properly so-but to have voting gentlemen who have come to this Convention with the idea: Well, unless we get exactly what we want, we will not have Federation at all,
those are uneven terms, Sir. While I feel the value of having the representatives of Western Australia here, I do think that it is rather hard to expect that we should allow upon this one particular subject the representatives of Western Australia through their Premier, Sir John Forrest, like Brennus, to throw his weighty sword into the scale and say vae victis. Much as we would like to do it, we cannot forget that all the representatives of the other colonies were elected by the people. I do not wish to say it in any spirit of rudeness or churlishness, but there is no doubt that, rightly or wrongly, the representatives of Western Australia have not been elected by the people. The people of Western Australia have not spoken yet, they have not given expression to their views.

Mr. HOWE:
That is not a federal spirit!

Mr. HIGGINS:
I conceive that it is a perfectly federal spirit to say that the people should speak.

Mr. HOWE:
They have no business to be here according to your argument.

Mr. HIGGINS:
I hope the first division in this Convention, which has taken place here
to-day, will be an object lesson to those throughout the colonies who think there ought to be equal representation of all the colonies in all respects.

Mr. MCMILLAN:

I look at this matter, so far as I can see it, from an entirely practical standpoint. If this motion had come on at the ordinary time, I might have voted for it; but we have a distinct course of business before us, and I understand some members have left for a few days thinking that that course of business would be carried out.

Mr. BARTON:

That is so.

Mr. MCMILLAN:

I think it would be fatal to our meeting here, and fatal to the first step in Committee, if a vote were taken with certain prominent members absent. I should be willing to take a vote if I was sure there was a full meeting of the Convention. I do not approve of the argument of the hon. member who has just sat down, because we have nothing to do with the mode of election of members of the Convention. Our object simply is to have fifty members representing five colonies in the Convention. If Sir John Forrest would adjourn this debate until Monday, we would have this result, that-as it is not likely that the division he is anxious to bring about would be taken until Tuesday afternoon-by then all the representatives who have left for the other colonies would be in their places.

Mr. SOLOMON:

We could arrange pairs.

Mr. MCMILLAN:

I am sure Sir John Forrest does not want to snatch a vote of the Convention hastily. On the question of pairs, I may say we have certain strength and talent away, and you cannot compensate for its absence by arranging pairs, I shall be obliged to vote against the motion, though, so far as my views are concerned now, I should vote for it if the opportunity were convenient, and I suggest that the discussion having been started should be adjourned, so that it can be resumed immediately upon the Bill coming before the Convention.

Sir JOHN FORREST:

How would it do to pass this, and postpone the division until all the members are here?

Mr. MCMILLAN:

There are two objects to be gained if this, debate is closed at once. We want to get on with our Committees, and this delay is very awkward. If we adjourn until Monday, and the money part of the Bill is brought up first,
we would not decide until Tuesday afternoon or evening, and that would meet Sir John Forrest's purpose.

**Mr. LEAKE:**

In the opening debates of this Convention a good deal was said about the spirit of compromise and conciliation which should actuate hon. members, and I appeal to hon. members who are opposed to this motion to take advantage of the opportunity as the first practical one of applying that principle. Western Australia does not in this instance ask any great or peculiar privilege. All we urge is that we should be heard upon what appears to me to be not only an important but a vital principle in the proposed Bill. The principle which the resolution involves includes not only a constitutional, but also a financial question in the Federation Bill. The arguments of Mr. Barton are perhaps too narrow to appeal to hon. members with any considerable force. Where can the objection be to the representatives of Western Australia taking part in so important a deliberation? I sincerely trust hon. members will give us some opportunity of expressing the views which we hold. It is admitted that we must retire from this Convention on Wednesday next, but we not only want to express our views, but, as Sir John Forrest states, we desire also to record our votes. I take it it is not the idea of any hon. member to snatch a division—

**Mr. BARTON:**

That is what is being done.

**Mr. LEAKE:**

And thus probably raise trouble at the second meeting of the Convention. Again I appeal to the sense of fairness of hon. members to allow this course to be adopted. It may be unusual, and possibly the same object might be attained if Sir John Forrest, when the Bill comes into Committee, moves to postpone certain clauses until after the consideration of subsequent ones. I understand from the arguments of Mr. Barton that he would have assented to such a proposal; and, after all, it seems to me that there is very little variance between the parties on this question. Considering the advantages which we may possibly gain, I would ask in that spirit of compromise and conciliation which we hope does prevail, that hon. members will meet us upon this point. I would like to make one observation with regard to what fell from Mr. Higgins as to the position our delegates occupy in this Convention. We are referred to as "nominees" and not as representatives of the people.

**Mr. HIGGINS:**

I have not used the word nominee."
Mr. LEAKE:

In reply to it, I say we are the elect of the elect, and we can claim as great privileges as any member who sits in this Convention. I may also remind hon. members that even though the term "nominee" should apply to us, they cannot apply it in derogation of our position, because in doing so they would derogate from the ability of the exalted Convention which sat in 1891, every member of which was the nominee of a separate Parliament.

Mr. TRENWITH:

And which could not secure the confidence of the people.

Mr. HOWE:

I do not wish to go into the subtle arguments of the gentlemen who preceded me, but from a practical point I wish to express my views. Sir John Forrest has placed his case before the House in such a common-sense manner, that it appeals to my understanding. He has stated that, at great inconvenience, he has attended this Convention. In the first place, he assured us it was not the intention of Western Australia to join at all in this Convention, but that, by the frequent appeals made by the Premiers of the various colonies, he was induced to agree to be present. He agreed to come at a very critical time in the history of a new country like Western Australia, which is just upon the eve of a general election, and he had no time when he agreed to come to appeal to the people. He tells us that he scarcely had time to get the Bill through the House, and allow the conventionists to be elected by the Houses of Parliament met together for that purpose. Consequently I think that, in putting his case before us, he has placed us under a deep obligation to himself. What are our inconveniences in comparison with his? When we entered into the compact we knew that we would have to go to one colony or another, and we were prepared to do this. But his case is different. He declined at first to come into the Convention. He has told us that his time is limited, and that unless the most crucial part of the Bill is brought forward now, he will have to depart, and will thus be deprived of even expressing his views upon it or of voting thereon. So far as I am concerned, I shall be no party to placing Sir John Forrest and the Western Australian contingent in such an unsatisfactory position. Is it our desire that Federation should be an accomplished fact? If so, in treating the Western Australian people in this way we should be throwing a barrier in its way which may take years to remove. Mr. Higgins's remarks, I think, were very severe, and quite uncalled for. He twisted the representatives of Western Australia with not being properly elected, and with not being here on the same footing as ourselves, notwithstanding Sir John Forrest's explanation that it was the only means by which they could be represented here, and that that course
was adopted by the invitation of the Premiers. Those who block the reasonable request of Western Australia are not showing that federal spirit which should be exhibited.

**Sir JOSEPH ABBOTT:**

I would like to take your ruling again on another point of order. The point I would submit is that the form of the proposed resolution is not in accordance with the practice adopted in this and every other House. We are told the objection to the instruction must be urged when the instructions are under discussion. Now, your rules were adopted as the rules of this Convention. Your rules are the same as the rules of most Australian Colonies, which provide that, where not otherwise provided, resort shall be had to the usages and practice of the House of Commons. Therefore, for the purpose of informing hon. members as to what the usage and the practice of the House of Commons is, the whole of Australia is deeply indebted to Mr. E. G. Blackmore for his admirable compilation of the decisions of various Speakers.

**Mr. ISAACS:**

Hear, hear.

**Sir JOSEPH ABBOTT:**

Those decisions are the rules and practice of the House of Commons as the Speaker's ruling is the practice of the House until it is dissented from. This instruction is out of order for two reasons—first of all, it is mandatory; secondly, it is directing the Committee to do something which the Committee itself has power to do. The House has no power to direct the Committee to do that which the Committee itself has power to do. The House can only instruct the Committee that they have power to do certain things; that is, the House can give them power to do certain things which otherwise they would not have power to do. It may be said that these things are technical. I can see no necessity for the waste of time we have had, because Sir John Forrest could just as well have moved in Committee the postponement of all the clauses until he came to the clauses he wished to discuss.

**Mr. BARTON:**

He is only blocking the Drafting Committee.

**Sir JOSEPH ABBOTT:**

I will not impute motives.

**Mr. BARTON:**

I do not mean on purpose.

**Sir JOSEPH ABBOTT:**
I do not sympathise with those who say that Sir John Forrest does not represent anybody. I think he does represent his own colony, and he has represented it for a long time.

Mr. HIGGINS: Nobody has said that he did not.

Sir JOSEPH ABBOTT: First of all the motion says:
That it be an instruction to the Committee, &c.
After all, has not the Committee control of the whole Bill once it is sent in to them?

Sir EDWARD BRADDON: Would it not be as well to read the whole of the instruction?

Sir JOSEPH ABBOTT: Would it not be as well to let me put my case, and for the hon. member to reply to it? However erroneously I might state my case the hon. member has got the right of reply, and to point out in what respect I am wrong. If the hon. member desires it, I will read the whole of the instruction, which states:
That it be an instruction to the Committee to deal with the powers of the States Assembly in regard to Money Bills before dealing with any other portion of the Bill.

As a Committee, it has got that power. Will any one say that the Committee has not got the absolute control of the Bill committed to it by this Convention, and that it cannot postpone every clause in it until the clauses which Sir John Forrest wishes particularly to discuss are reached. If the procedure of the House of Commons is to be our guide in this matter, then there is no doubt as to what the law is. In Mr. Blackmore's "Decisions of Speakers Dennison and Brand," page 189, it is stated:

No instruction can be given to a Committee to do that which they have already the power to do.

That is quite independent of the Standing Orders. The quotation then goes on:

Nor can an instruction be given to a Committee to deal with a question beyond the limits of the Bill. Nor may an instruction be mandatory in form, the intentions of an instruction being to give a Committee power to do a certain thing if they think proper, not to command them to do it.

Mr. DOUGLAS: You misunderstand the meaning of it.

Sir JOSEPH ABBOTT: A thing which has struck me in this Convention is the wonderfully disorderly conduct of the rulers of the other Legislatures (laughter) - with
friend, Sir Graham Berry, who is a pattern for every one of us. With regard to the form of this resolution, I submit, first, that it is giving the Committee an instruction to do something which of itself it has the power to do, and for that reason it is out of order; and, secondly, it is out of order because it is mandatory, and the Committee being invested with the proposed power it has no right to get this instruction. The case to which I have referred is well known. In page 190 of the book I have quoted from, it is stated:

An instruction given to the Committee to confer on it that power which, without the instruction, it would not have.

Will anyone tell me that the Convention has not got the power to do exactly what it likes when it gets into Committee? The suspension of the Standing Orders in no way cures that. I hope the language of the authority I have just quoted is plain enough even for the hon. member who presides over the Legislative Council of Tasmania. There is another passage in Mr. Blackmore's book which I would like to quote. It is as under:

The Speaker-"The right hon. gentleman considers the instruction unnecessary, because the Poor Law Board have now the power of altering the boundary of unions. But the question is not as to whether the Poor Law Board has the power, but whether the Committee on this Bill would have power, without the instruction, to do so; and in my opinion the Committee would not have that power, because the subject matter would not be relevant to the subject matter of the Bill. Therefore the right hon. gentleman is in order, and rightly has precedence with his motion, because an instruction is not of the nature of an amendment, but a substantial motion."

There he ruled that, because the Committee had not the power to insert a new clause, the instruction was in order. The heading of the case I have quoted is that an instruction is given to the Committee to confer a power on it. I have pointed these things out because I do not see why, when we have seriously adopted a set of Standing Orders, we should depart from them. In Legislatures there is nothing more dangerous than the sudden suspension of Standing Orders. The majority can always protect themselves, but the Standing Orders, as Mr. Speaker Onslow once said, are for the protection of the minority.

Mr. SYMON:

May I ask if the member for Western Australia, Sir John Forrest, withdraws this motion now, will it be competent for him to proceed with the notice of motion on the paper, of which he has given notice contingently, in its present terms?
Mr. DEAKIN:
A point of order has been raised.

The PRESIDENT:
On the point of order raised by Sir Joseph Abbott there is no doubt that the course pursued in this matter is not the usual course, but the position is this: that the Standing Orders that regulate the usual course of procedure in Parliament and this House have been deliberately suspended by an absolute majority for the purpose of enabling a specific motion to be moved. That motion is now before the Convention, and I propose to rule that it is in order.

Dr. QUICK:
Then everything is in order.

Mr. SYMON:
If Sir John Forrest withdraws this motion now, will it not be competent for him to proceed with the other one on the paper?

The PRESIDENT:
I should not rule that the withdrawal of this motion would prevent Sir John Forrest, when there is a resolution before the House that the House should resolve itself into Committee, from moving the motion on the paper.

Mr. BARTON:
The hon. member can withdraw this one, and still go on on Monday.

Mr. PEACOCK:
That is pretty rich, after wasting all this time.

Mr. SYMON:
Then I will join with Mr. McMillan, in urging Sir John Forrest either to consent to this debate being adjourned until the draft Bill is before us, or to withdraw the motion now with a view of moving it on the occasion indicated by the notice on the paper. I, for one, am in the position of desiring more light. We are really beating the air. We have no Bill before us, and it is difficult to understand how we can give instructions to a Committee to deal with a Bill which is non-existent, and the terms of which we do not know.

Sir JOHN FORREST:
We know them well enough.

Mr. BARTON:
As a Convention we cannot know them until the Committee reports.

Mr. SYMON:
We have not all had the opportunity of being on the Constitutional Committee, and, technically at any rate, we do not know whether there are
money clauses in this particular Bill or not. It will be better for us to pursue the course indicated by the motion, of dealing with it contingently on the motion being moved to carry the Bill into Committee of the whole House. We should then know what the terms of the whole Bill were, and the business would be forwarded just as effectually. The object Sir John Forrest had in view has been to some extent assisted, because, in that spirit of conciliation and compromise which pervades the assembly, he has had an indication of a large amount of goodwill. The majority have concurred with him in suspending the Standing Orders to permit of this discussion, and he has been able to see who are with him and who are against him; he has separated, I will not say the sheep from the goats, but the sympathetic from the unsympathetic members of the Convention. I am entirely with him. I do not think we ought to look at it from the point of view put by a member for Victoria, that we who are elected by the people are of finer clay than those chosen by the Legislature of Western Australia.

Mr. HIGGINS:

I never said that, nor anything like it.

Mr. SYMON:

We speak with no more authority than they. There are ten representatives here representing that colony, and they take a very strong interest in securing a strong Senate. They say whether the Senate is elected by the people directly, or chosen by the Legislature, makes no difference to us—we want a strong Senate. And one of the elements which the representatives of the smaller colonies think is necessary for a strong Senate is that the largest possible power should be given to it in dealing with Money Bills. Undoubtedly that is the crucial point in connection with the Senate. I do not believe that to the representatives of the less populous colonies there is any other point on which they entertain so strong an opinion. Whilst we are in sympathy with Sir John Forrest, in the view which he has put forward, we feel that he has gained this much: he has the assurance of Mr. McMillan, that if the motion had come forward in the ordinary way, he would have voted for it. I do not think that he should be afraid, when we come to debate this matter at length, that he will be met by any unreasonable antagonism on the part of the representatives of the more populous colonies. At any rate he can depend upon the views which he puts forward being fairly and justly considered. I am quite sure that the grounds for special consideration which he has put forward will have special weight, and that under the special conditions in which certain members of the Convention find themselves, members will give them every consideration in bringing to a final decision that particular point which they think is of the highest consequence before they enter upon any
scheme of Federation. At the same time, I appeal to Sir John to withdraw the motion, because, before voting on it, I want to see the whole Bill, and I feel that there is an element of fairness in the contention that there are those absent who would exercise considerable influence on the Convention in regard to this matter. Sir John knows that there is a sentiment of goodwill in the Convention towards him and the colony he represents, and, therefore, I would suggest that he should either withdraw the motion, or consent to an adjournment of the debate until the draft Bill is before us.

Sir GEORGE TURNER:

Personally, I am very anxious that the representatives of Western Australia should be present when we are dealing with this question relating to the powers of the Houses with regard to Money Bills, as I think that it is probable that such arguments may be brought forward as will induce them to change their strong views, or that we may bring forward sufficient arguments to convince them that, unless they are prepared to change or modify their views, they may jeopardise the whole work of the Convention.

Mr. PEACOCK:

Hear, hear. It is just as well that the public should know it.

Sir GEORGE TURNER:

Therefore, I will be pleased if they should be present, in order that their views may be set forth, and the public may have the opportunity of hearing them. I submit, however, that the course which Sir John Forrest has taken to-day is the very course which will prevent full discussion before the Western Australian delegates leave. Although the Finance Committee have been sitting for several days they have very important and very difficult matters yet to decide. There is still one matter which should be thoroughly threshed out, and will have to be threshed out, that will take many hours before we can come to a decision upon; and, unless we can come to a decision to-day, it will be impossible for the Drafting Committee to put the resolutions into proper shape in order that the Bill may be proceeded with on Monday. With that object in view, I would strongly urge upon my honorable friend, the Premier of Western Australia, not to insist upon his motion, but to allow this matter to cease now in order that we may get to our work. I would point out that if there is any desire to block discussion in Committee, so that Western Australia may not be represented, there would be no difficulty in doing that if hon. members really wished to do it. But I feel sure that no one wishes to do that, because, if we wanted to do so, we could discuss the Bill on the second reading, and at such length as to make
it impossible for them to have an opportunity to deal with the matter. We are perfectly willing that they should have an opportunity of expressing their views. I myself would be very glad indeed if a vote could be taken when the Western

Sir JOHN FORREST:

By permission of the Convention I should like to say that I am only too pleased to fall in with the views of hon. members. The only object I had was to save time on Monday. I am very much obliged to hon. members for the way in which they have dealt with the matter, and I will ask one of my colleagues to move that the debate be adjourned. Perhaps that would be the better course.

HON. MEMBERS:

Withdraw.

Mr. BARTON:

I will save him the trouble by moving that the debate be adjourned.

Sir JOHN FORREST:

Would that be the best way?

Mr. BARTON:

You can withdraw and take the contingent motion.

HON. MEMBERS:

Withdraw.

Sir WILLIAM ZEAL:

I would suggest to my honorable friend that he should withdraw this motion. I voted for the suspension of the Standing Orders in a spirit of generosity, so that the hon. members from Western Australia would be allowed to state their views on this important question. I agree with Sir Joseph Abbott, that the proceeding is irregular, but I say that the irregularity is justified by the exigencies of the case, because hon. members from Western Australia wished to make a statement.

Mr. SYMON:

The President has ruled that Sir John Forrest may proceed with the contingent motion on the paper.

Mr. HOLDER:

I would suggest that Sir John Forrest should withdraw the motion; and if he will do that, then the contingent notice of motion he has on the paper will have the full effect, and his rights will in every way be protected.

Sir JOHN FORREST:

You will not come to it till Tuesday, though.
Mr. HOLDER:

But I take it that the hon. member may secure his end by another method. The division we took just now indicated the desire to have fair play. One of the members from one of of the large colonies voted with him, and so did another from another large colony. A member from one of the larger colonies (Mr. McMillan) urged the undesirability of taking snatch votes. I do not think any of us want snatch votes. I do not think any of us desire what is unfair. I think the whole of the members ought to be prepared to give pairs right through next week, and, if required, until the Convention has finished its work; and if hon. members would only undertake to give pairs when required, and of course when properly authenticated, they would be meeting the very special claims of Western Australia.

Mr. PEACOCK:

Pairs will never do! Oh, dear! That would be a nice way to deal with this business. I never heard of such a proposal. VICTORIAN DELEGATES:

Let the South Australians give the pairs! (Laughter.)

Mr. HOLDER:

Those who want to get a snatch vote will refuse to give pairs.

Mr. PEACOCK:

Nothing of the kind.

Mr. TRENWITH:

If we decide to give pairs, we might as well take all the votes now.

Mr. HOLDER:

I am surprised to hear any refuse to give pairs. It almost makes me withdraw my advice to Sir John Forrest. I believe a large majority of members will be prepared to give pairs rather than have a catch vote. I believe the South Australian representatives would readily do so.

Mr. LYNE:

How can you give pairs when you do not know what the proposal's will be?

Mr. HOLDER:

We know the Bill will be before us before the Western Australian delegates withdraw.

Mr. BARTON:

Let them arrange pairs with the hon. members for South Australia.

Mr. HOLDER:

I am willing to pair with Mr. Lyne if he has to go away.

Sir GEORGE TURNER:

You pair with Sir John Forrest.

Mr. HOLDER:

I will willingly pair with any hon. member from Western Australia with
whose views I differ.

Mr. GLYNN:
Without listening to discussion?

Mr. TRENWITH:
What is the use of discussion if you have decided how you are going to vote?

Mr. MCMILLAN:
If you put the question to Mr. Barton asking him, if this motion is withdrawn, whether he can bring in the Bill on Monday, so far as he knows now, Sir John Forrest will know the position he will be in.

Mr. HOLDER:
I am asking the hon. member to withdraw his motion; but I am asking under the special circumstances of the case that when the Western Australians have to withdraw, those who differ from them should give them pairs.

Mr. BARTON:
Perhaps, after what has been said, I may claim the indulgence of the House, without this being regarded as a speech, to make a statement. I wish to say that Sir John Forrest knows how sedulously I have endeavored to push forward the business of the Convention. I would like, too, to give force to what has been said about the time which has been taken up to say that, supposing the Bill is brought up on Monday, the proceedings of this Convention will have taken twenty days from the outset, while up to the same stage in 1891 they took twenty-nine days, or nine days more. There is, I may say, a chance of the Bill being ready on Monday morning. There was more chance of that at 10.30 this morning than there is now. If there is any serious prolongation of this debate, this chance will disappear. I am willing to work hard, and other members are also ready to work hard with me. I point out to the hon. member that if, a little while ago, I was prepared to break the Sabbath on his behalf, I hope he will not take any action now that will cause me to be religious on Sunday. I am speaking jocosely when I say that; but I do want hon. members to understand that it is only by anxious and unremitting care that this Bill can be ready on Monday.

HON. MEMBERS:
Withdraw!

Dr. COCKBURN:
As between withdrawal and adjournment I would submit that the hon. member Sir John Forrest has secured the suspension of the Standing Orders, and cannot be prevented from going on by the technical point
raised by Sir Joseph Abbott.

Sir JOSEPH ABBOTT:
I will raise no more. I will take no steps to prevent the hon. member from going on with this motion when the Bill is before the House.

Sir JOHN DOWNER:
I, too, would suggest that Sir John Forrest should withdraw the motion.

Sir JOHN FORREST:
I am quite willing to meet the views of the House, and withdraw the motion.

Leave granted; motion withdrawn.

NOTICE OF MOTION.

Sir JOHN FORREST:
I give notice that on Monday next I will move:
That, in the opinion of this Convention, the interval for the consideration of the Draft Bill by the local Legislatures should be extended to not less than 120 days and not more than 180 days.

HOUR OF MEETING.

Mr. BARTON:
I beg to move:
That this Convention, at its rising, do adjourn until 11.15 a.m. on Monday, 12th instant.

I have put this motion upon the paper at the request of a number of delegates who wish to go to Broken Hill. The question is entirely in the hands of the House. The Constitutional Committee will meet at 10.30 o'clock on Monday, by which time it is hoped, at any rate, the Bill may be ready, and this motion is merely for the convenience of members going to Broken Hill.

Sir JOSEPH ABBOTT:
I second the motion.

Question resolved in the affirmative.

ADJOURNMENT.
The Convention adjourned at 12.18 p.m.
Monday April 12, 1897.


The PRESIDENT took the chair at 11.15 a.m.
BUSINESS OF THE CONVENTION.

Mr. BARTON:

Before you call on the ordinary business of the day, Sir, I think it will be satisfactory to hon. members if I say a few words about the state of business, and the time that we may hope to begin to discuss the new Bill. Committees Nos. 2 and 3 have reported to Committee No. 1, and the report of Committee No. 1 will, including the Bill, I think, be ready at close on one o'clock. Of course the Drafting Committee appointed have had to take into consideration the labors of the other two committees, and have had to frame the necessary clauses upon the results of their deliberations. They have been assisted in the case of the Judiciary Committee by their work having been thrown into legal form beforehand. The Bill, if I may break the confidence of the Committees so far as to say so, is practically prepared. But it has to go back to the Printer for a few alterations -one or two of consequence, and others not-before being fit to present to this House, and it will not be in a form in which it could be conscientiously laid before this House before one o'clock. The course I suggest is that, after the ordinary morning business is taken, the Convention shall rise till after lunch. So soon as the Bill is returned to the Constitutional Committee with all corrections made, that committee will be ready to meet and adopt its report, which is the Bill, and then, as soon as this is done-notwithstanding that I may be incurring as Chairman of the Drafting and Constitutional Committees some charge of breaking the Standing Orders or Parliamentary law, I think I will take upon myself, unless forbidden by this Convention, to distribute to members during the suspension of the sitting, copies of the Bill-

Sir EDWARD BRADDOCK:

Hear, hear.

Mr. BARTON:

So that by two o'clock or half-past two members may have had some opportunity of looking at the Bill. They will then be assisted by short explanations from me of the principal provisions of the Bill, and the manner in which they differ from those of the Bill of 1891, and when this
is done I shall have the honor of moving that the House resolve itself into Committee to consider the clauses of the Bill.

PETITION.

Sir GEORGE TURNER:
I have a petition, signed by 2,606 residents of Victoria, New South Wales, South Australia, and Tasmania, praying that neither the Federal Government nor any State Parliament shall make any law respecting religion, or prohibiting free exercise thereof.

Petition received.

LOCAL LEGISLATURES AND THE DRAFT BILL.

Sir JOHN FORREST:
I move:
That, in the opinion of this Convention, the interval for consideration of the Draft Bill by the local Legislatures should be extended to not less than 120 days nor more than 180 days.

I propose to say a few words in regard to this matter, but I should not object in any way if hon. members think it would be better to postpone its consideration till to-morrow morning, as otherwise it might interfere with the work of the Drafting Committee and the progress of the Bill.

Sir EDWARD BRADDON:
Postpone it till this afternoon.

Mr. BARTON:
You might want to get on with the Bill then.

Sir JOHN DOWNER:
Postpone it till this afternoon.

Sir JOHN FORREST:
My object in moving this motion is to meet a difficulty which has arisen, especially in Western Australia, in regard to the reassembling of the Convention after 120 days. It would have been easy to meet within 120 days if it had not been for the celebration in connection with Her Majesty's Diamond Jubilee, which will very much interfere, I think I may say, with the Parliamentary business of Western Australia, and I think has been found inconvenient by every Premier in Australia. As everyone knows, it is the intention of the various Premiers of the colonies to visit England, and they will not return to Australia until towards the end of August. Now, it might have been very easy for the Government of Western Australia to have met Parliament during the absence of the Premier, under ordinary circumstances; but the circumstances are not ordinary, because a general election will have taken place, and a new Parliament will have to be met. I myself hesitate to advise
the Government to meet Parliament during the absence of the Premier, and I think that that feeling would be the same with every other Premier who is here if he had to meet a new Parliament. It is very easy of course to meet a Parliament which has very nearly run to the end of its term, but under ordinary circumstances the head of the Government likes to be in his place when Parliament is sitting, and especially so when a new Parliament is assembling. As I have just said, we will not be back till the end of August, and, when we do return, there will be the ordinary business of the country to be attended to in Parliament. I believe, in the case of Victoria, the Premier intends to make his financial statement as soon as he returns, and immediately afterwards he will have to go away to the Convention which may be sitting perhaps in Melbourne or Sydney, or some other place. In his case, of course, it is the last Session of the present Parliament, and a general election will take place shortly afterwards, and therefore there is not much probability of any difficulty arising. Another reason why 120 days is rather short is that we all hope to see Queensland represented at this Convention, and there may be some difficulties in the way of Queensland being represented as early as 120 days from the date of the adjournment of this Convention. Altogether, I think the reassembling of this Convention is not a matter that anyone should desire to hurry. If the feeling of the people of Australia is such that a little delay will damp their enthusiasm or their desire for Federation, I think that would be a good argument for not going forward with this Bill hurriedly. Unless the people of Australia are in real earnest in regard to this matter, and are desirous for a real union-unless that desire is deep-seated, it seems to me that we, the politicians of Australia, should not desire to hurry them on in the fear that their enthusiasm or their desire might grow less. For these reasons I urge hon. members to agree to this motion. Of course I am aware that in each of the colonies there is a law providing that we should meet not later than 120 days after the adjournment; but, of course, that can be obviated easily enough by passing a small Bill through our Legislatures-and I do not anticipate for a moment there would be any trouble in doing that-extending the time to sixty days longer. I always thought from the beginning that 120 days was too short a time to deal with this matter, and that it would be much better to give a longer time. My motion does not say that we shall adjourn for 180 days, but that it shall not be longer than that period, and, according to the terms of the motion, it will be competent for arrangements to be made for assembling at an earlier time if the state of public business allows of it. It would be convenient to many people and others besides myself and even other Parliaments besides the Western Australian Legislature, if this motion is agreed to. All I can say is that, if it is not agreed to, I cannot see
how in our case we are to get over the difficulty, unless we meet Parliament earlier than we anticipate at the present time. The Legislature of Western Australia has agreed that we should not meet till the end of August, and they have granted the necessary supplies for July and August with a view to the colony being represented at the great ceremonial in connection with Her Majesty's Diamond Jubilee. That being the case, there is no necessity whatever for the Government to meet Parliament until the end of August. If this motion is not agreed to, and if we have to meet again before 120 days time—about the end of August—I cannot see how it is possible for Western Australia to be represented on that occasion. I think everyone will agree that it is undesirable in this great movement that any colony should be absent. We all deplore the absence of Queensland on the present occasion, and we hope to have that great colony present with us when we meet again. This is more likely to come about, I think, if my motion is agreed with. Every assistance should be given to those colonies which are in any difficulty in order that when we meet again we may meet as representatives of all parts of Australia.

Sir JAMES LEE STEERE:

I beg to second the motion.

Mr. BARTON:

It is not my intention to address myself to the merits of this question, and I ask the Convention to take advantage of the kindly offer made by my hon. friend Sir John Forrest, for the adjournment of the discussion. We are now at a point at which the Constitutional Committee are doing all they can to get the Bill before the Convention, and it is desirable that their labours should be completed as soon as possible. In addition to that I would like to ask hon. members to remember that the wishes and views of the Government of New South Wales in a matter of this kind are of some importance. As I have not had any conference with the hon. the Premier of New South Wales in regard to this proposal, and as he will be here to-morrow morning, I submit that it would be convenient to adjourn this discussion till then. Bearing in mind that view, if I am in order, I will move that the debate be adjourned.

Mr. LYNE:

How can it be got on with to-morrow morning?

Mr. BARTON:

There need be no difficulty over that. Though there may not be any opposition on the part of the Government of New South Wales I should like to be sure of that first, and I think that the Premier of one of the larger
colonies is entitled to be heard upon a subject of this kind. I am not going to address myself to the question. If I did so, I would only point out that a matter of this kind would require amendments to be made in the Federal Enabling Act by five or six Parliaments, and I do not think it is very strong argument in favor of this proposal that we ought not to take any account of the state of public feeling in the other colonies.

Mr. DEAKIN:

Leave it till to-morrow.

Mr. BARTON:

If the hon. member thinks that the people of Western Australia are of opinion that there is nothing to be gained by Federation, there may be some force in the argument; but, if there are colonies which feel that there is much to be gained by it, then I think the electors of those provinces would be inclined to think they were being further deceived and befooled were the proposal lightly accepted.

Sir JOHN DOWNER:

Ask for leave to continue your remarks to-morrow.

Sir RICHARD BAKER:

I move-

That the debate be now adjourned till to-morrow morning.

Debate adjourned.

SUSPENSION OF SITTING.

The PRESIDENT:

I take it that the House desires a suspension of the sitting. Under the circumstances the Convention will resume its sittings at 2 o'clock.

Mr. BARTON:

Make it a little later-2.15.

The PRESIDENT:

The Convention will resume its sitting at 2.15 this afternoon.

The sitting was then suspended.

COMMONWEALTH OF AUSTRALIA BILL.

Upon the Convention resuming its sitting at 2.15 p.m.

Mr. BARTON said:

I have to bring up the report of the Committee appointed March 31st, 1897, for the consideration of Constitutional Machinery and the Distribution of Functions and Powers, and to prepare and submit to this Convention a Bill for the establishment of a Federal

Constitution, and I move that it be received and read.

Question resolved in the affirmative.
The CLERK then read the report, as follows:

1897.-Australasian Federal Convention.-Constitutional Committee.

Report of the Committee appointed March 31st, 1897, for the consideration of Constitutional Machinery and the Distribution of Functions and Powers, and to prepare and submit to this Convention a Bill for the Establishment of a Federal Constitution.

Your Committee (No. 1), appointed March 31st ultimo, for the consideration of Constitutional Machinery and the Distribution of Functions and Powers, and to receive Reports from Committees Nos. 2 and 3, appointed respectively for the consideration of provisions relating to Finance, Taxation, Railways, and Trade Regulation: and for the consideration of provisions relating to the establishment of a Federal Judiciary, and upon the result of the deliberations of the several Committees to prepare and submit to this Convention a Bill for the establishment of a Federal Constitution, have to report as follows, that is to say:—

Your Committee have held several meetings for the consideration of the matters committed to them by the Order of Reference, and have received from Committees Nos. 2 and 3 the reports of the conclusions arrived at by these Committees respectively.

Your Committee have further to report that they appointed a Committee of three members, viz.:—Mr. E. Barton, Q.C., the Hon. Sir J. W. Downer, K.C.M.G., Q.C., M.P., and the Hon. R. E. O'Connor, Q.C., M.L.C., to draft a Bill in terms of the Order of the Convention of March 31st ultimo.

The Sub-Committee have, in the preparation of the Bill, used every expedition consistent with the careful consideration which a matter of such gravity demands.

Your Committee submit to this Convention the Draft Bill as prepared by the Drafting Committee.

Your Committee further present to the Convention the reports made to them by Committees Nos. 2 and 3.

EDMUND BARTON,
Chairman Constitutional Committee.
Legislative Council Chamber, Parliament House, Adelaide, South Australia,
April 11th, 1897,

Mr. BARTON:
I desire to move:
That the reports and Bill be printed.
Question resolved in the affirmative.

Mr. BARTON:
I have now to move:
That Mr. President do leave the chair, and that the Convention resolves itself into a Committee of the whole for the consideration of the Bill in detail.

In making that motion, inasmuch as the Bill only reached the hands of hon. members a few minutes ago, it would be expected of me that I should make some statement as to the shape which the Bill assumes, and as to the main points of difference between it and that instrument of Federation to which we have all been so long accustomed, and which we have so often read and re-read, the draft Bill of 1891. In making this statement I hope to be as brief as possible. The labors of the Drafting Committee, added to those undertaken in the general committees, have been rather arduous, and I must say that if my remarks extend to any length that will not be from any desire on my part, but simply in the performance of the duty I owe to this Convention. I would like to say at the outset that, as far as the Drafting Committee have been concerned, they have endeavored to carry out the decisions of the three committees appointed by the Convention as nearly as is possible in the preparation of an instrument of this kind. Of course a good deal is sometimes left to inference. A committee comes to a resolution, and, as in the case of the Finance Committee, it leaves a good deal to those who have to put its conclusions in the shape of law; and inferences have to be drawn as to whether they have been correctly interpreted by the draughtsmen who prepared the Bill. I think, however, that in all cases we have fairly and correctly interpreted the wishes of the committees. The conclusions of the Judiciary Committee left us little to do, as their conclusions were well drawn up in the form of the clauses in the Bill as we received them. Those of the Finance Committee consisted of resolutions, the bulk of which were in affirmation of the clauses which were contained in the Bill of 1891. There were, however, sundry matters in which the clauses of the Bill of 1891 were radically departed from, and in some particulars it became necessary for the Drafting Committee to frame provisions relating to the revenue and expenditure of the Commonwealth and the distribution of the surplus upon very different principles from those which were accepted in 1891. Again, the provision as to the taking over of and the consolidation of the public debts was of a considerably different character, and in the report of that committee they also recommended the appointment of an Inter-State Commission to deal with railway and river traffic, and I shall have occasion presently to explain what their recommendation was and how it was carried into effect by the Drafting Committee. So much for the reports of Committees 2 and 3. In the
Constitutional Committee there were a certain number of amendments carried on the Bill of 1891. The bulk of its provisions were practically left untouched, although there were of course numerous minor amendments, but there were strong amendments with reference to some clauses, and in the statement which I am about to make I would ask hon. members not to consider me as giving particular effect to my own opinions but as endeavoring to record what has been done by the committees. With respect to the money clauses of the Bill of 1891 there have been departures which by some may be considered small, but by others as entirely radical. These I will come to directly in the course of the exposition I hope to make. In other portions of the Bill of 1891 the Constitutional Committee decided to alter the constitution of the Senate. They decided that the Senate should be a body chosen by the people of each State as one electorate, and in so doing they decided also that the qualification of the electors should be the same as that of the electors for the House of Representatives, and also that the qualification for the States Assembly, as the body formerly known as the Senate is now called, should be practically the right to vote at elections for the House of Representatives. Having made these few remarks with regard to the decisions of the committee—though I must not omit to say that there were other important decisions of the Constitutional Committee, which I have not yet mentioned—I should like to explain this Bill in a way which hon. members can more readily follow by taking the Bill in their hands and weighing my successive explanations as they are given. I shall endeavor to keep as nearly as possible to the form of the Bill as it stands, because in construction and groundwork this Bill is very similar to the Bill of 1891, whatever departures there may have been in substance and form in the various clauses. Of course it is necessary in a Bill of this kind that it must be passed by the Parliament of the United Kingdom, and we have endeavored, as was done in 1891, to put the Constitution of the Federation in the form of a document by itself, and we hope complete in itself. The Bill, therefore, now before hon. members is framed as a Bill to be introduced into the Parliament of the United Kingdom constituting the Commonwealth and declaring the Constitution of the Commonwealth. The Constitution itself stands as a separate part of the Bill. Hon. members will remember that in some of the Constitutions of the various colonies the Constitution Bill stands as a schedule of the Imperial enactment. The Constitution of Australia in this Bill has been placed by itself under the heading of the eighth clause, covering the portion of the Bill which has to be passed by the Parliament of the United Kingdom. Of course everything has to be passed by the Parliament of the United Kingdom, but, as before, there will be a certain number of covering clauses to be passed by that
Parliament—I think seven in number

-and then there will be the eighth clause, part of which will be the whole Constitution as intended to be carried into effect if this Bill is passed by the Parliament of the United Kingdom. In that respect we have proceeded upon the lines laid down at the Sydney Convention of 1891. We have thought that the name, as before, of the new Federation should be the Commonwealth of Australia. I need not refer to the many discussions which have taken place upon the name appropriate for the Federation of the Australian Colonies, but on the whole we have been of opinion—at any rate the Constitutional Committee have come to the decision—that as we are now about to constitute a nation, which by its attributes will be a great Commonwealth, it should receive that name and, for myself, I venture the assertion that I know of none better and none statelier. I need not, therefore, further refer to the clauses which form the covering clauses of the Bill which the Parliament of the United Kingdom will give to this Constitution, but I will refer to the frame of the Constitution itself. It is divided into eight chapters. The first deals with the Parliament, and this is divided into five parts, that is, General, the States Assembly, the House of Representatives, Provisions relating to both Houses, and the Powers of the Parliament. The second chapter deals with the Executive Government; the third deals with the Federal Judiciary; the fourth with Finance and Trade; the fifth, the States; the sixth, New States; the seventh, Miscellaneous Provisions; and the eighth chapter with the question of the amendment of the Constitution. As before, it is provided that the legislative powers of the Commonwealth shall be vested in a Federal Parliament consisting of Her Majesty the Queen, a States Assembly, and a House of Representatives. There has, however, been a change of name—and without recording, as it will be unnecessary to record, the decisions of the committees—I may say that the title of States Assembly was, upon full discussion, considered to be the best expression of the origin and objects of the body which has hitherto been spoken of as the Senate. The title of House of Representatives has been left untouched. With reference to the earlier provisions of the Bill, I will ask the special attention of hon. members to the provision that, wherever they find "The Parliament" or "the Parliament of the Commonwealth" as they read the Bill, they will understand that that indicates the Federal Parliament. There are many clauses in the Bill where the Parliament of the Commonwealth has to be mentioned in juxtaposition with the States or the Parliaments of the States. In those places where there has been any possibility of confusion the title "The Parliament of the Commonwealth" has been adopted, but where confusion seemed to be
unlikely or impossible the shorter title of "The Parliament" has been adopted to express the Federal Parliament. Of course provision has been made for the appointment of a Governor-General, and the first considerable amendment on the Bill of 1891 has been made in relation to the salary of that officer. It will be remembered that in 1891 it was provided that the salary should stand at such sum as should be fixed by the Parliament of the Commonwealth, but in any case it was not to be less than £10,000. It has now been expressly provided that the salary shall be neither more nor less than £10,000; that is to say, that that amount is not fixed as a minimum, as in the former Bill, but is a fixed sum. The result of that is that if a clause in regard to the amendment of the Constitution is passed in the form I shall presently explain it will require a referendum of the whole people of Australasia to increase or diminish that sum. The States Assembly has in principle been altered. When I say "States Assembly" hon. members will remember that I am now referring to the so-called Senate of the Bill of 1891. The numbers of the States Assembly instead of being eight for each State are now placed at six. As before, there will be retirements every three years of half the members of the States Assembly, but instead of the members of this States Assembly being elected, as was provided in 1891, by the Houses of Parliament of the several States, the intention now, if the clause is adopted by this Convention, is that each of those States shall elect its contribution to the States Assembly by direct popular election, the whole State voting as one electorate. The qualification of the electors for the States Assembly is to be identical with that which will exist for members of the House of Representatives. The qualifications of a member of the States Assembly will, in like manner, be those of a member of the House of Representatives, it having been apparently the opinion of the Committee that, inasmuch as the States Assembly was to be a body elected by popular vote, there should be no more restriction upon the capacity of an elector or the capacity of a candidate than would in like manner be imposed upon an elector or a candidate for the House of Representatives. Until Sir GEORGE TURNER:

Do you propose to refer to clause 13 at present?

Mr. BARTON:

I shall come back to that later on. I now refer to clause 23. It is there provided in the first paragraph, in accordance with the instruction of the Constitutional Committee, that as nearly as possible there shall be two members of the House of Representatives to one of the States Assembly; that is, that the proportion of two to one shall from time to time be as
nearly observed as possible. Then it is provided that subject to any alteration by law of the Parliament of the Commonwealth, which alteration, however, will have to be according to certain principles, and will have to preserve the rights of the States Assembly as to the equal number of members and so on until other provision is made each State shall have one member to what is called each quota of its people. The words used are these:

The quota shall, whenever necessary, be ascertained by dividing the population of the Commonwealth as shown by the latest statistics of the Commonwealth by twice the number of the members of the States Assembly, and the number of members to which each State is entitled shall be determined by dividing the population of the State as shown by the latest statistics of the Commonwealth by the quota.

That provision, which seems at first a little complicated, is one that is very easily understood if hon. members submit it to the process of illustration. The quota, for instance, is to be ascertained first by dividing the population of the Commonwealth by twice the number of the members of the States Assembly. Suppose there are six States represented in the States Assembly; then, as there are to be six members for each State, the number of these members would be thirty-six. As it is provided that there shall be as nearly as possible two members of the House of Representatives for one member of the States Assembly, in such a case the number of members of the House of Representatives would be seventy-two. Take the population of Australia as it exists at present at 3,600,000, including Queensland and Tasmania, and apply that process. The population is 3,600,000.

The quota is to be ascertained by dividing the population by twice the number of the members of the States Assembly or Senate. That will be a divisor of twice thirty-six, or seventy-two, which happens to be the number originally intended in the Bill, as the number of members in the House of Representatives, according to the proportion of two to one. Dividing 3,600,000 by seventy-two you get the quota originally intended in the deliberations of the Committee, namely 50,000. The clause goes on to provide:

The number of members to which each State is entitled shall be determined by dividing the population of the State as shown by the latest statistics of the Commonwealth by the quota.

Divide by that quota of 50,000 so ascertained, and you get the numbers of the total. The number of members to which each State is entitled will be
ascertained by this process, that there shall be not less than six members-

Mr. PEACOCK:

Five.

Mr. BARTON:

I mean members of the States Assembly. Therefore in the Bill we propose to lay down clearly the number of members for the House of Representatives in the first Parliament. That will be seventy-two. Turn to clause 26, and we find provision that, notwithstanding anything in clause 23, the number of members to be chosen by each State at the first election shall be as follows; that is, to be determined according to latest statistical returns at the date of the passing of the Act, and in relation to the quota referred to in previous sections. So long as the number of members of the Senate remains at thirty-six the number of members of the House of Representatives must be seventy-two, and, applying the quota clause in the way I have endeavored to explain, the quota you get amounts to 50,000 at the time this Act comes into law, but nevertheless it will be such a number as will give, as against thirty-six members of the States Assembly, seventy-two members of the House of Representatives, and distributed according to the number of population of each State.

Mr. TRENWITH:

Will not the first Parliament number more than seventy-two by the provision that the small States are to have five without regard to their population?

Mr. BARTON:

That is the House of Representatives.

Mr. TRENWITH:

I am talking of the House of Representatives. Will not its number be slightly more than seventy-two?

Mr. BARTON:

Yes; it may be that there will be two or three more. The provision is that it should be as nearly as practicable two to one. Of course there may be cases in which there will be a slight preponderance in favor of the House of Representatives, but cases of that kind cannot be avoided. However, I think hon. members will find on applying the machinery clause adopted by the Drafting Committee—which was prepared by Mr. O'Connor—by way of practical illustration some means by which from time to time, without the necessity for constant recurrence to legislation, the quota of members can be ascertained and the number of representatives determined. There are further provisions, however, with reference to this question, as, for instance, that:

Subject to the provisions of the Constitution the number of the House of
Representatives may from time to time be increased or diminished by the Parliament.

That may be done because of a great increase in population, and if it is done it will be subject to this accompaniment: Supposing that twelve members required to be added to the Parliament of the Commonwealth, it will then be necessary that half that number, as nearly as may be, shall be added to the Senate, so that the proportion of two to one may be observed. Therefore the machinery clause prepared by Mr. O'Connor really provides a simple means of ascertaining the required representation upon the occurrence of the necessity for its increase, whether it is impelled by the increase of population so that the House of Representatives is the reason of the increase, or whether it results from the admission of new States, in which case the addition to the States Assembly will be the cause of the increase. It provides an automatic way of ascertaining the proportion of the two Assemblies to each other. I do not know that I need say much more on that point. A little study of the Bill will convince hon. members that that provision is one which will work extremely well, and will cause any increase which takes place in the States Assembly and the House of Representatives to proceed by equal steps. Of course it will not be necessary at any time-absolutely necessary-unless Parliament chooses, to increase the members of the Houses except when new States are admitted. If Queensland, for instance, were divided into three States, there would immediately be a necessity for an increase, because she would be entitled to come in on the same terms as ourselves who, I hope, are about to join; and in such a case therefore-provided Queensland came in-there would be the thirty-six members I have spoken of instead of thirty, as would be the case if only five States federated. On the other hand, if Queensland were divided into two or more States, the provision I shall refer to presently as to new States places it in the hands of the Federal Commonwealth to determine the quantity of representation to which such new States would be entitled. For instance, the new State or States might be entitled in the first instance to only three members each, in which case if that number of members were added to the Senate a number would have to be added to the House of Representatives, which would enable the proportion between the two Houses to be maintained; in other words, the House of Representatives would be entitled to an increase of twice as many. I hope I have given a sufficient explanation of that, and will now pass on to some of the other clauses in the Bill. I should mention while on this portion of the Bill that in the election for the House of Representatives no elector is to cast more than one vote. The clause dealing with the
qualification of electors is numbered 29 in this new Bill, and it provides that:

Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification for electors of the more numerous House of the Parliament of the State. But in the choosing of such members each elector shall only have one vote.

That is a provision which necessarily has given the committee some trouble in arriving at a decision, and I dare say it will cause a good deal of discussion in this Convention.

Sir GRAHAM BERRY:
Does the same provision apply to the States Assembly?

Mr. BARTON:
The same provision will apply to the States Assembly by reason of a clause which I shall mention presently. The franchise is to be exactly the same in either House.

Sir GEORGE TURNER:
The franchise may be the same, but the voting may be different.

Mr. ISAACS:
There seems to be no provision for one man one vote as regards the Senate.

Mr. BARTON:
Yes, in clause 9 it is provided that:

The qualification of electors of members of the States Assembly shall be in each State that which is prescribed by this Constitution or by The Parliament as the qualification for electors of members of the House of Representatives.

That makes one qualification hinge upon the other. If there is an alteration in the qualification of electors for the House of Representatives the same alteration will occur in the qualification for members of the States Assembly. If the Parliament of the Commonwealth passes a law for a uniform franchise, the effect of it will be that under the Constitution the franchise for electors of the States Assembly must be altered exactly to the same extent. In regard to the election of members of the House of Representatives clause 29 sets out that:

In the choosing of such members each elector shall have only one vote.

Respecting the Senate, we have provided that:

The qualification of electors of members of the States Assembly shall be in each State that which is prescribed by this Constitution or by The
Parliament as the qualification for electors of members of the House of Representatives.

Without arguing the matter now, I think that is sufficient provision for equality of qualification, and in that sense I mean to include the right to vote, and that only once. With regard to the mode of election of senators, clause 10 states:

The Parliament of the Commonwealth may make laws prescribing a uniform manner of choosing the members of the States Assembly. Subject to such laws, if any, the Parliament of each State may determine the time, place, and manner of choosing the members for that State.

If it is considered that single voting is not sufficiently provided for by the Bill as it stands, an amendment in that direction would be comparatively easy. I would like to say that it is provided, as in the previous Bill, that the people of any race not entitled to vote are not to count in reckoning the number of members of a State for electoral purposes. Clause 24 says:

In ascertaining the number of the people of any State, so as to determine the number of members to which the State is entitled, there shall be deducted from the whole number of the people of the State the number of the people of any race not entitled to vote at elections for the more numerous House of the Parliament of the State.

Sir GEORGE TURNER:
Before you pass on, will you look at the last words in clause 10-"Houses of Representatives." Should not that be

Mr. BARTON:
That is a slip which was made at the last moment, and it should read "States Assembly." I will propose in Committee that that should be altered. Now, I will pass over such formal matters as the election of the President and the Speaker of either House, the disqualification clauses, and so on, and come to a matter which may be as important as to some it will be interesting, of course, in this Chamber. That is a provision relating to both Houses, which is that, until the Parliament otherwise provides, each member of either House of the Federal Parliament shall receive an allowance for his services of £400 a year, to be reckoned from the day on which he takes his seat. This is a matter which does not require much discussion at my hands. There will be here, as elsewhere, two opinions upon the question of payment of members. While I myself may have seen some events which have caused me not to be so fond of the operation of that principle as I once was-thinking that that which is apparently logical in reason will always work out with success in legislation-still, I think there are circumstances which will be taken into consideration by hon. members which make this a different question from the question of payment of
members in the provincial Parliaments. There are difficulties which have to be considered. There is the difficulty of there being only the one Parliament and seat of Government to govern the whole of the three million square miles of territory, and the difficulty of attending that Parliament will be infinitely greater than that involved in members attending the Parliaments of their own colonies. Inasmuch as the members of the Federal Parliament will, without intermission, have to be in attendance for three or four months each Session, I think the question whether they should be entitled to receive some allowance becomes a much more serious question than it is in regard to the provincial Legislatures. Many of those who are not much enamoured of the subject in regard to the provincial Parliaments may have a very different opinion in regard to the Federal Parliament. As for me, I may say I am prepared to accept the principle as it applies to the Federal Parliament. One of

the most important clauses of the Bill, as it is one of the longest, will be found on page 11. It is clause 50, and it relates to the powers of the Parliament. Hon. members will have a fairly good recollection of what was in the Bill of 1891 under this heading. The legislative powers of the Parliament—all these sub-sections must be read as being powers not to be exercised by the Parliament at once unless in some other part of the Bill power for their immediate exercise is given—are only to be exercised by the passage of federal laws. The alterations made in that clause are not very numerous, but still they ought to be stated. They are these: After the sub-section dealing with ocean beacons and buoys, it is proposed that the Federal Parliament should have power to legislate, and, of course, by that legislation take control of, astronomical and meteorological observations. There has been an addition to what was formerly the sub-section relating to fisheries. It read in the Bill of 1891:

Fisheries in Australian waters beyond territorial limits.

And these words have been added:

And in rivers which flow through or in two or more States.

After the sub-section giving power to the Federal Parliament to legislate with regard to banking, the incorporation of banks, and the issue of paper money, power is proposed to be given to it to legislate upon insurance, including State insurance extending beyond the limits of the State concerned. Where a State adopts a system of State insurance, for instance, on lives, and where that State takes proposals, not only from citizens within its own bounds, but accepts those emanating from citizens of the Commonwealth beyond its bounds, then it is proposed that that insurance shall be subject to the general provisions of the Commonwealth law on the
subject, but where the business is confined within the limits of the State carrying it on it is not proposed to interfere with it. The sub-section following that dealing with naturalisation and aliens originally read:

The status in the Commonwealth of foreign corporations and of corporations formed in any State or part of the Commonwealth.

It has so far been altered as to read:

Foreign corporations and trading corporations formed in any State or part of the Commonwealth.

So that the Commonwealth may have the power to legislate, not merely with regard to the legal status of corporations acting within the Commonwealth, but it may have power as far as it can legislate upon the general subject of these corporations, over the general subject of foreign corporations, formed in any part of a State of the Commonwealth, for the purpose of uniform legislation.

Mr. HIGGINS:

Does that give power to exclude them from trading in the Commonwealth?

Mr. BARTON:

Not, I think, to exclude them, but to regulate the mode in which they conduct their operations. It is for the purpose of uniformity. After the old subsection, which gave the Commonwealth power to deal with the subjects of marriage and divorce, have been added these words:

Parental rights and the custody and guardianship of infants.

The committee seemed to feel that if the social questions of marriage and divorce may be handed over, it would be well if these social relations, so intimately connected with marriage and divorce, should also be added. In place of that sub-section which dealt with river navigation, a very important change has been made. The original sub-section 28, now 31, read:

River navigation with respect to the common purposes of two or more States, or parts of the Commonwealth:

That has been struck out and the following substituted:

The control and regulation of navigable streams and their tributaries within the Commonwealth, and the use of the waters thereof:

So that, not only is there power to legislate as to river navigation with respect to the common purposes of two States, but there is an entire control and regulation given of navigable streams and their tributaries within the Commonwealth, and also over the use of their waters, apart from the question of navigation.
Mr. DOBSON:
Will vested rights be taken away?

Mr. BARTON:
That is a matter which we will discuss at a later stage. It would depend upon the power given the Federal Parliament to legislate generally with regard to vested rights. When I mention a sub-section of this kind, I am brought to the consideration of something which, of course, I ought to mention to this Convention. I am not putting forward the provisions of this Bill with the desire to have it inferred that I agree with all of them. As far as I have had a hand in its preparation— and I have of course a large hand in that—it is a Bill to carry out the different conclusions of the three committees. But it is not to be expected, and could never be expected in relation to a momentous matter of legislation of this kind, that the members of those committees should be unanimous. There are cases where the committees have in a friendly way disagreed. I can say that, at any rate with regard to the Constitutional Machinery Committee, I use the words "in a, friendly way," because I find that, without a vestige of truth, it has been stated in the public prints that there have been scenes in that committee, and unless everything that a man views with his own eyes is to be called a scene in the language of the press, one cannot understand the motive or idea that could have prompted such a statement. There have been no scenes. I know nothing of the proceedings of the other committees, because I have not been at their meetings, other than that I have been given to understand and have every reason to believe that they have been perfectly harmonious; but with regard to the Constitutional Committee no such thing as a scene and nothing more than the honest difference of opinion, and the honest warmth of expression which occur when opinions differ, has ever occurred within the room of that committee, and there has not been one solitary occasion upon which the friendly relations existing between any two members have for a moment been broken. I am impelled to say this at this stage, because I thought I might forget a reference which I intended to make, so that the public of the colonies might know how totally wrong, unjust, and totally incorrect is the idea that the decisions were come to with unwarrantable heat, and after improper wrangling and confusion; and I take this opportunity to contradict the highly improper and unfounded statement, and of telling this Convention, and through the proceedings of this Convention the people of the colonies, that that statement has not one iota of fact to support it. (Cheers.) Proceeding with the legislative powers of the Parliament of the Commonwealth, the subsection relating to control of railways has been amended by the insertion of one word. It reads now:
The control of railways with respect to transport for the military purposes of the Commonwealth.

I think the subsection was very well understood before as referring only to matters of transport, that is, the transport of forces and munitions of war which are necessary for military purposes; but inasmuch as there has been some discussion in the various colonies on the subject, and inasmuch as we have heard it said, especially as regards New South Wales, that it was intended surreptitiously to give the Commonwealth the right of taking control of the whole of the Australian railways, the insertion is made simply for the purpose of explanation. The only remaining alteration in the matter of legislative powers contained in the limits of this section is in the sub-section formerly numbered 31 and now numbered 34. That has been shortened by the omission of the words:

With respect to the affairs of the territory of the Commonwealth, or any part of it.

That limitation was considered by the Drafting Committee-and the Drafting Committee has taken the responsibility for it-to be unnecessary, because the clause must be read to come within the ambit of the powers generally conferred by this section, and it certainly cannot be read for the purpose of the usurpation of any power, except so far as that power might be held by those who read the Constitution as lawyers do, to be transferred. The belief of the Drafting Committee was that the words as they stood originally raised some doubts and some ambiguity; and that the words as they now stand are tolerably free from doubt and ambiguity, looking at the way such an instrument as this must be read. The next clause, 51, relates to certain exclusive powers given to the Parliament of the Commonwealth, and the most important of these is the first, which says:

The affairs of the people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community.

I remember well how strongly Sir Samuel Griffith in 1891 spoke in favor of this subclause, which has, I think, been adopted without any alteration whatever. It is obviously important to say that in addition to the powers of restricting immigration and emigration, given in clause 50, the Commonwealth shall have the power to make laws specially applicable to any alien race living within the Commonwealth. Looking at the fact that at the time of Federation there may be a considerable number of these aliens residing within the Commonwealth, and as the conditions under which they live may be of interest to every citizen of the Commonwealth, and as the spread of such races may vitally affect the future of the Commonwealth, it
must be conceded that the Commonwealth should have the exclusive
to make regulations with the view of preventing any danger arising
to the Commonwealth.

Sir GRAHAM BERRY:

Does that clause give power to make conditions with regard to the entry
of aliens?

Mr. BARTON:

I think that power is given by the clause dealing with the immigration of
aliens; this sub-clause specially deals with the regulation of the conditions
under which aliens shall carry on within the Commonwealth. The
remainder of the clause, though important, is not so important as the
portion which I have read. It deals with the government of any territory
which may be surrendered to the Commonwealth for the purpose of the
seat of Federal Government. If such a surrender is made it will be
important and absolutely essential that the Commonwealth, should have
sole control of it. Then there are matters relating to the departments of the
Public Service, of which control is made over to the Commonwealth and
any other matters in which the Commonwealth may have exclusive
powers. That if not exactly the same as in 1891 will be found a necessary
clause, because if members in the passage of the Bill make amendments
that have the effect of conferring exclusive power on the Commonwealth
they must be read with this clause to make that power entirely exclusive.

Now I come to the question which my hon. friend the Premier of Western
Australia considers the most important in the Bill, and if government is
finance and finance is government these clauses must be considered at any
rate amongst the most important in the Bill. The clauses as originally
drawn represent what acquired the name of "The compromise of 1891." In
1891 the compromise amounted to this: that where the law appropriated
any public revenue or imposed a tax or impost it must originate in the
House of Representatives, but that the States Assembly should have equal
powers with the House of Representatives in respect of all other Bills
except Taxation Bills and the annual Appropriation Bill; that is, it proposed
that the States Assembly might reject these, but might not amend them. It
was also in that Bill proposed that the Senate might not amend any
proposed law in such

a manner as to increase any proposed charge or burden on the people. It is
in the part of the Bill so far as I have read that the amendments projected
by the Constitutional Committee apply. The first of these sections, now
reading as section 52, is to this effect:

Proposed laws having for their main object the appropriation of any part
of the public revenue, or the imposition of any tax or impost, shall originate in the House of Representatives.

So that in the case of proposed money laws, whose chief objector policy is not either the appropriation of any part of the public revenue, or the imposition of any tax or impost, such laws may originate in the States Assembly as well as in the House of Representatives. The next and only other important alteration is in the clause now reading as 53 in the Bill. The original provision, after equal power was given in respect of all proposed laws, made an exception of laws imposing taxation as well as of laws appropriating the necessary supplies for the ordinary services of the year. The amendment made by the Constitutional Committee is that the words:

Laws imposing taxation and

have been struck out, and the result is that the further power is conferred upon the States Assembly of amending laws imposing taxation.

Mr. MCMILLAN:

How did Loan Bills stand in the 1891 Act?

Mr. BARTON:

In the Constitution of 1891 I take it that Loan Bills might have originated in the States Assembly or the Senate, because the words in the first portion of the clause were:

Laws appropriating any part of the public revenue.

And inasmuch as the money mainly appropriated by Loan Bills is not revenue, but borrowed money, so even under that Bill it is probable that such a Bill could have originated in the States Assembly.

Sir GEORGE TURNER:

Does not a Loan Bill appropriate revenue to pay interest?

Mr. BARTON:

Its main object is the appropriation of money to be lent. But it may be that even in that case it would have been necessary for such a Bill to originate in the House of Representatives.

Sir JOSEPH ABBOTT:

It has always been considered a doubtful point.

Mr. BARTON:

I know there has always been strong argument on both sides. It is now made clear that a Loan Bill can originate in the States Assembly, inasmuch as the main object of a Loan Bill is not the appropriation of part of the public revenue, but the appropriation of the proceeds of the loan. The effect of the amendment of striking out the words:

Laws imposing taxation and

in clause 53, is that instead of laws imposing taxation being not subject to amendment by the States Assembly, but only open to suggestions from
them, as in the fourth and fifth portions of the clause, this alteration is so radical—
i am not now discussing its propriety, that is a matter for afterwards—that
the States Assembly will, if this is adopted, be able to amend every portion of a Taxation Bill. I have now explained the chief alterations in the money clauses. In the last of them, which now reads as
clause 54, it is made necessary—of course, in accordance with other alterations made—that where there is to be an appropriation, which necessitated formerly only a message to the House of Representatives, there shall now be a message to such House as the appropriation has to occur in. So that we shall have, if the provision is adopted, messages from the Governor-General alike to the House of Representatives and States Assembly. Hon. members will recollect I am not criticising at the present moment, but simply explaining. I do not think that, as the object is simply to make clear, I should say any more about this clause.

Sir GEORGE TURNER:
You still keep in the right of suggesting alterations?

Mr. BARTON:
But it will only apply to Appropriation Bills now.

Sir GEORGE TURNER:
Now they have a double-barrelled shot, then?

Mr. BARTON:
It applies only to the cases of those Bills which the States Assembly may not amend, but as they are now reduced to the ordinary services of the year, so, too, the power of suggestion is limited to these, and on all others they have the power of amendment and the power of origination. If the hon. member will look at a copy of the memorandum I prepared for the Constitutional Committee headed "The 1891 Compromise," he will find these matters clearly explained. There has been one amendment which I think I ought to call attention to, and that is with reference to the disallowance by Order in Council of any law assented to by the Governor-General. The period within which such disallowance might be exercised was, under the former Bill, two years, as it is in most of the Constitutions of the colonies; but the committee were of opinion, in view of the improved and rapid means of transit, that one year was a sufficient period to allow for such purposes, and therefore they have amended it to operate within a year, or not at all. I take next the provisions relating to the Executive Government. These in the main remain as they were in the Bill of 1891. The executive authority of the Commonwealth, which, of course, is vested in Her Majesty the Queen, is to be exercised by the Governor-General as her representative. There is to be a Federal Executive Council
holding office as Executive Councillors, and during the pleasure of the Governor-General; and the Governor-General, in the mode in which we know he is in the habit of exercising his powers, may appoint officers to administer departments of State, who are to be called Ministers of State, and whose number is not to exceed seven. I take it myself that there is nothing in these clauses to prevent the appointment of additional members of the Executive Council, but that such additional members beyond the seven cannot be Ministers of State.

Mr. HIGGINS:

It says "shall hold office." Does that mean hold office as Executive Councillors or hold office as Ministers?

Mr. BARTON:

That is as officers administering these departments of State.

Mr. PEACOCK:

Assuming this is accepted, how is the first Ministry to be formed?

Mr. BARTON:

I will not suppose the hon. member is ambitious of the honor of being sent for, but if he is, let me put this as an illustration. These clauses I take it can only operate by what is known as the Cabinet system of government. If the hon. member were sent for to form a Ministry it would be his object to do so by calling together such other Ministers of State to whom he might assign portfolios as he might think fit, and their continuance in office must be subject to the vote of Parliament. And in order that it may be subject to the vote of Parliament—and I thank the hon. member for asking the question—there has been an amendment Made by the Constitutional Committee, which will be found in the last paragraph of clause 61, which reads:

After the first general election no Minister of State shall hold office for a longer period than three calendar months unless he shall be or become a member of one of the Houses of the Parliament.

A similar provision to that exists in this colony, and it was thought wise by the committee, in order to ensure that the Ministers of State should be subject to parliamentary control, to adopt a modification of that provision, or rather the same provision in somewhat different words, for the purpose of ensuring that control. If the hon. member is in doubt that the system of government under which the machinery of this Bill will operate will be responsible government as we understand it, that doubt will be altogether removed by the requirement of the presence of Ministers in Parliament. The extent to which the responsibilities of Ministers will be to one House alone must
of course be largely gauged by the relative powers of the two Houses; and if the ultimate control is clearly vested in one House or the other there can be no doubt in the end as to the result of conflicts in general between them. That is to say, that the necessary conciliation and conference on the part of one of those Houses is likely to prevail, and that the responsibility of Ministers in effect will be to that House. Whether that will be to the Senate or to the House of Representatives will be the subject of a great deal of discussion. Much as I might express myself on the question of the powers of the Senate concerning Money Bills, were I to debate that matter, I should still say by way of explanation that I cannot see that the ultimate, the long-run, result will be to give the Senate the ultimate power of government and to invest it with the determination of the responsibility of Ministers, because I think the final result will be to invest the House of Representatives with that responsibility. But the question to consider is how far under the altered system is the machine workable, and how long will it take to bring about the desired results? With regard to the question of the Executive Government and Ministers, there is no provision in this Bill, nor was there any in the Bill of 1891, that Ministers accepting office should have to offer themselves for re-election. The reasons for the absence of such a provision will be obvious. Looking at the extent of the territory of the Commonwealth, and the distance which the constituencies of Ministers will be from the seat of government in many cases, and the immense difficulties under which Ministers will labor in having to present themselves for re-election, and looking at the fact that the reasons which existed for Ministers offering themselves for re-election in the days when an English Statute was passed upon the subject have now become obsolete or have fallen into desuetude, the Committee, I think, exercised a wise discretion in omitting such a provision from the Constitution Bill. The provision dealing with the re-election of Ministers by their constituencies prevails in the colony to which I belong, but happily it does not obtain in South Australia; and, seeing that in our habits and customs the reasons for it no longer exists, the Constitutional Committee acted wisely in not insisting upon the insertion of it. The result of this executive provision may be what Sir Samuel Griffith said in 1891:

We provide for a Government responsible in name and form to the head of the States, but in substance to the Parliament of the Commonwealth.

In what way it will be responsible to the Parliament of the Commonwealth, and the division and extent of this responsibility between the two Houses, will be a matter for this House hereafter to determine. There is a clause in this Bill which is practically the same as was in the Bill of 1891. It reads thus:
67. On the establishment of the Commonwealth the control of the following departments of the Public Service shall be assumed and taken over by the Executive Government of the Commonwealth, and the Commonwealth shall assume the obligations of any State or States with respect to such matters, that is to say:

- Customs and excise:
- Posts and telegraphs:
- Military and naval defence:
- Ocean beacons and buoys, and ocean lighthouses and lightships:
- Quarantine.

It was considered necessary in the Bill of 1891 that immediate control should be taken of these, while of course the control of other departments upon which the Commonwealth has power to legislate will be taken over from time to time as the occasion arises. It may be necessary to call attention to this clause because it is absolutely necessary to have a clause of the kind, and the question with hon. members will be whether it goes far enough.

Mr. HIGGINS: Will the debt for military purposes be taken over as an obligation?

Mr. BARTON: Whether any such obligation as to military clause, which relates to the taking over of lands, buildings, and works. I may have a remark to make about that later on, under clause 84. I think the obligations referred to in clause 64 may be only such as arise from time to time in the States administering the different departments, and that would not mean the loan expenditure incurred.

Mr. SYMON: Obligation there means duty-not debt.

Mr. BARTON: I take it to read that way. Coming to the chapter relating to the judicature, I may say that, while the clauses referring to the judicature have been redrafted by the Judicature Committee, in the main or to a large extent they correspond with the provisions in that behalf contained in the Bill of 1891. Hon. members were familiar with these provisions, and I do not propose to spend any great time in explaining them. It is provided that instead of, as before, the Parliament having power to constitute a judiciary, there shall be a Supreme Court, to be called the High Court of Australia, as a part of the Constitution-that I believe to be an improvement-and other courts which the Parliament may from time to time create or invest with federal jurisdiction. That means that the Federal Parliament may make other
federal courts or give jurisdiction to deal with federal matters to some of
the courts of the provinces if in its wisdom it thinks fit. There are to be a
Chief Justice and not less than four other judges who will hold office on
the usual tenure, that is, during good behavior. They are to be appointed by
the Governor-General, with the consent and advice of the Executive
Council, and may be removed by the same advice, but only upon an
address from both Houses of the Parliament praying for their removal. The
Drafting Committee have taken the liberty to amend the clause by adding
the words:

In that same Session.

because they consider that is necessary in order to prevent possible
manoeuvering. It is provided that the judicial power shall extend to matters
which arise under the Constitution or involving its interpretation; that it
shall extend to laws made by the Parliament or matters which arise under
any treaty; to admiralty and maritime matters; to questions affecting the
public Ministers, consuls, or other representatives of other countries; to
matters in which the Commonwealth or a person suing or being sued on
behalf of the Commonwealth is a party; to questions in which a writ of
mandamus or prohibition is sought against an officer of the
Commonwealth; to matters between States; and to questions relating to the
same subject. matter claimed under the laws of the different States. These
are the functions of the High Court of Judicature, apart from its functions
with reference to cases of appeal from the courts of the States. They are the
functions of the Court, more particularly as a federal tribunal, and apart
from its functions as a Court of Appeal. This matter will receive much
attention later on, and I need not go into details now. Then there is an
appellate jurisdiction conferred on the High Court in the following cases:

To hear appeals, both as to law and fact, from all judgments, decrees,
orders, and sentences of any other federal court, or court exercising federal
jurisdiction, or of the Supreme Court of any State, whether any such court
is a court of appeal or of original jurisdiction; and the judgment of the High
Court in all such cases shall be final and conclusive.

And then there is this proviso:

Provided that no fact tried by a jury shall be otherwise re-examined in the
High Court than according to the rules of the common law.

Then it is further provided that:

Until the Parliament otherwise provides, the conditions and restrictions
on appeals to the Queen in Council from the Supreme Courts of the several
States shall be applicable to appeals from them to the High Court.

The next clause provides that:

No appeal shall be allowed to the Queen in Council from any court of
any State or from the High Court or any other Federal Court,

With three exceptions, and these are that:

The Queen may, in any matter in which the public interests of the Commonwealth, or of any State, or any other part of her dominions are concerned, grant leave to appeal to the Queen in Council from the High Court.

The Judiciary Committee, as was done in 1891, confined the appeal to those classes of cases in respect to which public interests may arise; and they may arise not only in controversies between a State and the Federal Government, or a person and a State or the Federal Government, but in many controversies between party and party; and the fact that a controversy is between party and party is not intended to take away the applicability of this section, so that even in cases between party and party where such interests are affected there will still be the power for Her Majesty to grant leave to appeal. There are several other provisions with regard to the jurisdiction of the High Court of Judicature, but I do not propose to describe them at any length, as they are matters for after consideration. There is this further provision:

Nothing in this Constitution shall be construed to authorise any suit in law or equity against the Commonwealth, or any person sued on behalf of the Commonwealth, or against a State, or any person sued on behalf of a State, by any individual person or corporation, except by the consent of the Commonwealth, or of the State, as the case may be.

That is a provision, I understand, which was placed in the Bill by the committee, as it was placed in the Bill of 1891, not for the purpose of preventing action being taken against the Commonwealth or State, but for the purpose of placing within the hands of the Commonwealth or the State concerned the power of determining the mode in which these suits shall be brought against the Commonwealth or State. Then it is provided that trial by jury shall be held in the State where the offence has been committed. Thai is to prevent a person being taken away from the State where the alleged offence was committed into another, and there tried by another jury 1,000 or 1,500 miles distant, perhaps. In other words, the power to change the venue of the trial is restricted to the limitations of the State in which the offence has occurred; so that, if it has occurred in New South Wales, South Australia, or Tasmania, a person could not be taken away to be tried by the jury of another colony, but only by his peers in his own State. Now I come to the provisions dealing with finance and trade. Members will have the benefit of hearing the views of Mr. Symon, the chairman of the Judiciary
Committee; and in the same way they will have the benefit of the explanations of Mr. McMillan, the chairman of the Finance Committee, on matters of finance. Changes will be found to have been made by the decisions of the Finance Committee as to dealing with the surplus in clauses 87, 89, and 90, as to the question of expenditure by the Commonwealth in clause 88, and as to taking over the public debts of the States in clause 96. Then there is an alteration in clause 93, making more clear than ever the invalidity of any derogation from absolute free trade between States, and there are provisions for the appointment of an Inter-State Commission. I shall deal with these as shortly as I can. Except with reference to the clauses I shall mention, the Finance Committee have, by their resolutions, re-repeated the provisions of the old Bill, so I do not intend to take hon. members over that ground. First of all, as to the question of dealing with the application of the revenue of the Commonwealth. I am speaking now of a period which cannot last longer than two years, which may elapse before the Commonwealth Parliament imposes its first tariff. In a portion of the Bill to which I have not called attention, there has been an amendment made at the request of the Finance Committee to the effect that the imposition of a uniform tariff shall take place not later than two years after the establishment of the Commonwealth. Until uniform duties are imposed the following provisions are proposed: there are certain things to be shown in the books of the Commonwealth with respect to each State individually; the Treasury books must give the particulars which are required, and it is provided first that these books shall show as to each State:

The revenues collected from duties of Customs and excise, and from the performance of the services and the exercise of the powers transferred from the State to the Commonwealth by this Constitution.

That does not relate to any power which is created as a new one or which may be described as an original power, but to the powers formerly exercised, by the States, and now transferred to the Commonwealth; that is to say, the books are to show the revenues which are collected from Customs and excise, and collected in continuance of the existing tariffs except so far as they may be amended, and revenues arising from the departments to be transferred from the State to the Commonwealth. Then these books are to show as to each State:

The expenditure of the Commonwealth in the collection of duties of Customs and excise, the performance of the services and the exercise of the powers transferred from the State to the Commonwealth by this Constitution.
By the deduction of the second from the first of these will be ascertained primarily the balance in favor of each State, that is to say, the balance which the Commonwealth collects which exceeds each State's proportion of expenditure. The next part of the clause is precisely this: that when the balance, if any, has been so found by deduction, as I have pointed out, it shall be taken in hand, and the share of each State of the expenditure of the Commonwealth in the exercise of the original powers given to it shall be ascertained, and that share of the expenditure is to be ascertained per capita in other words, in the proportion of the number of the people of the States to those of the Commonwealth, as shown by the latest Commonwealth statistics. Therefore there is first a balance found by the deduction of the expenditure on Customs and excise, and the performance of the transferred services and powers, from the revenues to be derived from these sources. Then, after that, the balance is to be taken in hand; and the expenditure of the Commonwealth, in the exercise of its newly originated powers, calculated in proportion to the numbers of each State, is to be deducted from the balance so found; and then the surplus shown after deduction is to be paid to the Government of each State month by month.

Mr. HIGGINS:

Is the first expenditure the expenditure in that State?

Mr. BARTON:

That will be so, because the governing words are:

In respect of each State.

So it practically comes to this, that if not a separate set of books for each State, a separate set of accounts will be necessary. There is a further provision with regard to expenditure, which is the subject of a separate clause, and which is to operate for four years after the establishment of the Commonwealth. The term "four years" is inserted for this purpose: The Constitutional Committee have decided that the proper duration of the life of each House of Representatives is to be four years, and not three years as in the parliaments of the various States. That is a matter which, however, I will not discuss at present. In this case, then, four years has been fixed because it appears to have been thought by the Finance Committee that the period which constitutes the ordinary life of a Parliament should be fixed for the operation of the clause I am going to describe. That clause relates solely to expenditure. Hon. members will see that in it there are two blanks. These remain to be filled in by the Convention, I suppose on the motion of the chairman or some other member of the Finance Committee. The figures were not supplied to the Drafting Committee, as I assume it was not necessary. The provision is:

During the first four years after the establishment of the Commonwealth,
notwithstanding anything contained in the last section, the total yearly expenditure of the Commonwealth, in the exercise of the original powers given to it by this Constitution, shall not exceed the sum of Pounds; and the total yearly expenditure of the Commonwealth in the performance of the services and the exercise of the powers transferred from the States to the Commonwealth by this Constitution shall not exceed the sum of Pounds.

Mr. GLYNN: Does that put a maximum on military expenditure?

Mr. PEACOCK: A maximum on all expenditure!

Mr. BARTON: It seems to me to put a maximum on all expenditure, because the whole of the expenditure cannot exceed the total yearly expenditure in the performance of the services and powers given by the Constitution, and any powers subsequently transferred from the States to the Commonwealth.

Mr. SYMON: Does that prevent any increase in case of war?

Yes. It must be understood that I neither commend nor condemn this clause; the proper people to more fully explain it are the members of the Finance Committee. The next important provision is a very important one. It relates to the first five years after the imposition of uniform Customs duties. If it takes as long as two years to arrive at the imposition of uniform duties, then the operation of the clause will extend to a time seven years after the establishment of the Commonwealth. During the five years after uniform duties have been imposed, it is provided that the aggregate amount to be paid to the whole of the States for any year shall not be less than the aggregate amount returned to them during the last year before the imposition of such duties. That means that during those two years - if there are two - during which the uniform duties are not imposed, but the Commonwealth revenue from Customs is the revenue from the various States, the provisions of clause 87 are to be observed; but after those two years have passed, the aggregate amount to be paid to the whole of the States is not to be less than it was in the last of those two years.

Mr. PEACOCK: You mean annually?

Mr. BARTON: I mean the aggregate amount for any one year. Of course it can be more. There is no limitation as to that. But it is not to be less during those five years.

Mr. GLYNN:
You may have to resort to direct taxation to raise it.

Mr. BARTON:
That I have nothing to do with. It is provided in clause 89 that in the books of the Treasury of the Commonwealth there shall continue to be shown the particulars required by section 87, and during this period of five years, even though there shall be a cessation of intercolonial duties, an account shall be taken of all imported dutiable goods passing from one State into another State for consumption therein.

Sir GRAHAM BERRY:
I do not think that formed part of the report of the Finance Committee.

Mr. BARTON:
That is how we understood it after consultation with the chairman of the Finance Committee.

Mr. MCMILLAN:
Exactly.

Sir GRAHAM BERRY:
It is quite new matter.

Mr. BARTON:
I can read it to you in the report of the Finance Committee. We, as a Drafting Committee, are only concerned in throwing into legal shape the decisions of the Finance and other committees, and the chairman of the Finance Committee assures me that the view we have taken is right. After intercolonial freetrade has arrived, the amount of duty chargeable on such goods will be still ascertained by officers on the borders, or if they come from State to State by sea, then at the ports, in the same way as if they were still subject to duty, for the purpose of taking the account. It will, in the books of the Treasury, be accounted as revenue collected in the State into which the goods pass, and not in the State in which the port of entry is situated, so that the proportion may be ascertained in which each State shall receive its share of the aggregate amount to be paid to the whole of the States. That calculation has to be made and imported into the process executed by section 87, and by the combination of both, I take it, is to be ascertained the proportion which each State shall receive as its share of the whole or aggregate amount.

Mr. MCMILLAN:
Perfectly clear.

Sir GEORGE TURNER:
Are you going to read that paragraph of the report on which it is founded?

Mr. BARTON:
If I may have the report. It is farther provided that the aggregate amount shall be distributed month by month. I am told that the report of the Finance Committee has gone to the printers, so that each member may have a copy of it.

Sir GEORGE TURNER:
It is not as I understand it.

Mr. BARTON:
I am told by the chairman that the clause perfectly expresses the intention of the committee. But inasmuch as I am challenged, I may say I do not believe any three draughtsmen ever lived who could have understood or interpreted correctly those resolutions as originally presented by the Finance Committee.

Sir GEORGE TURNER:
I quite agree with you.

Mr. BARTON:
And I do not wonder that my hon. friends, who are both members of that Committee—or three of them—differ about the question of whether this clause correctly expresses the determination of the Committee, because the Drafting Committee were obliged to hold more than one conference with the chairman of the Finance Committee before it was found out to what extent the Finance Committee had succeeded or failed in expressing themselves in their resolutions. But, I must say, we did feel under some disadvantage, and we did think that even if members of the Finance Committee did not agree upon all points—as I suppose they did not—they might have taken a little more trouble in making their meaning a little more clear. There is only one more question in connection with this portion of the Bill that I need refer to, and that is the distribution of the surplus. First of all there is a period of two years before the uniform Customs duties are imposed. Then there is a period of five years after the imposition of these uniform Customs duties during which no State is to receive less than it did for the year immediately preceding the imposition of such duties. Then it is provided that:

After the expiration of five years from the imposition of uniform duties all surplus revenue over the expenditure of the Commonwealth shall be distributed month by month among the several States in proportion to the numbers of their people as shown by the latest statistics of the Commonwealth.

Sir GEORGE TURNER:
All surplus revenue?

Mr. BARTON:
I really do wish that hon. members of the Finance Committee would give
some little consideration to their own report.

Sir GEORGE TURNER:

All surplus revenue will include revenue from every source?

Mr. BARTON:

These are the instructions we got:

Shall be distributed month by month among the several States in proportion to the numbers of their people as shown by the latest statistics of the Commonwealth.

That period may be seven years after the establishment of the Commonwealth, but may be as little as six years, for I am taking it that perhaps the uniform tariff will be imposed within the first year after the establishment of the Commonwealth, which is perhaps rather sanguine. Then, in that case the period of distribution according to population of the surplus revenue will be postponed for that six years, but if it takes two years to reach the imposition of uniform Customs duties, then the distribution of surplus revenue according to the population of the colonies will not take place till the seventh year. With reference to equality of trade, section 92 is a combination of the two sections which existed upon that subject in the Bill of 1891. But it is made a little more explicit and a little more pointed, and I will read it in order that the attention of hon. members may be drawn to it.

Preference shall not be given by any law or regulation of commerce or revenue to the ports of one part of the Commonwealth over the ports of another part of the Commonwealth, and any law or regulation made by the Commonwealth, or by any State, or by any authority constituted by the Commonwealth, or by any State, having the effect of derogating from freedom of trade or commerce between the different parts of the Commonwealth shall be null and void.

That annulment of laws is substituted for the power of Parliament to annul these laws, because it is thought, if these laws do derogate from freedom of trade or commerce, it might just as well be expressly stated that they are not worth the paper they are written on. Then occurs the provision that the Parliament may make laws constituting an Inter-State Commission. The members of this Commission are for the purpose of executing and maintaining the Constitution in respect of its provisions relating to trade and commerce upon railways within the Commonwealth, and upon rivers flowing in or between two or more States. It is provided that the members of the Commission shall have a fairly secure tenure of office, in order that they may be non-political, and not subject to dictation. They are to hold office during good behaviour, they can only be removed by a vote of both
Houses of Parliament during the same session, and they are to hold their appointments from the Governor-General and Executive. Their remuneration is to be determined by Parliament, and, as in the case of a judge, their salaries are not to be subjected to decrease during their continuance of office.

Mr. HIGGINS:
Is there still to be the power to make railways in favor of one port over another?

Mr. BARTON:
Well, it will scarcely pay. If you make a railway and it gives that preference to which I have referred, the preference will be made void under section 92. If you like to make a railway to a certain port, and you choose to establish a tariff which will give a preference to your neighbour, this Constitution steps in and says, "Hands off." Then it is provided that the Commission shall have power of adjudication and administration. As Mr. Higgins asked me a question upon this point, he will be, perhaps, interested to know that the Commission is to have no powers in regard to the regulation of any railway in the State, except in the case of rates which are preferential in effect, and which are also made and used for the purpose of drawing traffic to a railway from a neighboring State.

Sir GRAHAM BERRY:
None of these clauses were in that report.

Sir WILLIAM ZEAL:
This is the first I have heard of it.

Mr. BARTON:
Hon. members will admit that if we had stuck at the point at which the Finance Committee left off we should not have a Bill entitled to be called a Constitution Bill. The Finance Committee resolved:
That, subject to the consent of the State or States interested, the Federal Parliament shall have the power to take over the control and responsibility of the railway system of any State or States on such terms as shall be arrived at by mutual agreement.
That is already embodied in clause 50.

Mr. WISE:
Whereabouts?

Mr. BARTON:
Will the hon. member look at clause 50, and he will see that the Parliament has the power to legislate with reference to:
Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to the State or States by whose Parliament or Parliaments the
matter was referred, and to such other States as may afterwards adopt the law.

Sir GEORGE TURNER:

Surely that would not enable the Federal Parliament to take over the railways.

Mr. BARTON:

Both the Constitutional Committee and the Drafting Committee seem to think that this gave sufficient power in respect to this subject. Where it is necessary to embody the powers given by an instrument of this sort to the full extent intended by those who created them, the greater the sacrifice of brevity of definition and of generality to particularity, the more limited are the powers, instead of being more extended. Another resolution of the Finance Committee was:

That in order to deal effectually with all railway matters arising between the States, and to enforce the principles of equality of trade laid down in the Constitution, there shall be established by the Federal Parliament an Inter-State Commerce Commission.

If we are to be tied down to the resolutions of the Finance Committee there is absolutely no word there to say that the Inter-State Commission has any power to deal with the railways at all, except that they are to enforce the provisions laid down in the Constitution.

Sir GEORGE TURNER:

Yes, but you have put in the very thing we refused to put in our report.

Mr. BARTON:

Whether you refused to put it in your report or not I do not know, but I know the Drafting Committee took the resolutions of the hon. members' committee, and which were broad enough to enforce certain principles, and inserted in the Bill clauses to enforce those principles. I am not concerned now as to whether hon. members were unwilling to do this or not. They placed resolutions in the body of their report which told us that certain principles were to be enforced, and we have inserted in this Bill clauses which are to enforce those principles. Now we are told there was no intention to enforce these principles. If that is so, why did the Finance Committee say that certain principles were to be enforced?

Sir GEORGE TURNER:

You have taken upon yourself to construe equality of trade.

Mr. BARTON:

I thought my hon. friend had more sense of order in debate-I say that jocosely. I welcome, as an ordinary rule, interjections because in the warmth of debate they help me along, but when interjections are made
while I am explaining provisions of a measure I cannot get along as I like.

**Sir GEORGE TURNER:**

If I do not interject now it will go forth that I assented to this.

**Mr. BARTON:**

No; it will not.

**Sir GEORGE TURNER:**

Yes, because it will go to the public to-morrow.

**Mr. BARTON:**

Will the hon. member allow latitude to the Drafting Committee to explain their position? We were told to make provision for the Inter-State Commission to enforce principles laid down in the Constitution, and we have endeavored to express the intention embodied in the resolutions. If we have gone further than the resolutions intended that is because they expressed themselves perhaps with a little more generality than was intended. If the resolution intended that there should be some restriction upon the equality of trade the proper thing is for the committee to explain itself to the Convention.

**Sir GRAHAM BERRY:**

You have put one restriction in the clause, the one we discussed and rejected.

**Mr. BARTON:**

How am I to know these things? Hon. members have sent on to me, as Chairman of the Constitutional Committee, a set of resolutions, and under the resolution by which the Drafting Committee were appointed we had to take these resolutions and put them into form in the Bill. When we made the restriction that the Inter-State Commission was to have no power over rates and regulations which are not preferential and not made for the purpose of drawing traffic to one railway from another, we took the matter in this sense, that the object was to maintain those principles of equality of trade laid down in the rest of the Constitution, and at the same time maintain the federal principle

that so long as the principle of equality of trade was maintained there should be no restriction on a State and its dealings. It was with this view, and with the view that the decisions of the committee should be expounded in the broadest sense, that we have framed these clauses. Members must recollect that there can be no finality about the work of the Drafting Committee.

**Mr. PEACOCK:**

It would be a bad thing for Victoria if it were so.

**Mr. BARTON:**
The committee wish to manifest no stupid jealousy about their work, but they hope that all amendments which may be made will be made with as much care as the Drafting Committee consider they have shown in preparing the Bill. How can it be supposed for a moment that the committee in preparing this Bill are dealing with the matter finally? They were endeavoring to faithfully carry out the resolutions of the committees as far as people of ordinary intelligence, as they believe themselves to be, could, after taking an extraordinary amount of time, have determined. How could we do otherwise? If a member of the Finance Committee had given us certain other restrictions beyond these we have imposed we would have been only too glad to have inserted them. We had to provide for an Inter-State Commission, and therefore we set out that:

The Parliament may make laws constituting an Inter-State Commission to execute and maintain the provisions of this Constitution relating to trade and commerce upon railways within the Commonwealth, and upon rivers flowing through, in, or between two or more States.

I do not wish to detain members much longer, as I think I have pretty well dealt with the recommendations of the Finance Committee. There is, as Sir Graham Berry has pointed out, a restriction in clause 95, that the Inter-State Commission shall have no power except in cases of preferential rates used for the purpose of drawing traffic from the railway of a neighboring State. I think that is the real meaning of preferential rates, and that their abolition is indispensable in maintaining an equality of trade. The Commission cannot interfere unless the rate is not only preferential, but is made for the express purpose of taking away the trade from the railway of another colony. If the clause forbade the imposition of a rate which merely had the effect of attracting traffic from the railway of another State there might be something to complain about, as it would be carrying the principle of equality of trade to the extent of derogating from the interests of the State imposing the rate, but in this case the regulation must not only operate as a preferential rate, but it must have been imposed with the intention of securing trade which belongs to the railway of another State. I submit that the Drafting Committee have taken a very limited view of their instructions, and have acted in good faith. There is very little more to say with regard to the Bill, as I do not think that the time has come for controversy between members while I am expounding the clauses of the Bill, inasmuch as I have not expressed any particular views of my own, but have endeavored to make a mirror of the Bill for the use of hon. members, and I think, therefore, that we have not reached the stage of acute argument. The first of the remaining chapters of the Bill relates to the States. I should first explain clause 96, which relates to taking over the
public debts of the States, and that is another clause drafted by the committee in conference with the chairman of that committee. The committee resolved:

That the Federal Parliament may assume the full control and responsibility of all existing and future debts of the States, and thereafter shall pay the interest thereon, appropriating for this purpose the surplus revenue, debiting or crediting each State with any balance accruing in the operation; that all net savings made in interest upon any conversion of or renewal of any loan shall from time to time be utilised in reducing the debt of the colony interested.

Not finding there, as we find in the 1891 Bill, that these operations could not be conducted without the consent of the States, we inserted an expression which probably embodied the meaning of the committee as they intended it.

Sir GEORGE TURNER:

No.

Mr. BARTON:

If that does not express the intention of the committee as they intended it to operate, I would like to know why the Drafting Committee were not told of it. Why are we told when the Bill is in print that we have not carried out fully the intentions of the committee when the fact staring at one in the face of the resolution is that it did not provide for the consent of the States to be obtained before the consolidation of the debts, as was provided in the 1891 Bill? The resolution says:

The Federal Parliament may assume full control and responsibility of all existing and future debts of the States.

If we are obliged to read the resolutions of the Finance Committee literally the Drafting Committee would be forced to the conclusion that there was a permission given to pass an Act of Parliament for the Federal Parliament to take over, not only the existing debts of the States, but whatever thereafter might accrue. We can only read the instruction in that way. That was the English of it. We must endeavor, in translating it into the phrases of law, to come to the conclusion that a common sense provision was intended.

Mr. MCMILLAN:

Read it as it originally stood.

Mr. BARTON:

The clause as it originally stood might have read in that way. But this is not a provision according to the clause as it originally stood. It was
resolved by the Finance Committee that these debts might be taken over without requiring the consent of the States.

Sir GEORGE TURNER:
That was what we desired.

Mr. BARTON:
That is not the meaning of the provision in the 1891 Act.

Sir GEORGE TURNER:
The Drafting Committee ought to have carried out our instructions and tried to amend it afterwards in the Convention.

Mr. BARTON:
But I am told by members of the Finance Committee, or some of them, that it was intended that this should be done only with the consent of the Parliament of the State or States affected. Am I correct in saying that some of the hon. members of that committee seem by their interjections to say that it was intended that the Parliaments of the States should be consulted?

Sir PHILIP FYSH:
Not consulted.

Mr. BARTON:
That is where the whole mistake has occurred; because we were under the impression that we should not construe these literally, but that inasmuch as there had been a striking provision in the Bill of 1891, if it was intended to leave out a provision of that kind there would have been something to account for its omission. However, there is not the least trouble about the amendment of the clause in that particular, because if hon. members of the Finance Committee think that the real intention was that the consent of the State or States should be unnecessary if the Federal Parliament chose to deal with the debts, then in clause 96 there are nine words which may be taken out to fulfil the whole intention of the committee, and these are simply one phrase:

With the consent of the Parliament of any State.

Mr. LYNE:
I must say when I gave my vote I believed that the State had to be consulted.

Mr. BARTON:
Here we have another instance of the difficulty of construing the views of the Finance Committee. One gentleman says he did not think it was necessary that the consent of the States should be obtained, another says he understood that that consent had to be obtained. However, a clause has been inserted endeavoring as far as possible to carry out the intention which seemed to be expressed by the Finance Committee, except that we thought the Finance Com-
mittee had not taken a step which perhaps some members may consider a strong one, and others not, of giving liberty to the Parliament of the Commonwealth to take over the debts of a State without consulting that State. I have explained some of the differences which arise between the two Bills. In the chapter relating to the States the alterations are not serious, and the powers of the States which exist on the establishment of the Commonwealth are still saved to them as under the Bill of 1891. The most serious alteration, if there is a serious one, in this part of the Bill, is the omission of that section which required the reference of communications which were to be made by the Governor of a State to the Imperial authorities to be made through the Governor-General of the Commonwealth. The Committee for Constitutional Machinery omitted that clause, and the

The seat of Government of the Commonwealth shall be determined by the Parliament.

Until such determination is made, the Parliament shall be summoned to meet at such place within the Commonwealth as a majority of the Governors of the States, or, in the event of an equal division of opinion amongst the Governors, as the Governor-General shall direct.

The Constitutional Committee of 1897 have held the same opinion which the like Committee of 1891 and the Convention of 1891 held, that the final determination of the seat of Government of the Commonwealth is a matter which belongs to the Commonwealth itself as a free people to determine, and that in the meantime only interim provisions should be made. An important alteration has been made in the provision relating to amendments of the Constitution. That is in clause 121. The original section provided that when an amendment had been approved in a Bill by an absolute majority of both Houses of the Commonwealth, then, before it received the Royal assent, it might be submitted to conventions popularly elected by the several States, and these conventions should determine whether the alteration was to be adopted; and if in the conventions the amendment was found to be the will of a majority of the people and a majority of the States, then the alteration should be presented to the Governor-General for the Royal assent. The respect in which that important clause has been amended is this—that if an absolute majority of the States Assembly and House of Representatives has decided in favor of a proposed law for the amendment of the Constitution, that law shall be submitted, not to conventions elected by the States, but directly to the electors of the several States who are qualified to vote for the House of Representatives; and that shall be done in not less than two, nor more than three calendar months after the passage
through both Houses of the proposed law. It was considered by the Constitutional Committee that there ought to be, after the passage of the Bill through both Houses and before its final adoption by the people, a period of not less than sixty days during which the people would be familiarised by the press and public men with its provisions, and at the end of which they would be in a position which would enable them to deliberately accept or reject it. The Drafting Committee determined, lest such an amendment should be hung up for a long time by any Government or any authority having it in charge, to add the words:

Nor more than three calendar months,

So that there may be some definite period within which an amendment must be submitted to the people for them to decide upon.

Mr. LYNE:
That only applies to amendments of the Constitution.

Mr. BARTON:
Quite so.

Mr. LYNE:
Is there any provision in the law to prevent deadlocks between the two Houses?

Mr. BARTON:
An hon. member asks me whether there is any provision to prevent deadlocks. All I can say is that the Constitutional Committee have not found themselves in a position to accept any proposal made to them for the prevention of deadlocks.

Sir EDWARD BRADDON:
Hear, hear.

Mr. BARTON:
It may be felt that it is necessary to expressly legislate for the prevention of deadlocks' or it may not. I know there are different opinions in this Convention. All that we could do in the Drafting Committee was to act on the decision of the Constitutional Committee. It may be the opinion of the Convention that a direct provision for the solution of deadlocks should be made, or that this or that mode of settling the difficulty should be adopted, but when the Constitutional Committee came to their decision it was obvious that we could not supply any provision in the Bill for the purpose of settling deadlocks. I should like to make a still further explanation. Hon. members will find in various sections the words, "until the Parliament otherwise provides," or "unless other provision is made." Those are with reference to matters in respect of which it has been thought, that the
Parliament should have power from time to time to legislate without the form of a referendum being gone through. Parliament, for instance, might determine a franchise, and might afterwards come to a conclusion to alter it, so as to make it more liberal. If it came to that conclusion, under this Bill, Parliament would have power to legislate with regard to that franchise without asking for an amendment of the Constitution. So that wherever the Constitutional Committee have decided that such words as:

Until the Parliament of the Commonwealth otherwise provides,

should be used, it will not be necessary before making any alteration in the law to ask for an amendment in the Constitution and the referendum. In other words, where such words as those described are used, the power by implication-by irresistible implication-is given to the Parliament to legislate from time to time without it being necessary to ask for an amendment of the Constitution by way of referendum. Of course it will be quite clear to many hon. members that this was the inevitable thing. There are many cases in which it would be going through an entire farce to prescribe that the Constitution cannot be amended without the expense of the referendum, costing perhaps a hundred thousand pounds. There are minor matters with respect to which indeed the Constitutional Committee thought a clause might be drafted specifying the cases in question, and saying that in reference to these it should not be necessary to amend the Constitution. But we take the words:

Until the Parliament of the Commonwealth otherwise provides,

to mean that the Parliament may make provision on the subject, and that until such provision is made certain things may be done. We interpret them in that way, and think it unnecessary to make a separate interpretation clause giving an explanation of that which is sufficiently clear already. Having occupied the time of the Convention for some while, I should like, notwithstanding the very friendly interchanges which have taken place between hon. members and myself-

Sir GEORGE TURNER:

What about clause 13?

Mr. BARTON:

To express my thanks for the kindness and patience with which they have listened to me. But before proceeding any further I would like to refer to two clauses to which Sir George Turner has directed my attention. Hon. members will remember that in the clauses referring to the Senate it has been provided that the members for each State to be sent to the Senate shall be elected by that State as one electorate. But a difficulty arose in providing for the occurrence of vacancies after any such election. Hon.
members will recollect that if the provision here is adopted, like the provision in the Bill of 1891, half the Senate or States Assembly will go out every three years, and then there will have to be an election. Now clauses 13 and 14, as they originally stood, applied more immediately to the method of election prescribed by the Bill of 1891, which was election by both Houses of Parliament, but inasmuch as the Constitutional Machinery Committee had to alter that method of election, and passed a resolution that the States Assembly should in future be an assembly elected by each State acting as one electorate for its own quota of members, it became necessary that other provision should be made for the purpose of filling up vacancies. In these original clauses 13 and 14 it was provided:

If the place of a senator becomes vacant during the recess of the Parliament of the State which he represents, the Governor of the State, by and with the advice of the Executive Council thereof, may appoint a senator to fill such vacancy until the next Session of the Parliament of the State, when the Houses of Parliament shall choose a senator to fill the vacancy.

If the place of a senator becomes vacant before the expiration of the term of service for which he was chosen, the senator chosen to fill his place shall hold the same only during the unexpired portion of the term for which the previous senator was chosen.

These clauses were referred to the Drafting Committee, and the committee themselves came to no determination upon them, but it was pointed out that as the mode of election to the Senate had been altered it would be advisable that substituted provisions should be made for those clauses, so that the principle of that mode of election should be carried out, or in other words, that some such provision should be made as is done in section 9 of the Federal Convention Enabling Act of this colony and section 10 of the Act passed in New South Wales. That provision was that when the seat of a member of this Convention became vacant it should be filled by the appointment of the person who, not having been elected, was the highest on the poll. The suggestion made to the Drafting Committee was that they should endeavor to provide some method for filling vacancies in the seats of members in the States Assembly in that way. Now we are confronted with a difficulty which I should mention. A member of the States Assembly is elected for six years. There are outgoings every three years. While the election of members for the Senate is for six years there is a difference in the case of this Convention, which was only elected for a few months. This present sitting will not last a month, or five weeks at the most, I hope, and before the lapse of four months it will be competent to call us together again. The final sitting will not last more than
a month, making up about six months. The difficulty in the case of a senator is that he is elected for six years. When we found these things confronting us, and it was suggested to us to provide that the person next on the poll to those elected should be the person to take the place of a retiring or dead senator or one who lost his seat—when we saw that that might operate over three years, or rather six years at the most, we thought it would be futile to endeavor to enact that the person who is next on the poll should be placed in the States Assembly in such a case. The reasons for this will occur to hon. members. It might be almost impossible at the end of several years to find the happy man who would be the successor. He might be dead himself. Those who are elected might be the only candidates, and then there would be no seventh man. Let us imagine indeed, we must imagine—that elections for the States Assembly will be conducted on party lines, and supposing each party ran a ticket, it would be clear that we would not be fulfilling the mandate of electors by putting in a man who had views opposite to the man whose place he was taking. Seeing this difficulty we preferred to make the provision set out in this Bill. We preferred to risk the departure, which is the only one in substance we have made in the Bill. We provided in clause 13 that:

If the place of a member of the States Assembly becomes vacant before the expiration of his term of service the Houses of Parliament of the State he represented shall, sitting and voting together, choose a successor, who shall hold office only during the unexpired portion of the term.

The difficulty that arises is this: if you are to endeavor to make a direct provision for filling a vacancy when a member of the States Assembly loses his seat, dies, or resigns, the normal way will be to make provision for the electors of the whole of the State selecting a man, but the futility of that occurred to the members of the Constitutional Committee, and the suggestion was that we should make some alternative provision, something like that provided in the measure which led to the holding of this Convention. I have given reasons why we found it impossible to carry any suggestion of that kind into working effect, and what we have done is to provide the next best thing. If Parliament is in recess the Governor of the State can appoint a member to fill the vacancy until the Parliament meets, and immediately Parliament meets it will elect a representative for the unexpired portion of the term. It strikes us that this is the only resort we can have to avoid absurdity on the one hand and difficulties on the other. At the same time we have drafted a clause, which will be ready to morrow, in which an endeavor will be made to carry into certain limited effect the suggestion which has been made, but so that there will be no such lapse of
time as might destroy the significance of a party vote in reference to the States Assembly. After a lapse of time we know public opinion

Mr. ISAACS:
There was another suggestion, that there should be a temporary appointment until the next election takes place.

Mr. BARTON:
That would be the next general election.

Mr. ISAACS:
The next ordinary election.

Mr. BARTON:
We found when considering this, that the difficulty would be that it would destroy the whole of the probably effective working of the enactment, which provides that half of the senators are to retire every three years. It may be that it is not so. I may say this with reference to any determination as to what appeared to me to be the best way, that if any member can suggest a mode of improving the drafting of the Bill or the machinery, I shall be pleased to act in a federal spirit in the matter and express my concurrence, if it appears to be better than my own view.

Mr. ISAACS:
Will you consider the suggestion with regard to the temporary election?

Mr. BARTON:
I shall consider it. Of course the provisions themselves are really only suggestions. Another difficulty would arise in the case referred to by Mr. Isaacs. If the election were to take place at the time of the next general election of the State the difficulty would be that there would be a mixing up of federal with provincial matters.

Mr. ISAACS:
It is not a State general election.

Mr. BARTON:
If it is not a State general election it must be an election for the House of Representatives.

Sir GEORGE TURNER:
The next States Assembly election.

Mr. BARTON:
If I understand the hon. member correctly he has been saying that the suggestion is that there should be an appointment made by some method until the next general election.

Mr. ISAACS:
Until the next election, which would enable the people to select their own
candidate without incurring extra expense.

Mr. BARTON:
That is to say, they would be elected at the next general elections for the States Assembly?

Sir GEORGE TURNER:
Yes.

Mr. BARTON:
I think that is fairly well secured in the interim suggestion. It must be for the period which must elapse before the next general elections.

Mr. HOLDER:
You may pass over a period of five years and eleven months.

Mr. BARTON:
The committee have endeavored to do their best with what is a very difficult subject, and I think their scheme will perhaps be found to work as well as any other.

Mr. ISAACS:
It may be five years.

Mr. BARTON:
It may be five years and eleven months, or it may be only a month, but we have to look at what is a fair provision considering what are the ordinary chances of human life and circumstance. The members may find when these measures are discussed that the proposal we have suggested will fairly meet with their approval, and that it is rather a matter of detail than of any great principle. I think I have explained the Bill as it differs from that framed in 1891. Let me, from the point at which I replied to Sir George Turner on clause 13, finish returning my thanks for the patience with which the Convention has listened to my exposition, in which I have not attempted for one moment to deviate into party lines or into strong expressions of opinion. I have attempted to make it as clear as my limited ability will allow, and, I hope that I have given a fair description of the general objects of the Bill. I would like to add that the Drafting Committee, finding that they had before them in the Bill of 1891 a number of provisions dealing with a Federal Constitution which had in effect received acceptance at the hands of the committees, and remembering that the Bill had obtained the greatest approval throughout the colonies with respect to its draughtsmanship, thought they should endeavor not to lay wanton hands on that measure in respect to the matters in which it has not been amended. The committee followed its phraseology as far as possible, but where they have not done so it has been, in their humble view, in the direction, which actuated its draughtsmen, of combining brevity with clearness. One way sacrifice clearness to brevity, but where the committee have made
alterations it has been because they were endeavoring to combine the two. There are more clauses in this Bill than in the one of 1891, and the reason is that the provisions relating to trade and finance are much more numerous than they were in the other measure. In respect to the other clauses of the Bill members will find that they are fewer than in the other Bill; and in regard to the clauses relating to trade and finance, with the fresh light which has been thrown on these matters during the last six years, it would be strange, indeed, if the committee had not made more numerous suggestions than were embodied in the Bill of 1891. It is in this respect that the present Bill is longer than its predecessor. I should like to say on behalf of the Drafting Committee that, though they have added to the Bill in this respect, they have endeavored to treat the 1891 measure as reverently as possible, since they recollected that a gentleman, who may be described as the supreme draftsman of Australia, Sir Samuel Griffith, was the main author of it, not only in its passage through the Committee, but in the work of drafting it. Our own work has been laborious; and whatever may be the conclusions at which members may arrive with regard to the Bill, I think they will find it is absolutely clear to read, and is subject to very little, if any, ambiguity. That has been one of the main parts of our work. We have spared neither time nor labor on our duties, and we do hope that we have produced a Bill which, when considered, will be found acceptable in all its main provisions to the Convention.

Sir RICHARD BAKER:
I second the motion.

Sir JOHN FORREST:
The notice of motion standing in my name I do not propose to move at the present time, as I have been informed by those who are competent to give an opinion that the better plan will be for me to move what I desire when we get into Committee on the Bill. I am impelled to take this course, too, by the general concurrence, or, at any rate, the general desire expressed by hon. members who wish to meet the views that I wish to have approved.

Question-That the Convention do now resolve itself into a Committee of the whole to consider the draft Bill.
Resolved in the affirmative.
In Committee.
Sir RICHARD BAKER took the chair amidst cheers.
Preamble postponed.

Sir JOHN FORREST:
I wish to move the postponement of clauses up to 52, so that we may consider the money clauses. In making this request my desire is that the representatives from Western Australia should have an opportunity to deal with this very important portion of the Bill. Unfortunately for us—very unfortunately, and I say it with great regret—we have to leave Adelaide on the 14th, and we cannot expect, if we take the clauses seriatim, that we shall have an opportunity to deal with this portion of the Bill. To the States, with the smaller populations, and Western Australia is one of them I regret to say, though I hope as time goes on we shall be able to vie with the other portions of Australia in regard to population—it is of very vital importance that the powers of the States Assembly should be as full and complete as is consistent with the form of government that we desire should be introduced. Of course it may be said that we are asking for more than what the larger populations of Australia consider reasonable, but if any hon. member looks at the matter from a reasonable point of view he must come to the conclusion that we are not asking anything very unreasonable in desiring that the States Assembly shall have the power of amendment over all classes of Bills, except the Appropriation Bill.

The CHAIRMAN:
I think that the hon. member is not in order in discussing the provisions of the Bill. He must only give his reasons for wishing for a postponement.

Sir JOHN FORREST:
I do not wish in any way to infringe the rules of debate. My only object in asking for this somewhat extraordinary course to be pursued it in order that the members for Western Australia may have an opportunity of expressing their views on this portion of the Bill. I do not wish the House to go on with this debate at the present time unless it is convenient to hon. members to do so. I shall be glad to consult their wishes in that respect.

Mr. BARTON:
Do I understand that the hon. member does not wish to go on any further to-day?

Sir JOHN FORREST:
If it is the wish of the House.

Mr. BARTON:
I am certainly pretty well exhausted.

Sir JOHN FORREST:
I will move:
That clauses 1 to 51 be postponed until after consideration of clauses 52, 53, and 54.
Sir GEORGE TURNER:
    Report progress now, and move that to-morrow.

Mr. BARTON:
    If the hon. member is willing that progress should be reported now I think that will be a convenient course, and will meet the views of the majority of hon. members. I do not wish to claim any special consideration, but I do know that I and two others are more tired than most men.

Sir JOHN FORREST:
    Let us carry this motion now.

Mr. ISAACS:
    Mr. Reid ought to be heard on it.

Sir JOHN FORREST:
    I understand many members desire to take a vote now.

Mr. BARTON:
    I should like to say a word or two on the motion.

Sir JOHN FORREST:
    It seems to me that it would defeat what I desire if pro-progress is reported. I think there is a general desire amongst members, that a vote should now be taken. If that is the case, why not vote for it without discussion?

Mr. BARTON:
    If the hon. member wishes to take a division to-night I shall address myself to the question, but not at great length. I must only reiterate my protest against any such course as he wishes to adopt. I feel very strongly that this Bill should be taken in the proper order of its clauses, not necessarily that every small machinery clause should be taken in its order; but I think it is not logical, or according to the reason of the Bill, to take out two or three clauses which may suit the convenience—and I say that in no offensive sense at all—of hon. members, dissociate

Sir JOHN FORREST:
    YOU cannot do that; you have not time.

Mr. BARTON:
    If we are to have a different procedure imposed upon us let us understand what we are doing. If we are to decide what relations there are to be between the two Houses in respect to Money Bills, or what the powers of each House are to be in dealing with those Bills, before we decide how the Houses are to be constituted, or how elected, who are to be the electors to them, or who are to be eligible for election, and are to rush to those provisions without for a moment deciding what powers of legislation those Houses conjointly are to have, we would be taking into consideration their powers in regard to Money Bills before knowing what sort of Houses they
are to be or what sort of functions they are to have. A procedure of this kind must, with every respect to the proposer of it, meet my firm protest as the member in charge of this Bill; and I hope members will not consent to it. If they do it will mean the destruction of the proper order of this Bill; it will not conduce to effective working in Committee, and will occasion a good deal of surprise throughout Australia.

Mr. GLYNN:

I quite agree with what Mr. Barton has said in reference to the inexpediency of postponing every portion of the Bill until the question of money clauses has been discussed. I wish to explain that I intend to vote on this occasion against what will apparently be the decision of many of the South Australian representatives. On the last occasion, when the proposal was mooted that the Standing Orders should be suspended to enable this matter to be dealt with as one of urgency. I voted for the majority which secured the suspension of the Standing Orders, because I thought that as a matter of courtesy we should give the hon. member an opportunity of testing whether the question should be brought on at once or not, as he said that expedition was necessary owing to the fact that the delegates from Western Australia intended shortly to leave for their colony. But at the same time had the motion itself been put I intended to vote against its passage. Sir John Forrest seems to forget the fact that those who were sent to this Convention were not necessarily chosen from the ranks of members of Parliament, and those candidates who were members of Parliament must have known that they were subject certainly to political disadvantages. Knowing their duties as private members and members of Parliament they were bound to subordinate all personal or local parliamentary exigencies to the interests of Federation.

Sir JOHN FORREST:

Very good in theory.

Mr. GLYNN:

It may be in theory; it is also in fact. The Convention is elected not necessarily from candidates of parliamentary qualifications. As a matter of fact there was a pretty wide-spread opinion throughout the colonies that it might have been better to have had the Convention selected altogether of non-parliamentary men. I do not agree with that view, because I think that the pick of the political intellects of the colonies capable of dealing with Convention matters might be selected from the Parliaments. At the same time there was that feeling, and we must respect it. What Mr. Barton has said is perfectly true. We cannot deal with this Bill piecemeal. The question of the effect of money clauses must be to a large extent
determined by the consideration of the relative powers of the two Houses and the franchise basis for election to the States Assembly. We are not going to take the report of the Constitutional Committee on the constitution of the two Houses. Those clauses which are an explanation of the views of the Constitutional Committee may not be adopted by this Convention. Does Sir John Forrest say that the whole effect of Federation is to be determined by the vote upon the question of Money Bills?

Mr. DEAKIN:

Hear, hear.

Mr. GLYNN:

Does Sir John say that West Australia will determine whether to come into the federation or not, simply by his vote being given on this matter?

Sir JOHN FORREST:

We are generally agreed upon the others. WESTERN AUSTRALIAN DELEGATES:

Hear, hear.

Mr. GLYNN:

I venture to think that there is a very strong improbability that the members are all agreed on the other questions. I think there are considerable differences of opinion on other parts of the Bill. I put it to hon. members, is it not a fact that there are many points on which divisions may arise, and to settle which the votes of departing members would be useful?

Sir JOHN FORREST:

It is a very serious matter, I tell you.

Mr. GLYNN:

In my opinion, the question of Money Bills is not a serious matter. I think we are really raising an empty issue—an issue which, though empty in appearance—is really pregnant with the most dangerous considerations in the public mind. You are raising a question which is not vital to the exigencies of Federation, and putting it before the public as if it really were. We ought not to encourage the setting up of the question of whether Money Bills are to be settled according to the prejudices of some hon. members as determining the fate of the federal movement. For that reason I shall oppose the motion of the hon. member. When I was elected to this Convention I knew that in my case, as in that of others, it might be at considerable sacrifice of my personal leisure. The representatives of New South Wales and Victoria have come here at considerable sacrifice of their personal interests.

Sir JOHN FORREST:
You are at home.

Mr. GLYNN:

I am not talking chiefly of inconveniences from my point of view. I say that the members of Victoria and New South Wales are subjected to quite as great pecuniary sacrifice, and sacrifice their own personal interests quite as much as the representatives from Western Australia. I know there is an election coming on in Western Australia, but I say that matters of local politics are ephemeral and transient, and you might sweep away a whole local Legislature and still not do very much damage, as others would be found to take the places of those who were gone. But if we strangle the possibilities of Federation before they are really born we may have to wait for another generation before the cementing of the union of these colonies can be brought about. For these reasons I shall oppose the motion.

Mr. DEAKIN:

May I be permitted to endorse, without repeating, the extremely well chosen and powerful arguments already placed before the Convention by the two bon. members who have preceded me. I rise to add another argument in the same direction, and to offer a suggestion for consideration of a means which might be found of meeting the wishes of Sir John Forrest, without that entire breach of the ordinary, regular, and reasonable method of procedure which he invites us to take. The one additional argument I wish to offer in the first instance in opposition to the proposal of Sir John Forrest is that this carries with it the further assumption that we can discuss clauses 52, 53, and 54, with all the problems that they involve, and the possible amendments on them that may be suggested, during the course of a single sitting to-morrow. If this part of the measure is of the transcendent importance which he declares, it is one which will necessarily provoke some remark from a considerable number of members of the Convention. It will also probably lead to the submission of some variations or amendments on these proposals, or on any proposal which he may make in substitution for them. And to suppose that the whole of these clauses-

Sir JOHN FORREST:

Only three.

Mr. PEACOCK:

The crux of the Bill.

Mr. DEAKIN:

If they are of the transcendent importance which the hon. member for Western Australia, Sir John Forrest, suggests, does he say they are to be disposed of-and finally disposed of in such a way that no matter how this Convention may hereafter alter other parts of this measure-no matter what changes-we may think fit to make in the Constitution of the two Houses
and in their powers -we are to have settled this part of the Bill in a single sitting?

Sir JOHN FORREST:

I want a majority to decide, not a minority.

Mr. DEAKIN:

I will show the hon. member presently that there is great force in that argument. We have now to face two assumptions, which the hon. member makes. The first is that these clauses can be disposed of in a single sitting, and the other is that, though they are thus disposed of in anticipation of the discussion on all parts of the Bill, they are to remain untouched and unaltered, no matter what conclusions we may hereafter arrive at. I would suggest to the hon. member whether it would not be possible to meet his wishes and those of his hon. colleagues by allowing them to take up the discussion of these particular clauses to-morrow, and to occupy the whole of the time of this Convention. I think that courtesy might fairly be extended to them. (Laughter.) Let the hon. members not only give us the benefit of their opinions on this part of the Bill, but on each one of these three clauses, and if necessary on each of the contested points in the clauses. For the purpose of bringing out all the contested points it might be advisable for the hon. member in charge of this Bill, Mr. Barton, and for one or two others to direct their attention to any question they might omit. Let us obtain from them a full and frank discussion on these points, and give us an indication how they will record their votes. That would be of greater value than the vote which Sir John Forrest proposes to take, and which he admits is not to be final. The vote to-morrow can only bind those who are compelled to withdraw from this Convention, thereby giving the result of their best judgment on the matter at this stage of the proceedings. The only conclusive votes that will be cast to-morrow will be the votes of the hon. members for Western Australia. If they are allowed to put on record by this motion-which is an extraordinary departure from all parliamentary procedure-their views, and also record their votes, the public will see, and it will at once appear, when the division hereafter will be taken, whether, if their votes had been cast at the later stage this measure would have been altered.

Sir EDWARD BRADDOCK:

Can we count these votes, then?

Mr. DEAKIN:

You cannot in the ordinary way of counting a division, but you can reckon them in determining the present will of the Convention. You cannot forecast its ultimate decision. We all know this meeting is not final. I
would be inclined to sacrifice everything and go with Sir John Forrest if he had no opportunity of reversing the vote.

Sir JOHN FORREST:
We have a large majority,

Mr. PEACOCK:
That is a nice way to talk!

Mr. DEAKIN:
I do not know that it affects the matter one way or the other.

Mr. BARTON:
I think it affects the matter very greatly, because it gives us an idea of how it will be done.

Mr. DEAKIN:
Will members allow me to finish? I say if this were the last, the final vote, and if for all time Sir John Forrest and his colleagues were to be deprived of the privilege of casting their votes, upon this particular issue and if this were the final meeting of the Convention, I should be inclined to sacrifice everything; but Sir John Forrest must remember that the Convention has to meet again, and that he and his colleagues will be able to attend then and have their votes recorded upon the division lists.

We have a majority.

Mr. DEAKIN:
If they are then in the majority they will carry their case, but if they do succeed now, the vote they give is liable not only to be reversed by this Convention at its present sitting, but it is equally liable to be reversed again when the Convention meets in sixty or 120 days. Consequently the hon. member, who appears to be clinging to this vote, as if he never would have another, is not being deprived of the opportunity of voting.

Sir JOHN FORREST:
You are clinging to it.

Mr. DEAKIN:
I am clinging to it because it is the course, not only of parliamentary procedure, but the course which reason, justice, and judgment dictates to us. He is asking us to consent as a favor to him, and I am most anxious to do so; but it will be an injustice to all the other representatives and all the colonies represented. Still I am most anxious, even at the risk of that, to oblige him. I am simply pointing out a method by which he and his colleagues can place their views before the public, and have their speeches and votes recorded. If Sir John Forrest goes further he is endeavouring to snatch a mere victory of votes.

Sir JOHN FORREST:
We have a majority.

Mr. DEAKIN:
It is only a majority that can snatch a victory.

Sir JOHN FORREST:
It is the minority who are trying to snatch a victory, and not US.

Sir GEORGE TURNER:
We are only here to hear argument.

Sir JOHN FORREST:
You have heard that for a week.

Mr. DEAKIN:
I only say that Sir John Forrest is open to the imputation that he is endeavoring to snatch a vote before the Convention has had proper time, means, or opportunity, of determining such an important question after considering it in all possible aspects. While I am anxious to meet him in every possible way, I wish to point out that even though he attain all he desires now, the ultimate decision of the question will be retained by those who remain here to the close of the proceedings, and afterwards at the next meeting three months hence. The supplementary meeting of this Convention has yet to come, and then Sir John Forrest and his colleagues will have another hearing and as many opportunities of voting as they can desire.

Mr. MCMILLAN:
I think this is a very difficult position which we have got to face, and at the same time I think we must take into consideration all of the circumstances surrounding the case. I quite agree with Mr. Barton as to the inadvisability under ordinary circumstances of altering the ordinary procedure, but at the same time I have not heard any argument which will lead me to believe that there is anything attached to the discussion on the money clauses on which the decision with regard to the previous clauses depends, and if anything should crop up in the course of our proceedings which will show that the discussion on the early part of the Bill had some relative effect, after we had debated the money clauses, it would be quite within our right to re-commit those clauses. I take it that the gentlemen who have come here at great inconvenience, and whose time is limited, and who acquiesced in the general desire to close the earlier debate, have not had the opportunity of giving their views on what they consider the most salient part of the Bill. I take it also that they are fairly satisfied with the other provisions of the Bill.

Sir JOHN FORREST:
We are satisfied with the form in which they are now in the Bill.

Mr. MCMILLAN:
I think it would show a thoroughly federal spirit if we agree to this proposal. I do not think the scheme proposed by Mr. Deakin is practicable, and and I might suggest to him that the real part which the Premiers will have to play will be before their own Parliaments between this and the next sitting of the Convention, and the favor or disfavor with which our labors are met will depend upon the reports given to our respective Parliaments. Although it seems to me that there will be scarcely time to complete this discussion before the West Australian representatives leave, still unless there is some insuperable objection, or unless it is absolutely impossible to debate these clauses until the debate on the others has taken place, I would suggest that we should come to a vote as early as possible. It cannot be settled on principle, and it is a great stretch of procedure, but the motion is only moved under the peculiar circumstances surrounding the case.

Mr. LEAKE:

I do not follow the arguments of Mr. Barton and Mr. Deakin that we should be adopting an unwise course, because I submit that it is undoubtedly one of the rules of parliamentary practice in committee to postpone clauses until after the consideration of others. Nor is Mr. Barton altogether exact when he says that the Constitution of the Federation is not settled. It is practically settled, if we may judge from the tenor of the debate on the opening resolutions. At any rate, we have this fact before us that the basis of responsible government is to guide us in the construction of the Constitution. If we do not exactly know on what lines our Constitution will be dealt with, we can, at all events, arrive at a very fair conclusion. We are not going to any extent off the beaten track by adopting the motion of Sir John Forrest. If the first element of good government is good finance, why should we not first of all consider the financial clauses of this proposed Constitution?

Mr. HIGGINS:

What about responsible government?

Mr. LEAKE:

We propose to base our Constitution upon the principles of responsible government, but we cannot adopt all the practices of responsible government. I take this opportunity—as I may not have it again, judging from the feeling of the House—of expressing my view, which is this, that as at present advised it is my intention to vote for clauses 52, 53, and 54 as they stand. We are asking, it is true, a favor of this Convention, but I cannot accept a favor of this kind unless it is graciously conceded. Although hon. members may be debarred from the extreme privilege of
listening to our views upon this question, I claim that I for one expect to derive great benefit from the discussion which will arise between hon. members hailing from other colonies; and it is because of the instruction I desire to get that I support the resolutions of my honorable friend, Sir John Forrest. I again appeal to hon. members in this Convention to allow us from Western Australia to have the full benefit of this discussion, and allow us to appreciate, and, if necessary, be guided, and, perhaps, have our views altered by the arguments which will be adduced by hon. gentlemen who are opposed to this resolution.

**Sir JOSEPH ABBOTT:**

I move: That the Committee do now divide.

Question resolved in the affirmative.

Question-That clauses 1 to 51 be postponed until after consideration of clauses 52, 53, and 54-put. The Committee divided.

Ayes, 42; Noes, 3. Majority 39.

AYES.

Abbott, Sir Joseph Deakin, Mr.
Barton, Mr. Dobson, Mr.
Berry, Sir Graham Douglas, Mr.
Braddon, Sir Edward Downer, Sir John
Brown, Mr. Forrest, Sir John
Brunker Mr. Fysh, Sir Philip
Clarke, Mr. Gordon, Mr.
Cockburn, Dr. Grant, Mr.
Hassell, Mr. O'Connor, Mr.
Henry, Mr. Peacock, Mr.
Holder, Mr. Piesse, Mr.
Howe, Mr. Quick, Dr.
Isaacs, Mr. Sholl, Mr.
James, Mr. Solomon, Mr.
Kingston, Mr. Symon, Mr.
Leake, Mr. Taylor, Mr.
Lee Steers, Sir James Trenwith, Mr.
Lewis, Mr. Turner, Sir George
Loton, Mr. Walker, Mr.
McMillan, Mr. Wise, Mr.
Moore, Mr. Zeal, Sir William

NOES.

Glynn, Mr. Lyne, Mr.
Higgins, Mr.

Question so resolved in the affirmative.
Progress reported.
ADJOURNMENT.
The Convention adjourned at 5.29 p.m.
Tuesday April 13, 1897.


The PRESIDENT took the chair at 10.30 a.m.

RETURNS.

Mr. HOLDER:
I beg to lay on the table returns to order of the Convention, March 23rd, 24th, and 26th, relating to Customs and excise and taxation of the Australasian colonies; population, South Australia; railways, South Australia; cost of defences and public debt, South Australia. I move that they be printed.

Question resolved in the affirmative.

BUSINESS OF THE CONVENTION.

Mr. BARTON:
I should like to take the sense of the members of the Convention now as to whether it is their desire to sit late. If there is a consensus of opinion to that effect I would, be prepared with, a regular motion for the purpose. As there seems to be no objection to sitting to-night, I move without notice-

That the Standing Orders be suspended to enable a motion to be made with regard to the course of business.

Question resolved in the affirmative.

Mr. BARTON:
I move now-

That the Convention shall at 5.30, this day, suspend its sitting till 7 p.m., at which hour the Convention shall be resumed, and the transaction of business continued.

Sir GEORGE TURNER:
I desire to second the proposal. I think we ought to go a step further.

Mr. PEACOCK:
Hear, hear.

Sir GEORGE TURNER:
It is necessary that many delegates shall have an opportunity of returning to their respective colonies during the Easter Holidays, and we ought to settle now whether we propose to sit at all during those holidays, or will adjourn over them. I suggest that in addition to sitting to-night, we might also now decide whether we will sit tomorrow night as well; and then on
Thursday, instead of adjourning at 1 o'clock, we should sit on till 2 o'clock. That would give those who desire to go away time to get the necessary refreshment and have ample time to catch trains. But if we adjourn at 1 o'clock on Thursday and meet again at 2, those desirous of going away will be fidgety and anxious, and will not be able to settle down to the business.

Mr. BARTON:
Is there any objection to sitting till 5.30 on Thursday?

Sir GEORGE TURNER:
Yes; because many of the representatives are anxious to take advantage of the holidays to get back to their various colonies, and as the train leaves at 4.30 very few would like to leave the Convention if, business was going on till 5.30.

Mr. BARTON:
Would 3.30 do?

Sir GEORGE TURNER:
That would cut it rather fine. It amounts to this-I propose that we sit straight on till 2 o'clock; that gives an extra hour. The hon. member suggests sitting from 2 o'clock till 3.30 -or an extra hour-and-a-half-half-an-hour more than I propose.

Mr. BARTON:
Not much difference.

Sir RICHARD BAKER:
I wish to suggest that Mr. Barton should amend his motion by including the words until otherwise ordered." That will obviate the necessity of making motions, every day; because it seems to me, and I think the majority of the delegates will agree with me, that we should finish our work as speedily as, possible.

Mr. REID:
Hear, hear.

Sir RICHARD BAKER:
To do so we should sit every night as a rule, but exception can be made by special motion. If Mr. Barton amends his motion in the manner I have indicated that result will follow. We should sit every night unless otherwise ordered.

Mr. REID:
The suggestion raised by Sir George Turner is one which, will require very serious consideration, because I fancy we are all anxious, if possible, to finish this work. I was hoping we would be able to go on on Saturday and Monday, at any rate, because I know how I am placed individually in reference to the meeting of Parliament in Sydney on April 27th, and if we adjourn for four days it will leave those who come from distant colonies
simply here doing nothing. The delegates from Now South Wales will
have only time to go to Sydney and start back again on the same day—a
matter of four days travelling—so that the project is impracticable for us,
and I put it to our brother delegates for very serious consideration whether
we should not go straight on, except with the intervention of Good Friday,
sitting on Saturday and Sitting on Monday.

Sir GEORGE TURNER:
Personally I have not the slightest objection.

Mr. REID:
Of course I am only putting it for the consideration of delegates; but I put
it most earnestly to the delegates that this work has to be finished, and we
ought to stick to it till it is finished, and to do that we must throw aside
these matters about holidays.

Mr. LYNE:
Nearly all of us have been settled here continuously in various capacities
since the Convention met, and, although I do not want any special
consideration for myself, I have to leave here for Sydney on Thursday
night, and I wish to return in order to be present here again on Tuesday or
Wednesday if I possibly can. I certainly think it would be unwise to sit
during Easter, as I am sure other members of the Convention will desire to
got to their homes for two or three days. I presume it will not be expected
that we should sit on Good Friday and on Saturday. Unless we break
through the order of thing we will only sit in the morning. Easter Monday
is a general holiday, and I do not think we can very well sit on that day.

Several HON. MEMBERS:
Yes, yes.

Mr. LYNE:
It is all very well for hon. members who do not desire to go home, but we
do want a little rest occasionally. I think that the motion is a reasonable
one, and, although I do not desire any consideration for myself, I have to
go on business to Sydney. I hope that Sir George Turner's proposal will be
agreed to.

Sir EDWARD BRADDON:
I hope this adjournment will not be agreed to because we representatives
of Tasmania, however much we might desire to go home, could not
possibly get home. We could not even get home, turn round, and come
back straight, as the delegates could from New South Wales. Having in
view the desirability of pushing on with the Work, I hope we shall go on
on Saturday, and again on Monday, so that the work may be urged
forward.

Mr. TRENWITH:

I would point out that we can only save one day if we refrain from adjourning.

Mr. REID:

Two-Saturday and Monday.

Mr. TRENWITH:

We cannot save Saturday, because we have already agreed not to sit on Saturday out of consideration for the religious opinions of some of our members. If the religious opinions of some hon. members were sufficient to induce us not to sit before, they ought to be sufficient now.

Mr. REID:

It is a matter of urgency.

Mr. TRENWITH:

We thought it desirable to sit on Saturday, but a very proper objection was raised that we could not do so without violating the consciences of some of our members, so that all we should gain is Monday. Having in view the very great convenience it will be to a considerable number of delegates, I think the proposal of Sir George Turner is the wise course to adopt. Of course, it is to be regretted that the delegates from Tasmania cannot get home—if they could, no doubt they would be very glad of our convenient break of this character. The representatives of Victoria can get home.

Sir JOSEPH ABBOTT:

No one else can.

Mr. TRENWITH:

It happens so, but I am pointing out that we cannot save much.

Mr. REID:

Two solid days-Saturday and Monday.

Mr. TRENWITH:

We are proposing to discuss out of its proper order some portions of this Bill to meet the convenience of some hon. members, which I think is a desirable arrangement. I am simply urging now to meet the convenience of a considerable number of hon. members that as we can make so slight a saving it would be as well to make this adjournment. I think it is highly probable that, if we sit on Monday, in view of the fact that it is a recognised holiday, and that in Adelaide one of the most important events of the year takes place, some hon. members will be unsettled as to where they will go, and they are not likely to give that undivided attention to their work which they otherwise would. I strongly urge this
adjournment. The saving is small if we refrain from granting it, while the inconvenience to some hon. members will be very great indeed.

Mr. BRUNKER:

I rise to say at once that I am opposed to the proposal for an adjournment, and perhaps I have stronger personal reasons to seek a few days' holiday in order to reach my home than any other member of this Convention. I recognise very fully that we are here to perform a certain duty, and we should not cease to perform this duty until we have completed the important work we have in hand. I am in favor of sitting on Saturday and Monday, to enable us to carry out the duties entrusted to us. I should indeed be glad of the opportunity to reach my home, if it were only for an hour or two. I feel that it is impossible for me to do this, and the only convenience that will be served by an adjournment will be in the case of the Victorian delegates, who can easily get to their homes in the interim. I hope hon. members will adhere to the proposal made by the hon. the Premier of New South Wales.

Mr. SOLOMON:

I recognise that there is a great deal of weight in the interjection made just now by the hon. the Premier of New South Wales. If it is proposed to sit both on Saturday and Monday, although I personally would not be able to attend, I should not like to raise my protest against that being done. I have no doubt that upon important points concerning which the South Australian delegates are deeply interested some members of the Convention on the other side will be prepared to pair with me.

The PRESIDENT:

I would like to point out that no amendment has been made.

Mr. BARTON:

I would like to make a suggestion to hon. members about this matter, and that is that the motion should be amended by adding the words This day and to-morrow to the motion. We can sit to-night and to-morrow. Then it would seem desirable according to the opinions expressed all round that we should adjourn on Thursday and meet again on Monday.

Mr. REID:

Why not sit on Saturday?

Mr. BARTON:

I am quite in the hands of the Convention in this matter.

Mr. PEACOCK:

Why not sit on Friday?

Mr. BARTON:

I think it is desirable not to shock the consciences of a great many people, and I think a sitting on the day you mention would be highly
unpopular, and would provoke a great deal of criticism on our deliberations. We should endeavor to avoid giving even the semblance of ground for such criticism. After what Mr. Solomon has said, if the urgencies of business demands it, I would have no hesitation in sitting on Saturday. I propose we sit this evening and to-morrow, adjourn on the afternoon of Thursday and then meet again on Monday, and also in the evening. We can also sit every evening till we finish our business.

Mr. PEACOCK:
Why not sit on Thursday night?

Mr. BARTON:
Because that would interfere with members who want to leave the city to spend the Friday in the country.

Sir GEORGE TURNER:
Oh, surely we could sit on Thursday night to get on with our work.

Mr. REID:
That's right. Stick to the work.

Mr. BARTON:
If that is the general sense of the Convention let us by all means adopt it. It matters nothing to me, and I thought I was making a proposal that would commend itself to the majority of the members of the Convention. I would ask, first, that this motion be amended:

By inserting after the word "That" the words "until otherwise ordered," and leaving out the words "this day."

Mr. ISAACS:
How will it read?

Mr. BARTON:
That, until otherwise ordered, the Convention shall, at 5.30 p.m., suspend its sittings until 7 p.m., at which hour the Convention shall be resumed, and the transaction of business continued.

Leave given to amend the motion.

Question resolved in the affirmative.

LOCAL LEGISLATURES AND THE DRAFT BILL.

Adjourned consideration of the motion.

That, in the opinion of this Convention, the interval for consideration of the Draft Bill by the local Legislatures should be extended to not less than 120 days nor more than 180 days.

Mr. REID:
As my name has been mentioned-

Sir JOHN FORREST:
Postpone it till to-morrow.
Mr. BARTON:  
Further adjourn it until to-morrow?

Mr. LYNE:  
I suggest that it be withdrawn.

Mr. REID:  
I must say a word or two.

Sir GEORGE TURNER:  
Then I shall have to say something also.

Mr. REID:  
I do not wish to say anything that would provoke discussion, and rather than risk that now I will postpone my remarks till to-morrow.

Sir JOSEPH ABBOTT:  
I move:  
That the debate be farther adjourned till tomorrow.

Question for adjournment resolved in the affirmative.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee.

Clause 52-Proposed laws having for their main object the appropriation of any part of the public revenue, or the imposition of any tax or impost, shall originate in the House of Representatives.

Sir GEORGE TURNER:  
The Committee, in dealing with this clause, has not followed out the Commonwealth Bill of 1891. That Bill provided:

Laws appropriating any part of the public revenue, or imposing any tax or impost shall originate in the House of Representatives.

What might at first glance appear a somewhat unimportant alteration, but which is in reality a most important alteration, has been made in the reading of this particular clause, and it now stands:

Proposed laws having for their main object the appropriation.

Now, it will be very difficult indeed for anyone to construe the meaning of these words:

Having for their main object.

It seems to me we are here initiating a system which must necessarily be a reason for a large number of complaints and disputes between the two Houses. We know that the Senate or the States Assembly, as it is called, will be anxious to initiate Bills, and in many cases they will bring forward measures which will contain appropriations. They will argue at once that the Bill is brought in for a certain purpose—take for instance, the building of baths—and they will say:

The main object of the Bill is to provide bathing accommodation for the people, and it is true that it is necessary to spend money, but the main
object of the Bill is not for spending consolidated revenue and we had a perfect right to initiate it;

and that might mean a heavy expenditure. Now, if that were done, we must all admit that the House of Representatives would immediately say that their rights were being infringed, and that such an appropriation did not come within the power of the States-Assembly. You may take scores, I venture to say hundreds, of cases where the question would be fairly

and legitimately raised as to whether the States Assembly were justified in initiating Bills. Whenever there is an appropriation of revenue, it should be made in one House only, and that House should be the House of Representatives. I can see no great advantage in having such Bills introduced into the two Houses. It should be sufficient that the House of Representatives, which represents the people as a people, should initiate them. At the same time, I think there is a means by which, Bills which in reality deal with large questions of public policy, and which incidentally appropriate small portions of the revenue, may be fairly dealt with. It would be competent for both Houses to frame a Joint Standing Order by which such Bills may be introduced into the States Assembly, but that the clauses relating to the appropriation should be printed in italics, and should not be dealt with by that Chamber, but by the House of Representatives when the Bill reaches it. That is the course we have adopted in Victoria.

Sir WILLIAM ZEAL:

You have not always done that.

Sir GEORGE TURNER:

You will not deny that it has been done.

Sir WILLIAM ZEAL:

It has been done.

Sir GEORGE TURNER:

There is no reason why they should not follow this course. I am perfectly certain that if we were to follow the course suggested in the Bill we would have more disputes over this particular question than over all others. I see no necessity for initiating these Bills in the States Assembly, and therefore I move:

To strike out the words "having for their main object the appropriation of" with the view of inserting the word "appropriating."

Mr. O'CONNOR:

I should like to point out that this power, which on the face, of it enlarge the rights of the States Assembly, does not practically do so; because, if you look at section 54, it is evident that the initiation of any expenditure can only be by a Minister, as initiation cannot take place unless by
message, and of course according to the ordinary course a message will, only be granted to a responsible Minister, and therefore the new power will simply enable the Minister who represents the Ministry in the State Assembly to initiate such Bills. What advantage is there in that? The majority by which the Ministry is controlled must be in the House of Representatives, and the Government will only act according to the majority in that Chamber.

**Mr. HIGGINS:**

It is very ambiguous.

**Mr. O'CONNOR:**

Apart from that there may be difficulty in the suggestion of Sir George Turner. When I was speaking on the resolutions in the opening debate I suggested that there had been some difficulties in the way of dealing with different classes of Money Bills. There are Money Bills which deal incidentally only with the expenditure of money which might with advantage be amended in any direction by the States Assembly, but when one comes to try and put into language that difference it is really impossible to do it. It is impossible to lay down any rule which will distinguish between those matters in which amendment is incidental and those matters of principle in which the House of Representatives should undoubtedly have the initiation in dealing with Money Bills. But although the distinction does exist, it is one of those distinctions which are too fine to be drawn in a Constitution of this kind. We cannot have a Constitution which will scientifically draw a line between the different rights which should be appropriated by the two Houses. All that we can do is to make a workable arrangement, and that workable arrangement can be found out by some method arranged between the two Houses, such as that suggested by the hon. member Sir George Turner. But I would like to suggest to Sir George Turner that it would be desirable to have his amendment altered. I understand the hon. gentleman proposes to leave in the words "proposed law"?

**Mr. ISAACS:**

That will not do. That means something passed by the House of Representatives.

**Sir GEORGE TURNER:**

I think the word used should be Bills.

**Mr. O'CONNOR:**

I would make a suggestion to the honorable gentleman. There is a distinction in the part dealing with Money Bills between proposed laws and laws. That is a very strong reason why we should have "laws" in this part
of the Bill, as that would indicate that the law must comply with certain conditions, and if it does not comply with those certain conditions it is unconstitutional, and must be set aside; but a proposed law is a question between the two Houses, and merely a question of order. In the powers between the two Houses dealing with Money Bills it is most essential that those should be made matters of constitutional objection, and not matters of order. I would suggest to Sir George Turner that he should alter his amendment by striking out all the words down to "any" in the second line, and inserting the words:

Laws appropriating.

Mr. ISAACS:

Laws for appropriating.

Mr. O'CONNOR:

That would raise a difficulty, too. I would suggest that the words up to "any" should be struck out, and that the words:

Laws appropriating

should be put in, thus bringing back the section to what it was in the old Bill. In dealing with these money clauses there is a very great advantage indeed in bringing back the wording of the Bill as far as possible to the Bill of 1891, which represented a compromise. That compromise which deals with the conflicting claims of the two Houses, and represents the differences of opinion prevailing throughout the colonies as to the rights of the two Houses, is known as the settlement of the question arrived at in the 1891 Bill, and it appears very desirable that we should not alter those terms in any way. Though this is not the time to go into the question as to what colonies are to be affected, I think, as far as my view of New South Wales is concerned, that although what was agreed to in 1891 would be accepted, no extension of those powers with regard to the States Assembly can be accepted. Therefore it becomes important that, as far as possible, the words of this compromise should be adhered to, so that we may in this Committee perhaps come to some conclusion, after the question has been threshed out, that after all we cannot do better than stand by that compromise. I would like to say a word with regard to Mr. Isaacs' interjection about "proposed law." I see no advantage in altering that. "Proposed law" describes exactly what the thing is. There is no misunderstanding its meaning, and I take it that for a mere change in the form of expression which can have no substantial difference in it, we should not alter the phraseology of this Bill. It is not only the phraseology adopted by the last draughtsmen, but it was the phraseology adopted by the draughtsmen of the former Bill. If Sir George Turner accepts my suggestion, I will say no more now. Otherwise I will have something to say at a later period.
The CHAIRMAN:
I would point out to Mr. O'Connor that if the amendment is not amended and is carried, it will then be too late for him to move his proposed amendment.

Mr. O'CONNOR:
I would rather that Sir George Turner fell in with my proposal.

Sir GEORGE TURNER:
I am perfectly prepared to accept the word "Bill," but I do not like "proposed laws."

Mr. ISAACS:
I think if you accept the word "Bill" you remove the inconsistency between clauses 52 and 53.

Mr. O'CONNOR:
That question about "Bill" does not arise here. It should be "law appropriating."

Sir GEORGE TURNER:
It cannot be a law until it is passed by both Houses and agreed to.

Mr. O'CONNOR:
I ask the hon. member to withdraw his amendment to enable me to propose a prior amendment.

Sir GEORGE TURNER:
I ask for leave to temporarily withdraw my amendment.
Leave given.

Mr. O'CONNOR:
Then I will move:
That the word "proposed" be struck out.

Mr. ISAACS:
I would like to draw the hon. member's attention to this. I agree that we should not have trouble about mere words, but one or two considerations will convince him that the word "Bill" as proposed by Sir George Turner will be very much better. If you put in "laws" there, as it was in the Bill of 1891, there will be the very difficulty pointed out by my hon. friend, Mr. O'Connor; the law would be unconstitutional, absolutely void, and I think that is a position none of us should stand in, because after Parliament has passed a law, there should be no doubt-as far as the doubt can be removed-of its validity. It would be a terrible calamity if, after any law were passed and the Federal Parliament had risen and the Treasurer had thought, "Well, here is an Appropriation Bill that is in proper order," and it was disputed afterwards, for the courts to have to declare it unconstitutional and void.
Mr. O'CONNOR:
That might happen in many cases.

Mr. ISAACS:
We may endeavor to avoid it by using the word "Bill." It might never be anything more than a temporary contest, at most, between the Houses. But if you put the word "laws" you do not obviate the conflict between the two Houses, but you beyond doubt add another terror-a possible invalidity-after the Houses have agreed. We should seek sedulously to avoid that. I should like to point out the reason why the Committee of 1891 appear to have used the word "laws" in clause 54 of their Bill, which is now clause 52 in ours, and the words "proposed laws" in other clauses. Throughout the other clauses the words "proposed laws" clearly mean Bills that have been passed by the House of Representatives and have been sent up to the Senate. That is the distinction.

Mr. BARTON:
Among these three clauses.

Mr. ISAACS:
Throughout clause 55 of the Bill of 1891 it is provided that the Senate is to have equal power with the House of Representatives in respect of all "proposed laws;" except laws imposing taxation and laws appropriating the necessary supplies for the ordinary annual services of the Government. That is much more restrictive than the Appropriation Bills in the preceding clause. It would bring those two clauses into collision if the same term "proposed laws" be retained in both of them with their present wording. And when we look further on we find the Senate cannot amend any proposed law in such a manner as to increase any proposed charge or burden on the people, i.e., proposed by the other House.

Mr. BARTON:
The distinction was kept alive between the state of order of a Bill, and the question of its constitutionality?

Mr. ISAACS:
That distinction ought to be preserved; but by putting in "proposed laws," in clause 52, you will obliterate that distinction. and indistinctness and confusion will arise. It will render that clause and the succeeding clause inconsistent, because it is clear that the Senate has not equal power with the House of Representatives in respect of proposed laws. Under clause 55, subsection 5, of the Bill of 1891, in the case of a proposed law, which the Senate may not amend, the Senate may return it. The distinction is kept up throughout.

Mr. BARTON:
These clauses are consistent with themselves as they stand.
Mr. ISAACS:

But if we keep the words "proposed laws" in clause 52 I am afraid the distinction sought to be created and preserved in the Bill of 1891 will be done away with.

Mr. BARTON:

If it would not be interrupting the hon. member-

Mr. ISAACS:

Certainly not; go on.

Mr. BARTON:

Our intention in leaving "proposed laws" as it stood in clause 52 was to keep up this distinction. The question whether a Bill should be originated in the House of Representatives or amended in the States Assembly was one not intended to come before the courts afterwards, but to be settled by the Houses themselves; but the question as to keeping up one system of taxation in the Bill was one which could well come before the courts as one of constitutionality.

Mr. ISAACS:

I think the word "Bill" ought to be used, because if we use the words "proposed law," in both clauses as at present framed, while we avoid the difficulty which is referred to, we get into others; we do not distinguish between a Bill which originates in the Senate and one which does not originate in the Senate. Do I convey my meaning to the hon. member?

Mr. BARTON:

I am not quite clear on the matter.

Mr. ISAACS:

If we use the word "law" we get into the difficulty of having it invalid afterwards. We want to avoid that. We then have the choice of two expressions-"proposed law" and "Bill." If we use the term "proposed law" in clause 52 we give the ordinary meaning to that expression, namely, a proposal which emanates either from the House of Representatives or from the Senate. And if we there attach that meaning to the expression "proposed law" we keep up the meaning in the succeeding clause. Now, in the succeeding clause, that expression clearly refers to a proposal originated in the House of Representatives and coming afterwards to the Senate.

Mr. MCMILLAN:

It would be a Bill in either House. A proposed law represents the same thing.

Mr. ISAACS:

I am afraid our minds are not at one about it.
Mr. BARTON:
I cannot see why the words "proposed law" will not do in clause 52.

Mr. ISAACS:
Because in that clause it means a Bill which originates in either the House of Representatives or the Senate. But in the succeeding clause it does not mean that—it means a Bill which originates in the House of Representatives, and cannot mean a Bill which originates in the Senate, because, it provides that the Senate is to have equal power in respect of proposed laws with a certain exception, which exception is not consistent with the preceding section. In other words, there are two sections in immediate juxtaposition; one says that the Senate is not to have power to originate a Bill for appropriating revenue, whether for the ordinary annual services or not-

Mr. WISE:
Would not you get over that difficulty by saying in the next clause "except in the last preceding section"?

Mr. ISAACS:
You get over it by inserting the word "Bills" instead of "proposed laws."

Mr. WISE:
That involves the redrafting of the clause.

Mr. ISAACS:
No; it does not. You have as it at present stands a distinct inconsistency. Let me put it to the hon. member. Suppose a court were constructing these two sections, and it said:

In clause 52 the Senate is to have the power to originate an Appropriation Bill, provided its main object is not appropriating the public revenue, no matter whether it is for the ordinary annual services or not.

Coming to clause 53, the court would say:

The Senate has equal powers except with regard to a particular class of appropriation, namely, appropriation for the ordinary annual services.

How do the two things stand together? They do not stand together.

Mr. BARTON:
Then the best thing—if that did not really affect the reading of the Bill—would be to put in at the begin-
ing of clause 53 the words "Notwithstanding anything in the last section contained."

Mr. ISAACS:
That would certainly make the meaning of the clauses worse

Mr. BARTON:
Yes, so it might.
Mr. ISAACS:
The difficulty, however, might easily be met by inserting "Bills" instead of "proposed laws." The word "laws," as used, is open to objection, and it is recognised that it may be left to the declaration of a court to say that an Act is invalid. If you use the word "Bills" you carry out the intentions of the framers of the 1891 measure.

Mr. BARTON:
You now raise a discussion as to what is a Bill and what is a proposed law.

Mr. PEACOCK:
When you lawyers differ, what are we laymen to do?

Mr. ISAACS:
I should support an amendment to substitute "Bills" for "proposed laws."

Mr. BARTON:
How would this do-put before the first word in clause 53 the words:
Save as in the last clause stated.

Mr. ISAACS:
I should like time to consider that, because every word of this clause ought to be closely scrutinised.

Mr. BARTON:
I agree with you that every word deserves to be scrutinised.

Mr. SYMON:
I confess I have followed with great interest the lucid statement made by the hon. member for Victoria, Mr. Isaacs, but I am unable to assent to the view he takes as to the construction of this clause. We are limited in this amendment to a mere question of words, and we are not now dealing with the desirability of omitting the words "main object." I feel there is great force in the view put forward by Sir George Turner. It does seem to me that this section 52 as it stands intends, in the Constitution, to create a condition as to the validity of laws of that character, although as the hon. member, Mr. Isaacs, has pointed out, the result would be, If the conditions imposed by that clause are not fulfilled, that the law might be invalid, or be liable to be declared such by the High Court of the Commonwealth. The point at which I diverge from my hon. friend is as to whether the same result would not flow from the amendment of the clause by introducing the word "Bill." It seems to me if you use the word "law," and the conditions necessary to the validity of that law are not performed, the law goes. In the same way if the condition necessary to the validity of the Bill is adhered to the law equally goes.

Mr. ISAACS:
That might be so.
Mr. SYMON:
In that case we advance no further by substituting the word "Bill for "proposed law."
Mr. ISAACS:
I want to draw a distinction between that clause and the one immediately succeeding.
Mr. SYMON:
Starting from the beginning of the clause, it seems to me, at any rate, that the word "proposed" ought to be struck out. We want to go a little further, and we want to see what is to be substituted for it. If we strike out "proposed," we go back to the 1891 Bill. These words:
Appropriation of any part of the public revenue, or the imposition of any tax or impost, shall originate in the House of Representatives,
seem to me the best under the circumstances. The word "laws" in the clause is used in a different sense from the use made of it in the succeeding clause. I wish to point out to my hon. friend that clause 53 is right, and it is immaterial whether you substitute "Bills" for "proposed laws." "Bills" is the more familiar word used in parliamentary phraseology. 'Clause 53 necessarily requires the use of the words "proposed laws" or "Bills," because you are dealing there, not with the validity of the, law, but with the power of amendment, and you cannot amend a law once it is passed and assented to, and you can only speak of the power of the Senate being co-ordinate with the power of the Lower House as applicable to "proposed laws" or "Bills." If you used the word "laws" there it would be inapplicable. That is shown by the use of the word in sub-paragraphs 2 and 3. You could not use the word "Bill" there, and you could not use the words "proposed laws." Therefore we must use the expression which is most applicable to the things we are dealing with. It comes back to a question of words. My honorable friend opposite agrees with me. Whether you take "Bill" or "laws"-whichever is best, so far as the expression goes-it comes back to the same thing. I think we shall arrive at a clearer expression if we adopt Mr. O'Connor's suggestion. I submit that the words as they appear in the Commonwealth Bill of 1891, to the extent that we are dealing with the matter, are most suitable and appropriate under the circumstances. They involve no more difficulty in the matter of interpretation than the substitution of the word "Bill," and the substitution of the word "Bill" would lead to no difficulty between the two Houses.
Mr. BARTON:
I quite see the point which Mr. Isaacs has raised, and, although it is a fine point, I believe there is something in it. I do not agree with the suggestion
that we should insert "Bills" there, because if we did that we would give rise to a fresh bone of contention as to the difference between Bills and proposed laws. "Laws" was chosen by Sir Samuel Griffith to denote Acts of Parliaments as being a word preferable to any other, and instead of drawing the distinction between Acts and Bills he drew it between "laws" and "proposed laws." If we insert the word "Bill" here we should not only have a conflict as to the difference between "Bill" and "proposed law", but the question would arise as to whether in all clauses in which the words "proposed law" occurred we should not have to make that amendment again, and that would involve perhaps fifty or sixty questions in Committee. That, I think, would be a waste of time. I think the expression "proposed laws" is a sufficient one, and I think Mr. Isaacs' point can be met and his desires attained in the way I have indicated. It is more than arguable, it is clear, if proposed laws having for their main object the appropriation of revenue or the imposition of taxation are to initiate in the House of Representatives, and you indicate in the next clause that the Senate is to have equal powers with the other House, with certain exceptions, that although you have to read these things together, and although probably the courts would construe them as the Bill is drawn, the point may be raised and may be made a subject for litigation. It is an arguable point, and I suggest to Mr. O'Connor that it would be better to withdraw the word "proposed." I suggest also that the view of Mr. Isaacs might be met by a short amendment at the beginning of clause 53, that is to say:

Save as in the last clause stated.

If that were done the whole difficulty would be obviated, and it would save the necessity for making the fifty or sixty amendments which I have spoken of. I think that the words "proposed laws" are a proper and sufficiently dignified way of stating what is intended, and if you take the word "laws" instead of "Acts" you have no alternative but to accept them. I suggest that that phraseology should be adopted, and think that the insertion of the words I have mentioned should meet Mr. Isaacs' objection.

Mr. ISAAC S:

I do not care how it is done so long as this inconsistency is avoided.

Mr. KINGSTON:

I am disposed to think that Mr. O'Connor is right in his suggestion, which will have the effect of restoring the Bill to the shape in which it was passed by the Convention of 1891, and

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will in effect re-enact the Commonwealth Bill, for which I have naturally some affection. I would point out that clauses 54 and 55 are perfectly clear.
Clause 54 will declare in what Chamber the laws shall originate or be first proposed. It will fix a limitation on the place of origin, and there is nothing inconsistent in clause 55, which provides what shall be the rights of the Senate in reference to laws which have been proposed or originated in connection with section 54. If we place it in the form in which we find it in the Commonwealth Bill we will simply declare that Money Bills, in their ordinary sense, shall be first proposed in the House of Representatives, and then we may go on without any contradiction to declare that the Senate shall have equal rights after they have been proposed, except in specified cases. I think we have good grounds for adhering to the Bill of 1891.

Mr. HIGGINS:
I am sorry that so early in the debate we should be wrangling about words, but I think there are great consequences attached to the words in this instance, and therefore I wish to say something. I think that the object of Mr. Isaacs is to prevent a law, when it is once on the Statute-book, being impeached as to its validity on the grounds that it has not been carried by the two Houses in the way prescribed, and I think any word we can use to prevent that lamentable consequence should be used. On this point we cannot be too explicit. The British North American Act says:

Bills for appropriating any part of the public revenue or for imposing any tax or impost shall originate in the House of Commons.

Mr. ISAACS:
Those are the words of the Act framed by Lord Thring.

Mr. HIGGINS:
He is the draughtsman for the House of Lords. What objection can there be to the word "Bill?" We know that it is the word used for an instrument before it has passed the two Houses, and I think we should keep to the ordinary vernacular to which we have become accustomed in Australia. I would ask Mr. Barton why the word "Bill" should not be used?

Mr. BARTON:
You would have to make the alteration in every other section where it occurs, and that would mean fifty or sixty amendments.

Mr. HIGGINS:
If we settle the matter once I do not think there can be any difficulty in having the amendments formally made.

Mr. BARTON:
That would mean that you would have to put the question in each case. I would not give up this in favor of the other suggestion because I do not think it is any better.

Mr. HIGGINS:
There is a great deal in the suggestion of the Hon. Attorney-General for
Victoria that the words "proposed laws" might mean that a person might say that he was not bound by a law not passed in the manner prescribed. If you look at section 53 what objection is there to inserting "Bills" in the clause:

The States Assembly shall have equal power with the House of Representatives in respect to all proposed laws except laws appropriating the necessary supplies.

And so on. There is no objection whatever; that is to say, if a Bill is sent up to the States Assembly it has to have the same power with regard to it, with the exception of laws appropriating supplies; and what objection is there in subsection 2 of section 53, to inserting: "Bills" imposing taxation shall deal with the imposition of taxation only? Then the effect of using the word "Bill" will be that it will be a mere question between the two Houses.

Mr. KINGSTON:
Make a special clause to have a general application.

Mr. HIGGINS:
I do not like special clauses. I admit you can do it by a special clause. But why cannot we use the vernacular we have been used to in connection with our Parliament? The term "Bills" has a clear definite meaning.

Mr. WISE:
The provision was adopted at the 1891 Convention, after full discussion.

Mr. HIGGINS:
I do not think we can do better than follow the precedent of Canada, which has worked well for thirty years. There has been no attempt to impeach a law there on the ground that it was not put through the two Houses in the manner prescribed. After having read the debates of 1891 I can only say I can see no ground for departing from the British North American Act.

Sir JOHN DOWNER:
This discussion began on a matter of substance, as was apparent from the way in which it was introduced by the Premier of Victoria. The form, I admit, is more difficult of comprehension even to the legal mind, but everybody appeared to me to be agreed on the matter. I do not understand the distinction which the Attorney-General of Victoria makes. It may be my misfortune, but I confess I do not quite understand it. Everybody appears to agree that "proposed law" and "Bill" mean the same thing.

Mr. ISAACCS:
No.

Mr. BARTON:
What is the difference?
Mr. ISAACS:

Because "proposed law" as used in subsequent sections has a different meaning.

Sir JOHN DOWNER:

But a proposed law and a Bill must be the same thing whether hon. members agree with it or not. Everybody, in my opinion, was substantially agreed upon that. I like the words as they stand. I am not now going into the question of whether Bills or laws is the better term. I confess I have a certain amount of sympathy with Mr. Higgins. I like old words with a well-known meaning. The modern fashion of using new words to express the same thing does not, from constitutional prejudice perhaps, recommend itself very much to my mind. Yet I think the words here are good enough, and they are the words which, after much discussion too, we resolved to use in 1891. There are three suggestions. One to leave the clause as it is, another to put "Bill" instead of "proposed laws," and the third to strike out "proposed." I think there is no doubt that until a Bill is assented to it is a "proposed law," and I shall vote for leaving the words as they are, although it is not a very important matter.

Mr. REID:

I think it most discouraging to find we have spent three-quarters of an hour over a matter of absolutely no importance. The term "proposed law" is equivalent to "Bill." With reference to clauses 52 and 53, the clauses as they stand are distinctly logical, and do not admit of any difficulty. Clause 52 applies to the origin of a Bill, and clause 53 applies to a Bill that does originate and become a proposed law.

Mr. O'CONNOR:

I think there is a great deal in the suggestion as to the necessity for "proposed laws." I ask leave to withdraw my amendment.

Mr. ISAACS:

I think it would be much better to adhere to the Bill of 1891. There are two objections to the present course. I entirely agree with Mr. Kingston that the Bill of 1891 preserves one great distinction, the difference between "law" and "proposed law." A technical meaning is given to "proposed law" in clause 53, making it apply only to certain classes of Bills-Bills that have passed the House of Representatives.

Leave given to Mr. O'Connor to withdraw his amendment.

Sir GEORGE TURNER:

I move:

To strike out "Having for their main object the appropriation of," with the view of inserting in lieu thereof "Appropriating."

Mr. GLYNN:
I would like to point out what I consider to be a distinction which has been completely overlooked between "Proposed laws" and "Bills." A "Bill" proposes many sections, but a "proposed law" may be simply one clause in a Bill.

Mr. REID:
So may a Bill.

Mr. GLYNN:
A Bill may have only one clause, but you cannot expand a single clause into twenty. These are not convertible terms. As a matter of fact, if the words "having for their main object"

be struck out, then the consequence is that a section in a Bill appropriating revenue cannot be introduced except in the House of Representatives, and thus affect the fate of other sections in the same Bill dealing with general matters. If hon. members look at the matter they will see a vast distinction. It is emphasised by the fact that, in old Acts, you will find each section commences with the words, "Be it Enacted"; each thus standing separate from the others. The lawyers in the Convention will agree on what is a significant fact, that it has been decided that the marginal note of each section of an Act is a preamble explanatory of that particular section.

Sir GEORGE TURNER:
I propose my amendment again.

Mr. REID:
I strongly support the amendment, because these words will open the door to needless disputes.

Sir GEORGE TURNER:
Hear, hear.

Mr. REID:
And we all want to avoid those whatever our views are. We want them put in plain English—in black and white. I am cordially in sympathy with those gentlemen who wish to abolish those annoying distinctions which raise difficulties over trivial matters. For instance, in the case of a Bill which merely incidentally raises the question perhaps of a fee, or the salary of an officer, I am entirely with those, who wish to remove such Bills from the category of Money Bills. My objection is to the words used to do that; they do not meet the objection in view, and they raise a number of difficulties which must be obvious without my mentioning them. They simply leave an opening for disputes, perhaps quite as large and more vexatious than the other.

Sir JOHN DOWNER:
We have now got to a matter of substance by the amendment. I
appreciate the pacific spirit in which the Premier of New South Wales referred to it just now. This is not a matter of form, but of substance. It is just as well to deal with questions of substance on which we are not quite agreed at as early a stage as possible. We have here the question as to the extent the powers of the two Houses are to be co-ordinate. I admit you cannot make the unequal equal by any kind of legislation. I will not attempt to argue it, because the conventions of the Constitution, which, after all, are merely the strength of the stronger party asserting itself, will in the end rule, but meanwhile I feel we should begin on a good understanding with one another, and not say one thing when we mean another.

Mr. REID:

Hear, hear.

Sir JOHN DOWNER:

That is the point of view from which I am addressing myself to this question. The feeling of the majority of the Constitutional Committee has shown, sufficiently or insufficiently in this clause, that although, for the purpose of convenience it might be well that the Appropriation Bill should be solely with the House of Representatives, and taxation Bills solely originate with them, yet beyond this question of convenience of the arrangement of business between the two Houses, their powers should be substantially the same. And it was from that point of view that you, Sir, moved the amendment embodied in the Bill before us. It was agreed and stated specifically that Bills, whose sole object or whose substance was the appropriation of revenue, or whose sole object was taxation, must originate in one place and that that one place should be the House of Representatives, without any conceding as of necessity any constitutional superiority to the House of Representatives, but treating it as a matter necessary for managing the ordinary affairs of the Commonwealth. But to go beyond that and say that there should be no Bill introduced into the States House which deals incidentally with any money question -the main object not being the money question, and the money question being only an incident-was an initial admission of inferiority on the part of the States Assembly which a majority of members of the Finance Committee were not prepared to agree to.

Mr. REID:

With the permission of hon. members I would like to put this case to test how far my hon. friend wishes to go. Suppose a Bill contains a scheme of defence for the whole of the Australian colonies. Of course the defence would probably be constructed out of a loan vote, but it would involve an
interest charged on the debt. Would my hon. friend consider such a Bill as a Bill whose main object was a system of defence or a Bill whose main object was the appropriation of public money?

Sir JOHN DOWNER:
I think I should reply in the way I am wanted to reply, that the main object was a scheme of defence.

Mr. REID:
Exactly.

Sir JOHN DOWNER:
But I would go further than that, and say it would not be at all an improper function for the Houses which represent all the colonies to be able to initiate-

Mr. ISAACS:
You would give them absolutely co-ordinate powers?

Sir JOHN DOWNER:
Except in regard to the ordinary appropriations of the year, in regard to that machinery without which a calamity would arise, and the ordinary operations of the Government could not be carried on.

Mr. HIGGINS:
What do you mean by ordinary appropriations?

Sir JOHN DOWNER:
The ordinary services of the year. In this, as in many other things, I do not think there would be much difficulty in construing the words. The fewer words we put in, and the more we leave the parties to construe, the better. The great object is to put in as few words as possible and the thing will work out itself. We do not want a thing drawn up over which there can be constant temptations for quarrelling and dispute. As far as this particular clause is concerned I intend to support it as establishing a principle. I think there is perfect consistency between the whole of the clause, which express exactly what a majority of the Constitutional Committee decided.

Question-That the words proposed to be struck out stand part of the clause-put. The Committee divided.

Ayes, 26; Noes, 22. Majority, 4

AYES.
Braddon, Sir Edward Fysh, Sir Philip Brown, Mr. Glynn, Mr. Clarke, Mr. Gordon, Mr. Cockburn, Dr. Grant, Mr. Dobson, Mr. Hassell, Mr. Douglas, Mr. Holder, Mr. Downer, Sir John Howe, Mr.
Forrest, Sir John James, Mr.
Leake, Mr. Piesse, Mr.
Lee Steere, Sir James Sholl, Mr.
Lewis, Mr Solomon, Mr.
Loton, Mr. Symon, Mr.
Moore, Mr. Taylor, Mr.
NOES.
Abbott, Sir Joseph Lyne, Mr.
Barton, Mr. McMillan, Mr.
Berry, Sir Graham O'Connor, Mr.
Brunker, Mr. Peacock, Mr.
Carruthers, Mr. Quick, Dr.
?
Fraser, Mr. Trenwith, Mr.
Henry, Mr. Turner, Sir George
Higgins, Mr. Walker, Mr.
Isaacs, Mr. Wise, Mr.
Kingston, Mr. Zeal, Sir William
Question so resolved in the affirmative.

Sir JOSEPH ABBOTT: I will call your attention, Mr. Chairman, to the fact that Sir John Downer crossed from this side of the House to the other after the question was put, and after the tellers were named by you. Do I understand that you have a Standing Order which allows him to do that? If you have not, resort must be had to the practice of the House of Commons, and according to that he could not do what he has done.

The CHAIRMAN: We have had a uniform practice in both Houses of Parliament ever since we have received representative government, and it is this: Until the tellers have actually completed their work any member can cross from one side of the House to the other. If a member is told on both sides, he is called to the table by the Chairman of Committees and asked which way he intended to vote.

Mr. DOUGLAS: That is the rule in the House of Commons.

Mr. BARTON: I take it we have not reached the word "revenue" yet, and there is a very great point, a matter of much importance, attached to this word in regard to Loan Bills. I take it whatever the opinions of hon. members may be on
other points, there will be a general consensus of opinion that if Bills for
the appropriation of revenue are to originate in the House of
Representatives, then Loan Bills which are Bills for the appropriation not
only of revenue, but also of borrowed money, should also originate in the
House of Representatives. I think I shall have the concurrence of Sir John
Forrest in the proposition that it should not be left to the States Assembly
to originate a proposal which involves an expenditure of perhaps five or
twenty millions of money. With that view I propose one of two things,
either to turn "revenue" into "public moneys" or to add "or moneys," which, I think, would serve the same object, and would show that it applied
to both. I propose:

After "revenue" to insert "or moneys."
Amendment agreed to.
Clause as amended agreed to.

Clause 53. (1) The States Assembly shall have equal power with the
House of Representatives in respect of all proposed laws, except laws
appropriating the necessary supplies for the ordinary annual services of the
Government, which the States Assembly may affirm or reject, but may not
amend. But the States Assembly may not amend any proposed law in such
a manner as to increase any proposed charge or burden on the people.

(2) Laws imposing taxation shall deal with the imposition of taxation only.

(3) Laws imposing taxation, except laws imposing duties of Customs on
imports, shall deal with one subject of taxation only.

(4) The expenditure for services other than the ordinary annual services
of the Government shall not be authorised by the same law as that which
appropriates the supplies for the ordinary annual services, but shall be
authorised by a separate law or laws.

(5) In the case of a proposed law which the States Assembly may not
amend, the States Assembly may at any stage return it to the House of
Representatives with a message requesting the omission or amendment of
any items or provisions therein And the House of Representatives may, if it
thinks fit, make such omissions or amendments, or any of them, with or
without modifications.

Sir GEORGE TURNER:
Will you put it in paragraphs, Mr. Chairman?

The CHAIRMAN:
Certainly. The question is that Part I. stand.

Mr. BARTON:
Would it not be better to start the clause with the words: "After the
origination of any proposed law."

Sir GEORGE TURNER:

No.

Mr. ISAACS:

It would leave it open to doubt. I think there may be an inconsistency, and a half hour spent now in saving that would be time well spent.

Mr. BARTON:

Have you any suggestion to make? I have been thinking of the words I suggested, but it would be clumsy, as it will be putting an exception at the beginning of the clause when there are several exceptions later on.

Mr. ISAACS:

You can put them in now, and reconsider them later.

Mr. BARTON:

At line 2 it may be advisable to insert the words "Except proposed laws which must originate in the House of Representatives."

Sir GEORGE TURNER:

That will meet the difficulty.

Mr. ISAACS:

Embody the principle, and it will be easy to frame the words.

Mr. BARTON:

Then I move:
To insert after "except" in the second line of the clause, "proposed laws which must originate in the House of Representatives and"

Mr. WALKER:

I have a prior amendment. In place of States Assembly I propose that we should call it Senate. It is much simpler, and we all know what it means.

Mr. REID:

Put it without debate.

Mr. ISAACS:

Wait until we have disposed of the money clauses.

Mr. REID:

He has the right to move the amendment, and he is going to insist on his right.

Mr. ISAACS:

Then I have nothing further to say, although I thought we should carry out Sir John Forrest's motion first.

Mr. WALKER:

I move:
That the words "States Assembly" be struck out, and that the word "Senate" be inserted in lieu thereof.
Mr. BARTON:
I hope that the Convention will do nothing of the sort. The name has been deliberately chosen.

Sir WILLIAM ZEAL:
By your Committee and no one else.

Mr. BARTON:
It has been deliberately chosen by the Committee, and it expresses the origin and intention of that assembly far better than the word "Senate." I do not wish to protract the debate, as I think we should settle it in a few minutes. It is proposed to call it the States Assembly for the reason that it is the House which has to represent the States as distinct entities, and therefore the conjunction of these words will express its origin as being the House representing the States, and also express its function as being the House which, in case of need, has the custody of the States interests. Now we are told that there is an objection to it because a member of the States Assembly would have to be called M.S.A., but as a member of the House of Representatives would have to be styled an M.H.R., I do not think there is much in the objection. Hon. gentlemen who have been for a large proportion of their lives revelling in the luxury of adding M.L.C. and M.L.A. to their names will not object very much.

Sir WILLIAM ZEAL:
Why not call them M.P.'s.

Mr. BARTON:
There is no great objection to that that I know of, because it will be a Parliament and not a Legislature, and each House will be a popular House, every member of which will be entitled to call himself an M.P. I would suggest that this clause should be left as it is, because it contemplates the origin and functions of the body proposed to be created.

Mr. KINGSTON:
I would suggest that it would be a great deal more convenient to discuss the names of the two Houses in connection with the first clause. I understood we took the discussion on these clauses for the purpose of fixing the relative rights of the two Chambers, and I would suggest to the hon. member, Mr. Walker, that it would be better to discuss this other matter on clause 1.

Mr. WALKER:
I would be very happy to accept the hon. members suggestion, but we have the advantage to-day of the presence of representatives of Western Australia, and I am glad to say that several of them are going to vote for it.

Mr. DEAKIN:
Is that part of the agreement?
Hon. MEMBERS:
    Question! Question!
Mr. REID:
    I think I might say half a dozen words in an opposite sense to the the utterances of my hon. friend Mr. Barton. In every way I think the word "Senate" is a better title, a title which commends itself to an English community far more than this Frenchified title. As to the constitution and powers of the Houses, they will be, all right if they are in the Bill, quite irrespective of the names of the Houses. The term "Senate" is far more venerable to Englishmen than this expression of States Assembly. I would like to point out that the Senate will be truly a National House, and that, whilst preserving all just State rights, it will be looked upon by the people, not so much as an assembly representing the provincialism of Australia as an assembly representing the whole nation.

Sir JOHN DOWNER:
    I hope that the name in the Bill will be retained. It is well that the name should tell its own story. It is, in fact, a States Assembly.

Sir JOHN DOWNER:
    It is, in fact, a Council of the States. That is what it is called in Switzerland.
Mr. DEAKIN:
    That is a better name.

Sir JOHN DOWNER:
    The word "Senate," according to the Premier of New South Wales, is a term with which the people of England are familiar. Not at all. The people of America are.
Mr. REID:
    It is a term much older than America.

Sir JOHN DOWNER:
    I think that the people of England know very little about it, only what they have learnt. In starting this new Federation, we may fairly well be expected to use, and indeed are justified in using, a term which will be applicable to what we are doing. We have one House to be called the House of Representatives, and another House representing the States, and which represents the States through the direct vote of every adult in the States, and we might not unreasonably, but very properly, I should think, be expected to use a term which would tell us what the body really is. "States Assembly" does it better than any other word that could be used. "Senate" tells us nothing. & Except that they are old men.
Sir JOHN DOWNER:
That is all, and which we have distinctly provided under the guidance of Mr. Reid that they shall not be.

Mr. REID:
Is the Drafting Committee always going to give us a second barrel?

Sir JOHN DOWNER:
When I was on the Constitutional Committee I voted for "States Assembly." I do not call it a matter of life and death anyhow. I think, however, the term "States Assembly" would better bring to the minds of the people what the object of the Assembly is.

Mr. HIGGINS:
This is a question simply of name, and it shows the awkwardness of the procedure we have adopted, that we should have to vote on the question of "States Assembly" before we know what will be the name of the other House.

Mr. REID:
We will have to do so, and it is no use wasting time regretting it.

Mr. HIGGINS:
It will affect my vote if we call the other House the National Assembly or not. I see no objection to the term "States Assembly," which does represent truly the objects of the Chamber. It is an Assembly of States, based, so far as I can see, on the whole population principle. It is an Assembly of the States, and is not one of the people.

Question-That the words "States Assembly" proposed to be struck out stand part of the clause-put. The Committee divided.
Ayes, 21; Noes, 27. Majority, 6.

AYES.
Barton, Mr. Downer, Sir John
Braddon, Sir Edward Fysh, Sir Philip
Brown, Mr. Gordon, Mr.
Carruthers, Mr. Grant, Mr.
Cockburn, Dr. Higgins, Mr.
Douglas, Mr. Holder, Mr.
James, Mr. O'Connor, Mr.
Kingston, Mr. Quick, Dr.
Lewis, Mr. Solomon, Mr.
Loton, Mr. Wise, Mr.
Moore, Mr.

NOES.
Abbott, Sir Joseph Lee Steere, Sir James
Berry, Sir Graham Lyne, Mr.
Mr. BARTON:
I should like to ask that it be an instruction to the Chairman to make the consequential amendments rendered necessary by this amendment.

Mr. PEACOCK:
Right through?

Mr. BARTON:
To put into the Bill the words "Senate" or "senator" where the words "States Assembly" or "member of the States Assembly" at present stand.

The CHAIRMAN:
If it is the wish of the Committee that I should do so, I conceive it is within my powers to make them as consequential amendments.

Mr. BARTON:
Hear, hear.

Mr. BARTON:
I now propose to put in, after the word "except," the following words-

Mr. HIGGINS:
Before you do that I-

Mr. BARTON:
Have you a prior amendment?

Mr. HIGGINS:
Yes.

Mr. DEAKIN:
Mr. Barton might simply state his amendment first, so that we may know
what it is.

Mr. BARTON:

I move:

To insert after the word "except" the words "Proposed laws which must originate in the House of Representatives and"

Mr. HIGGINS:

I wish to move:

To alter the words "House of Representatives into "National Assembly."

I will not go into reasons. Having the words "States Assembly," it follows by parity of reasoning that we might alter the name of the House of Representatives to National Assembly.

Mr. BARTON:

There is no need to do that now after we have done away with the term "States Assembly," and substituted the term "Senate." We might as well keep now altogether to the forms of the old Bill.

Mr. PEACOCK:

Nothing to do with the National Ass.!

Mr. HIGGINS:

I ask leave to withdraw.

Leave given.

Sir GEORGE TURNER:

I would like to ask Mr. Barton to further consider this, and I would suggest it would be better not to attempt to make any alteration now, but to take time to consider it. It seems to me that if we make this alteration-

Mr. BARTON:

It would necessitate a further alteration, I admit.

Sir GEORGE TURNER:

It will be provided that the States Assembly should have equal powers with the House of Representatives, except in regard to such Money Bills as are initiated in the House of Representatives, which Bills the Senate may reject, but not amend. While I hold that view strongly myself, I would not like to secure by a side wind what we ought to attempt to gain straightforwardly.

Mr. SYMON:

I would point out to Mr. Barton that the only object of this portion of the clause is a limitation of the power of amendment. It is not intended that all laws which originate in the House of Representatives under clause 52 are to be excluded from the powers of amendment.

Mr. BARTON:

No.

Mr. SYMON:
But that will be the affect of my hon. friend's amendment.

**Mr. Barton:**
If I do not move something else afterwards.

**Mr. Symon:**
Would it not be better to leave the clause as it is? It is very clear, and does not introduce a possible extension one way or another in relation to the powers of amendment which we might find inconvenient.

**Mr. Kingston:**
I am inclined to think the clause goes somewhat further than limiting the powers of amendment. It declares that the Senate shall have equal power with the House of Representatives except in respect of certain cases, and I would suggest:
To add after the word "except" the words "as mentioned in the preceding section, and except."

**Mr. Barton:**
That would leave, perhaps, less difficulty. I do not know, however, that it will not be better to adopt Sir George Turner's suggestion. There may be no difficulty about the reconsideration of this clause for the purpose of settling any question of that kind. That being so, I would suggest that we should leave the amendment of the present clause alone at this stage, until after the main features of the Bill have been dealt with. This amendment was proposed with the intention of proposing a subsequent amendment; not for the purpose of limiting the power of amendment given by this section. But for the purpose of preventing the question of law raised by Mr. Isaacs from becoming a serious question. But now that a suggestion has been made by Sir George Turner that it is better not to persist in this point on the present occasion, I think that gives time for further consideration; and, if Mr. Kingston will concur with me, I will ask leave to withdraw,

**Sir John Forrest:**
Your proposed amendment will prevent the Senate from amending the tariff or a Taxation Bill.

**Mr. Barton:**
That was not my intention. I have said if this amendment were carried I should then have moved a further amendment.

Leave given.

**Mr. Reid:**
I wish to raise a very important point here, and again I do not wish the Convention to engage in any lengthy discussion upon it, though it is of very great importance. I move:
After the word "except," in line 2, to insert the words, "Laws imposing taxation and"

I am proposing the amendment here because I am following the lines of the clause in the draft Bill, and I think those words in that measure were very wisely put in the foreground, because the question at issue is simply this: if that amendment is not inserted, there will be such a state of things between the two Houses as will give the Senate power equally with the House of Representatives over Taxation Bills. I am not going to repeat the arguments which I addressed to the Convention before. I think we should all avoid doing that, for most of us have pretty well made up our minds as to how we should treat these matters. I wish to say at once that I am perfectly prepared to give equal power over Money Bills of all kinds without any distinction, if the basis of taxation is the State basis. That is to say, if each State contributes equally as States, as they are represented here, it is nothing but fair and just that each State should have absolutely equal right over money so contributed, but any attempt while the contributions are according to population, to give equal powers over money matters, must result in failure. I do not wish to talk about the failure of Federation, because it would be quite possi

Mr. MCMILLAN:

You propose to restore the law of 1891.

Mr. REID:

I feel that that law is open to serious objection, for it goes too far. I do not wish to raise any point except the exact one at which we have arrived now.

Mr. MCMILLAN:

And make suggestions take the place of amendments.

Mr. REID:

If I had to express an opinion on that I should give a strung one adverse to anything of the kind being done, because I believe that will lead to endless quarrels between the two Houses. We must be perfectly plain in this matter, and I quite admit that the power of suggestion, from my point of view, is very much the same as the power of amendment. There is a radical difference between the system obtaining in the two Houses regarding money matters as we understand government in Great Britain

and as we understand it in these colonies, and the question is: are we going to preserve in the main the principle of government as we understand it, by which one House is to be the master of finance, or are we going to endeavor by various means to have two Houses masters in finance? Any system of finance based upon two Houses is fraught with disaster. It will
not work; it will lead to endless differences, because, fix this clause as you like, there will be a resolute attempt on the part of the House of Representatives to assert the principles which I have mentioned. On the other hand, with the power of suggestion, the Senate will consider it really is entitled to a voice in the financial adjustment of the Commonwealth, or else why the power? I part with my friends there. I say under a system of responsible government there must be only one financial House. Any other system is fraught with disaster, but at the same time, I am willing that the Senate should have—not as an antiquated power never to be used, but as a real living power—the right of rejection. We know that in the old country it has ceased to be a right by disuse; but I quite agree that in this compact the Senate should have not an abstract right, but an absolute right, and be perfectly entitled to use it, to throw out a Bill when it is stamped with such a serious wrong or injustice as to cause the Senate to feel itself justified in so throwing it out. This is the only interference with the finances that I should allow to the Senate, namely, the right of preventing a gross wrong or injustice, and any attempt to allow it to play a more active part in the finances of the Commonwealth than I have mentioned will in my opinion, be a serious mistake. I do not wish to take up the time. I went into this matter fully in the Convention, and I ask members if they wish to know my views to refer to what I then expressed.

Sir GEORGE TURNER:

I desire to follow Mr. Reid, because he has unquestionably raised the most important matter we have to talk over in this Convention. It may fairly be considered the crux of the situation. Many of us believe that in theory the smaller States ought not to have equal representation in the Senate, but we came to the conclusion, from the speeches which had been made, that it would be practically impossible to have Federation at all unless we were to view with as much kindness to the smaller States as we possibly could the fact that they were smaller States. Therefore we agreed, some of us against our inclinations, to the proposition that they should be entitled to have equal representation with the more populous States. When we agreed to that we felt we were going a very long way. I believe now that we have made a mistake. As a matter of tactics it would be better if we were not prepared to admit that the smaller States should have equal representation in the Senate, because then there would be an opportunity for compromise. These less populous States say, "We have got that concession, and it is not a matter of compromise now. You have given it to us, and we are going to get as much more as we can." We saw the difficulties which members would have to contend against in the colonies they represent, because, if they had to go back and tell their constituents...
that they could not obtain equal representation, they would probably fail in trying to induce the people to join in the Federation. We saw this difficulty, and we have met them in a spirit which, I think, is fair and equitable, so that they may honestly and fairly ask the people of their States to join in the Federation. They have now to treat us in the same way. If the Premier of Victoria or of New South Wales attempted to go back to the people of his colony with this proposition in the Bill he would have his ideas scouted. I have no hesitation in saying that, even if I felt inclined to do so, if I went back and asked the people of Victoria to agree to the proposition submitted; I should have it rejected at once. I say honestly and fairly—and I have no desire to say anything which might be taken to be threatening, but I desire to put this forward for earnest and careful consideration—that I for one feel that I dare not go back to my colony and submit any such proposal to the people there. Seeing that we have endeavored to meet the representatives of the smaller States in the difficulties with which they have had to contend, I earnestly ask them to put us in an equally good position. We are prepared to meet them by going back a long way on our own ideas as to what power the Senate should have with regard to Money Bills, and if they earnestly desire Federation they must be prepared to assist us as we have assisted them. I believe with the Premier of New South Wales that the proper course would be to leave to the Senate the living power of rejection. In the opening debate I stated as my own view that we should not adopt this power of suggestion, but if the other colonies are prepared to accept it I am prepared to go with them and agree to it. As far as I am concerned—and I think I am speaking for the whole of my colleagues—if the other colonies are not prepared to accept what has been fairly regarded as the 1891 compromise, then we are placed in such a position that we have no hesitation in saying that Federation will be impossible.

Mr. PEACOCK:

Hear, hear.

Sir GEORGE TURNER:

We are in a difficult position, and I wish to follow the good example which has been set in being as brief as possible; but I earnestly entreat the representatives of other States to look at this matter from our point of view, and they must then come to the conclusion that if we attempt to go back to Victoria with a measure which provides for two co-ordinate Houses, and for the Senate to amend all Money Bills, we take with us something that the people of Victoria will not accept.

Sir JOHN DOWNER:
We are only asking all the colonies to agree to terms which have been conditions of every legitimate Federation which has ever been formed.

Mr. SOLOMON:
Hear, hear.

Mr. PEACOCK:
No.

Sir JOHN DOWNER:
We sympathise with the difficulties of the two honorable and respected gentlemen who have just addressed us. It may be, that Sir George Turner may have a difficulty in persuading the people he represents, that what is suggested is fair and right; but our duty after all, is to our own colony as well as to the colony he represents, and we have to say honestly what we think to be fair and right. Put the cause of Federation first of all as being the great national cause, still we cannot make sacrifices unjust to the people we represent.

Mr. PEACOCK:
Hear, hear.

Sir JOHN DOWNER:
I wish to make no speech on this subject, because I agree with Mr. Reid, that we have expressed ourselves already, and our views are well understood both outside and by each other; but at whatever risk, as far as the consequences are concerned, I will not be a party to go further than we have, as we have already gone a very long way.

Mr. PEACOCK:
How far have you gone?

Sir JOHN DOWNER:
Much further than they have gone in the United States and Switzerland. We have limited the power of amendment of the Senate, which is unlimited in America. In our desire to bring about a union of the people of these colonies we have done all we could to allow views which we thought to be right and fair not to stand in the way of agreement, because we thought compromise was necessary. Speaking for myself, further I am not prepared to go. If what the Premier of New South Wales says is true, that the power of suggestion is really the same as the power of amendment, and I am not sure that he is not right

Mr. REID:
I did not say so. I think they are both objectionable.

Sir JOHN DOWNER:
Both the power of amendment and the power of suggestion

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will practically depend upon the strength of the body which has the
authority to exercise it, and that has to be worked out like this question of responsible government, which it is mistakably alleged cannot be applicable to both Chambers. For my own part I can conceive that there need be no difficulty over the question of responsibility to the Senate. We see it in our own community growing more and more, and we will see it in other communities of Australia coming more and more every day. I cannot see any necessary conflict between the two Houses. Whether they agree or disagree will depend largely upon the respect they have for each other, and when each House feels that the other House is equally powerful, then the time will have come for compromise.

**Mr. Reid:**

The power of rejection is a very good power.

**Sir John Downer:**

But you do not mean it to be used. The living power of rejection, which the Premier of Victoria spoke, he meant to be a dead power, and not a living power. Without using any further words on the subject, I shall adhere to the clause.

**Mr. Wise:**

I have not had the advantage of listening to those bitter controversial discussions in the Constitutional Committee, which seem to have left lively recollections in the minds of some of the hon. members who have spoken, and, consequently, I still remain in exactly the same position as I was when we were engaged in discussing the resolutions.

**Mr. Reid:**

I was not there, but there were no bitter controversies, I assure you.

**Mr. Wise:**

I agree with every word that has fallen from Sir John Downer on one point, that the danger of conflicts over Money Bills is yearly growing less. Whether or not it were admitted, which I do not admit for a moment, that senators and members of the House of Representatives would be chosen from different sections of society, it is true that more serious controversies are likely to arise over social and other matters than about Money Bills. At the same time, I cannot ignore the utterances of the Prime Minister of Victoria, and, so far as a stranger can follow the trend of thought in another colony, I should say, if I might do so without being considered to be presumptuous in speaking on matters of which I know little, that he is right in his estimate as regards the popular feeling in Victoria. It is a root fact to be taken into account by the Convention that there is such an ingrained popular feeling of prejudice in Victoria against a second Chamber amending a Money Bill, that, call the Senate what you may, constitute it as you please, and make it as different as you like from the Legislative
Councils of olden times, still it remains a second Chamber. There is such prejudice against allowing that second Chamber to interfere in any way with Money Bills that any proposal of that sort will be rejected, because it will be reviving ancient divisions between parties, and will give rise to differences and conflict which will imperil the whole scheme. I believe that is the state of feeling in Victoria, whether we regret it, whether we can explain it, or whether we approve of it. I cannot help noticing that that is the state of feeling not only amongst those who represent the extreme view in favor of the power of the House of Representatives, but it is fostered also by those who urge that the Senate should have larger powers; and just as I am unable to understand how there can be anything democratic in limiting the power of the Senate to prevent oppression of the smaller States, the smaller States have the protection provided in clause 21, which says:

The presence of at least one-third of the whole number of members of the Senate as provided by this Constitution shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

So there is absolute safety for the smaller States against any act of oppression, and it does seem to me that the alarms expressed on every side are utterly unfounded. I cannot ignore what I believe to be the fact-explain it or regret it as we may—that the non-acceptance of this amendment will imperil Federation in Victoria.

Mr. BARTON:
And in New South Wales too.

Mr. WISE:
I say nothing about New South Wales.

Mr. REID:
It will.

Mr. WISE:
I put it to my friends of the smaller colonies whether it is necessary to run a great risk to gain after all very little. If the power of rejection is retained, and the power of making suggestions is also given, then the desire of the smaller States to be given opportunities of making their views known is granted. I would go further, and move an express clause allowing the Senate to make amendments in Loan Bills, so as to prevent the improper expenditure of loan money for the advantage of a special State.

Mr. DEAKIN:
Would you give the power of increasing the amount?

Mr. WISE:
No: only of striking out any part.

Mr. KINGSTON:
I think if my friend Mr. Wise further considers the clause to which, he has drawn attention, he will come to the conclusion that it supplies very little protection indeed to the smaller States.

Mr. HOWE:
None at all.

Mr. KINGSTON:
He puts it that two-thirds of the members by walking out can prevent the transaction of business. I put it to him that if two thirds would do that they would have the power, and it would be better for them to stay and exercise it in a logical way by voting on the question.

Mr. WISE:
The Victorians object to give them the power to vote on it.

Mr. KINGSTON:
They can vote as regards the rejection of a measure. As regards the more important matter of the suggested amendment to this clause, moved by the Premier of New South Wales (Mr. Reid), I shall be found recording my vote in its favor. I do not hesitate to give expression to my views, which may perhaps be considered personal to myself, believing as I do that in this respect I stand alone and separated from my colleagues of South Australia.

Mr. PEACOCK:
They will come round all right.

Mr. KINGSTON:
Still I hold these opinions very strongly. It is with great diffidence that I have come to that conclusion to so separate myself from my colleagues, but having done so I intend to adhere to it.

Mr. HIGGINS:
Hear, hear.

Mr. KINGSTON:
We will do well to keep as closely as we can to the compromise effected in 1891.

Mr. BARTON:
Hear, hear.

Mr. KINGSTON:
At that Convention all the colonies here represented were represented-

Mr. PEACOCK:
And Queensland too.

Mr. KINGSTON:
And were assisted by the sage counsel and able deliberations of the representatives of Queensland, and above all favored with the wise advice of the then Premier of that colony, Sir Samuel Griffith. I find that, after considerable trouble, a compromise was effected which is found embodied in the clauses on which these clauses are based, and for which I think nearly all the Premiers of the different colonies voted.

Sir JOHN FORREST:
Not mine, though.

Mr. KINGSTON:
I should be loth to depart from that compromise—the more particularly that I am inclined to attach some importance to the words of warning which have fallen from the lips of the representatives of the Governments of New South Wales and Victoria—the two largest colonies in the group—which words of warning were not spoken without due deliberation and appreciation of their effect. It seems to me that if we depart from the arrangement then come to we deliberately approach the possibility of delaying the advent of Federation for years to come—for a time indeed which it is impossible to overestimate. Are we willing to do that? What is the matter in dispute? Some of the representatives say it is a pure matter of form. I am inclined to think that, perhaps, too much importance is attributed to it either on one side or the other; but on a question of form are we going to wreck Federation? Surely not. I trust we shall all pause before we do anything to cause that. My friend Sir John Downer put it himself that there might be too much importance attached to it. In this respect it seems to me it is simply a question whether or not the Senate should have power to amend Tax Bills, or have the power only of making suggestions for their amendment. On that matter are we going to separate without our work done, or with our work so badly done that we know we imperil the chances of Federation in the immediate future?

Mr. HIGGINS:
Hear, hear.

Mr. PEACOCK:
That is the point.

Mr. KINGSTON:
This compromise of 1891 comes to us with the weight which ought to be attached to the deliberate conclusions of men who had equally at heart with ourselves the sacred cause of Federation. They did all they could to come to a conclusion. I shall be found wherever I can, giving my vote and voice in favor of giving effect to that compromise, and I trust it will be given
effect to, because there is not a representative here who does not know full well that if any other conclusion is come to the result will be that either the two larger colonies will be excluded from the Federation we wish to establish, and if there is to be a Federation at all it will be a Federation simply amongst the smaller colonies. Do we want that? Ought we not, I venture to put it, in a matter of this sort, when the views of almost 3,000,000 of people in New South Wales and Victoria are voiced here by their representatives, to endeavor to meet them so far as we can, and above all to meet them as regards a matter of form which it was thought might well be waived by the representatives who formed the Convention of 1891? I am not very much afraid of all this clashing of State interests on national questions that is talked about so much. I do not believe there is very much in it. I am inclined to think, with some other speakers, that to a great extent it is a matter of form. But I do object to the possibility of a clashing of State interests on national questions being made an excuse for the creation of a Chamber in which, though it is said it will in no way resemble an Upper House in the ordinary sense of the term, will at least resemble it in this respect: that there we will find the possibility-and, from our experience of the last few weeks, I should say the probability-of a small and comparatively unimportant section of the community, numbering say, 600,000 people, banding themselves together to prevent perpetually expression being given to the wishes of a much greater number - say two and a half or three millions of people. I think there are many others who, on further consideration, will be disposed to agree with me in this respect. If it is a matter of form, let us give way upon it. If it is a matter of substance, let us try to arrange for a compromise. What is the compromise? At least we find before us a compromise arrived at by gentlemen in whom we have the greatest confidence, and therefore I say: do not let us, for the gratification of our own personal and provincial will, separate without having done our best to accomplish that which we have been sent here to accomplish-the great cause of Australian Federation.

Sir JOHN FORREST:

We have heard a good deal during this discussion about the compromise of 1891, and hon. members have been asked, not once but several times, to remember that, and to act accordingly. As far as I can remember, what is regarded as the compromise of 1891 was a defeat, and not a compromise. I and many others who were at that Convention fought this question as strenuously, if not more so, than we are doing at the present time, both in committee and in Committee of the Whole. The division that was taken on the point resulted as follows: - Twenty-two for the clause as it appears in
the 1891 Bill, and sixteen against it, or a majority of six. It will be quite open to anyone in discussing this Bill to take any decision that may be arrived at this time as a compromise, in the same way as the decisions arrived at in 1891 were compromises. I am surprised to hear the hon. member Mr. Kingston refer so often to the compromise of 1891, because he must know that there was no compromise about it-on the part of a great many members at any rate. We advocated then, as we do now, that the Senate should have equal powers in all matters. We have conceded on the present occasion many things which we were not prepared to concede in 1891. Amongst other things we have conceded is that the Appropriation Bill should not be amended by the Senate, the reason being that we desired that the government of the country should be carried on without continual contests between the Houses. We have also in many ways during the present occasion made concessions to those who desire-I may fairly say so-that there should be one House of Parliament and not two. They do not go so far as to say so straight out, but by their actions and their votes they indicate their adherence to that principle. They advocate the formation of a House which shall be subservient to the House of Representatives, which they delight in calling the People's House.

Mr. DEAKIN:
Perfect nonsense.

Sir JOHN FORREST:
Perhaps when the hon. member rises to speak he will not like to be interrupted in the same way that he is doing to me, and he had better withhold his observations till that time arrives. We have also conceded that the whole colony shall be constituted one electorate for choosing the Senate, and that the franchise shall be on the most liberal basis, while we are quite willing that the initiation of all Money Bills Shall be vested in the House of Representatives. We have also conceded that the Appropriation Bill shall not be amended, and can only be rejected All we claim is that all other Bills-Tariff, Excise, and Taxation Bills-shall be subject to amendment by the Senate, and it seems to me that that is a reasonable demand. These colonies with the smaller populations will have very little representation in the Lower House, and if they are not to have representation in the Upper House we may as well hand ourselves over, body and soul, to those colonies with the larger populations.

Mr. HOWE:
That is what they want-slavery.

Sir JOHN FORREST:
All I can say in reply to Mr. Reid and Sir George Turner is that if those they mentioned are the only terms upon which they want Federation, they
must federate for themselves, and leave the other colonies to stand out of the compact. They tell us it will be impossible for them to go back to their people in the smaller colonies and tell them the terms upon which Federation is wanted by the larger colonies. We shall have to go and tell them we are to have very few representatives in the Lower House, and that the Upper House will be a body really with no power over taxation and money expenditure, and when we tell them that they will have none of it, just in the same way as the representatives of Victoria and New South Wales say they will have none of it if this reasonable provision is inserted in the Bill. Besides the powers I have referred to as being confined to the Lower House, we must not forget that no Bill containing a money clause can be introduced except by a message from the Governor, and, therefore, the whole power of initiation of every Bill which is of the most trifling money character must originate in the House of Representatives.

Mr. DOUGLAS:
I desire to draw attention to the state of affairs in the House. We have neither the Leader of the Convention nor the leader of the New South Wales Government in the House.

The CHAIRMAN:
That has nothing to do with the question. Every delegate to this Convention has an equal power with every other delegate.

Sir JOHN FORREST:
Like Sir George Turner and Mr. Reid, I will say as few words as possible. I wish to state as plainly as I can that it is useless for me to go back to the people of Western Australia and ask them to join this Federation unless I can show that after Federation is established they will have some voice in the management of those matters over which they now have supreme control. On the terms proposed it is altogether impossible, and I am sure I can speak for everyone of the people, to accept a Federation which would really be no Federation at all, and it is impossible for Western Australia to take up any position in regard to this matter other than that which was taken up in 1891, which we have taken up on the present occasion in Select Committee, and which I again urge upon this Committee at the present time.

Mr. HIGGINS:
I feel this matter is so critical that I should not allow the opportunity to pass without some utterance before voting. It is no doubt the cardinal point upon which this Federation scheme will turn, but I shall be very guarded not to say anything which would at all embitter debate, or prevent us
coming eventually to that compromise which will meet the purposes of the various colonies. Sir John Forrest has just said that he would not dare to go back to his people with a scheme which did not give the Senate power to amend Money Bills, but it hardly fits in his mouth, as he is not elected by the people.

Sir JOHN FORREST:
I have not come here to represent the Age newspaper.

Mr. HIGGINS:
The hon. member knows very well that I speak as independently as any man can speak, and the remark of Sir John Forrest is simply one of those utterances which embitter debate, and which prevent us effecting a compromise.

Sir JOHN FORREST:
You should not have commenced.

Mr. HIGGINS:
I think everyone who knows me will admit that I speak and act independently.

Sir JOHN FORREST:
Cannot I do the same?

Mr. HIGGINS:
I have not said one word about his independence, and I call witness to it. I am anxious to say nothing to embitter debate, but if there was one utterance calculated to do so more than another it was that of Sir John Forrest. The position is a very dangerous one. We, who represent the more populous colonies, as they at present stand, are twenty in number, and those who represent the less populous States as they at present stand are thirty in number, and if the latter are willing to put forth their full strength they can do what they like. If they can only bind themselves together and vote as one the whole thing is done; but it is quite a different thing to say that they will get Federation by that means. Unless the extreme power which the representatives of the less populous States have is exercised with foresight, wisdom, and moderation Federation is impossible. The position is that you have 650,000 people, more or less, in the three less populous States, represented here by thirty members, and 2,500,000 people in Victoria and New South Wales represented by twenty members.

Sir EDWARD BRADDON:
Not quite so many as that.

Mr. HIGGINS:
If the Premier of Tasmania wants a reduction of 50,000 I am quite willing to give it him; but it is hardly worth while taking notice of such a
trivial interjection. Substantially the position is as I have stated, and if these thirty members vote together as one unbroken phalanx they can do as they like with a federal scheme which is to bind the 2,500,000 people. Unless the tremendous power which they possess is wisely exercised, or if it is used with an iron rule, they will prevent the States from coming to a compromise. In dealing with this matter I must assume that there is equal representation in the Senate. I have expressed myself before, and I think it was only due to singular weakness on the part of some of the speakers who occupy responsible positions that equal representation was conceded, because once granted, certain corollaries follow which it is hard to reconcile. But then, sir, I must also assume that the senators shall have six years tenure without power to have the House dissolved. Now, I ask anyone who is experienced in parliamentary practice here to say in which House the ultimate power will lodge if there is power in the Senate to deal with Taxation Bills or Money Bills by way of amendment? The extraordinary thing is that the utterance which you made, sir, at the opening of the debate so clearly and thoroughly, has been ignored by those who have taken the extreme States rights position. You put it clearly that you cannot have responsible government with responsibility to two Houses, but apparently those who are acting in the extreme view on States rights have forgotten that, or else, like Sir John Downer, they say, though not in express terms, that your argument is based on a wrong idea. I ask anyone if that statement of yours, Sir, can be impugned. No man can serve two masters. You cannot have responsible government that is responsible to two Houses, and-to go one step further-you cannot have responsible government unless to that House which has the power of the purse.

Mr. DOBSON:

Sir Samuel Griffith does not quite say that.

Mr. HIGGINS:

If you read his speech you will find it is expressed with the utmost caution, but there is no doubt that, whatever Sir Samuel Griffith says, he will find it very hard to get behind the conclusion which the Chairman of this Committee came to in the opening debate. I think the honorable member has been a Premier of Tasmania, and he knows how to work Bills through Parliament, and he will be able to do so hereafter. It is to be assumed he will do so in future, and appealing to him in the light of what is to come, I ask him if he has to work his Taxation Bill through two Houses, whether he will find it very easy to do it? In the United States there is power to amend Taxation Bills, but the position there is this: Ministers are elected and chosen not by the Parliament, but by the people. In the United States they have no responsible government in our sense, and, as has been
pointed out by writer after writer, that system of giving equal control over
Money Bills could never have lasted except under a Constitution where
Ministers are elected by the people.

Dr. COCKBURN:
    How are they elected by the people?

Mr. HIGGINS:
    I am quite sure Dr. Cockburn has not asked that for information. We all
know they are not chosen by Parliament.

Dr. COCKBURN:
    They are subject to the approval of the Senate.

Mr. HIGGINS:
    I do not think that has anything to do with it, with all respect to the hon.
member. The President and the Ministers are dependent upon election by
the people.

A MEMBER:
    No.

Mr. HIGGINS:
    The difference is that under responsible government the Ministers are
practically chosen by the Parliament. They must have the confidence of the
Parliament. The hon. member, Mr. Wise, has charged the members for
Victoria, here with favoring some antiquated idea in regard to the power
over Money Bills being in the Upper House. He says the danger of
conflicts as to Money Bills is getting less and less. It is quite true it is less,
but why? Because we have learned to recognise gradually, but clearly, that
the power as to Money Bills must rest with one House.

Sir JOHN DOWNER:
    Just the opposite.

Mr. HIGGINS:
    It is simply this, because the practice as to the rights of the two Houses
has become so settled, so stereotyped, that there have been less conflicts
about Money Bills than formerly. But although my friend, Mr. Wise, says
the main questions which divide the people to-day are social questions-
although that is quite true-still you cannot dissever the Money Bills from
the policy upon which the money is spent. You cannot dissever Taxation
Bills from Appropriation Bills.

Sir JOSEPH ABBOTT:
    Hear, hear.

Mr. HIGGINS:
    The whole power of appropriation is based upon taxation, and you cannot
draw the line between them in that arbitrary way.

Sir JOSEPH ABBOTT:

Hear, hear.

Mr. HIGGINS:

You may take it in any way you like. Suppose there is a certain scale of payment to the federal servants. Suppose the Appropriation Bill says you must pay a servant of the Federation so much, and the Treasurer finds that he must get so much money to meet those payments, he brings in a Taxation Bill for this purpose, the Senate says "We cannot amend an Appropriation Bill, but we can amend a Taxation Bill," and they knock off this and that item, and thereby stop the appropriation in an equally efficient manner. I feel this is not the time for a long debate. Holding strongly, as I do, my views on the subject, I am very anxious that there shall not be the semblance of stone-walling to prevent Sir John Forrest obtaining a vote upon the clauses. I am determined he shall have his vote as far as I am concerned, and let the public see that it is by means of that vote that Federation will be wrecked, if it is wrecked. I cannot go to the full extent of my feelings in this matter, but I would appeal to hon. members, before it is too late, to say that they will follow out that compromise, at the very least, which was suggested in the Convention of 1891.

Mr. DOUGLAS:

I presume that anybody in this Convention has a right to address the members whether he comes from a small colony or whether he comes from a big colony. I should like to know if we had been summoned here upon the principles advocated by the Premier of New South Wales and the Premier of Victoria whether the smaller colonies would be here at all, because the representation would have been of this character Western Australia, one representative Tasmania, one representative; South Australia would have had four or five representatives; and the big colonies would have had about fifteen or sixteen. Now we have come here as advocates of our own colonies, the large colonies want to deny that we should meet upon an equality. We are representing the colonies here on an equality, and we are not to have our wings cut, in order to have justice done to us as administered by Victoria and the [P.494] starts here

"ample powers" ready to be given by New South Wales, which, in fact, amount to nothing so far as the small colonies are concerned. The only difference between the smaller colonies and others is this: the smaller colonies speak out the truth, the others would avoid the facts if possible and hide and disguise them by going in a different direction.

Sir JOSEPH ABBOTT; What are you here for?
Mr. DOUGLAS:
You want the voting power, and you cannot get it. If the colonies of Victoria and New South Wales were to federate how would they carry out their objects? In no way except by the assistance of the smaller colonies. The smaller colonies hold the balance to enable them to agree, but they have not agreed yet, and are not likely to. We hear what they are going to do. Truth and justice are claimed by the large colonies, and the small ones are all rogues and vaga-bonds. That is the description which those hon. members will give us when they get back to their country. One would have supposed from hearing the speech of one of the representatives of Victoria that he knew the feeling of all the people in Victoria, because he happened, and those who are with him, to have been elected upon one ticket, and that therefore they are the pure merinos of Victoria. It is nothing of the sort; they do not represent the pure merinos of Victoria at all. But what right have we here at all? None whatever. We ought not to be here because we represent a small colony, yet as regards the individuals connected with that colony we represent just the same as they do.

Mr. LYNE:
Surely there are pure merinos in Tasmania, too! (Laughter.)

Mr. DOUGLAS:
We do not want any renegades here. We from Tasmania are one true blue-none of those extraneous individuals who come from one colony and inhabit another. That is the position of the hon. member here who would carry matters far beyond where those persons who really belong to New South Wales and Victoria are attempting to carry them. He would not allow us to be represented here to the extent that we wish.

Mr. LYNE:
Hear, hear.

Mr. DOUGLAS:
What do you ask us to come here for, then? What does this hon. member say-that we ought not to be here on equal terms? We find that the two big colonies are joining together to crush us out of it-that there is a sort of conspiracy to try to carry out certain objects. But we came here to construct a Federation in which we should have equal powers with regard to certain matters with those of the other colonies. If we do not get that we will not join.

Mr. LYNE:
Hear, hear.

Mr. DOUGLAS:
What are we to gain by it? Tasmania is independent. Victoria has tried to crush us, and could not do it.
Mr. REID:
A hostile fleet could not find you out. (Laughter.)

Mr. DOUGLAS:
The colony is in a better state than Victoria.

Mr. REID:
Thanks to us.

Mr. DOUGLAS:
She can pay her debts better than Victoria can, and can meet all the demands made upon her. But what is the position of that other colony? Are we not here on equal terms? Are we to be told that we are a small colony and the other is a big colony? We will not be treated on those terms. We say we have just as much right to represent the people of our colony as you have. What are the statistics of your colony? Victoria at the present moment is diminishing in population. Looking at the statistics as placed before us, we find that in 1941 New South Wales would have a population of over eight million, Victoria four million, and Queensland is to go far ahead of Victoria, which will take a minor place altogether.

Mr. BARTON:
Tasmania will have 420,000.

Mr. DOUGLAS:
Tasmania will have a free community. We are of the right sort. We are not mere saplings. We are the gumtrees of the community. If the smaller colonies do not receive fair consideration as regards Money Bills they will naturally do what Victoria threatens to do, though Victoria requires Federation. Victoria cannot live without Federation, and it is absurd for them to say they will go on without Federation. Victoria is a protectionist colony, entirely different from New South Wales. How you are going to make a fair compromise between the tariffs of the two will be for the Premiers of the two colonies to say. I say that Tasmania does not want this Federation unless we have just and equitable provisions regarding the laws and jurisdiction of the country.

Sir JOSEPH ABBOTT:
I can well understand the hon. gentleman, occupying the position he does in Tasmania of President of the Legislative Council, who thinks it his duty to come out of his chair to defeat Bills, both of financial and other characters sent up by the Lower House, coming here and telling us how inferior we are to this great island of Tasmania. We must all recognise the fact that the primary objects of Federation must be for defence purposes, and, having regard to that fact, it is of little consequence to Tasmania, because a fleet would pass it by without knowing it was there. I was in the
Convention of 1891, and I am perfectly satisfied that that Convention framed a Bill which we would have great difficulty in getting the people of New South Wales and Victoria to accept. Having regard to the conditions that were then made by the representatives of these two colonies, I have no hesitation in saying that the people there are not likely to come in on the proposed terms; and it is utterly useless for these smaller States to say they will have the right to dominate the finances of the people of Australia and the States interests. If we give them those powers we practically ignore the people, who are the taxpayers of the colonies, for the acres of those broad but small States. Because, after all, when we come to facts, we must recognise that it is the people that are taxed, and not the acres of the countries represented in the States. I unhesitatingly state that the concessions made in 1891 were of a most liberal character. I cannot understand why the smaller States are not prepared to accept what was then conceded. With regard to Bills which they had no power to amend, they had power to make suggestions. An amendment in a Bill is practically only a suggestion to the other body to consider that amendment. The other body may reject that suggestion, and ultimately the power will be with the House that made that amendment to say whether they will accept the Bill or not. The Convention of 1891 conceded to the Senate the power to make suggestions, but not the power to make amendments. I believe that the two things are identically the same, but we have to persuade our people in the larger States that they are not identically the same. That is where the trouble and difficulty will be. With the power of the Senate to do as I have indicated, and with the provision which is in this Bill and was also in the Bill of 1891, that no two systems of taxation should be imposed by the same Bill, where is the danger to the smaller States?

Mr. WISE:
And no tacking.

Sir JOSEPH ABBOTT:
Yes, and with no tacking. What have these smaller States to be alarmed about? If they are earnest for Federation, if Federation is to be of any advantage to them, surely they can trust the honesty of those members in the Senate who will have the power to reject these Bills altogether, irrespective of proposed amendments. But what is conceded to them? All that we say is that you shall not have the power of passing an amendment in the Bill, but you have power to make suggestions to the House of Representatives. Where is the humiliation in that?

Mr. WALKER:
Hear, hear.
Sir JOSEPH ABBOTT:
Are we children, to talk about humiliation?

Mr. WALKER:
Hear, hear.

Sir JOSEPH ABBOTT:
Are we not business men trying to protect the interests of our respective countries with the greatest advantage not only to them but to the whole of Australia? Are we children to be told, as I heard it said to-day, that it is humiliating to the States that they should suggest amendments to the House of Representatives, who do not represent acres but people as against States? It appears to me that it is the smaller States who are acting the part of children in saying, "We want everything, and if you do not give us everything we will not take anything."

Mr. PEACOCK:
"We won't play with you any more."

Sir JOSEPH ABBOTT:
New South Wales has far more to give away to the Australian colonies than any other to come into Federation.

Mr. LYNE:
Hear, hear.

Sir JOSEPH ABBOTT:
I am as earnest as any of those who wish to bring about Federation. I want to see a United Australia, but not a United Australia dominated by acres and not by people. I want to see Australia dominated and ruled by the people. If we are to have the States represented, why not at once say these States shall be represented in proportion to their area, and not in proportion to their people? I do hope that the common sense of members of the smaller States will enable them—if they are in earnest about Federation—to accept this principle of suggestion. Practically it is absolutely the same as the principle of amendment. There is this difference, that the people have been so educated with regard to the turmoils and the disputes with the Legislative Councils —and I am not going to condemn the Legislative Councils, for, I believe, they have done a vast amount of good in the colonies, in that they have prevented hasty legislation—and the States will have the same power under this Bill—but the people have got an idea that the Senate will be a type of our Legislative Councils. The Senate will be nothing of the kind. I look upon it that the Senate will be filled with the best men in Australia, and we can trust the States to act from a common sense point of view, and not from interested motives; and they will be interested, not with regard to their small population, but in promoting the welfare of the whole of Australia. That is the view we must take, if we
desire to have Federation at all.

Mr. HOLDER:
I think it will be apparent from the debate that has taken place that we are approaching a crisis in this matter. We are assured by the Premiers of New South Wales and Victoria that unless the amendment now moved be carried there is great danger that those two great colonies will stand out of any Federation sought to be established. We are assured, on the other hand, by Mr. Douglas, from Tasmania, that unless the amendment is rejected Tasmania will stand out. Without making any threats—and I do not take these other statements which have been made as threats—I want to say that my own personal conviction is that unless the clause be passed as it stands there is every chance of South Australia standing out.

Mr. HIGGINS:
What about your Premier?

Mr. HOLDER:
The Premier represents his view, and just as he is perfectly free to represent his view so am I free to represent mine. And I do not hesitate to say again, though I am expressing mine only—

Mr. HOWE:
It is not your own only.

Mr. HOLDER:
Well, probably others hold the same views, but I express my view when I say that I believe if this clause is materially altered there is great danger that South Australia will refuse to be a party to any Federation sought to be established on that basis. There is too much being made of the objection of the electors on the part of the larger colonies to what is proposed by the electors of the smaller colonies. I know the electors of this province pretty well, I know the electors of some others somewhat, and I think that the electors throughout are far too wise to object to a Second Chamber as such. They object to a Second Chamber such as they have known in the past for certain specific reasons, chiefly because the Second Chambers they have known represent not the people, but a section of the people. If it were proposed here to-day in this Constitution to confer the powers we are seeking to confer on the Senate upon a body which represented not the people, but a mere section of the people, no one would be found more strongly opposing the proposition than I would.

Mr. HIGGINS:
But the Senate will represent a class of the people.

Mr. HOLDER:
The members, too, who will vote on the same side as myself would be
found fighting against it with all their strength. But, when we see a Senate proposed to be constituted on the basis of manhood, if not of adult suffrage, we see a body to whom we are not afraid to give these powers. I would ask Sir Joseph Abbott why he fears to trust this body with these larger powers? We surely can trust them. I want to remind hon. members of a decision we arrived at this morning. This is the time for compromise. It has been suggested that the smaller colonies are not willing to make compromises, but did not this morning's vote, taken ultimately without division, decide in favor of largely extending the exclusive powers of the House of Representatives? As the Bill stood when it came to us from the Drafting Committee the special powers of the House of Representatives had no application to Loan Bills. This Convention by a vote, and without a division, this morning extended the rights of the House of Representatives in relation to Loan Bills. That was a large concession, and I ask now in return for that which was freely made this morning that those representing the larger colonies should make some concession to meet our views.

Mr. HIGGINS:

It was no concession; it was a matter of giving what was involved and meant.

Mr. HOLDER:

I do not think so at all. Are we asking anything unreasonable? If it can be shown to be unreasonable I am quite willing to give way. What are we asking? That in one House—the House of Representatives—we should have representation on the basis of population irrespective altogether of State boundaries and divisions. Surely that is protection enough, guarantee enough, to the largest colony of the group, which can feel free to come in where such a principle is acknowledged. There has been no proposal from the smaller States for anything different to this. We freely grant to this House the supreme power; we say that the Cabinet should be solely responsible to this House, and, as I said before, we are content that there should be representation on the basis of population irrespective of State boundaries and divisions. What is the predominance of the larger States over the smaller? Under the Bill before us New South Wales will be entitled to twenty-six members, Victoria to twenty-three, South Australia to seven, and Tasmania and Western Australia to five each.

Sir GEORGE TURNER:

How many people?

Mr. HOLDER:

I will come to that in a moment. The three last-named colonies will have seventeen representatives, as against Victoria's twenty-three and New South Wales's twenty-six, or seventeen against forty-nine. We who
represent the smaller colonies do not complain of that.

Mr. PEACOCK:
Do you not? (Laughter.)

Mr. HOLDER:
I do not know where the laugh comes in, and if I were sitting down instead of being on my feet, what would make me laugh would be this, that while we give way on this important matter the other colonies object to the small concession we are asking of them as to the power of the Senate. I ask them to be generous to us in this matter, and to recognise the justice of our claim by making us some small concession in return for our large generosity to them. Sir George Turner has interjected that the number of population must be taken into account. We were told by the hon. the Premier of New South Wales this morning that if the States would contribute equally towards taxation, they might have a right to what they are asking. There is equality of sacrifice right through this proposed Federation, and the people in the larger colonies will give no more per head in taxation than the people in the smaller States. I want to ask the larger colonies to put themselves in this position. We are discussing matters to-day from the point of view of the larger and smaller colonies as we to-day represent them. I want to put myself, however, outside of that point of view, for I want to consider what is quite a possibility in the future. I want to consider the possible change that may be wrought in the future, when what are now the smaller colonies may develop into the larger ones and if I could divest myself of the remembrance of the fact that I was representing South Australia, I should want to look at this as a matter of fairness, that if the House of Representatives has in it representation according to population the other House should have in it representation according to the number of States. In the one case we look at the personal entity, the person is the basis of the existence of the House. In the other case we look at the State entity, and the State is the basis of representation. If it be said that this matter between suggestion and amendment is so small a matter, I ask why those who attach so much importance to it are willing to wreck Federation for the sake of a matter so small? I say, however, that it is not small. It is very important. The other side say it is a matter of form. Sir Joseph Abbott, a man of long experience, has told us that there is practically no difference between the two, and why, I ask, do they stand out? Why not give to the smaller colonies that which they believe to be the safeguard of their rights, and without which they cannot see their way clear to come into the Federation? I do not wish to take up the time, but I do wish to ask the representatives of the larger colonies to be somewhat
generous to us, and to make a concession to us that will be somewhat parallel to that which we have given to them this morning in reference to Loan Bills. If they will only give some evidence of their willingness to create a Senate strong enough to protect our rights, they will not find us unwilling to meet them, but the proposal before us amounts to this:— "We may have a Senate where the representation varies according to the population, and if we take such a Senate it may be strong, or we may have equal representation in a weak Senate"; but if we take a Senate where the representation is not equal, or which is weak, we might as well tie our guardian's hands behind its back. This is one of those clauses which proposes to tie the hands of the Senate behind its back, and I say we might as well give up the Senate as accept it on these terms. For these reasons we cannot give way. We can easily see that the people behind us, those whom we represent here, will never come into the Federation unless the matter be conceded for which we ask. I wish the representatives of the larger colonies would point out to those whose views they represent that the Senate is in no way parallel to an Upper House as we have it amongst us, and have sometimes suffered under, but that it is to be a body standing on equal representation with the House of Representatives and with an equal franchise, and therefore to be trusted with equal, or nearly equal, powers in connection with the financial administration of the Federation.

Mr. O'CONNOR:

I quite recognise the spirit in which Mr. Holder has addressed his remarks to the Committee, and I wish in the few words I have to say to answer him in the same spirit. It appears to me the principal defect in his argument is that he forgets that we are here not to decide this question by our votes, but that we are here to decide whether we can come to an agreement as to the wishes of the people of Australia who desire to enter this Federation. We do not represent territories here. We represent people, and the larger States, who take the view which I am about to support, are a people to the extent of two and a quarter millions.

An HON. MEMBER:

Two and a half.

Mr. O'CONNOR:

Perhaps more than two and a quarter now, but I am taking the population from the latest statistics. Those who take the opposite view are a people representing about three-quarters of a million.

Mr. ISAACS:
Mr. O'CONNOR:

Perhaps less. The decision which we may arrive at here is nothing, looking at it in one sense. Of what matter is it that the representatives of the three-quarters of a million can carry a vote in this Convention, if two and a quarter millions of people who have to enter this Federation will not have it? Then it seems to me that we are leaving out of consideration one very important element. Mr. Holder challenges those who take the view I am expressing, to say why we fear to trust the Senate on this financial question. I will tell him why in as few words as possible. It is only with regard to financial matters that the least restriction is put on the Senate-in all other matters they have an equality of power. The reason that we provided this limitation was that, inasmuch as the bulk of the money will come out of the pockets of the two million and a quarter, they do not want the policy with regard to its expenditure frustrated by the three-quarters of a million.

Sir JOHN FORREST:

It is the same per head.

Mr. O'CONNOR:

That interjection is no doubt the echo of something which fell from Mr. Holder concerning the equality of sacrifice which has nothing to do with the question. The question is simply that if you have people existing in these two proportions, how is their money to be expended? Their money can only be expended by the Government which is responsible to one House-the House which directly represents the taxpayers—and our reason for objecting to equal power being given to the other House is that if you were to establish a Constitution which gave power to the Senate which represents a minority of the population to amend or modify the financial policy you would have in the Constitution seeds of self-destruction. No body of people outnumbering the population of the smaller States as they do would put up with their dictation on such a matter as the expenditure of their money. Under the system of responsible Government which has been adopted in all these colonies the majority must rule, and the majority would not rule if this provision which is now sought to be carried is implanted in the Bill. I said in my observation in the general debate in the Convention that I was quite willing to give the utmost possible equality of representation and of power to the representatives of the smaller States, consistently with the carrying on of responsible government. I say now, that I am willing to adopt the same course, and it is only because I feel that it is utterly impossible to carry on responsible government with responsibility to two Houses, that I support this amendment. Let me state
more in detail the position. It will be admitted, and it has been by you, Mr. Chairman, in the speech referred to by Mr. Higgins, that in responsible government there must be responsibility to one House and one House only, and that is the House in which the executive government sits, and if you give the power of amendment to the Senate, in what position do you place the executive sitting in that Chamber? As long as the executive government has a majority in both Chambers the question does not arise.

Mr. ISAACS:
Would they be sitting in the other Chamber if that power was given?

Mr. O'CONNOR:
They would have to sit in both Chambers, no doubt, and I assume there will be a substantial representation of the Executive Government in the Senate. I do not think any Government would think it possible to carry on its business without having a fair representation in the Senate; but the Government which is responsible for carrying out the expenditure of the country sits in the Assembly and is responsible to that Chamber. You come to a position of affairs—and it is only in this that any difficulty arises—in which the Government which has a majority in the Assembly is in the minority in the other House with regard to its financial affairs. What is the position then? If you place the power in the Senate of throwing out a measure or of amending it, and therefore moulding it, you cannot say the moulding of the measure is in the hands of one House. It is in the hands of that House which can show itself strongest, and in what way—

A MEMBER:
The best staying power.

Mr. O'CONNOR:
First of all by having the best waiting power, and then, as the hon. member remarked, by having the best staying power. When you put that in the hands of a House not subject to dissolution, which has a fixed existence, I say you are putting in the hands of the Second Chamber the power of dislocating the government of the country, and of absolutely stopping the machinery of responsible government. It is for that reason you cannot give coequal powers to these two Houses. Let me take an illustration of finance which will be familiar to every hon. member. I take it that you wish to establish your first tariff—and the majority in the House of Representatives supports a tariff with certain high duties—and that is the one on which the expenditure is planned out. That goes to the other Chamber. There is a majority there opposed to it. They cut it here and they
cut it there; they make it to suit their own views; they reduce the revenue by 25 or 50 per cent. and completely alter the incidence of taxation.

Mr. HOLDER:
They cannot be in sympathy with the other House. They do not represent the people.

Mr. O'CONNOR:
It does represent the people in one sense, but not in an equal sense. It is a Chamber in which the smaller States have ten times the representation of the larger States, and you hand over to that House the power of defeating the expression of the will of the majority in the other Chamber. That you constitute a condition, and on that account you render absolutely impossible the ordinary work of government and the carrying out of any financial policy. I am asked why is it you cannot trust this power to the Senate? Because the Senate cannot exercise it without the help of the other House. The Senate under those circumstances is put in this position: it may amend, and amend, and amend, without taking the responsibility of rejection, and under these circumstances it throws the responsibility for the rejection of a whole policy upon the House which by a large majority has formed that policy. That is to say, unless you can be brought to such a state of things that the Assembly will say- "This is our will. But we find we are placed in this position: either we come to a deadlock, in which government cannot be carried on at all, or we take upon ourselves the responsibility of submitting to the dictation of the Chamber in which the people are not equally represented." In these circumstances we shall be brought to a condition of things which will never satisfactorily work with the populations of Australia. This is why I say that the House which has such a power, which has the power to dictate, will have the moulding of the financial policy in whatever form it is introduced. I think this matter ought to be argued out as far as it can be. Every man, whether from a small or large State, is equally anxious that we should not separate without at least carrying this movement as far forward as it was by the men of 1891.

Sir EDWARD BRADDON:
Farther than that.

Mr. O'CONNOR:
I hope so, but if we separate without this amendment being carried I have no hesitation in saying that so far from this movement going forward this Convention will result in a retrograde step.

Mr. PEACOCK:
Twenty-five years put back.

Mr. O'CONNOR:
We have familiarised the people of the different colonies with the proposal of 1891, and although there have been many objections made to it by representatives, on the whole it was a reasonable compromise, and a compromise which the people of the larger colonies were willing to accept.

Mr. LYNE:
I do not think so.

Mr. O'CONNOR:
My hon. friend does not agree with me. There may be differences of opinion, and his opinion may be that of the minority of the New South Wales representatives.

Sir GEORGE TURNER:
They could be induced to give way.

Mr. O'CONNOR:
They may, as the principle has been adopted by the majority, be induced to give way. If any message is taken from this Convention that we are to ask the large colonies to make a still further concession, what chance is there of carrying Federation in the larger colonies? Now, let me ask the attention of the Committee for a moment to what the real meaning of this clause was according to the compromise of 1891 to which I have referred. I cannot cite a better authority than Sir Samuel Griffith, and what he says upon this very clause, and why we proposed it, is put perfectly plainly. He says:

As to all laws, except two classes, the rights of the two Houses are completely coordinate. As to the ordinary annual Appropriation Bill, the Senators have to express their wishes in a manner different from that in which they express them in regard to other Bills. The same with regard to Taxation Bills. And with these exceptions the powers of the two Houses are co-ordinate. I think it is a very reasonable compromise, and that all those in this Convention who really desire to see a Federation of Australia brought about might fairly accept it, or something like it. Because, remembering the old maxim -I do not know who first used the words-that those who want the end must want the means," it is of no use for hon. members to profess to want Federation while they refuse to accept the means necessary to obtain it. I am quite certain that unless a compromise something like that proposed be accepted, Federation cannot be brought about.

Then Mr. Munro made the observation:
It will be utterly impossible!
and Dr. Cockburn added:
That is to say, that those who want unification will not abandon their aim.
Sir Samuel Griffith went on to say:

I do not want unification. I strongly object to it. I am perfectly satisfied that under this constitution there will be no unification, because State rights will be perfectly preserved. That is my opinion, at any rate. I do not propose to make any further observations. I will merely repeat that if members of this Convention really desire a Federation they will not vote against the only possible means of obtaining it.

I say that those wise words in which the position was so aptly expressed are equally true to-day as they were then, and if we wish to come to some reasonable compromise upon this matter, our only safe position is to take up the position which was taken up by Sir Samuel Griffith and a majority of those who voted with him in 1891. I appeal to those hon. members who represent the smaller States here to recognise that, notwithstanding the opinions which have been expressed to the contrary, the majority of this Convention have been willing to give them the utmost equality of representation and power which are consistent with the working of this Federation; and although Mr. Higgins may think that perhaps we have gone a little too far, we are all willing to admit that equality of representation is absolutely necessary as a condition to the entry of any State into this union. When that is granted, and these larger powers are asked for, then arise those other considerations which I have endeavored to put before the Convention. I ask those hon. members who wish to see this Senate endowed with stronger powers than were given in 1891, to remember that we are now giving them in this Senate a much stronger body than was proposed in 1891. That which is now to be constituted is a body which will be more directly in touch with the people, and that is a reason why the powers which they have in all other respects are powers which will be exercised with the assent and concurrence of the people of the different States, the Senate being in accord with the opinions of the majority in those States. I trust that at least we, who are here representing our different colonies, and who only wish to see Federation brought about in that form in which it can only be brought about, will not object simply because we have stated actual facts, and stated our opinions plainly. There is a time for straightforward statement; there is a time for coming to the really plain matter at issue, and, in my opinion, that time has come. Although I should deplore any hasty arrival at a conclusion, the conclusion we now come to is a matter of such
importance that the utmost consideration should be given to every phase of it. Although I would not bind this Convention, at the same time the decision come to now will have an immense influence upon public opinion all through Australia, and if it were to appear in the public prints tomorrow morning that the representatives of the smaller States, because they happen to be in the majority here, have gone back from the compromise of 1891, and have asked the larger States to give them larger powers than they gave them in 1891, then I think a very hopeless note in the cause of Federation will have been struck. I hope that will not be so, and I hope that the careful and deep consideration of this matter, with the full responsibility it involves, will result at least in our coming back to the reasonable compromise which the men of 1891 were able to take back to those who sent them to the Sydney Convention.

Sir EDWARD BRADDON:

One feature, and a very striking feature, of the discussion now proceeding is this, that the representatives of the more populous colonies are very capable of seeing one particular line of argument as applicable to themselves, and are entirely blind to that argument as it applies to those who represent the smaller States. They say to us in effect "Ask for this thing, which is a mere nothing in reality, and we shall not be able to go back to our colonies and ask the people to support this Constitution." But we can say the same. We cannot go back to our colonies and ask the people to accept anything less than that full but not excessive measure of power which has been conceded to the Senate by the Constitutional Committee. Speaking at any rate for Tasmania, which I imagine is much in the same position as the other Smaller States, I can say, with a very great degree of certainty, that she will not accept this Bill unless the Senate is provided with ample powers to protect the smaller States.

Mr. ISAACS:

Nobody denies that.

Sir EDWARD BRADDON:

We hear a great deal of any action of ours imperilling Federation by the exclusion of the two more populous States. I think the representatives of Victoria will admit that with them Federation is more popular than in many other colonies.

Mr. DEAKIN:

It will not be now.

Sir EDWARD BRADDON:

Of course not when in the slightest way things go against them. At any rate, Federation had been more popular in Victoria than in any other
Mr. DEAKIN:
Because they were too slow in Tasmania.

Sir EDWARD BRADDON:
We go more slowly, perhaps, but more surely, and we know what we are about. I venture to say Federation is more important to the interests of Victoria than to those of any of the other colonies.

Mr. DEAKIN:
Then you will find out your mistake.

Mr. ISAACS:
Do not make any mistake about that.

Sir EDWARD BRADDON:
That is as events will prove. We hear to-day, as we did in 1891, threats, whether veiled or open, directed at the opponents of certain political principles, such threats as in 1891 did more than anything else to damage the cause of Federation.

Mr. BARTON:
There were no threats then.

Sir EDWARD BRADDON:
We hear a great deal about the compromise which is offered now as something to be conceded. It is a large concession to give us, what was given in 1891 under very peculiar circumstances and in the face of a vote which, but for an accident, would have been absolutely equal. Members who were present then will remember that, owing to the fact that the Senate was to be largely a nominee body, three of those who would have voted for the larger powers of the Senate gave in their adhesion to the opponents of these powers simply on these grounds: that they declined to commit to the Senate as a nominee body that large power they would have conceded to it as a representative House. Those three members voted against the other three of their own colony, and by that means gave a majority of six—the voting being twenty-two to sixteen instead of being nineteen on either side. That compromise, which was after all a compromise forced upon what one can hardly term a minority, is now dangled before us as something that should tempt us into conceding a great deal more than we have already conceded. The hon. representative Mr. Holder has said so well all that, can be said upon the question.

Dr. COCKBURN:
Hear, hear.

Sir EDWARD BRADDON:
That it is not necessary to repeat his argument. He has shown how large our concessions have been; how we have conceded on all points everything
that could fairly or justly be asked on the part of the representatives of the smaller States. I do hope that in this matter of compromise and negotiation it will not be a question always of the smaller States yielding, but sometimes of the larger States making some concessions on their part.

Mr. ISAACS:
They have been doing nothing else.

Mr. MCMILLAN:
It seems to me that the fact that this debate was, if possible, to close tonight, has intruded at this early period a spirit which had better have been put aside. Hon. members, probably feeling that we had to come to a decision almost immediately, have tried to give a position of prominence to the feelings of their colonies. At the same time, we are not here altogether to interpret every feeling or every passing phase of feeling in our respective colonies.

Mr. KINGSTON:
Hear, hear.

Mr. MCMILLAN:
We are here to frame a Constitution for all Australia.

Mr. KINGSTON:
Hear, hear.

Mr. MCMILLAN:
And I think it would have been better for the spirit of our debate and deliberations if we had first gone as far as we could to the root of this matter, and deliberated upon its merits.

Mr. GLYNN:
Before threatening.

Mr. MCMILLAN:
It seems to me that the matter may be very calmly discussed, and that a great deal of the difference of opinion is merely the difference between tweedledum and tweedledee. I take it for granted that what is involved in this controversy is the necessity for the domination more or less of one House over another on financial matters under responsible government. I quite agree with this position, although I may not have expressed it exactly in the best language. But to dominate does not mean to override.

Sir JAMES LEE STEERE:
Hear, hear.

Mr. MCMILLAN:
If you get your dominancy up to a certain point, it does not follow that you should override, and after you have fixed that dominancy you have everything that you can reasonably expect under a responsible form of
Government. Some hon. members ask, are 650,000 people to dominate two
and a half millions? You give in this particular Bill—and you have never
presumed to do otherwise an absolute power of veto, and surely that power
of veto over financial measures is not an absolutely dead thing.

Mr. O'CONNOR:
Hear, hear.

Mr. MCMILLAN:
But let us see where the dominancy rests. I call the great power of
dominancy in finance the power to initiate.

Mr. DOBSON:
Hear, hear.

Mr. MCMILLAN:
You have in this Bill, and in every Bill proposed, the power to initiate all
money matters. Now just look at the relative difference between the
position of a House that can initiate and a House that cannot.

Mr. DOBSON:
Hear, hear.

Mr. MCMILLAN:
Take an illustration on the floor of our own Legislative Assemblies, and
take the difference between a private member and a Minister of the Crown.
Is there not an awful gap of difference of influence between those two
individuals?

Mr. HOWE:
Hear, hear.

Mr. MCMILLAN:
The private members cannot bring in a sixpenny proposal for
expenditure. It is only a Minister of the Crown that can get a message from
the Crown, and therefore it is idle to say that, because you introduce what
is the rational and sensible proposal of amendment, instead of a
comparatively newfangled idea of suggestion, you are taking away that
dominancy of the House that initiates financial legislation. It does seem to
me that we have some higher object here to a certain extent than even to
bring before this Convention the ignorant ideas of our respective
populations.

Mr. GORDON:
Hear, hear.

Mr. MCMILLAN:
The whole object of the Enabling Bill was to allow us to frame a
Constitution, not to be passed at once, but which would go through the
crucible of public opinion, and which we ourselves in our respective
colonies would be able to illustrate, to elucidate, and, if necessary, to
educate the people upon. Surely we have some educative power as the chosen men of all Australia to tell our respective peoples the sort of Federation we think is best for every possible purpose. We talk about not daring to go back to our colonies, but are we going to dare to go back to our respective colonies and tell them that Federation is to be wrecked upon a mere choice of words?

Several HON. MEMBERS:
A choice of words?
Mr. MCMILLAN:
Yes; a mere chance choice of words concerning which some of the best authorities in this House, from their positions as occupants in the Chairs of other Houses, tell us there is no difference whatever. Are we going to wreck Federation on this? We are making a Constitution for all time, and we ought to make a Constitution, therefore, that will not look foolish in the time to come.

Mr. ISAACS:
Hear, hear.
Mr. MCMILLAN:
Surely it will be no excuse for us if we introduce a foolish and ignominious proposal as a substitute for the ordinary course taken under ordinary British legislation. If we introduce that into an indissoluble union it will be no excuse for us to tell the people in time to come that there was an ignorant feeling throughout the different communities that we had to satisfy. I want to know what the object of giving the veto to another House is, because it seems to me that if finance is, after all, the foundation stone of government, those who desire to carry their views like some gentlemen opposite must simply be in favor of one House of Legislature. Now, we have heard a great deal about giving equal representation in the Senate. But what is the good of giving equal representation in the Senate if you rob it of all its dignity and power? To return to my argument, what is the object of another Chamber? Is it not to revise, to reconsider, and to advise? Now, how can you advise if you have not got the power to amend? For I throw away as idle, puerile, and childish the idea that this matter of suggestion is any different from amendment, except in this, that you practically give the Chamber to whom you send the suggestions the opportunity of treating them with absolute contempt. I must honestly confess that I do not know what course I would take if I were now addressing the final sitting of this Convention. I think when that final sitting takes place everything must give
way to compromise, and I would not stand for one moment upon any mere scientific rule or any constitutional formula. But the time has not come yet; and it seems to me that, no matter what may be the views even of the people of New South Wales, I am sent here for the purpose of framing a Constitution which will stand the test of time. Therefore I feel, and I have often had to feel, that I stand out in my views from an apparent majority. I do not feel that I can compromise my own feelings and my own judgment for an idea with regard to the current opinion of the people of my country which, when the matter is thoroughly explained to them, may be completely altered I take that responsibility. It is a very grave responsibility, and is rendered all the graver because I do not pretend to be an authority on constitutional law and procedure. At the same time I have to bring to bear whatever common sense I have got, together with my experience of Parliamentary law and practice. I do not hold with those who say that if you give these powers to this House they will be exercised unworthily. I hold that if you grant them those powers you will get a better class of men in the Senate than if you withhold them. I always look to men to do things, and not to institutions. believe that you will get more judgment, more discretion, more wisdom, more patriotism under a system which gives practically co-ordinate power. I deny that by doing this you do not give financial supremacy to the House of Representatives, where, I hold, you have great power, because you have given them the initiation of financial legislation, which demands there the presence of all the principal executive officers of the State. Where you have all the machinery of Government, and where it depends upon a majority of that House as to what party shall rule, and where you have got all the initiation of financial legislation there must be the real power. That being acknowledged, why refuse to give those who occupy the dual position, from my point of view, in a second Chamber and who are the representatives of State interests why forbid to give them the right in a proper, dignified, and legal way to tell you that you have gone too far, and how far you can go. According to the other proposal they can only act in a dog-in-the-manger way, and say:

You have gone too far. You in the Lower Chamber want to know how far you can go, and yet you will not give us an opportunity of telling you.

At this stage of the proceedings we had better argue upon the merits of the case in regard to what our respective people under different conditions might have. There can be no analogy drawn between the position of the House of Commons in its relation to an hereditary Chamber or to the position of one of these colonies in its relation to a nominee Chamber. In
fact, none of the relations which exist in the British Empire are at all analogous to the position we intend to take up. It is reasonable for us to go to our people and tell them that, under Federation and not unification, certain principles must be allowed, and that we have introduced into the Lower House by the principle of the initiation of financial legislation, all the main elements of the sovereignty of that House, which sovereignty would be sufficient for all practical purposes.

Mr. DEAKIN:

I feel myself at a great loss in replying to the hon. member who has just resumed his seat, because, though like him, I put forward no claim to any special qualifications for dealing with questions of constitutional law, yet, with all respect, I am bound to say that as far as the proposal contained in the Bill of 1891 is concerned, which gave the Senate the power to make suggestions to the House of Representatives, he appears to me to have entirely misunderstood it. He has just told us that the power of amendment by the Senate would enable it to indicate to its brother Chamber the particulars wherein it differed from it and how far it should go. Then he proceeded to make a contrast between that procedure and the other of suggestions by the Senate in which he stated that this could not be accomplished by the latter method.

Mr. MCMILLAN:

I was not at that time contrasting those two things. I was only contrasting the Veto without amendment.

Mr. DEAKIN:

Well, if he puts it in that way surely the power proposed in the Bill of 1891 for making suggestions is a power which gives the Senate identically the same opportunities of indicating where it considers the other Chamber has gone too far and how much it has gone too far, precisely in the same way as amendments would. Then compare his strong condemnation of suggestions with his assertion that he sees little or no difference between the methods of procedure. I take it that his arguments, as I understand them, answer one another. When he says that mere suggestions give an opportunity to the House of Representatives to treat the Senate with contempt, I say that exactly the same opportunity is presented when amendments are sent down from one Chamber to the other. If the House of Representatives is inclined to treat a proposal of the Senate with contempt, it will not be deterred by the fact that it is called an amendment in one case or a suggestion in the other. Then, again, the hon. member maintains that if the power of suggestion be the only power conceded to the Senate in these matters, its dignity will be destroyed, and Mr. Holder, too, has said that the hands of the Senate are to be tied behind its back if it be limited to
suggestions; and, again I ask, how do they reconcile the two statements with the declaration that there is no real difference between the powers to amend and to suggest? I for one disagree with those who regard this issue as a mere question of procedure. I think the difference between the two procedures is real and vital I do not think the feeling of the people of Australia, which I believe to be wholly averse to the power of amendment in detail being conferred upon the Senate, arises from a misunderstanding of the question. I do not think it arises from a feeling which has been fostered by their own bitter experience of Second Chambers, but I think it arises from a clear conception that this proposal to permit amendments in Tax Bills not only, as Mr. O'Connor has lucidly put it, gives opportunities for disastrous deadlocks, but chiefly because it will lead to a division of political responsibility in connection with a class of questions upon which responsibility should not be divided. If you permit the Appropriation Bill with its multifarious details based upon its pages of estimates to pass into the hands of another Chamber, and, after having been criticised, and if necessary altered in the First Chamber, to be again altered and revised in another Chamber, you render the responsibility of the Representative Chamber a pretence.

Mr. MCMILLAN:
I did not say anything about revising.

Mr. DEAKIN:
I have before me a succession of notes taken as speakers have addressed the Convention, but have not taken the precaution to put the names against them. The point I am coming to is one which a number of speakers have taken. They have asked if we can give any reason, other than the excellent reasons offered by the preceding speakers, why it is advisable that the power of amendment in this particular class of measures should be denied to a Chamber as important, powerful, and as entitled to respect as the Senate will, must, and ought to be?

An HON. MEMBER:
When you also grant the power to reject?

Mr. DEAKIN:
When you also grant the power of rejection. I, for one, grant freely the power of rejection, and admit the right and title of the Senate to exercise that power of rejection on certain specific occasions under certain specific circumstances. Under this Constitution that right is given without qualification; and the certain special circumstances and certain special
occasions are left to the Senate themselves to determine. This power of veto may be exercised absolutely. I am not now disputing their right to exercise that power, but I am challenging the right of amendment of Tax Bills, because on this particular question it must imply a division of responsibility on matters which I think should be deprecated. Tax Bills and Appropriation Bills must go together, as the one implies the other. The illustration chosen by Sir John Forrest with regard to a Tariff Bill suits my purpose equally well. I ask the representatives of the less populous States, and in fact all the representatives, whether they consider it to be possible to administer a responsible government such as must be formed under this measure, when what may be the Bill of the Session, the Bill of the year, or perhaps it may be the greatest Bill of a series of years. A Tariff Bill is always introduced in obedience to the popular mandate based upon a certain fiscal policy, in it certain adjustments with regard to the duties on one article and the duties on another have been made, and consideration has been given to the conflicting interests of different industries when an article is the raw material of one and the manufactured product of another. When all this has been taken into consideration, perhaps after months of labor, and the Bill has been passed-I would ask the representatives of the less populous States if they have realised what it means if such a measure has again to be subjected to the same minute and detailed treatment in another Chamber, elected not on the same basis, not at the same time and not with the same mandate, so far as one half at least or it may be as far as the whole Chamber is concerned? Is the tariff, which after months of labor has been shaped to a form which bears some relation to the popular mandate, to be reshaped and recast in the Senate for months more and then returned to the First Chamber with amendments for their consideration with some of the duties granted, some refused, others partly granted, and others partly refused? How often is it to pass from one Chamber to another-and remember, this is a Money Bill, a Bill which cannot wait? Where is the work to end? What sort of tariff do you think you would have, and what relation would it bear to the mandate of the people of this country? I ask you to look at it as a matter of principle as to how far you would be justified in having on matters of this kind the mandate of the people defeated by a minority Chamber? There are hon. members who declare that, as far as the Appropriation Bill is concerned, they would be no party to allow the Senate to amend; but the same argument applies with equal force to a Tariff Bill.

Mr. WISE:
Pardon me for interrupting you, but will there not be just the same debate, just the same amount of work, the second time if the Senate has the power to make suggestions? They will not make suggestions without consideration.

Mr. DEAKIN:

The Senate then will occupy a different position: I take it that under this form of government there must inevitably be by the process of events a division of labor, so that the Legislature may get the best results from its labor. A Senate limited to suggestions, with any regard to its own dignity, will realise that its attitude towards a Tariff Bill should be very different to that taken by the House of Representatives. Instead of criticising every item and every figure, and weighing the question as to whether a duty should be 10 or 121/2 per cent., I take it that the Senate would look broadly through the tariff. Their first question would be: Is this a tariff in accordance with the mandate of the people? If they in their wisdom considered that the House of Representatives had departed from the mandate of the people, and had given a protective tariff instead of one for freetrade, or a high protective tariff instead of a low one, they would have the power to reject the whole measure. After this I I should take it that their next duty would be to glance through the measure for any glaring inequalities that might have crept in through lack of knowledge, or factious opposition, or oversights, and that they would send it back to the House of Representatives with a message pointing out such glaring inconsistencies. They would be either cured, or amended, or persisted in, according to the will of the House of Representatives, who would then take the whole of the responsibility for the fiscal system. If, however, the Senate made amendments, there would have to begin a process of compromise and balancing between Chamber and Chamber, the final effect of which would be that the practical responsibility for the tariff as a tariff could not be placed on either House in particular. It would be divided between the two Chambers, one of which is elected for six years, and retires half at a time. Accordingly the responsibility would never be sheeted home its it ought to be. The Senate could not, for a long time and the representatives probably would not, be effectively brought to account for their action. It would be, in a sense, the tariff of neither and of no one in particular. This is where the broad distinction arises. Were the responsibility with the House of Representatives the public could then lay its finger on the records of the House where the disputable points arose, and could drive home responsibility where it ought to rest. Every member of the House of Representatives has to retire every three years, and may at any moment be made answerable by dissolution for the tariff to the people. You can thus
place on the shoulders of the House of Representatives the credit or
discredit and the sole responsibility for the system of taxation.

Mr. HIGGINS:
There is power to insist on an amendment, but not on a suggestion.

Mr. DEAKIN:
The Senate can lay aside any Bill, and, although it cannot be
brought to book, because it is not liable to dissolution at the time, if it take
a step contrary to the public will, yet the other Chamber, if it be sent to the
country, returns with a specific instruction as to this or any similar issue.
With such a clear direction before it the Senate would, in all probability,
bow, with judgment and discrimination, to the verdict of the people on the
question in dispute, not because it was over-awed, but because it would
recognise that upon those questions the taxpayers were entitled to have
their will. I differ from Mr. Wise when he says that these money questions
between the Houses are drifting into desuetude, and are no longer matters
of popular concern. Money questions and questions of taxation will of all
others ever be of supreme interest to all the people of the colonies; with
many they are almost the only interest. Following that argument up, if
there is a matter upon which the people of the smaller colonies should be
well content to trust their own fortunes in common with the fortunes of the
greater communities, it should be upon questions of taxation and Money
Bills generally. It has been stated by Sir John Forrest, Mr. Holder, and
others that the smaller colonies will pay the same per head of taxation.
Well, that is a guarantee to the less populous States that the representatives
of the greatest number will never assent to any proposal that would be
unjust to the taxpayers, for as taxpayers the interests of the whole people
will be identical,

Sir JOHN FORREST:
Some colonies will in reality pay more per head.

Mr. DEAKIN:
I can imagine a condition of things in which the duty on spirits would
yield more in one colony than another. Broadly speaking, however, there
would be the same burden of taxation everywhere, and surely the proposal
that the majority of the people, who find the bulk of the funds, should be
able to take the absolute responsibility of shaping the details of taxation,
always with the reserve power of the right of rejection of the Bill by the
Senate, commends itself as being wise and just. It Seems to me, with all
respect, that the distinction between suggestion and amendment in these
matters is a broad distinction, and one which requires to be kept well in
view. Yet, if the less populous States accept suggestion instead of
amendment on Tax Bills if it be a concession, it is one that is already balanced by a considerable diminution of the authorities and powers which under the Bill of 1891 were proposed to be given to the more popular House. I am afraid my remarks are very rambling, but I wish to say a word or two here as to Mr. Holder's contention that because some of the less populous states had "conceded" the right of representation in proportion to population in the First Chamber, something should be conceded to them as to the Senate. This is the first time I have heard that the granting of representation on a population basis is a concession. It is a right; any other basis implies a concession, but not this. I should say that none of the States represented were under any obligation to anyone, because, as is natural, and I may say universal, the representation is on a population basis. The concession lies in the creation of a Second Chamber based upon other than population basis. That is an undeniable concession; and yet we are now asked to make the further concession that, instead of the majority of the nation ruling its taxation, the minority of the nation should decide as to its burdens.

Mr. HOLDER:
The representation of the States as entities is necessary to true Federation.

Mr. DEAKIN:
There I agree, but what is the sacrifice which the majority is making? Here is the majority of the whole nation, which in all other affairs is accustomed to rule absolutely, without any obstacle except those provisions of check and balance which ensure deliberation. Take up this Bill, read its list of thirty-five or thirty-six powers proposed to be given to the Federal Government, and remember that upon everyone of those provisions the majority parts with its control by giving the right of an absolute veto to the House which may, in its majority, represent a small minority of the people.

Mr. HIGGINS:
It is a mistaken principle of rule.

Mr. DEAKIN:
That I am not concerned with at present. Whether for well or ill, equal representation has been conceded, and with it the power of the minority to rule for an indefinite time. Hon. members representing the less populous States will recall the fact that this Constitution makes no provision for the cure of deadlocks by the rule of the majority, it leaves the minority in absolute command for all time. When I heard an hon. member-and I apologise to the Hon. Sir John Forrest for an improperly-phased
interjection while he was speaking—when I heard an hon. gentleman of his experience, who is the leader of a Parliament and the Premier of a colony, protesting that if the Senate were to be refused the right of amendment it would be deprived of all power and rendered a body not worthy of notice—when, I say, I heard that reckless remark I was led into making the interjection. The power that is being entrusted to the Senate is an enormous power, and the majority have no other security than the good judgment and conscience of the minority. It is all very well to say that the people will elect both Houses, but in one case they will elect a Chamber which will deal with their interests as they have been dealt with always, that is according to the will of the majority. In the other Chamber they are now handing over this long list of powers, one and all of them, for an indefinite time to the will of a minority. If this Senate strain its power to the utmost it can of course render government impossible, and all arguments against us are based upon imaginary extraordinary instances in which two populous States unite to oppress their fellows, a contingency which will never, in my opinion, occur. Since all their arguments are based upon the assumption that one Chamber and the millions of constituents behind its majority will place in the Senate—a body of dignity and power and authority, would not desire to be placed in such a position—nor would

it be necessary that it should be so placed under this Constitution. It should tend rather to deal with measures upon broad principles, in accordance with broad lines of policy. Even in regard to this long list of thirty-five classes of Bills in connection with which the Senate has the same power and authority to make amendments as the House of Representatives—that is, it can amend nine-tenths of the measures that go before it a Senate, jealous of its dignity, conscious of its high office, and sure of its hold on the people, would not seek to make minor amendments in them. The toil and burden of the day in regard to details and to administration must always rest upon the House of Representatives. If, as Sir John Downer says—and I cordially agree with him—we are now simply making a mask and form of government into which life has yet to be breathed, and which the great force of national will will hereafter shape into its own form and expression, how is it we find so eloquent an advocate of Federation prepared to risk all for the sake of securing the right to amend Bills rarely introduced and often of minor importance, in regard to which justice is guaranteed not only by the absolute veto of the Senate, but also by the fact that every man in the Commonwealth must contribute his quota to every tax, in accordance with the Constitution? The forces of national life are not to be confined by artificial forms. The power of ideas is the true power behind the people and
behind the throne. How is it that my friend doubts the future of those unseen potencies to which he alluded? Why should he ask us to depart from those wellgrounded principles of Constitutional Government with which he is familiar. Why is an analogy not to be drawn between the working relations of the Legislative Councils and the Houses of Assembly in the States and the Senate and House of Representatives of the Commonwealth, when so many points of resemblance must exist between them in these respects. No matter how different in their origin and power, the method of working responsible government in the two Chambers must present many points of analogy. Surely the hon. gentleman is putting behind him the experience of a lifetime, when he says that with two co-ordinate Chambers responsible government as we know it can be carried on. It may be wrecked unless it confesses the authority of a House, one half of which may be five years and the other half two years old, while endeavoring to give effect to a mandate of the electors returning an overwhelming majority to their own Chamber. It appears to me that, in this Constitution, the Government will be responsible, in one sense of the term, to both Chambers. Even in a colony with a Government solely responsible to one House, that Government cannot disregard the treatment of its measures in another Chamber. If it fails to legislate it is not the Second Chamber, but the Government of the day, whom the people hold responsible. If proper means of taxation are not provided, it is not the Second Chamber but the Government whom the people hold responsible. They are placed in a position of immediate relation to the electors which makes their position entirely different to that to which Sir John Forrest referred by interjection- that of the United States, where the Government sits outside Congress, where there is co-ordinate power in the treatment of Money Bills, and where the Government is not answerable for their fate or character. The Government will be held responsible here, and therefore in this Constitution you will have a certain responsibility of the Executive to both Chambers. Direct and immediate responsibility to the one Chamber, which makes it and ends its existence; indirect, but none the less actual, to the other Chamber, which, with its permanent tenure and staying power, is able by a merely negative attitude to mould or defeat the policy to which it objects. This Senate within the four corners of this Constitution will take rank even with the Senate of America in the future, even if this power of suggestion is granted and the power to amend Money Bills withdrawn. It will stand beside the Senate of the United States of America as the next most powerful Second Chamber in the civilized world. With its power to attract to it the intellect, character, and experience of the
nation, it will be able to press on any House of Representatives, however recalcitrant, a due and proper consideration of its will. Disputes as to States rights or interests are the least likely to occur. I have read over again and again the long list of powers with which this Commonwealth is to be invested; and on each one of those, thirty-five in the fiftieth clause and four in the next, have asked myself in how many are State interests likely to be involved, and how often? Members who read them will see that scarcely one of the provisions, neither those with regard to tariff or navigation and shipping, or quarantine, or currency and coinage and legal tender, are likely to be at all affected by the question whether an elector resides in a large or a small State. The United States of America were recently shaken to their very foundation by a tremendous struggle for the presidential chair-a contest to which a determination as to coinage, currency, and legal tender gave the cue. It may be said that was a question in which State rights or State interests were affected, because the silver producing part of the States was interested in one kind of coinage and the commercial east in the other. But the interests there affected were not those of States, but of the whole Union, which was all practically equally affected by the determination arrived at. It might be that on one determination the silver kings would personally realise large fortunes, or that on the other the commerce and influence of New York would be rendered more secure; but, broadly speaking, even that great difference disappeared, and the question was one that came home to every individual taxpayer, whether a citizen of Missouri, or Arkansas, of New York, or California. His State was indifferent to him when his interest, his fortune, his labor were at stake. The questions dividing the Commonwealth are capable of being settled, and certain to be settled on other grounds than those of State interests. And yet the only plea that even Mr. Holder can urge for giving the House of the minority an indefinitely large power to rule and control the House of majority is for the protection of these State interests which will form the most insignificant feature in the business of the future Commonwealth. The one recommendation of the Senate to many of its present advocates is that it is a Chamber in which the majority will not generally rule. was going to call attention in reply to Sir John Forrest that this measure as now presented to us has been re-shaped since 1891, greatly to the advantage of the smaller States. For the first time a fixed proportion between the membership of the House of Representatives and of the Senate has been introduced-a proportion not known in the United States, in Switzerland, or elsewhere. It is a new guarantee that the Senate is not to be overshadowed by the mere bulk and number of the House of Representatives. In addition, it has been agreed that the Senate shall derive its authority direct from the
whole people. That is no concession by or to the less populous States. It is claimed by the people. When hon. members speak so lightly of returning to our constituents, and inviting them to concede the power to amend Money Bills, I may remind them that the only means by which the electors in Victoria have been induced to accept the proposed compromise of 1891, with regard to suggestions as to Money Bills, was because it was coupled in each instance with the statement that the Senate was to be, by common consent, elected on the basis of the popular franchise in the whole of the States.

Sir JOHN FORREST:

How was their mandate delivered?

Mr. DEAKIN:

They delivered their mandate at my meetings, where they asked to be reassured as to what was the proposed basis of the Senate, and what were its powers in regard to Money Bills. I had the privilege, and some thousands had the infliction, of hearing me during the campaign, and one and all fastened upon the questions of the money powers of the Senate and its basis in preference to any other. I could have addressed many audiences on the Senate alone, and hardly have been questioned about another matter in connection with Federation, so keen was their sense of the fact that if they let this power of control of taxation and expenditure slip out of their hands, although it might not go into the hands of a class, it would go into the hands of a minority, and out of the hands and control of the majority. By the Bill of 1891 the power of the House of Representatives has already been cabined, cribbed, and confined. It has been deprived of the inalienable power to tack, which even the House of Commons has not hesitated to use on some occasions. It has been deprived of the power to conjoin its taxes, which every colonial Assembly up till now has been able to exercise. It is to be strictly limited as to the contents of its Appropriation Bill, as no Appropriation Bill has ever been limited in these colonies, while it gives that power of suggestion to the Senate which is only possessed in South Australia, though the power to amend is possessed in Tasmania. In answer to my friend Mr. Holder, who put it that a concession has been made today, which I do not regard as a concession-the replacing of Loan Bills
among the measures requiring to be originated in the House of Representatives - and asked what concession was proposed to be made in return, I would say that, though I do not consider any concession has been made, yet I would be prepared individually to make a concession on the same lines. I would give what I would not be prepared to give to any local Upper House, the power of amending by reducing the items of any Loan Bill in accordance with the suggestion of Mr. Wise. So that if there was any concession in regard to the origination of Loan Bills it may be fairly taken as balanced by this other concession on our side, the power of striking out any items to which the Senate objected in the loan schedule. But the tariff cannot be dealt with by the Senate except upon broad lines. In regard to these lines, if the Senate's suggestions are accepted, well and good, and if not the Bill if passed would leave on the shoulders of the representatives the responsibility of having framed a tariff which was unsatisfactory. The Senate would be studying its own dignity by taking its firm stand not on detail but upon the grounds of principle and public policy. The remarks which fell to-day from the Premiers of the three colonies are surely worthy of most careful attention, delivered as they were without the slightest attempt to lend them any adventitious aid from arguments which might readily have been employed. We had the Premier of New South Wales, the leading colony of the group; the Premier of South Australia, another of the leading colonies of the group - one of those intermediate between the smallest and the largest population; and the Premier of Victoria, which colony at present ranks second in population - three gentlemen who have proved their devotion to the cause of Federation in this Convention and out of it, and to whom this Convention owes its birth,

These hon. members have simply stated a fact which was impressed upon us in 1891 no less emphatically, no less clearly, by the three gentlemen who then occupied self-same positions - Sir Henry Parkes, Premier of New South Wales; Mr. Playford, Premier of South Australia; and Mr. Munro, Premier of Victoria. These three gentlemen in 1891 repeated what the present Premiers have reiterated now, that this question of the money powers was a matter of substance and not of form. They then said if this power were pushed beyond the power of suggestion they would not answer for its reception by their people, except that the reception would be adverse. Surely it is striking that after a lapse of six or seven years the three Premiers of the same three great colonies have repeated that warning. I do not quote it as one to which the representatives of other States should bow their judgment or reason, but I submit this to them as a suggestive fact,
which all practical men will take into account, and endeavor to surmount if possible. It is not, as the hon. member Mr. Holder supposed, merely a question as to whether the representatives of Victoria or the representatives of New South Wales will or will not endeavor to persuade their constituents to adopt this power of amendment by the Senate. None of them can do that, except so far as the principles upon which they were elected will permit. As to my hon. and revered friend on the other side of the House, who once more chided Tasmania’s precocious offspring, Victoria, for having ventured to set up house for itself and prospered, and who then with unparental feeling seemed to rejoice in th

Mr. PEACOCK:
Is that the whole truth?

Mr. DEAKIN:
Between us there is peace, and I wish that the same peace existed between us and our friends from Western Australia. My friend Sir John Forrest occupies many positions of advantage which are denied to the rest of us, and which the Premiers of the other colonies covet. He is a Minister without an opposition, a Minister to whom a general election is a passing incident, who showers benefits on a country which gratefully and freely acknowledges them. The hon. member objects to what was conceded in 1891 being called a compromise. As a member of the Constitutional Committee himself, he knows that it was emphatically a compromise which drew over to its support a large body of men who previously had been opposed to limiting the money powers of the Senate. It was no compromise for Sir John Forrest, for as I know that gentleman here, and elsewhere, I think compromise is not a word which frequently finds favor in his eyes. He is in a position of vantage over many of us here, because he does not move or speak under the same conditions. If this Constitution does not suit him he can put it in a pigeonhole in his office, and never look at it again. He has not adopted the machinery to which we are subject, which obliges us to submit the outcome of this Convention to the electors, and after the vote of the people has been taken to pass it through both Chambers in each of the colonies. As I understand it, his Bill is such that it not only relieved him of the necessity of facing an election, as we had to do, but that it also leaves him perfectly free as to whether or not he submits the measure we produce to his electors. Is it not so?

Sir JOHN FORREST:
We must submit to Parliament, but we need not send it to the people unless Parliament likes.

Mr. DEAKIN:
We are not in that position. The hon. member will recollect that he and I
were across the seas about ten years ago, where the Premiers of the present day are about to betake themselves, and that we had an opportunity of seeing one of the most striking exhibitions of mimicry and deeds of daring by Buffalo Bill in his Wild West show. We were delighted with the performances, and yet no harm was done and no risk run. Sir John Forrest and his colleagues appear to me to be in the same position—he is the hero of this arena, he is engaging in desperate deeds of daring, but the risks are all on our side, whilst there are none on his. Sir John Forrest has already indicated to us that he saw little to be gained at present for Western Australia by her joining this union. He was not under any immediate compulsion to come here, but, as he says, he has been magnanimous enough to come and assist us in shaping this Constitution, which he is under no obligation to submit to his people. He may not join the union, or he may come under it in three, four, five, or six years hence, whenever he pleases.

Sir JOHN FORREST:

That will be a matter for the Parliament.

Mr. DEAKIN:

That is the difference between us. We are compelled to make the best Constitution we can now and to send it at once to the people; and if we are compelled to send a Constitution to the people which we know will be rejected we shall be throwing back Federation ten or fifteen years. Sir John Forrest runs no risk. He will only accept the Constitution which pleases him, when he pleases, and how he pleases, and he is placed in no peril. I have done nothing unfair in calling attention to the fact, that he is in a position of vantage over us, and we are entitled to ask for some slight concession at his hands. He is seeking to bind us while not bound himself. I would like Sir John Forrest who has used the words compromise" and "conciliation" so often to set us a good example by not, at the present time, pressing this matter to a decision, because it may check and chill the enthusiasm of tens of thousands of people in these great colonies. I shall say nothing as to the enthusiasm for union of the people of Victoria, either in the past or at present. Their enthusiasm is governed by the attitude of the other colonies, by the consideration of their own circumstances, of the circumstances surrounding them, and the kind of Federation offered. Certainly, if this clause remains in the Bill, it is certain, whatever the enthusiasm in Victoria may be to-day, that when tomorrow's telegraphic messages are circulated amongst its people - even the enthusiastic federationists there, those who have sacrificed most, and are prepared to sacrifice more for this high cause, will be profoundly discouraged and
disappointed should this amendment be defeated.

Mr. SYMON:

I feel in the few observations which I propose to offer to the Committee as though I were addressing hon. members with a kind of sword of Damocles suspended over my head. After listening to the excellent, vigorous, and picturesque speech of Mr. Deakin, in which he referred to the effect a telegram to Victoria, stating that this clause had been agreed to, would have in that colony, one ought naturally to feel appalled. But I do not think he should despair of the people of Victoria; they are capable of enlightenment. I feel quite sure that the people of Victoria; however they may be disposed as to the advantage or otherwise of this clause, will be susceptible to the eloquence of Mr. Deakin, who I am confident will be able to persuade them to a just conclusion. I do not wish to enter into the controversy between Mr. Deakin and Sir John Forrest. as I will leave them to settle their little difference between themselves. I had no special opportunity of being acquainted with that eminent American, Buffalo Bill, but I have heard of another distinguished American, known as Artemus Ward, and some of the representatives of the other colonies remind me of the enthusiasm of Artemus as a patriot. He declared that he was perfectly ready on the altar of patriotism to sacrifice all his relations, beginning with his mother-in-law.

Mr. ISAACS:

All his wife's relations.

Mr. SYMON:

His wife's, was it? Then that makes it much stronger. Some members of the other colonies, I say, seem to emulate Artemus Ward, and are prepared to sacrifice the smaller colonies on their own little altar of Federation, because when we hear these intimations-I will not call them threats, because I would not like to use a word of that description—as to what is likely to follow the carrying of this clause, it seems to me that the interests of the smaller colonies are to be measured not by what is just and right in the consciences of members who are here to frame a Constitution, but what may be considered so by-I will not say ignorant—but uninstructed sections of the community. I would say with all deference that the Enabling Bill provides for the difficulties which have arisen. This is a kind of preliminary meeting. We are assembled to reason with each other, and to arrive at what we consider in our minds, in our judgments, and in our consciences is right. That is what I feel I am here for. I do not say that I am careless of the opinion of the electors who sent me here, but, on the contrary, I feel that I should be betraying their trust if I did not exercise my
independent judgment. I am prepared to meet my electors and reason with them on any point, even in favor of the larger colonies, before I am willing to abandon the position which I think is right. I have said, and in that respect I have differed from you, Sir, and from some other of my colleagues, that I am in favor of responsible government. I want responsible government, but am not at all sure whether a great number of the people of this country would not prefer to take the view you have delivered with so much effect in this hall. I am not prepared to say whether the people would not prefer the restraints a different system would give them. The position I take up with regard to responsible government, and which I hope this Convention will give effect to, is my own view, and I shall hold it until I see the majority of the people of this country are against it. That is the view which I respectfully and humbly commend to my colleagues on this Convention with regard to this question of Money Bills. Now it was not the least powerful part of the very eloquent and forcible speech of my hon. friend, Mr. Deakin, when he said that the Senate would be a body of dignity and power, that in all probability they would not deal with small things, and that they would not stoop to minor amendments and petty alterations. Now, it does seem to me that that argument to which I entirely assent cuts the ground absolutely from under the feet of those who are resisting this extended power of dealing with Money Bills being given to the Senate. In the Senate you are constituting a body of great dignity, which will not stoop to minor amendments, but you are doing more than that. You are constituting a body of eminent men who will not readily or wantonly put difficulties in the way of the government of the country, and therefore I appeal to my honorable friend on the basis of his own argument. If your Senate is a body as you described it, and as we believe it will be, pervaded with a high patriotism, then you have nothing to fear by giving it this power of amendment. My honorable friend said also, appealing to us, that there will be good judgment and conscience in the House of Representatives. We all assent to that. I believe in the good sense of the people of the colonies as they will be represented there, and I have no fear for the difficulties of responsible government. Although I belong to a small colony that will be overshadowed in its representation in the Assembly, if you ask us to trust to the good judgment and conscience of the House of Representatives, then I say we may equally ask you to trust to the good judgment and conscience of the Senate, who

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by the alterations made in this Bill are elected by the same constituency, and on the same suffrage as the House of Representatives. If it is a question of give and take, let us apply the argument both ways and all round. I do
not ask you to adopt it in favor of the view that I and others represent any more than I ask you to reject it upon Mr. Deakin's view. I say: let us put it both ways and trust to the patriotism of the Senate, and I for myself trust to their good judgment and conscience to conduct the affairs with which they are entrusted honestly and fairly for the people of this union. I have been curious, as have other members, to know what concession we were to have in place of what we asked. My hon. friend says the concession is—and he grants it with the utmost freedom—that we are to have the power of rejection. I say to that, "Thank you for nothing. We have that already. That is inherent in us."

Mr. DEAKIN:

I did not put it as a concession. I was only replying to an interjection.

Mr. SYMON:

It struck me at the moment that this was bringing us under the guise of a gift something which was our own property. If this power of rejection is what we already possess, what control has the Senate got—what power? Some hon. members are willing that we should be satisfied with what appears in the Bill of 1891 as a compromise, but some of us here, who were not there, do not know if at the 1891 Convention it was treated as a compromise or not. There seems to be a difference of opinion on that. I decline to recognise any compromise. What is essential for the protection of the smaller States? What is essential to maintain the high power and dignity of the Senate? If you say the power of amendment is giving an additional control, you reduce them to the level of the existing Upper Houses, although you insist upon them being elected by the same body of the people. That is unfair. It has been said that the power of suggestion is identically the same thing. If it is identically the same thing why not have it in the form we like it best? At any rate it would be a graceful thing to concede that to us. They are identical in result.

Mr. HIGGINS:

In what way?

Mr. SYMON:

I shall show you in one moment. One of them wears the aspect of a favor; the other wears the aspect, upon which we insist, of a right. That is the difference between them in our eyes. We want no concessions. We want the Senate to be in a position to amend without going under the cover of a roundabout method, cap in hand, to bow humbly and ask something or other as a favor. Even asking it as a favor it comes to identically the same thing. I hold in my hand a very able paper, to which I may perhaps be permitted to refer. It is compiled by our Chairman of Committees, dealing with the relative powers of the two Houses in this colony in relation to
Money Bills. Here, as we all know, there is the power of suggestion, mark you, in a House not at all elected upon the broad principle of the Senate, but on a property qualification. In the event of the suggestions of the Upper House not being agreed to by the House of Assembly the Bills can be returned by the House of Assembly for reconsideration, and by the Upper House in turn to the House of Assembly, and if the suggestions are not assented to by the House of Assembly the only result is that the Council can assent to or reject the Bill. That is precisely what happens under the system of amendment.

Mr. TRENWITH:
Except that another place would take the responsibility of rejection.

Mr. SYMON:
If it is
up to the Senate, it will be in the power of the Senate to say, "Well, as you do not agree to our amendment we will reject the Bill." But the same result would follow in the case of suggestion as in the case of amendment. The only difference is as to the form in which it should be adopted, and if there is to be a concession, or if there is to be an attempt made to lend dignity and importance to this Senate which we are about to create under the Constitution, it had better be done by giving a straightout power of amendment instead of inviting them to amend in a roundabout way. One word more as to the power of amendment. My hon. friend Mr. Deakin pointed out the inconveniences which might result in the case of a Tariff Bill. I admit those inconveniences, but they exist in the case of any other Bill as well. A Tariff Bill is the best that can be selected to show the maximum of inconvenience.

Mr. DEAKIN:
It was selected for me.

Mr. SYMON:
It is a good selection, but exactly the same difficulties, though less in degree, will happen in every Bill. You may have the same wrangling, the same trouble, and the same amendments upon any Bill which comes before the Upper House, and if you have an Upper House desirous of embarrassing the Executive Government they have ample opportunities to do that on any Bill submitted to them. Does that apply to the Tariff Bill under the existing system of suggestion? Would the same difficulty arise? Undoubtedly it would. It has actually happened in this colony. When the subject was under discussion in 1891 it was pointed out that this system of suggestion would not be effective in regard to a Tariff Bill. "Oh, no," said Sir John Bray, supported by the Hon. Thomas Playford, then Premier of
South Australia; "nothing of the kind." Why, the Upper House, it was said, have made suggestions upon Tariff Bills-twenty-five of them in one Bill-and not only in large matters, but in small matters, such as the amount of duty on boots and shoes. The suggestion was not as to the whole line of goods of that description, but as to boots and shoes No. 6 and upwards. That is such articles as boots at 3s. per dozen, glass bottles at certain rates, bags, sacks, and so on. I am putting this to my honorable friend Mr. Deakin in view of the shadow that-

Mr. DEAKIN:
I remembered all that.

Mr. SYMON:
I am sure you did. You did not mention it, but that does not matter.

Mr. DEAKIN:
It applies all in favor of my argument.

Mr. SYMON:
All I am showing is that you are fighting a shadow. You are seeking to sacrifice what we think are our rights, and upon which we lay stress, and upon which, to use the words of Mr. McMillan, you say there is only the difference between tweedledee and tweedledum.

Mr. BARTON:
Do you agree with Mr. McMillan?

Mr. SYMON:
I do not agree with his expression, nor was that what he meant; he was simply summarising the arguments to which he was addressing himself. My view is this: rightly or wrongly the people of this colony—we hope that, however this is carried, we shall do our best to endeavor to remove the impression from their minds—and the people of the other smaller colonies have undoubtedly a fear of entering this Federation in view of what the larger colonies may do.

Mr. HIGGINS:
Look at your Premier.

Mr. SYMON:
Our Premier is entitled to express his views. I agree with Mr. Holder, that there is a fear existing in the minds of many in this country that we are going to be harnessed to the car of the larger colonies, that that time may be long in arriving when we shall be equal in population, and when we shall be able to meet them on an equal footing in the House of Representatives. At present we are not. We would have to meet you with seventeen members to forty-nine, I am willing to meet you in that way. I believe in your fairness and judgment, but at the same time I agree
with the framers of the American Constitution as to original sin. We do not ask under color of a favor what we think we should have as a right. Sir George Turner says you are inclined to treat the smaller colonies with kindness. It is not kindness we want, but justice.

Mr. REID:
If we add a provision that the States with the smaller populations should have spent within their boundaries what they actually contribute would that ease your mind?

Mr. SYMON:
No; it would not.

Mr. DEAKIN:
They want some of your money, too.

Mr. SYMON:
There is another fallacy as to the basis of the control of the Senate being measured by the aggregate contribution of the different colonies to the taxation. That is an entire mistake.

Mr. REID:
It has a lot to do with it.

Mr. SYMON:
That is looking at the matter as though the Upper House is the principal House which now exists. That is not so. The Senate, if we deal with it on what we call federal lines, will not be in the same position as the Upper Houses as they now exist. It is not in the same position in its relation to the House of Representatives as the House of Lords is in relations to the Commons. There will be in the Federal Parliament a representation of the whole people of Australia. That representation is given in two ways by the representation of individuals in the House of Representatives and by the representation of individuals also in the Senate, but on a different basis without regard to the number of representatives, simply owing to the federal principle that you must protect the State. But the men in the Senate will equally represent the aggregate taxpayers of the community, as they do in the Lower House. I confess I can see no difference between the two. But to refer to the matter of the tariff. If you are willing to give us what is in the Bill of 1891, then the tariff argument is deprived of all force in regard to the amendment we seek—the power of amendment—because exactly the same results have followed in regard to suggestion in this colony where the method of suggestion prevails, and they will follow, according to my hon. friend's argument, from the method of amendment that we wish to prevail of amendment in the Senate of the new Federation. If you take this power away, what power do you give to the Senate that is not possessed by an ordinary Upper House? I have been unable to discover
anything. How are you to maintain that dignity and that attractiveness which is to invite into it the most eminent men in all the colonies? I have been unable to discover any power which will raise this Senate to the level which my hon. friend so eloquently portrayed, that it would stand beside the United States Senate, and that it would insist upon or secure from the House of Representatives obedience to its will.

Mr. TRENWITH:
He did not say that. He said it would stand beside the United States Senate as the most powerful Second Chamber in the civilised world.

Mr. SYMON:
Oh, yes, and he said much more than that, He said it would secure the obedience of the House of Representatives to its will.

Mr. DEAKIN:
I did not say "obedience."

Mr. SYMON:
I beg the hon. member's pardon if I misrepresent him, but that is the word I took down on my notes. After all it is a good phrase, for if we are to establish such a Second Chamber as we wish to see, it must have a will, and some power of securing obedience to it in some form or another.

Mr. DEAKIN:
Not obedience so much as recognition, was what I meant.

Mr. SYMON:
Well then, the recognition in some form or other of its will. How is it to be gained? The United States Senate has secured its position, first, because it has the power of amending Money Bills, and second, because it has executive functions -the power of joining with the President in making State appointments, and in ratifying or rejecting treaties. If you are going to place this Senate on anything like the same level as is occupied by that of the United States, how are you going to do it? But for my part I should be sorry to see this Senate placed upon anything like the level occupied by the Senate of the United States.

Mr. REID:
Hear, hear.

Mr. SYMON:
That Senate is the dominant governing factor in the Parliamentary state of things there-if I can use the word Parliament in reference to their congress. Such a Senate here would be utterly destructive of the principle of responsible government.

Mr. DEAKIN:
Hear, hear.
Mr. SYMON:

I do not want such a body. I want to be fair and moderate, and to secure even justice in the interests of Federation all round. Give the Senate the power of amending Money Bills. We have conceded that we shall not have the power to amend the Appropriation Bill, so far as it deals with the annual supplies. I do not use the word "conceded" in the sense in which some members have used it. I think it would be monstrous to say that we are going to have responsible government and to deprive the Lower House of the power of originating Money Bills, or to give the Upper House power to strike out the ordinary supplies necessary for the services of the country. It sets a limit of concession beyond which I think we ought not to go. In these Taxation Bills, Loan Bills, and so on, the Senate ought to have power to amend.

Sir EDWARD BRADDON:

Hear, hear.

Mr. SYMON:

We are only giving them by the name of amendment that which we in this colony have in the name of suggestion. In the one case it comes in the garb of a favor, in the other we shall present it to our people as a right, but it is undoubtedly one of the very greatest importance to these smaller colonies, and it may make all the difference between presenting to the people an acceptable or unacceptable Bill.

Mr. HIGGINS:

I thought it was tweedledum, and tweedledee.

Mr. SYMON:

But my hon. friend does not understand the difference between tweedledum and tweedledee, though he will have an opportunity of analysing and understanding it before he addresses the Convention again. I am disposed to think with my hon. friend Mr. McMillan, who took up the position that the Appropriation Bill should be omitted, but I always agreed with him that the power of originating is ample to secure that system of responsible government which we all in common wish to see. I need not go over the illustration he gave regarding the difference between a private member and a Minister. I have listened with the utmost attention to-day, because I have been anxious—not having been on the Constitutional Committee—to hear all the arguments that could possibly be urged to show that this power of amendment was inconsistent with responsible government, because if I had been convinced of that I should have considered whether I ought not to give way. If I could have been convinced that this power of amending Money Bills to be conferred on the Senate could not have been worked with responsible government I should have
almost given way.

Mr. WISE:
Does it not necessarily divide responsibility?

Mr. SYMON:
No; it does not divide responsibility one atom.

Mr. MCMILLAN:
No; not more than any other Bill.

Mr. SYMON:
Not more than any other Bill. There can be no doubt that he who gives quickly gives twice, but he who gives generously conciliates him to whom he gives, and I implore representatives of the larger colonies to consider whether they will not concede this, which they say is identically the same in result as the power of suggestion,

Mr. HIGGINS:
Who said that?

Mr. SYMON:
I really must ask the hon. member not to interrupt. He is a past master in the art of interjection. I ask hon. members to reconsider the point, and say whether they may not generously concede this in order to disarm any possible irritation which may exist in these no doubt smaller colonies, but smaller colonies whom you desire to see with you in this Federation. The only other word I should like to say about it is this: that when you have adopted the system to which the Convention is very generally agreed, that the members of the Senate should be elected upon a broad suffrage-on the same suffrage as the Lower House -why are you not to trust the people? They are equally the people who send these gentlemen to the Senate, and the only difference is that, instead of having unequal representation, you have equal representation, because of the essential necessities of Federal Government. The Senate is established for the purpose of having the States represented, and as a check in that way, but for no other reason. Therefore it does seem to me that, having that representation on the basis of popular suffrage as wide as you can possibly have it, every argument is cut from under you in resisting this claim which we put forward. Take the case of the Upper House in this colony. There has been an agitation for a broader suffrage to be granted for that House, and possibly it may come to pass that the Upper House in this colony, and it may be in some of the other colonies, may be elected upon the same franchise as the Lower House. Do you mean to tell me that when that time arrives the Upper House in this or any other colony will not claim to interfere a good deal more than it has done already, that it will not claim to represent the people just as much as
the Lower House? If you say to the men in the Upper House "You do not represent the people; you have no right to take up this or that position," they will reply, "We do represent the people as much as you do." When that time comes—when in this or any other colony you have the two Houses elected on the same franchise—you will have practically Houses of co-ordinate powers.

Mr. ISAACS:

Their constituents, then, will give all the money.

Mr. SYMON:

It does not seem to me to depend upon money at all. I appeal to my hon. friend, who is a Liberal, or, to use an expression of the hon. member Mr. Douglas, a "true blue," to say how he would like the principle of representation according to money to be applied anywhere else. The difference between the Houses is that one represents the whole of the people as one nation, while the other represents them in sections. There are many other considerations which from the point of view of the less populous States it is important should be borne in mind. Many of them have been referred to already. It is the very essence of Federation that we should have a strong and powerful Senate. We have been told during the debate that this is the time for plain language, and I say that we should have a powerful Senate possessed of a will and having the means to exercise and enforce it, sitting as one of the most invulnerable parts of the State in relation to money. I feel satisfied that the hon. member Mr. Holder has given expression to the great bulk of the feeling as it exists in our colony. I am not going to say what the result will be eventually. We ought to have this Bill framed in a fashion which each of us, quite irrespective of election pledges, thinks to be fair and just, and if this power of amendment is substantially the same in result and effect as the so-called compromise in the Bill of 1891 I do ask the representatives of the larger colonies to give it to us, and to give it graciously. We will thank them for their considerations. We will think it is a right, but still we will feel that they have met us fairly. Whether or no I should be very sorry to think for myself or on behalf of those in this country that we should declare that the cause of Federation was to be imperilled thereby. We shall have other opportunities. We shall have the Bill before the Parliaments and before the people before it reaches us again. When it reaches us again we shall be able to reconsider the matter and the views of the people. We shall have the views of the people in the most effectual shape, and if any of my hon. friends find that they are hampered by what they consider their pledges they will be in the position
which I may call-to use a legal phrase-a locus penitentiae. When the Bill comes before us we shall have ascertained the views of the people by the debates in the various Parliaments and by the discussions which will have taken place in the press and amongst the people throughout the length and breadth of the country. We shall then have material for rubbing off all of the angularities of the scheme, and for making it as perfect an instrument of Federation as we possibly can, and one upon which my honest belief is we shall be able to federate not merely by means of a majority vote, but upon the unanimous vote of the people of the country.

Mr. LEAKE:

If the rejection of this amendment should lead to the wrecking of Federation, it is certainly to be regretted. Equally so should we regret the fact that Sir George Turner would feel obliged to return to Victoria and inform his constituents that Federation was an impossibility. To go to that extent you must say that this clause affirms a principle which is necessarily vital to Federation. Should he go to that extent, I for one should join issue with him, and affirm, or strive to affirm, that there is no more than a question of detail involved, and not one real and honest federal principle. If it is a question of federal principle you must place it in the same category with those principles which section 50 affirms; for instance, defence, freetrade, and Customs. These, I am prepared to admit, are principles which must precede Federation, and we may fairly regard each as a sine qua non, but that does not apply to the question before the House. Whether the consideration of this amendment involves a question of democracy or conservatism I am not for the moment concerned to inquire, but I ask myself whether or not it is fair and just. If we can happily agree upon several principles, few perhaps in number, but principles which must precede Federation, principles which we can all adopt, it will be to the greatest possible advantage, for thereby we might get the thin end of the federal wedge into Australian thought and trust to time and circumstances driving it home. Therefore, if by chance we can agree to a few principles, no matter how few, on which it is possible to federate three or four colonies may come in and ultimately be able to induce the neighboring States to follow suit. In my view we should guard against following too slavishly the practice rather than the principles of responsible government. All legislative power, I submit, including financial legislation, is vested in the Parliament, whether it consists of one Chamber or of two, but as a matter of fact I think members will agree that in practice it has been found convenient to allow certain powers to be acquired by one House, and by degrees that one House has alone voiced the opinion of Parliament. I agree with my friend Mr. Wise when he says that the alarm of either side with
regard to this great question is more or less unfounded, but the alarm, at any rate, may be avoided, and I think we can avoid it if we regard principles rather than details. Difficulties, no doubt, have arisen between legislative bodies under responsible government, and those difficulties it is our duty to avoid. We, who are in favor of the clause, have argued that by granting the Senate co-ordinate powers with the House of Representatives we will minimise the possibility of difficulties, because, we say, clothed with these powers, we will find the Senate co-equal in dignity, and co-equal in popularity and administrative force. It is our ambition to make that Senate as firm and as popular an administrative body as possible. It does not, however, follow that, because there are certain inherent powers in the Senate, those powers will always be called into play, but they are useful as a controlling influence. I submit that with that co-equal power, and the knowledge that the other Chamber must possess of that fact, there will be less chance of friction and trouble, or even deadlocks. It is the fact of unequal power which has led to trouble, and this unequal power has led to the creation of a dominant force in the Lower Houses, which regard most jealously anything which they may consider encroachments on their rights. Those who oppose the clause argue that it is an element of importance that the finances should be dealt with by the Lower House alone, and shall not be interfered with in detail by the Upper House, and we find that the Senate, as an Upper House, is proposed to be placed in that relation. After all, if we regard the political history of Australia, how seldom is it that these difficult questions have arisen? When they have arisen invariably the good sense of the people has come to the assistance of the legislators to enable them to settle the difficulty. It is very easy, no doubt, to give extreme illustrations of the application of these principles, and my friend Mr. Deakin has ably argued and suggested as an illustration possibilities of difficulties under the tariff law, but we may also argue from my point of view that in regard to that very tariff, if something distasteful to the people were put in in the enactments of the Bill, it would be unjust to prevent representatives of a State from raising possibly valid and good objections to such enactments. It is impossible for us to say which House, if we pass the clause as it stands, may become the dominant factor in the government of the country. I am inclined to leave it to circumstances-political circumstances or evolution, if you like-to determine which of these two Houses will be the more powerful. Ultimately it must come to this: one House must be stronger than the other. We cannot shut our eyes to this fact. One House or other must be the stronger. If developments happen and cause one section of Parliament to be
stronger than the other, we should not object so long as we all through maintain the dignity and force of Parliament—the Parliament acting as a whole. We have heard, and it has been interesting to myself, at any rate, to listen to the inferences and deductions which have been drawn from existing Constitutions. References have frequently been made to the constitutions of the United States, Switzerland, and other places, but I am happy to think there has not been a great desire to follow one or other of those constitutions. My own view of it is that these constitutions should be regarded in the light of directory propositions, and not necessarily to be followed as precedents, but we should, if possible, cull from those constitutions the principles which apply to our own circumstances. I have thought it right to speak on this question, because I think it of great and paramount importance. It is of paramount importance from my point of view, for the reasons I have stated. I think we should have a Senate clothed with equal power, and equal rights, and equal dignity, and, with that in view I intend to vote against the amendment.

Mr. TRENWITH:

The strongest argument that has been produced in favor of the amendment was presented by the hon. member for South Australia, Mr. Symon, and the fact that a gentleman who has undoubted ability and is recognised as an able controversialist and advocate could make no better case than he did, proved that the side on which he argued was the wrong side. He commenced by declaring that there was a danger of Federation being wrecked if the larger States were not prepared to make concessions, and make them gracefully, and he concluded by saying that the concession that we are asking for was altogether unimportant

Mr. HOWE:

He said nothing of the sort.

Mr. TRENWITH:

And that the effect would be exactly the same, whether the power of amendment or suggestion were conceded.

Mr. GLYNN:

Hear, hear. He did say that.

Mr. TRENWITH:

I ventured to suggest that it would throw the responsibility upon a different House. He even contested that, and he said it might be that the responsibility of suggestion might rest upon the same Chamber. He further deprecated the language of my hon. friend Mr. Deakin when he referred to the necessity for appealing to the people of the larger States in endeavoring to frame a Constitution that would meet with their approval, and near the
end of his own speech he implored the larger States to make concessions that would meet with the views of the people of the smaller States. Now, if it is only a difference between tweedledum and tweedledee that we are asked to make, there is at any rate a very vast difference between the number of persons who are asking. As has been pointed out, in the less populous States there is something less than three-quarters of a million of people.

Mr. GORDON:

We have heard that forty times.

Mr. TRENWITH:

That is true, and we cannot hear it too often. In the more populous States the people are nearly two and a half millions.

Sir JOHN FORREST:

We shall soon catch you up.

I shall be only too glad when Sir John Forrest's colony catches up to the most populous State, but we must deal with things not as they are in the imagination of my hon. friend but as they are in fact. If we legislate for anything it is for the interests of the people. Clearly if any persons in this controversy have the right to ask that the concession should be made gracefully they are those who represent the two and a half millions of people. They may, without incurring the charge of selfishness or unreasonableness, ask that the people who represent the smaller number may gracefully make this concession. But my hon. friend Mr. Symon in his argument, towards the close of it, gives a different reason why this concession should be asked for the Senate: because it represents the people in the same degree as the House of Representatives. He clearly could not have meant that, because the basis of representation is altogether different. In the one House the representation of the people is in proportion to the number of people represented; that is to say, a vote in the House of Representatives represents exactly as many persons, or as nearly as may be, as any other vote, but in the Senate a vote in one instance may represent one individual, and in another instance it may represent ten individuals, that is to say, in the States House ten persons in one of the States can have as much political power as one person in any one of the States. How, then, can it be said that they are both the people's Houses in exactly the same degree. Why should we refuse to trust the smaller States? If there is a danger that the smaller States will overpower in legislative matters the larger States through their representatives in the Senate, is there not the same like likelihood that the larger States may overpower the smaller ones in their representative House. Let us apply the argument both ways, as Mr. Symon very properly says.
It is true that possibly the larger States might, in a House of equal representation, overpower the smaller States and seriously injure their interests. That is conceded if proportionate representation were the only basis of legislation. Then if that be conceded the argument must work both ways, but with the representation that we have it is possible that the smaller, States, smaller numerically and immensely smaller, might overpower the larger States. If it is wrong in one instance it is wrong in the other, but there is this great difference: that if the smaller States secure such legislative power under the machinery which is created that they can subjugate the larger States it means that a few people in the conservation and maintenance of their own interests can prejudice the interests of a very large number of people. If we are to select between the two it is better that the interests of the larger number should be conserved than those of the smaller number. According to the well known political axiom, it should be the greatest good for the greatest number. If either of these two possibilities were to occur it would be a lesser evil, having in view all the people for whom we are legislating, that the smaller States should be dominated by the large than that the larger States should be dominated by the smaller. In the last two speeches that we heard there was an amount of candor that had not characterised the discussion on this question before. Mr. Symon said that the States House must have power sufficient to command obedience, and Mr. Leake said that the Second Chamber may be the more powerful Chamber. Now, I ask hon. members' consideration of these two propositions. The Second Chamber must be so powerful as to command obedience, and the Constitution must be such that the States House may be the more powerful. I ask if that is what the representatives of the smaller States mean?

Dr. COCKBURN:

No.

Mr. CLARKE:

No one said that,

Mr. HOLDER:

Mr. Symon said that Mr. Deakin said it.

Mr. TRENWITH:

And Mr. Clarke said something like it. I am glad, however, to hear hon. members say that that is not what they mean, because if they did, and they were endeavoring to frame the Constitution to that end, I would have no hesitation in saying that they were not showing the federal spirit. They say that is not what they want, and if it can be shown that the powers they seek
will produce that result then it produces a result they do not desire, and they should be prepared to make such alterations as will remove that power. Then if the Second Chamber, which may by a majority in it represent a minority of the people of the entire Commonwealth, has power to initiate or to materially alter Taxation Bills-

Mr. DOBSON:
It has no power to initiate.

Mr. TRENWITH:
If it has those powers it will have the power of controlling legislation. Mr. Symon said if it could be shown that the powers proposed to be given were in any way subversive of responsible government he would be prepared to depart from his position. Responsible government must mean responsibility to some person, and if it is to be responsible in the proper sense it must be responsible to all the people as nearly as may be. The closest approach to responsibility to all the people that we can hope to obtain is responsibility to a majority of the people. Clearly any person who is in accord with the genius of our Constitution - that the people must govern themselves-will admit that responsible government to be properly responsible must be responsible to a majority of the people. As the two Houses for which we are providing are representative of the people in different degrees, responsible government to be properly effective must be responsible to the most directly representative House. The House of Representatives we are providing should go upon the principle of representing the people in proportion to their numbers, although even in that respect we are making a departure in the interests of the smaller States, because we prescribe a minimum of five representatives-

Mr. WALKER:
Hear, hear.

Mr. TRENWITH:
Without regard to the number of States, and thus two of the States that we contemplate may come into this Federation will have representation in the House of Representatives altogether out of proportion to their population. In addition to that they will have representation in the States House without any regard to their population. Let us assume that the Government responsible for the carrying on of the nation, having a substantial majority in the people's House, and consequently properly exercising authority, proposes a Taxation Bill which provides for a necessary expenditure of, say, two millions of money. Supposing the States House, exercising the right which it is proposed here to give it, undertakes to amend, it may reduce, but not increase, the taxation of the people.
Supposing it reduces the two million pounds of revenue to one million, clearly the Government that requires two millions for carrying on the business of the Commonwealth would be rendered incapable of doing so.

Mr. DOBSON:
Give us credit for common sense.

Mr. MCMILLAN:
Are you referring to loan money?

Mr. TRENWITH:
I am referring to taxation.

Sir JOHN FORREST:
You must give us credit for reasonable conduct.

Mr. TRENWITH:
If that hon. member is prepared to give everybody credit for reasonable conduct he does away with all cause for equal representation in the Senate. It is because we thought that the majority may be unreasonable that we have provided for that equal representation in the Upper House.

Mr. MCMILLAN:
You allow the Senate to reject altogether the Bill providing for £2,000,000 taxation.

Mr. TRENWITH:
That is so; but you would allow them to take the responsibility in a modified manner by passing the Bill with an amendment. They take a much greater responsibility by rejecting it altogether. But the effect so far as the work of the Commonwealth is concerned, even if they elect to exercise their power to only half that possible extent, will be to make the Government responsible to the Senate instead of to the people's House.

Mr. MCMILLAN:
Will not that apply to any Bill that is altered in the Senate materially?

Mr. TRENWITH:
There is this very great difference—that legislation with reference to money is always urgent, whilst legislation with reference to other questions, though always important—because legislation ought not to be introduced that is not important—is not always urgent, and there may be time to wait to educate public opinion in reference to matters of legislation, apart from questions of taxation when there is not that time in connection with the urgent necessities of carrying on the machinery of the government for the whole Commonwealth. Then I think I have shown in some measure that these proposals are subversive of responsible government. Now it has been urged as a reason by Mr. Symon—

Mr. MCMILLAN:
Would the hon. member answer one question: Would not the same state
of affairs result exactly under the system of suggestion?

Mr. TRENWITH:

I think not, and I do not approve of suggestion. Although I am willing to accept suggestion as a compromise, it is a very distinct departure from what I conceive to be sound principles of responsible government.

Mr. O'CONNOR:

That was an essential part of the compromise of 1891.

Mr. TRENWITH:

There is a very marked difference between suggestion and amendment. A suggestion which might or might not be accepted by the people's House would be made with careful consideration and accompanied by the fullest and weightiest possible reasons. If after such suggestion has been made the representatives of the people as people still felt the reasons were not sufficiently weighty, they would send the Bill back for passage by the Second Chamber without adopting the amendments suggested. Then the responsibility would rest for rejecting the whole Bill, because of the failure to accept these amendments, upon the States Assembly and they would be justified in rejecting it only under the gravest possible circumstances-only in fact if it appeared to them very evident that State rights were being menaced, and that the object for which they were constituted was being threatened. But even then there would not be the danger of materially and banefully altering legislation that there would be if you give them the power of amendment. However, if my hon. friend thinks that suggestion will have the same result as amendment I say that in view of the feeling that has grown up around the British Constitution everywhere, if there is no difference in result it would be wise to adopt the compromise we are in favor of. If, as has been said, it is a case of tweedledum and tweedledee then I say in in the interests of the Federation-and we all know there is a strong prejudice in the minds of British people everywhere in favor of this phrase-that the people's House must have control of the people's purse. Mr. Symon argued that we should concede this point because of the peculiar franchise of this Second chamber, and he said:

What one of your Upper Houses, if you made their franchise exactly the same as that of the Lower Houses, would not demand very much greater powers than they now possess?

The answer to that is that with their present franchise they are continually demanding greater powers, and, however elected or constituted, they will continually ask for greater powers. The question we have to consider is not whether they would ask if it were a fair and proper thing that any increased power should be given. Now, it is a right, Mr. Symon contends, that the
Senate should have the power to command obedience. If that is contended, and it is contended in this open way, it is a right I for one would never dream of conceding, and that the people of this continent will never dream of conceding, to give a small minority of the people the power of compelling the enforcement of legislation of a character to which a large majority objected. That is a right that never should be conceded in a democratically-governed community. What powers are essential for the protection of the States are suggested very clearly by Mr. Symon in his concluding remarks? That is the question we have to consider. What power is essential to protect the interests of the peoples of the respective States? I think the hon. member Mr. Isaacs put that matter in the very best language in which it could be clothed when he said that you are asking for a shield and you are demanding a sword.

Sir JOHN DOWNER:

We are

Mr. TRENWITH:

That language has been criticised during this debate, and it is contended that it is not applicable to the situation. What is the position? The smaller States declare that there is a danger of their being overpowered by numbers in the larger States, and thus they want a shield to protect them from that danger. If they have a sufficient shield to protect them from that danger they have all they can reasonably ask, for we have the right to believe, in the language of my hon. friend, that the persons elected under this Commonwealth will be largely reasonable men, and so there will be no necessity for the use of a shield. Men in the representative House will proceed to work on reasonable lines, and if there should be a momentary fit of unreasonableness on the part of those entrusted with the duty of looking after the State's interests all that can be asked for in that instance is a sufficiently effective shield to prevent any excessive action on the part of the minority. They want in addition to a shield a Maxim gun. They want something with which they could bombard the other fellow. If the power to amend Money Bills is given we will have great difficulty in securing Federation within any reasonable period, because people who must be the ultimate arbiters in this question will not adopt such Federation. My hon. friend Mr. Symon said we had no right to consider the opinions of, he would not say ignorant people, but uninformed people.

Mr. SYMON:

I did not say we had no right to consider them.

Mr. TRENWITH:

I understood the hon. member to say that our duty was not to consider the
opinions, he would not say, of ignorant, but uninformed, people, but that our duty was to frame a Constitution based upon our own opinions.

Mr. SYMON:
Hear, hear.

Mr. TRENWITH:
Then I take it that the hon. member wishes it to become our duty that after we have formed the Constitution we are to educate the people subsequently. That sounds very noble, but the fact is that the people are forming their opinion as this debate goes on, and it will be a very difficult thing indeed to alter their opinions. Therefore, even if we think it is not the most scientifically correct plan, we have a right to adopt whatever can be adopted without danger and with a considerable view to studying the opinions of the people to whom this Constitution must subsequently be submitted. But the hon. member proved that he did not believe in the argument he first urged by, in his concluding remarks, appealing to us, the representatives of the larger States, not to force upon the Convention a Constitution which would not be accepted by the people—the uninformed people of the smaller States. What I desire to urge is that the Constitution should be just. If it gives an undue power to any section it is unjust, and the proposal to give a possible minority power to tax the majority would be unjust.

Mr. HOLDER:
They cannot do it.

Mr. TRENWITH:
Mr. Holder says they cannot do it. I have no hesitation in saying they can under the proposal in this Bill. They can amend, they can reduce, or they can render insufficient any taxation proposal. They can render insufficient the return from any scheme proposed. Supposing it is proposed to make up an amount of £2,000,000 by Customs duties, they can reduce it to £1,000,000, and so render it necessary to introduce another Bill in order to carry on the government of the country. Therefore they can by their power of reduction practically initiate by compelling some other form of taxation. That would be unjust to the majority of the people. Mr. Holder put it very forcibly from his point of view:

What is the use of giving us a House with equal representation of the States if you tie both of its hands behind its back?

I respectfully submit that the House so constituted has no use with the hands or anything else except for resistance, and if it is able to resist undue aggression with its hands tied behind its back it will be a good thing to so tie its hands. The question we have to consider is whether the States will be powerful enough to defend their interests in the Senate if they have equal
representation with the power to amend or in any way alter Money Bills. If that be so, that is a sufficient answer for refusing to give more power. If more power is given to them, we have it on the authority of those best able to speak, that all the Premiers, or nearly all of them, at the 1891 Conference declared that if the power to amend Money Bills were conceded there would be no hope of Federation. It is six years since then, and there may be a very material alteration, and therefore the declaration of the Premiers at that time would not be a material argument now, but we have to-day exactly the same thing.

Mr. HOLDER:

But a different sort of Senate now.

Mr. TRENWITH:

It is a different Senate, but its functions are the same. The right for its existence in the form provided is that it must be strong enough to resist aggression, and there is no other claim for equal representation of the States in the Senate. If it is aggressive, initiatory, and amending it has a right to proportional representation; but if it is in the danger of aggression it should be strong enough to resist it and no stronger, and anyone who seeks to make it stronger is not seeking to advance the cause of Federation, but only desiring to make a good bargain for his colony.

Sir JOHN FORREST:

I am only seeking that which I am entitled to.

Mr. TRENWITH:

If that is so he is entitled to the most perfect protection from aggression at the hands of the larger States, and if he wants more he wants the power to be aggressive towards the larger ones. If it is unjust that the larger States should have the power of treating him unfairly it is equally unjust that the smaller ones should have the power to treat the larger unfairly. This must be so if we are to produce a Constitution that will be effective in securing that which we are sent here to secure - that is the unification of the colonies for certain purposes. I use the word "unification" because we have been charged with securing unification under the Constitution we are proposing. Federation, if it is anything, is unification within certain limits, and the more complete that unification is within the prescribed limits the more effective will be Federation. If members desire Confederation, a combination in connection with which the respective States can withdraw at will, then they are going the best way of getting it by demanding the power they do in connection with this clause, and that is the power to accept whatever is agreeable, and to reject whatever is disagreeable,
without regard to the number of people in the various States. If that is what
is desired, our labors are being wasted. I implore the representatives of the
smaller States not to further consider how best they can bargain for the
people they represent, but to give attention to how best they can obtain
Federation which is fair and equitable, and sufficiently strong to shield
every State at the hands of the majority. If they do that our labors will do
us credit, and secure the object for which we were sent here, and will
conduce to the well-being of the entire people of Australia.

Mr. DOBSON:

As I was not a member of the Constitutional Committee, I would like to
give my reasons as shortly as possible, consistent with explicitness, why I
think the amendment before the Committee should be rejected. It seems to
me that the clause as it stands should remain part of the Bill, it being
required as a matter of simple justice, and not least as an essential part of
the Bill, in order to make it a consistent and well-framed Constitution. We
have had it said, more than once, I think, that our friends from Western
Australia were not elected by the people, but I hope, sir, we have heard that
objection stated for the last time, and I believe that during the next few
weeks Sir John Forrest and his colleagues will have been returned at the
genral election, and that the people of Western Australia will then have
endorsed the action of the Parliament in sending them here, and then we
shall have the whole Australian people fully represented at this Convention
by their own act. The first remark I wish to make is that our democratic
friends are shrinking from the very democratic principle they assert,
namely, that the people must govern. The people have

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sent us here as fifty agents to frame a Bill for them, and the first time we
attempt to do so the representatives are expressing their fears as to what the
people may do to them when they get back. There are five different points
which have been either altogether overlooked or not sufficiently taken into
account, and my first point is this: that, while we each represent our own
colony, we have a higher duty, and it is that we represent the people of
Australia as a whole, and have to frame the Constitution for them and them
alone. My second point is that honorable members have regarded what this
Convention is doing as the last and final act in framing the Constitution. It
is exactly the contrary. This is only the initial step, and others have to take
place which they have entirely ignored. This point has struck me because
of the remarks of hon. members, so let us look at the sentences they have
uttered at the initial stage of our work. Mr. O'Connor said: No extension of
the powers of the Senate beyond the Bill of 1891, can be expected from the
people of New South Wales." How can the hon. member speak for his
colony? The discussions in this Convention, and the provisions of the Bill we frame will be published by every paper in Australia, and they will be criticised by people all over Australia: then they will be considered by twelve Houses of Legislature, and the representatives here will point out to those Houses what points they agreed with and what they disagreed with, and the Parliaments will support or reject the principles of the Bill as they are supporters of Radicalism, Liberalism, or Conservatism. Then at the second meeting of the Convention will be the time for compromise and for considering the criticisms we have heard and putting the final touches to the Bill, so that it will represent the true convictions of the people of this continent. Therefore I was astonished when I heard Mr. Reid say that the attempt to provide that the Senate should play "an active part in finance would be disastrous." He said also he would give us a strong Senate, and yet he said if its activity interfered with finance it would end in disastrous consequences. Sometimes I have great difficulty in finding out what the hon. gentleman does mean. When I think he is coming down on my side of the fence, and I open my arms to receive him, he pops down on the other side. At other times he resorts to such an adroit straddle that I do not know what he means. If Mr. Barton and Mr. O'Connor intend to follow their Premier in this view I say emphatically but most deferentially I cannot follow them. We want a Senate and must have a Senate which will take an "active part" in the financial operations of this Commonwealth, but the real control will still rest with the people's House-although the Senate is also the people's House-with the Lower House. Then Sir George Turner astonished me by saying "that the people of Victoria would not accept the clause as it stands, and if it was carried Federation would be impracticable." What right has any member of this Convention to use such emphatic and, with all humility I say it, such exaggerated language as that at a time when we are framing a Constitution which has to go forth for public criticism?

Mr. ISAACS:
Why should he not use it if he believes it?

Mr. DOBSON:
He should not use such emphatic language, because the very Act under which we are here is an Enabling Act in order that a Constitution may be framed, and this is only the first stage of the proceeding. The gentlemen opposite twit us with not wanting discussion. We are governed by discussion, and we are to frame a Constitution by discussion, and yet they say their people will not take the Constitution if we do not do a certain thing, and that discussion on the point is useless. The very Bill under which we sit here enables the people to speak directly through the press, in
meeting assembled, and in the Parliaments. Therefore I submit, with all deference, no mem-
ber has a right to speak for the people now. If we have to frame a Bill by discussion and take the people into our confidence, and ample time is to be given them to consider it in every possible way, why cannot we withhold our judgment of what their verdict will be. They are our masters, and we are anticipating the people's decision in this matter, and we have no right to do it. Then one gentleman, I think it was Mr. Wise, told us-'That, because the people of Victoria had been troubled by a dispute between the two Houses, they had such a prejudice against an Upper Chamber having any but the mildest power, that they could not accept even a fair and equitable proposal on this point." Are we to give way to Victoria, Tasmania, or any one colony? We are to frame a Bill in the best possible way, so that as few holes as possible may be picked in it. We have three examples before us—America, Germany, and Switzerland—and every one has the power we are contending for.

Mr. DEAKIN:
Not one has responsible government.

Mr. DOBSON:
The first step we take in building the Federal edifice, the Victorian architects Say-"If you do not construct your foundation on our model the house will tumble about your ears." Then New South Wales joins in and says-The federal foundation must be built according to the plans of our architects."

Mr. GORDON:
Except Mr. McMillan.

Mr. DOBSON:
Yes. Every colony has a right to have something to say as to how the Federal house shall be built. Hon. members must not forget the enormous concession which is the effect of the compromise we have made in allowing the Senate to be elected upon manhood suffrage in each colony as one electorate. We have made the greatest concession in the whole Bill. Put all the concessions together which have been given by the democrats and they do not amount to the concession we have given them in allowing the Senate to be elected on manhood suffrage. Most of the speakers compare the Senate with an Upper House. Is that not a mistake, a false analogy, which will make us very bad builders of our scheme? With all deference, I submit it is. We ought to recollect that the Senate is not similar to the Upper House. It should be a stronger body, and it must, be a stronger body, because it is to be based upon the will of the people, and is also the
protector of States rights. Then hon. members again seem to have taken it for granted that we are going on for all time with just exactly the same phase of responsible government with which we are carrying on our administration at present. I believe in no such thing. I believe most emphatically in what Sir Richard Baker said in the opening debate of our Convention, that very likely responsible government, if carried out as our democratic friends wish to carry it out, will mar the Federal Government and detract from its dignity and usefulness. As to the quotation which Mr. O'Connor gave on this point from Sir Samuel Griffith, I think it is overruled by what Sir Samuel Griffith said five years later. I will read the whole paragraph, because I think it bears upon an important point, and because the members who support this amendment seem to think that the present form of responsible government, without any development, without any evolution, and without any adaptation to meet the federal needs, will go on for generations. I do not think it will. Sir Samuel Griffith said:

What would be in practice the relation of the two Houses of the Federal Legislature to one another and to the Ministers of State? And how would the system of what is called responsible government work under such a Constitution? Would each House insist upon exercising its powers of veto, in order to compel the retirement or dismissal of Ministers of whom it did not approve? These are interesting questions, which can only be answered by experience. But I think it is safe to predict that the British genius for government will find a practical modus vivendi; and it should not be forgotten that under any form of Constitution except a despotism there must be checks and counter-checks, and that the working of the machinery might at any time be brought to a stop if any one of the several authorities were to insist on exercising its utmost rights. My own opinion is that the practical result would be that it would come to be recognised that the Federal Government must command the general confidence of both Houses of the Legislature, and that less importance would be attached to defeats on minor matters in either House.

That is the opinion of Sir Samuel Griffith. I have quoted it before, and I quote it again, because every single member who supports this amendment ignores it. What happened in the French Senate two years ago? They passed a resolution which I can well imagine the Senate of Australia would pass if democracy were to run mad and run riot, as some think it will:—"That this Chamber is prepared to consider a certain Bill when it is sent up by Ministers in whom it has confidence," and the Premier of the Chamber of Deputies sent in his resignation and the Upper House in France
absolutely then dominated the politics of the country, not by virtue of any powers to amend Money Bills, but simply because they said to the people's Chamber-"When you have Ministers in whom we have confidence we will consider your legislation, take it back until you appoint Ministers whom we can respect and admire."

Mr. DEAKIN:
That is what you want here.

Mr. DOBSON:
No. I am talking about responsible government which is, I think, not adapted to our Federal Government. Mr. Deakin, and others with him, have such deep-rooted belief in responsible government that they will not consider any other form of government. I believe we shall see another form of government, and one better adapted to our Federal Constitution. I have shown hon. members that there is a possibility of the Senate insisting upon having the right men to govern the country without any reference to Money Bills at all. Then surely that is a very strong argument to show that Sir Samuel Griffith was right, and that we shall soon get out of this rut of responsible government, with its many blots and defects, which, I must say, I cannot admire. Passing to my fifth point, I would like to ask the hon. members Messrs. Trenwith, Deakin, and Isaacs if they desire that the will of the people shall prevail subject to reasonable control by the Senate?

Sir GRAHAM BERRY:
We want what is reasonable.

Mr. DOBSON:
This clause as it stands is reasonable. I am giving my opinions now, and, though I may appear to be dogmatic, no man is more humble than I am, because I am simply appalled by the magnitude of the work we are doing, and I fear lest by some blunder, we may render the work not acceptable to the people. I am willing to modify my views on this question if it can be shown that I am constitutionally wrong. Members who support the amendment have altogether forgotten the enormous power which is given to the House which has the sole right to initiate financial measures. It means that while the Senate are powerless in such matters, the members in the Lower House can alone decide what policy they will introduce, and what tax they will put on if they want taxation over and above the Customs. They can decide whether they shall have a land tax, an income tax, or a poll tax, a progressive tax, or a uniform tax. What can the Senate do? It can never do anything of that sort. It can reject a taxing Bill, as you all admit, but cannot even amend. Supposing a Bill comes to the Senate from the Lower House proposing a progressive, land tax, which if it were carried would drive squatters out of the country so soon as they could get
away, and supposing that tax was so unfair as to take money out of a man's 
pocket simply because he had it, and the exemptions were so high as to 
leave out many men who could well afford to pay something, though the 
Senate might approve of a progressive tax if the steps of graduation were 
moderate, and if the higher grades were cut down, and though it 
might approve of exemptions if they were somewhat lower, yet they must 
not touch a line of the Bill. In a Federal Government, with State rights to 
protect, is it wise to compel the Senate to put the whole of a Bill into the 
waste paper basket when they might send it back to the Lower House if 
they could only amend it? Hon. members are inviting collision between the 
Houses when they say that the Senate shall not have this power. Now, let 
us come to the question of a Customs Bill. I consider the uniform tariff 
should be part of our Constitution. It is revenue which is to bring in about 
£7,000,000 per annum. It is the revenue which is to pay the cost of 
Customs houses, posts and telegraphs, and defences, and it is to pay, 
practically, the interest on the whole of the public debts of Australia; but as 
we cannot tell our merchants and traders the exact amount of duty which is 
to be charged on goods, the rates cannot be placed as a schedule in the Bill. 
Then our democratic friends say that, even in the Customs Bill, with its 
300 items, the Senate should not have power to reduce, or alter, or strike 
out one single item. Such a state of affairs, to my mind, is making a 
Constitution inconsistent with itself, doing a gross injustice to the people, 
leaving our work absolutely ill-done and open to criticism that is utterly 
unanswerable, and I hope we shall never frame a Constitution of that kind. 
Two hon. members have supposed that the mandate of the people-Mr. 
Deakin's phrase- will require Ministers to bring in a protective tariff. The 
m mandate of the people, I take it, will have nothing to do with the matter. 
The Governor-General will call to his Council six or seven gentlemen 
whom he thinks capable of being the first Ministers in the Commonwealth. 
He will certainly not choose all protectionists or all freetraders, but strong, 
capable, and able politicians, representative of the views of all classes of 
the community, and there will be no mandate of the people about it. Those 
men will have to sit down to frame a tariff to give the States all the revenue 
they require, and more or less protective, according to the views of the first 
Parliament. But our friends from Victoria desire that the Lower House-
dominated perhaps by the labor party or the protectionists-should send up a 
thoroughly protective tariff to the Senate, and that the Senate should not 
have power to alter one line of it. Is it fair, is it just? Is it in accordance 
with constitutional practice in dealing with a Federal, as distinguished from 
a Provincial, Government? It is not. All the authorities are upon our side of
the question. We all know perfectly well that it will be a very great question to one or two colonies whether they can afford to enter the Federal Government. If the expenses of that Government will cost Tasmania £18,000 a year, besides loss of revenue, it will be a very grave question with her, even if she is most anxious to enter the Federation, whether she can afford to do so. But the democrats from Victoria and the protectionists from New South Wales may join together in the first Federal Government, if they can manage to get into it, and send up a protective tariff, in which they choose for the purposes of taxation several items of which their colonies' consumption is great and that of Tasmania but small, and so adjust the tariff as to lose to Tasmania £5,000 a year. That is not an exaggerated case. In many cases one country uses more of certain articles than another country. For instance, Tasmanians perhaps drink more tea than do Victorians, and Victorians more beer than Tasmanians. The Tasmanian people may absolutely lose £3,000, or £4,000, or £5,000, or £6,000 a year because you have omitted from your list of items protected certain items required to give that State the same revenue as it has now. Under these circumstances is the Senate to have its hands tied behind its back-to be unable to prevent what may be a financial injustice? Are we to be told that to make a mere suggestion is quite sufficient without having the power to amend? That appears to me to be a lopsided kind of constitutional machine. Supposing we amend one, or even one hundred, items out of the three hundred, when the Bill goes to the House of Representatives they have control of the whole matter; they can put it in the waste paper basket and begin de novo, or accept some of the amendments and then send it back to the Senate, but in the end the people's House will prevail. But the democrats of Victoria want the people's will to prevail without those proper checks and counterchecks which Sir Samuel Griffith says should be prescribed, and every writer on democracy tells us are necessary. It would, I think, be a lamentable business if at the start of our Commonwealth any Ministers got hold of the first portfolios who were determined to engraft any one system on the Commonwealth.

Mr. DEAKIN:
You want this Convention to frame a tariff, then?

Mr. DOBSON:
This Convention cannot frame a tariff.

Mr. DEAKIN:
You want a House constituted in exactly the same way to frame it.

Mr. BARTON:
A duty on boots from No. 6 up.
Mr. DOBSON:
   It is idle to talk about this Convention framing a tariff, but the Senate should have a voice in framing it. Mr. Trenwith used a very apt and simple illustration, but it appears to me to cut absolutely against himself. He said:

   Suppose the Lower House sent up a Taxation Bill asking for two millions of money, and the Senate cut it down to one-half, what would happen?

   This is, to some extent, an anachronism, or else his argument tells against himself. If the Lower House asks for two millions, it is to be presumed they want it; but if the Senate cut it down to one million it is to be supposed there would be a vital struggle between those who want extravagance and those who want to proceed cautiously. Is it in the interests of the people of Australia, after the experience of the boom and the reaction during the last five years, to have a Constitution Bill so framed that the Lower House, backed up by the people, can go in for extravagance unchecked by the Senate? Would it not be wiser to give the Senate power to check this reckless extravagance that has nearly proved disastrous to the colonies once before?

Sir JOSEPH ABBOTT:
   The Senate could reject the Bill.

Mr. DOBSON:
   Yes; but it might approve in the main of the policy of the Lower House if initiate

Mr. GLYNN:
   The hon. gentleman who has just sat down has said that the fixing of the Customs tariff might be one of the chief points of the Constitution. I confess that if I was at all doubtful that the Customs tariff would not be fixed in the Constitution I would never accept Federation. Any Federation we might frame must be sufficiently flexible to allow of an evolution to a better fiscal system, and I am certain there is a body of opinion in South Australia which would be diametrically opposed to Federation if so essential a condition were omitted. I think that Mr. Dobson made too much of the terms "democracy" and "aristocracy," or "oligarchy," or whatever he pleased to term it. He used the word "democracy" in rather too strong a sense in connection with the relation of the Federal Houses of Parliament. It seems to me that the question is not one of democracy as against aristocracy or oligarchy, but one bearing upon the relative powers of the Upper and Lower Houses. In this Bill there is a provision that the suffrage of the Upper House is to be identical with that of the Lower House, that the age of electors is to be the same, and that presumably the sex is to be the same; therefore I cannot see
on what grounds democracy is to find a hold in the House of Representatives, and how aristocracy is to find its buttress against the so-called encroachments of democracy in the Senate. The point we ought to consider is what ought to be the measure of power vested in the Upper House, and at the same time to consider what would be the most acceptable Constitution for the people of these colonies. My hon. friend Mr. Symon pointed out with a considerable degree of truth that it would be inadvisable to stick too closely to election pledges on this point. I may as well say at once that I have not given any, but I did give expression to prima facie opinions on this point as on others. I said on the platform that I would not have my opinions too tightly tied by anything I said there, and that I would await the result of mature opinions and deliberation. I understood that we were to assemble in this Convention to interchange ideas, and by the collation of knowledge help to mould the opinions of some or remove the prejudice of others, ultimately arriving at an inevitable conclusion that would, result in the harmonious working of the whole. I confess I had a prejudice not deeply rooted in favor of giving the Senate this power of amendment, but in connection with the expression of that opinion I distinctly laid down that I would have my right to freedom of choice under the influence of mature judgment. I have come to the conclusion that if we, who represent the smaller colonies, stick too closely to our prejudice in reference to the equal powers of the Senate with the House of Representatives on financial matters, the cause of Federation will be wrecked. I have had the opportunity of listening to what the delegates from New South Wales and Victoria have said, I have read what has passed in the press during the last fortnight or three weeks, and conversation here has strengthened me in this conclusion, which has been emphasised by the speeches made in this House, that if we do not give way within reasonable limits to the demands of the larger colonies upon this point at issue we will not have in the Federation those two colonies which ought to be the heart of it. My duty, then, is that of a representative, and not a delegate; and as a representative I have come to the conclusion that we can, without any loss of dignity, or without surrender of real, as opposed to apparent, interests give way upon this point. Mr. Holder seems to put his finger upon the pulse of South Australia, and to indicate from this diagnosis the fixed opinion of the province on this point. South Australia has offered no opinion, or at all events has reached no decision, on the point up to the present. It has made its choice of representatives presumably on the ground of experience and presumed special training. There are divergences of opinion applicable to the ten members who represent South Australia, but I do say this, that in the Convention of 1891, when the representatives of
South Australia, or of the Parliament of South Australia, came home with the Constitution and offered it for acceptance there was no uproar against the compromise in reference to financial matters. It was never mentioned. When you have silence on a matter and when the Bill is before the House it is taken to indicate consent.

Mr. SOLOMON:

The Bill was never seriously considered.

Mr. GLYNN:

Mr. Solomon says it was not seriously considered. It was considered by Parliament, and would have been pushed forward and made part of the statute law had the other colonies exhibited a similar desire to bring Federation about by that means. As to the opinion of South Australia—and I think it is important that we should give expression to our opinions on this question—I think we are raising what is not an important issue, but nevertheless the issue has been raised, and unless we point out to the public that the matter is not of such significance as some members seem to assume, we may be defeating Federation by raising an empty, but nevertheless dangerous, feeling of antagonism in the public mind. Knowing this would be a comparatively strong basis of argument, and not having mentioned the matter in more than a few sentences before, I have looked up the history of America, and found what really historical precedents we have to guide us. I have come to the conclusion that Bryce and other writers are perfectly right in thinking that the question of State rights is rather an academic than a concrete matter.

Mr. ISAACS:

It caused a civil war.

Mr. GLYNN:

I will come to that in a minute. What really were the principal matters of divergence of opinion or the principal matters which agitated American politics after the establishment of the Union? The first matter was one that all hon. members will agree with me was of academic rather than real operation. It was the matter of State rights as to secession.

The CHAIRMAN:

Does the hon. member think this has any relation to the question before the Committee?

Mr. GLYNN:

I think it has upon the question we are now considering. The trend of the debate has been largely in the direction of the danger of fencing in the Upper House with powers equal with those of the Lower, and which may
give such a power as to enable the smaller States to crush out the larger ones. I shall shortly refer to it. My argument is this: that from the beginning of the operation of Federation in America down even to the present time the system of politics there has not turned upon the question of State rights. The question of secession, I need not more than mention, was one as regards the interpretation of the Constitution. It was not a question of State against State, not, at all events, a point of dispute between the large and the small States. Let me refer to the next question now, and that is the question of the capital, which may rise here.

The CHAIRMAN:

The hon. member will see that the question before the Committee is the power proposed to be given the Senate to amend Money Bills, and has that anything to do with the capital?

Mr. GLYNN:

Well, let me pass to the question of the tariff. I wish to point out that in 1824 the point in dispute in America, the tariff, was not a question between the larger and the smaller States, or more than by an accident, in appearance, between State and State. The Northern States were thickly populated, and had manufactures started, while the slave States were agricultural and pastoral, so that lines of demarcation were strongly drawn on the question of the tariff. Here in Australia there is not likely to be the same difference of State opinion.

Mr. SOLOMON:

What about Victoria?

Mr. GLYNN:

If we enter into Federation we are not likely to have differences of opinion between the smaller and the larger colonies on the question of the tariff. Returning to my argument referring to America, the question of slavery, of course, gave origin to the war, but again I would point out that the fight was not between the smaller and the larger States, but

between the States in which the practice of slavery existed and those in which it did not. On the financial relations between the two Houses might I refer hon. members to an American authority who has recently written, showing that really the antagonism is not between the Senate and the House of Representatives, as the States House and the popular House, but between them as the Senate as the House of supervision, and the House of Representatives as the one which originates. Bryce says:

The House of Representatives has never been the organ of the large States, nor prone to act in their interest, so neither has the Senate been the
standfast of the small States, yet American politics have never turned upon an antagonism between these two sets of Commonwealths. Questions relating to States rights and greater or less extension of the powers of the national Government have played a leading part in the history of the Union. But, although small States might be supposed to be specially zealous for States rights, the tendency to uphold them has been no stronger in the Senate than in the House. In one phase of the slavery struggle the Senate happened to be under the control of the slaveholders, while the House was not; and then, of course, the Senate championed the sovereignty of the States. But this attitude was purely accidental, and disappeared with the transitory cause.

There is another authority on this point, but as I do not wish to overburden myself with quotations from authorities I will pass it by. Mr. Solomon interjected just now about Victoria in regard to the question of the tariff, and I would ask hon. members as they seem to stick to it, what combinations are possible on the question? Is it likely that you will see a combination of South Australia and Victoria, of a larger and smaller, against New South Wales on the question of the tariff? The first two are protectionist, while New South Wales holds to what, in my humble opinion, is the best policy—that of allowing the stream of the life blood of a State to flow as freely as possible. If a Tariff Bill were introduced into the Federal Parliament there would not be a combination of South Australia, Queensland, and Tasmania against Victoria and New South Wales, but Victoria would rather lead the antagonism against New South Wales on the question of freetrade. I think I am entitled to ask whether the real difference on the fiscal question would not be between the cities and the country within the limitation of the Federation, and not between State and State? Agriculture, as represented in the country, might be expected to take one side, and manufactures, as represented in the cities, the other. Then with regard to the question of the rivers would there be a combination of the smaller States against the larger? I think you would rather find Victoria and South Australia engaged in the fight against New South Wales. But really, when you ask yourselves what are the matters that would be likely to arise on the States rights question I look to history for an example. We have heard that the dispute as to the fiscal relations between England and Ireland is one that might arise. but I would point out that the dispute has arisen there under the terms of a contract—the Act of Union—terms similar to which we have absolutely nothing in our proposed Federal Act. The contributions to the general expenditure of Ireland and England were fixed in the relation of 1 to 7 and it was provided that if the indebtedness of the countries should reach the same proportion, there should be an
amalgamation of their exchequers. A consolidated fund was to arise. If you had a federal system there you might point to it as an analogy. Then there are several other matters in relation to England and Ireland from which we might have an example. Until 1864 there was no income tax in Ireland, but there was in England; but this example cannot apply here, because we have a provision that taxation must be uniform. If you go to America and ask yourselves this question-how the Houses behave towards one another on the question if Money Bills? I think we will be driven to the conclusion that there will be very little possibility of deadlocks. They do not stick to the separate lines of power

and action fixed by the constitution at all. It is provided in the American Constitution that the Upper House has the power of initiating expenditure. Bryce tells us that all appropriations of expenditure begin in the Lower House. Again the Senate in the United States has, in practice, the greater power in relation to taxation. They can amend Taxation Bills. Their amendments are invariably negatived by the House of Representatives, and then they are considered by a Committee of both Houses. This Committee makes recommendations to the two Houses, and these are generally acted on. The outcome of that is that the Senate has

Mr. CARRUTHERS:

I have listened to the speeches advocating both sides of this question with a considerable amount of disappointment; not but that they have been eloquent addresses, but that to a large extent those who were in sympathy with the principle I hold are prepared to emasculate their opinions. I take my hon. friend Mr. Deakin, who this afternoon addressed this Convention at very considerable length and with very considerable force and eloquence. That hon. member was of opinion that the powers which our friends from the smaller colonies had conceded to them in the Senate were too large. What does that hon. member propose to do, and with him others who have spoken representing the larger colonies? They propose to give the Senate power to make suggestions as to Money Bills which to my mind are equal to amendments.

Mr. REID:

I was always against it.

Mr. CARRUTHERS:

We have heard from Sir Joseph Abbott (for years Speaker of the New South Wales Assembly), and an authority second to none, that to allow the Senate to make suggestions and forward them by message is equivalent to allowing it to make them in the form of amendments. What is the form of the message from House to House on amendments? The message asks the
concurrence of the other Chamber, and that is simply a suggestion made in one way. An amendment has no force or effect until it receives the concurrence of the other Chamber. Mr. McMillan has well said that the whole thing is a dispute over the choice of words, and that position, to my mind, is absolutely incontestable. I am not surprised at Mr. Glynn recommending the acceptance of this amendment by those who represent the smaller colonies. I should be very sorry to see them reject it. No man has a right to speak as to what his constituents would do, but if I take back the Bill with the 1891 compromise I shall strain every effort to reject that compromise. We have not had any popular expression of feeling in New South Wales, or through the advocacy of its press in favor of the acceptance of the compromise of 1891. I consider that the proposal now made to take away the right, of amendment and leave this right of suggestion is really running away from one's creed. If you want to debar the Senate as representing a minority of the people of Australia from having coordinate powers in regard to taxation and other Bills, you will not do so by depriving it of the right of amendment, and leaving the still larger power of veto and rejection. Mr. O'Connor pretends to support this amendment, because if we do not carry it, the Senate will be allowed the opportunity to frustrate the financial policy of a Government. The Senate can frustrate and destroy the financial policy of the Government so long as it can have an unrestricted power of veto and rejection. We see the financial policy of Government after Government in these colonies frustrated by the exercise of the power of veto and rejection. We have experience of that in our own colony. The strongest power conferred upon any assembly is the power of rejection. The power of amendment is the smallest power, and when you give the larger power with the power of suggestion, you give practically all that is to be given, and we shall have to go back to our constituents with empty hands. I am sorry that there has been so much contention over the use of these words. I want to justify my vote right through as to the question of the powers of the Senate, because I shall change my ground in Committee to that which I took up in the Convention. I then intimated that I was in favor of granting equal representation to all the States, with the proviso: so long as we had secured in some shape or form the ultimate triumph of the will of the people. But I can see in this Bill brought before us, no possible power of the people in case of dispute to rule: that power has been absolutely taken away from the people, and there is no means for the ultimate will of the people becoming law. I retrace my steps and am therefore not prepared to concede this principle of equal representation.
But if you have a properly constituted representation of the people of Australia I do not object to give the Senate the most absolute coordinate powers with the Lower Chamber, for I cannot see any force in the contention that where people derive their authority equally they should have unequal powers. If you constitute a Senate in such a fashion that it will derive equal authority from equal sources, I say let it have equal powers and results. But if you do not constitute it in that way, then I say that there must be some restriction. I should even accept the proposals in this Bill, if, with the fruitful creation of deadlocks, which are sure to ensue, there were some power to settle these deadlocks in accordance with the will of the majority of the people. I listened with great interest to the speech of the hon. member for South Australia, Mr. Symon, and he will excuse me if I take up and still further pursue the analogy that he adduced. I will ask him to place himself in my position, and accept the analogy to its legitimate conclusion. He instances the gradual reform—at least I call it reform—of the Legislative Council in South Australia, and how demands were made for the broadening of the franchise of that House. The hon. gentleman said that undoubtedly, or possibly, there would be still farther demands until we should have the Legislative Council practically elected upon the same franchise and the same suffrage as the Lower House the Legislative Assembly—and if that were so, he said, who would deny to that Chamber equal rights with the Lower Chamber in dealing with questions of finance and taxation? Now, I take the hon. member's analogy. Supposing accompanying that reform there were a proposal that with equal franchise with the same suffrage, the city of Adelaide should return one member and some paltry, petty municipality should return another member.

Mr. HIGGINS:
   That is the point.

Mr. CARRUTHERS:
   Or supposing we had the colony of South Australia divided into three portions—the Northern Territory as one, that arid desert land in the interior, which we have heard so much about, as another, and the fertile land around Adelaide, with all its manufactories and large population, as the third. Perhaps seven-tenths of the population would be in the seaboard constituency, and the other three-tenths in the two northern constituencies combined. Supposing each of these constituencies returned one member, would the hon. member be prepared to say they were returned on equal suffrage and that the representation was equal.

Mr. SYMON:
   You could not have such a case.
Mr. CARRUTHERS:
But it is actually proposed to have it in regard to Federated Australia.

Mr. SYMON:
Not at all.

Mr. CARRUTHERS:
What is too monstrous to consider for one moment in regard to South Australia is not at all monstrous when you come to apply it to Australia, with its State boundaries created by accidents, when you have a parallel of latitude or longitude—about which, too, there may be some doubt—when you have a physical feature of the country, such as a mountain chain or a river as the boundary of States. You propose to take the States according to these accidental boundaries, and to constitute a Chamber of Representatives from these States. Then it is not by any means monstrous.

Mr. SYMON:
That is not an analogy at all.

Mr. CARRUTHERS:
I have pursued Mr. Symon's analogy, applying it to South Australia.

Sir JOHN DOWNER:
You have absorbed every other State in the process.

Mr. CARRUTHERS:
The other day we had a petition from Queensland which asked that if Queensland was brought into the Federation it should be introduced as three States. Well, probably there was logic on the side of the Queenslanders, and we may have conceded the three States' position there. That would mean three more sets of members. Is there any greater logical reason why they should have three sets of members because of such accidental occurrences as the sun shining a little hotter on one part than another, or one place being east of a river and another west, and another place being on the seaboard?

Mr. PEACOCK:
You ought to have brought ten members from Norfolk Island.

Mr. CARRUTHERS:
We might indeed ask to have two of our dependencies created into States—Lord Howe Island and Norfolk Island. In Norfolk Island we have about 1,000 inhabitants, and in Lord Howe Island there are a considerable number. With just as much logic as Mr. Symon has shown, we might ask that these places should be created into States, and without lack of consideration ask that they should be entitled to send representatives to the Senate; and when you would cry out that the population is so unequal, we would begin to ask where the limits begin and where they end.

Sir JOHN DOWNER:
Do you know?

Mr. CARRUTHERS:
If we can get some idea of the limit line of population, I ask how many men in New South Wales it takes to make one solid vote equal to one man's vote in South Australia?

Mr. REID:
Take six.

Mr. CARRUTHERS:
If Mr. Symon will permit me to further refer to his very able and interesting address, he adjured this Committee to trust the Senate. He echoed the sentiments of my friend Mr. Deakin, that the Senate was to be a body practically composed of men of culture, judgment, and experience from all Australia, a dignified assembly that would not demean itself by undertaking small and petty work. My friend took advantage of these expressions, and said, that being so, and he believed it was so, he wanted us to trust the Senate. I asked him to go a little further. Trust the people. That is better than trusting the Senate.

Mr. SYMON:
Hear, Hear. Trust all sections of the people.

Mr. CARRUTHERS:
If my friend will follow to its logical conclusion the argument be proposed himself, then in case of conflict between those who directly derive their authority from the people, on the principle of equality of voting, in case of a dispute between the members of the House of Representatives and the Senate, is he prepared to vote for some provision by which the people themselves can be invited to settle the dispute, and by which the ultimate decision may be according to their will? If he is willing to go that far, I will go as far as even Sir John Forrest, and vote to give ample and full powers to the Senate.

Mr. SYMON:
How do you suggest to get the will of the people?

Mr. CARRUTHERS:
I cannot see any reason why we should not go to that full extent.

Sir JOHN FORREST:
I do not want more than is in the Bill.

Mr. BARTON:
You will find it a long dated Bill if you want it that way.

Mr. CARRUTHERS:
There should be ultimate rule by the people, not by broad acres, or arbitrary boundaries, or other accidental occurrences in our Australian
civilisation; there should be a Constitution "broad-based upon the people's will," and I suggest that we arrive at a compromise either by electing the Senate on a suffrage so distributed that each member will derive an equal authority from the people; or, failing that, that if we are to have a Senate so constituted as directly or indirectly to conserve the interests of States according to their physical boundaries, then in case of inevitable disputes that must arise between bodies deriving their authority on totally different bases, let the ultimate decision rest with the people themselves, either by referendum or by adopting some modification of the Norwegian system, which I am surprised Mr. O'Connor has not proposed.

Mr. BARTON:
Plenty of time.

Mr. O'CONNOR:
I did not because it was not brought on in the Constitutional Committee.

Mr. CARRUTHERS:
Let the two Houses sit and vote together. In ninety-nine out of 100 cases where the two Houses vote together the will of the people will prevail; and I am quite willing to risk the hundredth case. We have now no provision whatever to meet deadlocks. Mr. Wise, in the course of his remarks, with which I mainly agree, pointed out that it was not merely on matters of finance that differences of opinion were most likely to arise, but on questions of social reform, industrial questions, and many others. In that I quite agree with him. We may be too careful in regard to the powers of the Senate in money matters, Taxation Bills, etc., and too careless of their powers in other more vital questions.

Mr. DEAKIN:
The Senate has no power over social questions under this Constitution.

Mr. CARRUTHERS:
I am not going to quote tomes of records, but if members will trace the history of the Civil War in America they will find that that war was caused wholly as the result of the persistent action of the Senate in trying to impose slavery as the law on the majority of the States in America. Year after year the Senate refused to admit new States into the Union unless it practically imposed on those States a system of slavery. It was the result of the action of the Senate, not in Money Bills, but in matters affecting the liberties of the people, that we had as an eventual result the growth of this feeling in favor of slavery, and ultimately the Civil war. I say that there are other questions within the scope and purview of this Bill of greater importance perhaps than the mere question of land tax. We have here the question of the exclusion of aliens-
The CHAIRMAN:

I must ask the hon. member as far as he can to confine himself to the matter at issue.

Mr. CARRUTHERS:

I am proceeding to argue and to give reasons why, if we give co-ordinate powers to the Senate on other matters, we should also give them coordinate powers in regard to money matters. If you are going to give the Senate equal power in regard to the admission of new States, equal powers in regard to these important matters mentioned in the clauses of this Bill, there is no reason to deprive it of equal power in regard to money matters. My objection goes to the granting of equal powers unless you have some method for an ultimate decision being arrived at by the will of the people. I do not intend to detain this Committee, but my vote will be given throughout on every clause of this Bill in order to force some compromise being arrived at which will at all times affect this—whether the Senate has co-ordinate powers or limited powers, or is constituted on this basis or on that basis—that there should be the will of the people running supreme throughout the whole Bill, and that there should be no compromise made which should rob the people of rights which are given to them by the union not merely of the States, but of the people within the States. I would suggest, therefore, instead of fighting a paltry amendment such as this, that we should go at the whole of the amendments of the 1891 compromise. If we find our constituents behind us are willing to make the compromise they will give us instructions to that effect, but at the present time it will be far better to see that within the four corners of the Bill there is no mere trusting to the generosity or sense of justice of the House of Representatives or of the Senate, but that throughout the Bill there is the one question of trusting the people, and that the authority of the people shall remain supreme in regard to the Constitution of the Senate, in regard to the constitution of the House of Representatives and as a Final Court of Appeal.

Mr. ISAACS:

I share entirely the feeling that has been expressed by various hon. members in this Committee, of anxiety for the outcome of this discussion. I feel that we have arrived at a point where the tension is of the greatest, and I feel that within the next hour or so the fate, for the present at all events, of the Federation question in Australia will be determined. I do not share the opinion of my hon. friend Mr. Dobson when he says that we ought not to express the opinions we entertain as to the reception that this decision is likely to be accorded in our various colonies. I think it is our duty now or
never to be frank with each other and, speaking for myself—and I believe I am in a position to speak for my colleagues also—I say that there is no shadow of doubt that anything less than the compromise of 1891 would be utterly and absolutely rejected by the colony we represent. I desire to endorse the observations made by those who preceded me from the colony of Victoria, that it is difficult enough—it has been difficult enough in the past—to induce the people to consider favorably the compromise arrived at six years ago. I desire to press it with all the good feeling that it is possible to infuse into my words upon my fellow delegates.

An HON. MEMBER:

Representatives.

Mr. ISAACS:

Well, whatever you please. I would impress upon them the necessity of endeavoring here to consider, if they desire to have Federation at all, the desirability of not withdrawing from the compromise of 1891; because it cannot be concealed, that what is proposed by those who are adverse to this amendment is withdrawal from the compromise previously arrived at—a going back from the understanding reached already by the colonies. We cannot forget, with the great Federation which stands as a model before us, what was said by one of the greatest men America has ever had, "that it was extorted from the grinding necessities of a reluctant people." We are, fortunately, not in that position. The people of Victoria, and indeed of all Australia, desire that there should be Federation. They see that amongst the various powers, authorities, and rights that their several governments wield and exercise there are some that concern them, and this is the root of the matter which interests them, not as individuals of different States, but as the people of the whole continent of Australia. They see the disadvantages, the folly, the expense, and the danger of remaining separated on certain questions, and with that before them, and uniting with their material considerations a public sentiment of the highest possible nature, they desire that their separate existences as States with regard to those collective interests should cease now and for ever, and that they should henceforth be regarded as one united people. I was very much surprised to hear my hon. friend Mr. McMillan refer to what he called the ignorant feeling on the part of the people of Australia; but so far as I have had the privilege of coming into contact with the people on this question, I find that the feeling, so far from being ignorant, has been of slow growth; it is deep rooted, clear, and is the result of a long and careful education. I believe there is nothing they would prize more at the present moment than to see these arbitrary marks
and divisions that now exist in regard to certain matters entirely obliterated. When we are asked to make what are termed concessions, I ask have we not already made more concessions than the justice of the case warrants? Let us ask ourselves what is the meaning of this Federation. My hon. friends Sir John Downer and Mr. Symon asked us to acknowledge gracefully and quickly the right and justice of the claim that is made on behalf of the less populous colonies as to co-ordinate powers in regard to finance. Let us consider for a moment what it seems to me has been entirely lost sight of: the reason of this Federation and the meaning of it. We possess as separate and distinct colonies a host of powers and authorities. Most of these are purely of local concern. Most of these can be best worked out by us as we now stand as different and distinct identities. With most of these things no one State is concerned with the management of the other, but there are certain matters-such as defence, quarantine, and various other things—we generally agree upon, in which we as a people say we are concerned, not as residents of Victoria, Tasmania, or any other colony, but because our interests and our desires are united. We say there is henceforth to be no distinction between us; let us blot out of our future history and out of our future politics the arbitrary fact that we are residents of different colonies, and if we start with that and we select these subjects, it is on the distinct basis that our interests are identical. If our interests are identical why do we have it continually thrown in our face that the diversity of State interests in these matters is to be protected? We select these subjects on which we are agreed; there is by this very hypothesis no diversity of interests in these matters, and the residuary powers are retained by the States. As to these they have their State rights, and the federal authority cannot enter into the sphere one single inch. It is outside the sphere of Federation altogether, but when we have selected these subjects on which our interests are presumably identical the States, as such, have equally little claim to enter. It is because we assume as a starting point that there is no divergence of interest that we attempt to federate at all, and we are doing something self-contradictory when we say in one breath that we federate on these subjects as one united people with regard to State distinctions because our interests are identical in these matters, and in the next breath turn round and say we must have equal representation in the Senate because we must protect the diversity of our interests in these matters. If our interests are not identical, do not federate. If they are diverse and repugnant let us remain as we are, but do not let us be inconsistent and illogical with ourselves by saying one moment: We federate in these matters, and select them from the mass of our present
possessions—we place on one side all those subjects that concern us as one people, as Australians, not as residents of separate colonies, and we deal with these under a Federal Government—that as to these questions we regard ourselves as a nation, and yet the next instant, with forgetfulness of the true position, that in the very collective interests we must still protect our State rights.

Mr. SOLOMON:

We might as well pool our revenue.

Mr. ISAACS:

Perhaps it is my misfortune in not being able to convey to the hon. member what I mean.

Sir JOHN DOWNER:

You are quite clear.

Mr. ISAACS:

This is the starting point of the matter. The State rights are conserved by the exclusion of the subjects which are still retained for State government. Such interest in the matters that are appropriated to the Federation are admitted to be identical, or else we would not federate. If they are not identical, if they do not concern us generally, why do we federate upon them at all? Therefore it is because we say: Henceforth let us be one nation in those regards, let us contribute man for man throughout Australasia with regard to them, let us regulate them as one people—that we have determined to enter upon this scheme. For that reason we have the House of Representatives on the basis of proportional representation, and we have a Second Chamber as they have in America for the purpose of what has been called the sober second thought of the people, elected in a different manner for a different term, and without the power of dissolution; but it is only the fear, the ill-grounded fear, of the smaller American States that led them after that was determined on to say "We must have equal representation." It was denied by the Federalists, insisted upon by the Particularists, and here we have the same fight 100 years afterwards. This principle is foreign to Federation. The only units in a true Federation are the people. Outside the sphere of the Federation we have the States, and their people owe allegiance to them, but the allegiance of the peoples to the States can only be in regard to the matters which are not conferred upon the federal authority. The allegiance of the people to the federal authority is beyond all question free of the allegiance of the people to the States in that connection. We have here a great authority, Mr. Freeman, who tells us that:

The State administration within its own range will be carried on as freely as if there was no such thing as an Union. The federal administration within its own range will be carried on as freely as if there was no such
thing as a separate State.

That is the key of the whole position. A State is not a unit in a true Federation. That is an important principle, and to my mind it is the vital question when we are considering the question of equal representation. It is because the people have come to the conclusion that certain matters heretofore carried on by the States as such should no longer be so, but should be massed together and worked in the interests of the people as a whole, that we have determined to federate at all.

Once we have arrived at that conclusion we exclude State interference in their particular range. We are told—never mind the logic of the position—that equal representation is essential. I believed, and within certain limitations I believe it still, that equal representation is right to protect the smaller States from fears which are groundless, but, as I have said before, and I hope may repeat without presumption, are not unreasonable in certain minds. But I am not willing that that equal representation shall be coupled with co-ordinate powers. If you have co-ordinate powers, or what are tantamount to co-ordinate powers, you have no need for equal representation. Take the position of a Senate based in some respects on the principle that it is an Upper House. It is elected in a different way, its members are elected for different terms, and it is free from dissolution, all because it is regarded as an Upper House, not because it is an Assembly of the States, because there is no more reason for those characteristics than in the case of an Assembly of the people, but because it possesses to some extent all the functions of an Upper House. Admittedly it has those characteristics. Having those characteristics it is contended it must be equal in representation. That has been pointed out by Sir Henry Maine to be really inequality and not equality of representation—in name equality, in substance inequality. To say that the State of Nevada, where 21,000 men return a senator is to be equal with the State of New York, where 3,000,000 return one, is, I say, a travesty on the word, and to say that Western Australia with 138,000 people—

Sir JOHN FORREST:

153,000 people.

Mr. PEACOCK:

Do not quarrel over a few thousand, Sir John.

Mr. ISAACS:

They are increasing by leaps and bounds every day. To say that Western Australia with that population is to have the same representation in the Senate with New South Wales with its 1,300,000 people is equally ridiculous. To say that three-fifths of the Senate representing one-fifth of
the population of Australia and representing one-fourth of the federal revenue should be able to dominate the remaining four-fifths of the population and the remaining three-fourths of the revenue, is equally absurd, and therefore when I am asked, as we are all asked, to supply the reason in logic and injustice for not making this concession, I think when these facts are stated, the reason, the logic, and the justice are self-evident. Remembering that as we are to be one Federation, one people, contributing expenditure equally per head, as my honorable friend Mr. Moore interjected to-day, I would like to remind him that though the expenditure is equal per head, in the Senate the representation is not equal per head, and, as I put it before, and it has been repeated over and over again, he would have an absolute minority of the people in this Federation dominating the majority of the people and the greater part of their money. "Trust the Senate," says my honorable friend Mr. Symon. Yes; I would trust the Senate, but it must be remembered that the majority of the members of that Senate are not dealing with their own money. They are dealing with other people's money. That is the vital flaw. In one country, with a unitary Government, there is no such serious difficulty if you have the Senate or the equivalent House elected upon as broad a basis as we are prepared to make it here. There is no such objection, at all events as exists in the present case, to trusting them, because they are dealing with their own money, but here you are basing the Senate on an inequality. You are basing it not upon representation of individuals, but upon distinctions that by the very essence of the problem, upon the very hypothesis upon which we federate, ought to be obliterated. Let me put one more case. The House of Representatives is to be subject to dissolution. Why is that so? Suppose the two Houses came into conflict, and the main thing they are likely to come into conflict about is finance, what is the only remedy? Dissolution - an appeal to the whole people. Why is the power put there? Has the Senate to accept the verdict of the people or not? If it has, what becomes of this question of the equality of the Senate? Surely when that provision for dissolution of the House of Representatives is looked at, it must either be nothing but a gratuitous penalty on the people's House, or the result must be accepted as the verdict of the people by the whole Federal Parliament. Which is it to be? I recognise that the time is very short. Other members wish to speak, and I do not desire to delay their opportunity. I only desire to add that the arguments of hon. members who have preceded me have not, in my humble judgment, affected the most cogent reasons that, while the power of rejection should be retained, the power of amendment should be refused. I desire that the Constitution shall contain the assurance of
stability, that will enable the people to have security and safety, and above all allow the administration to be conducted with energy. The course proposed by my hon. friends opposite is a course which in my humble judgment will render the Constitution unstable, and the people dissatisfied, and which will produce not confidence but jealousy, in the conduct of affairs, and above all, in the most urgent moment of their need, will be likely to strike the Government and administration with paralysis. We cannot afford in these latter days to halt for a generation for the fructification of ideas, as we used to. In these days of social and industrial development, we must not forget that political thought and political action must travel quicker, and therefore it is not an antiquarian matter of research that, there must be predominance and supremacy somewhere. We must remember that the question of responsible government is not antiquarian but of recent origin, and has arisen and flourished side by side and contemporaneously with the doctrine that one House must be supreme in finance; and as long as that lasts, and as long as responsible government lasts, we must expect to develop in the course we have been pursuing. If we accept this clause in the Bill, then I say that Federation will be put off longer than I anticipated or hoped for, because the people will recognise that responsible government is impossible under it. As we sow others must reap, and in taking our stand upon this all-important and indeed vital question we are discharging a duty, not merely to ourselves and those around us, but to millions in Australia now and to come.

Mr. JAMES:

The difficulty of the smaller States in this discussion is that the eloquent members representing the larger States wrap up their fallacies in such beautiful language that it is difficult to tear away those, beautiful petals and expose the error that underlies their arguments. I understood—and I speak with the utmost diffidence, subject to correction by members of this Convention—that the essential principle of Federation is that you require to all your laws the assent of a body representing the States as States and the assent of a body representing the people as people. I am not aware that any Federation exists to-day based on any other principle than that. I was not aware indeed that any Federation had been proposed on any other principles until we met in Adelaide to frame a Federal Constitution for Australia in the year 1897. I have very great respect for modern days. I am said in my own colony to be a democrat, but great though my respect for the present be, I think we would be overstepping the limit placed upon us if we struck out in an altogether new line, and I venture to say to our democratic friends from Victoria that they are asking us to go too far if they ask us to adopt a Constitution which we find recognised in no other
part of the world.

Mr. HIGGINS:

What about the proportions of representation?

Mr. JAMES:

We are not now dealing with representation. We are now dealing with the question of the powers to be conferred upon the Upper House or Senate. It may be a question for later consideration as to what ought to be the proportion of representation, and how we shall face that question. I enter my emphatic protest against there being woven round this question matters entirely foreign to it. We have to say now what are the powers to be conferred upon the Senate. In due time we may determine how the Senate is to be elected. If it is true-and I have not heard any contradiction of it in this Convention-that the essential principle of a safe Federation is that a law shall be approved by a body representing the States as States, and by a body representing the individuals as individuals, surely the Senate is entitled to have co-ordinate powers and co-ordinate jurisdictions. It is suggested that there should be some limitation upon these powers, because we must introduce into our Constitution a recognition of the existence of responsible government. Now, if that be so-and I am not going to question it—surely the onus is upon those who say there should be modifications to prove that the modifications they require are essential, and to prove that responsible government cannot exist unless those modifications appear in the Constitution. I have not yet heard any one address himself to that particular point. We have heard a great many high sounding platitudes about the will of the people. I have yet to learn that one man representing 10,000 any more represents the will of the people than one man representing 5,000. I have yet to learn that six men representing the whole of Western Australia represent that colony less accurately than thirty-six men representing the whole of Western Australia. In each case the, men elected by the people represent the people, and the introduction of these platitudes does not, I think, conduce to clearness. We want to realise what powers the Senate is entitled to. Those who think it is entitled to coordinate powers base their claims upon a principle which no member of this Convention dare controvert—and if you want to limit those powers we say the onus of proof is upon you to establish your right to have those limitations placed upon us. How has that onus been discharged? What does it amount to to say what were the objects of the framers of the American Constitution? We are not concerned as to what their objects were. We are looking at the completed work. It is the work in this case that reflects credit upon the men, and not the men who reflect credit upon the work. We know
that whatever the influences were impelling the construction of that work as we find it there to-day, that Constitution stands, with the recognition that the Senate really has more than coordinate power, whatever may have been the intention. With all respect to those who advanced that argument, it seems to me to be beside the mark to consider the reason that impelled the framers of that Constitution to their conclusions. There are instances in which interests of the smaller States in respect of those matters conferred upon the federal authority in the proposed Bill, might conflict with the interests of the more populous States. I decline to accept the proposition that, even in respect of those matters which we hand over to the federal authority, there would not be a conflict of interests. The arguments that we have heard members on behalf of the more populous States use show that, if they could, they would go to this extent: that the Upper House should have no power at all. It would be simply put there to a large extent to appease the feelings of the smaller States, to give them something they could toy with, to give them something which would make them believe they had been given protection for their State interests. I take it that the federal authority would deal with powers surrendered to them as rights of the States and not as rights of the people. I am one of those who say that those who surrender rights shall have the right to say how those rights shall be disposed of. It is beside the question for the more populous States to say that they are surrendering that which is the more valuable. I have yet to learn that the rights Western Australia surrenders are less valuable than the rights surrendered by New South Wales or Victoria. We surrender rights which are just as valuable to us, and which we regard as being just as important, and we claim all equal voice in that government which shall determine how those rights are to be disposed of. The great evil we fear is the very strong tendency there is towards centralisation. Will that not be increased if we are to have a federal system of government? In Western Australia -and it is probably the same in other colonies-where we are developing our resources, we might have serious injury inflicted upon us by a Customs Bill, an injury which might not extend to the more populous States. We, in Western Australia, have just now a very large demand for mining machinery; in the more populous States they make mining machinery. Such States as Western Australia, which are in process of vigorous development, essentially require not only some vote but a strong vote for the purpose of protecting their interests against the centralising influences of the larger States. In that case I say smaller States, taking Western Australia as an instance, have a distinct right to say if they are handing over the powers for future development,
that you shall have no right to take those powers and develop them and use them, not for their use, not for the development of those States, but for the development of the more prosperous communities. At present I am not prepared to vote for the amendment. I think that on principle—and I have not heard it controverted—the smaller States are entitled to more powers than are given by this section as it stands. If this matter comes before us at the adjourned meeting, rather than see Federation wrecked, I should be prepared to make some concession; but until I have some assurance from those who speak on behalf of the more populous States, and from the discussions and decisions upon this matter in the Parliaments of those States, I decline—using the word in no offensive manner—to accept any authority less than e to any serious extent with the growth of responsible government.

Mr. MCMILLAN:

Hear, hear.

Mr. JAMES:

It amuses me almost to hear some members of this Convention endeavoring to wetnurse responsible government. That institution is of such a vigorous growth that if we in this Convention dared to place undue restriction on it, it would sweep us away like cobwebs. Let us adopt the true principle, being assured that responsible government is so much a part of us, and of the atmosphere we have always breathed in our political life, that no Constitution we can frame can interfere with the essential principles of its growth. Let us look after the principle of Federation, being assured that it does not require the wetnursing of members of this Convention to protect a principle so vital and so important as the principle of responsible government.

Mr. GORDON:

I move that the Committee do now divide.

Mr. BARTON:

I do not wish to speak to-night, because—

Mr. GORDON:

Oh, I beg your pardon; I withdraw,

Mr. BARTON:

I am scarcely in a condition to speak to-night, because I am suffering from a bronchial cold. I do not wish to delay the Committee, but I feel that this is a question on which I have some right to be heard. Sir John Forrest knows there is no intention on my part to delay a division. I should like to be able to speak to-morrow, if progress can be reported to-night.

Mr. HENRY:
I should not have ventured to occupy the time of the Committee on this question, because I feel that nothing I can say will influence a single vote, and I doubt whether any of the eloquent speeches we have heard to-day have influenced votes at all, but in the vote I am going to give on this question I shall be in a decided minority in my own delegation, and I desire to justify that vote from my own point of view.

Mr. DEAKIN:

Hear, hear.

Mr. HENRY:

That is the sole object I have in rising to address myself to this question. It has been said and suggested by members of my own delegation that we shall imperil State rights if we adopt the compromise of 1891. I fail to see where State rights are imperilled by refusing to pass this clause as it now stands and adopting that compromise instead. I have listened carefully to all the arguments pro and con on this matter, and have been confirmed by what I have heard in the opinion I formed when I first gave the subject any consideration, that the difference between power of suggestion and power of amendment of Money Bills is practically nothing. I have failed to distinguish in the debate to-night that hon. members recognise any practical difference in the two proposals. And if there is no difference I naturally ask why members on one side or the other so contend for their respective positions. If I felt that the interests of the colony which I share in representing at this Convention were imperilled in any way by voting in favor of the 1891 compromise I certainly should be the last man to join-in imperilling those interests. But I fail to see in what respect this proposal imperils State interests. I have listened with a great deal of interest to the eloquent speeches that have been made on this subject. I listened with very great interest to the speech of Mr. Symon. That hon. member led me to believe that if we had equal representation, which to my mind is the primary thing we require in protecting our State interests, to refuse the Senate the power to amend Money Bills would be to tie their hands in such a way that equal representation would be practically a mockery. I fail to see in what respect the refusal to grant the Senate power to amend Money Bills, at the same time granting them the power to make suggestions, ties their hands. I desire to address myself to all these questions in a practical spirit, and I fail to recognise in what respect the hands of the Senate are tied in this way. That hon. gentleman further said as an objection that the granting of the power to the Senate of making suggestions by way of amendment of Money Bills was in some way derogatory and that it came as a favor. I fail to see that either, because it is a specific power to be granted to the Senate under the Constitution Bill, and that power is as
much a right as though we granted them the power of amendment of Money Bills. The distinction to my mind has no force. While the Senate has the supreme power to veto any taxation or other Money Bill, there is no doubt that that is the real power which protects State interests. In all the debates we have had up to the present time there has been constant allusion to the probable difference that will arise between the Senate and the House of Representatives. But it has occurred to me that there may be a danger in too much uniformity, and that if the two Houses are to be elected on the same franchise the colony of Tasmania may be in danger through too much uniformity or agreement between

the Houses rather than through any conflict between them. In Victoria, New South Wales, and South Australia no doubt there is a growing opinion in particular directions on subjects of taxation which we are not sharing in Tasmania. And if these three colonies join in any particular taxing scheme, the result of a particular growth of opinion, I can see a danger of too much uniformity of opinion, and to my mind if the larger States or colonies would only grant a concession in the direction of a little conservatism in the election of members of the Senate it would be much more of a protection to the smaller States or to certain States than this mere power of amending Money Bills. I now come to an important question, and I ask myself what is the course to be adopted in this matter? On the one hand I see that the difference between making suggestions and amendments is not of vital importance, and on the other hand I see that the feeling which has grown up and which exists to a large extent in Victoria and New South Wales on this point is very strong, though it may be the result of ignorance! I think it must be admitted that the objection to the power to amend Money Bills on the part of Victoria, as well as a large section of New South Wales, is founded on ignorance of the difference between the power of amending and making suggestions to amend. It is enough for me, looking at the matter from a practical point of view, to ask myself this question: If I at this time vote against New South Wales and Victorian delegates will I not retard the great cause of Federation? I think I would, and therefore am not going to join with others in throwing a bucket of cold water on the question of Federation when the issue to my mind is not of sufficient importance to warrant me in jeopardising the greater question of Federation, and that will in my opinion result if the smaller colonies use their strength and their voting power to carry this point against the wish and feeling of the colonies of Victoria and New South Wales. I can readily understand that if the representatives of these two colonies are beaten on this point by thirty votes to twenty they will return to their colonies disheartened, and in
detailing what has been done at the Convention to their people, to the Parliament, and through the press, it might lead to Victoria withdrawing altogether from the next Convention. I see the danger, and I will act on it in recording my vote against the rest of my fellow-delegates from Tasmania for the reasons I have just given. My hon. friend Mr. McMillan indicated that the time might come for compromise later on. I think if there is to be any compromise, now is the time for it.

Sir GEORGE TURNER:
Hear, hear; and save all the trouble and turmoil that may come later on.

Mr. HENRY:
We have had a lot of nice sermons preached about compromise, but now is the time to practise it, and not send back the delegates to their colonies disheartened. That is the strong conviction that is agitating my mind, and it causes me to reluctantly differ from my colleagues on it. The Hon. Mr. Dobson asks what is the good of the Parliament? These Bills have to be discussed in Parliament, and I have no doubt that the respective Parliaments of the various colonies will do useful work in suggesting amendments to them. I like to be practical, and it is not part of my intention to waste the time of this Convention, but I should like to say before I sit down that Sir Joseph Abbott, in making one of his humorous allusions to Tasmania, in reply to my friend Mr. Douglas, said that a fleet coming to Australia would miss Tasmania altogether, because it is so small. I should like to remind him that Tasmania is just as large probably as the land from which he sprung, and about as large as the land from which the Premier of New South Wales boasts of having come. However, that is not the point, but I would like to say that Major-General Edwards did not share Sir Joseph Abbott's opinion, because, he said, if I recollect right, that a hostile fleet visiting Australia would make for Tasmania first, that Tasmania would form the base of operations against Australia, that Tasmania was the strategic key to the position, and that it was important from a defence point of view that Tasmania should form a portion of the Federation. I hope that I may not be considered boastful, but I will say that our sea-girt island is just as independent and self-reliant as any portion of Australia. We have great resources, we have an unmatched climate, and our people are as well able to go alone as are the people of any part of the continent, yet still we are desirous of sharing the national life of Australia, and I hope nothing Tasmania may do will in any way impede the great cause of Federation.

Progress reported.

POST AND TELEGRAPH RECEIPTS.
Mr. HOLDER:
I beg to lay on the table to the order of the House, on the motion of Dr. Quick, March 23rd, a paper showing the receipts of each of the colonies during the last ten years from post offices and telegraphs, and I move:
That the Paper be printed.
Question resolved in the affirmative.
ADJOURNMENT.
Convention adjourned at 9.34 p.m.
Wednesday April 14, 1897.


The PRESIDENT took the chair at 10.30 a.m.

LOCAL LEGISLATURES AND THE DRAFT BILL.

Adjourned consideration of the motion:

That, in the opinion of this Convention, the interval for consideration of the Draft Bill by the local Legislatures should be extended to not less than 120 days nor more than 180 days.

Sir JOHN FORREST:

I claim the indulgence of the Convention to say, with regard to this motion, that I do not intend to proceed with it. There seems to be great difficulty in the way of the motion being adopted. I have conferred with the Premiers of the other colonies, and while I think they would not have been unwilling to have had the time extended under ordinary circumstances, still, under existing conditions, they were not able to concur with my proposal. Although it seems almost impossible for me to be able to deal with the Bill which will be framed by the Convention, and be in my place in 120 days' time, still I know my colleagues, the Premiers of the other colonies, are unable to agree to my suggestion; and therefore Western Australia must do the best she can under the circumstances. I move:

That the Order of the Day be read and discharged.

Question resolved in the affirmative.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (consideration resumed from April 13).

CHAPTER I.-THE LEGISLATURE.

Part V.-Powers of the Parliament.

Clause 53.- (1) The States Assembly shall have equal power with the House of Representatives in respect of all proposed laws, except laws appropriating the necessary supplies for the ordinary annual services of the Government, which the States Assembly may affirm or reject, but may not amend. But the States Assembly may not amend any proposed law in such a manner as to increase any proposed charge or burden on the people.

(2) Laws imposing taxation shall deal with the imposition of taxation only.

(3) Laws imposing taxation, except laws imposing duties of Customs on imports, shall deal with one subject of taxation only.
(4) The expenditure for services other than the ordinary annual services of the Government shall not be authorised by the same law as that which appropriates the supplies for the ordinary annual services, but shall be authorised by a separate law or laws.

(5) In the case of a proposed law which the States Assembly may not amend, the States Assembly may at any stage return it to the House of Representatives with a menage requesting the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications.

Upon which Mr. Reid had moved, by way of amendment:

After the word "I except," in line 2, to insert the words "laws imposing taxation and."

Mr. BARTON:

One or two members have intimated their desire to speak, and I would like to dispel an impression which seems to prevail that my rising to continue the debate is in effect a speech in reply. That is not so, as it is open to those who desire to debate this question to do so without regard to any speech which has been made. While I say this I will be as brief as possible, as I think we should meet the desire of the Western Australian members to have this matter decided before they leave. I hope that I shall not say anything which will be regarded as in the least degree heated by the warmth of debate. My desire is to put this matter before this Convention in a practical way.

Mr. PEACOCK:

Hear; hear.

Mr. BARTON:

I do not intend to take the same view that my hon. friend Mr. Carruthers has done, nor do I admit his statement that those who have spoken on the side he espouses are ready to emasculate their principles; nor do I quite see how in the way indicated one can be emasculating his principles, if Mr. Carruthers is ready to agree with Mr. McMillan in saying that this is a debate about a choice of words. How taking one side or the other can, in that case, be said to be a process of emasculating one's principles, I do not know. I am not prepared to subscribe to the charge of doing that even if I am not so emphatic as Mr. Carruthers was in the speech he made. I cannot accept as an analogy that which Mr. Carruthers put as regards the case of South Australia. He put the case of there being three members for South Australia—one for the Northern Territory, one for the desert portion of the country, and the other for Adelaide and adjacent portions which are so
fertile and so populous. I do not see any analogy between that, nor between the Lord Howe and Norfolk Islands, and the present case. Here we are debating not only what are the rights, but what are the interests amongst themselves of what are already competent, and, to a certain extent, populous States, the smallest of them in area possibly the most fertile, and I do not see that when we are considering a matter of this kind where we are dealing with States which are now in themselves autonomous and entitled to be compared as regards their own interests with other States, we can rely upon such places as Lord Howe and Norfolk Islands, even with all the threatenings of New South Wales to bring them into the condition of separate States, nor trouble about an imaginary case as regards South Australia. The question before us is more practical than that, and in a large degree it is whether we shall come to a decision which will promote, or to a decision which will retard, and make impossible, the Federation we have been sent here to accomplish; and while we remember, as Sir John Downer and others do, that our duty is to our colony, it should also be remembered that the colony of every one of us has sent us here to perform a duty on its behalf, and that duty is to work out a practical scheme of Federation, and a scheme which can be accepted by every one of the colonies. That is our mission, and we cannot by taking one side or the other get away from the performance of our duty, for notwithstanding that we have been sent here in the interests of sundry colonies, the distinct command from those colonies is that their interests require that we should federate. But how are we to federate if the amendment is not carried? I quite admit the position laid down, that we should consider the interests of the smaller States, and with as much care as those of the more populous States. No one can get away from that position, but that does not relieve us of the difficulty; for if our mission is to make Federation possible to all the colonies, we must consider what kind of Federation there must be, to meet certain potentialities. We have been told by Sir Edward Braddon something about threats. No threats shall pass from my lips. I only wish to indicate what will be the result in certain contingencies. My whole attitude in this Convention has been opposed to any such expressions, I mean as to making threats, but I am not only entitled but called upon to express what I think will be the results in certain contingencies, provided I adhere to the question under debate. Now I do believe, and I cannot get away from the belief, that the decision which Sir John Forrest and those who vote with him would ask us to come to will be one which would seriously retard the chances of Federation, and not only seriously retard them, but have the effect, in certain colonies, at any rate, of putting back the movement
indefinitely. We are told we are now simply in a preliminary stage. If we are in a preliminary stage, we are also in a precarious stage, and a very precarious one. The view that we are in a preliminary stage, because there is to be a second Convention, does not relieve us of the performance of that duty which we were sent here to perform, the construction of some workable scheme under which we believe the colonies would federate. If in taking this as a preliminary stage, we stick to our differences to the extreme points, and say that, because the stage is preliminary, our views can be altered afterwards, we are not carrying out the duty we were sent here to perform, if we do not, after mature consideration and with fairness on both sides—and without sacrifices there can be no Federation—agree to that which will be a groundwork for Federation. Recollecting that there can be a revision of our vote, still I say those who sent us here intended that we should mark out what we consider the best lines on which Federation can be based. I think it was Mr. Dobson who said that the time for conciliation would be after the Houses of Parliament had dealt with this question. I venture, respectfully, to differ entirely from that proposition. That is not the view to take, because it would operate against the purpose for which we were sent here—to frame a Constitution—a Constitution which from the outset might be found acceptable to the views of our electors, and not one which after being backed by the various Parliaments and handled by us subsequently would have to be moulded in another way because owing to the conditions of the people it was unacceptable as we first passed it.

Mr. DEAKIN:
That would be a Constitution moulded by the Parliaments and the Press, and not by this Convention.

Mr. BARTON:
Just so; not by this Convention, and the ability and experience of the men who are here.

Mr. HIGGINS:
We want to be able to go back and support the Bill.

Mr. BARTON:
Precisely. Suppose you come to a decision which you will have to adhere to—and we have no right to come to a decision in this Convention which we say we can easily alter as time goes on—we should do the best we can at the earlier stages, though there may be differences amongst us. If there come as the result of the proceedings of this Convention a Bill which is unacceptable, which is totally alien to the popular feeling of the larger States, then let us look the position in the face. This is not said in the way of threat, but in the way of justice. Without those States, how would Federation be possible to the other States? The more populous States,
which are contiguous, could, I think, form a Federation in which they could get along very well. I am consistent in saying they could form a Federation, because every movement like this should be left to the particular States, but I might point out the disadvantages if a Federation remained to be made by South Australia, Western Australia, and Tasmania. The very geographical differences between those colonies would make their Federation a farce, not because there is not ability, power, and wealth in those colonies; but take the distance there is between South Australia and Western Australia, and between Tasmania and the other colonies, with the intervention of those parts which now go to make up one homogeneous whole, and the difficulties of such a Federation would be so great as to put it out of the question. That is the problem we have to face here. We must consider matters of this kind before we come to a decision, not regarding them as threats for a moment, because our duty is to consider what form of Federation the five colonies will accept. If the result of the labors of this Convention is, that the feeling with reference to Federation becomes so altered in some colonies as to cause them to abandon all practical interest in it, how could a Federation formed of those colonies which are constituted under the most divergent conditions as to their position, geographically and otherwise, with regard to one another, be entitled to be called a Federation of Australia, or its history be looked forward to as a history of success?

Sir JOHN FORREST:
Do you expect to have everything your own way?

Mr. BARTON:
I am not saying that: I am saying the very contrary. I am not going largely into the practical conditions which may arise if the States Assembly or Senate is allowed the power to amend Tax Bills. I hold rather strongly that if we are to have two Houses, and intend to act upon the principles of responsible government, and conserve those principles, we ought not to put in the hands of one House the ability to utterly destroy the financial policy of the Government. The expenditure depends upon the taxation, and if the taxation is so altered in its passage through a Second Chamber that the expenditure, which is perhaps sanctioned upon the Estimates, or about to be sanctioned upon the Estimates, proposed by the government is lessened, that right to amend the Taxation Bill practically means the right to cut down the Appropriation Bill, too.

Mr. DEAKIN:
Hear, hear.
Mr. BARTON:

Supposing that with the raising of £300,000 of taxation the Government will be enabled to make ends meet for certain items of expenditure by the Commonwealth, and supposing that they cannot get a Bill providing for that taxation through the Senate, but that the amount is cut down by £100,000, that must mean a corresponding reduction in the expenditure embodied in the Appropriation Bill. One hinges upon the other. It may be subtle enough for some of our friends to say they do not claim the right to amend the Appropriation Bill, but they really want the right to do so without saying a word about it. They may say "We will take your Appropriation Bill with its provision for so much expenditure," and leave you in the lurch to find some means of taxation to make that amount up. That makes them masters of the situation. It is not like the right of veto, because in exercising that right and taking the extreme course of vetoing such a measure right out, a House takes on itself the whole responsibility. If, however, it is merely a question of amendment, that House can say, "Oh, it is merely a matter of arrangement." But all the same the question is whether the policy of the Government shall proceed or not. If we come to that pass, such an alteration in the policy of the Government means that there is a divided responsibility. Because what is the position? If those who are in the House of Representatives—Ministers and members—have to accept these amendments, and then say to the people who sent them there, and who must according to their numbers pay the taxation—"Oh, well, we wanted to carry out our policy, but the strong Senate which exists has cut it down, and we thought we had better take all we could rather than get none"—where is the principle of responsibility? Instead of Ministers being responsible to the people through the House of Representatives they are responsible, some may say, to the people through both Houses. That is a divided responsibility; that is not carrying out the principle of responsible government with responsibility to one House. Although some may argue that the ultimate responsibility is to the people, we are not here to consider the process to be arrived at at very long last. A machine that will only work with a very much larger expenditure for oil than the machine itself originally cost is not an effective machine in the work-a-day sense of the term. And that is the difficulty that is in front of us, and which I submit, if we do not adopt this amendment, we cannot get over. Look at the position of this matter. We are told by Sir Edward Braddon that we who are not agreed with him are capable of seeing a thing applicable to ourselves, but are entirely blind to it when urged on behalf of the smaller States. There is not, however, and has not been, a difficulty in getting the smaller States to
accept the Bill in the light of the compromise of 1891. I believe before this
debate closes there will be evidence produced that there has not been a
difficulty either in South Australia or Tasmania in getting the clauses
passed in the shape of the compromise of 1891. That is the answer to my
friend Sir Edward Braddon, because his people have been able to see this
matter in the light of the honest compromise of 1891. They have shown
they are able to accept a Bill in that shape, but in New South Wales there
has been the very greatest difficulty in obtaining from meetings of electors
any approval of the 1891 compromise, and if matters are to be taken
further than that I only put to my fellow members the difficulty that will
arise in endeavoring to get the electors to go that one step further.
Certainly, as has been pointed out, the Parliament can suggest an
amendment, but if that comes to the Convention the latter will say, "That is
only a suggestion from the Parliament of New South Wales. We are not
going to abide by that." If the evidence at the mouths of men who cannot
be disbelieved is of any practical value—and I take it that the experience of
the large majority of representatives from New South Wales will outweigh
the view of my friend Mr. McMillan, much as I respect him—then I say it
has been a difficulty of the greatest character from the first to obtain an
approval of this form of compromise which was made in 1891 from the
electors of a colony such as New South Wales. I will not speak about
Victoria, because I am not so conversant with the circumstances of
Victoria, and I will leave members of that colony to speak for themselves.
How, then, when this compromise has been arrived at, after much
argument, after much exhaustion of practical effort by experienced men on
both sides—how, then, if there is a colony entitled to be considered here
which is not like other colonies that have signified their approval, but
which has by criticism in the press and in various other ways manifested
some repugnance to the scheme—how can it be said that to drag that colony
over the line will be a step towards Federation? If you alienate the public
feeling of those who are entitled largely to be considered, how can you say
that you are moving towards Federation? If you alienate colonies which are
difficult to move from certain principles of settled government how can
you minimise the difficulty which we, who belong to those colonies, must
have in endeavoring to obtain approval of the work of this Convention if it
is marked by what they consider is an indelible stain upon it? That is a
matter which relates to the whole of the processes under this Convention,
because if you alienate the public feeling at this early stage, just fancy the
Herculean task afterwards in pulling back that feeling into its proper place.
How can we underrate the difficul-

[P.556] starts here
ties that beset us in a matter of this kind? Are we not entitled to plead for such a course of action as will not lead to disastrous results? That is the position I take up in reference to this matter in arguing strongly one way or the other as to the effect of this amendment on constitutional government. I have placed on record before this morning what I think about that. I have been one of the first, as the records of 1891 and since will show, to lay down that there is a measure of justice which must be conceded to the less populous States. I have faced public opinion as far as any man can face it for the purpose of ensuring that there shall be justice done, so long as we preserve the principles of responsible government. Now, what was done in the Convention of 1891? And let it be recollected that there were extremists on both sides. Let us take the argument of Sir Edward Braddon, who stated that:

They are capable of seeing a thing as applicable to themselves, but entirely blind to it when urged on behalf of the smaller States.

The argument is endless if used on both sides, and simply amounts to a turn-about and turn-about. In 1891 there were those who upheld the ultimo ratio of responsible government, and there were those who upheld the ultimo ratio of State dominance. One side claimed entirely co-ordinate powers of the Senate, while the other side stipulated that the Senate should have practically none. There was a long debate, out of which the middle line of demarcation was arrived at.

Sir JOHN FORREST:

By voting only.

Mr. BARTON:

All we ask of you is not to depart from that solid line, which was, marked out with so much care and thought, and in which there has been great difficulty in obtaining any acquiescence or toleration from, at least, two of the large States. That is the point. Those concessions have been made after much thought and debate; a solid line, which is a middle line, has been decided upon, and we are ready to say that, as far as we are concerned in this Convention, we accept that middle line, and will endeavor to persuade our people to adhere to it. If amendments are made that take the whole question into other regions, is that departure from the compromise of 1891 one that moves towards Federation? I submit, in all calmness, not. After once arriving at a line of demarcation, which has satisfied the experts of the 1891 Convention, as they are entitled to be called, and after having accustomed the public mind to it and overcome many scruples about it, and having acquired in two of the colonies at least, not an acquiescence, but a somewhat less alienated view of such a position-after having got that far, how is it to be supposed that if we are pulled over that line, if it develops
merely into a question of "pull devil, pull baker," we can advance in the direction of Federation? It must be rather a movement away from Federation, and I submit that the position which my hon. friend Sir John Forrest and some of those who agree with him take up is, whether they believe it or not, a retrograde movement from the progress made towards Federation. There is the old cry that Victoria must federate; but I do not think that we ought to look at the matter in that way. The reverses of Victoria have been alluded to. What State has not had its reverses? Some of us are beginning to see a tardy revival of prosperity. It is the potentialities of the State that must be viewed; and as we view with hope and sympathy the vast resources which are developing in Western Australia, so ought we to extend some consideration to the position of Victoria in its magnificent resources and energetic people. We ought not to raise this cry that Victoria must federate, because she will emerge from, these reverses and keep step with the other colonies in the march of civilisation, progress, and prosperity. This is a threat. You say to Victoria:
"You must take what we put upon you, otherwise we shall not federate." I say it with all respect that that is not the standpoint from which we ought to view the matter, simply because all these colonies are strong in their resources. You must not look at the day you are asking for Federation, but at the potentialities of history with regard to each State of the Federation. So I will leave that matter, because if I dwell upon it much longer I may be taking some step which would cause some friction, which I wish to prevent in this debate. Let us come to another argument that has been used with a good deal of effect by some members. We are told this is a question of a mere choice of words, that is to say, that the power of amending taxation is practically the same as the power to make suggestions. The question of responsibility arises again. if the Second Chamber makes suggestions such as are enabled to be made in this colony under the Compact of 1857, which is not a matter of law but a matter of agreement; if the Second Chamber makes suggestions under an agreement of that sort, and if the suggestions are not adopted, that House must face the responsibility of deciding whether it will veto the Bill or not. If the procedure is to be by way of amendment, and the amendments are disagreed with by the House of Representatives, and are still insisted upon by the Second Chamber, then it is upon the House of Representatives that the responsibility must rest of destroying its own measure. The responsibility for the loss of the measure under the first set of circumstances must attach to the Second Chamber. But, in the second case, suppose it is freed upon the very Chamber which has affirmed the measure.
Can there be a greater difference between the two positions than that? In the first case the responsibility rests where it should, with those who wish to negative the policy of finance upon which the entire Government of the country hangs; because without money you cannot govern. If the policy of the Ministry according to their desires in the main is not carried out there must be another Ministry, and those who lead to the formation of that Ministry should take the responsibility. If the procedure is by way of suggestion, which is insisted upon, the Senate must take the responsibility of the veto. If it is by way of amendment, and that amendment is disagreed with, it is the Lower House that must take the responsibility of the destruction of its own work. There cannot be a greater difference than there is between the two positions. This is not a mere "choice of words." It embodies in it a grave situation, which may arise from time to time. I have been always willing that this power of suggestion should be given - a power which will enable one House to express itself in a perfectly dignified way - for it would not belittle any Chamber to take this course any more than it does in this colony, where the Legislative Council, which is a strong body, has the power of making suggestions which it exercises. I am perfectly willing that that course should be taken by leave of law, not because I do not believe it is an effective course - because it has a power in it - but because, if wrongly taken, the displacement of the financial policy of the country by those who oppose it can be placed at the doors of those who make themselves responsible. We are told by Mr. McMillan that we are to argue on the merits here and not on the views of our respective peoples. I differ from him if he means this, that the ascertained opinion of the colony from which each one of us comes is to be disregarded. In New South Wales, as I have explained, and as can be confirmed by the whole of the delegates from that colony, with perhaps one exception, a settled and very strong view has obtained during the six years that have elapsed since the Conference of 1891, and if we disregard that view, or if any one of us disregards it, no matter from what colony we come, we are not performing the work we were sent here to do.

Mr. PEACOCK:

Hear, hear.

Mr. BARTON:

Of course, while the hon. member Sir John Forrest has his rights, which must be respected in this Convention, we must be entitled to criticise his position and the position of those with him. We have it from his statement that

Sir JOHN FORREST:
That shows how magnanimous we are.

Mr. BARTON:
My friend says there is no way in which they can gain from Federation, and that in most respects the work which is done in Western Australia is done as well by the local Parliament as it could be by a federal government.

Sir JOHN FORREST:
Better.

Mr. BARTON:
Then let us view the position. If that is his view does he not think that he will be in a difficulty in getting his colony to come in a scheme of Federation?

Sir JOHN FORREST:
Yes.

Mr. BARTON:
Well, then, let us view Western Australia as a more or less improbable federating colony, and I ask why should Sir John Forrest force on us a position which will make it much more difficult for the other colonies to federate? If Western Australia is a colony not likely to federate or not very likely to do so, then the position resolves itself into this: that we should not at the suggestion of those who come from that colony take a course which, while they stand aloof, will make federation impossible to those who sincerely desire it.

Mr. PEACOCK:
That is the position.

Sir JOHN FORREST:
Not if you treat us liberally.

Mr. BARTON:
That is truthfully the position, and I would point out that the great difficulty of Western Australia is not in respect to these clauses, but in respect to the financial clauses. Why, therefore, the Western Australian representatives should desire to consider these clauses. until they know the decision arrived at regarding the financial powers of the Federal Parliament, I am at a loss to conceive, and therefore I say no decision should be come to by the Convention which, in respect to a colony which has not ascertained its own position in regard to the rest of the Bill, must mean that it will go away having achieved a victory in this matter, although it evidently does not care about Federation until it knows more about it. Why is that position to be forced on us, and how is it to affect the future prospects of Federation as far as the other colonies are concerned?

Sir JOHN FORREST; We do not wish to influence your vote.
Mr. BARTON:
The hon. member wishes to influence the cause of Federation, and I ask him before he does that which may prove in the result to be a most ill-considered interference with Federation, to consider the position of others who are more interested and more willing than his own colony is. I ask him to consider that, and surely, I think, they have as strong a right to take up that position as he has to take up his.

Sir JOHN FORREST:
What is the position I am taking up?

Mr. BARTON:
He knows what his position is. He has forced on us, of course obtaining a majority, the consideration of certain clauses out of their ordinary order in the Bill.

Dr. COCKBURN:
Only three voted against it.

Mr. BARTON:
The hon. member knows that it was not that division that settled the matter. Let him look at the first division, where there was only a difference of four. With regard to granting Sir John Forrest power to do this, when members saw there would be a majority, even though a narrow one, they gave way to save a division, and, with the exception of three, sat on this side of the House. The vote did not represent the opinion of the Convention, and nobody truthfully can say that it did, and therefore where is the relevancy of the interjection?

Sir JOHN FORREST:
Had I not a right to call for a division?

Mr. BARTON:
I am not saying that. We are brought back to an incident related to Artemus Ward. Mr. Symon quoted that portion of Artemus Ward which referred to his perfect willingness to sacrifice his mother-in-law and all his wife's relatives. Perhaps he may remember another portion (if that book where, when Artemus Ward was about to display his show, he was confronted with a tall gaunt person-I am not now making any reference to any hon. gentleman-with a large umbrella in her hand, and who wanted to get in by saying, "you air my affinity!" I want to know where that umbrella and that gaunt figure are. The attitude of Western Australia towards the other colonies in respect to Federation should be to say, "You air my affinity." If she cannot say that, then this course should not find fruition in success in this Convention. The course which my honorable friend takes up is, for that reason alone, one which we ought not to agree to. Mr.
McMillan's argument was supported by Mr. Symon in something like these terms: that the real argument is what is just or right, and not what a people more or less ignorant may think. But we have also to consider all those who sent us here to consider what they may think is just and right. We are not to separate these, and to run counter to their opinions, but we should endeavor to consider what might result to prevent the acceptance of Federation by colonies in that condition of thought which has been seen. We regard public opinion as our master, and the public have to consider what is right and proper, and it is not meeting the argument to say that we must not consider what a people more or less ignorant may think. The people are being educated on this question of Federation. They know more in New South Wales than they did six years ago, and they have not gone any further in wishing to see a stronger Senate than their representatives accepted in 1891. We are also told by Mr. Symon that we must trust the people. What is the initial argument as to Federation? It is Federation that presents the two distinct units of the people as individuals and of the States as States. However much you may give popular representation for the purpose of creating a quota for a State in the Senate, that State is only represented as an entity there. Yet the people are to be represented as units, and the theory of Federation is that the States as entities are to have certain powers irrespective of the question whether their representatives are sent there by popular election or are chosen by the Parliaments, or otherwise, because on the federal principle those who are sent there by the State may, as in Switzerland, be chosen by each State in the way which it prefers; but we have not come to any determination on that point. It may be that when sent they do not represent the people in any sense by popular election at all, and, after all, in the federal theory the unit represented in the one House is the individual, and the unit represented in the other House is the State as an entity. This trusting of the people, then, becomes a question of entity—a question of the unit found in the citizen of the Commonwealth and the unit found in the entity of the State government. Then, if my friend uses the argument of trusting the people, I submit that is an argument which recoils on him and defeats him. We should trust the people of the Commonwealth, and I do not know any other way in which trusting the people can be managed. We were told by Mr. Leake that he agreed with Mr. McMillan, in saying that there was more a question of detail involved than one of honest federal principle. If this is a question of detail and not one of honest federal principle, I would ask why our friends wanted to consider these three clauses before dealing with the rest of the Bill? Where was the consistency in doing that?
I think they had the prior clauses postponed because they thought this was a matter of direct principle. What is the use of postponing clauses to get a vote, and when you get that vote saying you are not voting as to a principle, but as to a choice of words? The two things stand apart.

Mr. LEAKE:

You say it will kill Federation?

Mr. BARTON:

I say it will be dangerous to Federation, and I think it is more than a question of detail. Surely the thing becomes too palpable for argument. When it is not a question of detail but one of principle involving the existence of Federation, my hon. friend said we should guard against following too closely the practices rather than the principles of responsible government. If this is a matter rather of practice than of principle, was it a matter of sufficient importance to have fifty-one clauses of the Bill postponed? The argument is conflicting, and even an interruption or two will not pull my friends out of their difficulty. My friend Mr. Dobson told us to refer to the enormous compromise that he and his friends had made by allowing the Upper Chamber to be elected by the whole State. I never heard before that that was a compromise. I always understood it was a means adopted by those in this Convention representing the less populous States, for the purpose of what? For the purpose of raising the argument that the Senate was elected directly by the people, and therefore ought to have larger powers than were given in 1891. Whether you elect the members of the Senate by popular representation, or by any other means the State may adopt, nothing more is represented than the entity of that State, and so the compromise comes to nothing. It is at the mere choice of the States represented here whether they should elect their members for the Federal Senate on the popular suffrage. I say it is a choice with which for my own colony I should agree, but this Constitution may say "No; you shall elect your senators in whatever way you choose." if that be so, what becomes of this enormous compromise? This enormous compromise, so called, means nothing. The answer to it is, that "Oliver Twist asked for more."

Sir JOHN FORREST:

I was not in favor of it.

Mr. BARTON:

I cannot say-what took place in committee. If, however, I was challenged, I might say what I should not like to say. I will simply ask Sir John Forrest if there was a division in Committee. I do not wish to take up any more of the time of the House on this question. I have put before the
Convention what is the real position. I admit New South Wales is divided on this point. I admit that Mr. McMillan, and perhaps some other gentlemen I do not know of, may be about to vote with Sir John and his friends, but we know one or two of our friends of South Australia will vote against the position the Western Australians take up. I am simply expressing myself by inference from the speeches made. recognise, of course, the right of any hon. member in a consultative body like this to change his mind. We have had speeches which might indicate that one or two of the members for New South Wales will vote against Mr. Reid's amendment. We have had speeches indicating that one or two gentlemen from South Australia may vote in favor of it. We have had speeches indicating other things in regard to other colonies-indicating, too, that our friends from Tasmania will not vote entirely in a body on the subject. But we have had no speech indicating a like generosity from our friends from Western Australia.

Sir EDWARD BRADDON:

Or Victoria.

Mr. BARTON:

While they remain solid, or if they remain solid, they must carry away with them the uncomfortable

reflection that they are going back to a colony more or less apathetic about Federation, while their voting has adversely influenced the destiny of those who strongly wish for Federation.

Mr. PEACOCK:

Hear, hear. That is the point.

Mr. BARTON:

I should like to see some exception from the ranks of Western Australia equaling in generosity the exceptions already made.

Sir JOHN FORREST:

Generosity!

Mr. BARTON:

Yes, generosity; or in fairness of feeling and openness to argument. There is a sense of justice in that fairness of feeling which leaves itself open to argument. There is no feeling of justice in those who call out early in the discussion, "Oh, we have a majority."

Mr. PEACOCK:

Hear, hear.

Mr. BARTON:

I hope that I have not said one word personally unfriendly to any member. I
I think it is a very reasonable compromise, and that all those in this Convention who really desire to see a Federation of Australia brought about might fairly accept it, or something like it.

I put that to those in this gathering who really desire to see Federation brought about. He goes on:

It is of no use for hon. members to profess to want Federation, while they refuse to accept the means necessary to obtain it.

Then, at the end of his speech, he adds:

I am perfectly satisfied that under this Constitution there will be no unification, because State rights will be perfectly preserved.

That is the deliberate opinion of the greatest authority upon this question in Australia. If members of this Convention really desire Federation, they will not vote against the only possible means of obtaining it. Is it not to the advantage of members of this Convention to come to a reasonable compromise between their views now rather than afterwards?

Mr. PEACOCK:

Hear, hear.

Mr. BARTON:

What satisfaction will there be to members to be in time to come dragged back from the position they have taken up by the force of public opinion, as expressed by the press, by public men, and by the Parliaments? Without successes gained under the influence of public opinion there cannot be a successful Federation, because Federation must depend on the goodwill of the people. You cannot make a Federation under which the people can live and prosper unless it has their goodwill. Is it a position to look forward to with any prospect of satisfaction that the course to be taken now may be one which will be reversed by the expression and operation of forces which not one in this Chamber or elsewhere is able to resist? These forces are irresistible, because it is the people who govern these colonies, and if you are to obey at long last the forces of public opinion—because you cannot have Federation without the sanction of that guiding force—then now is the time, and not hereafter, to make that concession which makes Federation possible, and which at the same time will enable those who make it to look back afterwards and say, "I am rather lucky that I did not put myself in a somewhat humiliating position from which I should have had to extricate myself by the best explanation I could." I have spoken about the financial clauses. Someone may say This is not the time for compromise, because we have not discussed the financial clauses. But since these clauses about Money Bills were singled out of the Bill, were taken out of their place for the purpose of being discussed, why now is the
time for compromise upon them; because it could not be the intention of any hon. member so to single out portions of the Bill as to obviate the possibility of compromise, and so defeat the purposes of this Convention. It is now that compromise should be, and I appeal to hon. members not to allow any vote to be taken at this stage which will have the effect of prejudicially and disastrously influencing the union which—if there was any truth in our utterances as candidates the other day—must have been the desire of every one of us.

Mr. KINGSTON:

I would hardly seek the privilege, sir, of addressing you twice on the same point were it not that, except for the assistance of my hon. and eloquent friend Mr. Glynn, I feel myself almost alone as a representative of South Australia, in the advocacy of the views which have been so admirably placed before this Convention by the last speaker, and by others who have preceded me. But I would like to answer a good deal that has been said on the subject of the improbability of South Australia agreeing to the amendment just now before the Convention, and which involves the re-affirmation of the compromise of 1891. I use that work advisedly. I know that my friend, Sir John Forrest, takes exception to it. No doubt, in the Convention of 1891, there was a division, but the arrangement which was then carried by a majority of twenty-two to sixteen represented a compromise effected in the Constitutional Committee for which Sir Samuel Griffith was chiefly responsible, and in which representatives of nearly all the Australian Governments then present concurred.

Sir JOHN FORREST:

Oh, no.

Mr. KINGSTON:

As to the probability of that being re-affirmed, there are one or two points which are put for the consideration of this Convention. We are told amongst other things that co-ordinate Houses in a Federation render responsible government, impossible. Then I take it upon myself to say that if the issue is put—as is attempted to be put by some, of the opponents of the amendment moved by my friend Mr. Reid—that we should reject the amendment and forfeit responsible government, if you put that question to the people of South Australia I make bold to predict there will be but one answer, and that will be unanimous throughout the length and breadth of the land, namely, "We will have responsible government, and away with the suggestion with reference to co-ordinate Houses." I would like to pursue the same line of thought as my honorable friend Mr. Glynn. He has said that when we returned from Sydney in 1891 there was no clamor against the compromise which had been entered into at the Sydney
Convention. I endorse that to the fullest. Not only was there no clamor, but there was the fullest affirmation of the compromise then effected in the only way in which it was possible.

Mr. LYNE:
That was not done in New South Wales.

Mr. REID:
He is dealing with South Australia.

Mr. KINGSTON:
I am talking of the affairs of the colony of which I know most. The matter was brought up for the consideration of both Houses. In our Legislative Council it was not advanced to any very considerable stage, and, so far as I can find from a perusal of the records, there was no substantial exception taken then to the Sydney compromise; but, on the contrary, those who represented South Australia urged its adoption. Even though they had been found voting at the Sydney Convention in 1891, they looked at the position in this way:

either we are to take Federation in the way it was agreed to at the Sydney Convention, or we are to postpone its accomplishment for an indefinite period. They wisely decided upon the acceptance of the scheme rather than the postponement of the cause. In the House of Assembly the matter was advanced to a considerable stage, and those particular clauses, to which such exception has been taken, were brought under the notice of the Chamber in the presence of six gentlemen who now have the honor to represent South Australia in this Convention, not including my friend Mr. Glynn, who unfortunately at that time was not a member. The result was that not a solitary exception was taken in the slightest particular to any of these clauses.

Mr. SOLOMON:
They were never considered seriously.

Mr. KINGSTON:
Why, Mr. Solomon was there, and I know of no gentleman more consistent in the diligent discharge of his important duties than my hon. friend. In the presence of six gentlemen, including myself, who now occupy seats on the floor of this Assembly as representatives of South Australia, this matter came on for debate, and not a solitary objection was raised. The contest had taken place only a few months previously, and the matter was still fresh in the memories of the members. Every one of these clauses we adopted unanimously, without a murmur and without protest. Therefore, under these circumstances, I ask how does it lie in the mouths of my friend's to say that these clauses would not be acceptable to South
Australia? If they were acceptable in 1891 they would be even more now, because since then greater emphasis has been laid on the point at issue. You must choose between these clauses and the forfeiture of responsible government, and as regards the possibility of the people of South Australia recording their votes in favor of anything approaching the forfeiture of responsible government not one word can be said. So I take the opportunity of pointing to what was the position of the matter in 1891 so far as South Australian sentiment was declared by the resolutions of both of its Houses, and I go a little further and ask my friends of Tasmania to give us a little information on a similar point. I have endeavored to ascertain for myself what happened when the Tasmanian representatives returned, to use the phraseology of my friend the Premier of New South Wales, to the tight little Island, after their exertions at the Sydney Convention of 1891. No doubt my friend Sir Philip Fysh will correct me if I am wrong, but so far as I can gather-and it is highly probable in view of the attitude taken by a gentleman whose absence we all deplore, Mr. Inglis Clark-I ask if I am overstating the case when I say that the action of the Tasmanian Assembly in regard to these particular clauses was precisely similar to the action of the South Australian Assembly. They were passed without a murmur of objection or a division.

Mr. SOLOMON:

Have you been raking up old "Hansards?"

Mr. KINGSTON:

I do not think hon. members will accuse me of any desire to rake up old "Hansards" unnecessarily, but in a question of this sort as to what is likely to be the attitude of particular colonies in particular matters, I think it is only fair that what was the action of those colonies at the time when the matter was fresh upon their minds, and when they were called upon to give their votes in the temporary seclusion of the Legislative Assembly, should be referred to. They confirmed the Sydney resolutions, and I simply refer to this matter as a justification of the interpretation which I now place upon South Australian feeling, and which I think is precisely similar to the interpretation very properly placed upon the matter six years ago by the Tasmanian and South Australian Assemblies, practically unanimously, and when the matter was fresh in the memory of those most concerned.

Mr. BROWN:

I should like first to confirm to some extent the statement made by Mr. Kingston as to the attitude taken by the Tasmanian Parliament with regard to the Bill of 1891. It is perfectly true, as Mr. Kingston said, that the Bill passed through the Assembly on that occasion with, as far as I can
remember, very little exception being taken to it, and it went up to the legislative Council, where it was shelved mainly, I believe, on the ground that it was not thought proper for a small colony like Tasmania to take the lead in the matter, and that it was desirable she should wait until the larger colonies showed some earnestness in the matter. Some of my hon. friends here take strong exception to the clause which it is proposed to reinsert in the Bill, and I cannot help feeling that there were strong objections to it, but still I feel on this occasion the grave responsibility which rests upon each one of us as to how we should vote. Ever since the Constitutional Committee agreed to this clause I have found great difficulty, in fact I have almost found it impossible, to picture to myself how under the clause as it comes to the Convention from the Committee, responsible government could be carried on. I want two things. I want Federation, and I want responsible government as nearly as possible as we have it in our local Parliaments. Wanting Federation as earnestly as I do, I cannot fail to be impressed with the statements which have been made here by hon. members who certainly can be relied upon. I must also be influenced to a large extent by the statements made publicly here in the Convention, and also privately by many members from the larger colonies, upon whose sincerity I can rely, as to what will probably be the effect on the cause of Federation, supposing we reject the amendment proposed by Mr. Reid. I cannot reconcile my-self to give a vote on this occasion which will perhaps hereafter be pointed at as an act on my part which imperilled, if it did not altogether destroy, the opportunity of securing Federation for many years to come. At the same time, while I am about to support Mr. Reid's amendment, I wish to hold myself free to a certain extent. If I find later on that a considerable body of public opinion in the smaller States is on the side of retaining the clause as it came from the Committee, I hold myself free to reconsider my position. I intend to vote, as I shall now, for the purpose of not retarding by any action of mine the cause which we have all at heart; and if it is shown hereafter that the course we are now adopting is not acceptable to the great bulk of the people of the smaller States I shall take the opportunity of re-considering my decision. I take this occasion to deprecate the views that have been expressed by some members that there is likely to be a combination of the larger States as against the smaller ones. I think it is extremely possible, if we can judge from human nature and political history, that exactly the reverse will happen. I have not the same fear that some of my friends have, that the interests of the smaller States will be destroyed, and I am willing to trust to the justice of those who at the time may be the more powerful. On the grounds I have stated, and without delaying the proceedings further, I may state that I intend to
support the amendment.

Sir JOHN DOWNER:

I recognise the rights of those who have not spoken to address the Convention as early as possible, but I rise to correct two misapprehensions, and not for the purpose of addressing myself to the subject matter before the Convention. The first is in connection with Mr. Barton's remarks, and it is an instance of how even the most just of men can make mistakes, and in cases where they least wish to. He referred to my position as being purely provincial, and represented me as having said that my duty was to my own colony rather than to the cause of Australia generally. I said precisely the opposite, and I am sure my friend will be delighted to be reminded of it. What I did say was:

It may be that Sir George Turner may have a difficulty in persuading the people he represents that what is suggested is fair and right; but our duty, after all, is to our own colony as well as to the colony he represents, and we have to say honestly what we think to be fair and right. Put the cause of Federation first of all, as being the great national cause, still we cannot make sacrifices unjust to the people we represent.

I say that is federal and not provincial. The next matter I am impelled to allude to—and I do so reluctantly—is the singular speech made just now by the Premier of South Australia. It is perfectly true that on my return from New South Wales, believing Federation to be the best possible thing in the interests of the colonies, I loyally supported the Commonwealth Bill just as it stood, putting aside all the strong feelings which I had at the Sydney Convention as to details and all matters of contest—putting the great cause first, and trusting that the question would work itself out properly and justly. Whether or not the hon. gentleman took the same course, he knows without my reminding him of it. But I do not stand here in the same position now. The hon. gentleman refused to accept that Bill.

Mr. KINGSTON:

When did we refuse?

Sir JOHN DOWNER:

Altered it most materially. The other colonies, too, refused to accept it.

Mr. PEACOCK:

Victoria passed it.

Sir JOHN DOWNER:

Take the people of Australia as a whole, they refused to accept it, and, that being so, we have this Convention, the idea of which came from Dr. Quick, not for the purpose of swallowing the agreement of 1891, but because the people would not take that agreement, but wanted to consider a
new basis, if possible. So I come here in quite a different position from that which I formerly occupied. I stood loyally to my colors on the Commonwealth Bill of 1891, because I thought it was wise to do so. We had the chance of not getting the best thing in the world, but still something very good.

Mr. PEACOCK:
The position is similar now.

Sir JOHN DOWNER:
It is not the same now. We are sent here with a sacred trust to reconsider the whole matter, and do what is fair. It has been suggested that we should take the Commonwealth Bill as it stands now. Of course that could not be done. Everyone wants to pick out parts of the Commonwealth Bill to please himself, and say to everyone who does not agree with him, "You are going back on what was done in 1891."

Mr. DEAKIN:
That is not so with all of us.

Sir JOHN DOWNER:
No; but it is with a good many: Everyone has a part that we do not like. I consider myself not only free, but that it is my bounden duty to treat the matter afresh and express and adhere to the opinions which I believe to be right; but I do not think my position now can be regarded as being inconsistent with the stand I took before.

Mr. BARTON:
Might I make an apology to my hon. friend Sir John Downer? It is true, I find by reference, as he says, that he said:

Our duty is to our own colony as well as to the colony he represents.

I am very sorry if unintentionally I have misrepresented my hon. friend. I would, however, point out that by what he expresses he puts himself in the position of considering the interests of the larger colonies, and in the circumstances I have some confidence in expecting his vote.

Mr. LEWIS:
I am aware that hon. members are anxious to proceed to a division as soon as possible, and I will not delay them more than a few minutes by expressing my views on this important question as concisely as I possibly can consistently with clearness. The question has been brought back this morning by the Leader of the Convention to its true issue. Last night it was clouded over by many extraneous subjects, especially the question of the equal representation of the States in the Senate. Mr. Carruthers and Mr. Isaacs seem to contend for proportionate representation in the Senate, but that to my mind
has nothing to do with the question at issue, while it certainly departs from the principle which has been generally admitted in the Convention of equal representation of the States in one House and equal representation of the people in the other House. I do not claim that the smaller States are making any concession to the larger States in allowing proportionate representation in the House of Representatives, and I deny that the larger or more populous States are giving to the less populous States any concession in giving them equal representation in the Senate, but I do claim that as believers in States rights we have made several important concessions. We have allowed Money Bills—whether Appropriation, Loan, or Taxation—to originate in the House of Representatives. We have also agreed that the annual Appropriation Bill shall not be amended by the Senate, and we have now got to this point: Shall we allow Taxation Bills to be amended in the Senate, or shall we give, the Senate merely the right to suggest or request amendments? That is really the only point between us. We have made concessions, and we ask the other side to concede this to us. They do not say they are not willing, but that they cannot, in the interests of their constituents, and in view of the strong opinion that will be held by them, ask them to concede what we ask. Well, are we to split upon this point? It is more than a matter of procedure, but at the same time it is not one of the vital principles on which the life and death of Federation should depend. My friend Sir Joseph Abbott has kindly supplied me with the form of the message which is sent down by the Legislative Council to the Legislative Assembly with an ordinary Bill containing amendments made by the Council. The form is:

Mr. Speaker—The Legislative Council returns to the Legislative Assembly a Bill to, &c., with the amendments indicated in the schedule, in which amendments the Legislative Council requests the concurrence of the Legislative Assembly.

I am speaking of ordinary Bills, not of Money Bills. This Bill provides that in case of a proposed law which the Senate may not amend the Senate may at any stage return it to the House of Representatives with a message requesting the omission or amendment of any items or provisions therein. The distinction is not very great. The question whether the amendment is made and the concurrence of the other House is requested in it, or whether that other House is requested to make that amendment, seems to me not a matter of such vital importance as to endanger the very existence of Federation.

Mr. ISAACS:

Hear, hear.

Mr. LEWIS:
We have been sent here with a mandate to frame a Constitution, and we have to frame one which will be in the end acceptable to the people. The question is at what time are we to make concessions, which I believe will ultimately have to be made?

Sir GEORGE TURNER:

Hear, hear.

Mr. LEWIS:

Are we to make them now, or to wait until the adjourned Convention?

Mr. TRENWITH:

Whenever you are ripe, it ought to be done.

Mr. LEWIS:

I have given this question serious and anxious consideration—greater consideration than I have given to any question since I entered political life—and I have come to the conclusion that now is the time to make concessions, and to do so as gracefully as we can, feeling that the House of Assembly of Tasmania, like every other House, can, if it dislikes this proposal, send back to the adjourned Convention this Bill with such amendments as it sees fit to make, and then the matter can be fully thrashed out again. I, like Mr. Brown, desire to keep an open mind for the future, but in the best interests of federal movement I think we should now gracefully give way, and if we find that we have to retrace our steps, we shall be able to do it at the adjourned Convention. I do not look on this as such a vital point. We shall have many vital points to thrash out. If our friends from New South Wales and Victoria deny us the right to have equal representation in the Senate, they will find we are strong and firm, and we will fight to the end. I am ready rather to see Federation wrecked than give way upon a point like that. But upon a point that is not of vital moment, I do not think that, in the best interests of the federal movement, we should, at this stage at any rate, do anything which will have the effect—and I am sure my hon. friends from New South Wales and Victoria are sincere in what they say—of postponing the cause of Federation indefinitely.

Mr. ISAACS:

Hear, hear.

Mr. LEWIS:

I intend to vote for the amendment moved by the New South Wales Premier.

Mr. KINGSTON:

I wish to make a personal explanation. Since I sat down I have had placed in my hands a telegram with regard to the course adopted in
Tasmania. I had previously, as Sir Philip Fysh and other Tasmanian delegates well know, taken all pains to be sure of what I was going to say, but I was not correctly informed. The information which is now before me from the Clerk of the House shows that in Tasmania the clauses were altered by giving to the Senate the power to amend the Appropriation Act.

Mr. MOORE:

The feeling in Tasmania is unquestionably in favor of investing the Senate with certain powers. During my own candidature for a place on this Convention the question was put to me over and over again: "Will you agree that the Senate should have the power of amendment"? and of course I answered in the affirmative. I am perfectly sure that the great majority of the people of Tasmania are in favor of the action taken by our friend from Western Australia, and up to the present time by all those who have addressed themselves to the question from Tasmania. I feel that we are simply expressing the wish of our constituents just as much as the representatives of New South Wales and Victoria are expressing the wish of their constituents. There is no doubt that compromise must be effected in order to carry out Federation on this great essential principle in the question of Federation, namely, that the Senate should be given equal powers. What is the value of equal representation if the Senate is emasculated of all power? When we look at the powers of the Senate and of the House of Representatives, we see that already we are giving the most absolute power to the House of Representatives. We are giving them the power of initiation in every shape and form. While the House of Representatives possessing the power of initiation as far as all Money Bills are concerned, what more could it possibly want? All that we claim for the Senate is that it should exercise its right in amending Money Bills. Therefore, so far as I am concerned, I must support the people of Tasmania, because I say the people of Tasmania are nearly unanimous on that point. The people of Tasmania do not accept the compromise of 1891, and when one gentleman was addressing his constituents only lately in Launceston, the question I have indicated was put to him, and I believe the reason why he was not sent to this Convention was because he was found to be one of those who deserted the interests of Tasmania in the Convention of 1891. Of course the matter which we have here to consider is one of great importance. I have been advocating Federation for the last twenty-five ye

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introduction of a Bill in the British Parliament authorising any of the colonies to make arrangements one between the other concerning intercolonial reciprocity. We have over and over again approached Victoria
with a view to the carrying out of measures that would be advantageous, fair, equitable, and right with regard to intercolonial freetrade, and never been met in any shape or form. What are we doing now? They tell us:

Unless you take our terms, and give the Senate emasculated powers, we will not go into the Federation at all.

I think there are two sides to this question. Tasmania, which is not very populous, is looked down upon to a certain extent, and when a member representing that colony speaks he is viewed as one who is there as a delegate only for a few individuals. That has been said over and over again, and therefore when a Tasmanian member rises to speak he feels his position acutely. We in Tasmania are anxious to join in a Federation with the whole of the colonies, and to work heart and hand with them in advancing the best interests of Australasia. We think it can do no harm, in fact that it is a right to give the Senate the power of amending Money Bills. That appears to be the crucial point at the present time. When I was in Victoria the other day, and read leader after leader in the Argus I was supported in this view. The Argus pointed out how desirable it was that the Council should have the right to amend Money Bills, and that that was the way to prevent deadlocks between the Senate and the House of Representatives. Perhaps the Victorians here are acting in a dual capacity by representing the Age and the people of that colony.

Mr. ISAACS:

That shows that the people and the Age are in accord.

Mr. MOORE:

The Age has become a powerful instrument in these matters, and let me say that I do not always dissent from the opinions of the Age, and I believe in the policy it advocates very often. I should like very much if I could bring my Victorian friends to believe that Tasmania should have a place in this Federation, for I am sure we would work harmoniously together. When we look at the powers which the House of Representatives possess in the way of Federation we wonder what more do they want. We, in Tasmania, want nothing more from the larger colonies. Two things are expected to be carried out by this Federation—one is intercolonial freetrade, which forms the commercial aspect of the question, and the other, and greater question, is the elevation of the people to a higher platform of national life. In the discharge of those higher duties in connection with national life we ought to be pulling together and to be helping each other. I am sure that had we Federation we would have possessed such influence and power as would have prevented, for instance, New Guinea falling into the hands of the Germans. As far as the question of money powers is concerned, we must draw a line between the exercise of those powers in a Parliament in
Australasia, and a legislature in the old country. There is no analogy between them. In this country Ministers are created and put out of office on the question of Money Bills. Everything, almost, depends upon the question of Money Bills. One member has said that "finance is government and government finance"; but in the old country the larger questions overshadow the question of Money Bills. The question of foreign and domestic policy and questions of larger import overshadow them. But here in these colonies a great deal depends upon Money Bills, and I hope we will see the necessity of vesting in the Senate the power of amending Money Bills. I do not think that is too much to ask from Victoria and New South Wales. I am not going to take up much time, because I feel that my friends from West Australia wish to leave for their colony to-day, and I have consequently refrained from addressing myself to the question as I could have done; but when I look round and see so many eminent men, who have already addressed themselves to the question in a clear and lucid way, and have laid almost every fact before this Convention, I hope it will not break up without arriving at a satisfactory result by doing that work for which we have been brought together.

Mr. SOLOMON:

I have refrained during the time this Bill has been before this Committee from speaking, because I anticipated the early departure of our West Australian friends, and not because I in any way desire to give a silent vote upon a question of so much importance to the colony I have the honor to represent. This question as to the powers of the Senate is not a new question to South Australia by any means, and although perhaps one representative, the Premier, who was returned to represent South Australia, has not distinctly given his allegiance upon this point before the electors, the bulk of the other gentlemen elected, and the bulk of the candidates who came before the electors for their selection, all gave their adhesion to the idea that no Federation would be acceptable to South Australia, unless the Senate had first of all equal powers, next equal States representation, and above all an equal voice in reference to Money Bills. We have already conceded a considerable amount in exempting Loan Bills from these particular clauses, but beyond this I do not think it is possible for the South Australian representatives to go. It is all very well for the representatives of the two more populous colonies to, perhaps not threaten exactly, but to tell us in language that is tantamount to a threat, that unless the Senate is restricted in its powers and unless the whole power of dealing with the purse is left in the hands of the House of Representatives, the Victorian and New South Wales representatives will be unable to recommend the Bill to
their constituents. This is not a new question. This matter of the powers of the Senate has been one of the real live questions since 1891, and, as the Premier of South Australia has alluded to the attitude taken in 1891 by members of the Convention, then sitting with the local Legislature, I should like to remind him that the Bill was considered in 1891 with very little interest. The Bill was introduced by the Playford Government as a stopgap, and the present Premier used it for political purposes, and little else; and his attitude now in regard to this question of Money Bills is distinctly in contradiction to his attitude when the Bill was before the South Australian Parliament in 1891. He prides himself on having stuck to the concession, or the agreement of 1891, when he said he would give only the power of suggestion to the Senate, because it was not representative of the people. At that time the Senate, was to be chosen by the two Houses of the Legislature, and consequently he deemed it wise to restrict their power. He has probably forgotten the attitude he then took up, although he has twitted others with having allowed that Bill to pass. He said then

Mr. DEAKIN:
We do not want local politics.

Mr. SOLOMON:
It is a question of local politics connected with this Bill and the attitude then taken by members.

Mr. PEACOCK:
It is a narrow question of local politics.

Mr. SOLOMON:
I say that it is not a question of local politics, when I wish to show that one gentleman has deserted the smaller colonies and has distinctly changed his attitude since 1891.

Mr. ISAACS:
We have nothing to do with that. It is a matter between him and his constituents.

Mr. SOLOMON:
I have a perfect right to discuss this point and to show the attitude of any member, especially if that member has alluded to the attitude of his fellow members here. I will not inflict on the Convention the whole of his speech, but simply the portion where he says:

With regard to Money Bills and the power of the Senate, he was quite content to abide by the provisions of the Bill, because it was quite enough to give that House the power of making suggestions as long as the people were denied the privilege of electing the senators by direct vote.

Is that his position to-day? How does he justify his attitude in regard to
his colleagues here? The position is that the Senate is to be elected by the
direct vote of the people, and will have as much right to represent them, as
the guardians of the States, as the House of Representatives, on all
questions. Would any of the gentlemen who represent the larger colonies
consent to a similar course in their local Legislature? Would they agree
that the members who represented 10,000 electors should have a greater
control over taxation proposals than those who only represented 2,000?
Would they agree to their colonies being divided into constituencies on the
basis of population, and that on the one hand Melbourne and its suburbs
should have perhaps four times as much proportional representation as the
country districts? Would the representatives of New South Wales agree to
this population basis in their local Legislatures? I venture to say, that as far
as the people of South Australia are concerned, that they would not agree
to it. I have only to point out that in the House of Representatives, where
Money Bills of all kinds are to originate, the two colonies with the larger
populations will be represented according to their people, in round
numbers by about forty-eight or fifty members, while, even supposing
Queensland comes in, the four smaller colonies will be represented by only
twenty-six members. If this is not a reason for giving the States in the
Senate, the House where they have equal representation, some means of
exercising a wholesome check in regard to Money Bills, I do not know
what more cogent reason could be given. One honorable gentleman—I think
it was the honorable member, Mr. Barton—pointed out that this is the form
of responsible government we must have, if we are to have responsible
government, and the Executive responsible to one House. Undoubtedly,
our desire is for a form of responsible government, and those who
represent the smaller States want the Executive to be responsible, but we
do not want this to mean responsibility to the colonies of New South Wales
and Victoria. Willing as we are to come into the Federation, with the
miserably small number of members in the Lower House, we have the
mandate from the people who elected us to this Convention, in no
uncertain sound, that all the colonies wish for Federation and not
absorption. But, according to the views expressed in this Convention, it
means that the smaller colonies will be absorbed by New South Wales and
Victoria, not that these two colonies will in any way combine, but we have
to consider that, in the event of these two colonies sinking their differences
in regard to any questions of finance, they would absolutely rule the whole
of Federated Australia, and handle the money contributed by the taxpayers
as they pleased. As to the power given to the Senate to veto Money Bills,.
those gentlemen who are older politicians than myself know perfectly well
that this is a power that really amounts to having no power at all. What
advantage is it for the Upper House, to have the right of suggestion, when they know that they have no power to enforce? The power of veto is merely an empty one. But what the States want as regards dealing with questions of taxation, in which all are interested, is that they should have the power, not only of veto, but that they should have the power of amendment. We know perfectly well that instances may occur, and do occur very frequently in our own local Parliaments, where a scheme of taxation would be partly accepted by the upper branch of the Legislature, and, although I recognise that the upper branch of the Legislature and the Senate are not on all fours, it is known that that scheme which might partly be viewed with favor, must either be rejected as a whole or swallowed. What would be the position in which the smaller States would be placed if we agree to this amendment? What will be the privileges of the smaller States? They will have the privilege of being taxed at the hands of the larger States. They will have the privilege of being represented by about twenty-five members as against fifty members on the other side. The smaller States will contribute at per head of their population as much to the defences, to quarantine, and to all other departments which will be handed over to the Central Parliament for control—and how else could they fairly contribute—but they only have a very small voice in the control of how this money should be spent. I do not say for a moment that New South Wales and Victoria would combine to bring about the expenditure of large sums of money within their own territories, to the detriment of the other colonies, but at the same time we have a serious position to consider here. Those representing the smaller colonies have not to consider how much they are to trust to the generosity of the larger colonies, but they have to consider what safeguard they have against there being such a combination to their detriment. What safeguard can we have, when the larger colonies have a two-to-one majority in the House of Representatives, and in the Senate the whole of our powers are completely clipped by this amendment. hope those representatives who have considered so little the immense responsibility to South Australia and the other smaller States, of giving way on this question, will reconsider their position. We have been told that no harm can be done by reconsidering a position from day to day, or even from hour to hour, but if these votes, which have been influenced to some extent, by the fear that the representatives of Victoria and New South Wales would not be able to recommend the Bill without

Mr. MCMILLAN:

I think, perhaps, in the peculiar position I find myself, the Convention
will bear with me in obtruding a few remarks before the vote is taken. I must say I dissent from what, I think, was the rather ungenerous treatment of Mr. Barton with regard to a remark I made, and it was also referred to by another member. When I referred to the ignorance of popular opinion on this question, I simply said what I believed—that this question with regard to "suggestion" and "amendment" is not thoroughly understood in the two colonies. I believe myself that many of those who are seized of the great strength of this opinion in the two larger colonies are also seized of the fact that it is an unreasonable feeling. All I wished to convey was that we had to be very careful before we placed in this Constitution, which creates an indissoluble union, any principle or any factor which may be the result of a momentary current opinion. With regard to the debate itself, and the arguments used, I have not heard any single argument that alters my opinion on this question. I have heard the argument, which I do not think will stand investigation, that the introduction of "amendment" instead of "suggestion" would strike a blow at responsible government.

Mr. SYMON:
   It is nonsense.

Mr. MCMILLAN:
   I look upon it as absolutely absurd.

Mr. SYMON:
   Hear, hear.

Mr. MCMILLAN:
   I have heard it stated by a great refinement of argument—and there has been a great deal of, what is called technically, special pleading in this matter—

Mr. LYNE:
   Hear, hear.

Mr. MCMILLAN:
   That if you attempt to amend you destroy the responsibility of the popular branch of the Legislature to the people. But all that applies to any piece of legislation as well as to financial legislation. And if you have a bicameral government at all, under a federal system or otherwise, the whole principle of legislation is the responsibility to both Houses with regard to all acts of legislation. I am not going to enter any further upon that argument. I have now done as I think I have a right to, because—as I told my constituents I would when appealing to them for election—I have given my own views, my own conscientious opinions, without any regard to current opinions elsewhere, and in doing that I think I have only acted like an honest man.
Mr. ISAACS:
Hear, hear.

Mr. MCMILLAN:
Now, I come to the question of vote. I also told my constituents that, while I would not conceal from my fellow delegates, if elected, the opinions of which I was seized, at the same time I felt that we were entering into no ordinary conference. I think I have, fairly, the courage always of my opinions. If I were a Responsible Minister of the Crown, and found my policy was not accepted, I would retire at once from the position. But that is not the position of hon. members in this Convention. Our position, after giving our opinions, and after deliberating on every matter, is to decide what, on all points, is best in order to secure Australian Federation. I am free to admit that there was one very strong point brought out by Mr. Barton, and I repeat it without want of respect to my fellow citizens in West Australia. There is no doubt that if the attitude of West Australia is lukewarm, if it has come here-and I am glad it has-to note our proceedings and take an active part in them, still, if it is to be an outside factor in this Federation, their vote to day, if successful, will preclude a Federation of the other four colonies. I think that is an immensely strong argument.

Sir JOHN FORREST:
It is only an assumption.

Sir EDWARD BRADDOCK:
Hear, hear.

Mr. MCMILLAN:
Any man regarding his vote on this question must carefully consider that point. Now, I come to another point: I Spoke, as I often find myself speaking, probably on the weaker side, and when I was speaking, to a great extent, there were practically unbroken phalanxes. But since this debate commenced we have had two gentlemen receding from the extreme position in South Australia, and two gentlemen receding from the extreme position in Tasmania. Where do I find myself now? I find myself in the position that I must look at the whole situation, and I must, if necessary, sink my own views on what I believe, on the whole, are the views likely to bring about Federation. I did think when I spoke, that it would be better to leave the elucidation of this matter for the play of public opinion between the first meeting of the Convention and the second. Now, I find that some members representing the smaller States say it is far better if there is to be a compromise to have it at once. And I am told-I think it is the opinion of several of those who are now voting with the smaller States against this amendment-that if it does come to a question of Federation or no
Federation on this point they will agree to give way afterwards. I find myself in this absolute difficulty: that, with the votes as they can be counted after the expression of opinion this morning, if I voted against this amendment the numbers will be twenty-four to twenty-four, and the onus will be thrown on the Chairman to give a casting-vote.

Sir JOHN FORREST:
I do not think so.

Mr. MCMILLAN:
I ask myself therefore "Have I a right, under these circumstances, with the large majority in my own colony, and the absolute unanimity in another colony, to take upon myself the responsibility of giving that vote?" Now, I think, as a rule, I am not in any way affected by the opinions that others may have of me, if I think I am doing my duty. I do not think that any absolute desire to be consistent, or any fear of being blamed for want of courage ought to affect any man on an occasion like this. I think I am sufficiently known that if I thought this was an absolutely vital matter, I would stand alone. But I have to take the views of others. I myself agreed ultimately to the Bill of 1891, and, therefore, I think from every possible view, and looking at it, after a great deal of painful and careful consideration, I find it now-in spite of the speech I made in this Convention-absolutely necessary, for the sake of compromise, and for the sake of Australian union, which I put above every other subject at the present moment, to give my vote in favor of the amendment.

Mr. DOUGLAS:
I trust we will record our votes against the amendment.

Mr. FRASER:
Many of us have not spoken at all.

Mr. DOUGLAS:
I am anxious to have their votes recorded. As I understand it, Mr. McMillan is giving a sort of magnanimous vote, instead of a real bona fide vote, on one side or the other. It is deplorable the way in which the game of bluff has been conducted.

Mr. LYNE:
Where are all your true merinos now?

Mr. DOUGLAS:
It is to be hoped that we shall get a record of this vote, so that when some honorable members get back to Tasmania they will be treated as they ought to be. It is deplorable to see the way in which this business is done. The general opinion in Tasmania was that the Senate should be supported to the fullest extent. I was very glad to hear Mr. Kingston make the explanation
he did, and I have no doubt that had he got up before he did it would have had a great effect upon the votes of some of the gentlemen who have spoken, and instead of being against the motion they would be in favor of it. It is difficult to know the reason which has actuated this game of bluff which Victoria has carried on from the beginning.

Mr. PEACOCK:

Poor Victoria!

Mr. DOUGLAS:

It was done in the Convention of 1891, and the delegates carried the amendment. Mr. Kingston on that occasion distinctly stated that if the Senate were elected in a different form he would have voted differently, and that, inasmuch as the Senate was not to be elected upon the broad principle we have now, he said he would vote against it. To be consistent, therefore, the hon. member ought to have supported the original proposition. We find also that the Premier of New South Wales condemned it in every particular, but what was the position he assumed to-day? If the smaller colonies are to have no power what becomes of the Convention? Its labors will be nought. Mr. Moore has pointed out the endeavor that was made by Tasmania to carry out freetrade with the colony of Victoria, and at that time Sir Graham Berry was the one deputed to bring about this desideratum, but when the time arrived for it to be done it was postponed, and eventually it ended in nothing. We have tried to do the same thing with South Australia. Is it likely that Tasmania, laboring under the disabilities I have pointed out, will come into a Federation of this sort? I do not think so.

Sir WILLIAM ZEAL:

She has everything to gain by it.

Mr. DOUGLAS:

The ship of State cannot steer straight without a rudder. Victoria fancies she is the one who has got the rudder, but in that she is mistaken, for it is Tasmania who will take the helm and guide the ship into deep water. You say it makes no difference as regards the power of amendment and the power of suggestion in the Senate concerning Money Bills, and if that is so why not agree to give us that power? I trust that those who favor that view will record their votes accordingly, and we can thus see exactly what the position is.

Mr. BRUNKER:

It was my intention to have spoken very fully, and perhaps very freely, upon this subject, which I believe affects very materially the progression or retrogression of these great colonies, but I am speaking under most trying circumstances, and it not my intention to detain the Committee by offering
remarks which might simply be confirmatory of what has been so well and
so ably said. My object is rather to give a vote than detain the Committee,
and I think it has been so well and ably discussed that we may well come
to a division now. I hope, as I shall be compelled to leave the Convention
this afternoon, that its deliberations may in the future be free from conflict
and irritation, that the smaller colonies may not recognise themselves as
smaller colonies, but that they may treat themselves as part of the whole of
Australia. It is only by putting aside these strong feelings of jealousy and
these parochial feelings that exist that we can hope to establish this system
of Federation we all so heartily desire. I must apologise for not being able
to express my opinions to-day, but there is no more ardent federationist
than I am, because I have thorough knowledge of the position of the
colonies generally, and I feel sure that if we place ourselves in the position
of an artist who is endeavoring to put the finishing touches to his work, and
we try to put a finishing touch to that which will tend to the prosperity of
the people of the colonies, the result of our labors will enable us to submit
to the people a Bill which will not only prove acceptable to members, but
which will tend to the future happiness and contentment of the people.

Sir JOHN FORREST:

I do not rise to prolong the debate, but merely to make an explanation.
My friends Mr. Barton and Mr. McMillan have informed us that Western
Australia is here not in earnest, but just to take a part in the debate in a
playful manner and to interfere as much as possible with the work that is
going on. I do not know where this idea came from. At the time I
interrupted that it was an unwarrantable assertion. If I and my colleagues
are to be judged it is by something we have said, and I find in the speech I
addressed to the House a few days ago I made use of these remarks:

I am at

Again, later on, I referred to the size and great extent of the colony I
represent, and said:

We are all one people. We all belong to the same nation, and we do not
want to live under different laws and be separated by hostile tariffs and
imaginary lines drawn across a map, separating one colony from another,
but we should form one great Commonwealth, and all federate together.

I do not know whether I have on other occasions during this Convention
expressed myself in contrary terms, but I certainly do take exception, and
strong exception, to Mr. Barton, who, from my point of view, did not take
up a judicial position in regard to this matter, nor has he done so all
through. In speaking he has taken up the position of an ordinary member,
and he has criticised, and I think somewhat unfairly, the position of
Western Australia in regard to this matter. I do not wish to say anything
more, as I have made my explanation.

Question-That the words "laws imposing taxation and," proposed, to be inserted, be so inserted-put. The Committee divided.

Ayes, 25; Noes, 23. Majority, 2.

AYES.
Abbott, Sir Joseph Lewis, Mr.
Barton, Mr. Lyne, Mr.
Berry, Sir Graham McMillan, Mr.
Brown, Mr. O'Connor, Mr.
Brunker, Mr. Peacock, Mr.
Carruthers, Mr. Quick, Dr.
Deakin, Mr. Reid, Mr.
Fraser, Mr. Trenwith, Mr.
Glynn, Mr. Turner, Sir George
Henry, Mr. Walker, Mr.
Higgins, Mr. Wise, Mr.
Isaacs, Mr. Zeal, Sir William
Kingston, Mr.

NOES.
Braddon, Sir Edward Howe, Mr.
Clarke, Mr. James, Mr.
Cockburn, Dr. Leake, Mr.
Dobson, Mr. Lee Steere, Sir James
Douglas, Mr. Loton, Mr.
Downer, Sir John Moore, Mr.
Forrest, Sir John Piesse, Mr.
Fysh, Sir Philip Sholl, Mr.
Gordon, Mr. Solomon, Mr.
Grant, Mr. Symon, Mr.
Hassell, Mr. Taylor, Mr.
Holder, Mr.

Question so resolved in the affirmative.
Sub-section 1 as amended agreed to.
Sub-section 2.

Mr. GLYNN:
I would again draw the attention of the Committee to what, I submit, is a difference between "laws" and "Acts." This word "law" is more abstract and may be applicable to a single section in an Act, and if that is so it is very material whether we leave the word "law," because the single section may deal only with the imposition of taxation, but the restriction on the
power of amendment may be applicable to other sections in the same Act which do not deal with taxation only. I merely mention the point because I should like it cleared up by hon. members.

Mr. BARTON:
Do I understand the hon. member to refer to the use of the words "proposed laws"? If so, "proposed laws," I may say, is an expression used in other parts in regard to "Bills," while "laws" covers the expression "Acts." If the hon. member will refer to the Bill he will find that the words "proposed laws" relate to Bills. With regard to "Bills," the provisions of the sections will be left to be carried out by the House, that is, by the President or Speaker. So far as the expression "laws" or "Acts" is concerned, that deals with the law when it is passed, and such an expression to my mind clearly means that even after that which is a Bill has become law, if it deals with anything more than the imposition of taxation, it will be unconstitutional, and the Federal High Court can decide that it is unconstitutional and void; so when an Act affecting to deal with more than taxation, and yet is a Tax Bill, happens to be carried through both Houses and assented to in contravention of this provision, that would be an unconstitutional and therefore a void Act. I think that that is the point upon which my hon. friend wished for information.

Mr. GLYNN:
What I was pointing out was that it may be suggested that the word "law" might mean a section or a whole Act. If it be contended that it means a section it might be quite competent under this clause 53 to point to other sections in one Bill, others not dealing with taxation only, but dealing with other and general matters. I raise the point because it seems to my mind that the sub-section opens the way to a difficulty in the way of limiting the power of the Senate through sending up mixed Bills such as one dealing with appropriations and general matters.

Mr. BARTON:
Of course in one sense every clause in an Act is a law, because it is a distinct enactment; and if the hon. member will refer to the Statute Book in reference to old Acts he will find each clause beginning with "and be it further enacted," and every clause is therefore an enactment, and in that case it is a law. In this case, however, the meaning is clear. It is this: that the Bill, afterwards becoming a law imposing taxation, shall deal with the imposition of taxation only; that means, of course, shall contain such provisions as are necessary for carrying the taxation into effect. You cannot pass a taxation law by simply enacting that there shall be laid on certain property, or on certain subjects of importation,
a duty. You will have to pass into law other enactments to carry that into effect. These are clauses dealing with taxation only, because they are the necessary machinery clauses for carrying the object of the Bill into effect. To that extent a law having been a Bill which dealt with taxation only, so long as it has clauses dealing with that subject only, would all be constitutional under this section. That is to say, where there were clauses in the Bill which did not themselves impose the tax, but provided for what was necessary or incidental to the carrying into effect of the tax law, they would be proper parts of the Bill, and therefore could not be ruled to be unconstitutional as being outside its scope.

Mr. KINGSTON:

I do not know whether I quite understand the effect of these sections. Do I understand Mr. Barton rightly as saying that the effect of it will be, if we pass the clause in this shape, that if the law should be assented to by the two Houses, and receive also the Queen's assent, and if it deals with the imposition of taxation and some other matters, that that law would be unconstitutional, and liable to be set aside by the High Court? If that is so I think we are going a great deal too far. I think these provisions are chiefly intended for the regulation of business between the two Houses, and the maintenance of the rights of each. If an infringement of these provisions, however concurred in, takes place, and notwithstanding the infringement in question, both Houses assent to the proposed measure, yet it is in afterwards to be held invalid. I am inclined to think it is too serious a consequence, and I ask Mr. Barton to say precisely what is the intention of the Drafting Committee on the subject. I ask him also to consider the point whether it would not be sufficient to leave it as a matter between the two Houses without going to the extent of passing the Bill in such a shape that any relaxation of any of these provisions, however unimportant, and concurred in by both Chambers, would invalidate an Act of Parliament.

Mr. BARTON:

My own opinion is distinctly that in the form in which this and the preceding sub-section, and probably the fourth sub-section, stand, they involve that protection which must be given under a Federal Commonwealth by leaving to the supreme arbiter of the Commonwealth—that is to say, to the High Court—the determination whether substantial infractions of constitutional law have taken place. To put it in another way: If the hon. member will compare this with the 52nd clause, that the hon. member will see deals with "proposed laws," and not with "enacted laws." "Laws" means "enacted laws." "Proposed" laws are to originate in the House of Representatives. It is not intended, as of course he sees from the form of the section, that the High Court of the Commonwealth should have
under review such a question as whether a Bill originated in one House or another if passed into law. That is a question for the Houses to settle between themselves. But the question whether a law on the face of it exceeds the constitutional power as dealing with more than the imposition of taxation, dealing with more than the laying on of a tax and the machinery necessary for it, or whether it deals with two subjects of taxation at once, unless it is a Customs law, that question, and also the question whether the annual Appropriation Act deals with more than the ordinary annual services of the year, seem to me to be deeply rooted in the Constitution, and depend not merely upon the questions of relations of the Houses inter se, but on much larger considerations. For that reason, the word used has been "laws," so that the Federal High Court may deal with them, and if they infringe those principles, declare them unconstitutional. But where the words "Proposed laws" have been used, those sections deal with the position which would arise where, as between the two Houses, a House as a matter of procedure originated, or otherwise dealt with, or amended a bill which by this Constitution it is desired that that House should not originate or amend. These are questions that must be settled between the Houses, because no court in the world has ever yet dealt with the question whether, as between the two Houses in their own relations, one or other House has exceeded its powers in originating or amending Bills. But it is a safeguard-an integral part of a Federal Constitution-that, if we once say that a law shall not deal with more than one subject of taxation-unless it is a Customs law-or that it shall in no way deal with anything more than the imposition of taxation and the necessary machinery, then that is a question which relates to the whole basic principle of Federation whether that law shall be deemed to be constitutional, even if passed.

Mr. ISAACS:
Would you consider the repeal of an Act to be imposing taxation?

Mr. BARTON:
The repeal of a Taxation Act could not be for the imposition of taxation.

Mr. ISAACS:
I should think it would not be.

Mr. BARTON:
Unless it was accompanied with alternative provisions for taxation.

Sir GEORGE TURNER:
Hear, hear.

Mr. ISAACS:
Suppose you repeal one land tax and put on another, are you clear that
that is not dealing with the imposition of taxation?

Mr. BARTON:

If you place in any subsequent Act of Parliament provisions which are irreconcilably at variance with the provisions of a prior Taxation Act, there will be an implied repeal. If this be so, then it is no violation of the provisions of the Constitution if you turn an implied repeal into an express repeal. If there is a replacement of prior taxation by a later taxation Act, the mere addition of a repealing clause would certainly not be an infringement of constitutional provisions. What can be done by implication can always be done by express statement. This set

Mr. REID:

The remarks of my hon. friend Mr. Barton raise very serious considerations. Let us suppose that a policy of taxation—we will say a Customs tariff—is passed by both Houses. Let us suppose that both Houses are emphatically in favor of it, and there is some provision in that long Bill—one short clause—which may raise a point of law; then any person affected by that taxation in some insignificant way might upset the whole tariff and throw an entire community into the greatest state of uncertainty. We do not wish anything of that kind. I look upon these provisions, not as inserted for the protection of the taxpayers, but as provisions inserted to define the relations between the two Houses, and it is a matter entirely between the two Houses. If, for instance, the Senate by an oversight or by agreement chooses to pass a Bill which is not in strict accordance with these provisions that ought to be a matter entirely between the two Houses. It is not likely that the Senate would allow anything of the kind to happen, and I have a very strong opinion that if a Bill contained say a land tax and also the machinery necessary for collecting that tax it would be a clear violation of this provision.

Mr. BARTON:

Oh, no.

Mr. REID:

I venture to say so, because I remember the way in which these taxes are imposed in the mother-country and in most of the colonies. The tax is put in one short Bill and the machinery clauses in another Bill.

Mr. BARTON:

Not because of provisions of this sort.

Mr. REID:

No, because they do not exist, of course, but for another good reason, namely, that whilst under our Constitutions the Upper House is not allowed
freedom in modifying taxes it should be allowed the most perfect freedom in dealing with the machinery necessary for collecting those taxes. If the two were put together the Upper House would be very much embarrassed in exercising a discretion upon the machinery clauses. I think this is so serious a matter in the light put on it by Mr. Barton that we ought to copy the term in the margin of the clause. I propose therefore:

That in sub-section 2 the words "laws imposing taxation" shall be omitted with a view of inserting the words "Tax Bills."

I think that would be infinitely better. It would be far better that any Acts of the Federation should not be open to review in the law courts upon a mere matter of procedure, because the essence of authority to impose a tax on a subject is the concurrence of the Legislature, and if that concurrence is affixed to the tax it would be an absurdity that on some technical point the whole law should be upset. We do not wish to appeal to our higher court on matters of this sort. The more Parliament is self-contained the better, and the more it is the master of its own powers the better. Viewing these clauses as provisions to safeguard the other branch of Legislature, and with no reference to the ultimate effect of the laws themselves, I propose the amendment I have submitted. I will follow this amendment up by proposing a similar amendment in sub-section 3.

The CHAIRMAN then put the amendment.

Mr. REID:
In deference to the suggestion, which I think is a proper one, of Mr. Barton—that we should follow as much as possible the structure of the Bill—I with the leave of the Committee, will alter my amendment by

Putting the word proposed "before "laws"

Leave granted to Mr. Reid to alter his amendment.

Mr. SYMON:
There cannot be any doubt that this involves very serious consequences, and the underlying principle to which we have to get seems to me to be only indicated by my hon. friend Mr. Reid, rather than agreed upon by him. This amendment is not quite logical, and will not really accomplish his purpose. Undoubtedly it seems to me that clause 53 is intended to regulate the proceedings between the two Houses, to prescribe the basis upon which the relative power of the Houses in regard to Money Bills is fixed, and the exercise of their limitation and condition. If that is the governing sense of clause 53 and its various sub-sections, then we do not want an amendment at all. I am not saying that absolutely or dogmatically, but as indicating the opinion I hold on what Mr. Reid has said, that the whole purview of clause 53 is to deal with the relations of the two Houses regarding Money Bills. It was not intended by that section to create conditions which before a higher
court might possibly lead to some Act being declared invalid, whereby endless confusion would arise throughout the Federal States. If that is the construction of the clause, and its object is ascertained by reading subsection 1, does that interpretation govern the whole of the sub-sections, and would that be simply limiting their effect to the relation between the two Houses? At the same time, if there is the shadow of a doubt upon that point, I am sure that the Convention will feel that it ought to be set at rest. It would never do to have the whole of the finances of the Federal States as well as their constituent States disturbed by an interpretation which might, if the law had been passed and brought into operation, be declared invalid after the lapse of time by some suitor who objected to pay a two-penny tax. I would point out that by introducing the words "proposed law," if you do not exactly limit the scope of the whole section you will not prevent that result, because if the High Court will have jurisdiction under section 2 to declare an Act invalid which did not comply with that provision it would equally have the power to declare an Act invalid if a Bill upon which an Act was founded did not comply with that condition. It occurs to me that if you condemn a tree because the branches and fruit are bad, the tree is equally bad if the root fails in its strength. So if your law is bad as being in conflict with the Constitution, it must be equally bad if the Bill upon which it is founded violates the Constitution. If we attach a condition to the introduction of a Bill that is questionable, and open to debate, we would lay the foundation upon something which might also be bad. What I suggest, in order to overcome the difficulty, which is obvious to all, is that we should introduce a general clause providing that non-compliance with any of the conditions imposed in this section with regard to the introduction of Money Bills should not invalidate them or lead to their being called into question after they have been assented to by the Governor. It would be comprehensive and safe, and no doubt would reach a constitutional point that would satisfy everybody.

Mr. HIGGINS:

I may say with regard to the point the Premier of New South Wales has referred to, that it is the very point to which I referred yesterday in discussing the matter. I think it is right that "Bills" should be used so long as we are speaking of that which is not an Act. It is the proper expression to use when the measure has not been passed by both Houses. I am not going to go back upon our decision. I understand that the Committee has resolved that the phrase unheard of hitherto, "proposed laws," is to be adopted. If the phrase is to be adopted, I think there is a danger of private suitors being able to show in the court on twopenny-halfpenny litigation
that the whole of the Act is void. Yesterday it was suggested by the President that the best course under the circumstances, to avoid all doubt, was to have a special clause stating that, notwithstanding these provisions, if the Federal Parliament has once assented to a Bill it is to be regarded as law, even though the exact terms of the section have not been complied with. During the debate I have put down these words, which will answer the purpose if put in after sub-section 4.

Notwithstanding anything contained in the foregoing provisions, any proposed law to which the Federal Parliament has assented shall be deemed to be valid as a law.

When I say - the Federal Parliament I am using it strictly with regard to the definition in clause 1, chapter 1. The Federal Parliament is defined as Her Majesty and the two Houses, and I think this will answer the purpose. Of course I have drafted this in the haste of debate, but it seems to answer the purpose to which the President called attention yesterday, and I will put it as an amendment to clause 4.

Mr. ISAACS:

There are two classes of matters in this relation that I think we must have regard to. The first is this: Wherever the Constitution sets forth a condition of the validity of a law, and that condition is intended to protect the people as against the Acts of the Parliament, there I think the court should be the ultimate tribunal to decide the constitutionality or otherwise of the enactment; but wherever it is introduced for the purpose of merely regulating the procedure between the branches of the Legislature, there I think, after the two Houses agree to any enactment, that no court should afterwards question it. This section is intended to protect the Senate as against the House of Representatives, and I think that we should be careful, while affording the fullest protection to the Senate, that if the Senate saw it was a case in which public interest or public urgency demanded that they should not stick too closely to their privileges, that no individual should be able by litigation to challenge their conjoint and voluntary act. I do think there is the strongest danger, and I ventured to draw attention to it yesterday, that the Federal Treasurer might, after having a Tax Bill passed or an Appropriation Bill, passed by both Houses willingly and with their eyes open, find himself in this position: that some individual might challenge the Act through a court of law, which would be compelled to declare it invalid. The Treasurer might have expended the money, or might be desirous of obtaining money under the authority of the Act, and the position I have indicated is one we should not drift into. I think that the general modes of expression used by my friends
Mr. Symon and Mr. Higgins are very good, but I think that the form of the proviso, or rather another sub-section, should be:

No law shall be deemed to be invalid by reason only of any non-compliance with or contravention of this sub-section.

Mr. BARTON:

That is what has been suggested to me in conversation with Mr. Reid.

Mr. REID:

Any remarks made on this point may be made in better form if I withdraw my amendment and move it in the following form:—

Money Bills shall not be liable to be called in question in respect to any breach of the provisions of this section after the same have become law.

Mr. WISE:

I am glad that the Hon. Premier of New South Wales has moved his amendment in the form he has now suggested, because it brings us face to face with what, I venture to think, is an important matter, the importance of which hardly appears to have been recognised, and which it is rather difficult to deal with at this stage. I regard the clause as drawn, and particularly having regard to the deliberate choice of the word "laws" in distinction to the words "proposed laws," as a most important constitutional safeguard, and I doubt very much whether the representatives from the smaller States realise what an important protection is going to be taken from them by the adoption of this amendment. Stated in two sentences, it comes to this: The Bill as framed provides that although the ultimate power, whether because it has public opinion behind it or on account of the adoption of any machinery for meeting deadlocks, shall rest with the House of Representatives and the people of Australia as a whole, so that the numerical majority of the people shall ultimately in some way prevail, yet, in order to prevent that numerical majority overriding the views of any particular State, certain methods of coercion with which we have become familiar in our local Houses-methods of coercion of one House by the other-shall no longer be employed. One of the methods of coercion would be to include an obnoxious measure of taxation-obnoxious to the Senate-in a measure extremely popular and desired by the Senate.

Sir GEORGE TURNER:

Is not that provided for?

Mr. WISE:

No; tacking on to the Appropriation Bill is provided for, but not tacking on to ordinary Bills. Sub-clause 2 is necessary to give full effect to subclauses 3 and 4.

Mr. BARTON:
Two and 3 give as far as possible the right to the Senate in detail, and sub-clause 4 gives the right for the prevention of tacking.

Mr. WISE:

I am speaking more to get instruction from the Committee. As I understand clause 2, it is designed to prevent the tacking on of a tax on any other measure than the Appropriation Bill. Subclause 4 deals with tacking a tax on to the Appropriation Bill. Sub-clause 3 says, each tax must be in a separate Bill; subclause 2 shuts up another method of coercion.

Sir JOHN DOWNER:

And away goes the Constitution.

Mr. WISE:

As Sir John Downer says, away goes the Constitution. These are measures deliberately designed for the protection of every individual citizen, and every citizen who votes for the Constitution is entitled to know what are the terms on which he will be liable to pay taxes. If the tax is imposed illegally there is no reason why the illegality should not be exposed by the Supreme Court of the Commonwealth just like any other illegal measure. No Government has a right to raise money illegally.

Sir GEORGE TURNER:

It might be raised in the belief that the Act was invalid.

Mr. WISE:

I admit the risk, but it only becomes great if you attribute gross stupidity or ignorance to the Government of the colony. I cordially assent to the distinction drawn by the Attorney-General of Victoria between Acts of a political character which the Supreme Court would never investigate, but this is something more. This is one of the fundamental conditions which must be observed before any taxation can be legally imposed. It is no less fundamental than that in the Constitution of the United States, under which the Supreme Court recently declared a certain tax illegal. It may be inconvenient, but are not the inconveniences greater of having the whole power of taxation placed in one House, putting it in the power of their members to override the other in any way they please, without having their action investigated or controlled by any judicial body? Is that not a greater risk than that of having a little inconvenience by some accidental omission through not observing the provisions of this clause? If it is really desired there should be no limit whatever upon the power of the House—and no one is a stronger advocate than I of keeping the control in the House of Representatives—

Mr. REID:
Both Houses must concur.

Mr. WISE:
No; that would not follow. We have yet to deal with clauses to prevent deadlocks.

Sir GEORGE TURNER:
There are none.

Mr. BARTON:
These are clauses to prevent deadlocks, and the best there could be.

Mr. WISE:
Certain clauses have been circulated in draft which make certain suggestions for overcoming deadlocks. But supposing the two Houses have had a difficulty, and that the numerical majority must prevail. Now assume that, in order to overcome this provision, if the amendment of Mr. Reid is carried, a Taxation Bill has been tacked on, say, to a Factory Act or some other Act. I am taking an extreme case, and it is only in extreme cases that this would operate. Supposing it were tacked on to an Act of imperative necessity, like a Defence Acts it could not be thrown out by any Chamber without menace to the public safety. If a case of that sort were attempted, and the Senate should choose to throw that measure out, the two Houses could meet, and the House of Representatives, by its more numerous majority, would carry the day, although there would not be the shadow of a doubt that the Tax Bill which had been carried in defiance of Constitution would be illegal. And yet no power on earth would be sufficient to aid the reluctant taxpayer, who would be robbed as surely as if the money were taken out of his pocket.

Mr. REID:
You are assuming a case in which the Government, having ultimately the appeal to the people, would begin by a breach of the Constitution. That is a big handicap.

Mr. MCMILLAN:
If you do not wish to break the Constitution, you will recognise the right of appeal to the High Court.

Mr. REID:
We do not want our taxes bandied about in courts of law.

Mr. WISE:
All this is designed to prevent the use of a weapon with which we are now familiar, the use of the weapon of coercion in times of excitement, where there may be a large, active, and passionate majority, a majority which, under these circumstances, we say shall not be allowed to act at once, because we provide that there shall be certain checks put upon it by
the action of the Senate. But in order to prevent that position being rudely, ruthlessly, and recklessly overborne, it is said that the measure shall go up by itself as a single measure, and not tacked on to anything else. If we agree, we can go further. Mr. Reid is willing to put that in the Constitution. If we want to do that, let us do it with our eyes open, and not treat it as a matter of small importance. It is a matter of very great importance, and the distinction ought to be observed.

Sir JOHN DOWNER:

What we are discussing now, and are endeavouring to fritter away, is what has been called the compromise of 1891, and this represents the whole bone and sinew of the compromise. The whole effect was this, when it came into the House, whether the Senate should have the right only to reject a Bill absolutely in globo, or whether they should veto in detail. We, who fought that, were in turn defeated, but in substance were successful, a majority of them refusing to put in words giving the right of veto in detail; and this provision, which was carefully drawn and considered, was put into the Bill for the purpose of giving the Senate the right substantially in another form. Now it is suggested that this right would in course of time be of little use, that these relative rights of the two Houses would in course of time be of little authority, unless at the back of it all there is a vindicatory authority, some authority that is to be the guardian of the Constitution and which will take care that the Constitution is observed, and that is to be the Supreme Court, therefore the draftsmen used different words-"proposed law" and "laws,"-the one to mark the stages of a Bill as between the Houses. and the other to mark what it has to be When in the condition of completion.

Mr. REID:

I will say at once that I have no desire to raise an interminable debate on this question of States' rights. I would rather not say another word-it is not worth the discussion. We might have the debate going on for another two days at this rate. I will not move my amendment at all.

Amendment withdrawn.

Mr. DEAKIN:

I desire to congratulate the hon. member upon the step he has taken, but would now repeat, in a sentence or two, a suggestion which has been discussed favorably by Bryce and Bourinot, and which appears to me to offer a way out of this difficulty. It might be acceptable. It is not an amendment to move now, but one which, if thought over and approved, might be submitted at a later stage. I realise the force of the case put by the Premier of New South Wales as to the possible dislocation of machinery, the difficulty and loss liable to be occasioned by the discovery that a
measure of the kind to which he referred—a Tax Bill—had been informally passed, and consequently that all that had been done required afterwards to be undone. That would be a serious catastrophe, and if we could prevent it, while conserving and protecting State privileges such as the hon. member Mr. Wise has very properly called attention to, we should be glad to provide against. I would ask, then, is it not possible to provide against this by enabling the representatives of any State in the Senate, after such a Bill has passed both Houses, to challenge it, and suspend its operation until the opinion of the Supreme Court can be taken on the matter?

An HON. MEMBER:
That would never do.

An HON. MEMBER:
It is very simple.

Mr. DEAKIN:
The Premier of New South Wales has called attention to an evident risk, though not a great risk, but certainly a serious one when it occurs, and if it is possible to provide against it, why not do so. If there were a power in the Constitution by which the representatives of any State could challenge the coming into force of a measure before it was given effect to, and before a tax was imposed, and the Supreme Court were required to take into consideration the question of its constitutionality, that would secure the safe-guard which the less populous States require, while you would not involve any suffering on the individuals intended to be affected by the legislation.

Sir WILLIAM ZEAL:
That would place us in a humiliating position.

Mr. KINGSTON:
I understand that the position put by Mr. Reid is that—

Mr. REID:
If this discussion is going on, I shall not withdraw my amendment. I withdrew it to stop the debate. But I shall insist on moving the amendment if the talk is to go on.

Mr. KINGSTON:
I hope the hon. member will not withdraw it.

Mr. BARTON:
The discussion I would point out, Sir, can only be upon the clause.
There is no amendment before the chair. The Hon. Mr. Reid intimated that he was going to move an amendment.

Mr. KINGSTON:
I hope that the Premier of New South Wales will adhere to the course that he indicated earlier in the debate that he would pursue. I understood the position put by the hon. member, Mr. Barton, was that if the clause is passed as at present, under clause 52 non-compliance will not be fatal to the validity of any law, and non-compliance with section 53 will be fatal, and that any law passed under that section will be invalidated by the High Court of Australia.

Mr. BARTON:
I might put it this way. The matter appearing on the face of the Bill—in respect of these matters which I submit are charters to the States—can be dealt with by the Court, but matters which are matters of procedure between the two Houses are not to be dealt with by the Court.

Mr. KINGSTON:
I understand my hon. friend puts it this way: Non-compliance with the section guarding the rights of the House of Representatives will not be fatal, but non-compliance with section 53, providing for the recognition of the privileges of the Senate, will be. I object to that most strongly; and as to what has been said about words being used here to emphasise the distinction, I remind hon. members of this—that these words were not used in the Commonwealth Bill as it left the Sydney Convention in 1891, but the same words were employed as to the infringement of the rights of the House of Representatives as were used with regard to the infringement of the rights of the Senate. The words we find here, "proposed laws," on which the whole distinction is based, are introduced for the first time before this Convention. There was a proposition to strike them out, which I then supported, and I trust something of the sort will be moved again in order that we may decide whether or not we are going to draw this distinction—that neither Sir Samuel Griffith, nor any other member of the Sydney Convention suggested—that, as regards the House of Representatives, if they infringe the law, so good, but, on the other hand, as regards the senatorial rights, if they are once touched, the aid of the High Court of Australia can be invoked, and the law declared invalid. I ask members to consider which of the two is the more important. Look at section 52, declaring in which House laws appropriating revenue, or imposing burdens on the people should originate. Surely there is no more important principle in constitutional Government, than a principle of that sort. Yet we are told, or the distinction is now attempted to be drawn, that it can be infringed—that a [start law can originate in the Senate in direct
defiance of that, and, so long as the House of Representatives concurs, it passes to the Statute book as a valid measure. Compare a provision of that sort with the matters in clause 53, matters of pure convenience in regard to which we are to give powers to the Senate to enable them to veto in detail, by requiring that the laws should deal with one subject only. Sub-section 3 of clause 53 says:—

Laws imposing taxation, except laws imposing duties of Customs on imports, shall deal with one subject of taxation only.

Compare these two things as matters of importance. Can any hon. member doubt for a moment which should be placed first in point of importance, clause 53 or 54? Yet hereby the introduction of words which were unknown to the Sydney Convention—"proposed laws"—in the first part of section 52, as opposed to the word "laws" in clause 54 of the 1891 Bill, it is proposed as regards the rights of the people to say to the House of Representatives as regards the initiation of Bills for the appropriation of the public revenue, "You can do what you like with them and no court shall stop you." As regards these other matters, priority of importance is to be given to them, and though the Senate may well wish to waive them, if they are infringed in the minutest particular the High Court of Australia may interfere and say, "Your work shall be held as nought, and the Act shall be declared void." It seems to me such a thing is utterly indefensible, and I trust Mr. Reid will adhere to the course he originally indicated his intention to take.

Mr. BARTON:

As the hon. member who has just sat down has referred so fully to what I have said, I should like to put myself in the right position. I lay down two principles. The one is that a question of mere procedure, where rights are given by our Constitutional law, is to be settled between the Houses themselves, and that there never was a Constitution in the world which gave any judiciary the power to inquire into the manner in which the Houses settled their procedure in those matters; but where it is a question of the presentation of a law, when passed, in such a shape, on the face of it, that one House is deprived of its fundamental rights as a component part of the Constitution, that should be settled by the arbiter of the Constitution. Was it ever attempted in this world, on a question whether a Bill originated in this House or that, or whether that House amended it or not, which is a question of fact, to allow a Supreme Court to be the arbiter of its validity? That has never occurred, and never can. No Court should be allowed to inquire into the manner in which two Houses adjust relations between themselves. If we give these two Houses the privileges which, according to the decision of the Committees in 1891, according to the decision of the
Convention of 1891, and according to the decision of the Committee now, it is intended to give the powers, privileges, and immunities of the House of Commons—they will stand, as the House of Commons has ever stood, against any encroachment or infringement by any Court whatever inquiring into its method of regulating its procedure.

Sir EDWARD BRADDON:
Hear, hear.

Mr. SYMON:
It is not within the power of the judiciary to do so.

Mr. BARTON:
It is not in the judiciary's power, as given in this Bill. But the question whether, what appears on the face of a law is within the provisions of the Constitution or not, is a totally different one, and that question alone the arbiter of the Constitution has a right to decide. I desire to adhere to the compromise of 1891. I have been endeavoring to do so against some delegates, who, however, will now find me faithful in adhering to it on their behalf. Where there are matters not matters of procedure—where the effective rights of a component part of the Constitution are involved—the Constitutional principle is that the arbiter of the Constitution must be allowed to protect those rights. You have not it so in England because the Parliament there is Sovereign, but you have it in the Federal Constitution, because you have a Parliament that is only a part of the Constitution, and that Constitution must protect those provisions of the Constitution which are threatened with infringement. I shall resist all amendments in these respects because I consider the principles, which are altogether principles of justice, ought to protect Parliament in the exercise of its internal powers, and protect the people as to what is on the face of a law a breach of the Constitution.

Mr. ISAACS:
Would the hon. member mind looking at clause 54 with regard to that?

Mr. CARRUTHERS:
My hon. friend, Mr. Barton, forgets that he has already consented to a departure from the principle of the 1891 Bill. If he looks at clause 52 he will find we have amended that clause in the very direction that he objects to amend clause 53. The Bill of 1891 uses the words:

Laws appropriating any part of the public revenue

An amendment has been carried which effects the very purpose which Mr. Barton is contending against now. So that if there is any strength in the contention of the wisdom of the 1891 proviso, the hon. member has given his case away. For the sake of consistency, he should either support the
proposal now made or else go back and have clause 52 brought into harmony with clause 53. Mr. Barton speaks of the English Constitution. That is an unwritten Constitution, and no court of law has, therefore, any statute to guide it in its interpretation of that Constitution. But here we have a written Constitution. In clause 71 I see that-

The judicial power shall extend to all matters arising under this Constitution or involving its interpretation.

My hon. friend, Sir John Downer, smiles, but if these words had not this meaning: that the Federal Judiciary should have the power of construing, I am at a loss to understand what they mean. It says so, and I take the words in cold type rather than listen to arguments based on a Constitution which is unwritten. Mr. Wise says that we may have the case of a minority overriding a majority, coercing the Senate, and passing laws despite of this regulation. Does not the hon. member know this, and I appeal to this Constitution to support my argument, that any solitary member, either in the Senate or in the House of Representatives, can immediately wreck a Bill infringing these provisions by drawing the attention of the presiding officer to it. It is in the hands of any one representative in either Chamber at any stage up to the final stage of that Bill to call attention to the infringement of the Constitution, and to have the Bill ruled out of order. I may be told that you may have a corrupt Speaker or a corrupt President, who will not rule it out of order, but you are just as likely to have a corrupt Judge. So far as regards this matter, any one solitary member of a minority—and it would be a very small minority that could not number one—can, by drawing attention to the infringement of the Constitution, have the Bill ruled out of order. Where can there be the coercion of a minority then, when it will be in the hands of the minority to protect themselves by this simple appeal to the Chair? In such a case, I say the Bill will have to pass unanimously, and where it passes unanimously why leave it to the judiciary to wreck that which is the opinion of both Houses of the Legislature?

Mr. WISE:

Why have a judiciary at all?

Mr. CARRUTHERS:

If it is the sole argument for a Judiciary that we should have such a tribunal to wreck laws made with the approval of both Houses of Legislature, then let us have no judiciary at all. If my hon. friend Mr. Wise wants a judiciary to wreck the work of the Legislature, I do not think the people of Australia will support him in that contention. This clause was never intended, as far as the people have
read it, to give effect to the arguments of either Mr. Wise or Mr. Barton. I hope that Mr. Reid will stand to his amendment, and that if he does not move it others will do it. We shall have this point decided by a test division.

Mr. WISE:

I would suggest to Mr. Carruthers that the amendment should be rather in this form: instead of saying that no law passed under this section should be inquired into by the Supreme Court say:

No law passed by the Federal Parliament shall ever be inquired into by the Supreme Court.

Mr. REID:

The question just put by Mr. Wise shows the very strange position he occupies. He does not seem to draw any distinction between the case he referred to in America, where the Supreme Court of the United States ruled a Bill out of order on the grounds that it was a violation of the principle of the Constitution as to a principle on which taxation should be imposed, and not a mere case of procedure between the two Houses. It seems to me that too much has been made of this point, which is represented as an attempt to take away from the smaller States their protection. That is a very good catch cry for, an argument, especially from New South Wales, when a speaker is hard up for one. There is absolutely nothing whatever in it, as the Hon. Mr. Carruthers has pointed out, and any member in either House can surely put a simple question to the Speaker to decide the fate of a Bill that is contrary to the provisions of the Constitution. My hon. friend Mr. Barton put a view just now which would wreck any Taxation Bill in the world. He said that by the words "Laws imposing taxation shall deal with the imposition of taxation only" in a Bill you can put any number of clauses in there which would have nothing to do with the actual imposition of taxation. If that were so it would mean a rich harvest for the lawyers of the Federation, and I hold the view with others that our finances might be brought into serious confusion thereby. Lately some taxation was imposed in a colony and it was done in two ways-by a Machinery Bill and by a Taxation Bill. Under provisions of that kind you would have the courts of the Federation flooded with applicants for litigation. We do not want the legislation of the Commonwealth to be degraded to that level. If we put in the Constitution a safeguard for the Senate that the Bill shall not be more than is specified here, is the Senate going to be such a decrepit, helpless creature, that, having a constitutional safeguard for its protection, it will be absolutely too blind to see it? Not only that, but they say that every senator from all the States will be so absolutely incapable as to give away one of the safeguards of the rights of the Senate. Unless this Senate that we are
about to create is going to be such a despicable object such arguments as those used by Mr. Wise would have no weight. While Parliament is legislating for the people, and when the two Houses have come to an agreement that a certain thing should be law we do not want the High Courts to come into the Parliaments of the country and shipwreck that which both Houses have deliberately passed. With reference to the bogey raised about the referendum, there are provisions in this amendment, which dispose of that argument, because in the amendment I proposed to submit Money Bills should be liable to be questioned until they become law, so that at any time when the referendum is going on, a Bill could be easily questioned on a point of law in the courts. The absurdity of the contention of some is shown in the fact that in America in neither of the two Houses would a glaring violation of the Constitution be called attention to. I say further, if there is so much importance attached to this we must go back and put the clause which safeguards the other House in absolutely the same position. I have no feeling in this matter except a desire that Acts of Parliament, when they become law, should have the force of law and should not merely become food for lawyers. That is my only desire. Anyone who has occupied the position of Treasurer can tell of the loss that might be brought about if, after a policy had been brought into force, perhaps four or five years afterwards, a point is taken on some innocent formal words of the Bill, and the judges are compelled to declare that all of the money collected under the Act during those years had been improperly collected.

Mr. BARTON: Would that justify a sweeping amendment?

Mr. REID: My object was such a simple one that I did not apprehend so much importance would be attached to it. At first blush I thought everyone would be as anxious as I was to prevent the possibility of such difficulties, but I see now that there is a great deal more importance attached to it than I thought. The importance, I think, disappears when we remember that any member of the House of Representatives, upon calling the attention of the chair to the breach of the provisions, would kill the Bill there, and any one senator, upon drawing attention to the same clause in the Upper House, could kill the Bill there too.

Mr. WISE: Have you considered the position in America with regard to the Speaker, who happens to bear the same name as yourself?

Mr. REID:
The Speaker of the House of Representatives in America is really the leader of a political party sitting in the

Mr. BARTON:
Would you let the Constitution rest upon this matter?

Mr. REID:
Clearly no Ministry would bring in a Taxation Bill and allow it to be so amended. In America they move under a different set of circumstances altogether. As I pointed out, there is a great difference between the procedure as to whether a Bill contains clauses too many or not, and taxation itself in clear violation of the principle of taxation put in the Constitution. I was pointing out that I look upon this merely as a matter of procedure.

Mr. WISE:
It is not a matter of procedure.

Mr. MCMILLAN:
Is not the amendment to be limited to procedure?

Mr. REID:
Entirely as between the two Houses, and that is my only desire.

Mr. WISE:
Would not the defect, if there was a defect, under this sub-section appear on the face of the Bill?

Mr. REID:
If it appeared on the face of the Bill, we have to assume first that the Government would bring in a Bill which on the face of it was illegal, and that there would not be one pure soul in the House to call attention to it, and that even the immaculate Senate would not contain an angelic mind that would do its duty to the Constitution. Heaven help the Constitution if it is to be run on these lines! The Upper House will not allow its rights to be violated if they are put in the Constitution, and the object of the amendment is simply to prevent an unfortunate accident, which would happen over and over again in Acts of Parliament, from rendering an Act after it has received the Royal assent, and which might be, perhaps, the deliberate policy of the country, accepted by vast majorities in both Houses, invalid. I would not have proposed this amendment in face of the serious debate it has provoked. I proposed, if no member of the Convention has a previous amendment:
To insert at the end of sub-section 4: "Money Bills shall not be liable to be called in question in respect to any breach of the provisions of this section after the same have become law."
That would allow any exception to be taken to a Money Bill till it has received the Royal assent, after which no such question shall be raised.

**Sir GEORGE TURNER:**

We have devoted considerably over an hour to this discussion.

**Mr. REID:**

Perhaps Sir George Turner will allow me, and in order to get this matter tested, I will apply the very same test which was applied to clause 52. I propose:

Before the word "laws," in sub-section 2, to insert the word "proposed."

I shall thus challenge the sense of the Convention in exactly the same manner as in the previous instance.

**Sir GEORGE TURNER:**

We have been discussing this matter for considerably over an hour, and if we take as long over all questions we shall be here for some weeks, and it seems the more we discuss it the more confused members will undoubtedly become in connection with it. I do not propose to add to that confusion to any great extent. I think there is some misapprehension with regard to the defects which might arise under this subsection. It may be that if the Parliament did not follow out the course here laid down the Federal Court would have the right to declare the whole law to be void. Well, that would never do. It would never do after a law had been passed voluntarily, without any compulsion such as Mr. Wise speaks of, the Parliament fully believing that they were doing everything right, and the Treasurer had acted on it, and collected a large amount of revenue, for him to find, because some small slip had been made, that the law was absolutely void. At the same time we do not want it to appear that in making any alteration we desire to, take away from the smaller States any protection which they may think they have under this. No one desires to give any ground for it, and I do not think any alteration we could make would take away the protection, because the protection is undoubtedly with the Senate. The only difficulty which might arise would be that the point in question might be overlooked. Therefore if we would lay on somebody the duty of certifying before the law passes that it was in compliance with this section we could give all the protection required.

**Mr. O'CONNOR:**

Then you would leave it to the person who certifies to interpret the law.

**Sir GEORGE TURNER:**

No; when the law has once passed the court should not have the liberty to interfere, and say on some small question of procedure that the law should be upset I would leave it to the Senate.

**Mr. REID:**
They will take care of themselves.

**Sir GEORGE TURNER:**

Let it be the duty of the President for the time being to certify that the proposed law was in compliance with this section. It will then be his duty before putting in such law-

**Mr. REID:**

The Senate could make a Standing Order to meet that.

**Sir GEORGE TURNER:**

No; in order to prevent any doubt arising among the representatives of the smaller colonies that they might be injured, I would suggest to Mr. Barton to adopt that mode, and make it appear that, while the Court had no right to interfere with the Act when it was once law, yet before it became law every opportunity should be taken to see that that section is not infringed. I would leave it to the President of the Senate to certify, either by himself or on a resolution of the Senate, that the proposed law was in accordance with this section, so that there would be a statutory duty on him to consider before the law was passed that there was no infringement of it.

**Mr. GORDON:**

It might be passed in one, sitting.

**Mr. BARTON:**

Would you prevent the Governor giving his consent without the certificate?

**Sir GEORGE TURNER:**

Something like that. I quite agree with the smaller States that there should be some provision by which they could not be injured, but I feel very loth to go the full length of giving the court power to interfere with the Bill when it is passed.

**Mr. MCMILLAN:**

Perhaps a bewildered layman might mention what I understand to be the exact position. I understand if we add the word "proposed" before "laws" it would then be really a matter of procedure, and that the introduction of the word "proposed" before "laws" would make it practically a Bill, and that otherwise the question of whether the measure is constitutional could not be dealt with.

**Mr. BARTON:**

It will prevent the High Court from inquiring into it.

**Mr. MCMILLAN:**

According to the amendment proposed, it would prevent any mere slip of procedure from making invalid an Act which may affect the whole country and its financial operations, but nothing which we may enact with regard to
procedure will prevent any suitor from going to the High Court if the Act is essentially unconstitutional. That is the way I look at it, and it seems to me that either putting in "proposed" before "laws," or adding an amendment somewhere or other making it clear that no mere slip of procedure can invalidate the law, would meet all the difficulties.

Mr. BARTON:
This is not proposed to cover mere slips, but everything.

Mr. MCMILLAN:
I do not think that could be the intention. We are attempting to legislate for a very limited possibility. You will get disputes so long as there are lawyers in the world. I do not know whether Federation will do away with lawyers.

Mr. BARTON:
Not until merchants will cease to quarrel.

Mr. MCMILLAN:
If so it would simplify our arrangements very much. At the same time it does seem that there ought to be something introduced to prevent the law being put into operation for a mere breach of procedure, if there is such a chance.

Mr. SYMON:
There is no chance.

Mr. MCMILLAN:
I do not suppose that any ordinary moral layman would do it, unless he were instructed by a less moral lawyer.

Mr. HIGGINS:
There seems to have been infused in this debate an amount of spirit, and I am going to incur the risk of the ordinary peacemaker. There has been no reference to the common-sense provisions which are put into all articles of association with regard to digressions from the prescribed routine. On the one hand, there is no doubt that there is no covert design to injure the smaller States and their representatives, by attempting to impose upon them laws which are not in the ordinary course as prescribed. I think the members for the minor States will accept that assurance. But, on the other hand, there is no desire on the part of the minor States advocates to give the lawyers more work than they can possibly help. But there is no doubt that these sub-sections 2 and 3 of section 53 are calculated to lead to questions in the courts which ought to be avoided if possible. Take sub-section 3:

Laws imposing taxation, except laws imposing duties Customs on imports, shall deal with one subject of taxation only.

What is meant by one subject of taxation? Suppose a land tax is imposed,
you tax posts and rails. That may be argued not to be a law dealing with one subject. There are questions which will certainly arise which will be fruitful in litigation unless we take great care. Therefore, I am in thorough accord with the desire of the Premier of New South Wales to have some clause which will obviate the bringing of these trivial matters into the court, and under which a great wrong will be done on the ground of some trifling breach of the Act. What is done in the case of articles of association? There are in articles of association provisions for meetings to be held, for the holding of meetings in a certain manner, and for a number of directors, and so forth. But there is always a clause for any accidental omissions; to comply with the articles is not to invalidate the resolutions of the meeting. I would suggest this should be done here. All we want to provide against is accident, mere accidental omissions. I would suggest the following:

Any accidental failure to comply with the foregoing provisions of this section shall not invalidate any proposed law to which the Federal Parliament has assented.

Mr. REID:

That would make it worse.

Mr. HIGGINS:

But I would provide that the failure shall be treated as accidental, in this way. I would go on to add:

The failure shall be treated as accidental if it has not been brought to the attention of the President of the Senate or of the Speaker of the House of Representatives.

Mr. BARTON:

This procedure is to be brought before the court by way of affidavit, then.

Mr. HIGGINS:

It is a simple matter. The mere fact that you define the accident in this form - that is to say, when no one has brought it before the Speaker or President is quite sufficient. Even if the word "accidental" were not defined, it is a regular expression used in articles of companies, and there has never been any question of difficulty raised with regard to it. It would be very easy to say that it should be treated as accidental unless some member of either House brings it before the Speaker of the House of Representatives or the President of the Senate. I feel sure that the experience of companies for many years past is the best experience we can have for dealing with any irregularity of this sort. I do not want to move this as an amendment, but if the honorable the Premier of New South Wales would accept it I would be very glad. It might be better for us to
leave it to the Drafting Committee, with instructions that some form of words to carry out this idea should be adopted. I am not prepared to move anything on the spur of the moment, but I feel sure something of the kind I have suggested would be the correct way of getting over the difficulty.

Mr. O’CONNOR:

I think it is a misapprehension on this question to say that it is a matter for lawyers, and not of sufficient importance to be considered worthy of a full discussion. But I think it is a matter of the utmost importance, because it is one of the guarantees in this Constitution to the people represented in the Senate. I wish to put it as shortly as possible from that point of view. The Senate, by section 53, have certain limitations upon their powers. They are not allowed to deal with an Appropriation Bill appropriating the necessary supplies for the ordinary annual services of the year; they are not allowed to amend a Tax Bill; and they are not allowed to amend any Appropriation Bill so as to increase any charges upon the people. That is the limitation which is put upon the power, not only of the members of the Senate, but it indirectly affects the rights of the people of the different States they represent, inasmuch as you have your States represented in the Senate. That is a limitation on the power of the States, and therefore in that limitation not only the members who represent the States at a particular time, but every member of the States interested has a direct interest in that portion of the Constitution. Now, in order that that right shall be exercised only in the strictest possible way you must surround it with some safeguards, and these safeguards become necessary for this reason, that it is well known where legislation is carried on by two Houses it is a common practice to evade laws of this kind, which are merely laws of procedure, and it is very easy to evade them. For instance, it is very easy to evade a law imposing taxation by inserting some provision in the Bill which it will be very difficult for the Senate to reject, and which would put the Senate in a very awkward position in the public eye if it did reject it, but which at the same time make it necessary if they pass it to pass an obnoxious system of taxation. A proposal of that kind is not unknown. Take the next sub-section—

Laws imposing taxation, except laws imposing duties customs on imports, shall deal with one subject of taxation only.

It is not an uncommon thing to introduce a Tax Bill containing a tax on land which might or might not be objectionable, or a tax on income which might or might not be objectionable.

Mr. REID:

Where is there a law against it?
Mr. O'CONNOR:

I will deal with that by-and-by. I point out that in the absence of a law, and the very absence of a sanction which will enforce the law, provisions for getting over the procedure of the House are very common. The next provision is:

The expenditure for services other than the ordinary annual services of the Government shall not be authorised by the same law as that which appropriates the supplies for the ordinary annual services, but shall be authorised by a separate law or laws.

That is meant to be directed to the provision of tacking which is very often met with in the process between the two Houses. Tacking to the Appropriation Bill is not a device that is unknown in these colonies.

Mr. REID:

Is it forbidden in this section?

Mr. GLYNN:

It is not prevented by this section.

Mr. O'CONNOR:

It is not excepted in the way which I will point out now, by making an infringement of this Act a penalty, that is to say, a penalty that the Act which infringes shall be of no validity. It is only in that way that you can ensure compliance with these provisions, or if you make it so obligatory that if they are not complied with the Act shall be void. I point out, in regard to these three different matters, that these are ways in which proposals of this kind between the two Houses are affected. It is said that is only between the two Houses. In any question between two Houses you will always be brought face to face with the condition of things which exists between the two Houses now. A law which may be introduced in violation of one of these sub-sections maybe believed to be a violation by the Senate, and thrown out on that ground, and be sent back. It may be sent up again by the House of Representatives, and so by that way you have a question which, instead of being settled, becomes a matter of contest between the two Houses. Another matter of difference between the two Houses we know. It is where one House happens to take an unpopular view of a question—a view which for the time being is not the view of the majority of the people. We know it is easy to bring the pressure of the majority of public opinion on one House for the purpose of obtaining a violation of the law. This is not intended to be a protection to the House or the Representatives of the House, but to the States represented in the House; that no matters of tactics between the Houses, or no playing off of public opinion by one House against another, shall ever take away the protection embedded in the Constitution for the States. I have heard of the
argument of the inconvenience of laws being upset on account of some invalidity being discovered—some trifling invalidity, perhaps. I say you must submit to that inconvenience if you wish to enter a Federal Constitution. The very principle of the Federal Constitution is this: that the Constitution is above both Houses of Parliament. That is the difference between it and our Houses of Parliament now. The Federal Parliament must be above both Houses of Parliament, and they must conform to it, because it is in the charter under which union takes place, and the guarantee of rights under which union takes place; and, unless you have some authority for them to interpret that, what guarantee have you for preserving their rights at all. It is very necessary to insert this provision in the Constitution, because if you do not do that then these questions are questions of procedure between the two Houses in which undue pressure may be brought to bear at any time on one House or other for the purpose of vetoing a law and doing injustice to the States represented in that House in the different ways in which the States are represented. As to the inconvenience, there are thirty-two different subjects of legislation here which may be dealt with by the federal authority, and in regard to any one of these if an error is made which takes the law outside the authority which is given to the federal power it is invalid—absolutely void—no matter what inconvenience may follow.

Mr. ISAACS:
That is not a rule of procedure; that is jurisdiction.

Mr. O'CONNOR:
With every respect, that is begging the question to put that as an argument.

Mr. ISAACS:
That touches on State rights.

Mr. O'CONNOR:
I admit that. In fact the whole thing is founded on State rights because if your amendment, using the word "proposed," is carried it is a matter of procedure; but if the word "laws" remains it is not a matter of procedure.

Mr. ISAACS:
That is what you have done on clause 62.

Mr. REID:
Why did the Drafting Committee alter that from the Bill of 1891?

Mr. O'CONNOR:
With all respect to that hon. member, the Drafting Committee did not alter that. It was altered by the Constitutional Committee, and I think very properly, because the initiation of a Bill is a different thing altogether from
any of these questions. The initiation of a Bill is a matter which does not limit the powers which are given under section 53 to the States.

Mr. ISAACS:

Surely the initiation of Money Bills gives much more to the liberties and rights of the people.

Mr. O'CONNOR:

That goes really into a legal question. The difficulty of dealing with a matter of that kind is the manner in which it has to be raised before a court.

Mr. ISAACS:

Same principle.

Mr. O'CONNOR:

So long as you have a principle that if a law, on the face of it, is invalid, it is a matter which the Court can decide, the matter of initiation is not a matter of that kind. The principle involved here is exactly the same principle involved in the question decided in America as to the uniformity of taxation laws. The populations of the States had a right to insist that no tax which was not uniform should be imposed. And no matter what the rights of the Senate, for the time being, that was the protection in the Constitution against any action which might be taken, whether with the consent of the Senate or without. I ask the Committee to adhere to the proposal in its present form, not because it is a matter of protection to the Senate or the other House, but because it is a matter of protection to the States that have entered into this union that that limitation which is placed upon their power of amending a certain class of Bills cannot be infringed or enlarged by the adoption of any ordinary tactics which may be used under our present Constitution between the two Houses.

Mr. SYMON:

I do not wish to detain the Committee more than a moment or two, but I feel I ought to set myself right in regard to this proposed amendment. In doing so I wish, as I have already done personally, to express my regret that perhaps it was owing to a suggestion of mine that Mr. Reid's amendment assumed the shape it did. I accept any responsibility on that score, but I hope he will forgive me if I am unable to follow it up by voting for the amendment. I am, in this instance, an illustration of the value of discussions of this sort, and I desire to express my indebtedness to Mr. Wise and Mr. Reid for their arguments, which have satisfied me it would be exceedingly unwise and dangerous for us to introduce this amendment in this clause. I rather come back to my original view that, substantially at least, the provisions of this section are intended as provisions of procedure. So far as they are provisions of procedure, Mr.
Reid has shown conclusively that we have absolutely nothing to fear, because the House of Representatives may be relied upon, and the Senate may be relied upon to see that the ordinary preliminaries and the ordinary technical provisions are observed before the Bills are finally dealt with. I was led away by a consideration of the inconveniences that might flow from a taxation or some other Bill being declared invalid by the High Court some time after it became law. But exactly the same inconveniences may possibly arise from any single Bill passed under the thirty-five heads of legislation with which the Federal Parliament will have to deal. Therefore it seems to me that, whilst undoubtedly inconveniences may arise, still these inconveniences do not militate against a very salutary power which as a Federation we propose to vest in the High Court of the Commonwealth. I will only add this—without going into the details applied in so masterly a way by my hon. friend Mr. O'Connor, when he pointed out the real safeguard in relation to these sections which the High Court might be at the instance of a suitor—that we must remember if we seek to derogate from the power we vest in the High Court of dealing with all laws which any citizen of the Federation may claim to be unconstitutional, we are not invading State rights, because it is not a question of small States or large States, but it is a question of the liberty and rights of every subject throughout Australia. It is the subject that is concerned in this; it is not the body politic, but every taxpayer—every individual who may be assailed either in his liberty—

Mr. REID:
But if both Houses are favorable to the taxes, is there anything in that?

Mr. SYMON:
That does not matter. The moment you override or coerce the Senate—

Mr. REID:
Coerce! Why, one man has only to get up and point out that

Mr. SYMON:
Suppose you have a majority in the Senate willing to override the law, how is the minority to be protected, how is the State represented by that minority to be protected, and every dissentient citizen in any of the other States, large or small? But the point I wish to call the particular attention of the Committee to is that if we seek to prevent redress being obtained in the High Court with regard to the constitutional position of any law, we are invading one of the first principles underlying any system of Federation. My hon. friend Mr. Carruthers seems to forget that we are dealing with Federation when he talks about a High Court to wreck the work of legislation. First of all, that is an inappropriate expression. If he means we are constituting a High Court to decide whether the laws are constitutional
or not, undoubtedly we are. If not we had better sweep this Federation away at once— we are here on a wild goose chase. Were we to adopt the amendment, I do not see that it would have the effect which Mr. Carruthers urged, if it were hedged round with such limitations as Mr. Higgins alluded to; but if we pass this amendment in its present form we run the risk of making Parliament, in regard to Money Bills, the judge of whether it is acting within the Constitution or not. If we do that we are striking at the root of a just Federation, and it is from that point of view, which was brought very clearly before the committee by my hon. friend Mr. Wise, that I feel it impossible to vote for an amendment which at the first blush seemed to get over some practical difficulty. I think we had better omit it altogether. If we omit it we shall be acting consistently in this: that we shall be making no exception to the power of the High Court to interpret the law of the Constitution, and declaring whether an Act of Parliament is contrary to that or not. Parliament is not supreme, and the very essence of the Federation is that it should not be so. Parliament, as far as constitutional questions are concerned, is under the law, and it must obey the law. If we make an exception in regard to Money Bills we had better make an exception in the case of all other Bills which may arise under the provisions of clause 51, and thus sweep away the High Court. I thought that we were all agreed that the reason for the establishment of the High Court was a salutary one, and that it would determine constitutional law and practice. We must all remember that at one portion of the history of England a question of liberty was raised by a humble individual named John Hampden, who put forward a point on the subject of taxation. We do not know but that we may have John Hampdens in Australia raising questions of liberty; it would be well to leave the High Court of Australia to deal with such matters as that.

Mr. Reid's amendment, by leave, withdrawn.

Sub-section 2 as read, agreed to.

Sub-section 3.

Sir GEORGE TURNER:

I desire to draw Mr. Barton's attention to these words in the subsection:

Laws imposing taxation, except laws imposing duties of Customs on imports, shall deal with one subject only.

That would require that every time you desire to deal with the duty of excise it should be done by a separate measure. That cannot be the intention. It would very often happen that the question of duty of Customs and the duty of excise would have to be discussed together, and that it would be impossible to decide what ought to be done with regard to the
one unless you know what you will do with reference to the other. If we are to deal with the large number of items included in a Customs Bill, I fail to see why we should not be able to include in the same measure all duties of excise. I would ask the hon. member to consider the matter, and either make an amendment or give us a reason for the retention of the words as they stand.

Mr. BARTON:

The reason why it has not been done so far is this: Sub-sections 2 and 3, in consideration of the fact that laws imposing taxation are not subject to amendment by the Senate, have been put in the form of protecting the Senate from the coercion which might be involved in a taxation measure having added to it something which was not a taxation measure, or a taxation measure having two distinct subjects of taxation brought into the measure together. That protection is of course a counterpoise to preventing the Senate from amending such measures. If what I might call the other side, in a genial way, had their way this morning, it would be a question whether protection of this kind remains in the compromise of 1891. The hon. member raises an important point, and that is whether there is to be permission in the Customs Bill to have a corresponding excise. That is a matter I must leave in the hands of the Convention entirely. For myself, I have no strong feeling about it, except that we ought to keep as strong and inviolate as possible those protections which are afforded not only to the Senate, but to the people themselves to consider what under the Federal Government is involved in so separating the subjects of taxation, and, as the next sub-section shows, the subject of appropriation, as to enable the Senate to deal with them separately. The object of this, of course, is that inasmuch as amendment is prevented the subjects should be so divided that no two subjects could come before

the Parliament together as matters of taxation, so that where the Senate cannot amend they have the right of veto, and veto as far as possible in detail. Of course they cannot have Customs or excise law in respect of so many items so that there could be veto in regard to each, because veto in detail with all of these would mean interference with the financial policy of the whole Government. But it has been unanimously agreed in respect of taxation that the Senate should have a veto, and the object of this clause is to divide into their proper categories all laws imposing taxation, so that that veto may be exercised without interference and as a protection to the smaller States and a protection of those rights which every Second Chamber ought to have, whether it is the Senate of a Federation or a House made under the ordinary Constitution. That is my object, and I am sure that
the object would be infringed if the provision were to allow the question to be considered in the same Bill. My position is this: that until I see very strong reasons for doing otherwise it is my intention to adhere to the terms - I do not want to bind anyone else—but I desire to adhere individually to the conclusions of 1891, because I think they are the best basis upon which Federation can be secured. I think very strong reasons should be adduced to allow the two subjects of taxation to be introduced into the one Bill, and we should adhere as nearly possible to the Bill of 1891. Most of us contend that the compromise or the conclusions of 1891 should be adhered to, and as we have succeeded in our argument in showing that they should be adhered to in respect of one portion of the clauses I think we should stick to them in regard to the other.

Sir EDWARD BRADDON:

Although I entirely agree with the object of the clause in one respect, I think it fails in the object intended to be given to it, and that is in the exception as to laws for imposing duties of Customs. I question whether that exception is sufficiently and carefully safeguarded. There is no doubt as an ordinary layman reads it that under the laws imposing duties of Customs or on imports they can go on and impose taxation in any other form. There is nothing to prevent the imposition of excise duties, and there is nothing to prevent the law seeking to impose land or income taxes or anything else, and therefore I hope, when the clause comes to be finally accepted, as I trust it will be, that some limitation will be placed upon the exception in regard to duties. I think we all understand what is meant, that a Bill imposing duties may necessarily have to deal with any number of subjects liable to such duties, but as the subsection is worded it will go much further.

Mr. ISAACS:

An instant before Sir Edward Braddon called attention to this matter I was directing Sir George Turner's attention to the same point. The intention is perfectly plain to us at all events, but what may be done and what in future times may be contended is not quite so clear. The sub-section reads:

Laws imposing taxation shall deal with one subject of taxation only.

Bills which impose duties of Customs on imports are entirely excepted from that provision.

Mr. GLYNN:

We can amend it.

Mr. ISAACS:

Yes; and I think it should be made to read:

Laws imposing taxation shall deal with one subject of taxation only, provided laws imposing duties of Customs on imports and of excise may
deal with more than one item.

Sir WILLIAM ZEAL:
I suggest that the best plan would be to postpone the clause afterwards, and recommit it in order that the draughtsmen may re-cast it. We have now been discussing the clause for a couple of hours, and have made little progress.

Mr. REID:
I assure my friend Sir William Zeal that the matter raised by Sir George Turner is very important.

Sir WILLIAM ZEAL:
Refer it to the draughtsmen.

Sir GEORGE TURNER:
It is not a question of drafting.

Mr. REID:
I would point out to Sir William Zeal that recommitting the clause might mean fighting the matter all over again, and we want to get rid of it altogether. The point raised by Sir George Turner is an important one. There may be a Customs Bill introduced, and it may involve duties of excise on a large number of goods, and at present each excise duty would have to be included in a separate Bill, and then a most unfair thing might be done. Ten duties might be proposed, and eight, because they were popular, might be agreed to, and the remaining two thrown out because they were less popular. If you have the Customs as a whole you must have the excise as a whole.

Mr. FRASER:
Surely duties of Customs on imports should be dealt with at the same time as excise. That is only common sense, and might be agreed to at once, as we have been wasting a tremendous lot of time

Sir GEORGE TURNER:
I hope Mr. Barton will not mind me proposing to alter the sub-section, as I know the difficulty of interfering with drafting, and I do not like to have my own drafting interfered with. I will move:
That after the words "Customs on imports" there shall be added the words "and excise."

Mr. MCMILLAN:
Do you mean that they should be in one Bill or two Bills?

Sir GEORGE TURNER:
I think that they should be in one Bill.

Mr. MCMILLAN:
Then you are making it necessary that there should be one Bill of
Sir GEORGE TURNER:
   I would not go that length.
Mr. WISE:
   I think the sub-section might be made to read:
   Laws imposing taxation shall deal with one subject of taxation, and laws
   imposing duties on imports shall deal only with duties of Customs and
   excise.
   The difficulty my friend Sir George Turner suggests is that if you add
   laws imposing duties on exports and laws imposing duties on excise you
   leave it this way: that you would have to have as one Bill a Bill imposing
   duties on exports, and you would have to have another separate Bill
   imposing duties on excise. I understand my friend may do this where a
   Customs tariff is introduced and there are a number of balances in the same
   tariff at the same time—Customs duties with excise duties.
Sir GEORGE TURNER:
   If necessary.
Mr. BARTON:
   Do we do that in our ordinary legislation? We bring in a separate Bill.
Sir GEORGE TURNER:
   We do not.
Mr. BARTON:
   I do not think it is the practice in New South Wales to go into Committee
   of Ways and Means, both for Customs and excise, at the one, time; I think
   that is the Flame in South Australia. It may m that excise on beer, without
   assenting to that on tobacco, inasmuch as the power of amendment is taken
   from it. It would not have an opportunity of declaring itself on this, inasmuch as these were placed in a sort of balance. So it remains a question
whether these
duties of excise should not be in one Bill and Customs in another, and also
whether—
Mr. REID:
   Why Customs in this way?
Mr. MCMILLAN:
   I would suggest as an amendment the insertion of the words:
   Except laws imposing duties of Customs and excise, whether in one or
   separate Bills.
Mr. BARTON:
   If you did that you would have both Customs and excise in one measure.
Mr. MCMILLAN:
Why not?

Mr. BARTON:

Mr. McMillan says, "Why not?" I think that is a question to be debated by the Convention. I have not considered the matter much myself. If you are to accept Bills proposing duties of Customs and duties of excise, whether in one or separate Bills, you still leave it open to have forced upon the Senate a Bill which contains duties on imports, and also widely different duties on excise, and the question is whether that is within the intention of the compromise of 1891, which was, as far as it was possible, to separate the subjects in detail. Whether that power should be preserved, I think is a very important question. It is, however, very easily overcome in the way of drafting. The suggestion of Mr. Wise or a modification, of it might be put in. But inasmuch as I regard it as a question of substance I will not say anything about it till the Convention has had an opportunity of fully expressing itself. I would like to defer my opinion, only saying that it is my intention, as far as possible, to adhere to the compromise of 1891.

Sir GEORGE TURNER:

I would like to omit the words:
Except laws imposing duties of customs on imports,
and add at the end of the clause:
Providing that laws imposing duties of customs on imports, and also imposing duties of excise, and may deal with any number of articles.

I do not desire to take away an item of the compromise, but I do desire to prevent deadlocks occurring hereafter. From my experience I say that if you leave it in this position you may have serious difficulties hereafter. You perhaps would have a duty of so much on spirits, and an excise of so much on tobacco, and unless you deal with it in this way you will get into a state of confusion.

Mr. BARTON:

You might provide that no excise shall be imposed on any item which is not also subject to taxation.

Sir GEORGE TURNER:

I do not know. We have an excise duty on colonial beer. I am perfectly prepared in this way, as suggested to me by Mr. Deakin, that where you have items of Customs on imposts, and you desire to have an excise on similar articles they could go in one Bill. But if the question applies to something on which you have no Customs duty it might be put in a separate Bill. If you are going to impose a Customs and you desire a duty of excise, these two questions ought to be considered and passed at one time, for if you impose a duty of excise on a certain article and reject the duty of excise you might destroy a large industry.
Mr. FRASER:
I think that the amendment would be perfect provided that the duties in
the shape of excise would only deal with the subjects on which are
imposed import duties, but it does not say so. If duties are proposed on
spirits or wines, and these articles have an increase of duties proposed, then
undoubtedly the Treasurer of the day should have the liberty to propose
duties of excise on similar articles but not to ring changes upon any
number of outside articles. If that is attended to the amendment will be in
perfect order.
Mr. MCMILLAN:
I think it is absolutely necessary in making a comprehensive financial
policy that a Bill introduced with Customs should also, as a rule, contain
details of the excise; but, at the same time, I think it would be a mistake to
make it compulsory in the Constitution that there should be one Bill. We
ought to make it so that the excise and Customs
could be dealt with together, but that they could be introduced as separate
Bills if necessary.
Sir GEORGE TURNER:
There is nothing to prevent that.
Mr. MCMILLAN:
I am only pointing out now as a financier that I agree with Sir George
Turner that if you have a broad financial policy such as that which would
usher in the arrangements of a new Federation it would be better that the
financial proposals should hang together. There is no greater injustice to
the Upper House in dealing with the Excise Bill in globo than there is in
the Upper House dealing with a Customs Bill in globo.
Mr. SYMON:
We might adopt what Sir George Turner proposed if we struck out the
last few words, and inserted:
Upon any article upon which it is proposed to impose duties of Customs.
That would enable a financial proposal to be submitted, and would not be
open to the objections pointed out by the hon. member Mr. Barton, that it
would be dealing separately and independently with excise duties which in
the interests of the States might be dealt with separately, because in one
State it might be to its interest to do so, though it might not be in another
State. It might be to the interest of South Australia to have excise duties on
tobacco, but it may not be on other articles.
Mr. REID:
They should be taken together because we want to do away with these
local combinations causing strifes over one impost as against another, and
deal with the question in a broad national spirit.

Mr. SYMON:
We want to prevent unpatriotic combinations.

Sir JOHN DOWNER:
In this matter we are fighting over again the question as to whether the Senate shall have power to deal with Money Bills or not. Here is the first attempt to fritter away the right of the Senate in this matter. There will be cases in which the subjects of import and excise must be very largely mixed up, and it may be highly proper to consider the two things together. Where is the difficulty in having two Bills before the Senate, where is the difficulty in their internal arrangements which prevents them from dealing with them?

Mr. MCMILLAN:
They might reject one and accept the other.

Sir JOHN DOWNER:
If we are to force the Government to bring up its financial resolutions piecemeal instead of in one Bill it would be a highly inconvenient thing to the Government. I can understand every gentleman present who is a Minister in office now, and who has these things brought more immediately before his mind at the moment, taking this view. We ought not, however, to sacrifice a great constitutional principle on questions like this. A great struggle took place over the power of amendment. That was reduced to the power of veto, and that was again brought down to the question of whether veto, instead of being general, should be in detail; and I understand that we have settled that it should be in detail. Are we going to depart from that? So far as practical difficulty is concerned, there can be none in a Customs Bill and an Excise Bill going up at the same time for consideration by the Senate.

Mr. MCMILLAN:
It is not worth while fighting about.

Sir JOHN DOWNER:
I do not know whether it is worth while fighting about it. We want to find that out. We want to provide for this question of tacking, and for one Bill being put on to another, and so compelling the Senate to pass Bills some parts of which they like and with some of which they disagree. It is, I think, better to leave the clause as it is.

Mr. BARTON:
I understand it is proposed to strike out:
Except laws imposing duties of Customs on imports
And to insert at the end of the clause:
Providing that laws imposing duties of Customs on imports and also
imposing duties of excise, may deal with any number of articles.

Sir GEORGE TURNER:
I am not particular as to the wording so long as I got the principle.

Mr. GLYNN:
Leave out "excise."

Mr. BARTON:
I think still the game difficulty arises, as the intention of the principle in the conclusions of 1891 was, wherever it was reasonably possible, to separate matters so that they remained separate matters of principle to be dealt with by the Senate separately. This would be a departure from that principle, and would curtail those rights of the Senate which are given to it in consideration of the fact that it may not amend Money Bills. It is clear by the decision of to-day that the Senate may not amend Tax Bills, and I want to stand to that principle of justice which, in lieu of the right to amend Money Bills, gives it the right to deal in detail with and veto separate subjects of taxation. I think the course which is adopted in some other colonies, as in this one and New South Wales, might well be adopted by the Commonwealth, to pass a separate law for every such subject of excise duty, to pass a separate resolution in ways and means for every such subject, and having carried those resolutions to embody them in a Bill. There have been departures in all the colonies, but that has been the prevailing rule, and I think it is the best plan. If that view is adopted I do not think we should leave out these words, but should leave the clause as it stands and insert some words to meet Sir Edward Braddon's objections. His objection is an important one. It is that the words:

Except laws imposing duties Customs on imports

may impliedly give leave when passing a Customs Bill to add other subjects of duties other than Customs duties; so that a Customs Bill might include a Land and Income Tax Bill.

Mr. SYMON:
Hear, hear.

Mr. BARTON:
That clearly was never the intention of the clause. While I wish to stick to the substance of the compromise of 1891, I am perfectly ready that any amendment should be made which can carry out and effectuate the intention of that compromise. I think it might be better if we retain the clause as it stands, and then add to the sub-section the words:

And laws imposing duties of Customs shall deal with duties of Customs only.

I will move that as an amendment.
Sir EDWARD BRADDON:

I only seek Mr. Barton's advice as to whether the words he has just indicated will cover the ground we wish to cover as completely as a draft of an amendment which I have shown him, and which proposes to add at the end of the sub-section the following:

Provided that laws imposing duties or Customs on imports may deal with several duties or Customs, but shall not deal with any other subject than such duties or Customs.

Mr. BARTON:

I have already proposed an amendment to that effect.

Sir EDWARD BRADDON:

Then I am satisfied.

Question-That the words, "Except laws imposing duties on Customs on imports," proposed to be struck out, stand part of the sub-section-put. The Committee divided.


AYES.
Abbott, Sir Joseph Grant, Mr.
Barton, Mr. Henry, Mr.
Braddon, Sir Edward Howe, Mr.
Clarke, Mr. Lee Steere, Sir James
Cockburn, Dr. Lewis, Mr.
Dobson, Mr. McMillan, Mr.
Douglas, Mr. Moore, Mr.
Downer, Sir John O'Connor, Mr.
Forrest, Sir John Symon, Mr.
Fysh, Sir Philip Walker, Mr.
Glynn, Mr. Wise, Mr.
Gordon, Mr.

NOES.
Berry, Sir Graham Peacock, Mr.
Deakin, Mr. Quick, Dr.
Higgins, Mr. Reid, Mr.
Holder, Mr. Solomon, Mr.
Isaacs, Mr. Trenwith, Mr.
Kingston, Mr. Turner, Sir George
Lyne, Mr. Zeal, Sir William

Question so resolved in the affirmative.

Mr. BARTON:

I move my amendment.
Mr. DEAKIN:

The suggestion made by my hon. friend Sir George Turner was the matter upon which I myself voted on the last division. He indicated that, instead of pressing the amendment as he originally moved it, he was quite prepared to accept a variation which would permit of those items upon which the duty of Customs and the duty of excise were both proposed being submitted together in one Bill. I take it that every member present who has had any experience of dealing with a Customs tariff will recognise how absolutely essential that is. If you have your duties of Customs submitted in one measure, and your duties of excise on the same articles submitted in another measure, the rejection of either of these Bills not only absolutely defeats the intention of the Chamber charged with the duty of framing an excise and Customs tariff, but absolutely distorts it in a most indefensible manner. Under the circumstances which would then occur it would be possible, either by defeating the Customs Bill, to put a burdensome tax upon the local industries of the country without any justification whatever, which would mean their annihilation, or, on the other hand, by the rejection of the excise duties, to increase the protection afforded by the Customs to an inordinate extent. Surely it is fair, when it is proposed that Customs and excise duties are sought to be imposed on the same articles, that the choice left to the Senate should be either to accept or reject the scheme as a whole. Surely it is unfair to place in the hands of the Senate the power not only to defeat the financial policy of the House of Representatives, but absolutely of reversing it and rendering it ridiculous.

Mr. LYNE:

It gives the Senate power to burst up the policy of the Government.

Mr. DEAKIN:

If excise duties alone were proposed, or Customs duties alone were proposed, it is perfectly reasonable to ask that they should be dealt with in separate Bills. All those articles upon which Customs only were proposed might well go up in one Bill, those articles upon which excise only were proposed might go up in another Bill, and then those articles upon which both Customs and excise were proposed might go up in a third Bill. This cannot be done because the amendment submitted by my hon. and learned friend Mr. Barton distinctly lays it down that a measure containing Customs duties shall not contain anything else.

An HON. MEMBER:

Cannot you move an amendment?

Mr. MOORE:

That amendment does not touch your point at all.
Mr. DEAKIN:

It does to this extent, because it is submitted that it ought to be possible to join Customs and excise duties in one Bill.

Mr. REID:

Under the words of this sub-section each subject must be in a separate Bill.

Mr. DEAKIN:

I would prefer leaving the question of the expression of this idea to the Drafting Committee. The proposal I now submit is that the duties of Customs and excise should be dealt with by three Bills—all duties of Customs to come under one Bill, all duties of excise to be in another Bill, and all other articles upon which both Customs and excise duties are imposed to be embodied in a third Bill. I therefore wish to move—

The insertion of the words "or Customs and and excise" after "Customs."

Mr. MCMILLAN:

I quite agree in the main with the opinion of my hon. friend Mr. Deakin, but I do not agree with the amendment he proposes. I think what we want to do is to secure that each Excise Bill should be taken as a whole, and not set out in separate Bills according to the amount of its items. I do not think we should differentiate at all with regard to the particular character of one Excise Bill from another. It would be better to create two classes of Bills—one of Customs and one of excise, and make it clear that they can have any number of items that are necessary, and that they must be accepted or rejected as a whole. I think he will find that by introducing the other class of Bills to which he has alluded he will complicate matters. I do not think this amendment is any infringement of State rights, or the rights of the Senate, because Excise Bills are practically on all fours with a Customs Bill. I should have an amendment that would embody the right of sending up Bills of Customs and Excise to the Senate with the full enumerated items in each.

Mr. BARTON:

Does not this involve a question of policy as to whether the Customs duties should not be balanced by a corresponding excise duty? If it does involve such a question, is it not part of the intention of this amendment that the Senate should be prevented from considering those as separate matters of policy? If questions of excise are submitted as separate matters, then they may be dealt with by both Houses as such, except that the Senate cannot make amendments. It may take an extreme step in regard to such a Bill, but if it does not do that it must pass it. Is it not better that the subjects of excise and Customs should be kept separate, as hitherto? Have we ever
had a tariff Bill -we have not in New South Wales-which made some goods the subject of both Customs and excise duties? If we have not, why give permission to have such a thing done under the Federal Constitution?

Mr. DEAKIN:
We have.

Mr. BARTON:
Is there any other colony where that obtains?

Mr. HOLDER:
Yes, South Australia.

Mr. BARTON:
I was told differently.

An HON. MEMBER:
That is not what is proposed now.

Mr. BARTON:
Yes, it is. As the amendment stands, you can include duties of excise and Customs duties within one Bill.
As it stands, it reads:
And laws imposing duties of Customs shall deal with duties of Customs and duties of excise only.
That means that you can have a Bill not dealing with any subject but excise, and that you can have another Bill dealing with the subject of Customs, balancing this with the subject of excise. The whole question of the difference between free trade and protection may be involved.

An HON. MEMBER:
Why?

Mr. BARTON:
If you balance this one with the other there can be no amendment, and the whole thing must be vetoed or the whole thing passed. When we consider that, is it our intention to put the Senate in such a position with regard to matters of that sort? In the original intention embodied in this clause there is no doubt the motive was that all laws imposing taxation should deal with one subject of taxation only, and that laws imposing duties of Customs on imports should deal with Customs on imports only. That intention took no account, and intentionally no account, of the subject of excise, and what we are now asked to do is to depart from this conclusion and say Bills of Customs must deal with Customs duty only, or if they go further they must deal with duties of excise. If we substitute for what seems to be the more regular method-that is dealing with excise separately-if we substitute for that the ability to lump into one Bill subjects
of Customs and subjects of excise, then I think we are taking away from
the Senate a degree of power intended to be given to it by the Bill of 1891.
As I have expressed my intention to stand by this conclusion, I shall be
obliged to vote against Mr. Deakin's amendment. If the amendment is to
stand in this form, one House must swallow everything or reject
everything. This is not the conclusion of 1891, and I have expressed my
intention to be loyal to that conclusion, so I cannot accept the amendment.

Mr. Reid:
While I am willing to agree with Customs and excise being in separate
Bills, unless the whole excise policy be in one Bill side by side with the
whole Customs policy we are put in an anomalous position. If the Senate is
not to be allowed to amend one line of the Customs policy, which involves
thousands of lines, is there any use hanging on to the chance of throwing
out one Excise Bill out of probably a dozen. Such a system will give rise to
a war of local interests which should not be dealt with except as a whole. If
the Constitution is to deal with the question of Customs as a whole, surely
it should deal with the question of excise as a whole. Is there any sense in
the opposite course? It seems to me a lamentable thing that the Bill should
be going through in such an inconsistent state. Combinations may arise,
and perhaps a combination may pass a tremendously heavy Customs tariff.
The Government in all fairness brings in an excise policy-not up to the
Customs, but bearing some sort of proportion to it-and if they are
compelled to introduce it in detail, that is to say, twelve different Bills for
twelve different duties, do not we know the logrolling that will go on in
connection with these Bills? Surely the Senate does not want to be landed
in such an ignoble position. I am quite willing that the Customs and excise,
although I would prefer it the other way, should be in separate Bills, but I
do not think that Mr. Barton seriously proposes that when a Government
submits its financial policy it should not be permitted to introduce its
excise duties in a single Bill. I think Mr. Deakin should withdraw his
amendment and propose one to enable all excise duties to be dealt with in
one Bill.

Mr. Deakin:
We will accept that.

Mr. Reid:
There is a general feeling in

Mr. Deakin:
With the permission of the Convention, I will withdraw my amendment
and support one, in the direction indicated by Mr. Reid, since that is the
best we appear able to obtain.
Mr. Deakin's amendment withdrawn.

Mr. DEAKIN:
Perhaps Mr. Barton, who has the drafting of the Bill, will put the amendment in his own words.

Mr. BARTON:
I think the sub-section should be made to read:
And laws imposing duties of Customs shall deal with duties of Customs only, and laws imposing duties of excise shall deal with duties of excise only.

Mr. ISAACS:
Why not insert "or of excise" after "Customs on imports"?

Mr. BARTON:
That is not so complete an irruption on the conclusion arrived at in 1891.

The CHAIRMAN:
We have the original amendment before us, and we have to dispose of that before we can deal with another amendment.

Mr. BARTON:
That will require withdrawal, and in order to make room for any amendment which may be proposed I ask leave to withdraw it.

Amendment withdrawn.

Mr. DEAKIN:
I understood that Mr. Barton would move the amendment.

Mr. BARTON:
I think the Convention is generally of opinion that the words "or of excise" should be inserted. I therefore move:
That there should be inserted after the words "Customs imports" the words "or of excise."
Amendment agreed to.

Mr. BARTON:
Now I shall content myself with proposing my own amendment:
That the following words be added to the subsection: "but laws imposing duties of Customs shall deal with duties of Customs only."
I propose to stop there, and the sense of the Convention may be taken on my hon. friend's addition.

The CHAIRMAN:
The question is that the words:
But laws imposing duties of Customs shall deal with duties of Customs only be added.
Amendment agreed to.
Mr. DEAKIN:

I beg to move at the end of the clause the addition of the words-
And laws imposing duties on excise shall deal with duties on excise only.
Amendment agreed to.

The CHAIRMAN:

That sub-section 3 as amended stand part of the clause.

Mr. GORDON:

How does it read?

The CHAIRMAN:

I will read it:

Laws imposing taxation, except laws imposing duties of Customs on imports, shall deal with one subject of taxation only, but laws imposing duties of Customs shall deal with duties of Customs only, and laws imposing duties of excise shall deal with duties of excise only.
Sub-section 3, as amended, agreed to.

DEPARTURE OF WESTERN AUSTRALIAN REPRESENTATIVES.

Sir JOHN FORREST:

Mr. Chairman-I desire to wish, on behalf of myself and my colleagues, hon. members good-bye. We have to leave to catch the Ophir, and I can assure you that we all leave with very much regret. We would like to have stayed to have completed the work we are engaged on. I thank hon. members, particularly the Premier and Government of South Australia, on behalf of my colleagues and myself for the kind consideration they have shown us. Whatever differences of opinion have existed between hon. members and ourselves we will consider as a passing event, and we will carry with us nothing but good feelings.

Mr. BARTON:

May I say, Sir, we all extremely regret the departure so early of Sir John Forrest and his colleagues for West Australia. It is always a pleasure to deal in parliamentary battles with men who fight fairly, and it is impossible to meet a man and have the misfortune to differ with him under circumstances marked by less unpleasantness than in the case of Sir John Forrest. We agreed happily on many matters, and it is a great pleasure to be agreed with him. But when he fights, strongly as he does it, he fights fairly, and there is no loss of good temper in a fight which is conducted by a man who never hits below the belt, and one who is so genial and kindly. We wish good fortune to him, and also that circumstances could have left him and his colleagues a little longer with us.
Mr. KINGSTON:

I would like to take this opportunity of acknowledging the kind remarks that have been made about the Government of South Australia. It is a pleasure indeed to receive the representatives of Western Australia, and also of the other colonies, and the only regret is that moments such as these arrive when we have to say good-bye.

COMMONWEALTH BILL.

Consideration of clause 53 resumed.

Sub-section 4-The expenditure for services other than the ordinary annual services of the Government shall not be authorised by the same law as that which appropriates the supplies for the ordinary annual services, but shall be authorised by a separate law or laws.

Mr. HOLDER:

This sub-section is intended to prevent tacking, and I want to make it a little more effective in this same direction. I want not only to prevent tacks in one branch of the Legislature, but also what might be considered such in the opinion of the other.

Mr. BARTON:

So many of us want to see Sir John Forrest and his friends off that I move:

That the Committee suspend its sitting till 7 o'clock.

Question resolved in the affirmative.

The Committee resumed at 7 p.m.

Mr. HOLDER:

I desire to amend subsection 4, by inserting after the word "Government" words the purpose of which will be to make a still further safeguard against tacks. It is evident that the object of the subsection is to prevent tacks, and it is possible that that might be attempted not only in the ordinary way by including in a Bill for the ordinary services of the year some payment to some officer, but it might be done in some way which would be injurious to the interests of one colony. I move to insert:

After the word "Government," the words, "or for any services which the Senate may, by an address to the Governor-General, declare to be inimical to the interests of any State."

So that two things may be prohibited from appearing in the Appropriation Bill-first the expenditure for services other than the ordinary annual services of the Government, and next anything which the Senate might, by address to the Governor-General, declare to be inimical to the interests of any State. This would not work any in justice, because the
Senate would never by a majority of its members adopt such an address to the Governor-General unless the case were one of urgency and importance, and if it did adopt such an address I think the item should be omitted from the ordinary Appropriation Bill, so that both Houses may have an opportunity of considering it.

Sir GEORGE TURNER:
This is a clause which relates to some extent to the annual services of the Government. It provides:

The expenditure for services other than the ordinary annual services of the Government shall not be authorised by the same law as that which appropriates the supplies for the ordinary annual services.

I understand that the Hon. the Treasurer of South Australia desires to give the Senate practically a power to amend an Appropriation Bill.

Mr. HOLDER:
No.

Mr. MCMILLAN:
To take something out.

Mr. HOLDER:
To simply require an objectionable item to come out.

Sir GEORGE TURNER:
Is that not power to amend it? You can do it in two ways. Here the Government are going to authorise certain expenditure. Before the Appropriation Bill comes to them the Senate are at liberty to pass an address, that it is to be sent up in a distinct Bill, or after the Appropriation Bill is sent up, or when they have the Bill before them they may pass a similar address. The Treasurer of South Australia proposes to give the extraordinary power of passing an address to the Governor-General, and as soon as that address is passed the Government, whether they like it or not, may have to take the Bill back and recast it. I trust that this Convention, whatever it may do, will do it directly, and not in any indirect way; that they will not do it by anything like this, which is, to say the least of it, an extraordinary mode. There is no question in my mind what the result of this would be. It is the most novel proceeding I ever heard of. Let us stand by the compromise of 1891.

Mr. BARTON:
This is not standing by it.

Sir GEORGE TURNER:
I hope my hon. friend will not proceed with such a motion as he has proposed, and if he does, I hope the Convention will not pass it.

Mr. HOLDER:
What I understand by the amendment is this: that if the Government
should be found at any time putting in the Appropriation Act some power or service which would be injurious to any State, the Senate would have power to say it is injurious, and on that being pointed out it would drop.

Sir GEORGE TURNER:
That could be pointed out in the House of Representatives.

Mr. HOLDER:
Some pressure might be brought to bear on the Senate to pass an Act containing an injurious provision.

Sir GEORGE TURNER:
It would only be in the ordinary service of the year.

Mr. HOLDER:
Some item might be included which would provide some work or service injurious to some colony, and I want the Senate to be able to declare that fact, so that the line may be excised.

Sir GEORGE TURNER:
I would rather give them the power to amend direct.

Mr. O'CONNOR:
That is giving with one hand and taking away with another.

Question-That after the word "Government" the following words be inserted, "or for any service which the Senate may, by address to the Governor-General, be declared to be inimical to the interests of any State"-put. The Committee divided.


AYES.
Braddon, Sir Edward Gordon, Mr.
Clarke, Mr. Grant, Mr.
Cockburn, Dr. Holder, Mr.
Dobson, Mr. Howe, Mr.
Douglas, Mr. Solomon, Mr.
Downer, Sir John

NOES.
Abbott, Sir Joseph McMillan, Mr.
Barton, Mr. O'Connor, Mr.
Berry, Sir Graham Quick, Dr.
Deakin, Mr. Reid, Mr.
Glynn, Mr. Symon, Mr.
Henry, Mr. Trenwith, Mr.
Higgins, Mr. Turner, Sir George
Isaacs, Mr. Walker, Mr.
Kingston, Mr. Wise, Mr.
Lewis, Mr. Zeal, Sir William
Lyne, Mr.
Question so resolved in the negative.

Mr. GLYNN:
Before this sub-section is put I would like to be sure on this point, I do not know whether it is intended to allow matters of general legislation to be included in the Appropriation Bill. If it is not intended, then we should notice that the section allows it to be done. The position seems to be that you cannot amend an Appropriation Bill, but there is nothing in the section to say you cannot join with the Appropriation Bill any number of matters of general legislation.

Mr. KINGSTON:
Section 53 states at the beginning:
The Senate shall have equal power with the House of Representatives in respect of all proposed laws, except laws appropriating the necessary supplies for the ordinary annual services of the Government, which the States Assembly may affirm or reject, but may not amend.

Mr. O'CONNOR:
Look at sub-section 4 of that section.

Mr. GLYNN:
That states:
The expenditure for services other than the ordinary annual services of the Government shall not lie authorised by the same law as that which appropriates the supplies for the ordinary annual services, but shall be authorised by a separate law or laws.
All that seems to do is to prevent extraordinary supplies being included in the same Bill as ordinary supplies, but there is nothing to say you may not put in fifty matters of contentious legislation.

Mr. BARTON:
How can you?

Mr. GLYNN:
At any rate this is a matter open to considerable doubt. If it is not intended that this power is to be granted it ought to be specifically stated. You might include for instance in an Appropriation Bill several clauses widening the franchise.

Mr. BARTON:
Surely the hon. member does not state that seriously?

Mr. GLYNN:
Yes. The clause is open to that construction. Look at section 52; it is there provided that you cannot originate a Bill in the Senate whose main object is the appropriation of supplies; but supposing you have a Bill
whose main object is something else, but whose collateral or minor object
is appropriation, what is to prevent you from originating that in the Senate?

Mr. BARTON:

I do not quite follow my hon. friend's objection, but I take it to be this the
sub-section only forbids expenditure for services other than the ordinary
services of the Government in the Appropriation Act, and that inasmuch as
those extra services are the only ones forbidden, things which are not extra
services, but independent matters of legislation may be included in the
Appropriation Act. The answer to that is that the Appropriation Act can
only include appropriation.

Mr. GLYNN:

Where is that provided for?

Mr. BARTON:

It need not be provided for, as far as I can understand. I think there are
understandings about these matters. When we speak of Bills of this kind,
and that to which the Convention has so long been accustomed, it would be
idle and endless if we endeavored to give definitions to all these matters,
which would preclude the possibility of any objection being raised.

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The things which are ordinarily understood are defined by an Act of this
kind, and inasmuch as the Appropriation Act is a law for the appropriation
of the necessary supplies for the ordinary annual services of the
Government, and inasmuch as that is a proposal of legislation which is
thoroughly understood, it would be perfectly beside the question to contend
that that Act could include services beyond the ordinary annual services of
the Government. It is conceded that it cannot include money services
beyond the ordinary services of the year, and inasmuch as it is a Money
Bill it would be perfectly absurd if it were attempted to be reasoned before
a Court of Justice-if it ever came there-that, as the only prohibition upon
the extension of the Appropriation Act is that it cannot go beyond the
ordinary annual services, therefore there is an implied permission given to
include in the Appropriation Act matters of legislation which have nothing
to do with monetary matters at all. If the hon. member will look at section
53 he will see that, after providing that the Senate shall have equal power
with the House of Representatives, there is a preclusion of amendment
against the interests of the people in the way of increased taxes or
appropriation. The Appropriation Act is fairly defined in the clause. One
must read the first part of clause 53 with the sub-section to which the hon.
member refers. It is clear, therefore, if you read the two together, that the
one Bill is to provide for the ordinary annual services of the Government,
and that beyond the ordinary annual services of the Government, which are all matters of expenditure, there must be another Bill.

Mr. GLYNN:

The way I read this section-and I think if hon. members look into it closely they will agree with me-is that in the light of clause 52 you can introduce into the Senate an Appropriation Bill, as long as you put in the same Bill matters of general legislation whose importance overbalances the importance of the Appropriation portion of the Bill. I would ask hon. members to read section 52. It says:

Proposed laws having for their main object the appropriation of any part of the public revenue, or the imposition of any tax or impost, shall originate in the House of Representatives.

I take the rule of construction to be this that you cannot have an affirmation without an opposite-an implied exception without something not excepted-and in these clauses mentioning certain things for their main object there must be something the opposite of that. You may have Bills with appropriation for their main object, and Bills with appropriation for their minor object, and something else for the main object. It would, therefore, be possible to initiate in the Senate appropriations which are joined with matters of big general legislation. That was never intended, but it is possible. Further, under section 53, you confer a power upon the House of Representatives of introducing matters obnoxious to the Senate in conjunction with an Appropriation Bill, and of sending up at the latter end of the Session the Appropriation Bill with this obnoxious matter in it for acceptance or rejection by the Senate. You can, under the necessity of passing the general supplies, force the hands of the Senate to accept a policy they do not believe in. This is the history of legislation in the colonies, particularly in Victoria, but I am sure it was never intended by the Committee that anything of the sort should be done. I would ask the Leader of the House, Mr. Barton, if there is anything in this section to get rid of the implied effect of section 52? He says that in the Appropriation Bill matters appertaining to the annual supplies only can be dealt with. Section 52 speaks of-I will read it again:

Proposed laws having for their main object the appropriation of any part of the public revenue, or the imposition of any tax or impost, shall originate in the House of Representatives.

You may therefore have a Bill which is an Appropriation Bill in a subsidiary or secondary sense, and dealing as its main object with matters of general legislation, If that is so you may force the hands of the senators into accepting a matter of general policy, or
rejecting through incapacity to amend the Bill altogether.

Mr. DEAKIN:

Is there not set out practically a definition of the Appropriation Bill in the several sub-sections of clause 53?

Mr. GLYNN:

I think there is no implied limitation of its application to Bills appropriating revenue, or which excludes the power of joining other matters.

Mr. DEAKIN:

Does it not speak of appropriating the necessary supplies for the ordinary annual services of the Government?

Mr. GLYNN:

That is not a definition limiting its general purport, but excludes the joining to two classes of supplies.

Mr. BARTON:

Did you ever hear of the House passing a resolution after the Committee of Ways and Means has sanctioned the expenditure, taking upon itself the responsibility of amplifying that resolution to put other matters into the measure except-

Mr. GLYNN:

I think the resolutions generally apply to supplies, but do not exclude inclusion in a Bill with other matters.

Mr. BARTON:

I think the hon. member is right in one sense and not in another. The Committee of Ways and Means carries certain resolutions, which are received and read a second and third time, and upon which the Bill is founded. Did the hon. member ever hear of a Bill founded upon these resolutions that went beyond them?

Mr. GLYNN:

Whether I did or not, my knowledge does not limit the possibility of things. I know it would be possible after these resolutions were passed to introduce a Bill dealing with the matter of the resolution and general legislation as well. No resolution would be required to the latter. Is that not possible? I move to cure this by adding to the end of sub-section 4 the words:

And no law appropriating any part of the public revenue shall have anything but such appropriation for this object.

Mr. BARTON:

What is the ordinary parliamentary process in these matters? I cannot conceive of the Parliament of the Commonwealth doing other than accepting the ordinary process, and if we do not conceive of this we had
better not have these clauses at all.

Mr. ISAACS:

We would have to make a code.

Mr. BARTON:

As my hon. friend puts it, we should have to make a code. How is the Appropriation Act brought about? After a message from the Governor recommending that provision be made for the ordinary annual supplies the House resolves itself into a Committee of Supply, and then it passes its estimates, and after these estimates are covered by the ordinary resolutions, at a later stage of the session the Appropriation Bill is brought in. That Act cannot cover anything but these matters which have in the ordinary estimates been passed. How can the hon. member's argument apply in such a case. If the ordinary process is observed, and which we agree must be observed, or else this machine which we are constructing will not work, then you will have the estimates passed in a more or less mutilated form and covered by the Appropriation Bill, which covers nothing more nor less than these estimates. If that Appropriation Bill is brought in framed on the estimates, how can the question arise. It cannot possibly arise, and I do not think we need waste our words in discussing it. The question is so unsubstantial, I say it with respect, and of so remote a character, that I think we had better leave the matter as one of ordinary common sense.

Sir GEORGE TURNER:

Question, question!

Question-To insert at the end of subsection 4: "And no law appropriating any part of the public revenue shall have anything but such appropriation for this object"—put and negatived.

Sub-section 4 as read agreed to.

Sub-section 5-In the case of a proposed law which the Senate may not amend, the Senate may at any stage return it to the House of Representatives with a message requesting the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications.

Mr. MCMILLAN:

There is one matter which I should like to draw attention to with regard to suggestions. It seems to me we might add something to it to make the subsection more complete. It says:

And the House of Representatives may, if it thinks fit, make such omissions or amendments, or any of them, with or without modification.
If we were to add:
And the House of Representatives shall take into consideration such suggestions and,
it would be rendered imperative that these amendments sent down as suggestions should be taken into consideration. Under the ordinary circumstances they would be, but we do not know what kind of tension may come about between these two Houses, and it is possible that there would be absolutely no notice taken of the suggestions. I am not very strong on the question, and I simply point out the possibility of providing this greater security.

Mr. ISAACS:
You cannot enforce it, but it will do no harm.

Mr. MCMILLAN:
I submit it to Mr. Barton, as I do not like to touch the drafting.

Mr. BARTON:
If you will look at clause 49, you will see what the powers given to the two Houses are in respect to the consideration of each others business and their Own.

Mr. MCMILLAN:
If Mr. Barton says it is unnecessary, I will bow to his decision, but it just struck me, and I thought I would bring the matter before the Committee. I shall make no amendment, but leave it to someone else if it is thought it would make the section more complete. If any other member cares to take it up he can do so.

Mr. BARTON:
I am not concerned here in respect to the position of the Drafting Committee. We had a duty to perform to bring a Bill into Committee, and we should be very strange federationists if we allowed any feeling of our own to interfere with the consideration of the measure and the passing of a proper Bill. I should like to point out to Mr. McMillan that in clause 49 there is a provision by which the Senate and the House of Representatives may from time to time adopt standing rules and orders as to:
The mode in which the Senate and the House of Representatives shall confer, correspond, and communicate with each other relative to vote on proposed laws.
I think we may trust to the common sense of both Houses to frame such standing orders as will govern the matter. I am of opinion that we should not overload this business with minor provisions which are really within the competence of the two Houses to deal with between themselves.

Mr. DOBSON:
The hon. member has to some extent called attention to a question which
I am about to raise. This subsection gives the Senate the power of making suggestions, and we have to be content with that, as we have been beaten, on the clause which sought to give them the power to amend Money Bills. I would put it to the Committee whether the House of Representatives is bound to send back the Bill to the Senate with an answer as to whether they accept or reject any of the suggestions. They may place the Bill in the waste paper basket, when the Senate may have been quite prepared to have passed the Bill, if the House of Representatives had given them an opportunity to reconsider it.

Sir GEORGE TURNER:
Surely they would give them the opportunity, seeing that it is their own Bill.

Mr. DOBSON:
It is the only chance that the Senate will have of making itself heard on financial matters, and I should like to be assured that when the Senate make suggestions they will have the opportunity of getting the Bill back, and of seeing how generously or the reverse the House of Representatives has treated its suggestions. The Senate could then pass or reject the Bill. Does the Bill give them that power?

Mr. BARTON:
If the hon. member will follow me I think I can speedily answer that question. If the hon. member will turn to sub-section 5 he will find the words:

The Senate may at any stage return it to the House of Representatives, with a message requesting the omission or amendment of any items or provisions therein.

It means that the Bill must go back with a message from the House of Representatives, and from the whole framing of the clause it is clear that the power of suggestion is only proposed to be granted in respect to those matters which the House of Representatives, must originate, so that the Bill is the Bill of the House of Representatives. The measure is sent from the Senate to the House of Representatives, and they can then deal with the suggestions as they think fit, modifying them as they think right. The Bill is then sent back to the Senate with a message saying that the House of Representatives agrees to certain suggestions, or on the other hand, they may fail to agree to them. A either case the House of Representatives will decline to put in jeopardy their own measure.

Mr. ISAACS:
That is the point I wished to emphasise yesterday.

Mr. REID:
I have always opposed this compromise of 1891, as I can see that it will raise the very danger which we have all been anxious to guard against, that is collisions between the two Houses on financial matters. I am very much afraid that with a clause of this kind the Senate will look upon it, not exactly as an equivalent absolutely, but as conferring a certain degree of right on their part to exercise control in financial matters, and in this way collisions may be brought about. The Lower House—that is to say, the House of Representatives—will probably take up a very firm attitude on matters of this kind, and probably will not see its way to act on the suggestion sent down from the Senate. If that happens two or three times running there may be developed a state of great tension. This brings us back to the evil which we have all been trying to guard against. If we are to work the Federation in harmony the financial business must be under the control of one House, and that the House of Representatives, there being the power in the Senate in a case of any gross wrong or injustice which may be involved, to step in and say, "No; we will not allow this Bill to pass." But the effect of this is to put upon the Senate the duty of going over these appropriations to see if there is any part of them which, in the opinion of the Senate, ought to be amended or omitted; and therefore the Senate would take it to be its duty to go through the Bills in that way. And feeling it to be a duty cast upon it, I think it alters the relations of the two Houses to such a serious extent that we practically would find the two Houses in collision.

Mr. MCMILLAN:
Would they not go through a Bill in any case?

Mr. REID:
An Appropriation Bill I have never known them to go through.

Mr. MCMILLAN:
Still they go through it.

Mr. REID:
We have all had experience as to where there is a doubt as to the powers of one House, and we all know the feeling that would be engendered if one House found its amendments continuously negatived, continuously discarded, and continuously put under the table by the other.

Sir WILLIAM ZEAL:
They would not dare to do that. They would be reasonable men.

Mr. REID:
But we are casting upon reasonable men—whom we do not give sufficient control to—the duty of going through financial measures, and criticising them and suggesting alterations in them. What a lame and
impotent position the Senate is put in if it simply has the power that any outside writer to a newspaper has. Any person in a letter to a newspaper might suggest to the House of Representatives that certain items might be omitted in the Appropriation Bill. That is the only power the Senate has in this, the power that any outside person.

**Sir JOSEPH ABBOTT:**

It has the power of rejection.

**Mr. REID:**

Now, that is exactly the point. My friend Sir Joseph Abbott has pointed to the very thing I am anxious to bring under the notice of this Convention. The honorable gentleman says, "But, oh, the Senate is not in the position of a writer to a newspaper. It has the power of rejection." That shows the gravity of this proposal, that although the law says it is only to have the power of a person who writes to a newspaper, in point of fact, because it has got another power—the power of total rejection—it can put the financial House in such a position that there is an implied threat.

**A MEMBER:**

Oh, no.

**Mr. REID:**

According to the argument which has been suggested to me, there is an implied threat that the Bill will be thrown out, and "if you go on neglecting these suggestions, it may be our duty to assert that power." Now I want this matter looked straight in the face. If there is to be any sort of financial control in the Senate, it should be put in the proper form. I do not wish to go into this matter at any length, because I do admit that this matter has been put into this shape because there are a good many gentlemen who have given up their principles almost, to the extent of consenting to this modification. While I have all along spoken in the strongest way against this I am perfectly sure, from what I know of the opinions of hon. members, that there are a majority who hold the opposite opinion, and as this matter has been before us for six years there is not the slightest necessity of taking up any further time. I wish to place on record my individual objection to this position. That is all.

**Sir JOSEPH ABBOTT:**

I think to alter this sub-section would be to violate the compact entered into to-day. I say what is implied is a violation of the compact made with the smaller States to-day; and it would be a breach of the compact with that large number of representatives who are absent. The proposition of Mr. Reid I did all in my power to get inserted. I used the strongest argument in favor of inserting these words, and which had some influence in getting the
representatives of smaller States to accept the right to offer suggestions: and is it not better to offer suggestions than reject a Bill right off?

Sir JOHN DOWNER:
Why not give the power to make amendments?

Sir JOSEPH ABBOTT:
I cannot see where there is very much difference. I have heard some very strong speeches against the Senate having the right of suggestion, and it is so very much easier for the House of Representatives to strike a Bill out.

Mr. REID:
You said the exact opposite before.

Sir JOSEPH ABBOTT:
I do not think I said the exact opposite. If I did perhaps his arguments would convince me that I was wrong. I say that that body will be in no sense similar to the existing Legislative Council. We will have an enormous constituency returning representatives to the Senate. What are Legislative Councils at the present time? Some are nominee Houses, and in no case is there manhood suffrage. The Senate would be returned on the basis of one man one vote. I certainly say stand by this subsection 5, and I hope that no amendment whatever will be made.

Mr. WALKER:
I went with those who supported the majority this afternoon on the distinct understanding that the Senate should have the right of suggestion, and I cannot understand the Premier of New South Wales ignoring what I consider the compact he entered into.

An HON. MEMBER:
He is not going to divide the Committee.

Mr. REID:
I only wanted to put my opinion on record.

Mr. WALKER:
If the Senate takes the responsibility of making suggestions, and the House of Representatives does not accept them, the Senate of course assumes the responsibility on its own shoulders, should it throw out the Bill. My sympathies are very largely with those who wish to make the Senate a strong House.

Sub-section agreed to.
Clause passed.

Clause 54.-It shall not be lawful for the States Assembly or the House of Representatives to pass any vote, resolution, or law for the appropriation of any part of the public revenue, or of the produce of any tax or impost, to any purpose which has not been first recommended to that House by message of the Governor-General in the Session in which the vote,
resolution, or law is proposed.

Mr. REID:

I think we should make it quite clear if it is really to be provided that Money Bills, Bills appropriating revenue, or the produce of any tax or impost, are to be introduced in the Senate.

Mr. BARTON:

Perhaps my hon. friend will allow me to explain this clause. This was inserted in consequence of the carriage of an amendment in the Constitutional Committee, as you will no doubt remember, sir. Instead of the clause relating to Bills appropriating public money, it was altered so as to refer to Bills having for their main object the appropriation of public money. The result was that, as a different class of Bills would be introduced into the Senate, it was thought necessary that a message must also be addressed to the Senate. It is desirable that these words should be retained; otherwise it would be possible for the Senate, or any members of the Senate, to initiate Bills dealing in a very large measure with the financial policy of the Government, notwithstanding that they might deal first with matters of policy, and incidentally only with matters of appropriation. It would be possible for them to deal with them without any message, and to my mind it is necessary that there should be a conservation of the powers of the Executive in this matter, and therefore it should rest with the Executive alone to bring down a message. For that reason I am quite sure hon. members will agree that this provision should be retained.

Mr. KINGSTON:

Would it not be well to alter this section to make it correspond with section 52 in its altered form Clause 52 we have extended to apply to the appropriation of public money from whatever source derived, including loan funds. I think that a similar extension should be made in the provisions of section 54, so as to harmonise the two. As one section has been extended I suggest that the other should be extended.

Mr. ISAACS:

I would draw hon. members' attention to that and one or two other things in connection with this clause. The insertion of the word "moneys" has occurred since we have been sitting in this Committee. I would like to call attention to the necessity of making the language uniform throughout these sections. In clause 52 undoubtedly it will be public revenue or moneys, but it does not add the expression "or of the produce of any tax or impost." While that is being done I would also draw attention to clause 79. The expression there is "one consolidated revenue fund." Now that seems to be the term which is most in consonance with our colonial
Constitutions, and Mr. Barton might consider the advisability of having one uniform expression which would comprehend the necessary term in all these clauses. I would also draw attention to the position of the word "law" in the second line of clause 54. That should be "proposed law," or something of that kind. I observe that the Drafting Committee have to a large extent taken advantage of the criticism of Mr. Bourinot in his pamphlet commenting on the inexactness in the language of the Bill of 1891 in certain clauses. I refer particularly to the next clause, in which we find the expression - "proposed law passed." Mr. Bourinot made some keen observations on that, and the Drafting Committee have to some extent followed that, but they have not in all their conclusions, and this clause is one case in which they have not. He has pointed out the obvious fact that one House does not pass a law, and that it is not law until it has received the Royal assent, and to speak of it as a law until it has is wrong.

Mr. BARTON:

The best place to put it in would be to say:

To pass any proposed vote, resolution, or law. That would be almost the best English.

Sir GEORGE TURNER:

No.

Mr. BARTON:

The word "proposed" would be the governing word.

Mr. ISAACS:

They can pass a vote, and they can pass a resolution, but a House cannot pass a law by itself. That same observation would apply to various other sections - in both portions of clause 55. In the last line of the first sub-section the word "law" is wrong.

Mr. BARTON:

I do not think it is wrong there, because "the law," means "the proposed law."

Mr. ISAACS:

It has been altered in other portions.

Mr. BARTON:

I do not think we need trouble about legal verbiage. "The law" means the law which has been mentioned before.

Mr. ISAACS:

The alteration has been made in some sections; but there are some portions in which it has not been made.

Mr. BROWN:

Perhaps one of the observations of Mr. Isaacs might be met by using the word "consider" instead of the word "pass." That part of the clause would
It shall not be lawful for the Senate or the House of Representatives to consider any vote, resolution, or law, for the appropriation of any part of the public revenue.

Mr. ISAACS:
That would not meet it.

Mr. BROWN:
I make the suggestion because, if I recollect rightly, it is provided in the Standing Orders of the Tasmanian Parliament. No one can there propose a vote for a sum of money or for expenditure of any kind unless it has been first recommended by the Governor. They not only cannot pass, but they cannot consider it.

Mr. BARTON:
I am not quite sure, upon such consideration as I have been able to give it, whether that would be an improvement. I think there would be many cases in which the proposed vote, or resolution, or law would thus fail of accomplishment, simply because of the want of a message, which message might be sent at a late stage of the consideration of a question. I understand that in the House of Commons the ordinary practice is for a Minister to state that the resolution or vote is with Her Majesty's consent, but that the ordinary message from the Crown can be brought down at any time before the question "that the Bill do now pass" is put.

Mr. KINGSTON:
The same thing obtains here.

Mr. HIGGINS:
In Victoria, too.

Mr. BARTON:
In New South Wales the practice is more strict; but I have always thought that the strictness of that practice is not really a compliance with our Constitution Act.

Sir JOSEPH ABBOTT:
In New South Wales the Act says "to originate."

Mr. BARTON:
That is quite true; I had forgotten that. I have always thought that the practice in New South Wales has been a perplexing and hampering one. I think it is very much better to make the law read as it is, that the passage shall not occur until there has been a message. There are many circumstances under which a message might not be obtained by a Government, although they might find it necessary in an emergency to propose a vote or resolution. So long as the Queen's assent is given to that
proposed procedure by message before the final act is taken of carrying it into law, the prerogative of the Crown is sufficiently guarded. And if we try to apply restrictions of this kind, so as to hamper the very origination of matters, we are extending the application of the prerogative of the Crown, instead of really exercising the popular right, and then applying that prerogative to the effectuation of the popular right.

Mr. REID:
You will have to knock out one word in this clause, or else the same trouble will exist.

Mr. BARTON:
I will give an instance. It does happen, and it has happened within my Parliamentary experience several times, that a point has been taken in Committee of the whole during the passage of a Bill, where it has been discovered before anybody bad thought much about it that an expenditure was involved. Under our practice, where we have the word "originate" instead of the word "pass," the Bill has been ruled out of order, the Order of the Day discharged, and the Bill thrown under the table. Under the words we have here such a contingency could not occur, because until the very passage of the Bill it would be within the competence of the Ministry of the day to bring down a message which would authorise it.

Mr. REID:
The clause says:
Which has not been first recommended.
You will have to leave out one word there.

Mr. BARTON:
I have that word clearly in my mind, but the word "first" relates to the word "pass." You cannot pass a thing which has not been first recommended; that is first recommended before you pass it.

Mr. SYMON:
Precisely.

Mr. BARTON:
With regard to a vote or resolution, it would be necessary to have a message before you pass such vote or resolution; with regard to a Bill, you must have a message before you pass the Bill. This clause gives greater liberty to Parliament than the restrictive application proposed, and I am therefore entirely in favor of retaining the words of the clause. Mr. Isaacs has raised a question with reference to "proposed law."

Mr. ISAACS:
I do not like the words "proposed laws," because it has a technical meaning in other parts of the bill. The word "Bill" ought to be there.

Mr. BARTON:
I do not propose to alter without very good reason the phraseology of this Constitution Bill to which we are accustomed. A Bill is a proposed law until it becomes an Act.

Mr. ISAACS:
It is not a law until both Houses have passed it and it has been assented to by the Queen.

Mr. BARTON:
The hon. member has raised the question in line 38, that the word "Proposed" should be put before the word "law." I am not very curious about that, and I have no particular objection to it. The words used in the beginning of the section are "a proposed law." The word "the," if I must be very particular, which occurs in the fifth line of clause 55 is generally known as the "definite article," and specifies the thing related to. Therefore, "the law" means "the proposed law." But I have not the least objection to it, if my hon. friend thinks there may be the least technical difficulty about it, if he will move in the direction indicated.

Mr. ISAACS:
We have not come to that yet.

Mr. BARTON:
I have not the least objection to the insertion of the word proposed "before" law."

Mr. ISAACS:
We want this Bill to pass in a form that we shall not have any objection to it.

Mr. BARTON:
To meet my hon. friend's view, I would like to insert the word "proposed" before "law" in the second line of the clause,

Mr. ISAACS:
That is better than "law."

Mr. BARTON:
I think the point is really unsubstantial, but I am perfectly content to put in the word "proposed" before "vote" or "law" and I leave it to some honorable member to move one or the other.

Sir WILLIAM ZEAL:
It seems to me this difficulty would be met if the words, "or law" were struck out and the word "or" placed before "resolution." I move:
That the words "or law" be struck out.

Mr. SYMON:
I would ask the hon. member Mr. Barton whether it is really worth while to alter it. We know perfectly well what "law" means. You must interpret
the words by the context, and if you read the whole section there is no doubt that it applies to a "proposed law," a "Bill," or anything which has for its object the appropriation of public money.

Mr. BARTON:
That is to say the thing is inchoate until a message is obtained.

Mr. SYMON:
Exactly. There can be no misapprehension of the meaning. It does not mean a law after it has become a completed Act-after the assent of Her Majesty—it is something short of that.

Mr. ISAACS:
It is quite immaterial to me what words are used, so long as we understand them, but I do like to see words referring to the same things consistently employed. We have heard a great deal even from Mr. Symon of the necessity of preserving a distinction between the expression "law" and "proposed law." Here we are using the word "law" when it is understood that it is to be a proposed law.

Mr. REID:
Will any human being have any difficulty with it to the end of the world?

Mr. BARTON:
My friend is right to this extent, that he says it is not a "law" till there has been a message, and it has received the assent of the Governor.

Mr. ISAACS:
Well, what objection to put it in? I move:
To insert the word "proposed" before "law" in the second line of the clause.

The CHAIRMAN:
I would point out that Sir William Zeal has moved a prior amendment.

Mr. BARTON:
I will ask Sir William Zeal to withdraw his amendment to make room for a prior amendment by Mr. Isaacs.

Sir WILLIAM ZEAL:
I agree.
Leave given.
Mr. Isaacs' amendment agreed to.

Mr. KINGSTON:
I ask the Committee to consider the propriety of altering the phraseology of section 53 to correspond with the phraseology of section 52, which we made to apply to all public moneys, but here we have limited it to revenue or tax or impost.

Mr. BARTON:
I do not see that there is any serious necessity for making the amendment.

Mr. KINGSTON:

Will the Chairman kindly inform me the alteration made in section 52?

The CHAIRMAN:

The words "or moneys" was inserted after "revenue."

Mr. BARTON:

I beg the hon. member's pardon. I thought he was referring to another clause altogether. I quite agree with him that it is essential to bring the two things into conformity with one another. I move:

To add the words "I or moneys" after "revenue" in the third line of the clause.

Sir JOHN DOWNER:

I do not think it is necessary. I do not see that there is any necessity for a message in relation to loan money. I ask the House whether they wish to extend the ministerial authority of the Senate more than is necessary to preserve the legitimate prerogative of the Crown. I venture to submit that it does not.

Amendment agreed to.

Mr. REID:

I was going to suggest that it would be very inconvenient to have different sets of things in the two Houses with regard to these messages. As to the procedure of the Senate perhaps it would not be contrary to this provision if a message were introduced before the Act left that Chamber. Under this language, if the message came down after the first resolution had been passed the whole measure would be ruled out of order, because it is provided that in the case of any vote or resolution, &c., it shall not be lawful for the House of Representatives to pass any vote or resolution which has not been first recommended to that House. Under these words I remember the Speaker of the Assembly of New South Wales ruling a Bill out of order for the reason that the message had not been presented to the Assembly before the stage of going into Committee was reached. What does "first" mean? If it means "afterwards," then it is all right, and there need be no trouble about it.

Mr. BARTON:

I am not going to make a speech about it. It seems to me whether you retain "first" or take it out it does not matter much. It seems to me to be just the same thing, because it appears to be quite clear that a message must be there before anything final is done.
Mr. KINGSTON:

We have got some words there that appear to me to be unnecessary. They may raise a doubt. The words I refer to are:

Or of the produce of any tax or impost.

They are not wanted. They do not occur in any previous clause, and when we use such large expressions as "public revenue," or "public moneys," we catch all that it is desired to catch, I think. It would make the clause clearer if we struck these words out, but I am not going to move if Mr. Barton will not.

Mr. BARTON:

I am a little chary about this sort of thing, and I hope it is not in a conservative spirit. We have in all Constitution Acts the provision relating to the appropriation of the revenue or of the produce of any tax or impost. There is an unfortunate misprint in the New South Wales Act, which provides for the appropriation of:

Any part of the revenue or funds or of any tax or impost.

But we know what it means, and it has been corrected in practice. If Mr. Kingston will convince me that the alteration will be safer, then I shall be prepared to accept it.

Mr. HIGGINS:

I think to avoid any ambiguity in clause 52 we should not have these words in clause 54, as they cover the same thing exactly. I mean to say they have no object, and we refer to the same thing exactly in clause 52. In clause 52 we have only got:

Public revenue or moneys,

and we should have:

Public revenue or moneys

here. Obviously they cover the same object.

Mr. SYMON:

That amendment has been carried.

Mr. HIGGINS:

My point is this—that in addition to the words:

Or moneys

you are keeping in the words:

Or of the produce of any tax or impost.

They ought to be out, and I will move:

To strike out "or of the produce of any tax or impost."

Amendment agreed to.

Mr. O'CONNOR:
There is a necessary amendment in the fifth line. The words used are:
To that House.
As it stands it would mean the House of Representatives only, but the section intends to apply to both Houses. I move:
To strike out "That," with a view of inserting "The."

Mr. ISAACS:
"Such House" would distinguish it.
Amendment agreed to.

Mr. O'CONNOR:
I move:
After the word "House" in the fifth line of the clause to insert the word "concerned" in lieu thereof.

Mr. REID:
Both Houses are concerned.

Sir GEORGE TURNER:
That will never do.

Mr. ISAACS:
It is a poor word.
Amendment agreed to.

Dr. QUICK:
I would call attention to the fact that by leaving the word "House" in it will give a new name to the Senate. The word "House" as it originally stood applied to the House of Representatives, but as it now stands it gives a new name to the Senate.

The CHAIRMAN:
We cannot alter it now, as we have inserted a word after the word "House."

Mr. BARTON:
The hon. member will find right through the Bill that the two Houses are referred to under the name House,

The CHAIRMAN:
I would call Mr. Barton's attention to the word "law" in the last line of the clause, and ask whether it is not necessary to insert the word "proposed" prior to it.

Mr. BARTON:
It is quite unnecessary, as it reads "or law is proposed."

The CHAIRMAN:
I see it would be tautological.
Mr. HIGGINS:
I might state that the question will arise-Is there to be a Governor's message to each House before it makes any vote or any appropriation?

Mr. BARTON:
To the House concerned.

Mr. HIGGINS:
The clause reads:

It shall not be lawful for the Senate or the House of Representatives to pass any vote, resolution or law, for the appropriation of any part of the public revenue, or of the produce of any tax or impost, to any purpose which has not been first recommended to the House concerned by message of the Governor-General in the Session in which the vote, resolution, or law is proposed.

I think that according to that, a message will have to be sent to each House.

Mr. BARTON:
I think my hon. friend knows what the apices juris are.

Mr. HIGGINS:
I think I understand English, and I think it means that.

Mr. REID:
I advise you to put it off till to-morrow.

Mr. PEACOCK:
It will be soon a combination of Scotch mixture and Irish stew.

Sir GEORGE TURNER:
There is no doubt that Mr. Barton cannot pass the matter off in this way. What does it now exactly mean? It means that before the House of Representatives can pass any Appropriation Bill they will have to get a message from the Governor, and before the Senate can pass it they will have to do so also.

Mr. BARTON:
Yes.

Sir GEORGE TURNER:
Is that intended?

Mr. BARTON:
Yes.

Sir GEORGE TURNER:
You are very fond of messages.

Clause as amended agreed to.

Clause 1, "this Act may be cited as 'The Constitution of the Commonwealth of Australia.'"

Mr. SYMON:
I have an amendment to move in this clause. My friend Mr. Barton, in introducing the Bill said that in giving the name to the new political entity we are creating there was none better or statelier than the Commonwealth of Australasia. Now I think there is one better and one statelier, and that is the simple name of Australia. I cannot see myself why we want any prefix, or suffix, or any handle at all to the name to which we have all been accustomed, and which is the name of the continent over which the jurisdiction and power of the Commonwealth is to extend.

Sir EDWARD BRADDON:
It extends beyond the continent.

Mr. SYMON:
Including, of course the flourishing island of Tasmania, and any portion of territory in the Southern seas that may come into the Federation. The name Australia is a simple one. It is a grand name in itself, and I think we ought to uphold and maintain it as far as we can. Of course I do not want to reopen the discussion that has taken place before, as to the word "Commonwealth," or any other. My point is that we ought to declare that the name of this Commonwealth, to use the expression in this Bill, should simply be Australia. The United States, when they were established, did not in their Constitution attach any expression like republic or commonwealth, or any other name of that kind.

Sir WILLIAM ZEAL:
The name was "The United States of America."

Mr. SYMON:
No, my hon. friend will pardon me. The Constitution of the United States is simply the United States:
"We the people of the United States" and "shall be vested in a congress of the United States."

We want no expression such as Commonwealth or United Australia or Dominion or any term of that kind. Australia is the name by which this federal union ought to be known. It is the name of our country and it is the name that is attached to the word "Commonwealth."

Sir EDWARD BRADDON:
Not geographically.

Mr. SYMON:
Throughout you speak of Australia. It is a geographical expression which is to include all parts of this southern dominion which is to come under this Commonwealth.

Mr. WISE:
Stick to the compromise of 1891.
Mr. SYMON:
That is a barrier which has to be got over. Why should we have the word "Commonwealth"?

Mr. REID:
Why have the word "Australia"?

Mr. SYMON:
Because we want the name of the country over which this constitution is to extend. The word "Commonwealth" is not an expression of any form of Government. If it is, it is utterly inapplicable. The word "Commonwealth is associated with "Republic."

HON. MEMBERS:
No.

Mr. SYMON:
Will any hon. member point to me any form of government that is not a republic and is called a Commonwealth?

Mr. BARTON:
England has over and over again been called by her best writers a Commonwealth.

Mr. WALKER:
Here it is a Commonwealth.

Mr. SYMON:
Is it a book by my hon. friend Mr. Reid that Mr. Walker quotes from?

Mr. REID:
Henry IV.

Mr. SYMON:
I accept that authority. The word "Commonwealth" expresses common weal, but it is equally applicable in that sense to an empire and to a republic, and equally applicable to any form of government you may create. It is objectionable in this way: If it refers to a form of government then it has no application to Australia, because if we are anything at all we are part of a monarchy. Hon. members know that the word "Commonwealth" was adopted in England 200 years ago. It was done by Act of Parliament, which used the expression "Commonwealth" because they had beheaded their king.

Sir EDWARD BRADDON:
They could not call it a kingdom, because they had not a king.

Mr. SYMON:
The Act used the word Commonwealth" because they had no king. But we are not in that position. We are part of a monarchy, and the expression "Commonwealth" is intended to mean a form of governing control. You
call it an empire, a nation, or anything you please; but the simple name "Australia" seems to me the best, and therefore I move:
That the word "Commonwealth" be omitted in clause 1.

Mr. WALKER:
There was a certain English gentleman known as Shakespeare.

Mr. REID:
What was his Christian name?

Mr. WALKER:
A quotation from "Henry the Fifth" seems applicable—
Hear him debate of Commonwealth affairs,
You would say it hath been all in all as stated.
I shall support the word "Commonwealth," but I would like to suggest that the word "Australasia" should take the place of "Australia" I look upon it that the day is not far distant—when Australasia will include New Zealand, Fiji, and New Guinea. We should have a name with a wide signification. If I were a Tasmanian I would prefer "Australasia" to "Australia." I shall support the inclusion of the word "Commonwealth."

Mr. GRANT:
I have pleasure in supporting the amendment of Mr. Symon. I would greatly prefer a name that would commend itself to the general public. I happened to be in Canada at the time of the evolution of the Dominion, and some time after the Constitution came into operation, and found that throughout the provinces of Nova Scotia and New Brunswick, the great and general unpopularity of the Dominion Government, when its functions commenced, was due in a large measure, to its unfamiliar name. It was by no means popular in Canada. I think the word "Commonwealth" is one we are not accustomed to. It grates on our ears, and I would prefer "United Australia" or "Australia." The words "United Australia" are the most expressive.

Mr. BARTON:
I would like to say that I think this is a very short matter. It has taken the people some time to get accustomed to the word "Commonwealth," but they are now accustomed to it. In Canada it took them some time to get accustomed to the word "Dominion." Commonwealth is the greatest and most stately name by which a great association of self-governing people can be characterised. I have no objection to the name, although at one time or another the name has been are accustomed to England as representing England, Scotland, and Ireland.

Mr. WALKER:
That is not a legal title.

Mr. PEACOCK:
Hear, hear. I am very glad that a layman has scored against a lawyer.

Mr. BARTON:
There is a ready answer to my hon. friend's remark, and that is that the title we choose for ourselves will become the legal title, and that is the answer to every objection. When you consider the relative taste in the mouth of the words "Australia" and "Australasia," you will see that it is not well to make the change. We do not want to have anything to do with the idea that we are an Austral or southern portion of Asia. We want a name which will by common consent apply to the whole of the Commonwealth, and we cannot select for ourselves, leaving aside all old world prejudices, any finer designation than Australia.

Amendment negatived.

Mr. WALKER:
I move:
To strike out "Australia," and insert "Australasia" in lieu thereof.
The latter is sufficiently comprehensive to include New Zealand, Fiji, and New Guinea, should they ultimately join the Commonwealth, and surely that is a weighty consideration. There is one bank whose name we all envy for its comprehensiveness, and that is the Bank of Australasia.

Mr. BARTON:
Because the Bank of Australia failed, and the Bank of Australasia did not.

Amendment negatived; clause as read agreed to.

Clause 2.-This Act shall bind the Crown and the Executive Officers of the Commonwealth, and its provisions referring to Her Majesty the Queen shall extend to Her heirs and successors in the Sovereignty of the United Kingdom of Great Britain and Ireland.

Mr. HIGGINS:
I cannot quite understand what is the meaning of the words:
Binding the Crown and the Executive Officers of the Commonwealth.
I should think the object was to show that the Act was to bind the Crown in its prerogative. I object to having the executive officers treated under different laws to those to which ordinary people are treated. Ordinary people are bound by any Act under the Imperial Parliament, and why should the executive officers not be bound? All we want to say is to bind the Crown. I would suggest that the words:
The Executive Officers of the Commonwealth be left out.

Mr. REID:
   It is for the impeachment of Ministers.

Sir GEORGE TURNER:
   You would get put on the roost then.

The CHAIRMAN:
   Does the hon. member for Victoria suggest any amendment?

Mr. HIGGINS:
   No, but I decline as one of Her Majesty's subjects to have the executive officers of the Commonwealth treated as some higher class of beings than other persons. Executive officers are bound by the law, no matter what is said.

Mr. BARTON:
   May I ask my hon. friend whom, he takes to be indicated by the executive officers of the Commonwealth? Does he take it to be Ministers or those who act in execution of the laws of the Commonwealth?

Mr. HIGGINS:
   I want to find out.

Mr. BARTON:
   What is intended is this. That the Act shall extend to bind the Crown, that is to the extent to which it affects the prerogative it shall be effectual. Then it extends to the executive officers of the Commonwealth, so far as I understand the expression, in this way, that wherever, by any provision in this Act, an ordinary executive officer is affected as to the performance of a duty, he may not be enabled to escape from the performance of that duty by setting Up the prerogative of the Crown.

Mr. HIGGINS:
   I might mention that one of the matters which foreign writers have admired most of all in our English Constitution is that there is no distinction in the Constitution between any executive officer and any ordinary subject. DeLolme, Montesquieu, and all of them have pointed out that there has never been any distinction made between persons who hold high distinctions and those who do not. I only wish to prevent the inference that that strong principle of constitutional law is being forgotten in Australia. We should not use words which are not required. This Act is binding in the ordinary way on all persons, and all that we have to express is that it should be binding on the Crown. I move:
   That the words "and the Executive Officers of the Commonwealth" be left out.

Mr. SYMON:
I think the hon. member is perfectly right. If the object is to bind the prerogative of the Crown that is done by the earlier words of the section.

Mr. ISAACS:

I think there can be very little doubt but that the hon. member is right. The clause would lead one to think there was some doubt whether an Act declared to be binding on the Crown would be binding on Ministers of the Crown. I think there can be no doubt as to that; but the clause, as framed, might have the very effect of raising a doubt whether it would bind other officers. If you specially name executive officers, one might be justified in asking, "Well, is it not to bind judicial officers?" I do not know why any particular officers should be mentioned. The question is whether it binds the Crown, and if we say it does there is an end of the matter.

Mr. BARTON:

If hon. members wish these words left out I am quite willing to consent, because I believe other parts of the Act will cover it.

Sir GEORGE TURNER:

Section 7 covers it.

Amendment agreed to; clause as amended agreed to.

Clause 3.-It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honorable Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being later than six months after the passing of this Act [here name the colonies which have adopted the Constitution] (hereinafter severally included in the expression "the said colonies"), shall be united in a Federal Constitution under the name of "The Commonwealth of Australia"; and on and after that day the Commonwealth shall be established under that name.

Mr. ISAACS:

I move:

To insert after "Act" the words "the people of;"

The Commonwealth I understand to be a Commonwealth of the people of Australia, not merely of the colonies. My amendment is only to bring the clause into accord with the preamble. I do not think there will be any objection to that.

Mr. BARTON:

I consent to the amendment.

Amendment agreed to.

Mr. ISAACS:

I observe a departure in the words of the section from the words in the corresponding clause of the Bill of 1891. The Bill of 1891 provides:
That the colonies shall be united in one Federal Commonwealth under the Constitution hereby provided.

In this Bill it is that the people shall unite "in a Federal Constitution."

Mr. SYMON:
It must be a mistake.

Mr. BARTON:
No; it is not.

Mr. ISAACS:
I think there must be a mistake. It does seem somewhat awkward to say that people shall be united in a Constitution, a document. I think the wording of the Bill of 1891 could scarcely have been purposely departed from. The preamble sets out:

The people have agreed to form one indissoluble Federal Commonwealth.

Nowhere in the Bill does it say they form the Commonwealth, but awkwardly enough we read of a

People united in a Constitution.

The truth is that they unite in a Commonwealth under a Constitution.

Mr. BARTON:
How are we to do our work if we debate matters of this kind?

Mr. ISAACS:
It is a work which is to stand for all time, and we ought to do it properly.

Mr. BARTON:
If the hon. member will propose the word "by" instead of "in" I will accept it.

Mr. ISAACS:
They are united in a federal Commonwealth, not by a federal Constitution. I want to make the wording of the Act consistent with itself.

Mr. O'CONNOR:
Then you must alter the whole construction of the clause.

Mr. ISAACS:
The wording of the Bill of 1891 was clear, and why should it be departed from?

Mr. BARTON:
Because clearness and brevity combined to authorise the departure. As the clause stands now it is shorter and clearer. We have made no wanton departures from the Bill of 1891, because members will see that its whole spirit has been followed.

Mr. KINGSTON:
Why not say-"Shall be federally united?"

Mr. BARTON:
If you put "by" for "in," the legal effect of the Bill will not be altered. If the hon. member will propose "by"-

Mr. SYMON:

Why not-"By the name of"?

Mr. BARTON:

That is too colloquial. If we are united, we are united in one Constitution, or else we are not united at all. I do not want to quarrel about words, but it had better remain as it is.

Mr. ISAACS:

How would it do to strike out the words "in a Federal Constitution" altogether.

Mr. BARTON:

I think the words had better remain.

Mr. ISAACS:

I will make the best I can of it, and move that "in" be omitted for the purpose of inserting "by."

Mr. BARTON:

I will ask the Committee to put a stop to these verbal alterations. Amendments of this sort have no sense, or meaning, or effect on the legal force of the Bill, and are no improvement on its draughtsmanship.

Amendment negatived; clause as amended agreed to.

Clause 4-Unless it is otherwise expressed or implied, this Act shall commence and have effect on and from the day so appointed in the Queen's Proclamation: and the name "The Commonwealth of Australia" or "The Commonwealth" shall be taken to mean the Commonwealth of Australia as constituted under this Act.

Mr. CARRUTHERS:

That day is to be not less than six months after the proclamation has been issued. I should like the attention of the Leader of the Convention, because I do not wish to propose a mere verbal amendment.

Mr. BARTON:

Oh, I always attend.

Mr. CARRUTHERS:

It seems to me that the Queen's proclamation ought not to be issued until the Act is in force. The Queen's Proclamation can have no force or effect until after the Act itself comes into force. The hon. member's answer to me will be at once "It is one of the things implied." The proclamation is the great foundation of the whole Commonwealth, and it ought not to be carried into effect by a mere matter of implication. What is really required is not that this Act shall commence and have effect on the date of the
proclamation, but that the Constitution of the Commonwealth, the whole of the clauses after clause 8, shall commence and have effect from the day so appointed in the Queen's proclamation. It is a most material point that there should be no question whatever with regard to the legality of this proclamation, which is the foundation of the Constitution. If it is to be left to a matter of implication, then I say it is leaving the foundation of the Constitution to a very unstable basis. Do hon. members see the point? The Act is not to commence till six months after the proclamation is issued, although the proclamation has to be issued under section 3 of the Act itself. My hon. friend is too good a draughtsman to leave this most material point to a mere matter of implication. I suggest amending the clause by leaving out "this Act" and inserting the words "the Constitution of the Commonwealth,"

Mr. BARTON:

I am not inclined to adopt the suggestion of my hon. friend at all. It must be common knowledge that Acts are very frequently passed and yet do not become law till a later date. This Bill provides in clause 3 that the Queen in Council may declare by proclamation on a date, not later than six months after the passing of the Act, that the people of the colonies shall be united in a Federal Constitution. The next clause goes on to say that this Act shall commence, and have effect on and from the day appointed in the Queen's proclamation. Why, it is an everyday practice to pass an Act at a particular time and say it shall take effect, say, from the first of January next.

Mr. CARRUTHERS:

It is not an everyday occurrence to issue these proclamations that an Act shall come into force on a certain date. Suppose a proclamation be issued to-morrow to unite these colonies in a federal Constitution, the proclamation will not be worth a snap of the fingers. The validity of the proclamation consists in clause 3, and clause 4 says that the Act shall not come into force till six months after the issue of the proclamation. The only warrant for issuing the proclamation is the Act itself. The proclamation is to be issued, and yet the right to issue the proclamation is not to be granted under this law till six months after. The real object of the clause is to let the Constitution of Australia come into force six months after the proclamation. This is an Act within an Act. The first framers of the draft Constitution of 1891 had that point in their minds. It is too great a matter to let the foundation of the Constitution itself remain on a mere matter of implication.

Mr. BARTON:
One would think the judges of the realm were forbidden to read two clauses of an Act of Parliament together.

Mr. O'CONNOR:

My learned friend Mr. Carruthers is quite mistaken in the position. It is necessary to fix the establishment of the Commonwealth at some date to be left to the Queen to choose. That is done in clause 3. The date named in the proclamation is the date of the establishment of the Commonwealth.

Mr. CARRUTHERS:

I beg your pardon. Read the clause.

Mr. O'CONNOR:

The next clause states-

Mr. CARRUTHERS:

What, do you mean to say that the Constitution takes effect from the date of the proclamation?

Mr. O'CONNOR:

The day named in the proclamation. I understand the hon. member's difficulty is this, that the clause says the Act shall not have effect until the day named in the proclamation, and that, inasmuch as the proclamation has to be made under the Act, that therefore there cannot be any valid proclamation because there is no Act to give life to it. In reply to my hon. friend I should say that there is nothing in it because the Act itself says that directly the Act is passed and assented to it becomes law. When that proclamation is issued the Commonwealth is established, We know it is a very common practice to pass an Act and to fix the commencement of its operation at a later date than on which it is passed.

Sir GEORGE TURNER:

Can you do anything under the Act in the meantime?

Mr. O'CONNOR:

If the Act provides for it you can do it. It is quite clear that the Queen fixes the date of the proclamation, and, as I have said before, it is quite a common thing in Acts of Parliament to name the date of the commencement of the operation of the Statute later than the date it is assented to.

Mr. CARRUTHERS:

Only sections of it.

Mr. O'CONNOR:

No, the whole Act. It appears to me that the whole thing is so clear that it is not necessary to make any amendment.

Mr. ISAACS:

I am not quite so clear as my hon. friend Mr. O'Connor that Mr. Carruthers is wrong. I am inclined to think that he is right. Clause 3 inter
alia, says:

It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honorable Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being later than six months after the passing of this Act.

The next clause states:

Unless it is otherwise expressed or implied, this Act shall commence and have effect on and from the day so appointed in the Queen's Proclamation; and the name "The Commonwealth of Australia," or "The Commonwealth," shall be taken to mean the Commonwealth of Australia its constituted under this Act.

When the Canadian Act was passed this contingency was foreseen, and in clause 3 of that Statute it was provided:

It shall be lawful for the Queen by and with the advice of Her Majesty's Most Honorable Privy Council, to declare by proclamation that, on and after a day therein appointed, not being more than six months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be one Dominion under the name of Canada; and on and after that day these three Provinces shall form and be one Dominion under that name accordingly.

The next clause provides:

The subsequent provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the day appointed for the Union taking effect in the Queen's proclamation; and in the same provisions, unless it is otherwise expressed or implied, the name Canada shall be taken to mean Canada as constituted under this Act.

Therefore the previous section allowing the proclamation is not one of those sections the operation of which is deferred.

Mr. BARTON:

I do not see that there is any necessity for an alteration in a single syllable of the clause. I do not want to see time, ink, or paper wasted.

Mr. ISAACS:

Well, we might waste precious time and paper and much more afterwards, if we do not make the necessary alteration now, and it is only right that we should turn out this Bill as creditably as we can. As has been stated, we need not stand upon a punctilio with regard to the drafting, but follow Lord Thring, who framed the Canadian Act so as to leave no doubt, and so frame a Bill about which there will be no misconception.

Mr. REID:
He was not a member of the Drafting Committee.

Mr. ISAACS:

We should not run any risk. I suggest to Mr. Carruthers that he should move these words in the Canadian Act. No man should object to insert these words, in order to place the matter beyond all doubt, as they did in Canada.

Mr. PEACOCK:

I think the Convention will agree with me that no member has occupied less time than I and my friend Sir Graham Berry.

Mr. CARRUTHERS:

Not in speaking.

Mr. PEACOCK:

Not in speaking; and I confess if we are going to spend as much time as we have done yesterday and to-day in connection with verbiage, we will probably be here for six months. What I would like to suggest to members of the legal profession, irrespective of what colony they represent, is that they should be sufficiently courteous to the gentleman whom we have made leader of the Convention, to submit any points they may have to him privately, as is done in connection with the various legislative Chambers, and I am certain they will save much time by so doing. We have been delayed over little points of a legal character, and we laymen have been sent here to deal with big principles. I do not intend to speak and repeat arguments that have been put ever so much better than I could put them, but I say we will not be able to proceed with the public business if we are going to discuss and deal with verbiage and words, conjunctions and prepositions, as we have been doing yesterday and today. We have really affirmed only one great principle since we have been in the Convention. I urge upon the Committee that if members have any such points as I referred to it will be the least courtesy that can be paid to the Drafting Committee for them to see the members, Mr. Barton, Mr. O'Connor, and Sir John Downer, and bring under their notice any suggestions. Probably five or six words exchanged in this way will save the legal members discussing the pros and cons of various matters.

Mr. BARTON:

I think that suggestion a good one; if it meets with the approval of the members it may lead to an expediting of the work of the Convention. I would point out that it is a common thing for the coming into effect of an Act to be fixed by proclamation. In 18 Victoria, Chapter 66, which repeals an Act of Parliament with regard to the waste lands of the Crown it is indicated that the repeal was to take effect from the date of the proclamation of the Act. It may, it expressly states, take effect from the
date of the proclamation. Let us look at this measure. We are told in this Bill that it shall be lawful for the Queen to declare by proclamation that after a day appointed by the proclamation:

Not being later than six months after the passing of the Act:
the people of the colonies shall be united in the Federal Constitution established, that on and after the date named in the Act the colonies shall be united in one Commonwealth, and that:

Unless it is otherwise expressed or implied this Act shall commence on and have effect from the day so appointed in the Queen's proclamation.

What is meant is clearly this: that the Queen issues a proclamation within the date limited for that purpose, and in that proclamation names a date on which this Act shall come into effect, and the Constitution comes into effect on the date named in that proclamation. If there is any clearer way of expressing it I must admit that I do not know it, and I cannot see why we should waste any more time.

Mr. LEWIS:
I see great force in the point raised, and I will move:
To insert after the word "implied" the following words: "the subsequent provisions of"

Mr. KINGSTON:
I think we can gather the meaning of the clause as it stands, but at the same time I think it can be made clearer. I would suggest that we should.

Strike out the words "unless it is otherwise expressed or implied," and insert "except as to section 3, which shall come into operation on the passing of this Act."

If you adopt that "he who runs may read."

Sir GEORGE TURNER:
How will it affect the next clause about the Governor-General? You could not appoint him until after the expiration of three months.

Mr. KINGSTON:
You will bring the whole Act into operation.

Mr. REID:
You move it.

Mr. KINGSTON:
I will ask Mr. Barton to do so.

The CHAIRMAN:
Mr. Lewis has already an amendment before the chair.

Mr. LEWIS:
I will ask leave to withdraw my amendment in favor of that suggested by
Mr. Kingston.
Leave given.
Mr. BARTON:
The words "unless it is otherwise expressed or implied" are simply for the purpose of covering any case in which there may be ambiguity in the following clauses.
Mr. KINGSTON:
You are guarding against nothing beyond section 3.
Mr. BARTON:
I may put it in this way: that if there is nothing else I can think of it is a good saving clause, and I do not see why the hon. member or anyone else should be so certain in his anticipation that every portion of this Act is so free from possible ambiguity that the saving clause is not fit to be placed in it. But if the amendment-and this is where I complain of my hon. friends-is one fit to be made it should be to strike out the words "unless otherwise expressed or implied," but they do not take them in that way.
Mr. KINGSTON:
Yes, we do.
Mr. BARTON:
And now the peculiarity arises in this way. Supposing we inserted such words, do not you see that the implication is that the subsequent words used have more force than the former?

HONORABLE MEMBERS:
Question.
Mr. BARTON:
If any honorable member says he cannot see the meaning of these clauses I am not here to answer questions of mere hair-splitting.
Mr. KINGSTON:
Sir-
Mr. BARTON:
I may say that I am not alluding to Mr. Kingston. The Drafting Committee has been charged with being punctilious. We were twitted and told that our actions were not consistent. It is one thing to stand on punctilios, and it is another thing not to yield to every punctilious question.
Mr. KINGSTON:
I thought the only clause that was intended to be brought under the operation of this exception was section 3. I ask Mr. Barton to point to any other clause, and he does not. He is a member of the Drafting Committee, and if he assures us these words were required to meet some case which he cannot now point out I will not move an amendment.
Mr. DOUGLAS:

The hon. member Mr. Kingston was one of the Drafting Committee of the Bill of 1891. Will he explain why the words were put in in 1891

Mr. KINGSTON:

No doubt they were put in for some good reason, but six years have elapsed since then, and some men as they grow older grow wiser.

Mr. CARRUTHERS:

I do not wish to occupy the time of this Convention, but at the same time when I propose an amendment it is with the view of improving the Bill, and I hope it will be accepted in that sense by the Leader of the Convention. I am satisfied a lot of time would be saved if some of our amendments were accepted trusting to the correction of mere verbiage when the Bill goes before the Imperial Parliament. In this matter the hon. member has not convinced me. He has shown me how it will operate on clause 3, and that if it operates at all it is to operate by multiplication. I take it that it is no mere trifle of a word here and a word there. It is the very foundation of our constitution, and for all time we shall have to refer to that proclamation as being the foundation of our Constitution. If there is any doubt in the minds of hon. members we have a right to remove it, and they are not standing on punctilios. The matter should be put beyond doubt. I beg to propose, in order that the matter may be put beyond doubt:

That the words, "Except in regard to section 3, which shall come into operation at the passing of this Act," be inserted.

Mr. BARTON:

A very pretty piece of drafting.

Mr. CARRUTHERS:

It will be a certainty, at any rate. It will remove doubt and do no harm, especially as doubts will arise in the most material part of our Constitution, the proclamation which will give vitality to the Federation.

Sir JOSEPH ABBOTT:

In 1891 a Constitutional Committee was appointed. That committee delegated certain duties to three draughtsmen, including Mr. Barton and Mr. Kingston. I forget who the other member was.

Sir JOHN DOWNER:

Sir Samuel Griffith.

Sir JOSEPH ABBOTT:

I am told that Mr. Kingston is one of the best draughtsmen in the world. Mr. Kingston has given us no reason why words which were good to use in 1891 are not good to-day. And I would very much sooner accept the drafting of six men appointed specially for the purpose than I would accept
the drafting of a committee such as this, and I do not care what amendments are proposed. Having regard to those drafting the Bill I shall vote for the clause as it stands.

Mr. ISAACS:

We are here to use our judgment.

Amendment negatived; clause as read agreed to.

Clause 5.- The term "the States" shall be taken to mean such of the colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia, as for the time being form part of the Commonwealth, and such other States as may hereafter be admitted into the Commonwealth, and each of such Colonies so forming part of the Commonwealth shall be hereafter designated a "State."

Mr. GORDON:

I rise with much fear and trembling, and beg to suggest-

Mr. REID:

Are you an eminent draughtsman?

Mr. GORDON:

The preamble makes provision for admission into the Commonwealth of other Australasian colonies and possessions of Her Majesty, scarcely making a proper distinction between "colonies" and "possessions." A colony may be a possession but a possession may not be a colony. Clause 5 runs as follows:

The term "The States" shall be taken to mean such of the Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia, as for the time being form part of the Commonwealth, and such other States-

Now, in the first place these are not States although they are admitted. But let that pass:

As may hereafter be admitted into the Commonwealth, and each of such colonies so forming part of the Commonwealth shall be hereafter designated a State.

I propose: To strike out the word "States," with the view of inserting "colonies and possessions of Her Majesty."

It will make the clause more clear.

Mr. BARTON:

This is a matter on which I think but little explanation will satisfy my hon. friend. It is proposed to enact that the term States shall mean such of
the colonies which are named, and which for the time being form part of the Commonwealth; that is, such colonies as may unite in the Federation, and such other colonies as may hereafter be admitted into the Commonwealth.

Mr. GORDON:
May State be other than a colony?

Mr. BARTON:
The use of the word "State" there arises out of the provisions relating to new States. The first clause of the chapter relating to "New States" says that any of the existing colonies which have not adopted the Constitution may upon adopting it:
Be admitted to the Commonwealth, and shall thereupon become and be a State of the Commonwealth.

The next section is more important still. It states:
The Parliament may from time to time establish and admit to the Commonwealth new States, and may upon such establishment and admission make and impose such conditions, as to the extent of representation in either House of The Parliament or otherwise, as it thinks fit.

The object of the clause under discussion being in this form is very plain. It refers to States admitted into the Commonwealth, not being colonies which originally adopted the union, but those which come in afterwards are at the moment of their entrance entitled to be called States.

Mr. GORDON:
I admit all the hon. member says, but will the hon. member follow the rest of the clause:
And such other States as may hereafter be admitted into the Commonwealth, and each of such colonies so forming part of the Commonwealth shall be hereafter designated a "State."

Mr. BARTON:
The importation of the word "such" before the word "States" shows that those colonies previously named are to be designated States, and as to those not yet States, they are to be called States on admission into the Commonwealth.

Mr. REID:
Accept my assurance; it is all right.

Clause 6-"Repeal of 48 & 49 Vict., chap. 60"-agreed to.
Clause 7.-The Constitution established by this Act, and all laws made by the Parliament of the Commonwealth in pursuance of the powers conferred by the Constitution, and all treaties made by the Commonwealth, shall,
according to their tenor, be binding on the Courts, Judges, and people of
every State, and of every part of the Commonwealth, anything in the laws
of any State to the contrary notwithstanding; and the laws and treaties of
the Commonwealth shall be in force on board of all British ships whose
last port of clearance or whose port of destination is in the Commonwealth.

Sir GEORGE TURNER:
I desire to ask the hon. member, who has had the drafting of this Bill,
whether he has taken note of the full effect of the words at the end of the
clause:

And the laws and treaties of the Commonwealth shall be in force on
board of all British ships whose last port of clearance or whose port of
destination is in the Commonwealth.

Does he expect the Imperial Government will pass that?

Mr. BARTON:
This is a matter which caused some discussion in the Constitutional
Committee, and, without being charged with divulging anything which I
should not do, I think my hon. friend Mr. Isaacs will recollect with what
care it was discussed in that Committee. It is no doubt a very difficult
matter, but I think the difficulty disappears when we consider one point.
This was a provision imported into the Federal Council

of Australasia Act of 1885, and has been in it ever since it has been in
operation without question. It was a concession made by the Imperial
Parliament, that is to say, as to the validity of colonial Acts on certain
vessels trading to and from the Commonwealth. It was well suggested by
my hon. friend Mr. Isaacs during the Committee that the probable meaning
of these words was that "or" should be "and."

Mr. ISAACS:
Yes, that the word "or" should be "and."

Mr. BARTON:
That was well suggested, but no distinct motion was pressed on the
Committee. Inasmuch as the clause was obviously intended to be a
concession to the Australian colonies, and inasmuch as it had been for
twelve years in an Act which the Imperial Parliament had passed relating
to the colonies, and in favor of the colonies, the best thing to do with the
clause was to do what we are doing now, let it stand in the Bill, let it go to
the authority that made it, and if they wish to restrict it in any way let them
do so, but in the meantime let it stand. Sir Samuel Griffith took this view in
1891, and what he said might commend itself to some of us.

I agree that these words appear rather startling They are taken from the
Federal Council Act of Australasia, and were inserted by the Imperial
authorities after consideration and in substitution for more limited words that were proposed by the Convention that met here in 1883.

That was the Convention which had, I think, to be called in consequence of the New Guinea affair. Sir Samuel went on:

Finding those words there, and considering that the powers of the Federal Parliament are only to make laws for the peace, order, and good government of the Commonwealth, it was thought perfectly safe to adopt them.

Then you, Sir Richard, interjected:

Do I understand that if a ship leaves one of the Australian Colonies for a British port, say London, having a British register, until she actually arrives in Great Britain, the laws of the Commonwealth are binding upon her, and not the laws of Great Britain?

Sir Samuel Griffith's reply to that interjection was;

No; but laws of the Commonwealth, limited to laws for the peace, order, and good government of the Commonwealth, will apply to her on her voyage. For instance, if it was necessary to send a prisoner to England, only such provisions as are essential for the laws of the Commonwealth outside the three-mile limit could possibly apply.

That is to say, that the laws of the Commonwealth in respect of the matter cannot possibly affect any law of the Imperial Parliament with which they may be in conflict, but so far as they are not in conflict they will be applicable to a ship on her voyage for the preservation of those laws of the Commonwealth which it is necessary to have enforced. That is the only explanation I can give. It is the explanation Sir Samuel Griffith gave. I suggest that we follow what the Constitutional Committee did, and what the Drafting committee have not departed from; that is, that the authority which made this concession might have it again brought under their notice, so that they may say what they mean, and whether they mean to restrict it. If they leave it as it is the effect would be to increase, not to decrease, the power of the Commonwealth.

Mr. REID:

I quite agree with what Mr. Barton has said, but at the same time the words are sheer nonsense; they cannot have the slightest effect. It is ridiculous to suppose that the laws and treaties of the Commonwealth can begin to operate on some British ship the moment she steers from an English port for Sydney or Melbourne-

Mr. BARTON:

It does not say that.

Sir GEORGE TURNER:

Yes.
Mr. REID:

Or to say that the moment a vessel leaves Sydney or Melbourne for other parts of the globe she carries with her these laws. It is sheer nonsense to suppose that our laws and treaties can go with a British ship from here to Japan, or from London to Sydney, but three eminent draughtsmen in 1891, three eminent draughtsmen in 1897, and some draughtsmen in the United Kingdom have put the words in, and in these circumstances I think we are bound to stick to them.

Mr. HOWE:

It appears to me from a layman's point of view that the intention of the Imperial Parliament was very plain.

Mr. REID:

Hear, hear.

Mr. HOWE:

And in fear and trembling also I submit that the laws of the Commonwealth simply apply to British ships trading within the Commonwealth.

Mr. REID:

Hear, hear. That is why they did not say so.

Mr. HOWE:

Every practical man in South Australia will think so, and I wish there were more practical men here and less of the legal element, which takes up a lot of time and occupies the attention of the Committee unnecessarily.

Mr. DOBSON:

May I ask Mr. Barton if the understanding of the matter is this: while the ships are within any portion of the Commonwealth our laws will apply, but the moment the ship goes out of the Commonwealth waters on to the High Seas, the Merchant Shipping Act will apply?

Mr. REID:

No, no. This will be an Imperial Act.

Mr. DOBSON:

If the Merchant Shipping Act of England is in force throughout the colonies, ought we not to be content with that rather than run the risk of passing laws inconsistent with the Imperial Act?

Mr. BARTON:

This appears to be a concession to Australia, and the best thing to do is to let the Imperial authorities deal with it.

Clause agreed to.

Clause 8-"Division of Constitution"-agreed to.

CHAPTER 1.-THE PARLIAMENT.
Part I.-General.

Clause 1.-The Legislative powers of the Commonwealth shall be vested in a Federal Parliament, which shall consist of Her Majesty, a Senate, and a House of Representatives, and which is hereinafter called "The Parliament," or "The Parliament of the Commonwealth."

Mr. HIGGINS:
On this clause I think it is time to ask that the Houses shall be called by the names of States Assembly and National Assembly.

The CHAIRMAN:
We have already decided to call one House the Senate.

Mr. HIGGINS:
If it is too late at this stage I apprehend it would have to be recommitted.

The CHAIRMAN:
It is a matter in which the hon. member will have to ask for reconsideration after we have gone through the Bill. We cannot arrive at inconsistent conclusions in going through the Bill.

Mr. HIGGINS:
As it has been decided to have the word Senate, I can hardly ask to have "National Assembly" substituted for House of Representatives. I shall have to ask for re-committal of both at the same time.

Mr. SYMON:
We have decided to have the name Senate instead of States Assembly and we might now substitute "House of Commons" for "House of Representatives," adopting the same name as is used in Canada.

Sir GEORGE TURNER:
We do not want Commons."

Mr. SYMON:
The term is perfectly appropriate to the house of the Federation we are dealing with, and it would not be quite so much Americanising our institutions as if we used the American expression House of Representatives. The term House of Commons is an improvement.

Mr. GLYNN:
It raises a class distinction.

Mr. SYMON:
Does not my hon. friend know the meaning of the term? Surely he does not say it is to distinguish between the common people and the "nobs."

Mr. REID:
What, Mr. Symon, nobs?

Mr. BARTON:
Are there any Lords here to distinguish?

Mr. SYMON:

We mean the Common of Australia. At any rate it does seem to me it is a much better expression, it is more dignified and a more English one and as we are following English methods as closely as we can, I would suggest the substitution of "House of Commons" in place of "House of Representatives." I therefore move:

To strike out the word "Representatives" with a view of inserting "Commons" in lieu thereof.

Amendment negatived; clause as read agreed to.

Clause 2. -The Queen may, from time to time, appoint a Governor-General, who shall be Her Majesty's representative in the Commonwealth, and who shall have and may exercise in the Commonwealth during the Queen's pleasure, and subject to the provisions of this Constitution, such powers and functions of the Queen as Her Majesty may think fit to assign to him.

Mr. GLYNN:

Does not this section go a little too far? It seems to me to be making active in the Governor-General a prerogative which is practically dormant or dead in the Queen. We know at present that there are many prerogatives of the Crown which

To add to the end of the clause the words: "And capable of being constitutionally exercised as part of the prerogatives of the Crown."

Amendment negatived; clause as read agreed to.

Clause 3.-The annual salary of the Governor-General shall be ten thousand pounds, and shall be payable to the Queen out of the Consolidated Revenue Fund of the Commonwealth.

Mr. HIGGINS:

I have given notice of an amendment here which will prevent the laying down of a rigid rule in regard to the salary of £10,000 to be paid to the Governor-General, which cannot be altered, unless in such a way as to amend the Constitution. I think we might trust the Federal Parliament with fixing the amount, and then, of course, there will be an after-clause that the salary of no Governor-General is to be changed during his term of office. That is only fair. But we might trust the Federal Parliament with saying from time to time how much salary should be paid to the Governor-General. There may be fluctuations in the value of money which even Mr. Walker, of New South Wales, may not foresee, and I would suggest in place of the words "ten thousand" we should insert "fixed by the Parliament from time to time."
Sir JOSEPH ABBOTT:
You will have to appoint your Governor before you fix the salary.

Mr. HIGGINS:
I think the criticism of Sir Joseph Abbott is quite right. You must first catch your hare, and he must know how much he is to get. I had omitted the fact that you must first provide for the first Governor-General. I think it will be the best way to say:
The annual salary of the Governor-General, until the Parliament otherwise provides, shall be ten thousand pounds, &c.

Mr. SYMON:
Put the words
Until the Parliament otherwise provides
at the beginning of the clause.

Mr. HIGGINS:
Yes; I move that.

Mr. REID:
I beg to say that the object of the Constitutional Committee was to lift this question of the salary of the Governor-General above that incessant nagging and criticism which has given rise to some of the most discreditable episodes in our political life, We have had in our various Parliaments all sorts of questions as to the value of a Governor or the value of our connection with the British Crown, with a view to diminish his salary. The Governor-General is the only constitutional link we have between the mother-country and ourselves, and £10,000 is not too small a sum; indeed everyone will admit that it is a fair salary. That is the salary of the President of the United States, and the object of the Constitutional Committee was to lift the office of the Governor-General and the person himself above the attacks to

which I have referred-attacks which are made by persons who either despise the British Crown or wish to subvert the position of the Governor-General. Under cover of these arguments attacks are made upon the individuals who represent the Queen in the different colonies. As the Governor-General is to be a visible link between the British Empire and ourselves we should place him beyond the possibility of any trafficking being indulged in about the question of salary. On behalf of the Constitutional Committee I have taken the liberty to make these few remarks, and having had my say I think we might divide on the question at once.

Mr. WALKER:
I would suggest to the leader of the House, the Hon. Edmund Barton, that
he should adopt the clause of the 1891 Bill, which stated:

The annual salary of the Governor-General shall be fixed by the Parliament from time to time, but; shall be not less than ten thousand pounds, and shall be payable to the Queen out of the Consolidated Revenue Fund of the Commonwealth. The salary of a Governor-General shall not be diminished during his continuance in office.

I believe my hon. friend is willing to accept this.

Mr. ISAACS:

I strongly support the amendment of Mr. Higgins. We must fix some salary for the first Governor-General. Then the next question is, is that to be so permanently established in the Constitution that it cannot be altered either way without going through the enormous, cumbrous, and expensive machinery of an amendment of the Constitution. That seems to me an intolerable state of things. I think members of Parliament may well be trusted to do nothing improper or disgraceful in commenting upon the act of a Governor, and to put forward the danger of their doing so as a reason for subjecting the people of the country to this enormous and expensive procedure for the alteration of the Governor's salary, is more than I can well understand. I think we are entrusting to the Federal Parliament matters which are much more important than that. I have heard it said by an authority—Mr. Reid, and everything he says, deserves an receives the greatest consideration an weight—and I think we should be doing well, while fixing the £10,000, or any other sum, to include the words Suggested by Mr. Higgins, and that we should leave it to the Federal Parliament to determine, according to the exigencies of the States afterwards, whether it should remain at the same fixed sum, or be increased or lessened.

Mr. SYMON:

I feel as strongly as Mr. Reid does the undesirability of frequent attacks upon the Governor, or his salary, or his perquisites, or anything else that belongs to him; but I am afraid that liability to attack would not be at all lessened if people were disposed to make it, by inserting this provision for a fixed salary. My own inclination is that the very reverse would be the case, because if people were disposed to cast unpleasant aspersions upon the Governor-General they would be more likely to do so if they could not relieve any antagonistic feeling they bad by reducing his salary or that of his successor. There is a great deal of human nature in man, and if people, however fair they might wish to be, felt they could not gratify in any other way the criticism they may wish to indulge in, they would indulge in it with a great deal more acerbity if they could not touch the salary of the Governor-General or his successor. We may very fairly leave it with the Federal Parliament we are going to constitute, and the men who will
compose this Senate and House of Representatives to deal fairly and honorably with the Governor-General and his salary. If Mr. Higgins carries his amendment there should be a provision to prevent a diminution of the salary during a Governor-General's tenure of office.

AN HON. MEMBER:

It is in this Bill.

Mr. SYMON:

It is not in this Bill. I will support the amendment at the beginning of the clause on the understanding that the other words are added.

Sir EDWARD BRADDON:

It is not very often that I find myself in the position of being able to support my friend Mr. Reid.

Mr. REID:

I will give in. I will not have a long discussion on it.

Sir EDWARD BRADDON:

We have adopted a fixed salary which is an ample and not an insufficient one, and for the reason put forward by Mr. Reid, that the Governor's salary should not be a matter brought up for discussion at any time, and made the vehicle for nasty remarks—I think that it is better that it should be fixed. I would remind Mr. Symon that the fact that the salary was open to amendment would supply the opportunity to have those nasty things said.

Mr. MCMILLAN:

I hope that the clause will not be carried in its present form. It is after all more a matter of good sense and logic than of principle. It is purely a matter for the Parliament concerned, and not one for referendum, and if we cannot trust the Parliament in this connection we cannot trust them at all.

Mr. BARTON:

Mr. Walker said I was in favor of restoring the original clause, and, as a matter of fact, I should like to say that the clause as embodied in the Bill of 1891 was more acceptable to my mind than the present one. I prefer that the salary should be fixed by the Parliament from time to time, with the proviso that it should not be less than £10,000, as that would afford a sure guarantee under which any Governor-General could accept office. The matter appeared in a different light to the Constitutional Committee, and that is the reason why the clause stands in its present form. If the proposal is made that the old form of the clause should be reverted to I should be found supporting it, with a reservation that it specifies a minimum amount. If we cannot trust the future Parliament more than that we have no right to constitute them, and, failing the substitution of the old clause, I shall
support Mr. Higgins' amendment, and trust to the people of the Commonwealth to know their own business.

Mr. HOWE:

I shall support the amendment, which will give the power into the hands of the people, with whom it should be, and we do not know whether it may not occur at some distant date when it may be necessary to reduce the salary of the Governor.

Sir WILLIAM ZEAL:

Say £500 a year.

Mr. HOWE:

I would say to the conventionists from the more populous colonies that £10,000, £20,000, or £30,000 may seem insignificant sums to them, but I can assure them that the first question we were asked was "What is this Federation to cost us?" The consensus of opinion was that £10,000 was too much to pay the Governor-General. They pointed out that in the United States of America, with an almost uncrowned king, with far greater functions, powers, and duties than are ever likely to be exercised by a Governor-General of United Australia, they only paid £10,000 a year, and had 70,000,000 people to contribute towards it. I will move to strike out "ten," with the view of inserting "seven."

Mr. LYNE:

It appears to me the amendment proposed by the representative Mr. Higgins would place the British Government in a dilemma at the first instance, because the appointment of the first Governor-General will have to be made almost immediately, as soon as the Constitution is created.

An HON. MEMBER:

He will get £10,000.

Mr. LYNE:

I take it that he will get that if that is the amount fixed.

Mr. HIGGINS:

I will alter that, and the clause will read:

Until Parliament otherwise provides the annual salary of the Governor-General shall not be less than ten thousand pounds.

That will remain until the Parliament makes further provision.

Mr. LYNE:

I was not aware that you had altered it, and it struck me there was a flaw there. I will support the amendment, and leave the salary of all future Governors to be dealt with by the Federal Parliament. It seems to me we should leave to the Federal Parliament something to say on this question.
Amendment to insert the words "until Parliament otherwise provides" at the beginning of clause 3 agreed to.

**Mr. Howe:**
I will move:
That in the first line of the clause the word "ten" be struck out, and the word seven inserted in lieu thereof.

**An Hon. Member:**
Make it eight.

**Mr. Barton:**
Make it £2,000.

? Make it £500.

**Mr. Barton:**
The chief executive officer of Canada receives £15,000 a year and the Viceroy of India £20,000. I do not know how it strikes hon. members, but I think that our affairs will require as considerable, as acute and as well informed an amount of attention as any other part of the dominions of the British Crown. And we do not need to consider this proposal when the difference bears such a trifling comparison to what you would vote for a bridge or a road.

**Mr. Howe:**
The Governor usually entertains his friends at social functions, and it is only a few high class individuals who can partake of this entertainment.

**Mr. Reid:**
Do you think he can entertain the whole community?

**Mr. Howe:**
The people, as a people, pay the whole of his salary, and who are the people? The great mass of the people, they scarcely, if ever, participate in any of these social pleasures which wealthy governors or highly salaried officials bestow on their acquaintances. And I consider that a Governor-General should not be appointed to these colonies simply for the purpose of drawing a large salary. I have no doubt, Sir, the position will be one of honor, and people of fortune in the old country will be only too glad to accept a position like this, and the matter of salary will not weigh with them.

**Mr. Barton:**
That is to say you would fine them for accepting.

**Mr. Howe:**
I know in South Australia we used to pay a larger salary than we do now, but I have no hesitation in saying that with a lower salary we have the duties performed quite as efficiently as we ever had before. We will get
quite as able a man to administer his department with a salary of £7,000 as if we paid a salary of £15,000. In moving this amendment I am simply carrying out the views of the people whom I represent.

Mr. WALKER:

May I inform the hon. gentleman that I am speaking absolute truth when I say that in New South Wales the Governor gets £7,000 a year, including allowances, and it is a notorious fact that for several terms of office the occupant has been out of pocket. Is it fair to ask a gentleman to accept such a position in such circumstances, and put him on a salary not equal to the professional income of some of our leading counsel?

Mr. KINGSTON:

I thank my friend Mr. Howe for bringing this matter forward. We have just decided that this is a proper matter for the decision of the Federal Parliament in future, but in the meantime it is within our privileges to deal with it. In a matter of this sort I do not see why we should not exercise economy in connection with the viceregal establishment. It is as fair a subject of economy as anything else, and we ought to economise at every opportunity. The reduction in the provisions of this Bill of the salaries previously proposed to be given to members of Parliament, is another justification for the course the hon. member proposes. I have been a party myself to economy in these establishments. At the same time in connection with an establishment of this character, having regard to the high and important duties which will require to be discharged by the Governor-General, we are not overstepping the amount if we fix it at £10,000 in the first instance. I should object strongly to fix it once and for all at £10,000, but when we fix it simply in the first instance and give the Federal Parliament power to alter when it pleases we, will be doing wisely in fixing it at £10,000.

Amendment negatived.

Mr. BARTON:

If we are agreed upon it I think we ought to provide that the salary of the Governor-General shall not be diminished during his term of office. We cannot tolerate the idea of a salary in such a case being altered during the term of the contract.

Sir GEORGE TURNER:

Why not say increase as well as diminish?

Mr. BARTON:

I do not say so. I propose

That these words be added: The salary of a Governor-General shall not
be diminished during his continuance in office.

Mr. KINGSTON:

I would ask the Premier of Victoria if he will not move in the direction he indicated just now, because I think it would be an improvement. In the relations of the Governor-General with his advisers there should be nothing either to fear or hope for. If he does his duty conscientiously he need not fear anything, neither should he be driven from the strict course of duty by the hope of reward. There should be no fear of punishment by diminution of his salary, while, at the same time, no relations should exist between himself and his advisers to induce a Ministerial proposal to Parliament for an increase of his salary. Neither should be.

Sir GEORGE TURNER:

You move the amendment.

Mr. KINGSTON:

I will move then:

To strike out the word "diminished," and insert "altered" in lieu thereof.

Mr. BARTON:

I accept that.

Amendment agreed to; clause as amended agreed to.

Clause 4.-The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the Queen may appoint to be the Chief Executive Officer or Administrator of the Government of the Commonwealth, by whatever title he is designated; but no such person shall be entitled to receive any salary in respect of any other office under the Crown during his administration of the Government of the Commonwealth.

Mr. ISAACS:

I would like to ask the hon. member Mr. Barton the real meaning of the last phrase:

But no such person shall be entitled to receive any salary in respect of any other office under the Crown during his administration of the Government of the Commonwealth.

Mr. BARTON:

I will explain the object. There have been cases in which, for instance, gentlemen, holding the position of Chief Justice have been appointed Lieutenant-Governors, and under that commission have been the chief executive officers of the Government of the colony during the absence of the Governor. In those cases it has sometimes happened that they have received not only the salary of Chief Justice, but the salary of the Governor, and, although there have been cases where provision has been made for acting judges to act when they could not, it has been generally a
matter of public opinion throughout the colonies that in those cases these officers should be content with the salaries they receive as Acting Governors, and forego in the meantime the salaries of judges. The object of the clause is to make that clear.

Mr. ISAACS:
It would not apply in Queensland. For instance, there the President of the Legislative Council was appointed Acting-Governor.

Mr. BARTON:
Of course there is the exception that it is not under the Crown. It may be advisable perhaps to make some addendum in that way.

Mr. ISAACS:
Hear, hear; that is what I wished to be made clear.

Mr. BARTON:
The difficulty would be this, if you omit the words "under the Crown" this office, which he might hold, might be that of director or anything of that sort, and then you would be interfering with private business.

Sir GEORGE TURNER:
Say, "receiving from the Crown."

Mr. BARTON:
I would not say "from the Crown"; but "out of the consolidated revenue."

Sir GEORGE TURNER:
Then he might be an officer of one of the States.

Mr. BARTON:
That would not be a probable thing under a Federal Commonwealth.

Mr. HIGGINS:
Why not say "out of the Federal revenue?"

Mr. BARTON:
True, he might be an officer of one of the States. Now, it is one of the basic principles of this Bill not to interfere with the affairs of the States any more than we can manage.

Mr. ISAACS:
I only want to carry out this principle.

Mr. BARTON:
The object of the Government is not to look after the revenues of the States, but the revenues of the Commonwealth. The States have their own Government, and they can take care of themselves, and we must not interfere with them.

Mr. GLYNN:
But you do interfere.
Mr. DOBSON:
Suppose the Federal Government appoints a Chief Justice of a colony to a position under be Commonwealth and the States do not object to him taking the position.

Mr. BARTON:
We do not interfere. The object of this clause is to prevent the revenues of the Commonwealth paying the same officer another salary. If the State happens to have an officer who is appointed Administrator of the Government for the Commonwealth it would be for the State itself to say whether it would allow him to continue to draw a salary in addition to what the Commonwealth paid him.

Mr. REID:
It would have to say whether it would allow him to keep his State office.

Mr. BARTON:
Just so, and if they did on what terms. The interests of the States are not interfered with, but conserved. I move:
To insert after the word "salary" in the six line of the clause the words "from the Commonwealth."
Amendment agreed to.

Mr. BARTON:
Now I move:
To strike out "under the Crown" in the next line.
Amendment agreed to.

Mr. SYMON:
I do not suppose we can very well interfere, but I should like to direct attention to what I conceive to be undesirable: the disadvantage of a judge occupying the position of administrator or Deputy or Lieutenant-Governor under the Federal Government. It is a serious question whether the judiciary should be brought into that position, particularly in relation to the Governor-General of Australia-involving a Chief Justice acting as Governor-General. I have a strong repugnance to judicial officers being mixed up with the Executive. It is exceedingly undesirable in many respects, and particularly, as my hon. friend says, in a Federation. I do not know whether the Constitutional Committee or Drafting Committee have considered the subject at all, but I should be very glad to see some provision inserted in the Constitution to prevent the appointment of any Judge of the Federation to what is really an executive position. It is inconsistent with the High Court we are going to establish, and, if it is not done earlier, I shall be very glad to discuss it with my friend Mr. Barton to see if we can propose some amendment which will exclude Judges of the High Court, at any rate, from holding that executive position which will be
inconsistent with th
Mr. BARTON:
   It will give me the greatest pleasure to discuss that question
   with my learned friend. I think we are somewhat in sympathy on the
matter.
Sir GEORGE TURNER:
   Talk it over after the Committee adjourns.
Clause as read agreed to.
Clause, 5-Oath of allegiance; schedule -agreed to.
Clause 6-The Governor-General may appoint such times for holding the
first and every other season of the Parliament as he may think fit, giving
sufficient notice thereof, and may also from time to time, by Proclamation
or otherwise, prorogue the Parliament, and may in like manner dissolve the
House of Representatives.
The Parliament shall be called together not later than six months after the
establishment of the Commonwealth.
Mr. HOLDER:
   I move:
   to insert after the words "Governor-General" the words "in Council."
Mr. REID:
   I propose to raise that question on the chapter on Executive Government.
Mr. HOLDER:
   Then I will not press it now.
Mr. HIGGINS:
   On the first part or this clause I have given notice of an amendment
   which raises rather a big question. That is whether the Governor-General
   may have power in certain emergencies to dissolve the Senate as well as
   as well as the Lower House.
Mr. SYMON:
   In view of the lateness of the hour, and as this is an amendment upon
   which there may be considerable debate, as it involves a very serious
   question upon the working of the Constitution, I ask the leader of the
   House whether he will not now move the chairman to report progress.
Sir GEORGE TURNER:
   Adjourn.
Mr. REID:
   We are just getting into form.
Mr. BARTON:
   All the matters up to clause 9 are simple.
Mr. SYMON:
An amendment is to be moved by Mr. Higgins that will cause very serious discussion.

Mr. BARTON:
I ask Mr. Higgins not to persevere with it at this stage, but if the constitution of the Senate, when it is discussed later on in the main clauses is brought into a form that in his judgment will necessitate a dissolution, I shall have no objection to re-committing this clause if he so desires. We do not want to report progress for a few minutes, but all I propose to do tonight is to go on with a few clauses which are comparatively unimportant, and leave those which are more serious till to-morrow's sitting.

Mr. HIGGINS:
On that understanding I will not press my amendment.
Clause agreed to.

Clause 7 - Yearly Sessions of Parliaments-agreed to.
Clause 8.-The privileges, immunities, and powers of the Senate and of the House of of Representatives respectively, and of the Committees and the members thereof respectively, shall be such as are from time to time declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of the Committees and the members thereof respectively, at the establishment of the Commonwealth.

Mr. HIGGINS:
I have given notice of an amendment on this clause more by way of enquiry than anything else. The question is whether those privileges, &c., ought not to be declared by Act of Parliament. I know the Parliament has oftentimes resolved that it has privileges and immunities without an Act, but I think it is meant to have an Act.

Mr. GLYNN:
The Parliament consists of the Queen and the two Houses.

Mr. O'CONNOR:
The only way to make a declaration is by an Act.

Mr. HIGGINS:
I think there is a good deal of force in what Mr. Glynn has suggested to me, that Parliament means Her Majesty and two Houses. In view of that I shall not further press my amendment.
Clause as read agreed to.

Part 2.-Senate.

Sir GEORGE TURNER:
Report progress.

Mr. BARTON:
I propose to postpone; at the end of the part there are one or two
important clauses. I begin by proposing:
  That clauses 9 and 10 be postponed.

Sir GEORGE TURNER:
  Oh, no. I assure my hon. friend they will run through more rapidly after.

Mr. BARTON:
  I give my hon. friend the assurance that I am not going to take any clauses that look likely to create debate.

Mr. SYMON:
  I ask my hon. friend not to adopt this irregular method of proceeding. We are getting on very well, and we had a great protest about the Western Australian delegates adopting a similar course the other day. I think that these unimportant clauses will be got through quite as rapidly if we take them in order.

Mr. BARTON:
  There are some clauses which we might have to the credit of our record to-night, and which involve no discussion. Take clause 11-

Mr. SYMON:
  We have not had time to read them.

Mr. BARTON:
  If my hon. friend will lose a little of his youthful impatience I will point out the clauses to which I refer, and I ask hon. members to put their fingers on them. There are clauses 11, 15, 16, 17, 18, and 19, which are purely machinery clauses. I defy any hon. member to find any reason why-

Mr. SYMON:
  Will you give us till tomorrow to take up your challenge of defiance?

Mr. BARTON:
  The hon. member looks so pleasant that I think I must.

  Progress reported.

SITTINGS OF THE CONVENTION.

Mr. SYMON:
  I wish to ask my hon. friend Mr. Barton what he proposes in regard to the sitting of the Convention to-morrow? The following day is Good Friday, and it might be convenient for hon. members to know till what hour he proposes to sit to-morrow. I know he not only wants sleep, but he also wants a rest, and if I had my way I would give him a rest to-morrow afternoon and Friday.

Mr. REID:
  So would I if this Convention were sitting in Sydney.

Mr. BARTON:
  The position seems to me to entirely depend upon the will of the
Convention. This is a body of very distinguished men, and I am sure it is not a body that is to be driven. There has been some suggestion to which I did yield that we should sit on Saturday and Easter Monday, and if the zeal as distinguished from the piety of Mr. Peacock had prevailed, we should have been sitting on Good Friday also. I hope we are not going to do that. I should like, however, to take the sense of the Convention the moment it sits to-morrow morning, and I shall be guided by the general opinion of the Convention, of course, in any proposition I have to make. I really do think we should make good progress, and better progress, if we had a day or two's rest. That is the way I think myself, and there are others, I am sure, who have been quite as hard-worked as I have been. My own idea was that by sitting every night we might gain that little compensation that would be afforded to us by a rest at Easter, and if that is not the opinion of the Convention I will stick to my work the same as anyone else. If my hon. friend Mr. Symon will wait till tomorrow morning I will find out what the view of the Convention is.

Mr. FRASER:
I would like to point out that the Western Australian delegates as well as others have left while more are leaving. Therefore we should get through our work without delay.

LEAVE OF ABSENCE TO MR. BRUNKER.

Mr. HOLDER:
I have to move:
That the Standing Orders be suspended to enable me to table a motion without notice:
The notice is:
That one week's leave of absence be granted to the Hon. Mr. Brunker.
All I need say is that we all deeply regret the cause of his absence, and every one in the Convention will readily grant him leave.

Motion resolved in the affirmative.

Mr. HOLDER:
I now move:
That one week's leave of absence be granted to the Hon. Mr. Brunker.
Motion resolved in the affirmative.

ADJOURNMENT.
Convention adjourned at 10.23 p.m.
Thursday April 15, 1897.


The PRESIDENT took the chair at 10.30 a.m.

PETITIONS.

Sir EDWARD BRADDON:

I have two petitions to present. They are respectfully worded and contain prayers. One in favor of adult suffrage bears 513 signatures, and the other, bearing ninety-six signatures, is against it. I think the latter petition is one that has not till now been presented, and I move:

That it be received and read:

And that the other one:

Be received.

Question resolved in the affirmative.

The CLERK read the petition, which was as follows:

To the Hon. the President and the Members of the Federal Convention of Australia.

The petition of the undersigned citizens of Tasmania humbly showeth-

(1) That as Tasmanian inhabitants as a whole are represented at the Federal Convention solely by men, in this both sexes heartily concur; and that as the majority of the Tasmanian women do not desire political responsibility to be thrust upon them, we consider it unadvisable that Federated Australia should force adult suffrage upon this colony, but that each colony should frame its own franchise,

(2) That as the interests of the female portion of the inhabitants of Tasmania are guarded both by men in our local Houses of Parliament and at the Federal Convention, we are of the opinion that they are and can be equally well represented by relations and male friends at the ballot box.

(3) We therefore respectfully pray that in your deliberations you will favorably consider this our petition; and we ask that the blessing of Him who gave to man the sole right to rule may rest upon you in your great work, and that this and all matters appertaining to the constitution of Federated Australia may be framed in accordance with the righteous law of God. Righteousness alone can exalt our young nation.

Dr. QUICK:

How many signatures has it?
The CLERK:
   Ninety-six.

Dr. QUICK:
   From the whole of Tasmania!

LEAVE OF ABSENCE.

Mr. HOLDER:
   I give notice that on the next day of sitting I will move:
   That ten days' leave of absence be granted to the representatives of
   Western Australia on account of urgent public business.

INFLUENCING MEMBERS.

Sir JOSEPH ABBOTT:
   In this morning's press I am represented as having by my diplomacy
   secured the adhesion of three of the representatives of Tasmania on behalf
   of Mr. Reid's proposition yesterday; there is no justification for the
   statement, except that those gentlemen have had the intelligence to give
   effect to my arguments. With regard to Mr. Henry and Mr. Lewis, I do not
   think I uttered one word to them in reference to the proposed vote. Staying
   at the same hotel as Mr. Brown, the matter has been talked over by us, but I
   do not remember having said a word to induce him to support the
   proposition of Mr. Reid. I think it is unjust to these gentlemen to be singled
   out as being outwitted by myself and induced to give a vote which some
   people think was against the interests of the country. I may say, in
   reference to the President of the Legislative Council of Tasmania, that I did
   approach him, and have not felt well since, (Laughter.)

Mr. DOUGLAS:
   I know that some members were approached by members from Victoria
   and New South Wales.

HON. MEMBERS:
   Name!

Mr. DOUGLAS:
   I would name Mr. Walker as one.

DAYS OF SITTING.

Mr. BARTON:
   A considerable number of hon. members have spoken to me with
   reference to the question of adjournment. Now, there is very great
   difficulty in this matter. Many members are tired of the long sittings, and
   of course there are some of us who can plead that they are nearly worn out;
   but there are gentlemen here, such as the Premier of New South Wales,
   who feel that if the business is not continued on Saturday and Monday they
will not be able to stay until the discussion on the financial clauses takes place. I feel a difficulty in proposing anything myself, as it is my duty to carry on the work of the Convention, and I am sure I will have the hearty co-operation of members if it becomes necessary to sit on both days. Whilst I should like an adjournment, I cannot presume to stand in the way of the gentlemen who feel that they will be unable to take part in the debate on important parts of the Bill if the adjournment takes place. I, therefore, do not feel justified in proposing anything, but if any member does so, members can express their views.

Sir GEORGE TURNER:

The other morning I brought this matter up so that we might obtain the views of members to enable those who desired to leave to make the necessary arrangements. The Convention then practically came to the unanimous conclusion that we should sit on. What has occurred in the meanwhile to change our opinions? Nothing. I should have been glad to have been able to have gone back to my own colony for the purpose of settling public and private business matters before I leave for England, but I have given up all hope of doing so after the position of the other day, and, having decided that we would sit, it is our duty to do so. I wish it to be distinctly understood that we are not simply to come here on Saturday, and then adjourn because it is Saturday and we want to get away for the afternoon. If we determine to sit on Monday it would be very unfair if members absented themselves. If we do this, by Tuesday or Wednesday we should have so far completed our work as to enable Mr. Reid, who is anxious to get back to the opening of the New South Wales Parliament, a ceremony he cannot be absent from, to leave. He is of valuable assistance to us, and it would be unfair to him and the colony he represents, if we do not do all we can to get through the business.

The PRESIDENT:

I would like to point out that the resolution which at present guides our meetings provides for meeting every day, except on Saturdays. I presume it is not intended to sit on Friday, and if it is proposed to sit on Saturday, a resolution to that effect will have to be carried.

Mr. BARTON:

I move:

That the Standing Orders be suspended to enable me to move a resolution without notice.

Question resolved in the affirmative.

Mr. BARTON:

I move:

That the Convention, at its rising to-day, do adjourn until Saturday, at
10.30 o'clock.

Mr. TRENWITH:

I am as willing as anybody to sit, but I feel that we ought to adjourn from this afternoon until Tuesday.

HON. MEMBERS:

No!

Mr. TRENWITH:

Well, I will state a few reasons why I think we should. The festive season is now on—it is a religious as well as a festive season, of course—and so far as I understand Easter Monday is looked upon by South Australian people as their principal holiday of the year.

Sir RICHARD BAKER:

No.

Mr. TRENWITH:

I understand it is so, that many South Australians will be keeping it, and that they will be making some arrangements to entertain the delegates at this Convention. They desire, I believe, that the delegates should be present at some of their festivities. They have been extremely kind and gracious since we have been in the colony.

Sir GEORGE TURNER:

Why not let them come and listen to the debates at the Convention instead?

Mr. TRENWITH:

I do not think that that would be any enjoyment to them. The South Australians, I say, have been very kind and gracious to us, and if we could, we should endeavor to repay them a compliment. But I shall not urge that we should adjourn. I would urge, though, that if there are any hon. members who Contemplate being absent on Monday, they should let us know now, so that we in our actions may be guided by their intentions. If it is decided to sit, and the members of the Convention vote in that direction, there ought to be as full a meeting on Monday as there has been during any other day of the session. We have had some experience of fits of virtue in advance when in other places. We have resolved to sit over the period during which an adjournment is usual, and I have known myself that when a resolution was carried to sit on an important fete day, members who were anxious not to sit, and have urged that we should not sit, have turned up in accordance with the resolutions, and persons who urged that we should sit have been absent. If we decide to sit I shall be here, and I think it is
incumbent upon every member of the Convention to be here.

Dr. QUICK:

As one who has not taken up much time, either in the House or in this Committee, I think I might fairly appeal to hon. members to say that this motion should be carried. I have been absent from my home for upwards of four weeks, and have suffered considerable inconvenience through being away from my duties. We should arrange to complete our work by this day week at the very latest, but we shall not be able to do that unless we sit on Saturday and Monday.

Mr. REID:

In ordinary circumstances a request for adjournment would be very reasonable, but, in existing circumstances, I cannot be oblivious of the fact that if these two days are lost I shall have to leave the Convention before some very important business has been dealt with. We have come here with one supreme duty to discharge, and as I would not like to put other members of the Convention in the position of going away from it before their work has been completed, so I feel sure that hon. members of the Convention will take the same view as myself and others do.

Mr. SYMON:

As one of the members of South Australia I naturally feel some delicacy in saying anything on this subject, but I do wish to say a word or two about it, and to this effect. I am not in the habit of frequenting the racecourse, and therefore perhaps I ought to premise by deprecating any suggestion that I desire to avail myself of the gala or festivities on Monday. There is another point of view I wish to put, and it seems to me to be very important. I thoroughly agree that it would be very undesirable indeed that we should proceed with our task in relation to the framing of this Constitution in the absence of so distinguished a member as Mr. Reid, or any hon. member who may ho

Mr. BARTON:

That was the Premier of Western Australia.

Mr. SYMON:

If we proceed with our labors from dewy morn, and sit till late hours at night, there will be nothing left of me by-and-bye. I would like to have some little relaxation, so that I may be able to come to work with the freshness and vigor which relaxation would give. During the past four weeks we have done very hard work indeed. I am able to say for my friends on the Judiciary Committee that we were industrious and constant in our application.

Sir RICHARD BAKER:
Especially at Auldana.

Mr. SYMON:

If it had not been for the little relaxation we had there, I do not know where we should have been by now. I do also put it on the ground of consideration for my friend Mr. Barton that we are exacting too much from him-

Mr. REID:

Very ingenious!

Mr. SYMON:

To expect him to continue like this. I do not want to make use of Mr. Barton for my purpose. Then there is Mr. Reid. We have noticed the haggard, emaciated condition to which he has been reduced by the labors of this Convention. (Laughter.)

Mr. REID:

There is some ulterior motive here. You want to get rid of me.

Mr. SYMON:

It is because I want to preserve to him that mental and physical health for which he is so eminent, that I think he should have some relaxation forced upon him.

Mr. REID:

I saved my life by not going down the cellar.

Mr. SYMON:

He has had one little period of relaxation. We lost him for four days, and when he came back we noticed his kindly and benignant expression which did us all good. I submit it would be well, instead of squeezing in Saturday that we should have that day and Monday as well for relaxation.

Sir EDWARD BRADDON:

If I considered my own personal convenience I should certainly suggest that we make this adjournment from this evening until Tuesday, inasmuch as whenever our labors here may finish, they will not finish at a sufficiently early date to give me an opportunity of returning to my colony before I have to set out for England. But we have the convenience of others to think of, and that, I think, will be best met by continuing our labors and sitting on Saturday and Monday. As regards the question of rest to Mr. Barton, he at any rate will secure that during two days-Friday and Sunday-out of the four next succeeding days, I hope he will have nothing to employ him to-morrow or next Sunday.

Sir JOHN DOWNER:

I sympathise with my friend Mr. Reid, and, in fact, with everybody who does not belong to South Australia; and I am certainly not going to actively oppose their views, but it does seem to be a little hard that because of the
interposition of the Easter holidays we have to work harder than if the Easter holidays had not come in at all. Ordinarily we adjourn from Friday to Monday, but now we will have to sit on Saturday.

Mr. REID:
You have Friday.

Sir JOHN DOWNER:
We have Friday, certainly, but we have to go on again on Saturday, and so spoil the continuity of the rest by having to take it in bits.

Mr. REID:
Do you not think it a matter in which the convenience of the visitors should be studied?

Sir JOHN DOWNER:
That is what I am saying. But there are those who have had no rest for a very long while. I refer, without any ingeniousness, to my friend Mr. Barton; it is a little hard that the convenience of visitors—a courtesy we are bound to consider—should throw a continuous amount of toil on him which human nature can scarcely endure. It would have been better if we had adjourned from to-day till Monday, at all events. It would not have made a great deal of difference. We might sit till twelve o'clock to-night, and then adjourn, at all events till Monday. We should have made up, I think, in the two or three extra hours perhaps for the days we had lost, and given those who have been continuously at very hard work an opportunity of getting a little more rest.

Sir GEORGE TURNER:
You would have gained nothing by it.

Question resolved in the affirmative.

ABSENCE OF THE LEADER.

Mr. BARTON:
I should like to mention that it will be necessary for me to be away for a short while, but the Bill will be in equally good, indeed in better, hands, as my hon. friends Sir John Downer and Mr. O'Connor, the other members of the Drafting Committee, will take charge of matters.

Mr. SYMON:
I should like to ask Mr. Barton before he goes whether, as we are to sit on Saturday and no doubt also on Monday, it will be necessary to sit late to-night? I ask that we should not do so.

Mr. BARTON:
Let us see how far we get to-night. If there is good reason for an adjournment we shall be able to consider it. If we sit late to-night we may
clear away many of our difficulties. The requisites are short speeches and not many questions, except large ones, raised.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (consideration resumed from April 14th).

Part II.-Senate

Clause 9.-The Senate shall be composed of six members for such State, and each member shall have one vote.

The members for each State shall be directly chosen by the people of the State as one electorate.

The members shall be chosen for a term of six years, and the names of the members chosen by each State shall be certified by the Governor to the Governor-General.

The Parliament shall have power, from time to time, to increase or diminish the number of members for each State, but so that the equal representation of the several States shall be maintained and that no State shall have less than six members.

The qualification of electors of members of the Senate shall be in each State that which is prescribed by this Constitution or by the Parliament as the qualification for electors of members of the House of Representatives.

Mr. HIGGINS:

I think my amendments come first in this clause. The proposal is to omit the word "six" before "members," and then to make an incidental alteration in the clause, with a view of giving in the Senate to the different States a certain advantage in representation, but not equal representation. Of course I recognise that, in this matter, my views in this Convention will be in a minority. I recognise also that having regard to the anxiety to get on with business, I should be as short as I can possibly be. But, having regard to the great and growing body of opinion which is founded against this principle of equal representation, I feel that it would be well, in the interests of Federation and of achieving Federation during this year, that voice should be given in some manner to the strong minority who at present are against the granting of equal representation, and who look upon equal representation with great suspicion and great apprehension. If the argument for equal representation is right, it will be well for those hon. members who are in favor of it to show how it is right. It will lead to the acceptance of this Bill much more readily if the people of the different States can be convinced that equal representation is good in principle. But if it is not good in principle it will lead eventually to a modification of the proposal, before what I regard as a profound and irreparable injury and injustice is done to the future Commonwealth of Australia. I might state that this question of equal representation has nothing to do with the compromise
which was accepted yesterday. The compromise then was between those who were in favor of giving equal powers to both Houses in matters of Money Bills and those who were not in favor of giving equal powers.

Mr. LYNE:
Do not include the whole Convention in the matter of the compromise, because I have not compromised at all.

Mr. HIGGINS:
I am putting it in the strongest possible way against myself. There is a great deal in the words of the Premier of New South Wales yesterday, in regard to the danger of the power of suggestion. I think that Mr. Lyne is right in saying that a great many view that power of suggestion with apprehension.

Mr. LYNE:
A majority.

Mr. HIGGINS:
That may be; but this question of equal representation I want to say has nothing to do with the question of suggestion and amendment which will have to be fought out, no matter what may be the constitution of the Senate. Now, after all, let us see what we mean by Federation, because we must go down to the root of this thing. A number of people belonging to different States come to the conclusion that there are certain interests which can be better dealt with by the people of those States as a whole than they can be dealt with by each State acting by itself. Therefore they say, "For the purposes of what can be best dealt with as a whole let us be one people-let us obliterate State rights. For purposes which can be beat dealt with by each State individually, let the State have the sole voice; but for the purposes of what can be best dealt with by the people as a whole let the Commonwealth have the sole voice." It is the obliteration of State lines for certain purposes that Federation means in essence. Now it is true, and you put it very clearly in your pamphlet, Sir Richard, that there is a dual citizenship. There is a citizenship of the State, and as to that the majority in the State must rule. There is also a citizenship in the Federation, and as to that the majority in the Federation ought to rule. The only objects of Federation are the people. If the people are divided in opinion in the State the only course open is for you to proceed to count heads. Our parliamentary procedure is simply based upon the principle of counting heads; you first deposit the club on the table-we have not a mace here to signify that-and say: "Now, instead of having a fight, let us proceed to count heads and see who would win. "I cannot see why the same principle of majority rule should not apply in the case of Federation for federal
purposes as in the case of a State for State purposes.

Mr. MCMILLAN:

It would not be Federation, that is all.

Mr. HIGGINS:

If you adopt the language of theorists, this Federation is simply another application of differentiation and integration—differentiation of State interests and federal interests, and integration of the people for federal subjects. You have integration of interests for federal purposes, and you have also differentiation of interests, and there is a tendency against centralization except for interests which are central—a tendency to, as far as possible, let the people manage their own affairs in their own way. It is said that Federation is not unification. That is quite correct, but Federation is unification for certain purposes. the only object of Federation is to become one people for certain purposes, and in the language of the great Chief Justice Marshall, who is, perhaps, the principal expounder of the great Constitution of the United States:

We are one people for war; we are one people for peace; we are one people for the purpose of commercial regulation,

referring, of course, to Customs and excise. The position, then, is that if you treat all the Australians as one people for certain specified and limited purposes the majority ought to rule just as you say the majority ought to rule in South Australia for South Australian purposes. The ridiculous position is this, that, although you treat the Australians as one people, you find in such places as Burns and Cockburn a fence between New South Wales and South Australia, and if it be Federation with equal representation the effect will be that the man who lives in Burns, in New South Wales, will only have one-fourth of the voting power which that man over the fence in Cockburn has got.

Mr. LYNE:

How many is one-fourth?

Mr. HIGGINS:

I am speaking of the present relation between New South Wale and South Australia in population. understand South Australia has between 300,000 and 350,000 people.

Mr. KINGSTON:

There are 360,000.

Mr. HIGGINS:

While New South Wales has 1,250,000. I am only speaking roughly. I need not go into exact figures, but I think substantially I may say that, although they are supposed for Federation purposes to be one people, the
man over the fence in Burns has got only a quarter of the voting effect upon the representation in the Senate that the man in Cockburn has got. Then, also, if you go further, and take two mining centres, Coolgardie and Broken Hill. Broken Hill is, according to the lines of latitude and longitude-arbitrarily drawn-in New South Wales and Coolgardie is in Western Australia. The present ratio of the population of Western Australia to New South Wales is about one to nine. There are about nine times as many people in New South Wales, and what is the result? A miner in Coolgardie has nine times the voting power possessed by a miner in Broken Hill. I think that really it is time for us to consider the question. I intend to proceed to a division, no matter how few may go with me. I feel, in the interests of Federation, that it is advisable to have this brought forward, to have the voices given and the different opinions also. There has been a good deal of emphasis laid on a preamble to the resolutions passed by the House that the object of the Federation is to enlarge the self-governing powers of the people of Australia.

Mr. MCMILLAN:

Will you answer a question? What proportion would you give, or what number would you act oh if you did not give equal representation? You would not go on the purely population basis?

Mr. HIGGINS:

I would not. I shall explain afterwards that I hope to have a sliding scale which would give a certain advantage to the small States, but not by any means equal representation. "To enlarge the powers of self-government of the people of Australia." I concur in that phrase, but we must see that we do enlarge the powers of the people, and that we do not simply enlarge the powers of the minority of the people not only to govern themselves in their own affairs, but also to govern the majority of the people of Australia. There are a number of phrases current which, I am sorry to say, seem to have attracted the approval of a number of delegates, and if I may speak frankly I must say that when I commenced the election campaign for this Convention I assumed that equal representation in the Senate must be accepted as of course; but I have become more and more convinced that the system of equal representation has no foundation in theory or utility.

Mr. LYNE:

Or in equity.

Mr. HIGGINS:

It has been said, amongst other things, that you must have the consent of the people as well as the consent of the States in Federation. The theory is that we are one people in the Federation for federal purposes. What has the State got to do with this purpose which we declare to be federal? As soon
as you arrange that there is to be one people for this purpose, the States have nothing to do with it; and supposing you work it out logically, is it supposed that in this States House or Senate the members for each State shall vote en bloc? No one suggests it, but the true corollary is that each State should vote en bloc. Another phrase has got current: "You have one man one vote, and why not have one State one vote." The answer is as simple as anything could be. The objects of our legislation are men, human beings, and not States. States are organizations designed for a specific purpose, and the position is that the true corollary to one man one vote is many men many votes, and not one State one vote. There is another phrase that it is the people

right through who will have the control as to both Houses, because you have a broad franchise, because in the one case you have merely the people grouped as a population, and in the other case you have them grouped in States. This is very nice, but the grouping is everything. You may have the most liberal franchise, and yet by grouping the people you may defeat the object of the franchise. Supposing in this province of South Australia you had the rule that for every ten square miles you returned one member. Give the most liberal franchise you like-adult suffrage—but within these ten miles you would have Adelaide and its suburbs, and in other places you would have a squatter or a blackfellow with the same voting power as Adelaide. Grouping is everything, as Mr. Eldridge Gerry found in working the State of North Carolina, as he managed to so work the State for election purposes that the whole body of those who were against slavery were so grouped as to be unable to return one member against the slave owners.

Mr. Howe:
That is the origin of "gerrymandering."

Mr. Higgins:
I perfectly admit that the foundation for this extraordinary claim is that the minority will be swamped by the majority. Now, I wish to face that. Every minority is swamped by every majority. Supposing you take the constituency of Port Augusta, if there is such a one in this province, and it returns one member. At Port Augusta some people vote one way and some another, and the minority are swamped by the majority. Why should they not be?

Sir William Zeal:
Hang them at once!

Mr. Higgins:
Sir William Zeal is a good example. He represents a minority in Victoria, and yet he has not been hanged, and I would be sorry to see him. The
minority must trust to the sense of justice on the part of the majority, and no one can say that there has been any glaring injustice done wantonly by the majority. A familiar instance put before us in this argument is the case of England, Scotland, Ireland, and Wales. There is no doubt that the three smaller countries are swamped by the majority in England.

Mr. SYMON:
That is unification.

Mr. HIGGINS:
The hon. member has hit on the very point.

Mr. HOWE:
That is what you want here.

Mr. HIGGINS:
I am glad that this instance has affected my friend Mr. Howe. I would point out that last year the Scotch County Councils Bill was brought forward. The Scotch members were, however, swamped by the huge majority of England, and they could not have their own way in a purely Scotch matter. The distinction is this—and I hope my honorable friend will bear it in mind—that the Scotch people have not got control of their own local affairs, but in a Federation local affairs will be governed and controlled by the local Parliaments.

Mr. HOWE:
That is why the Scotch are going for Home Rule.

Mr. HIGGINS:
I think they will be able to find means to get out of the difficulty, but I shall not add home politics to Australian politics just at present. The proposal is not to swamp any one of the States. Each small State will still have sole control of its own affairs. It cannot be said that if there is a movement in South Australia for county councils, or in New South Wales for local government, the proposal is in danger of being swamped by the opinion of the other colonies. It is also said that there is a great danger of the Federal Parliament encroaching gradually and steadily upon State functions unless the Federal Parliament is restrained by the people who represent the small States. That is a matter requiring the closest attention. I want to disavow from myself the fact that I represent at present a colony which is one of the more populous. It is unfortunate in that sense that I have to bring forward this motion. Supposing that the Federal Parliament should encroach in the slightest upon State functions, if it does deviate and go beyond the boundary which the Constitution sets it in this matter, the law in which they do that is void. But there is no danger of encroachment, because
encroachment can be resisted by the meanest subject in any of the courts, and the courts are bound to show that it is void. I quite agree that a thing which is wrong in theory may be good in practice, and may work substantially well, and I should be the last person to carry a just theory to its extreme if I saw that it worked ill. When we look at the different federations of the world we find that in Canada they have not equal representation. The three maritime provinces, having less populations, have only the same number of members in the Senate as Ontario or Quebec, and Manitoba, British Columbia, and the great North-West territory have one or two members each. In Switzerland it is quite true that they have approached to very nearly equal representation. The reason is that they had to deal with cantons which had been historically different countries for centuries, and in Switzerland they framed the Constitution as far as they could upon the lines of the United States; but even in Switzerland there are some of the cantons or half cantons which return only one member, whilst other cantons return two. But if you take Germany, Bavaria returns six members to the States House, whereas Prussia returns seventeen, and different small States, like Mecklenburg-Strelitz, return only one. My hon. friend Mr. Barton interjected when I referred to this fact before, that Federation in Germany was owing to domination. If it was owing to domination why should Bavaria have six and Bremen have one? Bavaria certainly did not dominate. The fact is in that States House they give to the different States not equal representation, but to make a distinction from the other House they give to the different States and free cities a certain advantage on a certain sliding scale. The last and the great instance is the United States. I apprehend most members have read the debates on which equal representation was founded. It will be remembered that it was carried by a very narrow majority. They will remember that the strongest and the best men voted against it, such men as Benjamin Franklin, Madison, King, Wilson, Morris, and Alexander Hammond. The strongest and best men said, "Let us not have equal representation" Let me read from Bancroft how the thing was. They only submitted to equal representation because Delaware, Rhode Island, and some of the smaller States said this:

We have the British at our gates. They still have forts, and unless you give us equal representation we will go over to the British.

Mr. Bedford, according to Bancroft:

Defied them to dissolve the Confederation, for rain would then stare them in the face.

Mr. O'CONNOR:

How has it worked for 100 years?

Mr. TRENWITH:
Very badly.

Mr. HIGGINS:

I may also read the words of Wilson:

A citizen of America is a citizen of the general Government, and is a citizen of the particular State in which he may reside. The general Government is meant for them in the first capacity; the State Governments in the second. Both Governments are derived from the people, both meant for the people; both therefore ought to be regulated on the same principles. In forming the general Government we must forget our local habits and attachments, lay aside our State connections, and act for the general good of the whole. The general government is not an assemblage of States, but of individuals, for certain political purposes; it is not meant for the States, but for the individuals composing them; the individuals therefore, not the States, ought to be represented.

Then we pass to Mr. Madison's views:

If there was real danger to the smaller States, I would give them defensive weapons. But there is none. They start from their difference of size, but from climate, and principally from the effects of having or not having slaves. Look to the votes in Congress; most of them stand divided by the geography of the country, not by the size of the States.

Then again Mr. King says:

The difference of interests lies not between the great and small States, but between the Southern and Eastern. For this reason I have been ready to yield something in the proportion of representatives for the security of the Southern. I am not averse to yielding more, but do not see how it can be done. They are brought as near an equality as is possible; no principle will justify giving them a majority.

Although it was carried by a majority of one only, and although Madison and his comrades objected to it most strongly, and determined on the morning to divide upon the matter, they said:

No, let us yield this. Our supreme interests are Concerned; we must settle this point in order that we may not preserve the British enemy at our gates.

They simply yielded to equal representation in terror, under domination; and we are asked now, after the experience of 100 years, to yield the same thing when in no terror and under no domination.

Sir JOSEPH ABBOTT:

There is another story called the Connecticut compromise.

Mr. HIGGINS:

With all respect, I do not think that is another story. That Connecticut
compromise was to give equal representation to the small and large States in the Senate, and to give representation according to population in the other House; but Madison, and King, and Franklin, and Hamilton, and Morris, and all the strong men were against that compromise. Franklin submitted to it simply because he felt that in order to prevent the breaking up of this Confederation at a most critical time when the enemy was at their gates, he had to submit. Let us see if there hits been any advantage gained by the small States under the protection of the system that has been adopted. I have read, and Mr. Glynn read yesterday certain passages from Dr. Bryce's work, which showed that this equal representation has been absolutely futile in achieving its objects. He says, in substance, that there has never been any difference of interests between the large States and small States as such.

Mr. GLYNN:
That is, they exercised with discretion their various constitutional powers. They did not push them to extremes.

Mr. HIGGINS:
What my hon. friend seems to mean is that it is in consequence of equal representation that there have been no conflicts of interest.

Mr. GORDON:
Hear, hear.

Mr. HIGGINS:
That is about the most amusing way of turning it that I can possibly conceive. You might as well say that because I put a brake upon my buggy there is no need to use it. The answer is that there are no steep hills. It is not that there have been no contests, but that there has been no difference of interests. How can the mere mode of adjusting differences of interests affect the principle that there have been no differences of interests?

Dr. COCKBURN:
Because the presence of certain checks has prevented attempts being made to infringe State interests.

Mr. HIGGINS:
It is not a question of there having been no contests, and that the larger States have refrained from the contest because they feared the power of the smaller States, but it is that there have been no steep hills on which to use the brake.

Mr. GORDON:
We have more steep hills here in variety of interests and differences than in America. Railways, for instance.

Mr. HIGGINS:
I have tried persistently to get hon. members to give a single instance in
which there was any probability of the smaller States having different interests from the larger ones. One after another has tried, and the nearest thing to it has been the locking of the Darling. It is paid New South Wales may lock the Darling, and thereby injure South Australian interests.

Mr. GORDON:

Preferential railway rates.

Dr. COCKBURN:

Tariff.

Mr. HIGGINS:

I can only deal with one thing at a time. As to the locking of the Darling, why, if the South Australians are being injuriously treated, they would be backed up, you may be sure, by the people of Victoria, as well as by the people of Western Australia, who at least would have a sense of justice—if they had no interests—and by the people of Tasmania, who until lately have been regarded as having a sense of justice. If hon. members take one instance after another of those put forward, they will find there is no probability of any difference of interests arising between the small States and the large States. May I indicate that because of the possibility in one case out of 10,000 of an injustice being attempted by the majority upon the minority—the great States upon the small—you are giving to the minor States full power in the other 9,999 cases of equal control. For the mere possibility of a difference of interest, you are giving a power—not only in that legislation which deals with differences of State interests, but in all legislation—to the minority to sway the majority. In the discussions of the Convention in 1787, Benjamin Franklin, seeing this, proposed a compromise, which unfortunately was hardly workable, and he said:

Let the small States have equal representation in those matters in which the interests of the small States come into conflict with the interests of the large States; but in all other matters let then be representation according to population.

Of course he found it practically impossible to work out the distinction. Not only has it been shown in the United States that this equal representation has been absolutely futile, and that it has not served its purpose, but if you apply it to Australia you will raise great dangers which did not exist in America. When the United States started its Confederation they had thirteen States. They had a huge territory, yet uninhabited by white men and yet unused. On the other hand, every inch of Australia is under the control of some State. We cannot get new States except by sub-division. In America they were able to get States aggregation, by addition, by the formation of new States. The natural tendency of events in Australia
is towards the sub-division of some of the greater colonies. We have
Central Queensland and Northern Queensland crying out for that. No
doubt, eventually, we shall have a cry for separation between North
Australia and South Australia. No doubt, eventually, we shall have-it is to
be hoped-a sub-division of Western Australia. That is the natural tendency
of the course of things.
Mr. MCMILLAN:
Will not all that alter the anomaly you complain of?
Mr. HIGGINS:
The effect is this: that although we ought to have sub-division as time
progresses, though I agree that subdivision for the purposes of local
government and for the purposes of State interest is expedient, I say that
every proposal to sub-divide any of the huge existing colonies will be met
with opposition from the States which are not to be sub-divided, inasmuch
as it means, with equal representation, the addition of a larger number of
senators to that State which is being sub-divided. Take Queensland, for
instance. If Queensland were divided into three States-it would start in this
Federation with six-that colony would be entitled to eighteen members.
Victoria, a small country in size, and Tasmania a small country in size,
comparatively, will, as well as Western Australia and South Australia, say:
"Oh, Queensland, which has six members to represent her in the Senate
will now have eighteen. We will stop this." The tendency of equal
representation will be to induce all the other States which are not being
sub-divided to oppose sub-division as far as they can. That will interfere
with the natural and normal development of this country.
Mr. GLYNN:
Do you remember Texas being taken over and sub-divided?
Mr. HIGGINS:
I recollect that it was

the Senate of the United States, in which all the States were equally
represented, that opposed the addition of new States from the outlying
territory, for fear of the slavery States being outvoted in the Senate. Equal
representation has worked ill there, and it was the means of preventing the
development of the great western territory for some time, and also
prohibited the sub-division of that territory into States. Our proper destiny
is the sub-division of these huge artificial areas, and if we give equal
representation that destiny will be seriously checked. If we once commit
ourselves to equal representation it is final, and we cannot get out of it. We
cannot even amend the Constitution to put it right. Let me give an
illustration. Supposing Tasmania were to get 20,000,000 of people, and by
some accident all Australia were turned into a sheep-walk, and the Tasmanian interests would be the interests really of a great number of people in the Australian States, let us look at how clause 121 deals with that. The section states:

But an alteration, by which the proportionate representation of any State in either House of the Parliament or the minimum number of representatives of a State in the House of Representatives is diminished shall not become law without the consent of the electors of that State.

If you commit yourself to equal representation now you cannot by any amendment of the Constitution, no matter how much the people feel it is expedient, put it right again.

Mr. KINGSTON:

You can alter the Constitution in that particular; there is no difficulty in law.

Mr. HIGGINS:

With all respect, I say it cannot be done, because you must first have the consent of the electors of the State The hon. the President means that it would be possible for you first to have an alteration of the Constitution by taking out the words:

Shall not become law.

It would be bowled down as a gross breach of faith if the Parliament were first to alter the Constitution which said that each State must consent to its representation being reduced, and then say, "We want to alter the representation." Perhaps that may be possible, if you speak technically and legally. We have clause 121 stating that:

The provisions of the Constitution shall not be altered except in the following manner:—Any proposed law for the alteration thereof must be passed by an absolute majority of the Senate and of the House of Representatives, and shall thereupon be submitted to the electors of the several States qualified to vote for the election of members of the House of Representatives, not lose than two nor more than three calendar months after the passage through both Houses of the proposed law.

I quite agree that the Constitution ought not to be altered except with the consent of the majority of the States. The clause goes on to say:

But an alteration by which the proportionate representation of any State in either House of The Parliament or the minimum number of representatives of a State in the House of Representatives, is diminished, shall not become law without the consent of the electors of that State.

I understand the President's view, but I confess this that, even supposing for the sake of argument that it is technically right that by two amendments of the Constitution you might achieve the object, still I say it would be
howled down.

Mr. KINGSTON:

It should be prevented in the four corners of the Bill.

Mr. HIGGINS:

I think the members of the Convention, if against me upon this question of equal representation, ought, at least, to leave posterity free to make any alteration they may think fit. I do not think it is unreasonable to ask that. You may surround it by as many safeguards as you like, but if you have to get the consent of every State for a reduction of the number that there must be a distinction in some way between the two Houses. As to these two Houses, I am glad we are to have a departure from the obsolete principle of having a House to represent property Separately. There is no doubt that property is as safe in America as it is in any other country in the world. In all the States of America there is hardly a vestige left of any property qualification for voting; and my aristocratic friend, Mr. Dobson, will find that, as time goes on, it will be less and less easy to get any property qualification for any Parliament. Having regard to the fact that you must have a distinction between the two Houses, I do not see why we should not allow the less populous States a certain advantage, as in Germany, Switzerland, and Canada, in the representation in the Second Chamber. I say, of course, supposing you were to give no distinction of that sort. the ultimate tendency would be to say, the Senate elected on a broad franchise ought to have the same rights as you give to the House of Representatives, elected upon a broad franchise and population; and the ultimate result may be that they may be able morally to claim a power of control in Money Bills absolutely, and the end would be that you could not carry on responsible government; and I feel really that responsible government works better that any system I know of in the world. I am perfectly willing to leave posterity to evolve something better, but as things at present stand I would rather take the thing I have and use it

Make what is absolutely new I can't,
Mar what is made already well enough,
I won't; but turn to best account the thing
That's half made-that I can.

The proposal therefore that I have to make is to strike out all the words after "of," in the first line of clause 9, and to insert:

So many members for each State as that State shall be entitled to on the sliding scale hereinafter mentioned.

It will then read

The Senate shall be composed of so many members for each State as that
State shall be entitled to on the sliding scale hereinafter mentioned.

I have not drawn up that sliding scale, because I know I shall be defeated.

Mr. MCMILLAN:  
Indicate it.

Mr. HIGGINS:  
I should propose a sliding scale something like this: For the first 100,000 people, a State should return three members; and for every extra 200,000, one member. The result would be that it would not be representation according to population, nor equal representation, but you would give a substantial concession to the smaller States. That is merely an indication, and I am not going to make any final proposal, because I will not labor final proposals, as I know I shall be beaten. I feel more strongly, having regard to this discussion, that it is important for those of us who have a clear idea in their own minds as to the fallacy of equal representation to indicate it by our views and by our votes. Inasmuch as there is no prospect of it being carried, I will simply appeal to those who see the fallacy clearly, and who know that equal representation will be carried, to give me their votes, and show to the people who object to it that their views have been sufficiently weighed, and that there has been no desire on our part to rob, as I must call it, the people of the right of governing their own affairs in Australia.

Mr. DEAKIN:  
One of the many misfortunes which have followed the dislocation of this debate by the prior consideration of the part relating to the financial powers of the Senate is that the discussion which Mr. Higgins has raised in his scholarly and able speech comes at a period when it appears to me the time has passed even for its consideration. We have concluded a discussion as to the monetary powers of the two Houses, which has been based on the assumption that the remaining proposals in the Bill with regard to the Houses should not be varied in essence.

Mr. LYNE:  
Nothing of the kind,

Mr. DEAKIN:  
In my opinion a number of votes were cast in favor of what is termed the compromise of 1891 on that assumption, and there were grounds for that assumption, and though, as far as members are concerned, I believe they are all perfectly free to vote on the matter as they think right, I should not feel myself justified even if the hon. member's arguments had absolutely convinced me, to vote at this stage of the proceedings for his amendment. In consequence of the tacit understanding we received the
gallant and generous support of several members who put aside their personal views in order to arrive at a fair compromise. We should not be dealing with them fairly and justly if we now endeavored to depart from it. I know my learned friend Mr. Higgins too well to indulge in the mere parade of asking him to withdraw his motion, which he has made deliberately. I know that any such appeal must be idle.

Mr. HIGGINS:
If any appeal could persuade me it would be yours.

Mr. DEAKIN:
I am glad to have that fresh indication of the friendly relations which have always existed between us. Nevertheless, I wish to make an appeal, and trust that the arguments of others may induce him not to press it to a division. I do not propose for the reasons I have given, even to attempt, if I were capable of doing so, to follow the hon. member through the line of argument he has pursued, which is logical as his arguments invariably are. Unless I mistake the attitude of those who differ from him and also my own attitude, the consideration that decides the question of equal representation will not be found within the line of argument the hon. member has followed. In dealing with sovereign States—each perfectly and absolutely independent of its neighbor, each endowed with the same complete authority in legislation and administration, each having the power of self-government—you cannot place before them simply the outlines of a theoretical edifice and command their acceptance of it, even supposing their judgment is with the hon. member in all the considerations he suggests. In dealing with equals, and it must be recognised that we meet as equals, that is to say, as States endowed with equal powers—not necessarily equal in area, not necessarily equal in population, and not necessarily equal in wealth, but equal in all the rights of citizenship and powers of self-government, and therefore equal in the highest sense as separate States—the question of the form of the Federal Government is not merely a question between us as to which form can be most logically deduced from certain premises which may or may not be generally accepted; it is a question between equal contracting parties, as to the terms and conditions on which they will enter the Federation. All federal issues require to be regarded from two standpoints. The practical issue is upon what terms; the theoretical is under what form. All the illustrations of the honorable member are fruitful and suggestive and invaluable in the consideration of the theoretical problems that confront us, but they offer no sufficient solution alone, because the burden lies upon us of first settling the terms. The very first step in establishing a Federation is that it shall be on lines so just that the majority of the people in each State will consent to come into
it.

Mr. HIGGINS:

I only want justice.

Mr. DEAKIN:

We have not only to obtain a scheme which will satisfy my hon. friend's sense of justice, but one that will satisfy the sense of justice of the neighboring States with whom he is in treaty. He cannot federate by himself, and he must therefore appeal to and satisfy those who exercise a perfectly free, unbiased, and independent judgment in determining whether they will agree to join him. As he tells us, we are not under the domination of the less populous States. Neither are the less populous States under the domination of the more populous. They have the same freedom, and the first question for them is whether the Federation you suggest is one which will command the consent of the majority of the people of their colony. That is the proposition we submitted to them on the question of Money Bills. It was a statement of a fact rather than an argument to which a number of them most generously gave consideration. When they turn the same argument on ourselves and say, "It would be idle for us to ask the people of our colony to accept a scheme in which there is not equal representation in the Senate. For the purposes of this Federation, we are uniting for national ends, but in uniting we sacrifice many advantages, sacrifice our State powers within certain limits, and also part of our self-government in order to receive back in the Federal State only that proportion of their control which our population bears to the population of the whole body." It is not a case in which my aristocratic friend Mr. Dobson would say:

You give everything and take back all.

They are surely entitled to tell us their people would not consent to such a proposal. If we are faced by that fact, we are compelled to consider it at the very outset -before we go on to consider how we can beat shape a federal government. When we are debating the after question of shaping a federal government, then all the arguments of the hon. gentleman will be of value subject to the preliminary terms. This question of equal representation is not open to a merely political or theoretical treatment; it is a question of contract between the free and equal contracting parties. When we come to the scheme of Federation, and its provision for giving effect to the will of a majority of the people or of the States, there are many principles and illustrations and facts and methods which will require to be kept in view. But even those considerations are subordinated to another, and that is: What are the political circumstances, the political knowledge,
and the political tendencies of these colonies? Having those in view, what we require is not a theoretically ideal or legally symmetrical Constitution for the people, but one which shall represent their aspirations, give the fullest play to their powers, and allow for their ingrained prepossessions born of long-inherited political experience. Having arranged in a general way a fair basis of union, we must proceed to make not a mechanically ideal Constitution, but a workable Constitution, appropriate to our people and our time. No doubt it must comply with those general considerations which the hon. gentleman has laid down. It must be a democratic Constitution having a proper system of checks and balances, so as to elicit the deliberate will of the people. It must have, in fine, the general characteristics of the governments which we now enjoy. Every federal theory must be subordinate in the first place to the terms of a fair and equal contract, and in the second place to the consideration of what, having regard to the circumstances of our people, will be the most workable Constitution that can be devised. I did not purpose when I rose to detain the Convention at such length, but it seemed perhaps desirable that a Victorian Should follow a Victorian in this matter, to indicate that the hon. gentleman is exercising the equal privileges he enjoys of expressing his individual ideas, and that at the same time some of the rest of us who would prefer that this question had not been raised at this stage are exercising our equal privileges in expressing the hope that he may yet see him way to withdraw an amendment which, at all events, as regards some of the members of this Convention, is extending to them a less generous consideration than they yesterday extended to us.

Mr. LYNE:
I would like to say-

HON. MEMBERS:
Question!

HON. MEMBERS:
No.

Mr. HOWE:
I thought you wanted to go home.

Mr. TRENWITH:
We want to do good work, at any rate.

Mr. LYNE:
I am surprised to hear the speech to which we have just listened. If I remember rightly, the hon. member, Mr. Deakin, made a speech some
years ago exactly opposite in effect to that which he has delivered now.

Mr. DEAKIN:

No; I never spoke against equal representation in my life. have indicated its difficulties.

Mr. LYNE:

As far as my memory serves, the speech he delivered on that occasion was one of the best opposed to it that I ever listened to, and before I sit down I wil---

Hon. MEMBERS:

No, no!

Mr. LYNE:

— At any rate, that contract is not going to bind me.

Mr. DEAKIN:

Nor me.

Mr. LYNE:

I had nothing to do with such a contract. I was opposed to the minority; I was opposed to the clause as it was passed afterwards, and I was much surprised that there was not a division over the fifth sub-section of that money clause yesterday. Now, the hon. gentleman proposes to place Victoria with the other larger States in this position that, no matter what laws they may pass, no matter what money proposals they may make, no matter what time they may take up in discussing them, those proposals may go to the Senate, and they may be absolutely stopped and destroyed, and destroyed too by the smaller States. That is what it is proposed to do

Mr. DEAKIN:

Hear, hear.

Mr. LYNE:

Thus the whole work of the larger States, the representatives of the majority of the people, may be absolutely destroyed. I am not prepared to do that.

Mr. MCMILLAN:

Would it not be exactly the converse?

Mr. LYNE:

No; it would not. If there was a provision in the Bill providing a safety-valve by which the Senate could not absolutely stop the will of the people, then I would be prepared to consider this; but we have a Bill submitted to us at present, and I presume it will be carried in that respect, in which there is no proposal for the Senate and the House of Representatives to come together in any way.

Mr. DEAKIN:
There is an amendment submitted.

Mr. LYNE:

If the hon. member is going to vote away his rights, as he has said, we know what the amendment he refers to is worth. There is no power to bring the two Houses together to deal with a crisis of this kind, or with any other crisis that may arise. There is no referendum and there is no method such as the Swiss Constitution gives, yet we are asked to give equal representation in the Senate, so that three small colonies representing three-quarters of a million of people can absolutely dominate nearly three millions of people. Mr. Higgins has ably put this question, and shown in comparison that a man in South Australia would have four times the voting power of a man in New South Wales.

Sir WILLIAM ZEAL:

That has been repeated again and again.

Mr. LYNE:

And it is worth repeating again. I feel almost as strongly on this question as on any part of the Bill. I do not care how far certain representatives from New South Wales are prepared to give the rights of the State away, for I undertake to say that if they do, they will never carry the Bill in New South Wales, not with my support. I will consent to nothing that provides that legislation passed by the Lower House can be upset by the representatives of a minority of the people in the Senate. It absolutely drags down responsible government, and I am surprised that any representatives from Victoria or New South Wales can say they are in favor of such a proposal.

Mr. FRASER:

Then they will not come into Federation at all.

Mr. LYNE:

I am not prepared to give away all the rights. We are asked in this Bill to give away rights of government which will stagger the people of the larger colonies when they hear of it. We are asked to give away their rights to deal with the whole of the rivers and the railways which should be used for the States' development, and we are now proposing to put smaller States in a position, without asking the will of the larger colonies, to throw out legislation and override the Government on these questions. While I am prepared to federate on reasonable terms, I am not prepared to federate on unreasonable terms, or to ask or solicit the people of New South Wales to give up their reasonable rights. At the present time we have the power to deal with all the immense questions affecting our valuable territory. And so they have in Victoria, and in South Australia, and Tasmania and Western Australia; but you are asking us to give away these rights of dealing with
the development of the country to a minority of the people. Some hon. member has suggested unification. I say: far better go for unification than for a Federation which is going to tie our bands behind our backs for all time to come. For this thing is not for to-day or to-morrow, but for all time; for if you insert this provision, together with clause 121, you will never get it altered. You will be placed in the same position regarding your Senate as the United States is now placed in, contrary to what was intended originally. It was never intended that that Senate should take the position of a Second Chamber. At the time it, was constituted it was intended that it should be an advisory chamber to the Government of the day and the President. Now it has grown into the position that it can do as it did the other day, when against the will of the people it threw the arbitration treaty proposed by the British Government into the waste-paper basket. Do you want something of that kind to take place in United Australia in the future? If you are prepared to give us anything fair and just, you must guard against one of two things in the Senate. You must either take away its absolute dominating power, or else you must not give equal representation.

Mr. MOORE:
Take it away altogether.

Mr. LYNE:
It would not be a bad thing.

Mr. MOORE:
For you.

Mr. LYNE:
I am not prepared to allow Tasmania, with 150,000 or 160,000 inhabitants, to govern New South Wales with its 1,400,000. And on that point I might ask Mr. Douglas, who twitted me the other day with being a renegade, where are his renegades now? He has got a few renegades whom he has brought over with him.

Sir WILLIAM ZEAL:
That is most unfair, most ungenerous.

The CHAIRMAN:
Order. Will the hon. member take his seat. I do not think the hon. member is in order in referring to any member of this Convention as a renegade.

Mr. LYNE:
I do not wish to dispute your ruling; but I will draw your attention to the fact that when the hon. member called me a renegade, you did not call his attention to it.
The CHAIRMAN:
I did not catch any such expression.

Mr. REID:
It was in the Convention, not in Committee.

Mr. DOUGLAS:
I should not have made mention of it unless Mr. Lyne had interjected, and he only got his deserts.

Mr. LYNE:
I do not wish in any way to use any hard phrases in reference to any delegates, but the hon. member, Mr. Douglas, has been rather twitting me in various ways ever since I have been here on this occasion, and I like to have a little pleasant repartee with him.

Mr. DEAKIN:
But you turn round and slate Somebody else.

Mr. LYNE:
When I was speaking on this question in the Convention, before we went into Committee, I said if we were going to give the States equal representation in the Senate the minority of the people in the Senate must not be given the power to intercept the will of the majority. Mr. Deakin, according to his speech, is now proposing to give them that absolute power. Then I say: no Federation for me if they are going to have that absolute power. It is quite enough to prevent any Federation if you are going to give up your rights as they exist at the present time to a minority of the people. The majority of people, I have always believed, should have the greatest say in connection with a matter of this kind. What is the use of having in the House of Representatives a majority of ten times or a hundred times, if a minority of people through the Senate can knock in the head everything they do? As far as I am personally concerned, I shall vote in favor of the hon. member's amendment, and I am prepared to stand by that vote in the colony I represent. I am prepared to meet any of those gentlemen who oppose it anywhere in that colony, and to stand by the verdict of the people on it. I should like to see, if it were possible, the State of Tasmania come in, also the State of West Australia, and likewise South Australia. Does Mr. Deakin say that when a man is making a bargain he makes an equal compact? Supposing Mr. Deakin had £50,000, would he enter into a compact on equal terms with a man with only £10,000? Does he not expect greater rights?

Mr. SYMON:
No.

Mr. LYNE:
The hon. member would not advise a client to enter into a bargain under such circumstances. That is just the position we are in at the present time. The hon. member Mr. Deakin wants New South Wales and Victoria to enter into an arrangement when they have their £50,000 with other colonies that have their £5,000 or £10,000. I do not wish to delay the debate, but I could not let it pass without entering my protest against such a proposal as that made at the present time—a proposal which cannot, and I presume will not, be accepted by the larger States, unless there is some loophole by which when the Senate attempts to prevent the will of the people from being carried out, they should not be allowed to carry out their design ultimately. I hear it said that we are going to accept the arrangement in the Bill of 1891—

Sir WILLIAM ZEAL:
Evil be to him who evil thinks.

Mr. LYNE:
Well, that has been said.

Sir WILLIAM ZEAL:
Well, it is not true.

Mr. LYNE:
Then the hon. member is casting an aspersion on some here.

Sir WILLIAM ZEAL:
No, I am not, but you are.

Mr. LYNE:
The hon. member is making a statement that is not in accordance with fact, because three or four hon. members have said it was an agreement to come to the arrangement of 1891, and not to go behind it.

Mr. TRENWITH:
An agreement with whom?

Mr. LYNE:
That is what I want to know.

Mr. FRASER:
Nothing of the kind.

Mr. LYNE:
It was understood, as Mr. Deakin said a few minutes ago, and the vote yesterday was obtained on the understanding that this equal representation should be granted.

Mr. TRENWITH:
Mr. Deakin did not say that.

Mr. LYNE:
If other hon. members made that compact to obtain the votes they did yesterday, I am not prepared to agree to it. I shall vote against and oppose
any equal representation until such time as we have a provision in the law by which the Senate shall not for any length of time be able to stop the will of the people.

This matter is one of vital interest, not only to the representatives of the smaller States, but to all hon. members who represent the States of Australasia. Yesterday, by a narrow majority, a vote was passed depriving the Senate of some of its powers, which we would otherwise see it enjoy, thus inflicting a wound on Federation which may be healed or may be mortal, as time will show. It is now proposed to do that which will strike a deathblow at Federation, and there will be no Federation if this proposal is carried, for the smaller States will be entirely severed from the movement if it is agreed to. If a majority of the Convention were of the mind to see an injustice done, if they desire to see the compact honestly entered into violated in this way, we should have to do what has been done before—to pack up our carpet bags and leave. I trust to the good sense of a majority of the Convention to say that the compromise of 1891 shall be justly carried out.

Dr. QUICK:

At the Bathurst Federal Convention, which was held last year, I had the pleasure of hearing Mr. Lyne deliver an admirable speech in favor of Federation, and on that occasion he promised to do nothing which would obstruct, injure, or impede the progress of Federation. Not only did Mr. Lyne say he would do his best to promote it, but he would abstain from taking any action which would prejudice its advancement. The hon. member was also present during the sitting of the Bathurst Convention, at which the principle of equal representation of the States in the Senate was almost unanimously affirmed.

Mr. LYNE:

And I opposed it.

Dr. QUICK:

I did not hear the hon. member say anything publicly to that effect. If he did feel that way I am surprised he did not give expression to his views.

Mr. LYNE:

So I did.

Dr. QUICK:

I doubt the sincerity of any gentleman who comes here and says that he is in favor of Federation and then tries to impose impossible conditions. It is all very well to say you are in favor of Federation, but any man who acts like that cannot be in earnest; it is a mere pretence. For my part, though recognising this to be one of the most difficult questions in connection with
the federal movement, I, at the outset of my candidature, boldly and candidly placed at the head of my address to the people of Victoria the fact that I was in favor of the equal representation of the States in the Senate, because I saw clearly that until that was recognised we could not hope to carry Federation. It is a farce to hold this Convention, and to invite the minor States to join in such a union, unless we are prepared to concede this principle. There may be a reasonable difference of opinion on a large number of the details of the federal scheme, but there can be no conciliation and no chance of success unless we recognise equal representation in the Senate; and unless that is conceded we might as well close the sittings of this Convention as go on. I am prepared to recognise the honesty and sincerity of the views put forward by my hon. friend Mr. Higgins, but it requires a great strain to accept his assurance that he has brought his proposal in the interests of Federation. I ask him candidly to say, has he one solitary hope of success in framing a Federal Constitution if he carried his amendment? Would not all of the minor States immediately withdraw from the Convention if he succeeded in carrying that? Undoubtedly they would, and they would be quite justified in so doing. It is quite true the hon. member has given a learned, scholarly, and eloquent theoretical address today, but I think we have got beyond the stage of theoretical discussion of this subject. I am not here to discuss theories, but to discuss the terms of a political compact; and in arriving at a political compact we have to consider the views of our opponents. We have to consider the interests and views of the other States. If we were here as an assembly of philosophers we might enter into abstract discussions, but this is not a convention of philosophers. It is a convention of practical politicians, whose duty is to try and reconcile and harmonise the conflicting views of the various States. And I consider the principle, as affirmed in the Connecticut compromise over 100 years ago, and time after time since, of the equality of the representation of the States in the Senate can be justified, when the States are in the compact, on the ground that they are sovereign entities, and that as equal contracting parties they surrender to this federal union a certain quota of their sovereign powers. Mr. Higgins need not have spent half the morning in endeavoring to formulate a theoretical principle which has been discussed till it is threadbare. We have not come-some of us hundreds of miles-to discuss theories, but to do practical business. We cannot have our own way according to our own fanciful and philosophical ideas. Mr. Higgins has aired his eloquence and his own philosophical, fanciful ideas for upwards
of an hour, but it only injures the cause of Federation in this Convention and in the country, and it is absolutely wasting time to do so. For my part I was elected by the people of Victoria on the full assurance that I would vote straight in favor of equal representation of the States in the Senate, and I intend to do so.

Mr. CARRUTHERS:

The hon. member who has just resumed his seat is, perhaps, like myself, unfortunate in speaking too earnestly at times. He has earnestly rebuked Mr. Lyne and myself, and says, because we choose to support this proposal we are inimical to Federation. We are all inclined to be charitable towards one another, and I hope members will take a charitable view of the affair in regard to Mr. Lyne and myself. We are not opposed to Federation, but are exercising our undoubted right to vote according to our own judgment and conscience. Mr. Lyne, in New South Wales, advocated exactly these views which he has advocated on the floor of this chamber to-day, and he was elected with the knowledge possessed by the people that he held these views. My position is this, that in the chief debate of the Convention I intimated that, although illogical, I could not approve of equal representation, but was prepared to concede it as the only basis upon which we could have Federation. But I then said, that was provided, the constitution was so framed that the ultimate will of the people in case of a conflict should prevail. That is exactly the position I take up to-day. I do not wish to jeopardise Federation by opposing equal representation; but I would sooner wreck Federation than thwart the will of the people, who should rule in their own way. I believe that a Federation of a character that imposes on the majority of the people the rule of the minority, will be a curse and not a blessing; and I think we can well afford if we have to wait until we have a Federation which is in accord with the will of the majority. I say that it is nothing more or less than provincialism under the cover of another name, which seeks to impose on the majority doctrines, principles, and legislations which they hate. If this Convention shows a disposition to allow a safety-valve to exist in our Constitution which will give free play to the opinion of the majority, I will not dispute on this important matter, but if members will sit on the safety-valve, then I am not going to help them in any shape or form. If the intention of this Convention is to adopt a deadlock provision such as Mr. O'Connor, and almost every member from New South Wales, supported, then I am with them.

Mr. LYNE:

Every one of them supported it.

Mr. CARRUTHERS:

Why have members gone back on that proposal? If the proposal is carried
we will have the Norwegian system or the referendum, and I will keep silence and vote for equal representation, but if the majority are placed under the heels of the minority you jeopardise Federation as far as New South Wales is concerned. It is done in the cause of provincialism, although you call it by a new name-States rights. The liberty and lives of the 3,000,000 people in New South Wales and Victoria are placed in the hands of the 750,000 people of the smaller States, and that is handing over the question of peace and war, because we have to look to the time when we are independent, and that means placing the liberty, the lives, the homes, and the freedom of the majority of the people of Australia in the hands of the minority. Mr. Deakin spoke about breaking a compact entered into, but he cannot accuse me of it, because I was clear in my language.

Mr. DEAKIN:
There was no actual compact. I said it was generally understood.

Mr. CARRUTHERS:
The Premier of Tasmania, Sir Edward Braddon, says there has been a breach of faith in this matter, having regard to the decision arrived at yesterday. I said yesterday that the victory would be one which would be dearly bought-a victory worse than defeat. My views were clearly expressed, and I have been consistent. My aim at this Convention is to have some ultimate provision by which Federation will be based on the will of the people, that in cases of deadlocks the people shall be the final court of appeal. Why should I be so anxious about the people of New South Wales in this particular matter? I am not here for the purpose of having a major regard for the people of the other States who are already well represented, and I do not look after their interests. This is the only chance for us, as the agents of the people, to voice their interests and make claims on their behalf. What makes me more anxious than ever is that I have seen an instance of how a majority from the smaller States can barter away the rights and interests of the larger States. I have seen how a majority of the smaller States were prepared to barter away the rights of the people in New South Wales to the water in their rivers, without which two-thirds of our colony would be almost rendered a desert. As Minister of Lands in that colony, I know, in regard to that question, that the handing over to a Senate composed-

Mr. BARTON:
There is nothing final about it.

Mr. CARRUTHERS:
It may be there is nothing final in the whole Bill. There may be amendments that may cause me to modify my opinions on this point. I
want to make that clear. My vote, I know, will be in the minority; but if a majority support the amendments I will recall that vote— if we eliminate certain matters and if we also provide this safety-valve. I was mentioning that, having regard to the custody of the public lands here, we have a Bill to hand over the waters, without which these lands are worthless, and I am not prepared to give my vote in support of it. I am not prepared to hand over the control of our waters to a minority of the people who will have a majority of votes in the Senate; people who have no concern with our waters; I understand the Convention deals with national subjects, and if we limit it to that, I will not fear this interference; but, in dealing with such questions as parental control and the custody of children, you are dealing with great national rights—the rights of human beings. Can there be any question, any more vital question, than parental control and the guardianship of children? These are handed over by this proposal, and you are going to make it a question of the States concerned, irrespective of people, to be the ruling power in this matter. Mistakes have been made, and we must retrace our steps and not attempt such a wide scheme on these matters, which can be well regulated by the people. My hon. friend showed clearly that a true Federation Will leave local concerns to be governed by the local Parliaments. That being so, there is no need for having this question in the Federal Parliament. My vote will be in direct antagonism to the views I formerly expressed, taken at the first blush, but it is consistent with what I then said, that I would seek to have imprinted on this Constitution the right of the people to rule as the chief factor of the Federation, and the people most affected by it.

Sir GRAHAM BERRY:

I rise to say a few words, although I have a very bad cold, and fear I will have difficulty in making myself heard. I think there are some features in this discussion which have not been sufficiently considered. I admit that there was in the preliminary work of the Convention, and even at the elections some general consensus of opinion that in the Senate there would be equal representation with the House of Representatives, but there were no clearly defined views as to what the powers of the Senate then would be. It was thought it would be on the model of our Legislative Council, that it would be a check on hasty legislation, and have the right of rejecting financial measures; but in the wisdom of this Convention larger powers have been given to the Senate than it was thought to endow it with when the election took place. We have given them the right to initiate Money Bills. We have swept away all the safeguards created by the British Constitution where there were precedents to be referred to as to the
corresponding rights of the two Chambers. We have, as it were, taken a
leap in the dark, and we have endowed a second Chamber with large
financial powers which, in certain cases, will override the powers of the
House of Representatives. We have in their Constitution given them the
whole State for a single electorate on manhood suffrage. That will be an
immense power if used aright, but, in connection with the other conditions
that we have imposed upon them, it may be a great danger. We have not
provided that the Senate can be dissolved. It is a Chamber which will have
continuity of existence.

Sir GRAHAM BERRY:

Whereas the House of Representatives can be dissolved. The House of
Representatives will be returned by districts, and that in the controversies
between the two Houses will throw a large amount of advantage in the
hands of the members of the Senate. Every member of the Senate can say,
"I represent the whole State; each of your members only represents a
section. The lot of you altogether only represent a State, whereas each of us
represents our State as a whole, and consequently our claim to represent
the people is greater than yours." Is that, I ask, a position in which the
House of Representatives should be placed?

Mr. LYNE:

No.

Sir GRAHAM BERRY:

Does it not to a large extent and in certain circumstances altogether take
away the predominance which I think all admit theoretically should vest in
the House of Representatives? I submit that it does. In addition to the
power of rejecting Money Bills we have given over financial powers to the
Senate which will place them in a position to almost override the House of
Representatives.

Mr. LYNE:

Hear, hear.

Sir GRAHAM BERRY:

I dwell upon the near approach to co-ordinate power on the part of the
Senate, and in some respects to excess of powers over the House of
Representatives, in justification of the proposition that representation in the
Senate comes up afresh. It is totally different to granting equal
representation to a body that would only represent for a time a check upon
hasty legislation of the more popular House. That is one thing. It is another
thing to grant equal representation in a Chamber which in many cases-and
not infrequently-as the last resort, can altogether dominate the decision of
the people's House, and it is because we have granted such large financial
powers—powers that will lead us we do not know where-
Mr. LYNE:
    Hear, hear.
Sir GRAHAM BERRY:
    That takes us altogether out of the British Constitution and away from the
procedure of responsible government.
Mr. LYNE:
    Hear, hear.
Sir GRAHAM BERRY:
    And we do it on the plea that we are conserving State rights. In how
many instances would the Senate have to defend State rights? Would it not
from its position, from the continuity of its existence, be the conservative
House, notwithstanding that it is elected under manhood suffrage. Would it
not be the nucleus for all tactics and all endeavors to subvert the national
representative government in the House of Representatives?
Mr. LYNE:
    Hear, hear.
Sir GRAHAM BERRY:
    If that is so, and if hon. members cannot deny that, they have made a
powerful Senate, one that can in many ways dominate the House of
Representatives. Then how can they justify those who are representatives
of the larger colonies conceding the right of the rule of the minority over
the rule of the majority of the people of Australia?
Mr. LYNE:
    Hear, hear.
Sir GRAHAM BERRY:
    I do not think we have altogether seen what we are doing and where we
are drifting. This Senate is a power, and may become a power that will
override altogether the rights of the people as represented in the House of
Representatives. It is quite true that the House of Representatives will
nominally control the Executive, which will owe its life to the will of the
majority of the people's representatives, but how frequently do we know
Governments and majorities that have been obliged to resist the action of
the Second Chamber and are then faced with the difficulties of a deadlock
and the inconvenience of a penal dissolution? If that dissolution is difficult
and dangerous and little resorted to in a single State, bow much larger is
the risk, how much greater the danger, how much more the difficulty, when
the whole of Australia will be appealed to in a general election, which,
after all, will settle nothing. Gentlemen in the Senate can sit there and
smile at you while you are going as the House of Representatives, to the
country. Then, again, they may again reject a measure which the country by the majority of its representatives has endorsed because they are safe for three years longer, by which time they believe the whole matter will be forgotten through other issues having arisen. They will become, by continuity of existence, really the governing power of Australia. It is unfortunate that so great a question should be hampered by what is considered to be a compact.

Mr. DEAKIN:
I used no such word.

Sir GRAHAM BERRY:
That was the inference to be drawn from your remarks.

Mr. DEAKIN:
I say there is an honorable obligation on our part to recognise the sacrifice these gentlemen made yesterday.

Sir GRAHAM BERRY:
I recognise no sacrifice.

Mr. REID:
Hear, hear.

Mr. DEAKIN:
I do.

Sir GRAHAM BERRY:
I deeply regret if it was to be such an overruling issue that we decided yesterday, as we did. After all, the power of making amendments or suggestions in this Parliament is not in itself important. The Senate by suggestions could indicate its will. It could do no more by an amendment. The House of Representatives could decline to accept the suggestion as it might reject an amendment of the Senate, and it was only as to which house shall be responsible for the rejection of a measure that that discussion was of any vitality. If the issue is to have such far reaching consequences as Mr. Deakin and Mr. Quick seem to indicate, it was a very unfortunate discussion for us, because if we take the full meaning of their language it ties our hands on this and other important principles which we should fully discuss—which change their meaning, their importance, and their bearing on the constitutional questions from day to day—as we deal with other questions. I think also it has been now proved by the result that it was unfortunate that our mode of procedure was by secret committees, because hon. members feel that when majorities have been ascertained and views expressed by colonies, and the result known, it largely kills debate and prevents that fair expression of opinion and that fair result which would have come had we had these discussions open to the public in open
practical debate before there was any foregone conclusion as to what views would be taken. Members would have been freer to have expressed their opinions; we should have had divisions recorded which would at least have instructed the people of Australia as to the views held, the reasons for those views, and those who held with one side or the other. But I only rose for the one purpose of saying how largely the question had been altered by the way in which we had dealt with the financial powers of the Senate. And if we were able and willing to have conceded equal representation to a Senate that could only check for a time financial legislation, we might have freely said we would continue by that understanding; yet, when the powers are so much enlarged, so different from those we are acquainted with as the powers of a Second Chamber, and depart so largely from the precedents established by the British Constitution, to which we could refer for any difference between the two Houses in a matter of procedure, then it becomes a vital question as to the representation in that body.

Mr. HIGGINS:
Hear, hear.

Sir GRAHAM BERRY:
We have conferred large powers which ought to be shared, not equally by representation of colony and colony, but equally by representation by population.

Mr. LYNE:
Hear, hear.

Sir GRAHAM BERRY:
There should be a larger representation of the people in the Senate now endued with these large financial powers than there need have been in the Senate as proposed to be constituted at first. I thank hon. members for the kind attention with which they have listened to me.

Mr. ISAACS:
It is not very often that I find myself compelled to vote differently from my hon. friends Sir Graham Berry and Mr. Higgins. Our views on most political subjects are alike, and on this, as I have endeavored on more than one occasion to indicate and emphasise as strongly as I could, my reason goes absolutely with the doctrine they have endeavored to lay down—that the idea of equal representation of States in a Federation is neither necessary nor logical.

Mr. LYNE:
Hear, hear.

Mr. ISAACS:
It, in that respect, resembles, in my judgment, the question that we were debating yesterday so closely, namely, the co-ordinate powers of the
Senate with regard to Money Bills. In neither instance, in my opinion, is there a logical foundation for the contention, but there is this difference between the two, that in one case there is neither a logical nor a political justification, while in the other—the question we are now considering—although there is no logical justification, there is an intensely strong and, in my opinion, overpowering political justification.

Dr. QUICK:

Hear, hear.

Mr. ISAACS:

I cannot say of this question, as I said of the other, and as some of my hon. colleagues have said, that it is vital. With certain reservations, and under certain conditions that we hope to embody in the Bill, it is in my judgment not vital to the people of Victoria, and I should be doing wrong if I endeavored to express my opinion in another direction or failed to express it in this. I have no hesitation in saying that I believe to insist upon excising the doctrine of equal representation of States in the Senate would be tantamount to abandoning the question of Federation altogether. I have no shadow of doubt in my mind that not a single one of the less populous colonies would come into the matter at all. Then I have to ask myself "Will Victoria or New South Wales stand out if we have equal representation?" In my opinion, the presence of it will not of itself afford any complete reason for their standing out. I quite give in my adhesion to the observations which have been made that the principle of equal representation must not be accompanied by such excessive powers as will allow the smaller States to dominate the larger ones, I believe if it were accompanied with such dominating powers that Federation would become impossible because I conceive, as was said at a somewhat similar Convention a century ago, "We are not called upon to commit suicide in the vain endeavor to live happily ever afterwards." Now, if we concede this question of equal representation to the States, as I think we are bound to concede it if we are to have Federation at all, then on the other hand we must take care that the will of the majority of the people on national questions—which is in effect the very hypothesis on which we federate—the will of the whole of the Federation collectively and proportionately, shall be done. I certainly strongly hold to the view that there should be some power of ascertaining in a definite and decisive way the will of the people if the two branches of the Legislature differ.

Mr. LYNE:

It you do that I shall vote for equal representation.
Mr. ISAACS:

The hon. member should do as I intend to do—vote now for equal representation, and endeavor to carry out the other point afterwards. I or my hon. friend Sir George Turner will endeavor to have embodied in this Constitution some provision against deadlocks. We shall endeavor to have embodied in it, on a basis which will be fair to the small States, some means—preferably by the referendum—of ascertaining definitely and decisively the will of the majority of the people. If that is done I see no reason whatever to fear this matter. But whether we fear

Mr. TRENWITH:

I wish to say a few words on this question, and some hon. gentleman interjects, "Whenever are we going to get home?" That is a comparatively unimportant question. The important question is, "When are we going to provide a Constitution that will be effective for the purposes of these colonies?" The other question is altogether unimportant. The question that has been raised by my hon. friend Mr. Higgins is extremely important, and one the discussion of which at this stage involves one in serious perplexities. It has been urged that without equal representation in the Senate Federation is impossible. My hon. friend Dr. Quick has argued that with considerable heat, but I venture to say that is altogether a false assumption for which there is no warrant either in history or by the circumstances by which we are surrounded. The warrant only exists in the imagination of gentlemen who say that the smaller States will not come in unless they receive equal representation. I have no doubt that the smaller States will try all they can to make the very best bargain for their people, but if it is a fact that there are any States that will not come in until they get some advantage over other States that justifies the assertion that they are not yet ripe for Federation.

Mr. LYNE:

Hear, hear.

Mr. TRENWITH:

If they are ripe for Federation, and if it is desirable and necessary, the States will come in upon conditions which are equitable and just to all; and clearly—the provision to give representation in proportion to the interests involved is an equitable and just one. When my hon. friend Mr. Higgins was speaking of a partnership, I think Mr. Barton interjected:

Equal contracting parties would require equal representation.

I will submit a possible case. There are two companies desirous of associating for common purposes—one having 1,000 shareholders and £1,000 capital, the other having 100 shareholders with £100 capital. Does
Mr. Barton believes that these two associations would come together having a joint board of directors equally representing both associations? All our experience gives the lie to that supposition.

Mr. Howe:
The case is just the reverse of what you say.

Mr. Trenwith:
It is not, but my hon. friend may have some knowledge to the contrary.

Mr. Deakin:
It all depends upon how you work it.

Mr. Trenwith:
There are some who, like myself, would be prepared to advocate Federation with equal representation of the States in the Senate if certain other conditions are provided.

Mr. Lyne:
So would a good many of us.

Mr. Trenwith:
I have been a federationist ever since I have taken any part in public life. I am an Australian native, and I have a patriotic desire to see the nation with which I am associated assume a position of importance amongst the nations of the world. At the same time I have felt that there is a grave danger in making States as States equal, unless the power that the States House has to exercise is to be restricted. But what it ought to be, and what it can only be, can only be decided if the claim on behalf of equal representation is a fair thing. Then, if that be so, the only justification for equal representation is that it may become an effective shield. I was endeavoring before the adjournment for luncheon to show that in connection with the institutions of which we have knowledge unequal institutions do not associate on equal terms, and I instanced two imaginary Companies. We have also in the experience of these colonies very large, numerically strong, and popular institutions known as friendly societies throughout the whole of Australia that have a sort of federal government. They have for the purpose of their local government within the lodge a considerable amount of autonomy, but they have for the purposes of their corporate government a sort of federal parliament called by some annual movable committees, by others boards of directories, for the purposes of the whole society, and they furnish a sort of illustration of the kind of representation that Mr. Higgins suggested might with propriety and equity be conceded, in connection with this Federal Government. They provide that every lodge in the central parliament shall have representation without regard to its numbers, but having gone beyond that initial primary representation they proceed then upon the proportionate lines.
Mr. PEACOCK:

Not in all cases.

Mr. TRENWITH:

Very nearly so; in all that I have knowledge of. These are in their own way model federations, and we find in connection with this system that it works without injustice to any. However. I do not purpose covering or attempting to cover all the ground, or even much of it, that might properly be covered in this connection, because I recognise the futility of this discussion so far as the Convention is concerned. Still, I think we owe a debt of gratitude to Mr. Higgins for bringing up the question. It is a question that is now, and has been ever since Federation was first talked of, exercising the minds of the people who are to be the parties to it. When this matter is settled here to-day, if pressed to a division, because my views are in accord with those of Mr. Higgins, because I have expressed those views outside, and in this Convention when I spoke on the main question I expressed similar views, and suggested something like the proposal my hon. friend has submitted, I shall be compelled to vote for the resolution; but if the opposite is carried, that the States shall be equally represented, I shall cheerfully fall in, and feel it to be my duty to urge upon the people with whom I am associated in the colony I am connected with, the acceptance of the Constitution with that equal representation, providing there are sufficient safeguards against the injury that may possibly come from equal representation. There is a very grave danger, if the powers of the States House are not carefully guarded, that more than the States ask for may be achieved. While they ask for protection, and only get protection from undue domination by the larger States, I am prepared to fall in, and would advise those associated with me to fall in, with such a proposal. I submit that they must give serious consideration at a later stage to the question of providing some safety-valve - some means by which, if a conflict should arise between the interests of the vast majority and those of the minority, after reasonable delay has taken place, after the fullest ventilation has been given to the subject in dispute and after every opportunity has been presented to the people of appreciating the dangers on each side-the will of the largest number of people may be ultimately given legislative effect to. If that is done I shall cheerfully fall in with the illogical and unnecessary provision, if it will expedite the adoption of Federation by these colonies, which is so important, so desirable and so necessary that I shall be prepared-and I think the people should be prepared-to give way upon some matters which are not of great importance, for the sake of the great advantage which will be gained by
Federation. I hope that members, if they have a majority, will not exercise it without regard to the strong and earnest objections which a number of people have to the proposal which places in the hands of the minority the power to overrule the clearly expressed wishes of the majority.

Mr. GLYNN:

Before the hon. member replies—as I know whatever he states to this Convention is the result of considerable thought, and he invariably supports the exposition of his thoughts by keen argument—I should like to call his attention to one or two points in his speech which I consider exhibit the weaknesses of his position. I quite agree with Mr. Higgins that, to a very large extent, Federation is consolidation; that is, that to the extent of the delegated powers there is in effect consolidation. There is direct power of executive and legislative control over the citizens, and I think also, if the matter of equal representation in the Second Chamber was to be sustained on a logical basis, it would be rather hard on the smaller States to justify it in the principle; but I would ask the hon. member to, consider the matter from this point of view: Is it not a fact that consolidation is a principle of government which is only applicable to certain limited areas, that you cannot push consolidation beyond a certain reasonable geographical and population limit; and is it not, on the other hand, a fact also that the system of small governments or communities has its evils? I think in the early times, as Mr. Freeman says, the great strength lay in centralisation in the smaller States, and Mr. Higgins will remember that where the towns were bound together, as in the case of old Greece, which was a quasifederation, equal representation was nearly always a condition precedent to their union. It was the principle out of which the modern system of Federation has sprung, because if you go back 100 years you will not find a Federation. The only true type which we have as yet seen is the Federation of the United States of America; and that is one which, of course, is based upon a principle the direct opposite of which he advocates by his amendment. The idea of most scientific historians is that strength in the future lies in large States. That is the principle of Mr. Seeley in his work "The Expansion of England." You cannot have, larger States on the consolidation principle, and you cannot amalgamate on the unitarian principle, and if you have a compound system it is not defensible in logic; but you cannot apply logic to political matters. One of the greatest statesmen said we must not be deceived by the delusive plausibilities of moral or scientific politicians. It is the necessary result of compromise between two scientific systems of government, having, as Freeman says, its
advantages and disadvantages; capable of being despised as a compromise, or extolled as a golden mean. I look on the Second House having a function different even from representing the States as units. Mr. Higgins has looked upon it from the point of view of States rights. I agree with him that if you look into that question there are very few issues on which disputes may take place on the question of States and States. A large consolidation is not workable, because there will be a subordination of certain local opinions to the will of the minority. Mr. Higgins mentioned the case of England and Ireland. I ask that, considering the consolidation principle is working out there to the alleged subordination of local interests, have we not another purpose subserved by federation with a second House, the principle of election upon an equality of the States? Have we not the power of the majority to oversway the opinions of the minority in the Lower Chamber checked by equal representation in the other House? But if that check were not in existence to influence opinion in the Lower House, matters of local politics, that residuum of such, which would be in the Federation, and which under the consolidation through the Lower House would be dealt with by the majority, would be beyond the control of the minority representing the smaller States in the popular House. The States House is thus an effective though an illogical addition. Now, my learned friend has referred to the debates which took place in the Convention of 1787. I think it was after the Convention had framed it that the Constitution was particularly unpopular. One writer—I think it was Adams—stated that the union was wrung from the grinding necessities of a reluctant people. They started a series of papers advocating the adoption of the Act of Union. Hamilton, one of the authors referred to by Mr. Higgins in one of his arguments in the Federalist, justifies it as a compromise. He justifies equal representation in the Upper House. I am putting it from the point of view of a compromise, because my learned friend says there is no logic for it. In the Seventy-second article of the Federalist, the authorship of which is assigned to Hamilton or Madison, with the preference to Hamilton, it is stated:

The equality of representation in the Senate in another point which, being evidently the result of compromise between the opposite pretensions of the large and small States, does not call for much discussion. If indeed it be right that among a people thoroughly incorporated into one nation every district ought to have a proportional share in the Government, and that among in. dependent and sovereign States bound together by a simple league, the parties, however unequal in size, ought to have an equal share in the common councils, it does not appear to be without some reason that in a compound republic, partaking both of the national and federal
character, the government ought to be founded on a mixture of
the principles of proportional and equal representation. But it is
superfluous to try by the standard of theory a part of the Constitution which
is allowed on all hand

Mr. HIGGINS:
Hear, hear; that is the point.

Mr. GLYNN:
But you cannot draw a strict line of demarcation in politics; you must
take what is feasible and what is workable and in a balance of advantage
preferable. If you apply the principle in the matter of consolidation, the
same spirit of amity referred to as mutual concession must apply there also.
He goes on to say:

But as the larger States will always be able by their power over the
supplies to defeat unreasonable exertions of this prerogative of the lesser
States, and as the facility and excess of law-making seem to be the diseases
to which our Governments are most liable, it is not impossible that this part
of the Constitution may be more convenient in practice than it appears to
many in contemplation.

So much for what Hamilton said more than a hundred years ago. Now let
us see how it worked out. We have the evidence of Bryce, in 1893:

In the House the large States are predominant; ten out of forty-four (less
than one-fourth) return an absolute majority of the 332 representatives. In
the Senate these same ten States have only twenty members out of eighty-
eight-less then one-fourth of the whole. In other words, these ten States are
more than sixteen times as powerful in the House as they are in the Senate.
But as the House has never been the organ of the large States, nor prone to
act in their interest, so neither has the Senate been the stronghold of the
small States. for American politics have never turned upon an antagonism
between these two sets of commonwealths.

Then later on he says:

The two bodies are not hostile elements in the nation, striving for
supremacy, but servants of the same master, whose word of rebuke will
quiet them.

These are matters which to a large extent discount the effect of the very
learned argument of my hon. friend Mr. Higgins. As opinion outside this
Convention will settle whether the Constitution shall be adopted or not,
and the arguments used here will have considerable force upon public
opinion, I hope in his reply the hon. gentleman will devote his attention to
this matter.

Mr. HIGGINS:
I ask the indulgence of the Committee for a few moments. Hon. members will, I think, agree that the time has not been wasted. There is no doubt that we have some important admissions from those who are going to vote against me that this principle is wrong, and there has not been throughout the debate anyone except Mr. Glynn who has ventured to justify equal representation on its merits. The only argument used in favor of it seems to be that for the purpose of getting Federation under this Bill we should allow equal representation. Mr. Barton said:

Equal contracting parties ought to have equal representation.

Yes, in forming a partnership agreement. If several men of different degrees of wealth, with different assets, form a partnership agreement, they stand equal until it is formed; but when it is formed they have a clause which provides for the majority of partners ruling. Until the time this Constitution has been formed and accepted there should be equality, but once in the Federation for federal purposes you should have the majority ruling. As to what Mr. Glynn has said, I agree thoroughly that we are not to follow out logically exactly what we think to be correct. You cannot do that in politics. You cannot have everything you want in principle. What was the compromise in the United States that has been referred to? One party wanted to leave the separate States absolutely with full separate powers, and the other to have one unitary State having absolute control over all the States. The compromise lay in giving the State absolute power over purely State affairs, and giving to the Federation power over federal affairs. Equal representation was not a compromise in a matter of principle, but, as is shown by Hamilton in the Federalist, the result of pressure in circumstances of extreme danger. They felt the danger of an enemy at their own doors. The British had forts on their boundaries, and they felt the fear of Delaware and Rhode Island making terms with them. That equal representation was formed on the basis of terror, and after 100 years we are asked to accept a system which the people of the States repent of at the present day. The only painful passage during this debate was with my friend Dr. Quick. I was angry at the time, but I feel sure it was his desire to have a good result that led him to an extravagance of expression which he will regret. He would never have accused me of being insincere to the cause of Federation if he had known me a little better, and if he had allowed me credit for as good intentions as I have no doubt he has himself. But speaking of the effect on Federation, I think the greatest danger to the adoption of a good Federal Bill arising in the course of this debate has been the course of conduct taken by those who have accepted equal representation as being a correct principle, and by accepting this as a
correct principle have shifted the area on which compromise ought to proceed. They have given those who hold for extreme States rights a principle which it is very hard to limit logically, because it is said if you grant equal representation you must have equal representation on all questions which affect the States.

Mr. ISAACs:

It was admitted as a principle instead of a compromise.

Mr. HIGGINS:

That is just it. I see that Sir George Turner very candidly—as he always does—put it the other day, that even as a matter of pure tactics it has been a gross mistake on his part to treat this as being a good principle in place of treating it as a mere matter of ultimate concession. It comes to a mere matter of judgment between Dr. Quick and myself. I thought, and I still think, I have been helping the cause of Federation in taking upon myself as a private unofficial member the brunt of bringing up the question of equal representation, knowing as I do it is absolutely a forlorn hope owing to the extent to which our position has been given away by those who hold official positions.

Mr. LYNE:

Hear, hear.

Mr. HIGGINS:

With a view to Federation it was my business to put before the Convention the view of the great bulk of the people throughout the colonies, and I am therefore glad to see that a representative from South Australia, which is at present a minor colony in population, has admitted that at least logically we are right. I did not press the logic of our position, but I did ask members to look at history and see whether equal representation has done any good in America. No one has been able to show a single instance in which it has been of the remotest good in America. I have to thank members for listening so patiently to me, and I appeal to them to recognise that I have not wasted the time of the House.

Mr. REID:

I am very sorry we cannot get out of these academical disputes. There has been a flavor of that sort about the whole of this discussion which we have had once or twice too often. We have now come down to the business part of this compact. We cannot do business without equal representation in the Senate; therefore I vote for it. But, on the other hand, I hope not to leave this city before making a resolute effort to guard against an evil which would undoubtedly arise from this equal representation, unless there is something more in the Constitution. I have no hesitation in saying that unless something of the kind is in the Constitution I should feel very great
difficulty in advocating it; but the proper time for that will come later.

Mr. ISAACS:

Hear, hear.

Mr. REID:

This is not the time for it. All through this matter I have declined to indulge in any diplomacy or strategy, or threatening this or that. I said at once how far I could go. This equal representation in the Senate is a thing we can talk about for hours, but it is a necessity for Federation, therefore I say no more about it; but I also think there is another necessity in this Federation, and that is that we must put in this Constitution some guarantee that if the two Houses fall out, and cannot perform those functions for which they are constituted, there must be some reserve power in the Constitution to enable the Commonwealth to be saved from the horrors and losses of deadlocks and confusion.

Mr. ISAACS:

Hear, hear.

Mr. REID:

I do not put that as a question between the smaller and the larger States.

Mr. SYMON:

Hear, hear.

Mr. REID:

I put it simply as a question affecting the character of the machine we are constructing.

Mr. ISAACS:

Hear, hear.

Mr. REID:

Without the slightest hesitation I vote for this equal representation; but later on I will endeavor to give effect to my views upon that other matter, which I consider to be a corollary. I have no hesitation in saying that if the Constitution is left as it is now the Senate will be the predominant power in it.

Sir GRAHAM BERRY:

Hear, hear.

Mr. REID:

I agree with every word of Sir Graham Berry and Mr. Carruthers on that point. If there is to be a predominant power in the Constitution, it should be the majority of the taxpayers of the country. But there is plenty of time to talk about what we can or cannot accept. Let us do our best with this Constitution, and go right through with it, and then be able to put it before our respective populations, and come back to the adjourned meeting with
clearer perception of the wishes of the people. I am very sanguine that we will get over all our difficulties. I have no hesitation in saying that I have now a very much brighter view of the prospects of Federation than I had when I came to this Convention. The more we look upon this as a machine which we are anxious to construct in a perfect form, the better for the success of our work.

Mr. LYNE:

It seems to me that a great many of the representatives are practically shirking this question, and the Premier of New South Wales, who has just spoken, is doing the same thing. Is he prepared if this equal representation is carried, and no safety-valve introduced, to accept equal representation? I ask Mr. Isaacs the same question.

Mr. ISAACS:

I shall have full opportunity of expressing my views by and by.

Sir EDWARD BRADDON:

You are introducing local politics.

Mr. LYNE:

With all due respect to Sir Edward, I am not introducing local politics.

Sir EDWARD BRADDON:

It sounds like it.

Mr. LYNE:

Then your hearing must be very faulty. I am putting one of the most essential and important matters connected with Federation, and I am going to vote with Mr. Higgins to prevent equal representation in the Senate. And I also say this, with Mr. Carruthers, that if there is a safety-valve introduced later on in the shape of one or two things, either a modified referendum or else the Norwegian system, I shall then be prepared to give equal representation, because I know it cannot then ultimately prevent the will of the people being observed. A majority of those who have spoken are against equal representation with the powers given at the present time, and the able speech of Sir Graham Berry should have some weight. It showed that the powers given at the present time were greater than under the Bill of 1891. It is a dangerous thing indeed to allow the Senate the power of overriding the will of the House of Representatives. Just one word with reference to the very inflamed speech of Dr. Quick. He accused me of two or three things in very few words and in a very short time. One was in not saying what I thought of equal representation when I was at Bathurst. I tell him that I have made this one of the most stable planks in all my addresses throughout New South Wales, and also at Bathurst, and if he was listening he would have heard me there.
It ill becomes him to accuse members of this Convention with not desiring Federation, because he happens to be an enthusiast himself. On reasonable and equitable grounds I am prepared and anxious for Federation, just as anxious as he is, though perhaps I am not so demonstrative. I hope that before this Bill is passed that there will be a safety-valve introduced. I do not think I am justified, nor any other member of this Convention who believes that the Bill is not what it should be, in voting against the motion of Mr. Higgins.

Question-That the words proposed to be struck out stand part of the clause-put. The Committee divided.

Ayes, 32; Noes, 5. Majority, 28.

AYES:
Abbott, Sir Joseph Isaacs, Mr.
Barton, Mr. Kingston, Mr.
Braddon, Sir Edward Lewis, Mr.
Brown, Mr. McMillan, Mr.
Clarke, Mr. Moore, Mr.
Cockburn, Dr. O'Connor, Mr.
Deakin, Mr. Peacock, Mr.
Dobson, Mr. Quick, Dr.
Douglas, Mr. Reid, Mr.
Downer, Sir John Solomon, Mr.
Fraser, Mr. Symon, Mr.
Fysh, Sir Philip Taylor, Mr.
Glynn, Mr. Turner, Sir George
Grant, Mr. Walker, Mr.
Henry, Mr. Wise, Mr.
Holder, Mr. Zeal, Sir William

NOES:
Berry, Sir Graham Lyne, Mr.
Carruthers, Mr. Trenwith, Mr.
Higgins, Mr.
Question so resolved in the affirmative.
Sub-section as read agreed to.

Mr. LYNE:
I want to express my views on this sub-section, which reads:
The members for each State shall be directly chosen by the people of the State as one electorate.
I think a great and grave objection will be taken throughout the colonies to the election of the Senate by each State as one electorate, and, as I said a
week or two ago, each State will return its six representatives, the whole State voting as one electorate. I think this is about the most conservative proposal ever imported into any Bill. I have only to refer to what occurred in South Australia some years ago, when the Legislative Council was elected in the same way. So dissatisfied were the people with this mode of election that they had the colony divided into different electorates. I am satisfied that if this passes the Senate will be a most conservative body, and once men of means have obtained positions in the Upper Chamber it will be absolutely impossible to displace them because of the inability of any ordinary individual to canvass the whole colony as one electorate. I intend to oppose this as strongly as I can, not only now, but when the measure is submitted to the Parliament of New South Wales. This Bill cannot go before the people until it filters through the various Parliaments.

Mr. ISAACS:
The same as the House of Representatives.

Mr. LYNE:
No, it would not be; and I will give you an example. For the House of Representatives New South Wales would return twenty-six members, I think it is. There would be four or more of the large electorates of the House of Representatives in each electorate of the Senate.

Sir GEORGE TURNER:
What about Tasmania?

Mr. LYNE:
I put Tasmania out of the question.

HON. MEMBERS:
No, no. Nonsense.

Mr. LYNE:
Yes; because it cannot be compared in a division of this kind with any other colony. I simply put it out of the question as a division, and I think Tasmanians will find it is a very arduous thing once a man gets his seat established in the Senate to remove him if he is wealthy. That is what will take place in all of the States. It has taken place in the past and will take place in the future. Unless a man is of great means he will be unable to get a seat with the unduly large electorate proposed in this clause. Mr. Isaacs says it will be equal to the House of Representatives. If I could import my ideas into this Bill I should raise the age of the electors for the Senate from 21 to 25. That would make a great difference, and it would give a more mature vote than you will get with the age fixed at 21.

Mr. ISAACS:
I thought you wanted the whole of the people to vote.

Mr. LYNE:

That will give a more mature vote, I say. I am only giving my ideas as to what I would like the franchise of the Senate to provide for. Take one electorate in New South Wales constituted for the Senate. It would comprise the whole of New South Wales, bordered on the south by the Murray, on the west by the South Australian border, on the north by the railway from Bourke down to the mountains, and from there round the mountains to Mount Kosciusko, and I ask any member if he does not think that is a kingdom quite enough to return one representative. The next one would be the whole of north New South Wales, and there would be two members, one for the north, and one for the west coast. There would be this kingdom which is larger than Tasmania, and it is large enough to return one member, instead of having the whole lumped into one, which would make it impossible for an ordinary individual to obtain a seat in the Senate.

Sir GEORGE TURNER:

Would they have an equal number of people voting for the Senate under that way?

Mr. LYNE:

As nearly as possible an equal division of people. I presume the same would take place, though not to so large an extent, in Victoria. I do not wish to talk in an academic manner in reference to this question, and I am not going to make any proposition which is a foregone conclusion, but I shall, when it comes before our Parliament, try to get it altered there, and I shall also try to get the feeling of the people strongly expressed. When the final Convention comes, that is the time to alleviate the conservative notion imported into this Bill.

Mr. BARTON:

Does the hon. member intend to move an amendment?

Mr. LYNE:

No.

Mr. BARTON:

Then I take it there will be no amendment; but I wish to put this on record that, if you are to divide each State into electorates, knowing as we do that this Convention will probably impose some qualifications for the electors to each House and the members of each House, and if you have locality as the guiding principle of election to both Houses, you destroy from its very base the purpose for which the Senate is established. The purpose is that each State shall be represented as one whole, as one entity, and that will be destroyed by the proposal, although Mr. Lyne does not make it as an amendment. You will have this further evil. Although we
must speak with some delicacy of the process which sent us here, we are able to see that it is a process calculated to relieve the minds of the electors of all local, petty, and parochial interests in the representation of the States, and it is a process highly calculated to lead to the election of the best men, as the minds of the electors are not disturbed by such influences as I have just adverted to. I do not wish to go any further than to place this much on record, that I think a proposal of this kind, if carried into effect, would simply tend to destroy the Federation from the very root.

Sub-section, as read, agreed to.

Sub-section 3-Term of service.

Mr. HIGGINS:
I shall move:
That the word "six" in the seventeenth line be struck out with the view of inserting the word "four."

My object is to place the senators more in touch with the people, so that they may not have six years before they are called to account for voting against that on which the people may have expressed their will.

Amendment negatived; sub-section, as read, agreed to.

Sub-section 4, as read, agreed to.

Sub-section 5-Qualifications of senators.

Mr. BARTON:
I agree with Mr. Higgins, and if he has no objection I will propose his amendment at the end of the clause. I have reconsidered the clause, and the objection raised by Mr. Higgins that there may not be sufficient provision for doing away with plural voting. The Drafting Committee are still inclined to the opinion that the point will not arise, but they agree that the matter may as well be made clear at once. I move therefore:

To add at the end of the clause the words: "But in the choosing of senators each elector shall have only one vote."

Mr. KINGSTON:
I would suggest to Mr. Barton that it would be infinitely preferable to state the qualification when first we come to it instead of referring to a later clause. I put it to the strong consideration of the hon. member whether that would not be the better course.

Mr. BARTON:
I do not think it necessary to take the course Mr. Kingston suggests. It was decided by the Constitutional Committee, and now by the Convention, that the senators shall be elected on the same franchise as the House of Representatives. The object of the Drafting Committee has been to carry that out in the most effective way possible. We provide here that the
qualifications of members and electors shall be the same as for the House of Representatives, and then we provide in respect to the House of Representatives what those qualifications shall be, and provide also that the qualifications shall remain so until the Parliament shall otherwise provide.

Mr. KINGSTON:

The definition should be put in in the first instance.

Mr. BARTON:

No, I do not think so. It is not because the Senate clauses come first in the Bill that we ought necessarily to provide first in definite terms the qualifications of the senators and then that those of the members of the House of Representatives should be the same. One is to hinge on the other, and I think hon. members would prefer to have it drawn in that way. I see no reason for any change. If we did change it the effect would no doubt be the same, but at the same time the argument that the provisions with regard to the Senate should come first in the Bill is not an argument which we need attach much weight to, except that every suggestion from the hon. member deserves much consideration. I think that the best way to provide for it is as we have provided.

Amendment agreed to; sub-section, as amended, passed.

Mr. DOBSON:

I am exceedingly loth to mention the subject uppermost in my mind, because in this assembly old federalists will know a great deal more about it than I do. But no one has called attention to the drastic change made in the Bill of 1891 as regards the election of the Senate. When several hon. members referred this morning to the historic division of yesterday and to the compromise of 1891, they seem to have forgotten

Mr. REID:

Do you think this makes it weak?

Mr. DOBSON:

I am in favor of a Senate elected by the people, but not of a Senate elected by the people on the same broad, manhood suffrage as the House of Representatives, and I am not prepared to depart absolutely and entirely from that Constitution and system of responsible government of which we have heard so much. On one hand hon. members hold up Colonial Constitutions as a model and here they depart from them. I can find no parallel, and I will ask my democratic friends if they can show one.

Mr. REID:

Oh, do not stir them up.

Mr. DOBSON:

Where have you an Upper House elected upon the same franchise as the
Lower House.

Mr. ISAACS:

Is it an Upper House?

Mr. TRENWITH:

It would be a bar to every reform if you always have to find a precedent.

Mr. DOBSON:

Although this is not an Upper House it is something stronger than an Upper House, and it ought to be stronger; that fact has been admitted by practically every hon. member present.

Mr. REID:

How long is this discussion to go on?

Mr. DOBSON:

This clause dealing with the powers of the Senate will be the one clause which will be discussed and criticised most widely throughout the Australian continent. Therefore I must confess my great disappointment at none of the able and intelligent federalists pointing out why we should depart from the British Constitution. Here is to be a Constitution in which we are absolutely giving property no representation of any description. We are actually giving to men who have nothing, the absolute right to tax all those who have, and you are not giving to those who have any single direct voice except what they get by election on manhood suffrage. You must have some regard to the fact that there are two classes of people, men who have something to pay their debts, and something in the way of security to offer to the English money lender; and on the other hand there are those-to some extent the bone and sinew of the Commonwealth-who have nothing, men who can take up their swag and go away, men who have no property of any description.

Mr. TRENWITH:

Does not bone and sinew represent wealth?

Mr. DEAKIN:

The mass of the people with us have a good deal of property.

Mr. DOBSON:

In these circumstances I should like to know-

Mr. TRENWITH:

Surely if they have nothing else you might give them a vote.

Mr. DOBSON:

They have a vote. I have understood it to be an absolute fact that this Senate should be a stronger body, with more powers than the ordinary Upper House.

Mr. REID:

It will be under this franchise.
Mr. DOBSON:

Nothing of the kind. You are absolutely seeking to make it a less powerful body than any Upper Chamber I know of.

Mr. TRENWITH:

There is, then, no strength in anything except property.

Mr. DOBSON:

For once my hon. friend is unfair. I do not want to be told that money-bags and property rule the world; it is brains, intelligence, and character which rule it.

Mr. REID:

A most inflammatory speech!

Mr. DOBSON:

I cannot understand why we should pass this section without one member of the Constitutional Committee telling us the reason we are departing from the compromise of 1891. Here is the vital part with which the Convention has to deal, and I should like to know from the hon. member Mr. Barton what justification there is for departing from it.

Mr. BARTON:

I am too tired.

An HON. MEMBER:

This is wasting time.

Mr. DOBSON:

I hold the right to criticise this clause. I believe it is the blot in the Constitution that will make the machinery exceedingly lopsided. But having entered my protest I will say no more.

Clause as amended agreed to.

Clause 10.-The Parliament of the Commonwealth may make laws prescribing a uniform manner of choosing the members of the Senate. Subject to such laws (if any), the Parliament of each State may determine the time, place, and manner of choosing the members for that State.

Until such determination, and unless the Parliament of the Commonwealth otherwise provides, the laws in force in the several States for the time being, relating to the following matters, namely: The manner of conducting elections for the more numerous House of the Parliament of the State, the proceedings at such elections, Returning Officers, the periods during which elections may be continued, and offences against the laws regulating such elections, shall, as nearly as practicable, apply to elections in the several States of members of the House of Representatives.

Mr. ISAACS:
I want to call attention to what I think is a little danger about this clause. It is provided in the clause we have just passed that:—

The members for each State shall be directly chosen by the people of the State as one electorate.

I am a little apprehensive that the wording of this section 10 may be construed more widely than it is intended, because if it is provided here, without any guarding words, that:

The Parliament of the Commonwealth may make laws prescribing a uniform manner of choosing the members of the Senate,

the previous section might be departed from. I think some such words as we find in section 27:

Subject to the provisions of this Constitution,

might be inserted; or we might, instead of the words:

Prescribing a uniform manner of choosing,

have these words:

Make provision for election of.

In any event it would be well to have something of that sort. In America the power prescribing the plan of choosing the senators is given to the State only. Congress has no power to make laws relating to the election of senators, except as regards times and manner. Great differences have arisen there as to modes of electing, whether by two Houses separately or conjointly; and various expedients have been resorted to, which I have referred to previously. I think clause 10 is too wide as it stands, because it might be contended hereafter, with a certain amount of force, that because Parliament has the power of making the laws prescribing the manner of choosing the members of the Senate, they might say that it should be done by the people as one electorate, or in any other way. This clause deals with the manner of choosing the senators, and I think, on the whole, it is too widely expressed.

Mr. BARTON:

I scarcely think there is any real difficulty in what Mr. Isaacs has suggested. We might possibly say:

Subject to the provisions of this Constitution.

In doing so we must be careful.

Mr. ISAACS:

It is in clause 27.

Mr. BARTON:

Yes. for a special reason. We must be careful, because the insertion of such words in some places may lead to an undesirably wide construction in some cases where they do not occur. We must not overlook the principle of construction that, in any statute or document, effect must be given to every
word of the document. Where there appears a repugnance which cannot be overcome there is a difficulty. There appears here no repugnance which cannot be overcome. In clause 9 we provide:

The members for each State shall be directly chosen by the people of the State as one electorate.

And in clause 10 we provide:

The Parliament of the Commonwealth may make laws prescribing a uniform manner of choosing the members of the Senate.

If the choosing by the people as one electorate is a uniform manner, then the Constitution provides a uniform manner. Altogether, therefore, one would not read clause 10 as being in entire opposition to that.

Mr. ISAACS:

I do not think it is in opposition to it.

Mr. BARTON:

Therefore it must be read as an exception to it. I take it this deals more with the manner in which you carry out your elections, and that the provision in a Constitution that a State shall be one electorate in voting as an entity of the Constitution is not a matter of minor degree as are these summed up in the phrase "manner of choosing." If these matters come before the courts the courts cannot have any difficulty. When we read these two clauses in one way they are in direct opposition; but we are told by the uniform canons of construction that we must give due effect to every word in this Bill. If we do that we cannot give opposite effects to these clauses; one refers to the great power conferred upon a State of acting as one electorate, and the other to its mode of conducting elections. While it is very wise and right of the hon. member to point out what may be a difficulty, there is really nothing that may be called a difficulty in substance about it.

Mr. DEAKIN:

The definition which Mr. Barton has rather implied than given of the word "manner," while ample enough as an answer to the criticisms of Mr. Isaacs, raises a doubt in my mind as to whether the word "manner" is also wide enough to cover an alteration in the system of voting if so desired. If "manner" relates rather to the conduct of an election and the general provisions made for taking votes, is it wide enough to cover also, and to a certainty, a variety of systems of voting which might perhaps be indicated by the word "method"? Would it not be desirable to take care that those States which think fit to adopt a system of proportional voting for the representation of minorities shall have power to do so, and that the Parliament of the Federal Commonwealth shall also be able to adopt such a

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system if it thinks desirable?

Mr. O'CONNOR:

There are only two limitations to the Subjects which may come under the head of "manner of choosing." One is that the member is to be chosen by the people of the States as one elector. That cannot be altered. The other is that the qualification shall be as stated for the House of Representatives, and one man shall have one vote. Those two things are expressly provided for, and therefore the "manner" cannot touch them. They really put the very basis upon which the Senate is elected.

Mr. BARTON:

That is the clause that calls the Senate into being.

Mr. O'CONNOR:

But the manner of conducting elections must embrace everything else, and the manner of choosing, surely, would include the method in which the votes are to be recorded. The method in which votes are recorded must allow for representation of minorities, alternative votes, or any other system.

Mr. BARTON:

It would be perfectly open, for instance, for every Parliament to provide for the Hare system of election. The tenth - clause provides that the Parliament may, in the first instance, prescribe an uniform manner applicable to every State, of choosing members for the Senate; but, subject, to such provision, the Parliament of each State may decide how to choose members of that body. It reserves such a power to the Parliaments of the States. But there is reserved to the Federal Parliament a power of control, which might well be exercised, in the case of certain difficulties or misdeeds arising, to take the matter into its hands.

Mr. SYMON:

I quite agree with Mr. Barton, that if a power is not taken away from the State it remains with it. But I doubt very much whether this provision in the first part of clause 10 would cover such an alteration as is implied in the introduction of the Hare system of voting. The other name for it is proportional representation, and I doubt whether the manner of choosing the members of the Senate would cover the alteration, either for a Federal Parliament or a State Parliament. My idea is that section is a limita-

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Therefore, if there were to be an alteration in the way of introducing proportional representation, that power would remain with the States and be exercised by them. There is nothing in this clause which enables the Parliament of the Federation to alter the qualification of electors to the Senate unless by an alteration of the Constitution. Proportional representation may or may not-I do not know whether it would or not-alter the principle of representation. If it would, it would, therefore, be untouched by a provision merely dealing with the manner of choosing the members of the Senate. I think, therefore, that the clause had better be left as it is, the result being, in my view, that, whilst the Parliament of the Commonwealth may make laws which would dominate as to the manner of choosing the members of the Senate, it would be for the States to deal with such a matter as is involved in the Hare system of voting. It establishes a different system of representation under the name of proportional representation.

Mr. GLYNN:

I think one should look at clause 20 in connection with this, because, I submit, we are not in a position to obtain the advantages of the Hare-Spence system with half the Senate going out every three years. There would be only three members to be elected in each district, and the principle of the Hare-Spence system is not effective where there are only three seats to be filled. I intend to move that clause 12 be rejected altogether. It completely ties the hands of the Federal Parliament against the introduction of any such system as the Hare-Spence. This system necessitates four, five, or six vacancies to make it practically useful. The principle of it is based on transferable votes, and it would be quite impossible to get the benefit of this transferring with only three seats to be filled.

Mr. SYMON:

But there are other systems.

Mr. GLYNN:

Yes; but that system is becoming popular. It is getting liberal Press advocacy, and is being taken up by many politicians. But unless you make provision for a sufficient number of vacancies, you will not have the essential difference, the transferable vote of the system, which is its highest recommendation. You cannot have any such system of representation under this provision.

Mr. HIGGINS:

With regard to another part of the clause, there is an intimation in my amendments of a matter I just wish to call the attention of Mr. Barton to. It is a practical matter. I am afraid that the first election for the Senate will
not be workable upon the provision made here. It says:

Until such determination, and unless the Parliament or the Commonwealth otherwise provides, the laws in force in the several States for the time being, relating to the following matters, namely: The manner of conducting elections for the more numerous House of the Parliament of the State, the proceedings at such elections, returning officers, the periods during which elections may be continued, and offences against the laws regulating such elections shall, as nearly as practicable, apply to elections in the several States of members of the House of Representatives.

Of course, we know that in the different States—at all events in Victoria—you have one returning officer for each place, and deputy returning officers. Now, as you want to elect for the whole State as one constituency, I do not see how the regulations relating to the return of members to the Lower House will do. I would suggest that, as we have just elected this Convention on the principle of the whole colony constituency—one constituency—there might be some arrangement made by which the same system should, until Parliament otherwise provide, be adopted for the purpose of electing senators. I do not wish to formally move this, but, as a matter of practical working, it is very important to look into. I do not see how officials are going to work out the proposed plan. However, it is a matter for the draftsman, and I feel sure it will be better left in the hands of the draftsman than in the hands of the House.

Mr. BARTON:

I quite see the effect of the suggestion my hon. friend makes, but I would like to remind him of this—that the Federal Enabling Act of 1895 will be expired and spent before this Act can ever come into operation. All the purposes of this Convention will have been done away with, and the Act will have become a dead letter. If the suggestion of the hon. member refers to this, that we should apply what we find in that Act, really what we are doing here is applying what we find in the Act; and for this reason, that the Federal Enabling Act says with regard to the manner of conducting elections that the electoral law of the colony should apply. mutatis mutandis. That is really what we are enacting here, so that there is no difference between the two things. If we refer to the Enabling Act, we find that the ordinary electoral law of any State is mutatis mutandis adopted. That is the effect of my hon. friend's suggestion.

Mr. HIGGINS:

There is a provision in our Act for one returning officer. Here you have several reporting for several districts.
Mr. BARTON:

First we prescribe that there is only one electorate; then we say that the proceedings in reference to returning officers should, as nearly as practicable, apply to elections for the Senate. That means that there is only one returning officer. What is a matter of irresistible inference is just as plain as if it were expressed.

Mr. ISAACS:

Would the hon. member mind informing me whether the Governor-General or the Governor of the State or who else is to issue the writs for the first election? For the House of Representatives, under clause 40, the Governor-General is to do it, but I do not see anything in connection with the elections for the Senate.

Mr. BARTON:

I will answer that in a minute.

Dr. QUICK:

I invite the attention of Mr. Barton to a point of some importance under the heading of-

Offences against the laws relating to elections.

We make provision for single voting in connection with the Senate, but there is no expressed provision for offences against the law in that respect. It may be suggested that these words: "and offences against the laws regulating such elections shall, as nearly as practicable, apply to elections in the several States of members of the House of Representatives," make sufficient provision for this contingency; but I do not think that would suffice in the case of a breach of the law of single voting in Victoria or Tasmania. No doubt the local laws in New South Wales and South Australia would be sufficient, because there is a penalty provided for offences against the system of single voting. In Victoria, Tasmania, and West Australia, however, there is no local machinery, and I suggest to Mr. Barton the propriety of drafting a new section which could be put at the end of the Bill under the heading of "Miscellaneous." That section might be made to embody the principle in the Victorian Federal Enabling Act, which prescribes the particular questions to be put to each elector as well as provides for offences against the law. This ought to be provided for in this Bill, because it would be doubtful whether the local machinery would be made applicable to a Federal election.

Mr. BARTON:

I understand the point raised by the hon. member is this-in the case of voting twice, if there is no provision in the local Act making that punishable, there would be no provision under this Act. That is a suggestion that
might well be taken into consideration, and, as two or three clauses will most likely be recommitted, I will look into it.

**Sir GEORGE TURNER:**

We had a similar provision in our Federal Enabling Bill.

**Mr. KINGSTON:**

I would point out that in the Federal Enabling Bill agreed to at the Hobart Conference we provided for the adoption of the electoral procedure of this colony, and we gave the Governor power to make regulations, and also to provide penalties for a breach of these regulations. In South Australia, in connection with our elections, we found it necessary to exercise our powers under this section, and the same thing was done in Victoria.

**Sir GEORGE TURNER:**

We ask every man whether he has voted before.

**Mr. KINGSTON:**

I suggest to Mr. Barton whether it would not be a wise course to adopt the plan I have suggested?

**Mr. BARTON:**

Both of the suggestions are quite worthy of consideration. There is a great deal in the suggestion of Mr. Isaacs that provision should be made for the issue of the writs for the first election to the Senate now that the mode of election has been changed. As regards the power to make regulations, I shall take that into consideration at the same time. I move:

To strike out the words "House of Representatives" in the last line, and to insert in lieu thereof Senate.

**Mr. DOBSON:**

I should like to mention one thing. The phrase used is:

The manner of conducting elections for the more numerous House of the Parliament of the State.

There are two colonies in which they have nominee Upper Houses, and in one of them there is no limit to the number of gentlemen who may be nominated. If the leader of the Lower House was determined to give effect to what he considered the will of the people, he might appoint a number of new members of the Upper House, and so give that House more numbers than the Lower. Apart from that is the phrase:

for the more numerous House,

a happy one? Would it not be better to say:

The House constituted on the wider suffrage?

**Mr. BARTON:**

That would never do, because some of the Houses are nominee Houses, and there would be no distinction of suffrage. In 1891-I remember well
how this was a subject of discussion in drafting the clause—the words "Legislative Assembly" were suggested, but it was taken into consideration that there are some States which do not have a Legislative Assembly. In New Zealand, for instance, it is the House of Representatives, and in Tasmania a member of the Lower House is "M.H.A.,” or "Member of the House of Assembly," is used. With such a difference in nomenclature, we c

Amendment agreed to; clause, as amended, agreed to.

Clause 11 - Failure of a State to choose members not to prevent business-agreed to.

Clause 12.-As soon as practicable after the Senate first meets the members chosen for each State shall be divided by lot into two classes. The places of the members of the first class shall be vacated at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the commencement of their term of service as herein declared, so that one-half may be chosen every third year. For the purposes of this section the term of service of a member shall begin on and be reckoned from the first day of January next succeeding the day of his election, except in the case of the first election, when it shall be reckoned from the first day of January preceding the day of his election. The election to fill the places of members retiring by rotation shall be made in the year preceding the day on which they are to retire.

Mr. HIGGINS:

There is an amendment on the paper which I was going to move, to alter "three" in the fourth line to "two." I tabled that in view of the House altering the term from six years to four, but as I understand the House is so strongly against me on that point, I shall not press this amendment.

Sir GEORGE TURNER:

The second sub-section provides—

For the purposes of this section the second term of service of a member shall begin on and be reckoned from the first day of January next succeeding the day of his election.

I have no doubt that the Drafting Committee had some very good reason for inserting these words by which a man may act for nearly seven years instead of six.

Mr. BARTON:

The fact is, some date had to be fixed, and between the 365 days in the year we thought New Year's Day was the best. It is the point of commencement of many things.

Mr. HOLDER:
Under this provision the States every now and then would have, instead of six senators, nine. The elections have to take place before the vacancies actually occur.

Mr. BARTON:
They could not sit.

Mr. HOLDER:
I would like to know why the ordinary course, has been departed from by which vacancies are filled up at the earliest possible moment after they occur. Is there any special reason for adopting this new system?

Mr. BARTON:
There is a very strong reason indeed. In the United States it is provided that the States shall have their full representation insured in the Senate. If a lapse is allowed to occur, and the Parliament happens to be in session, the States will only have half their representatives present. It is, therefore, necessary to provide beforehand for the election of the succeeding half who have to be elected, and it is patent that the persons so elected cannot take their seats until the vacancies occur.

Sir GRAHAM BERRY:
Would it not reduce the prestige of the retiring members?

Mr. BARTON:
I do not think so. All that the clause provides, is-
The election to fill the places of members retiring by rotation shall be made in the year preceding the day on which they are to retire.

As the time and place to be appointed are in the hands of the States Parliament, they may be trusted not to provide for the election to take place too early.

Mr. DEAKIN:
The practice of electing succeeding members, while the existing members are yet in the full discharge of their duties, is in vogue at all elections for the House of Representatives in America, where, if I remember rightly, they are elected six or eight months before their predecessors terminate their work. The point to which I wish to call attention is the objectionable method by which the mode of retirement is fixed—that is, by lot.

Mr. O'CONNOR:
It is only for the first election.

Mr. DEAKIN:
Why not adopt a system under which members would retire according to their position on the poll? The three who receive the fullest measure of popular support should remain six years in office and the remaining three for three years.
Mr. TURNER:
I think it should be altered.

Mr. GLYNN:
It would be well, I would again say, to consider whether this clause gives a sufficient opening for the application of the principle of proportional representation. To work that effectively, in say the Hare-Spence system, a greater number of members than there ought to be sent to each State for election, while the clause provides for three only. The essential merit of this system is to widen the area of the electors' choice, while now we are fixing in the Constitution an obstacle to its effectiveness. Then there is very little reason for adopting the municipal principle of half the House retiring at any particular time. It is the transition from the old principle of long tenure. I can see absolutely no objection to making all the senators go out every six years. There will be this objection also: by sending them out every three years you have a body less united, because you have one-half more in touch with public opinion, and the other half representing the opinions of five or six years before that. I am not giving my own opinion only, for I have in my hand a letter which all South Australians, and even Americans, would respect. No man or woman has taken as deep an interest in the matter of proportional representation as Miss Spence has, and no one can tell the effect of the American system better than she can. I would like to mention to the Leader of the Convention, Mr. Barton, that Miss Spence has made this question of proportional representation a life study. Referring to the twelfth clause, she says-

As a proportionalist I object to the twelfth clause of Chapter I., which provides that half the Senate shall go out every three years, the sort of municipal retirement which Mr. Kingston likes.

Mr. BARTON:
Why is it called municipal retirement?

Mr. GLYNN:
It is the name I have borrowed from the Government of South Australia. It is the name given in the Government policy of this country.

When six are elected at once we can have a fair representation of minorities; when three, as in the State of Illinois at present, the two main parties are fairly represented, but the new thought of America is as thoroughly excluded as in the one member districts.

I submit that that opinion, the opinion of an expert, ought to weigh with hon. members, and it is a question whether we Should fix the number at three, because by doing so you will weaken the very principle of
proportional representation.

Mr. BARTON:
There is no fixed number of three. If there are six States and six members for each there would be thirty-six, and eighteen would retire.

An HON. MEMBER:
What if there are Seven from each State?

Mr. BARTON:
You are not going to have an election because there is an odd number. If we tried to make an arbitrary division for each State, and the lot fell on the hon. member, he would have to cut himself in half.

Mr. REID:
He might be half himself.

Mr. BARTON:
You cannot divide an odd number by two.

Sir GEORGE TURNER:
How do you arrive at it?

Mr. BARTON:
By lot.

Sir GEORGE TURNER:
It Says:
The number chosen by each State.

Mr. BARTON:
Not the total number.

Mr. ISAACS:
Look at the last words in the first paragraph.

Mr. BARTON:
There will and must come a time when each State may have seven or eight, or nine or ten members to represent it; so that the sum total, inasmuch as it may be multiplied by six, supposing there are so many States, will come to an equal number. On the other hand if there be an odd number of States there will be an odd number of representatives.

Mr. GORDON:
In what class would you put the odd man?

Mr. BARTON:
There is no provision here, though the members of each State will be divided into two classes. The places of the members of the first class will be vacated at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year. This is a Constitution Act, and it should be remembered that a Constitution Act does not provide for every contingency which arises. This clause provides that as soon as
practicable after the Senate first meets the members chosen for each State shall be divided by lot. We may get out of the difficulty by saying "as nearly as may be practicable," and then that will involve the liberation of the Senate from the charge of murder in carrying out this act of cutting someone into two.

Mr. REID:

The difficulty would never arise, because when they altered the numbers that would alter the division.

Mr. BARTON:

Just so. We are providing a Constitution which presumably, sane men will deal with, and we are endeavoring to provide that the number of members of the Senate shall be an even one and so that an even body shall go out.

Mr. HOLDER:

There may be an odd number of States and yet an even number of men.

Mr. BARTON:

There is another matter to which I have not directed hon. members' attention. This division by lot takes place only in the first instance.

Mr. O'CONNOR:

There is one three-year lot, and one six-year lot.

Sir WILLIAM ZEAL:

It is only for the purpose of getting a Start.

Mr. BARTON:

As my hon. friend says, it is only for the purpose of getting a start. You divide them into two classes. They are then absolutely fixed. Those in the first class go out at the end of the third year, and those in the second class go out at the end of the sixth year, and then it works automatically, because once you get the classes into work one class goes out and the other comes in.

Mr. KINGSTON:

There is n

Mr. BARTON:

There is no chance of it.

Sir WILLIAM ZEAL:

I like the proposal of the clause much better than that suggested by Mr. Glynn, because, if his plan was carried out, it would be possible to have the whole Senate composed of men who have no practical knowledge of the business of Parliament; whereas under the proposal one-half of the members of the Senate will be acquainted with parliamentary procedure, and business will not be delayed as it might be if all the members were
newly elected. The plan proposed has worked well in Victoria. The only difference there is that one-third of the members retire every two years, so, that there are three sectional vacancies during the term of the election to the House.

Clause as read agreed to.

Clause 13—How vacancies filled.

Mr. BARTON:
I think it will be well to postpone this clause. It proposes a convenient mode of filling up vacancies, but there have been other suggestions, by Mr. Reid and Mr. Isaacs, which we are working out, and if we postpone the clause we may consider it and the alternative suggestions at the same time.

I propose
That the clause be postponed.

Mr. HIGGINS:
Might I also suggest for consideration that when a vacancy occurs the other delegates might, as is done by directors of companies, suggest a man to act until the next election?

Mr. BARTON:
That was suggested in the Constitutional Committee, but it did not seem to find as much favor as the method suggested in the Bill.

Mr. HIGGINS:
It is worth considering. It works well with companies. Here the delegates would be representatives of the people, and it is fair to assume that they would select a man who would find favor with the people.

Mr. HOWE:
I have an amendment which I will move at the proper time. I have great objection to the power which this clause gives to an executive body.

Mr. BARTON:
Only during recess.

Mr. HOWE:
It would lead to the system of nominees.

Mr. BARTON:
The appointment would have to be confirmed when the House met.

Mr. HOWE:
They would be appointed for five years.

Mr. BARTON:
Not necessarily.

Mr. HOWE:
When the House met they would probably be appointed for the remainder of the term, which might be for a period of over five years, I wish the people to have this power instead of the Parliament, and that the
member appointed by both Houses should hold office only until the first general election in the State

Sir JOHN DOWNER:
That is the point.

Mr. HOWE:
The people should say who should fill the vacancy.
Clause postponed.
Clause 14-Qualifications of Member. Agreed to.
Clause 15-Election of President of the Senate. Agreed to.
Clause 16 - Absence of President provided for. Agreed to.
Clause 17 - Resignation of place in Senate. Agreed to.
Clause 18.-The place of a member shall become vacant if for one whole Session of The Parliament he, without the permission of the Senate entered on its Journals, fails to attend the Senate.

Mr. GORDON:
I move:
To Strike out the words "one whole," in the first line, and insert in lieu thereof "two consecutive months of any."

Mr. REID:
Hear, hear.

Mr. GORDON:
I moved the same amendment in the Convention of 1891. It seems monstrous that a paid officer of the public-what a member will be under this Act-should be allowed to remain away for one whole session. Then it requires a resolution of the House, and then an election while the House is sitting during the next ensuing Session, so that he may really be absent without the permission of the House for a Session and a half. It is very easy, if a member has a legitimate ground for being, away more than two months, to get leave from the House.

Mr. SYMON:
Is not two consecutive months too long?

Mr. GORDON:
It might be too long, but I have taken the provision from the best Constitution in the world-that of South Australia.

Mr. SYMON:
Sometimes.

Mr. GORDON:
Subject, of course, to a few criticisms from very able and acute gentlemen.
Amendment agreed to; clause, as amended, agreed to.
Clause 19.—Upon the happening of a vacancy in the Senate the President, or if there is no President, or if the President is absent from the Commonwealth, the Governor-General, shall forthwith notify the same to the Governor of the States in the representation of which the vacancy has happened.

Mr. GORDON:
There is a literal error to be corrected.

Mr. O'CONNOR:
That will be done. It is a printer's error.

The CHAIRMAN:
"States" ought to be State. I shall correct that.
Clause, as amended, agreed to.

Clause 20.—Until The Parliament otherwise provides, any question respecting the qualification of a member, or a vacancy in the Senate, or a disputed return, shall be determined by the Senate.

Mr. BARTON:
My hon. friend Mr. Carruthers has suggested an amendment to this clause, which certainly should be made. I shall move:
To strike out in line 8, the word "return" and insert in lieu thereof "election."
That is a wider term. It covers more ground and increases the necessary jurisdiction of the House over such questions.

Mr. HOWE:
Supposing a vacancy occurs in the House of Representatives, is it likely that a State will be put to the expense of an election for one representative?

Mr. BARTON:
The matter of vacancies in the House of Representatives is a subsequent matter. This clause deals with the Senate,

Sir EDWARD BRADDON:
It is almost essential, to my mind, that these questions, more especially the question of disputed returns, should be determined by the Supreme Court, and not by the Senate. We have found out from practical experience the necessity of making this change, and submitting these questions to the Supreme Court, and I hope that in making this great and high departure and forming a Federal Parliament we shall not run into any errors which will necessitate any changes whatever in the early stages of our Federal Government. I shall move:—

That the words "High Court" be substituted for "Senate."

Mr. BARTON:
I would ask Sir Edward Braddon not to have his amendment formally put. This matter was also a subject of very considerable discussion in the Constitutional Committee, and the clause now represents the result of that discussion. It amounted to this: There were a good many of us who thought that matters of this kind should be decided by the Judges, instead of what we have found to be a fallacious tribunal, a Committee of the Houses of Parliament. At the same time, it was thought better to leave the matter as it stands in the Constitution, only you must put a proviso in the beginning. That is to say, the words will be placed in the section, "until The Parliament otherwise provides." It seems to me that it is a matter for the Parliament of the Commonwealth to determine whether the Houses, after they are called together, shall determine this question, or whether the Judges should do it. It is a matter for the Federal Parliament to deal with. It increases the freedom of action of the Parliament of the Federation, and for that reason it is also desirable to leave it in the hands of the Parliament.

Mr. SYMON:
It is quite open to the Parliament to decide.

Mr. BARTON:
It is quite open to it, and if the Parliament will not undertake the matter itself, it will delegate it to the High Court. But that is a matter of internal arrangement.

Mr. REID:
I do not intend to propose an amendment, but I express my very great regret that the Drafting Committee have not seen fit to place in the Constitution the power of determining these disputed returns by some judicial authority.

Mr. BARTON:
We followed the instructions of the Constitutional Committee.

Mr. REID:
I understood that the feeling was strongly the other way.

Mr. BARTON:
It was carried this way.

Mr. REID:
I feel very strongly, looking at the constant scandals and outrages which have occurred in the United States over this very question, when the existence of a party has been at stake, that it is infinitely advisable that we should put in this Constitution provision which shall protect the electors from frauds upon their rights, which might be made to suit the interests of political party. It might happen that some great struggle might be determined in the Senate of thirty-six members, according to the decision of a political committee, as to whether a certain return was valid or not. I
think the time has come when we should alter this clause. I am perfectly sure that if it is left to the Federal Parliament, that Parliament will never do it.

Mr. BARTON:

It is done in England.

Mr. REID:

But how long did it take? We all know how many years it took—an enormous time, and an enormous struggle—before the power was taken out of the hands of Parliament. Do we not remember the tremendous scandals which disfigured the election tribunals of England when they were within the power of the House of Commons? I really think that I ought to test the opinion of the Committee upon this, as I look upon it as a matter that might at some future time affect the destinies of the whole of the Commonwealth, because it is a very small body, and one vote might make all the difference.

Mr. BARTON:

Substitute "High Court of Justice thereof."

Mr. REID:

I would make it more elastic than that. I would prefer not to move an amendment yet, but I hope we will settle it very soon.

Mr. WISE:

I would suggest before the amendment is moved that there are two questions involved here, which ought to be kept distinct. There is the qualification of a member or the question as to vacancies on the one side, and the question of a disputed return, which is a matter of altogether a different character. I apprehend that only questions of disputed returns should be dealt with by the Supreme Court, but that the Senate should have all control over all questions of order or decency over its own body which might lead it to expel a member. I move:

To strike out the words, "or a disputed return."

Then we can deal with disputed returns in a subsequent section. I entirely concur with what has fallen from my hon. friend Mr. Reid with regard to the power of the Election and Qualification Committee to deal with disputed returns. I have had the advantage of appearing before that body in every capacity. I have been there as counsel, I have been there as member, and I have been there as the accused party, and I do not know in which capacity I found them the least satisfactory.

Sir EDWARD BRADDON:

I will put this question to the test by moving:

That the first words of the clause "Until the Parliament otherwise
provides" be struck out.

Mr. REID:

They had better be left in. If my hon. friend will allow me, I am just drafting an amendment which I think will meet the case. I think we might pass on with the amendment proposed by Mr. Wise, namely, to leave out the words "or a disputed return." Then let the clause stand as it is, and by and bye I would suggest a new clause to follow that clause. I will ask my hon. friend Mr. Barton to draw up some clause that will meet the difficulty.

Mr. BARTON:

I am tired of drafting clauses.

Mr. REID:

Well, will my hon. friend allow me to draft one?

Mr. BARTON:

Certainly.

Sir Edward Braddon's amendment withdrawn; Mr. Wise's amendment agreed to clause, as amended, agreed to.

Clause 21.-The presence of at least one-third of the whole number of members of the Senate as provided by this Constitution shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

Mr. GORDON:

I move:

To strike out in line 2 the words "as provided by this Constitution."

These words are not in clause 37, which relates to the Senate, and they are mere surplus, verbiage.

Mr. BARTON:

I consent.

Amendment agreed to; clause, a amended, agreed to.

Clause 22:-Questions arising in the Senate shall be determined by a majority of votes, and the President shall in all cases be entitled to a vote; and who the votes are equal the question shall pass in negative.

Mr. HIGGINS:

As to this clause the appears to be a peculiar difference between the Speaker of the House of Representatives and the President of the Senate. Apparently under this clause the President is in all cases to be entitled to vote, and not merely to a casting vote.

Mr. O'CONNOR:

It is only to secure that the State should always have full representation.

Mr. HIGGINS:

I suppose this is another question of State rights, about which we have heard so much.

Mr. BARTON:
How can it be a question of State rights? If the votes are equal the question is negatived.

Mr. HIGGINS:

Under clause 38, the Speaker of the House of Representative cannot vote except to give a casting vote whereas the President has a vote, and casting vote.

Sir JOHN DOWNER:

The President has always his vote, and no more.

Mr. HIGGINS:

It is a curious distinction.

Mr. REID:

And a very substantial one too.

Mr. HIGGINS:

The President is entitled to a vote, but why should a man because he represents a State, be entitled to vote in two instances.

Mr. LEWIS:

It seems to me that it would come to the same thing if, the President were to have a casting vote an no more. In the future, party politics may run very high in the Senate as well as the House of Representatives. This clause states that the President shall in all cases be entitled to a vote, implying that the President being in the House must vote. His vote must be recorded on all party questions, and that is an invidious position in which to place a man who is supposed to be above anything of that kind. The President, being within the four walls of the Chamber, must vote on one side or the other, that being the practice in most Legislatures.

Sir JOHN DOWNER:

The subject of the clause is to ensure the State having its full representation.

Mr. ISAACS:

The provision in the Bill is right, then.

Sir JOHN DOWNER:

Yes; but as to the objection that it may put the President in an invidious position to vote in a party division when he desires not to do so, this clause says nothing of the sort. These are matters for the internal regulations of the House, and no obligation in this respect is imposed on the President.

Clause as read agreed to.

Part III.-The House of Representatives.

Clause 23.-The House of Representatives shall be composed of members directly chosen by the people of the several States, according to their respective numbers; as nearly as practicable there shall be two members of
the House of Representatives for every one member of the Senate.

Until the Parliament otherwise provides each State, shown have one member for each quota of its people. The quota shall, whenever necessary, be ascertained by dividing the population of the Commonwealth as shown by the latest statistics of the Commonwealth by twice the number of the members of the Senate, and the number of members to which each State is entitled shall be determined by dividing the population of the State as shown by the latest statistics of the Commonwealth by the quota.

But each of the existing colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia shall be entitled to live Representatives at the least.

**Sir GEORGE TURNER:**

As this is a very radical change from the proposals in the Commonwealth Bill, although Mr. Barton- was good enough to explain it at some length before, I think it would be wise if he would kindly explain it again.

**Mr. BARTON:**

I will ask Mr. O'Connor to add to the explanation which I made.

**Mr. O'CONNOR:**

The difference between this and the Bill of 1891 consist in the fixing of the quota of representation. In the Bill of 1891 the number of 50,000 was fixed as the quota There was no limit to the number the number of electors.

**Mr. ISAACS:**

It was 30,000.

**Mr. O'CONNOR:**

It was altered, I think, in Committee to 50,000, but the principle was an automatic process by which, as the population increased, for every unit amounting to 30,000 an additional member became necessary for the House of Representatives. There was no provision made for any maximum number of members, and as the Bill stood the population increasing would automatically increase the representation, and I have had some figures prepared showing how this would operate. Taking the populations as they appear in Coghlan, and the increase shown therefor the ten years' averages, we find that in the first year, 1897, approximately the House of Representatives would consist of seventy-one members, that is, taking the numbers only with the minimum to which the House is entitled. Under that Bill New South Wales would have twenty six, Victoria twenty-four, Queensland nine South Australia seven, and Western Australia and Tasmania, according to calculations, Would have two and three; but according to this Bill they would have five each. In the next decennial period, 1901 New South Wales would have thirty-two, Victoria twenty-seven, Queensland thirteen, South Australia nine, Western Australia four,
and Tasmania three, and so on until 1941, when we would have a total in the House of Representatives of 446 members.

Mr. GLYNN:

On which of the tables?

Mr. O'CONNOR:

On the 50,000 table. There are two objections to that. The first is that the House of Representatives would go on increasing inordinately in size, and the only way to stop its increase would be by bringing about an amendment of the Constitution.

Mr. ISAACS:

Give power as in the case of the Senate to increase or diminish.

Mr. O'CONNOR:

I am speaking of the Bill as it was. Under the Bill as it was the only way of doing that was by bringing about an amendment of the Constitution. There was another way of dealing with it, by giving Parliament from time to time power to diminish the number of members, but we know it is a most difficult thing to get any House to cut down the number of its members. So it appeared that these objections had to be got rid of in some way. There was another objection to this increase in the automatic way in accordance with the population, and that was that there would be a continually growing disparity between the number of members of the Senate and the House of Representatives. It appeared to the Constitutional Committee that it was very desirable that we should keep up the strength and the power of the Senate in the way in which it should be kept up, and that there should be no undue disparity between the numbers of the two bodies, and the plan of the Constitutional Committee obviates both these difficulties. It provides a mode by which there shall always be a limitation upon the number of members of the House of Representatives, and also by which an equal ratio shall be kept up between the members of the Senate and the members of the House of Representatives. It is done in this way. In the first place, under the head of "Senate," clause 9, we provide:

The Parliament shall have power, from time to time, to increase or diminish the number of members for each State, but so that the equal representation of the several States shall be maintained, and that no State shall have less than six members.

Then, in clause 23, it is set out:

The House of Representatives shall be composed of members directly chosen by the people of the several States, according to their respective numbers; as nearly as practicable there shall be two members of the House of Representatives for every one member of the Senate.
That ensur

Mr. HIGGINS:

Unless you in-crease the number of Senators of each State you will never be able to increase the members of the House of Representatives, even though the populations may increase by millions.

Mr. O'CONNOR:

Undoubtedly that is so. I am giving an illustration of how it will work out at the beginning. By this system it will give you a quota of 50,000, which is provided for in the Bill. Now I come to the increase in the number of members of the House of Representatives. It may happen in two ways. If you increase the number of senators there must be a corresponding increase in the number of the members of the House of Representatives. The Senate will be increased probably only by the introduction of a new State. Supposing we have one State added it will increase the number of senators from thirty-six to forty-two. A corresponding increase must then be made in the House of Representatives. Consequently you take forty-two, multiply it by two, and it gives you eighty-four. Divide that number into the then population and you get the number to which each State is entitled in the House of Representatives. That is one way in which the number of members of the House of Representatives may be increased, and must be increased if there is an increase in the number of the members of the Senate. But take the other way. Supposing there is no increase in the number of members of the Senate, but population goes on increasing very largely, and it is found desirable to increase the number of members in the House of Representatives, before you can do that you must put additional members into the Senate, and in order to bring about the equality of representation you cannot of course give less than one member to each of the States; that is to say, taking the six States as at present you must add six to the Senate, one for each State. Then we have, with the additional number, forty-two, which gives you your equality in the way described before. Mr. Higgins says you cannot increase the members of the House of Representatives without increasing the number of members of the Senate. That is so, but in the first place, you leave it in the control of Parliament to increase the number of representatives at any time and in any way so long as they preserve this proportion. They always have that in their own hands. I think it may be taken that while it is difficult to cut down the number of members in the House of Representatives - the existing House - it is an easy thing if there is justification for it to increase the number of members, especially in a House that is paid. You may be sure that public opinion will
not allow an enlargement of the House except on very good grounds. It will be considered on business principles as well as political principles, and there will be no danger in giving that power to the Parliament because it will not be exercised unless additional representation is necessary. It may be said: why should not some automatic system of increase be allowed as in the case of the Assemblies of the Colonies? There is a great difference. In local Assemblies the duties very largely of the representative are to represent localities, local interests, and local matters which the State Parliaments have to deal with. But there are very often matters of local interest which the Federal Parliament will have to deal with. It occurs to me there is the question of post and telegraph services, and I do not know of any other matters of general concernment in which localities as localities will have an interest.

Mr. HIGGINS:
Expenditure on defence works.

Mr. O’CONNOR:
That is a matter which may affect a particular locality at a particular time. I am speaking of the operation of laws generally, and there are very few such localities. The increase of population does not bring about an increase in the Senate until there is the same reason for increasing the number of members in the House of Representatives as in the local Parliaments; and so it appears to me that as long as you place in the hands of the Parliament the power to increase this number as it is necessary you have done all that is requisite, and when you restrict that power by a limitation that if that increase is made at any time it must be made subject to a corresponding increase being made in the Senate, it appears to me that in that way you give the proper power to the House of Representatives to increase its members, and you also insure that the Senate should have its due ratio of representation in the Parliament of the Commonwealth. I have worked out some examples here, and will state shortly one of them so that hon. members may be able to follow the figures in the printed document, which gives the probable populations of the different States in the future. Taking the year 1901 and supposing that, by the sub-division of Queensland into three States, there are eight States with six senators to each State, that would make a total of forty-eight senators according to the probable figures of population at that time as worked out in the table before hon. members. The population will be 4,446,700, and if you divide that number by ninety-six the representatives in the House of Representatives being double, you will get 46,320, the quota of representation. Divided by that quota the New South Wales population, being 1,618,000 in 1891, that...
colony would have six senators and thirty-five representatives; Victoria, with a population of 1,361,000, would have six senators and twenty-nine representatives; Queensland-south, central, and north-would have a population of 657,700, and assuming that there would be six senators to each of those divisions, that would give a representation in the House of Representatives of fourteen. There would thus be a Senate of forty-eight members, and a House of Representative of ninety-seven members. You cannot always have a proportion exactly of two to one, because first of all you will have the difficulty at least as to the quota, which will be sometimes under and sometimes over the half; if over the half it is entitled to an additional member. It is very essential, in order to preserve the proper weight of influence in Parliament and the Senate, that there should not be any undue proportion between the numbers of members of the two Houses. That is, shortly, the method which has been agreed to by the committee, and which appears to me to carry out the objects aimed at. If any difficulties are suggested I shall only be too glad to answer them.

**Sir GEORGE TURNER:**

I feel inclined to object somewhat strongly to this proposed alteration for many reasons. First of all, my honorable friend has not attempted to show any precedent for it anywhere. It seems to be a new idea, and altogether working on scientific lines, and we have been told by members of the Convention it is impossible to apply scientific lines for a Federation. He also states that unless we have some system like this the Senate will not have due weight; but we have been told in America that the Senate is a strong body.

**Mr. O’CONNOR:**

The Senate has executive powers, powers to deal with treaties.

**Sir GEORGE TURNER:**

As for the objection as to limiting the increase of members, I agree that there should be some limit in the number. That might be dealt with by saying that there should be a fixed number, which might be one for every 50,000 of the population, leaving it to the Parliament in years to come to make an increase. But I fail to see any reason why the number of representatives should depend either upon the number of the States which might be represented in the Parliament or the number of members which might represent each particular State. The great disparity which he refers to is, I think, reasonably necessary. We represent in the Senate the States as States, and, to my mind, it is immaterial whether the number they have is six, eight, or ten each. It really makes no difference. Each State has a similar number, and while it is wise that that body should not be too small, there is no reason and no justification on that ground that we should make
the number representing the people turn upon the number in the Senate. It
the people were to double in number, unless the States had increased, or
unless the Senate chose to consent to an increase in the number, there
would be no extra representation for the people in the House of
Representatives. In that House, I take it, the people are represented as
individuals, and if it is wise to say 50,000 should be represented by one
member, surely as that number increases it is reasonable that the people
should have full representation. Then we are told we are to have seventy-
two members to start with, and my friend

seems to forget that out of that seventy-two you have to deduct ten, which
it is proposed to give the two States, Western Australia and Tasmania, so
that really leaves sixty-two to be distributed among the others, and instead
of having one member for, 50,000 it would be one for every 53,000 or
54,000.

Mr. O'CONNOR:

The hon. member will find the quota is 50,000.

Sir GEORGE TURNER:

There is no provision that there is to be one for every 50,000. The clause
reads:

As nearly as practicable there shall be two members of the House of
Representatives for every one member of the Senate.

We start with thirty-six in the Senate, and if the number is to be doubled
that gives us seventy-two. We are to start then with seventy-two in the
House of Representatives. From the seventy-two you have to deduct ten,
because it is provided that two States must each have a minimum number
of five, and therefore you leave only sixty-two to be distributed amongst
the other-States according to the quota. On this proposal you are giving
those two States more than they are entitled to. I do not object to that, but I
do object to give them more than they are entitled to and take the extra
number away from the other States.

Mr. O'CONNOR:

The hon. member is not correct in saying that the number at first will be
seventy-two. I take that as being double the number in the Senate. If you
are to ascertain what the numbers are to be at first, you would take seventy-
two-double the number of members in the Senate- and divide the seventy-
two into the population for the time being, which would give more than
seventy-two members of the House of Representatives, probably seventy-
four or seventy-five.

Sir GEORGE TURNER:

I do not follow that.
Mr. O'CONNOR:  
I understand he is assuming seventy-two would be the number of members of the House of Representatives.

Sir GEORGE TURNER:  
I am taking the words of the Bill.

Mr. O'CONNOR:  
There is nothing there saying the number shall be seventy-two. The clause says:

As nearly as practicable there shall be two members of the House of Representatives for every one member of the Senate.

The next clause explains how that is to be done. You will find, if you take thirty-six as the basis of your calculations, that you will get a quota according to the present population of somewhere about 50,000, which will give the first House of Representatives over seventy-two members. It will be seventy-three, seventy-four, or seventy-five.

Sir GEORGE TURNER:  
The Bill provides that you are to have, as nearly as practicable, twice the number in the House of Representatives as you have in the Senate. I fail to see the necessity for the words:

As nearly as practicable.

I know it is very scientific, and that, being a matter of figures, I am not supposed to understand it, as no lawyer knows anything about figures. So far as I understand the proposal-you start with thirty-six, and you double it; that gives seventy-two. Then all the second paragraph tells us is that you are to divide that seventy-two into the total population of the Commonwealth, and that gives you the number of people who are to be represented by a member in the House of Representatives. You then divide that number into the population of each State, and that gives you the number of members of each State. But that does not increase the total number. You cannot increase the total number, because you start off with the total number as the standard on which you act. You now start off by taking ten away, and whatever extra number you give to the smaller States, you, by that means, deprive the larger States of a certain amount of representation.

Mr. MCMILLAN:
You reduce the number of your House.

Sir GEORGE TURNER:
You reduce the number of your House, but you give the smaller States a certain fixed number; you say, whatever the total number may be, whether it is sixty or thirty, the smaller States must still have ten.
Mr. O'CONNOR:
You give the smaller States greater representation than they would be entitled to according to the quota.

Sir GEORGE TURNER:
And you take it away from the larger States because you say that as nearly as practicable the total number must be twice the number of senators.

Mr. MCMILLAN:
You do take it away, because you have a maximum for certain purposes, and all that you give above the average to the smaller States you must take away from the others.

Sir GEORGE TURNER:
Supposing we start with only four States. That will give twenty-four senators, and forty-eight members in the House of Representatives. From that forty-eight you first of all take away ten, and thus leave only thirty-eight to be divided among the larger States. If you follow that out, you are certainly not giving the latter a fair representation. What happens as the population increases? You are compelled to have fresh divisions, and the result of it will be that if the population in one colony increases more rapidly than the population in another, that colony will be entitled to an extra number, but that extra number will be at the expense of the colony which has not increased so rapidly. The latter may have increased to a certain extent, yet, although it has increased above the number it originally started with, it will have to have fewer representatives in the popular House. Any colony having, say, twenty representatives to start with, may thus, in ten years' time, because some other State has increased more in its numbers, have to give up two or three of its representatives.

Mr. SOLOMON:
Hear, hear.

Sir GEORGE TURNER:
For the mere object of having this relation, are we to put up with all these inconsistencies?

Mr. MCMILLAN:
The provision is a preparation for the Norwegian system.

Sir GEORGE TURNER:
It seems to be simply a groundwork on which to base a proposal, that, in case of disputes between the two Houses, they may meet together as one body.

Mr. O'CONNOR:
No; nothing of the sort.

Sir GEORGE TURNER:
Well, that seems to me really the groundwork on which the whole matter has to rest. I think it is far better that we should fall back on the old proposal of the Commonwealth Bill. My hon. friend says it would not reduce the number of members, but he must know that frequently in America they have reduced the quota so as not to increase the number of their members in accordance with the increase of population.

Mr. O'CONNOR:
I say it is a difficult matter.

Sir GEORGE TURNER:
I have no objection whatever to limiting the number at the start to a certain fixed number, and then leaving it to the House of Representatives and the Senate to say that because the population has increased to a certain extent it is fair that there should be a larger number of members in the House of Representatives. Then it would be a question of bargain between the two Houses whether the House of Representatives should bear a larger proportion to the Senate. If you do that you will do away with the inconsistency which would arise where the population in one State would increase and in another would diminish. The smaller States will have to lose some of its members for the benefit of the larger. In a case where there is an increase of population in two States that increase will be relatively taken into consideration. The only one object seems to be to form a basis for these two Houses to meet. I think we will be making a grave mistake if we attempt to deal with it in any scientific manner. Let us take the old plan and fix it at one in 50,000. If you like, give to these smaller States their extra representation and you injure nobody. Adopt the plan of my hon. friend and you injure the larger States. Unless I hear some more satisfactory explanation, I will have to ask the House to fall back on the plan of the Commonwealth Bill.

Mr. GLYNN:
I think Mr. O'Connor is deserving of credit for having hit on a suggestion of this sort. But I do not think that the table is of much value because the alleged lesson of the figures is altogether wrong. As a matter of figures you cannot rely upon them, as the ratio of increase of population is geometrical, which as a matter of fact never occurs. As to the propriety of preventing an increase of membership proportionately to population, I agree with the principle of the Bill, which prevents that taking place without an Act of Parliament. Take the case of America as to the evil following unlimited increase. At the time of the union of the thirteen States the population was small, and they started with a ratio of one to 30,000. Had that ratio
remained there the population of these thirteen States, which is now 24,000,000 would have a representation of about 800; that is, if you do not check the increase of members proportionately to population. The total population of America is 63,000,000, and the total representation in the House of Representatives is 357.

Mr. HIGGINS:
How was the increase checked?

Mr. GLYNN:
By periodically fixing the quota There is no automatic adjustment of quota. At all events we find from American experience; that we cannot rely on allowing an increased number of members with an increasing population, because, if you do that, you will certainly have a House which will be unwieldy and unmanageable. How would this quota system operate with regard to the smaller States? The quota would vary, and with it the relative representation of the States. Let us take the figures presented by Mr. O'Connor, which I presume are taken from Coghlan's statistics. Accepting his estimates of the rate of increase of the population, the position would be this, unless you had a minimum fixed, that in the year 1941-assuming you allowed the population to determine the number of members in the House-there would be a House of 446 members.

Mr. HIGGINS:
Whose figures are those?

Mr. GLYNN:
They are presented by Mr. O'Connor as explanatory of his suggestions. I am going to show in a moment or two how you cannot rely on them.

Mr. ISAACS:
That is on the basis of one member for every 50,000 of population.

Mr. O'CONNOR:
If the quota of 50,000 remained.

Mr. GLYNN:
You would have in 1941 a House of 446 members, of which number New South Wales would have 164 and South Australia only thirteen representatives. Of course that would not be tolerated for a moment. But I would point out this fact to Mr. O'Connor. Has he not estimated that population will increase in a geometrical ratio?-and of course it does not. According to these figures New South Wales in 1901 will have a population of 1,618,000, and in 1911 her population will be 2,427,000. There there is an increase of about 50 per cent., but when you come to 1921 you have an increase of 75 per cent. Population, however, does not increase in geometrical ratio, as far as in population matters you can call it such, at all-it increases more, as one, writer suggests, like the length of a
dog's tail. If you followed out that principle here you would come to the conclusion that by the end of a comparatively few years that dog's tail would be about a mile long. in 1911 as I have said, New South Wales, according to these figures,

would have a population of 2,427,000, and South Australia - which has now about 350,000 - is assumed to increase only to 482,000. What is there to justify that assumption? Why should we assume that the geometrical rate of increase will go on at all? South Australia's rate has diminished for the last ten years for reasons which we all know of, namely, the shrinkage of the prices of her staple products-wool and wheat; but there is nothing to show that within the next twenty years the rate may not outstrip Victoria's. You cannot possibly rely on the figures put before us upon which the proportion of the representation in the House of Representatives is based. But supposing these figures are correct-and they are put before us by the Constitutional Committee for our guidance the position of South Australia would be then that it would only have a representation in 1941 of such a number as thirteen in a House of 446, which the relation of thirteen to 446 and seventy-two determines. The position would really be this: As 446 is to thirteen, so would seventy-two be to the number of members South Australia would have in the House with a minimum of five. If I am wrong, perhaps Mr. O'Connor will explain. Would not the operation of the adjustment of the quota be that according to the figures put before us the number of members South Australia would be entitled to would be on this basis: As 446 is to thirteen so is seventy-two to the number of members we would have? If that is so, the representation of South Australia would be practically nothing.

Mr. O'CONNOR:

What difference does it make whether you take a fixed quota of 50,000 or a quota which is reckoned by multiplication and division of the population of the Commonwealth and the particular State to get the number of representatives?

Mr. GLYNN:

Say, for instance, that there were five members for the first 100,000 of the population, you might afterwards make the quota system apply to the surplus population to make the minimum increase proportionately to the increase in the number of members of the House. You deduct 600,000 from the total population of the six colonies, and then when you would get your quota-making the population upon which you strike your quota the whole population of the colony-you have the number of members of your House reckoned at a minimum of five. The effect of that will be that if you
double the number of members in the House you would get ten for 200,000 of the population, and that would give a reasonable minimum of representation to the smaller States. If you follow the operation of the quota as fixed by the lines of the Bill now, you may have the representation of South Australia practically brought down to five in a House of seventy-two. That is not fair, and the minimum representation is too small.

Mr. O'CONNOR:
That must always happen if you adopt the population basis.

Mr. GLYNN:
Something like it must happen, no doubt. I suggest that we should lessen the disparity by adopting the principle of giving a reasonable minimum representation, which would give five for the first 100,000, and then strike a general quota by deduction.

Mr. REID:
You are getting all you want.

Mr. GLYNN:
With five as the minimum, but it is not a minimum that varies with the increase of the House.

Mr. REID:
You want more than your proportion on the basis of five.

Mr. GLYNN:
No, I do not want more than my proportion in a House of seventy-two, but I want my proportion in accordance with the increase of the House. The ratio of the increase of the minimum would be determined by the ratio of the increase of the members of the House.

An HON. MEMBER:
You want a sliding scale.

Mr. GLYNN:
It is not a sliding scale, it is fixed by the ratio of the increase. I submit that that would be a much fairer system than having a minimum of five. If we had a House of 144 instead of having a minimum of five, it would be.

Sir PHILIP FYSH:
Do I understand Sir George Turner's difficulty to be because we give arbitrarily five to Western Australia and five to Tasmania that we thereby reduce the total number of members who shall represent the people in the House of Representatives?

Sir GEORGE TURNER:
Yes; reduce the number for the other House.

Mr. SYMON:
You increase it.

Sir PHILIP FYSH:

By giving that arbitrary number to those two States we reduce the number to which the quota would entitle the other States. I presume Sir George Turner is starting off from that error, and that there shall be absolutely only seventy-two members of the House of Representatives to start with.

Sir GEORGE TURNER:

No.

Sir PHILIP FYSH:

That is the meaning of what Sir George said. Does he recognise the fact that we are not to start off with only seventy-two but seventy-six?

Sir GEORGE TURNER:

That is not provided for here.

Sir PHILIP FYSH:

There are three parts of section 23. In the first part and in a part of 25 there are provisions which govern this question. In the first place we see that "as nearly as practicable there shall be two members of the Senate for every member of the Senate." Then in section 23 we find:

The number of members to which each State is entitled shall be determined by dividing the population of the State as shown by the latest statistics of the Commonwealth by the quota.

We have had it explained to us that the quota of 3,609,000 is 50,000 divided by seventy-two, and that if you have a fraction over 25,000 that gives another member. This will leave us in this position: that we shall have New South Wales, on its population or December 31st, 1896, of 1,297,640, with twenty-six members; Victoria, with 1,174,888, and twenty-four members because it has twenty-three and a sufficient fraction to entitle it to the twenty-fourth; Queensland, 472,179, nine members; South Australia, 360,220, seven members; and Western Australia and Tasmania, which, according to the quota, are only entitled to three each, would arbitrarily have five each. As a consequence you have four representatives for these two States more than the quota, and therefore there will be to start with seventy-six members. I understand that disposes of Sir George Turner's difficulty.

Sir GEORGE TURNER:

One of them, but it is a peculiar way of reading the section.

Sir PHILIP FYSH:

I think that is quite right if you read these lines in the clause:

And the number of members to which each State is entitled shall be determined by dividing the population of the State as shown by the latest
statistics of the Commonwealth by the quota.

That gives us a total of seventy-six, although the quota divided over the whole of the population would only give seventy-two.

**Mr. MCMILLAN:**

The difficulty which Sir George Turner foresees is that the population of these colonies may increase so largely as to necessitate a larger House of Representatives than would be one represented by double the numbers of the Senate, because if these States remain for ever without being subdivided there is no doubt that while this proportion would be reasonable now it would not be so in the future, but according to this section the Parliament must keep the proportion between the two Houses of two to one. On the other hand, as the population increases you would have enormous constituencies, and yet you could not increase the numbers of your House of Representatives. When this matter first came before me I had in view the proposal of one of two things. In the first place I thought of the Norwegian principle of having the two Houses sitting together in case of a deadlock, and if you had any proposal of that kind you would have to keep some relative numbers between the two Houses, but I am rather inclined to believe now that this hard and fast rule of having double the number in the House of Representatives as in the Senate may lead to considerable inconvenience in the future, So long as you keep a reasonable number for debate and consultation it is all that you want in the Senate, and therefore I would put it to Mr. O'Connor, who I believe is the author of this clause, whether there might not be some scheme introduced by which the Parliament would have the power of amending the Constitution under certain circumstances so as not to keep absolutely to that proportion.

**Mr. HIGGINS:**

In addition to the objection raised by Sir George Turner regarding the ambiguity in the construction of this clause, I have another, and that is the extra representation given to the less populous States, which involves a proportionate reduction in the strength of the representation of the larger States. I have a strong objection to this system altogether. I cannot see what connection there is between the number of members who represent the States and the number of members who are to represent population in the House that represents population. What connection is there between the number of the States and the number of the population? If Australia be divided into six States you will have a certain number of members in the House of Representatives, and if divided into ten States, you will have an increased number of members. The whole thing is quite arbitrary. There is
no possible connection between the two things, and what object, may I ask, in addition can be suggested for this principle of making the number of members of the House of Representatives exactly double the number of the Senate! What ratio is there between them? The only object I can see is to introduce a clause under the Norwegian system, in which both Houses would be sitting together. As far as regards that it should never have my vote or any influence that I can give, because, I say it is simply a device for the purpose of enabling votes of members elected by the people to be defeated by the votes of members whom the people have not elected. I am always against any system which will bring in those who represent the minority on an equal footing with those who represent the majority. It is not democratic, it is against those who say the people ought to rule, and I would suggest to Mr. O'Connor, who has so lucidly explained this clause, that now, as we have apprehended the clause, as we see its effect, it would be better to revert to the provision-substantially the provision which was in the Bill of 1891—that there shall be one member in the Senate for a certain number of the population, I do not care whether it is 30,000, 40,000, or 50,000. Fifty thousand might do for a start. Then you may say, until Parliament otherwise provides, it will be 50,000. It is said it is very, hard to reduce the number of members, but I say, supposing the population of Australia should increase to a huge extent during the next fifty years—it is quite possible, if there should be a great discovery—we should not be hampered by the number of members that should happen to be, in the Senate, and I think the simplest method is that, until Parliament otherwise provides, there shall be one member for every 50,000. That is substantially what was done in the 1891 Bill. I do not want to move this. Others before me have suggested the same thing, but unless someone else moves it, I will. That would be to strike out the words from "as nearly as practicable."

Mr. REID:

I have all along wished to limit the number of members of the House of Representatives. I have no wish to see it growing to an inordinate size, as would be the case under the Commonwealth Bill, and as long as the House of Representatives is twice as numerous as the Senate I think that is a sufficient difference. I believe the smaller number would work better than the larger one. As a matter of economy I think the difference is worth considering, and besides I think we may look upon this principle as laying a fair foundation for the application of the Norwegian system.

Mr. ISAACS:

That is the idea.
Mr. O'CONNOR:
Not necessarily.

Mr. REID:
Not necessarily. Apart from any such consideration, I look upon it on its merits as a solution of the matter, but it has the additional recommendation that it makes application to the Norwegian system a reasonable thing, if it should be decided to apply it. I do not like the provision in the Commonwealth Bill, which would start the number of representatives with 120 members. The number is fixed in Canada, and the quota differs according to the population. It is well to fix the number. There is a provision to enable both Houses, if they come to an agreement, to alter it.

Mr. ISAACS:
I have no hesitation in saying that Victoria would take this proposal as a usurpation of power, and we have only to take the figures of Mr. O'Connor to demonstrate that. The hon. gent eman's figures show us that Victoria, with a population at present of about 1,200,000, would be entitled to twenty-four members in the House of Representatives, and with a population of 4,000,000 she would be entitled to thirteen.

Mr. REID:
How do you make that out?

Mr. ISAACS:
It suits New South Wales perhaps, assuming these figure are right.

Mr. O'CONNOR:
Where do you find thirteen?

Mr. BARTON:
It comes to eighty.

Mr. ISAACS:
Not according to the system proposed. You have to take seventy two members of the House of Representatives, and divide that number amongst the different States according to their relative and not their actual populations. Therefore a colony increasing fast in population may find at the next election, or when the new arrangements are made, that it has fewer members than when its population was smaller.

Mr. REID:
Will you tell us where you get thirteen under any conceivable arrangement?

Mr. SYMON:
It is increasing backwards.

Mr. ISAACS:
Precisely; but the quot is relative.
It is the total population, I think, that is meant.

Mr. ISAACS:
Get the quota and apply the principle advocated by this clause, and you get the relative proportion of the members.

Mr. SOLOMON:
It is a roundabout method of getting at it instead of by the ordinary rule of three.

Mr. WISE:
Tasmania would have to take Victoria then as a kind of small State.

Mr. ISAACS:
South Australia at present would get seven members according to these figures. This colony now has a population of 350,000 or 360,000 people. In 1941 she gets 670,000, according to the figures supplied, and under that she would only get five. She would only be entitled as of right to two; but the provision as to minimum would give her five.

Mr. WALKER:
Are you going to keep the Senate the same till the time?

Mr. ISAACS:
I am assuming, for the sake of argument, that it is kept at that. The question of what this Federation is going to cost, on the assumption that it i

Mr. WALKER:
I think you would have three colonies in Queensland to agree to it in the first place.

Mr. O'CONNOR:
I thought I made myself clear.

Mr. ISAACS:
Yes, the hon. member made it clear. I will verify my figures in a moment.

Mr. O'CONNOR:
That is the Bill as it stood when it left the Constitutional Committee.

Mr. ISAACS:
I am not blaming the hon. member. Regarding the proposal from a democratic standpoint, let us take it that twenty-four members have to contest seats among 1,200,000 people. It is difficult enough even in that case for liberals to make sure of having a fair representation; but if thirteen members have to contest seats among 4,000,000, where is the protection to democracy? How is that liberalising the representation? I have no hesitation in saying Victoria would not accept it.

Mr. LEWIS:
Will not every Victorian have the same share in a representative as every
man in New South Wales?

Mr. REID:

Hear, hear; exactly.

Mr. ISAACS:

That is not the whole question. I think myself that the argument as regards the illiberal character of the representation through the majority of constituencies has just as much force in regard to New South Wales as to Victoria; but New South Wales can say, according to the figures furnished they will have twenty-six members either way, and will be in no worse position. But Victoria and South Australia will say, why should our representation be cut down by half? South Australia may say, why should we, instead of having seven members for 360,000 people, have only five members for 670,000 people?

Mr. REID:

Let me put this: Suppose we had the old Commonwealth basis of one member for every 30,000 people. Fifty years hence, applying that 80,000 basis to those enormous figures of eight millions for New South Wales and four millions for Victoria, then under the system of one member for every 30,000 people, you would be relatively in exactly the same position, except that your number would not be thirteen representatives against twenty-four for New South Wales, but under the old system 133 for Victoria against 273 for New South Wales. So relatively your position would be exactly the same, except that you would have an enormous House instead of a smaller one.

Mr. O'CONNOR:

There are two ways in which you would get an increase. If the number of members of the Senate should increase by the admission of new States, then you must have an increase in the Houses of Representatives. But suppose you have not an increase in the number of States, but you have a very large increase in the population, and you want to increase the number of members in the House of Representatives, then you will have to add to your members in the Senate as many members as you think necessary to meet what would be the representation in the House of Representatives.

Mr. ISAACS:

Precisely, but New South Wales may progress by leaps and bounds—and I hope we all will—and some other colony which does not go ahead quite so fast may not want any further representation. New South Wales says:

We have increased our population by so many millions and we want more representation, but we cannot have it without more representation in the Senate, and if we have more representation in the Senate every colony must have more representation.
And so it goes round; and the burden of the expenditure becomes intolerable. I will proceed to show that my figures are correct as the data supplied. I am assuming that the Senate is kept as it is with thirty-six representatives, and the number in the House of Representatives is say the minimum of seventy-two, though I am accepting that number against myself. You divide seventy-two into 22,322,000—the total population for 1941—according to the paper circulated.

Mr. MCMLLAN:
I presume the point you are trying to prove is that it would be to the advantage of the larger colonies that progress more rapidly to keep the present representation in the Senate, so as to relatively decrease the power of the others.

Mr. ISAACS:
It might or might not. They gain at the expense of the colonies that progress, but relatively not so fast. Now divide seventy-two into 22,322,000 and you get, roughly speaking, 310,000 as the quota. With that quota New South Wales would in 1941, with its population of 8,198,000, have twenty-six members; Victoria, with its 4,000,000, would have about thirteen.

Mr. BARTON:
Is not that representation according to numbers?

Mr. ISAACS:
Of course it is as to the numbers at the time.

Mr. BARTON:
I think you are making a mistake.

Mr. ISAACS:
I hope I am, but I am assuming the correctness of the figures, and on that assumption the result is that "The more people you have the less actual representation you are to get."

Mr. REID:
Apparently you do not get less, but exactly the same.

Mr. ISAACS:
Then I come to Queensland, which with 7,500,000 people would, roughly speaking, have about twenty-four representatives; South Australia with its 670,000 people would be entitled to two, strictly speaking, but of course she would have the minimum of five. Western Australia, roughly speaking, would be entitled to the minimum number, and Tasmania would be entitled to one and a half, but would get the minimum of five. Tasmania would thus get no more for her 420,000 people than she has now with her
Mr. O'CONNOR:
Do you take as the basis the present Senate?

Mr. ISAACS:
Of course.

Mr. O'CONNOR:
If you want to increase the representation in the House of Representatives you must increase the numbers in the Senate.

Mr. ISAACS:
What does the honorable gentleman think the federal expenditure would be if we are continually to increase the number in the Senate?

Mr. O'CONNOR:
your objection is that you do not get a large enough increase.

Mr. ISAACS:
My objection is that Victoria will say, when we go back—"On the present basis of population, with a quota of one representative for every 50,000, we would have twenty-four members as against New South Wales twenty-six, but when we have increased to 4,000,000 of people, how many members would we have?" We would have to reply, "Just one-half." Roughly, subject to correction, I work it out like this:—In 1901 New South Wales would have twenty-six, in 1911 twenty-six, in 1921 twenty-seven, in 1931 twenty-seven, and in 1941 twenty-six. Victoria would have at present twenty-four, in 1901 twenty-two, in 1911 twenty, in 1921 seventeen, in 1931 fifteen, and in 1941 thirteen.

Mr. REID:
That is all right.

Mr. ISAACS:
The question is whether the Victorians will think it all right.

Mr. O'CONNOR:
That is on the assumption that the rate of increase for the past ten years will be continued.

Mr. ISAACS:
I am using the figures which my hon. friend has been good enough to furnish.

Mr. BARTON:
And it is on the assumption also that the representation in the House of Representatives is kept at seventy-two for fifty years.

Mr. ISAACS:
It is on the assumption that the Senate remains the same-on the assumption that the Senate is not doubled. You would require the Senate to be
doubled to allow Victoria to retain for a population of 4,000,000 the same number of representatives as she has for a population of 1,200,000.

Sir JOHN DOWNER:
   It is only important as to the relations of the Senate.

Mr. ISAACS:
   My hon. friend is quite right in regard to that, but when he is asking a colony to say "Yes" or "No" to it they will look at it broadly in this way, and say, "We will have to have larger and much more expensive districts we think it is not fair, and we cannot agree to it. We should have large constituencies for the House of Representatives, and instead of having one member for each 50,000 of population we should have only one for every 310,000."

Sir JOHN DOWNER:
   Supposing Victoria increases in a much greater proportion to the other colonies, would it be so objectionable?

Mr. ISAACS:
   Equally objectionable from an Australian point of view.

Mr. BARTON:
   Not from a Victorian.

Mr. ISAACS:
   It would be objectionable also equally from a Victorian point of view, from this aspect, that the constituencies would be so much larger. This process of course retains one democratic principle of having representation according to population, but it increases the size of the constituencies so greatly that it is a long step in a conservative direction for all the colonies.

Mr. O'CONNOR:
   That is always in the hands of the Parliament. They can increase the number.

Mr. ISAACS:
   They can, but they can not increase the numbers without also increasing the Senate.

Mr. BARTON:
   Supposing that is so?

Mr. ISAACS:
   That makes a very expensive Federation. If you increase the Senate so as to give Victoria the same representation as she would have to-day under this scheme you not only double the cost of the Federal Parliament, but you also double the size of the constituencies. In fact, you treble them, so that it would be one member to 150,000 instead of to 50,000. I should like to point out one or two other reasons why I do not think this is a proper
scheme. My hon. friend seems to think it is essential that there should be this proportion between the Senate and the House of Representatives. But it does not exist in America, and if it does not exist there, on what principle can it be argued that it is essential? My hon. friend replied to that that the Senate has extra powers. I would like to seriously ask what that has to do with the question? Whether you invest the Senate with executive powers or not, what has that to do with the question as to whether it ought to bear a certain proportion to the House of Representatives or not?

Mr. DOUGLAS:
What has the other thing got to do with it? We are going upon a system of our own.

Mr. ISAACS:
The hon. member is perfectly right, and no doubt every

Mr. FRASER:
You could give up some proportion

Mr. ISAACS:
If you should give up some proportion is that not a matter afterwards for the Federal Parliament? What is the reason of this proposal? The only reason is to prevent one House outstripping the interests of the Federation in numbers and expense, and to prevent its becoming too expensive and unwieldy. Why should we in this Constitution pronounce for all time the proportion those two Houses should bear to one another? The hon. member Mr. O'Connor said in effect that this was the only practical way to effect it. He will see at once that if we adopt his system you make the Senate once and for ever the arbiter of whether the House of Representatives shall ever be increased at all. The Senate can say, "No; we will never consent to any increase in the House of Representative" and that House would be inclined to do it under many circumstances, and therefore we say: "that although the overwhelming bulk of the population might desire to have better representation and more liberal and complete legislation, they could be blocked by colonies which desire that there should not be any increase in the House of Representatives, while they do not wish for any increase in their own ranks." If you do what the Americans have done and say that there shall be one for a certain number - one for 30,000-to start with, and that the quota might be increased according as both Houses agree, you have done all that is necessary to solve the problem, because, on the one hand, the people will never be favorable to a House becoming unwieldy, and they will demand from their representatives that a proper and economical basis shall be preserved in regard to the House of Representatives. If the people desire
that, you may be quite sure that the Senate will never object, because it is always in the direction of limiting the size of the House of Representatives.

Mr. MCMILLAN:

Does not this put into the hands of the people the same power?

Mr. ISAACS:

It puts, into the hands of the people the right to decrease their own members. They can never increase them, because that is fixed by the Constitution, without the consent of the Senate. Besides the people will be always ready, and willing, and anxious to cut down the number of their representatives, just as the people to-day are desirous of seeing the number of their representatives reduced.

Mr. FRASER:

They never can do it.

Mr. ISAACS:

I will read a passage from a book I have here dealing with

Mr. FRASER:

Let us keep to what we know ourselves.

Mr. ISAACS:

I am going to draw attention to something the hon. member does not know. I have a book here entitled Sheppard's "Constitutional Text Book." Its date is 1863, and I will bring actual figures down to the present time from a later book.

Mr. DOUGLAS:

Would it not be much better for Sir George Turner and the hon. member to meet Mr. Barton and Mr. O'Connor and try to arrange this matter.

Mr. BARTON:

There is not the slightest occasion for any such thing.

Mr. ISAACS:

Referring to the clause, about the number of representatives, he says:

The clause under consideration provides that there shall be one representative for every 30,000 inhabitants. If the population of the State does not reach that number it is, nevertheless, entitled to one representative. The first apportionment of representatives among the several States was merely temporary, and intended to exist only until the first census. An the population of the country has increased the number of representatives has been increased by various Acts of Congress. The first House of Representatives consisted of sixty-five members, which was one for every 30,000 inhabitants. By the census of 1790 there were constituted 106 representatives. One for every 33,000 inhabitants. By that of 1810, 183 representatives-one for every 35,000 inhabitants. By that of 1820, 213 representatives -one for every 35,000 inhabitants. By that of 1820, 213
representatives - one for every 40,000 inhabitants. By that of 1830, 242 representatives - one for every 47,700 inhabitants. By that of 1840, 223 representatives - one for every 70,680 inhabitants. By the Act of May 23, 1850, the number of representatives was increased to 233 members from the States, which was one for every 93,423 inhabitants. Subsequently an additional number was allowed to California, making the whole number of representatives 234.

Mr. O'CONNOR:
A gradually increased quota, just as this is, we give.

Mr. ISAACS:
They gradually increased the quota according to the circumstances of the country, but, at the same time, the number, of their representatives were also increased. The author goes on to say:

Thus, by dividing the aggregate representative population of the States, which by the last census (1863) was ascertained to be 21,767,673, by 233, the number of representatives established, as we have seen, by law, a quotient of 93,423 is obtained as the ratio of representation.

Mr. GLYNN:
One hundred and eighty thousand.

Mr. ISAACS:
It may be. This was in 1863, and they have gradually amounted up from 30,000.

Sir PHILIP FYSH:
The present quota is 154,000; 325 members.

Mr. ISAACS:
I am glad to know hon. members are noticing this. He goes on to say they have gradually gone up to 93,000, so they have not hesitated to reduce the proportion of members. The latest book I have is dated 1889, and it is the celebrated work of Dr. Woodrow Wilson, and called "The State." In section 1,066 he has this passage:

Apportionment of representatives. - Congress itself decides by law how many representatives there shall be; it then divides the number decided upon among the States according to population; after which each State is divided by its own Legislature into as many districts as it is to have representatives, and the people of each of these districts are entitled to elect one member to the House. The only limitation put by the Constitution itself upon the number of representatives is that there shall never be more than one for every 30,000 inhabitants. The first House of Representatives had by direction of the Constitution itself sixty-five members, upon the proportion of one for every 33,000 inhabitants. The number has of course
grown, and the proportion decreased with the growth of population. A
census is taken every ten years, and the rule is to effect readjustments and a
redistribution of representation after every census. At present there are 330
members in the House, and the States are given one member for every
154,325 of their inhabitants. In cases where a State has many thousands
more than an even number of times that many inhabitants it is given an
additional member to represent the balance. Thus, if it have four times
154,325 inhabitants and a very large fraction over, it is given five members
instead of four only. If any State have less than 154,325 it is given one
member notwithstanding, being entitled to one by constitutional provision.

I am anxious to show that the American Legislature, faced with exactly
the same difficulty as exists amongst ourselves, has not hesitated to lay
down a rule—faithfully followed at every decennial period—to increase the
number of members according as the population required, and at the same
time to take care that the proportion of representatives is decreased.

Mr. BARTON:
Is not that done by the Congress?

Mr. ISAACS:
Yes.

Mr. BARTON:
Is not the point of your argument that the Senate would refuse to do the
same in these colonies?

Mr. ISAACS:
My point is that the Senate may refuse to increase the numbers, but if it is
asked by the people to reduce the proportion it will do it. Where it is asked
to increase the members and preserve the proportion between themselves
and the others it is a different question. In America they do not have to
increase the Senate, and if they had to do so at the same time that they give
the people the necessary representation to enable their members to look
after their interests, they would have a machinery which would break down
of its own weight. If you load this Federation with conditions from which
there is no escape unless by an amendment of the Constitution, which is
very difficult, you will turn a great many people against it who are
wavering at the present time. Sir George Turner had the candor and
frankness to tell the people of Victoria what this Federation would cost
them in the loss of actual revenue, and he was blamed for it, because it was said that it might determine waverers against
Federation, and that owing to the great preponderating advantages—some of
them advantages of sentiment—he had no right to refer to these difficulties.
If we were to go back and tell them that we could not ensure them having
increased representation without increasing the other House as well, which
is not intended according to the arguments of some hon. members, and that
combined with that fact Victoria would be a continually diminishing
quantity, we would have to encounter more difficulties than we would be
able to surmount. I wish to say again, as forcibly as I can, that we shall
have difficulties enough without this extra one in order to induce people to
accept in the necessary numbers this Constitution. I feel little doubt that if
we add this one we will have added one too many.

Sir JOHN DOWNER:
I have listened to the very able speech that we have just heard, and it
appears to me that the whole of the honorable member's argument has
proceeded, if I may say so, from a provincial point of view, and from an
assumption that his great colony is not in the future to be as great as it is at
present. I prefer to go on the contrary assumption, that whatever difficulties
Victoria has had in the past are being overcome, that she will go on by
leaps and bounds in the future, and that instead of the disparity which the
honorable member anticipates at the moment there will be abundant cause
for joy.

Mr. PEACOCK:
All owing to the present Government in power in Victoria.

Mr. ISAACS:
I hope also owing to the Federation we shall have.

Sir JOHN DOWNER:
It appears to me quite unnecessary to go into the calculations from the
short formula set up in the Bill by my honorable friend who suggested it.
That formula is clear and has been enough in itself, and the address of my
honorable friend Mr. Isaacs has not been directed to show that it is not
correct, but to show that it will work out badly. My honorable friend told
me that South Australia would be in a worse position, and Victoria would
be also. I said in reply that would be all right. So far as the House of
Representatives is concerned, we must understand that the House of
Representatives is the House of the federated people of Australia, and has
nothing to do with the localisation of them. We care not whether they are
in Victoria, New South Wales, South Australia, or Queensland, or
anywhere else, for they are to be represented according to their numbers.
The only point which my honorable friend had in preparing this scheme
was to have some specific method by which the principle for the
representation in the Lower House being doubled in the Senate should be
carried out immediately, and preserved in the future. He had no other
object. What we have to consider is the simple question-can we agree that
we begin with a ratio of two to one, and
Mr. ISAACS:

Not is it wise, but is it necessary?

Sir JOHN DOWNER:

I think our Constitution might be founded as much on wisdom as necessity. My honorable friend destroyed his argument to a large extent, but not altogether. He said the matter ought to be left with Parliament. He first complained that it was left to a certain extent with Parliament, and that Parliament would be reluctant to increase the number. Then he complained it was not left altogether to Parliament, because they had to keep this two-to-one ratio, and he said Parliament would not make an increase. How will the Parliament be in both Houses? In the House of Representatives it will represent the people of Australia, and in the other House, which has the power of veto, it will represent the people of each State. Does the hon. member think that the people in each State will consent to be not adequately represented? It is a fact that the Senate represents the people, and the same people in each State, as much as it is that the House of Representatives represents the people of Australia. It would therefore not only agree to every reasonable increase in the House of Representatives, but insist upon it. Does my hon. friend think that if populations increase, as we are sure they will increase, the people will not exercise their power, both in the colonies and in the Federation, over their representatives to compel them, when they deem it necessary, to make their districts smaller and their representatives more. My hon. friend forgets that it is the same suffrage running all through the election of both Houses, and the same power going through the Commonwealth will insist upon representation in accordance with the advanced condition of the Commonwealth as that running through the electors of the States makes them insist upon representation there as well. The hon. member asks, why make any condition at all? Why admit it from the beginning, and insist upon continuing it? He says they did not do it in America. Truly enough. My hon. friend was frank enough to give us the answer while he made the objection; but the American Senate did not find it necessary to provide for an increase in its numbers. Its position is one of such proud, dignified, pre-eminent authority, so far above that in which we can place the Senate here, that the relations of numbers come to it in many particulars as a matter of second moment. There the Senate had handed over to it the control of foreign affairs—it is the arbiter of peace or war—and executive powers. But we are establishing a Senate with altogether different powers, and which are to be in accord with the powers of the States, not for to-day only, but for all time, so that they may be adequately protected; and being unable to
give it that great power which was given to the American Senate, we try with these precautions not to make it quite as important as the other House.

**Mr. ISAACS:**

Much more.

**Sir JOHN DOWNER:**

It is impossible to make it as powerful a House as that which can originate Bills, and it is quite impossible to put upon this House such powers as would give them the preeminent authority which the American Senate possesses; and so the Constitutional Committee, or a majority of them - I do not know that there was any division -

**Mr. ISAACS:**

Oh, yes!

**Sir JOHN DOWNER:**

Well, a large majority, at all events, and a large majority of those representing the larger colonies who were not cabined and confined by the narrow limits of their own populations at the present moment, but looked to the bigger time ahead when the results of the whole would be greater, though the incidence of some might be smaller-sought to put the Constitution on a basis that would ensure the preservation of the power of each House without the human probability of abrogation of either. The question, after all, is a very narrow one. We are all agreed that at present the relation shall be two to one. As a matter of constitutional enactment, shall we say that it shall be continued in the future? The question is in a small compass. We agree on the basis on which we are to start. Is it wise to put into the Constitution the basis, or is it wiser, having fixed on that initial relation, to leave it to the Parliament of the future to say what it shall be? I say, so far from this alteration which Mr. Isaacs suggests, increasing the numbers as occasion required, it would diminish it. The power of veto would be more likely to be exercised, but when we have fixed a certain basis on which the increase in the two Houses shall go—we have no possibility of a conflict between them—each House would have a disposition to aggrandise itself by increasing its members, but neither House would fear that in thrusting an increase on the other House it would diminish its own power.

**Mr. GORDON:**

If I understand the argument it is this, that we are faced by two possible disadvantages, on the one hand the danger from a liberal point of view of a small number of candidates having to canvass a huge electorate, and on the other hand the point put by Mr. O'Connor, of an unwieldy House. We concede the proposition that the ratio between the Houses shall always be
maintained. Then we have the two disadvantages, which are admitted disadvantages, and we can conceive of no scheme which will not involve some disadvantages. We have the point so strongly argued by Mr. Isaacs, that we shall have a small number of candidates canvassing a huge electorate. That will mean conservatism. Then we have the point of an unwieldy House. But these disadvantages are only:

Till the Parliament otherwise provides.

That saves the position. It must be conceded that the proportion between the two Houses must be maintained.

Mr. ISAACS:
Oh, no.

Mr. GORDON:
Then the hon. members should have attacked it on that ground. Disturb the basic proposition, and we have something we can go upon, but if it is conceded that we must have the constant relative strength between the two Houses, the thing resolves itself into a narrow proposition, and there is always the saving salt of the will of the Parliament coming in to do away with, any preponderating disadvantage which might ensue by the present quota being always the factor in the calculation,

Sir GEORGE TURNER:

To put the matter in order I move:

That the, words "as nearly as practicable there shall be two members of the House of Representatives for every one member of the Senate" be struck out, and "and until the Parliament of the Commonwealth otherwise provides each State shall have one representative for every 50,000 Of its people" inserted in lieu thereof.

Mr. DEAKIN:

The view I take is somewhat different from that of Sir George Turner and Mr. Isaacs, yet it is affected by the arguments they have adduced. It seemed, and it still seems to me, that the proposition of Mr. O'Connor is extremely ingenious, and I agree myself, although I doubt if my colleagues do, with the statement of Sir John Downer that it forms an excellent commencement for this Constitution. I think we all feel that, while the Assembly should start with a sufficient number of members to transact its business, the Senate should also commence with a sufficient membership to command respect, and to be able to discharge the functions with which it is entrusted. I have seen no ground to alter my opinion in regard to the merits of the proposition of Mr. O'Connor so far as it is concerned with the launching of the Commonwealth. But we Should not stereotype that proposal in the Constitution instead of leaving it to the two Chambers themselves-the Parliament of the Commonwealth- to afterwards determine
whether it shall follow exactly on these lines or amend them. Of course, by an amendment of the Constitution this principle can hereafter be altered. But it is undesirable in this instance to require an amendment of the Constitution, because it is one of the matters in which, whatever may happen, it is absolutely certain there will be great changes. We cannot possibly foresee the future, whether as to the gathering together or the dispersal of population in these colonies, or the division of colonies as they at present exist, nor define where the great and perhaps overwhelming accretions of population will be. Under these circumstances, why lay down an iron rule for changing conditions that will, involve great expenditure and great difficulty in order that it may be altered. We are, as it seems to me, justified, and, well justified, in embodying in this Constitution general principles which will relate to the permanent conditions of the Commonwealth, those which will obtain for all time, but this is distinctly a changing condition.

Mr. BARTON:
That is why the words

Until the parliament otherwise provides are placed at the head of the paragraph.

Mr. DEAKIN:
They are placed only at the head of the second paragraph, and, as I read it, that means until the Parliament otherwise provides in regard to the quota of its people.

Mr. PEACOCK:
Hear, hear. That is it, exactly.

Mr. DEAKIN:
If those words commenced the clause, and the whole clause were governed by the words, my objection would be removed. There is no occasion for fear on the part of the less populous States, inasmuch as the Senate will be certainly strong enough to protect itself and its own interest and the interests of its States in this and every other respect. It will be as free as the House of Representatives, it will derive its authority as directly from the people; and if it desires an increase of members it can obtain it just as readily as the House, of Representatives, and can insist upon it. If the Senate of the United States had at any time desired an increase of its numbers it could have obtained it. That appears to me not only to answer a great deal of my friend's argument, but to throw a good deal of light on his position and upon the position of Sir George Turner. If the United States Senate could have enlarged its numbers why cannot this Senate do the same once you have started it on a fair basis, and fixed, say the first decade...
as the time for which the principle shall be in operation? After a longer


time I would point out that serious practical difficulties may arise. Mr.


Isaacs has referred to them; I will do no more than enumerate them. First


the progressive enlargement of the size of the constituencies for the House


of Representatives is decidedly illiberal in its tendency. We all know that


while the reduction of numbers is possible, it has rarely or never been


popular, and would not be at all events when the number of members is so


small as in this case. Then you have to remember that the States to suffer


are not the small States with their minimum fixed, and not the greatest with


their increasing membership. I am not arguing this question from a


Victorian point of view. Personally, I do not think the position of Victoria


in regard to population is likely to be much altered. The minor colonies


will only suffer in this way: they will be kept to the minimum of their


representation for all time; and being kept to their minimum the colonies


between them and the greatest colonies, which will increase their


representation, are the colonies which will be pinched out until their


number is reduced to the minimum. What the minor colonies have to look


at is that before they can get an increase in their numbers they must


increase in a greater ratio than the population of the nation. The population


of the nation will be steadily enlarging, and on this plan the number of


representatives will not follow it. Look at the table circulated by Mr.


O'Connor; you will not have 446 members in 1941. That is quite certain. If


the increase in representation does not keep pace with the increase of


population, as it will not-the smaller colonies before they can get an


increase -they will only have to get an extra 50,000 at the start—may by the


time they have passed the population to which their minimum entitles


them, find that the quota has reached to 100,000. There is very little


prospect of their getting more than their five representatives, while the


middle colonies, between them and the colonies which will have a great


increase, will be in an even worse position. They will not be prevented


from falling back to the minimum. Hon. members may say, and properly


say, that I am speaking of contingencies that may never arise, and I do not


profess to say that it is more than possible. But as it is, this provision may


last in the Constitution for fifty, 100, or 150 years. And which of us can


foresee, or dare attempt to decree an iron condition


Mr. BARTON:

 What do you want after ten years?
Mr. DEAKIN:

Leave it to the Parliament to determine. If the Senate does not wish to increase itself further—if sub-divisions into States take place,

Mr. BARTON:

I do not wish to make a long speech about this. It seems to me that a great deal is being made of a very plain proposals proposal which works out plainly enough. The argument of my hon. friend Mr. Isaacs was very elaborate, and while upon the surface an argument against proportional representation according to numbers, it was, I take it, probably in its essence an elaborate argument against the proportion of two to one being maintained between the Houses of Representatives and the Senate. I really believe that is the point of attack. I am strongly in favor of maintaining that proportion.

Mr. DEAKIN:

Whether they want it or not?

Mr. BARTON:

I favor maintaining it, because in a Constitution of this kind it is a desirable thing that when you yourselves fix the relative powers of the two Houses you should also fix their proportions in number in such a way as will enable them to exercise those powers. If you define their powers you should also have a right to define their proportion to each other, so as to give that protection by which you think the proper exercise of those powers will be really secured. That is the object for which one portion of this clause was written, namely, that there should be as nearly as practicable a proportion of two to one in the two Houses, while, with reference to the method of defiling with the quota, that is left to the subsequent action of Parliament, so far as that quota may not meet with approval after. Now, that means, as I take it, that there are two things here concerned—a principle and a method. The principle is that the Houses should be in the proportion of two to one—that is a proper thing to lay down in your Constitution—and to require a referendum to alter it. On the other hand, the ascertainment of the quota is a mere method. It is therefore an appropriate thing to put in this collocation of words, "Until Parliament otherwise provides," because there may be something better devised than this quota, although the ingenuity of my hon. friends over there has not devised anything better. That is the real situation. It is to no purpose for Mr. Isaacs to argue that if there is a certain increase of population in the Commonwealth the result may be that one colony may have a larger proportion in that increase than his own colony. I thought the hon. member was a democrat, and that he wanted to maintain the principle of proportional representation in the House of Representatives. But his argument is against that, because if he wishes to
destroy that principle only to fall back upon a proportion of one member to 50,000 of a population, then we come to one of two things; either there will be an inordinately large House of Representatives in the course of time, and an inordinately expensive one, or, on the other hand, the Senate will become so impotent that it can offer no effectual obstacle or bar to any injustice which is contemplated by the House of Representatives. That is not my view of Federation. I believe it is a total abnegation of the principle of Federation. While we, who represent large colonies, think that the principle of responsible government must be preserved, and while with Money Bills we may seek to have it in such a form that the working character of the machine must be preserved, we ought to be prepared to concede what are the principles of Federation, and to see that the relative numerical strength of the two Houses is not such that their very disparity may be a considerable injury to one House, and therefore to the people it represents. I may be told that the Senate of the United States has not increased in proportion to the increase in number in the House of Representatives. That is no answer at all-it is a surface answer only, for this reason: That the Senate of the United States has conserved to it to-day certain powers which will never be granted to a Senate under such a Constitution as this is. For instance, the Senate has the sole power of trying cases of impeachment, and while the President may enter into treaties, it is only by the Senate that these treaties may be ratified. While, too, he may have certain views as to executive officers, it is only by the Senate that these executive appointments can be ratified. There is that, wide range given to the Senate in the American Constitution which is so strong that it makes it a Court of Justice to try impeachments and an executive body to make appointments-powers which prevent it falling into a drivelling, weakly condition. It is necessary therefore to preserve the principle contained in this clause and to keep it intact, except by referendum to the people.

Mr. DEAKIN:

That statement is absolutely opposed to Mr. Bryce's judgment, for he says that those powers are no source of strength to the Senate, but rather tie it up.

Mr. BARTON:

They may be tied up as regards impeachments, because party violence may prevent those impeachments, but whether they are tied up or not, the hon. member can judge independently of Mr. Bryce.

Mr. DEAKIN:

It is not a source of strength.
Mr. BARTON:
Who refuses to ratify the arbitration treaty between Great Britain and the States? Is not the source of the strength of the Senate in the exercise of its powers? The result of that exercise may make a body unpopular, and if the hon. member is going to limit his argument to that point, who is to be constituted a judge?

Mr. PEACOCK:
Will the hon. member show us why there should be a ratio?

Mr. BARTON:
I am very sorry if my speech has been misunderstood. I have given reasons concerning that. I have laid down as a proposition that, inasmuch as you do not give to the Senate the powers given in the United States Constitution, it is no answer to say that we should prevent the Senate from increasing, in this ratio on the ground that the powers here given are a source of strength to it. On the other hand, why there should be a ratio is this, that in the use of those powers, if there is to be a wide disparity in numbers, so that as between the Senate and the House of Representatives the former becomes transformed into a small committee or board in the range of the powers given to it, it dwindles in popular approval and loses the support of the people in relation to the performance of its duty. I contend that it is not desirable to Place the Senate in that position, and the principle of these clauses should be maintained, which principle, we, who believe that there should be a measure of justice between the two Houses, regard as a vital principle. I will stand by the Bill in the way it is framed.

What are the reasons of all these difficulties which have been raised with reference to the quota of proportional representation from a mathematical point of view? There was a reason once given by a great statesman—perhaps it was a bon mot of his—with reference to statistics. He said there were three kinds of lies—lies, adjective lies, and statistics. Conjectural statistics, notwithstanding the fact that they have been placed before the Convention by my hon. friend Mr. O'Connor, are certainly open to that objection. The rates of increase calculated here are calculated on the assumption that the increase during the past decade will occur during the next fifty years throughout Australia.

Mr. ISAACS:
They were put before us to consider this very proposal.

Mr. BARTON:
I admit that perfectly.

Mr. O'CONNOR:
Statistics of prediction.
Mr. BARTON:

Yes. There can be no statistics of prediction. I for one am entitled to my independent judgment about the matter, and I say that, although these statistics may have excited certain groundless fears in the mind of my hon. friend, the statistician has never yet and never will occupy the position of a prophet, and the able statistician who prepared these tables prepared them on the assumption that certain rates of increase that had gone on illustrated the proportion of increase that might possibly occur, but no one will assert that these increases will occur. There have been certain conditions affecting the colonies during the last ten years, and he would be an extraordinary man indeed who would say those conditions were going to continue for the next ten years. There have been conditions in Victoria, and also in Western Australia, but it would be a most absurd thing to say these things are going to affect the growth of Victoria and New South Wales for any certain number of years. We know that well enough. Let us apply the words of the proposal and see what it really is. The quota shall, when necessary, be ascertained by this process:

By dividing the population of the Commonwealth as shown by the latest statistics of the Commonwealth by twice the number of members of the Senate.

Thus, the population of the States as shown by the latest statistics is to be divided by the quota, to determine the number of representatives to which each State is entitled. Let us take an instance of that. I have endeavored to get at the position in respect of the States and the increase within a reasonable time, in order to remove the speculation which has been mentioned by my hon. friend. Let us take the population of the colonies as being 5,040,000, and let us assume that within that reasonable time there are seven States instead of six. These seven States will have forty-two members in the Senate, and they have to be multiplied by two, which makes eighty-four. Then by a simple piece of arithmetic, if you divide that total of 5,040,000 by eighty-four you will find the quota becomes 60,000, which is I think a reasonable and fair quota. Supposing in ten or fifteen years we become a population of 7,000,000, or for the purpose of better illustration 6,720,000, and we will assume that there are eight States in the Commonwealth instead of six. That will give you the proportion of forty-eight. Multiply that by two, and then divide it into the 6,720,000, and you get about 70,000. I think these figures are a plain answer to the argument. Could anything be fairer? There is no possible answer but the one, and that works out right. According to any assumption as to increases, the figures work out so as to give a quota upon which you can work. Well, then, the next objection we have raised is this: we have as clause 27 the following:
Subject to the provisions of this Constitution, the number of members of the House of Representatives may be from time to time increased or diminished by the Parliament.

One would think that would satisfy my hon. friend, but it does not. Next he says the House of Representatives may be ready to increase their numbers, but the Senate will not, and follows it up to show the fallacy of his own argument by saying they may be ready to increase their numbers where the quota has been decreased.

Mr. ISAACS:

No, increased. Where it would have been greater if the change in the law had not been made.

Mr. BARTON:

Then he admits that in America the members have been increased, but that amounts to nothing, because an undue increase has been prevented through the quota having been increased at the same time. That leads us to the conclusion that Congress has been master of its own action.

Mr. ISAACS:

That is all I contend for.

Mr. BARTON:

We make the House of Representatives master of its own actions also. The ticklish point with my hon. friend is this: that if you increase the number of members in the House of Representatives you have also to increase the number of the Senate. His position is that the fate of Victoria is to be decided to its ruin in regard to its position in the House of Representatives, because the States will gain something in proportion to the House of Representatives. The proposition with which he started is not his real proposition, and he reached it when he objected to the increase in the Senate at the same time as the House of Representatives is increased.

Mr. ISAACS:

I say it is not a fair increase.

Mr. BARTON:

It is a reasonable proportion acted upon in connection with these bodies which we know here as Legislative Councils and Legislative Assemblies. Although it is not constantly acted on, it is one reasonably acted on in almost every case, and it is one which the experience of the colonies has found reasonable, and unless we are to have some new experience, which is to be calle

Mr. KINGSTON:

Have the local Parliaments power to alter?

Mr. BARTON:
Where there are nominee Upper Houses, but we say that this Constitution is at liberty to be altered by the people, and with reference to that clause prescribing the mode of making amendments my hon. friend will notice that under the Bill the process is made a great deal more easy than it was under the Bill of 1891.

Mr. KINGSTON:
The alteration of the Constitution.

Mr. BARTON:
The process of altering the Constitution. Instead of putting each colony to the expense of holding a Convention to deliberate on each proposed amendment a direct poll of the people by way of the referendum is taken. It is much more easy and a great deal cheaper, besides being more acceptable to the people than the roundabout process proposed in 1891. The smallest modicum of common sense will tell anyone that to make the proportion of the Senate towards the House of Representatives the merest fraction, as you will in the lapse of time, will certainly lead to the practical abolition of the power of that Chamber. While I am not an ardent upholder of the Second Chamber, I think there should be preserved to it a certain amount of power, and in fact it is an essential in a Federation. The next suggestion was by Mr. Deakin, and it was put in such a very fair looking way that it is rather more difficult to answer his proposal than it was the other, and yet it is subject to the same objection. If we are going to trust the Parliament of the Commonwealth with power to alter the quota method, that is enough for us to say. We can leave the Parliament to make the alteration in that method, which can only be done by the consent of the two Houses, but we are going to trust the Parliament of the Commonwealth also to preserve that method of dealing with the matter by way of the quota, because no answer has been given to the arguments for its reasonableness in this debate, and as no answer has been given to it that is what we should preserve "until Parliament otherwise provides." Then my friend says we have no right to stereotype this proportion. We are not stereotyping it, and if my hon. friend has that trust in the people which he has announced, and which I know he will maintain, he will see that the difficulty can be overcome. There is no difficulty in amending this Constitution, except the expense, and perhaps there should be expense in matters of this sort, because it may deter people from raising unimportant points in the Constitution.

Mr. ISAACS:
Can you amend it without an absolute majority of the Senate?

Mr. BARTON:
No; you must have an absolute majority of both Houses, and if my hon. friend pays any regard to it he will see that it would be absurd to have a majority of one and not of the other. If he thinks it should be neither, he wants to bring about amendments so that a slight modification of the Constitution may be secured in this way, and then he would put the country to the huge expense of a referendum on a matter which is of no importance. When the members in the House of Representatives are increased, the Senate has to be increased by half that number. Sir John Downer put it clearly enough. Is it likely that the Senate will deny all increase to the House of Representatives when it gets an increase itself? It is not likely to do so, and so we come back to clause 27, which says that Parliament may increase it. While the due proportion is preserved there is not likely to be any denial by the Senate, because that will get its due share of the increase. That is the answer to the whole of the argument that the Senate will be untrue to its duties. Then let us come to the value of my friend's calculations as to figures. He has gone to the year 1941. We will call it fifty years hence from the census of 1891. I am not a mathematician.

Mr. ISAACS:
I have gone as far as I have been invited to go by Mr. O'Connor.

Mr. BARTON:
My friend says he has gone as far as he has been invited to go by Mr. O'Connor. He has gone further. We go fifty years on to 1941, and because honorable friend-

Mr. PEACOCK:
Did Mr. Coghlan work out whether we will be here then?

Mr. BARTON:
I do not think he did, but if we behave ourselves I think we shall be in a certain place where mirth and laughter prevail, and then we shall enjoy the company of the hon. member.

Mr. REID:
I do not think the proportion will be two to one. The hon. gentleman has gone on fifty years, and has been frightened by a shadow when he found that the population would be eight millions in New South Wales and four million in Victoria, and he says, if you do not alter this proposal, the number of Victorian representatives might then be reduced to thirteen. If there is any truth in the principle of representation according to numbers, then my hon. friend should be satisfied. Then he says that the electorate would be too large. He is actually crediting the Commonwealth with being so insane as to refuse to increase its representation in the Senate and House of Representatives, whilst the population can increase. First he has assumed that there will be no increase of States, which is an impossible
assumption, and next, notwithstanding the increase which follows population, neither the House of Representatives nor the Senate want to see an increase. I regret again that that is another impossible assumption. Is it not a fact that we are here to provide for things reasonable, natural, and probable, and that this Senate provides for all contingencies which are reasonable and probable, while the proportion of two to one between the two Houses is one which I am sure will be placed in this Constitution, as a principle not subject to alteration, except by proper amendment of the Constitution.

Mr. TRENWITH:
I do not think motives should have been attributed to my hon. friend. It is said he desired to have this clause altered to lessen the influence of the Senate.

Mr. BARTON:
That may be perfectly conscientious; I did not say it was not.

Mr. TRENWITH:
It was contended that, although that was the ostensible argument, it was not really what was asserted. The hon. member also endeavored to make some capital out of my hon. friend Mr. Isaacs as being undemocratic in his representation of the case.

Mr. BARTON:
I hope my hon. friend will allow me to say, by way of explanation, that I stated that if he were a democrat as I believed, he would be unable with his argument to go in the direction of democracy.

Mr. TRENWITH:
The hon. gentleman attaches to his argument the inference that my hon. friend Mr. Isaacs was opposed to proportional representation. My hon. friend pointed out that there was a danger under this system, not from proportional representation, but from the difficulty of increasing representation in the Senate, so as to obviate the necessity of reducing the number of representatives in some of the colonies which would be painful and unpopular when it would have to be done. However, it seems to me that all these considerations are apart from the question. Sir John Downer put the question which we are to consider in a nutshell when he was concluding his speech. He said:

Is it necessary or is it wise?

It is all summed up in these two questions. Is it necessary? It seems to me it is not, and because it is unnecessary it is unwise; unwise to tie the hands of people that are not yet born by our views as to what is right as to their proportion of representation in the two Houses. We may, I think, be
satisfied if we resolve to give them a start upon the lines that commend themselves to us as reasonable, leaving them to take care of themselves as time progresses, and assuming that they will have sufficient judgment in their day to continue or alter conditions we make for them. We have adopted this course in connection with quite a number of questions by saying "such and such shall be the conditions on which this Constitution shall start until otherwise altered by Parliament." If we do that in this connection we should be doing all that is required. I am prepared to grant the force of Mr. Barton's argument when he says that the proportion here proposed is the proportion commended to us by our experience. It is about the proportion that exists between the first and second Chambers in the respective colonies, but our experience teaches us that the necessities of our time have often rendered it very necessary that we should make material changes in the customs or arrangements that have been handed down to us; and we have a right to assume that the experience of the future may render it desirable that the people of the future should have every opportunity to make changes they assume to be desirable, as suggested by their surroundings. If we provide that the arrangements we have found to be reasonable, the arrangements commended by our experience, shall be the start of the Commonwealth, we should leave the Parliament of the future -a Parliament composed of two Houses, each of which must acquiesce in any change which is to be made-to arrange for some other proportion between the two Houses if they desire it. It might happen, as was pointed out on one occasion by Mr. Deakin, that in the future the Senate may deem it to be expedient in the interests of the States they represent - expedient in the interests of efficient government and the Parliament of the Commonwealth-that there should be an increase, and yet there might be ample reason, in consequence of increasing population, to increase the number of the House of Representatives; but if we pass this clause as it is, then - though such necessity might arise, though the Parliament might want that the House of Representatives should have its numbers increased without an increase in the numbers of the Senate-this Constitution would tie its hand.

Mr. DOBSON:

Hear, hear.

Mr. TRENWITH:

My hon. friend is a remarkable authority on what the people ought to be permitted to do. He suggests that the people have aspirations which should be thrust back by the policeman's baton and the soldier's bayonet. If the Constitution is carried in this manner, should the people desire to make an
increase in one House and desire to refrain from making an increase in the other, this Constitution would deny them the right of going through the cumbrous operation of obtaining a change in the Constitution, or vice versa. It might so happen that the exigencies of the people who are to come might render it necessary to increase the number of the senators without increasing the number in the House of Representatives. Should such a contingency arise this Constitution as now proposed would prevent the people of any future period from doing so at their own desire without all the cumbersome machinery of a change of Constitution. In the language of Sir John Downer, is this necessary? If it is, that settles the question. If it is, of course it is wise to do what is necessary; but if it is unnecessary, clearly we may leave the Parliament of the future to deal with this question, which after all is a question for the people of the day to settle for themselves. Surely we can leave it to them. There can be no fear of the popular House increasing its own numbers against the will of the Senate, because it would have to be done, if it were settled until otherwise arranged by the Parliament, by an Act of Parliament, with the consent of both Houses. If it were proposed to improperly increase the numbers in the House of Representatives the Senate would certainly object, and such an Act could not be consummated. But if, as I have suggested, it may be desired with the consent of the Senate, or at the desire of the Senate, or even at the request of the Senate, in the interests of the people of the States to increase the numbers of one House without increasing the numbers of the other, the Commonwealth Parliament of the future ought to be permitted to consummate that without having to be hampered with the inordinate expenditure that would follow an alteration of the Constitution, I respectfully submit that in view of the absence of danger, in view of the fact that the Parliament which is controlled by the people would have control of this question, we may easily, properly, and without danger leave the guidance of the business of the future to the people of the future instead of trying to control it from this place.

Sir GEORGE TURNER:
I desire leave to withdraw my amendment, with a view to moving another.

Leave given.

Sir GEORGE TURNER:
I move:
To transfer the words "Until the Parliament otherwise provides" from the next paragraph to insert them at the beginning of this.

Then the words will govern the whole section.

Mr. BARTON:
That would make the question whether the House of Representatives should be representative of the people according to their numbers depend upon some law or other which the Federal Parliament may think fit to pass.

Mr. KINGSTON:

Does Sir George Turner intend to put the words at the commencement of the clause or before the words

As nearly as practicable?

Sir GEORGE TURNER:

I will meet the hon. member's view, and move to put the phrase before the words

As nearly as practicable.

I am, however, perfectly willing to put it at the commencement of the clause.

Mr. BARTON:

It would not fix the principle of proportional representation as apart of the Constitution.

Mr. HIGGINS:

I should be quite willing to insert the words at the very beginning of the clause.

Sir EDWARD BRADDON:

I hope these words will not be inserted. I hope you will not leave it to the Parliament to alter the ratio, which is proved by experience to be a fair one, and which I think it would be very undesirable in the interests of the State to alter.

Mr. SOLOMON:

I would ask you to put this clause in two portions, so that I may move an amendment in line 24.

The CHAIRMAN:

You can do that after.

Question-That the words proposed to be inserted be so inserted-put. The Committee divided.

Ayes, 9; Noes, 26. Majority, 17.

AYES.

Berry, Sir Graham Peacock, Mr.

Deakin, Mr. Quick, Dr.

Higgins, Mr. Trenwith, Mr.

Issacs, Mr. Turner, Sir George

Kingston, Mr.

NOES.
In this sub-section we arrive in a very roundabout way at a representation in the people's House of one member for every 50,000 of population. I would like to point out to hon. members that the proportion under this clause means that two of the colonies at least will each have more than the whole of the smaller colonies put together. This to my mind is the most important clause in the Bill, especially as we have now clipped the Senate of all its powers in regard to the amendment of Money Bills and Taxation Bills. We have under this clause an arrangement that each colony shall be represented by one member for every 50,000 of its population, and under this arrangement the figures show that New South Wales would have twenty-six members in the House which has the control of the purse, Victoria would have twenty-four, Queensland nine, South Australia seven, and each of the other two colonies five members. It must be apparent to hon. members who look at these figures, and who will study the degree of representation for each State in the people's House, and at the same time consider the manner in which the powers of the Senate have been clipped by a resolution which passed yesterday, that although we may admit the right of the larger States to some greater degree of numerical strength than the smaller States, yet this representation on a population basis is absolutely and inordinately excessive. To say that in this House—the House which will make and displace Ministries, the House to which the Executive will be primarily responsible—two States out of five or six should have such immensely predominant power is to my mind a mistake—a mistake which some of the constituencies of the smaller States will be only too ready to
call attention to. I admit that representation on a population basis is perhaps to some extent admissible—that it is to some extent fair and equitable—but at the same time to carry it to the extent to which it is carried in this clause, is to carry it beyond all reason, and to place the smaller States in the position of not having any hand in the control of the money matters of the Federated Australia, but in a position that they are absolutely powerless in any way. They are powerless in the House of Representatives, and they are powerless in the Senate. So long as the Bill remained in the position in which it was brought down to us by the Drafting Committee, up to the time that the vote was taken yesterday, when, through unfortunate circumstances some of the representatives of the smaller colonies passed over to the other side of the House to join with the larger colonies in a division—

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The CHAIRMAN:
I will ask the hon. member to confine himself to the clause, if possible.

HON. MEMBERS:
Hear, hear.

Mr. SOLOMON:
That is precisely what I am doing, and I am connecting my remarks with the clause, and these remarks I am making are only leading up to the point which I wish to impress upon hon. members; I might say, in response to the "Hear, hears" that fell from some hon. members just now, that I have not taken up as much time as some of them in this Convention. I am dealing with a question of importance to the States, upon which I have frequently spoken, and to discuss which, fully and fairly, I have the authority of those who sent me here. I do not contend that the smaller States are entitled to the same degree of representation in the Lower House as the larger States.

Mr. PEACOCK:
You are very considerate.

Mr. SOLOMON:
More so than the hon. member; and if this question trod on his corns

Mr. PEACOCK:
Peacocks have not got any corns.

Mr. SOLOMON:
If this question touched his feelings—if Peacocks have any feelings—as closely as it affects the interests of the smaller States, he would recognise that representation purely on a population basis is not fair or equitable in
any possible way. I do not propose to suggest any radical amendment in this clause, but what I do propose will get over a great deal of the difficulty as to the gradual increase of members in the House of Representatives. Those hon. members connected with commercial life will doubtless remember that in large companies-joint stock and so forth—where a certain number of people join together for a purpose connected with financial operations, and I think that is much on the same lines as this Federation, that the deeds of association or partnership do not provide that each Party to that Partnership shall have representation, or voting power precisely in accordance with the number of shares he holds. Inasmuch as we have this done in our everyday-life in some of our largest commercial transactions, so I take it as an example to put to hon. members to show what, in my opinion, would be a more equitable and better working system upon which to constitute the Lower House. Under the present system we find that the smaller States are completely overshadowed. We find that out of a total of seventy-six votes they have some twenty-six, the other fifty being represented by the two larger States. I do not intend to go into the question of the probability or the possibility of these two larger States combining on financial questions, to the detriment of the smaller States, but at the same time I am not prepared to so implicitly trust to the integrity, goodwill, and sense of right of the larger colonies as to leave a question like this in the form in which it appears in this Bill. If we were to adopt a sliding scale, so that each State would be represented according to its numbers at the start, but in such a manner that as these numbers increase so the representation in the Lower House also shall increase, we could give very much the same number of members as is provided in the present clause, but on a slightly more equitable basis. I think if we were to provide that for the first hundred thousand of the population of each State they should have, say, six representatives—

Sir WILLIAM ZEAL:
Will you agree to a reduction of the number of members of the Senate?

Mr. SOLOMON:
That question has been fought out and settled. I will await the result of my amendment before I pin myself to any agreement.

Mr. REID:
What is your proposal?

Mr. SOLOMON:
I am coming to it. The point is that on a sliding scale, such as I suggest, each colony would have for

the first 100,000 of population six representatives, for the second 100,000
three, for the third 100,000 two, and for each 100,000 after that one representative.

Mr. REID:
Let us accept it at once. I never before heard of the zone system being applied to human beings.

Mr. SOLOMON:
The result of this scheme would be that instead of New South Wales having twenty-six members in the House of Representatives she would have twenty-one; instead of Victoria having twenty-four she would have twenty; instead of Queensland having nine she would have twelve; instead of South Australia having seven she would have eleven; and instead of Western Australia and Tasmania having five members, the minimum provided in this Bill, they would have six members. The result of this would be practically the same as far as total numbers are concerned, as under the scale of the Bill there would be seventy-six members of the House of Representatives.

Sir GEORGE TURNER:
Are you right in your figures as to Western Australia and Tasmania?

Mr. SOLOMON:
Yes. Each having over 100,000 would have six.

Sir GEORGE TURNER:
You are not allowing for fractions.

Mr. SOLOMON:
I have simply taken out round figures. In answer to Sir George Turner, I would point out where the fairness of the scale comes in, that as Western Australia increased from its 130,000 to 200,000, instead of having six it would have nine members, and as Tasmania increased from its 150,000 to 200,000, instead of having six it would also have nine, and until each reached 300,000 it would have eleven members, receiving an additional member for each additional 100,000 in population after it reached 300,000. The larger colonies would only increase at the rate of one member for each additional 100,000, and that would be

Mr. HOWE:
They are so impatient of anyone but a lawyer talking.

Mr. SOLOMON:
Yes, there is a certain amount of clannishness about these gentlemen. My proposal may strike some as likely to be unfair, but let us examine what the results will be in a few years to come. When Western Australia, as she in all probability will in a year or two's time, has a population of 300,000; and when Tasmania, as she very likely will, with the access of commerce born of intercolonial freetrade, approaches the limit of 300,000-
Mr. REID:
That is the fourth lap.

Mr. SOLOMON:

One would imagine sometimes from the childishness of the hon. member's remarks that he had not long left his first paper. As I was remarking, when these colonies approached the 300,000 standard there would not be such an immense increase as against the numbers of the two larger colonies. The total of the four colonies would only be forty-eight as against the joint total of Victoria and New South Wales of forty-eight. Now I would ask hon. members to consider this point. Is it a fair thing, now that the Senate has been deprived, as it has been deprived, of the power of amending Bills relating to taxation, that the more largely populated colonies in the representative House should have such an overwhelming majority against the four smaller colonies. That is the whole point of the question. I desire to move:

That after the word "have" on the twenty-fourth line the following words be inserted: "Six members for the first 10,000 of its population, three members for the second 100,000, two members for the third 100,000, and one member for every additional 100,000 of its population."

Sir GEORGE TURNER:
My hon. friend's proposal is so eminently fair and reasonable that I wonder he took such a length of time to explain the principles to us, and endeavor to induce us to fall in with his moderate demand. His proposition is that whereas the two colonies of Victoria and New South Wales possess a population of 2,500,000, and the other four colonies he refers to possess a population of 1,000,000, the basis of representation in the House of Representatives should be thirty-five to the smaller colonies and forty-one to the larger, and in the Senate they should have twenty-four to twelve. That means simply that, whereas they have two-sevenths of the population, they are in the House of Representatives to have five-twelfths of the representation and in the Senate two-thirds of the representation. I think this ought to be endorsed unanimously by this Committee.

Mr. GLYNN:

I am not going to speak on this question, for it has been already discussed. but I wish to raise a point, and perhaps Sir John Downer will tell me if I am right. The Bill says that, until Parliament otherwise provides, each State shall have one member for its quota of the people. Supposing Parliament passes an Act to say that one State shall have two members for a quota, and another four, is that not possible under the section?
An HON. MEMBER:
    Yes.
Mr. GLYNN:
    But that is not intended. Supposing an Act was passed to say that the quota meant that one State should have three and another five members?
Sir JOSEPH ABBOTT:
    On a point of order I would like to ask for your ruling. Sir. I am getting wearied of listening to these lawyers.
Mr. KINGSTON:
    That is not a point of order.
Sir JOSEPH ABBOTT:
    I would ask whether the hon. gentleman should not now confine his remarks to the amendment.

The CHAIRMAN:
    The hon. member certainly must confine his remarks to the amendment, but I understood that the hon. member wished to ask a question as to the construction of the clause before we arrived at that amendment.
Mr. KINGSTON:
    Hear, hear.
Mr. GLYNN:
    Exactly; the usual parliamentary courtesy will be extended to a member who wishes to move a prior amendment by the withdrawal of the amendment before the Chair. I would ask the members of the Drafting Committee whether I am not right in saying that the Federal Parliament might do what I have suggested. Would it not be possible, I ask, for a law to be passed to say that one State should have three members and another five?

HON. MEMBERS:
    Hear; hear.
Mr. PEACOCK:
    Quite right.
Sir JOHN DOWNER:
    Quite right. It is possible for there to be two members of the House of Representatives for every one member of the Senate.

An HON. MEMBER:
    That is only one part of it.
Sir JOHN DOWNER:
    Perhaps hon. members will allow me to go on. The clause says:
Until the Parliament otherwise provides, each State shall have one member for each quota of its people.

These are the clauses which are dealing with the relations of members between the two Houses. I do not think there can be any possible confusion myself.

Mr. PEACOCK:
It is the House of Representatives that we are dealing with.
Amendment negatived.

Mr. GLYNN:
It is all very fine for members to talk about lawyers, but lawyers understand this section.

Mr. SOLOMON:
It is the impatient lawyers who are the trouble.

Mr. PEACOCK:
You have laymen with you on this occasion.

Mr. WISE:
The hon. member for Victoria was on the Judiciary Committee.

Mr. GLYNN:
This is a Constitutional Bill, and I put it to the Premier of our colony, who is an authority in draftsmanship, is it not possible under this clause for the Federal Parliament to pass an Act stating that South Australia may have three members and Tasmania five?

Mr. GORDON:
That is not intended.

Mr. GLYNN:
Certainly not. Why not correct it?

Mr. GORDON:
This deals with the Constitution, and I think there should have been a stipulation in the first part of this subsection that there should be one member for each quota and no more. It is perfectly clear that Parliament could provide that each State should have any number of members for each quota. They could say 5,000 if they liked.

Mr. GLYNN:
I would suggest that those words should be inserted before "until the Parliament otherwise provides."

An HON. MEMBER:
What words?

Mr. GLYNN:
The words suggested by Mr. Gordon. It ought to be:
That each State shall have the same number of members for a quota.
That should be at the beginning of the clause.

Mr. GORDON:
That is open to the objection that this makes a constant factor of calculation.

The CHAIRMAN:
I would point out that we have already passed the word "have," and the hon. member cannot move an amendment before that.

Mr. GORDON:
A suggest that the hon. member should get the clause re-committed.

Mr. KINGSTON:
I would suggest to Sir John Downer and the Drafting Committee that this point is well worthy of consideration.

Sir JOHN DOWNER:
We are going to consider it.
Sub-section as read agreed to.
Sub-section 3.

Mr. REID:
I strongly object to this deviation from the Bill of 1891. It gives a minimum of five representatives. The minimum in the Bill of 1891 was four, when the ratio was one member for 30,000 of the people. Now we have arrived at one member for 50,000, in order to make the number of members in the House of Representatives more nearly approach the number of members in the Senate. I must say that the clause is altogether out of reason in view of the fact that we have reduced the number of members in the House of Representatives from 120 down to seventy-two. I move
That the word "five" be struck out and "four" inserted in lieu thereof.

Sir EDWARD BRADDON:
I hope we shall have a minimum of five.

Mr. SOLOMON:
Make it seven!

Sir EDWARD BRADDON:
I would not mind that.

Mr. PEACOCK:
Make it ten!

Sir EDWARD BRADDON:
We have already made a considerable reduction in the members as compared with the Bill of 1891.

Mr. DEAKIN:
Increased them!

Sir EDWARD BRADDON:
This was passed in the Constitutional Committee after considerable deliberation-

Mr. REID:
Oh!

Sir EDWARD BRADDON:
And with our eyes open to the surrounding facts.

Mr. ISAACs:
Who did?

Dr. COCKBURN:
The majority; you are ruled by the majority.

Mr. PEACOCK:
The majority will settle it here. We are not going to sit here and accept every decision of the Constitutional Committee.

Mr. WISE:
I for one will hold to the decision of the Committee.

Mr. HENRY:
I do not think that the smaller colonies can claim as a matter of logic that five should be the minimum on the present population basis, but I hope hon. members will deal liberally and fairly with the smaller colonies, and in this matter I hope the Victorian representatives will remember that yesterday some of us stood by them.

Sir GEORGE TURNER:
Although I think there is no doubt that as a matter of reason the smaller colonies should not have a minimum of five I will vote for this clause.

Mr. GORDON:
There is both logic and reason in "five," because if the compact is to go on as it is the smaller colonies will want to know how to use their fives.

Leave given to withdraw the amendment.
Sub-section as read agreed to.
Clause as read agreed to.
Clause 24.-Provision for case of persons not allowed to vote. Agreed to.
Clause 25.-Mode of calculating number of members. Agreed to.
Clause 27.-Increase of number of House of Representatives. Agreed to.
Clause 28.-Electoral Divisions. Agreed to.
Clause 29.- Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification for
electors of the more numerous House of the Parliament of the State. But in
the choosing of such members each elector shall have only one vote.

Mr. HOLDER:

I wish to propose the following amendment in this clause:

Strike out all the words after "be" in line 19 and insert in lieu thereof as
follows:—"Every man and woman of the full age of twenty-one years,
whose name has been registered as an elector for at least six months, shall
be an elector."

Should I obtain the consent of the majority of the Convention to that, it
will be necessary later on for me to bring down another clause providing
for the preparation of the electoral rolls in the interval before the time when
the Federal Parliament shall have created electoral machinery. The purpose
I have in view is simply to give effect to the desire that many of us cherish,
that women as well as men should be recognised as electors of this great
Commonwealth.

Mr. KINGSTON:

Hear, hear.

Mr. HOLDER:

I am not going to argue at very great length, because I do not think that
what I can say will influence many votes, but I submit that women are
equally with ourselves bound by the laws; they are, with ourselves,
taxpayers; by the consumption of dutiable articles we obtain taxes from
women as well as from men. At the present time a woman who may be the
support of her family, and whose husband contributes nothing to that
support, but is simply a burden and hindrance to the woman, has no vote,
while her worthless husband, may be, has one. Such a thing is not right. In
this colony we have had experience of woman suffrage. At the last general
elections in this colony, the women possessed votes to nearly an equal
number with the men for the election of members for the House of
Assembly. I was at several polling-booths on the polling day, and I noticed,
as did many others who are here to-day, the quiet determined way in which
the women were going to the poll. There was nothing of trifling about
them; they had come seized of the responsibility resting upon them, and
determined to give effect to their views with the utmost calmness and
decision. Not only in the city, but throughout the country districts, they
voted, and, if anything, more heavily in the country than in the town. I do
not believe that giving the vote to a woman makes her less of a woman. If I
thought it did I would not give it her. But she can be just as much a
woman, and care for what is going on round her, and also give time to
exercise her franchise wisely.
and well. We have had experience of that here; we believe it has been tested by experience, and we are quite prepared to recommend a similar course to that which we have followed to the other States of the Commonwealth. It may be suggested, it has been suggested, that in striving to attain what I am moving, as I happen to be a representative of one of the smaller States, it is a case of the small States dictating to the larger. I do wish hon. members would now and again forget that there are smaller and larger States, and discuss a question apart from whether a member who happens to move it represents a large or a small colony. This is not a question of a large colony against a small one, or a small colony against a large. This is a much greater question than that. The question is whether we will grant to one-half the population, or nearly one-half, the right they ask, or whether we will deny them that right. I hope this Convention, assembled under such conditions as we are, will do itself the honor and do one half the population of Australia the justice, which I am asking. Especially do I wish to mention one fact This year we are celebrating the diamond Jubilee of the greatest woman in political life in the British Empire, and if a woman be able, as that woman has been, with all the greatness and all the grandeur of her character, to preside over the destinies of this Empire during the last Sixty years, it does not become anyone to say that other women are not able to rise to the responsibility of casting a single vote on a political question. The next point I wish to make is this: it is not a case of South Australia dictating to the other colonies, for while in South Australia public opinion may be somewhat more ripened, or may have ripened earlier than in the other colonies, public opinion is moving in the same direction all over Australia. And we know that petitions have been got up and largely signed in Tasmania asking for adult suffrage. We know, too, that in the lower branch of the Legislature in Victoria a Bill was passed conferring upon women the franchise.

Mr. ISAACS:
   Twice.

Mr. HOLDER:
   That was wrecked in the Legislative Council. I understood that that was because of another matter associated with it.

Mr. FRASER:
   That is not so. It was on legitimate grounds.

Sir GEORGE TURNER:
   They will pass it next time.

Mr. FRASER:
   On the merits of the case.

Mr. HOLDER:
I am not yet satisfied that the Legislative Council has declared against woman suffrage, so that the position they are in is: the lower branch of Legislature has declared in its favor, and the other branch has not given any deliverance at all. In the large colony of New South Wales motions in favor of woman suffrage have been adopted more than once. There are several hon. members who can speak more positively than I can as to the extent public opinion in this direction has ripened in that colony. In Queensland similar advance is being made, and petitions have been laid before this Convention from Queensland as from the other colonies. I have mentioned that we are asked to legislate in this direction. I hope that on these grounds we shall be prepared to take this step. The only other point I wish to refer to is this: it was said that whatever might be possible when the Federal Parliament had done its work it was most impracticable under present conditions to provide that the first elections for the Federal Parliament should take place on any other system than that on which this Convention is sitting. But I claim that I am not suggesting anything impracticable at all. It will be the simplest possible thing for a clause or two to be brought down providing for the necessary enrolment of women in all parts of the Commonwealth, and that the elections for the Commonwealth shall take place on those lines. I do trust that those who are in favor of woman suffrage, who if this were the first session of the Federal Parliament, would vote for it, will not vote otherwise on this occasion, but will have the courage of their convictions and will give effect to the views they hold, and will provide even now and here, on this more fitting occasion than any other that can be given to us, that when Federation comes into effect it will come into effect broad based, not only on the will of the male electors, but upon the will of the adults throughout Australia, both men and women. I might prolong what I have to say, but I recognise that moments are precious. and believing that I have put all the leading points in favor of my amendment, I submit it with the greatest confidence to the Convention.

Mr. WISE:

I am sure that every member of the Convention will be indebted to the hon. Mr. Holder for the clearness with which he has expressed his views, and also for the admirable self-restraint he put upon himself in not elaborating them. I will endeavor to imitate him, and to refrain from general observations on the question of woman suffrage. I limit my remarks to putting before the Convention this consideration: "Is it a prudent thing in a Constitution of this kind to venture upon an experiment?
I express no opinion for the moment whether woman suffrage is desirable or whether it is not. I content myself with noting as a fact that in three of the colonies which are represented here—or, if we include Western Australia, four of them—the principle of woman suffrage has not yet approved itself to a majority of the electors, who have now—and, under our arrangements, ought to continue to possess-unlimited power in managing their own internal affairs. Is it then a prudent thing to direct that the basis of the federal franchise should be one which does not approve itself to the electors of each colony in the management of their own affairs?

Mr. HOLDER:
Federal affairs are different,
Mr. WISE:
I am aware they are different. The franchise is a matter to them in one sense of Federal interest, but until the Federal Parliament is formed, it is a matter of purely local interest. To put a clause of this kind in, dictating to the electors of each colony what their franchise ought to be for the purpose of electing the Federal Parliament would be seen at once in its naked absurdity. If the proposal took another form—suppose that Mr. Dobson, who has expressed his view very strongly, and with that force we all like to hear, in favor of a modified form of property vote—suppose he could persuade a majority of this Convention to provide that the franchise under the Constitution for the first election should be on a property basis. The mere proposal would be treated as an absurdity by the electors, and why?

Dr. COCKBURN:
Because it would be wrong.
Mr. WISE:
Why?
Dr. COCKBURN:
In itself.
Mr. WISE:
Because the electors in the different colonies have chosen to frame their franchise on a different basis. What then is the distinction between your attempt to dictate to the electors of each colony as to the basis of their franchise, when you are asked to turn it into a different form in respect to property, or as to the persons who are to exercise it? The only difference is that, excellent though the form may be in their own colony, that is no justification to force it upon another colony preliminarily to coming into the union, which, when it is formed, will have supreme power over this and other matters. If this cause of female suffrage is so good as its advocates insist that it is—and we do not hear a great deal in opposition to it, because I do not think the opposition to it has been seriously expressed yet—it will
make its own way. If the experiments in New Zealand and South Australia are such great successes, that fact must have an influence upon New South Wales, Tasmania, Victoria, and West Australia, not one of which, however, has so far been so impressed by it as to think fit to change their own system of voting.

**Mr. HOLDER:**

The whole thing is new.

**Mr. WISE:**

You are interfering at once with a matter, the power of dealing with which rests with the local Parliament. The franchise is a franchise.

**Mr. O'CONNOR:**

You are making it a condition that the whole Commonwealth will accept woman suffrage.

**Mr. WISE:**

As my hon. friend puts it, that is exactly the position assumed by Mr. Holder, and it is no more reasonable to make it a condition, as might be insisted upon by Mr. Dobson, to make the franchise a property qualification, than it is to adopt Mr. Holder's proposal. Supposing woman suffrage were proposed in New South Wales—this may seem a grotesque impossibility to Mr. Holder, but it is not so—and a large majority was against it, would not this proposal make it an essential condition of that colony coming into the Federation, that it should adopt woman suffrage? What are the purposes of the Federal Parliament? I take it that they will be of a higher and more important character than that which the local Parliaments will have to deal with. There has been no ruffle of skirts or stir of petticoats yet in Queensland in connection with this matter. I ask the hon. member: is it prudent to put this barrier in front of the formation of the Union? There is no reason why it is proper to try experiments of female suffrage in federal matters than in other matters which might lead to controversy of a serious kind. We cannot get away from this fact—disguise it as we may—that the ultimate sanction of all law is physical force. I need not go far back for an illustration, than only look to the early history of the United States Federation. It may yet be in our country, if we have female suffrage, that a law would be passed by a majority of women and a minority of men, which they would not have the physical force to carry into effect, and which can only be given effect to by a dissolution of society. I will give an illustration that accurately bears on this. The question that shook the American constitution to its foundation was the question of slavery. Do we not know that the attitude and object of all the prominent statesmen of the United States between 1826 and the outbreak
of the Civil War, or certainly up to 1850, was to have a compromise on this question, and why? Not with regard to many of them because they were in favor of slavery, but because they knew that the time was not yet ripe for the immediate abolition of it.

Mr. KINGSTON:

What was the result of postponing it?

Mr. WISE:

Its ultimate abolition.

Mr. KINGSTON:

Bloodshed.

Mr. WISE:

It was ultimately abolished, and if they had had female suffrage in those early days, they would have had the votes of a large majority of the women, reinforced by the votes of men in favor of the immediate abolition of slavery, and that would have led to a complete disruption of the Union, and an entrenchment of slavery in a position from which it could not have been overthrown. I simply mention this matter to remind members of the dangers from this system of female suffrage, and which must be obvious to all. The force with which Mr. Holder has put his views has led me into a controversial discussion which I desire to avoid, but I put it to members upon the ground of practical principles, and with full assurance, that it will very materially increase the difficulty—and I am not using terms of exaggeration when I say it will very materially increase the difficulty—of getting this scheme accepted in New South Wales if we adopt this system of female suffrage in federal matters when it has not been adopted in regard to local matters there. Is it not quite sufficient for the Federal Parliament to deal with this matter? When that Parliament is established, if its friends still believe in the system earnestly, they can bring forward a motion in that Parliament similar to the motion which has been brought forward now. I hope the friends of the system will not allow their feelings to degenerate into fanaticism, but that they will leave it to the Federal Parliament to accomplish that which is their purpose, and which is in no way hindered or delayed by the rejection of this amendment.

Mr. HOWE:

I believe it is the intention of the hon. member to divide the Committee on the question.

Mr. HOLDER:

Hear, hear.

Mr. HOWE:

Then I wish to speak. Mr. Holder has placed his case in a very fair
manner indeed before this Assembly. I might say that before Mr. Holder entered into the sphere of active politics in South Australia I was an advocate of woman's suffrage. I could never bring myself to understand why women should not have the same voice in connection with the laws of their country as the men. All the time I had the honor of having a seat in this chamber I never hid myself behind a hedge when the question of woman's suffrage was introduced, even when introduced in a questionable form. I believe in the principle, and although I may have been in opposition to any Ministry who introduced the measure, no matter in what mode it came into the chamber they have always found me voting in favor of it. I know that the policy of the South Australian Government on the hustings in connection with the Convention election was adult suffrage, but I took an opposite view. I told my constituents of South Australia that, while I believed in adult suffrage, and were I resident in any of the other colonies which did not possess it I would fight for it as I had in South Australia, but as I believed in States rights, which in other words is home rule, I had no right to place on the people of the other colonies such a franchise, and to interfere with them in such a manner I designated as a piece of impertinence. Mr. Holder has presented to our gaze a deplorable state of things, and asked why the woman should not have the same right to vote in the making of the laws of the land as her husband who might be an abandoned and worthless fellow; but an abandoned and worthless woman is as bad as any man, so in giving the franchise to women we have increased the number of worthless voters; but the good women who are so numerous will counteract the influence of the bad ones. I am about to contest an election, and I wish the people of South Australia to understand my position, so that there shall be no mistake about my attitude. I thoroughly believe in giving the franchise to the women of the State in which I live, but I would look upon myself as unduly and unnecessarily interfering with the rights of other States by agreeing to the amendment.

Mr. FRASER:
I am afraid if this motion is carried it will be handicapping Federation unduly, and we have already handicapped it to an extent that it can hardly bear. If we agreed to it the people of the other colonies would resent it-at all events I am sure Victoria would.

Mr. KINGSTON:
Your popular House is in favor of it.

Mr. FRASER:
That is possible, but it does not say that the women of that colony are in favor of it. I am an old parliamentarian, and I can tell you that, as far as my judgment goes, the women do not favor it. Of course there is always a
section in favor of anything you like to propose, but that does not say that
the majority do so. I will not, however, argue the matter out here, as the

place to do so in my own colony. I have as much admiration for the women
as any man—I mean in their proper places. If this question is going to grow,
give it time to grow. You do not want to force the growth of a plant
unreasonably.

An HON. MEMBER:

Asparagus.

Mr. FRASER:

It has not grown in the United States; it has not grown even in your own
colony. A lady presented herself—a very estimable and eligible candidate
stood for the Convention—but the people of South Australia did not elect
her. Her own sex voted against her, probably.

Mr. KINGSTON:

Well?

Mr. FRASER:

Well. I was in a town in New Zealand that had a lady mayoress.

Mr. BARTON:

Onehunga.

Mr. FRASER:

I had the pleasure of doing the honors to the Mayor of Onehunga. In New
Zealand I do not think there will be another lady mayoress. I am speaking
now what is the opinion of all. I am not saying that in disparagement of
womankind. Far be it from me. But I say the people of South Australia
have no right to dictate to our colony as this amendment will he doing, and
if it is carried it will handicap this Bill unnecessarily. I would suggest to
those who are anxious for Federation not to press this to a division. I will
have to vote against it, and I hope others will do the same who believe in
woman suffrage in local politics, but not in national matters. Let it grow as
it ought to grow. It will grow in our colony if it is going to grow, but if the
example of South Australia and New Zealand is followed it will die. It has
been in existence in a very small way in the United States, where I have
travelled frequently, and there is no desire for its extension. Then why
handicap this federal movement by a thing of this kind? It is not
reasonable.

Mr. GLYNN:

I also, like Mr. Howe, am about to face an election in this colony, but I
get up not to explain my position as a candidate for support. I expressed
myself on the hustings in favor of the principle of woman suffrage, but I said at the same time that if it would be dangerous to Federation I would not support it. Let me say one or two words as to the adoption of it on the grounds of logic and also of expediency, and of not forcing on the other colonies a principle of election to which they have objections, of prejudice rather than of principle. I agree with Mr. Wise that if you make it a condition of the other colonies accepting this you will wreck Federation. As to the question of the effect upon the chances of a slavery war if adult suffrage had been in force in America, if you are to deal with large and general matters such as slavery, I believe that the male instincts are more likely to go on the side of abolition than the female instincts. Hon. members must admit this fact, that the votes in the House with diverse franchises will be subject to degrees of refutation dependent upon the extent of the suffrage applicable in the colonies of the members who gave the votes. If you have a majority composed of members who have been returned to the Federal Parliament on a restricted suffrage, the weight of the majority will be discounted by the fact of narrow representation. Reflections were cast upon the votes of the Western Australian representatives at this Convention simply on the ground that they were returned by their Parliament and not by the people directly. The question of American representation has been referred to, but in that case no doubt it was diverse representation, but for special reasons. The American Union was composed of thirteen States remarkable for their diversities—some organised, and some with hardly any organisation. Agriculture was the chief consideration in one, shipping in others, and so on. It was, therefore, incumbent upon the framers of the American Constitution to frame such a franchise as would pay some respect to the respective prejudices, and not thrust upon the whole number a representation to which half the States, in the then dangerous state of public opinion, and when mutual animosities were but slowly dying, would take objection. But our conditions are different. Our political influences are practically the same. We are essentially at the same stage of political growth, and it really remains as a matter of logic only to express our convictions in one uniform franchise. It may be said that you cannot trust the people. But you must trust the people, because the granting of adult suffrage is only a question of time. Mr. Wise has mentioned in effect that the experiment of testing the efficiency of adult suffrage had best be made in connection with the local Legislatures. In my opinion it had best be made in connection with the Federal House. In that case the questions that will come on are too large in their relations, too remote from class interests and prejudices, to be open to
any danger on the side of popular power. I think we are entitled to apply
the principle of adult suffrage to the Federal Parliament, but at the same
time I shall not force my opinions upon hon. members of other colonies.
By doing so the result might be that we would not get Federation carried.
Logically I say they should not object to uniformity. The principle of
uniformity of suffrage ought to apply to the Federal House. You should not
have majorities discounted by an examination of the peculiar
circumstances under which their component members are elected. We must
remember, however, that we have here the representatives of large and
wide suffrages, you have got the representatives of cumulative voting, you
have got the representatives of a narrow suffrage; and if you impose a
uniform franchise, though it is logically right, you will not achieve
Federation. Therefore I join in asking Mr. Holder to withdraw his proposal.
It is all very well for some members to say adult suffrage should, on
principle, not be granted, but men progress quickly in these times. My
notion of public opinion is: with an educated people public opinion is quite
as ripe as statesmen care to recognise. It is

Mr. GRANT:

The subject we are now discussing we should remember affects half our
population, and therefore, even at this late hour, I venture to trespass on the
patience of the Convention while I offer a very few remarks. I wish to put
one or two points not dealt with by the previous speakers. This is a matter
that has had great interest to me for many years past. I formed a decided
opinion in favor of female suffrage before many members of the
Convention were born. It was when Disraeli, at a time of political
excitement, threatened the female franchise as a conservative weapon. I
believe in female franchise we have the strongest conservative element,
which will make the nation stable in council and render it less subject to
influences of an unsatisfactory character than any other provision. The
difficulty I have had on two occasions when I have had to exercise my vote
upon the question has been that the women themselves have not asked for
the franchise. We know that in our family circles they are able to speak for
themselves, and I think in all probability if they wanted the franchise, we
should have heard from them in large numbers, and not have had petitions
signed by only one or two hundred. So far as I have been able to gauge
public opinion in Tasmania, there is a distinct manifestation against the
franchise. They do not want to have the discussion of political matters in
their private family circles. From my knowledge of the United States, I
know

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nothing would be more objectionable than female franchise to the higher
and intellectual circles in which politics are eschewed almost as an unclean thing. Until women do approach us and express a desire, coming from a large proportion of them, to have the franchise, we should hesitate to force it upon them. We are told it has worked well in this colony, but we should remember that it has only been tried in South Australia at one election, that it is here in an experimental stage, and we do not know what objectionable ramifications may yet follow its adoption. I would far rather have a system of ascertaining the votes of women in the privacy of the domestic circle by means of voting by post. In the domestic circle, not only the wives, but the daughters and sons, who may be better educated than their parents, would be able to use that influence which would tend to make a more stable foundation for any electoral system. Another objection to giving women as a class a vote is the danger of popular excitement. They are abject to emotional or hysterical influences to a much greater extent than men. In the matter of strikes, the women, generally speaking, are the chief disturbing cause, and they hold on, to their own damage and detriment, far longer than men do. They are more moved by impulse, and do not maintain that self-control that men, from being continually associated with one another, are compelled to exercise. We should, therefore, hesitate before attempting to force upon the new Commonwealth woman suffrage. Forty years or more ago I was in favor of it; I am in favor of it now on a certain basis, but I do not think we ought to begin the Constitution of this Commonwealth by forcing thereon an unknown quantity which may prove disastrous thereto.

Mr. BARTON:
I should like to make a suggestion to the Committee. I think it is a fair time we came to a vote upon this question.

Sir GEORGE TURNER:
Hear, Hear.

Mr. KINGSTON:
No, no.

Mr. BARTON:
I think we ought to pass a self-denying ordinance in this matter. Mr. Holder made a very representative speech on one side of the question, and there has been at least one representative speech on the other. I think those two cover fairly nearly the whole ground. I myself have a strong opinion as to whether or not a uniform suffrage of this kind should be forced upon the Commonwealth, and as to whether the Bill would stand even a fair chance of being carried in the various colonies if this proposal were adopted. But I am prepared, in spite of all that, to forego the right which I think I have as a member of this Convention to speak. I think that, as the speeches which have been made are representative, we really shall not elucidate the subject
much to each other if we make further speeches, and if we cannot do that we ought to come to a division at once.

Mr. TRENWITH:

I appreciate the desire to arrive at a division, but this is a question, perhaps, above all others in which it is necessary for some, myself among them, to say a few words. I am in favor of female suffrage; I should like to see it adopted by all the States. I do not agree with Mr. Grant when he says there is a doubt whether women could vote with wisdom because they are liable to hysterical influences. At the same time I am opposed to putting that principle in this Constitution. Therefore it is necessary for me to say why I am about to vote, if a vote is taken, against a principle of which I am in favor. My reason is that female suffrage is desirable, but there is a very considerable number of persons in some of the States who think it extremely undesirable. If we load this constitution with this principle we create another difficulty in the way of having Federation adopted, and we do not advance the cause of woman suffrage. If we pass the Bill in the form in which it is now, that

the vote shall be taken on the basis of the franchise for the more numerous House in each State, that would be the suffrage for the Commonwealth. When progress is made with female suffrage in the various States, and it is adopted in these States, it immediately becomes part of the Commonwealth franchise. It has just as much chance, indeed it has a greater chance, of becoming part of the franchise of the Commonwealth by leaving it out of the Commonwealth Constitution. Putting it in may prevent Federation from being adopted. To adopt Federation without it may not retard female suffrage. And for this reason, without delaying the Convention, I desire to say that, good as female suffrage is, equitable as it is, little dangerous as it is, it ought not to be in this Constitution, because it may have a tendency rather to hinder than to advance Federation.

Mr. KINGSTON:

I think we can hear a little too much of the argument that if we do this or if we do that we shall imperil Federation. It was advanced with strong force at an early stage, and I paid some attention to it. But if in connection with every matter we are to be told by one side or the other that if this is carried or that rejected, there will be an end of Federation, I do not-

Mr. TRENWITH:

That is not argument.

Mr. KINGSTON:

I think those who believe in female suffrage should advance it by voting for it whenever they get the chance. I have no sympathy with those who
say they are in favor of it, but when they have an opportunity of extending it throughout Australia they will have nothing to do with it. I believe in a uniform franchise.

Mr. FRASER:
We will have to take off woman suffrage.

Mr. KINGSTON:
I am quite prepared that the hon. member shall make a proposal of that sort, and if he does I shall be prepared to resist it when he does. Uniformity is as necessary in a federal franchise as in a provincial franchise. Who ever heard of different constituencies of a province returning members on varying franchises? Would it be tolerated as regards this colony that one district, say, North Adelaide, should return its member on an extended franchise as democratic as you could wish, and that the rest of the colony should return members on a Conservative and retrograde franchise. What good, I ask, would be the democratic franchise of North Adelaide if it could be swamped by the franchises of the other constituencies? What good is it that South Australia with her, what she ventures to consider, advanced franchise, in which the women are permitted to vote, can return members to the Federal Parliament, if they are to be outvoted by the members returned on the less liberal and less extended franchises that exist in the other colonies. We are told it is not for us to dictate. Who talks of dictation?

Mr. SOLOMON:
You do.

Mr. FRASER:
Of course he does.

Mr. KINGSTON:
Nothing of the sort We propose what we believe in. I put it to the hon. member, does he find in the Constitution of Victoria that different constituencies return their members on varying franchises? Would it be tolerated.

Sir WILLIAM ZEAL:
That is for Victoria. That has nothing to do with South Australia.

Mr. KINGSTON:
Does not the hon. member see-I do not know the various constituencies in Victoria that each constituency is as much interested in the franchise of the other constituencies in Victoria as it is in its own? So also in Federation. Is not each province as much interested in the franchise of the other colonies as it is in its own?

Mr. HOLDER:
Of course it is.
Mr. KINGSTON:
I put it plainly to the hon. member-What good is it to us on our advanced franchise? Hon. members can excuse the adjective in adulation of our own offspring.

Mr. TRENWITH:
It is advanced. You are quite right.

Mr. KINGSTON:
What good is it to us to return members on our advanced franchise when the other colonies, returning members on a less advanced franchise, outvote them? Why our slight contribution will be as a drop in the bucket. It will have no effect whatever on the Federal Parliament and federal legislation. We believe that just as the franchise determines the character of the elector, so it also affects the character of the elected, and the character of the elected determines the nature of the legislation, and the nature of the legislation not only affects Victoria and New South Wales, but South Australia also.

Mr. FRASER:
Can you get Victoria to pass an Act such as you desire?

Mr. KINGSTON:
I do believe they will. I do not profess to know so much about Victoria as the hon. member; but I do my best for the purpose of studying what goes on there, and I find in the popular House there that a Bill extending the franchise to women was passed by a considerable majority.

Mr. ISAACS:
More than once, too.

Mr. KINGSTON:
In the Legislative Council, however—I speak with bated breath in the presence of Sir William Zeal it was ruled out of order.

Mr. FRASER:
It was voted out as well as ruled out.

Mr. KINGSTON:
The representatives of Victoria, in the popular branch of the Legislature have declared their wish that female franchise shall be the law of the land. Where therefore is the dictation? We are proposing something in the nature of a partnership with the other colonies, and they are making reciprocal proposals to us. What we want to know is who we are going into partnership with? We resist a limited franchise on a property qualification. Why? Not because of any attempt to dictate to us, but because we did not believe in it. Similarly we advocate female franchise, because we believe in it.
Sir EDWARD BRADDON:
    Because we are conservative.
Mr. KINGSTON:
    We have had some practical experience of the working of it.
Mr. SOLOMON:
    Very little.
Mr. KINGSTON:
    We are content with that working, and our experience has been sufficient to prove that our content is justified. The hon. member Mr. Solomon will recollect that he and all who represent South Australia at this Convention own
Mr. DOUGLAS:
    Clause 29 reads:
    Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification for electors of the more numerous House of the Parliament of the State. But in the choosing of such members each elector shall have only one vote.
    Is that not sufficient for the hon. member, Mr. Kingston? Does he want to force down our throats a thing we do not believe in? Since I have been in Adelaide I have been reading a newspaper, and I saw the account of a row which a man had with his wife who insisted on canvassing for a member of Parliament who happened to be a justice of the peace, and in the court when the case came on. I have not found a single woman yet who is anxious for this franchise. We had a meeting the other day at Launceston on the subject. There were three or four ladies there who wanted to have a vote.

An HON. MEMBER:
    They were old women.
progressive, but a strong retrograde movement.

Question-That the words proposed to be struck out stand part of the clause-put. The Committee divided.

Ayes, 23; Noes, 12. Majority, 11.

AYES.
Abbott, Sir Joseph Henry, Mr.
Barton, Mr. Howe, Mr.
Braddon, Sir Edward Lewis, Mr.
Brown, Mr. McMillan, Mr.
Carruthers, Mr. Moore, Mr.
Dobson, Mr. O'Connor, Mr.
Douglas, Mr. Solomon, Mr.
Downer, Sir John Trenwith, Mr.
Fraser, Mr. Walker, Mr.
Fysh, Sir Philip Wise, Mr.
Glynn, Mr. Zeal, Sir William
Grant, Mr.

NOES.
Clarke, Mr Isaacs, Mr.
Cockburn, Dr. Kingston, Mr.
Deakin, Mr. Peacock, Mr.
Gordon, Mr. Quick, Dr.
Higgins, Mr. Reid, Mr.
Holder, Mr. Turner, Sir George

Question so resolved in the affirmative.

Mr. HOLDER:
I now move another amendment. It is a compromise which has been suggested by Mr. Trenwith, and a very fair one. I hope that is the view that will be taken by the majority. What I move is:

To add to the clause "And no elector no possessing the right to vote shall be deprived of that right."

That is to say that while the matter is left to the Federal Parliament no person who now possesses the right to vote shall be deprived of that right.

Dr. QUICK:
I hope that the Convention will accept this proposition, and if there is no opposition I will not speak.

Mr. WALKER:
It seems to me that this is tautology, as we have declared that the qualification shall be that existing in the States at the time of the passing of the Act.

Sir GEORGE TURNER:
As I understand it Mr. Holder wants to have this amendment passed in order that the Parliament when declaring the uniform franchise shall not be able to deprive any woman, who can now vote, of that right.

Mr. Reid:

It will compel female suffrage.

The Chairman:

If I may, I would point out that it applies only to electors who now possess the right to vote.

Sir Edward Braddon:

How can a uniform franchise be secured if this amendment is carried? It will bind the hands of the Federal Parliament.

Mr. Barton:

As I understand the suggestion, it means that if the Federal Parliament chooses to legislate in respect of a uniform suffrage in the Commonwealth it cannot do so unless it makes it include female suffrage. It ties the hands of the Federal Parliament entirely. I cannot understand many of our friends, who profess to trust the people we are constituting, and who now cannot trust them in this matter. It seems such a deviation from a well-stated principle. Who is to say that the Parliament of the Commonwealth is going to take away any right? We have conceded to the Federal Parliament the right to frame a uniform franchise. Supposing woman suffrage were abolished in South Australia, where would be the necessity for this proposal? Under this Constitution women who have the right to vote in this colony will be entitled to vote for the Federal Parliament in South Australia; but if South Australia changes that law, this proposal is unnecessary. The result of the amendment will be that it will make a uniform franchise impossible, unless the Parliament adopts adult suffrage.

Dr. Cockburn:

You can make an amendment of the Constitution.

Mr. Barton:

What need is there to make an amendment of the Constitution, if you have stated that the people whom you are constituting shall have the right to make their own franchise? Why should you now tie their hands and say that because the women of South Australia have a vote, the Parliament shall not be allowed to make a uniform franchise unless it is on the basis of adult suffrage? That is a fettering of the Federation to which I will never consent. I do not believe in speciously putting in the name of freedom, and giving the rights of men away.

Mr. Kingston:
It is all very well for my hon. friend Mr. Barton to wax indignant about refusing to trust the Federal Parliament, but not so long ago, when we were discussing the relative numbers of the two Houses, my friend adopted the same attitude about the impropriety of trusting them. As regards that matter it was proposed that the House of Representatives and the Senate might fight the question of their relative numbers out for themselves, and if they chose to agree to a different course to that in the Bill they had a right to give effect to it. That was resisted and resisted successfully by Mr. Barton. Now what is being resisted? Although we come in under separate terms but with equal rights and with our own laws, yet if the Federal Parliament chooses it can enact a law by which these provisions of the State are swept away, and instead of a broad and democratic franchise, we may have a property qualification or plurality of voting.

HON. MEMBERS:

No.

Mr. KINGSTON:

Well, put it at the very best, a disfranchisement of some of the people. Surely it is right to leave it to the Parliament of the State, whether they shall alter their own franchise or not. Is it to be tolerated for a moment, that they must put their head into a noose like this against their will? It is the root and foundation of their political existence, and is it to be that their enjoyment of any privileges and advantages that their franchise gives them shall be taken away, diminished, or destroyed? I hope hon. members generally will assent to the principle in the amendment of my colleague, Mr. Holder. As regards the form, that may or may not be improved, but the principle is a most important one. It was difficult enough to fix this franchise ourselves. What will the result be if it be possible, whilst the States Parliament wishes to continue its system, for the Federal Parliament to take it away?

Mr. TRENWITH:

Mr. Barton said he would never submit to a position of this sort, which would limit rather than extend the freedom of the people, as has been pointed out by Mr. Kingston. He took the exactly opposite attitude a short time ago. There must be no objection to that, for we all hold ourselves at liberty to change our opinions. He said he objected to tying the hands of the future in an improper way. He was successful as to the relative proportion of the two Houses. Now, this is a question involving the right of the people to take part in the government of the country in which they live. The Parliament of the future might have power to extend the privileges of the people, but not the power to restrict the privileges of the people with
reference to self-government and in pursuance of the legislation upon which we first proposed that we federated. Mr. Holder, as I understand it, is anxious to provide that no whim of a Parliament to be elected shall enable it to deprive any person who is now possessed of the right to vote of the power to vote in the future, or any class now possessed of the vote to vote in the future, and to provide that such alterations of franchise as may take place shall go on in accordance with historical precedent, which is to broaden out rather than to narrow or restrict. All the history of discussion shows that the desires of the people are in the direction of giving more extended privileges. We are to ask the electors of these colonies to say whether they will have the Constitution which we submit to them, and we shall have a greater chance of their endorsing the Constitution if upon the face of it there is a declaration that they cannot in future be deprived of a right they now possess. I opposed putting female suffrage in this Constitution because I do not wish to increase the difficulties of obtaining Federation and I felt by inserting female suffrage I should not be advancing the chance of its adoption; but I feel if we do not have some clear declaration made to the people who now have a vote that they will always be privileged to exercise their vote in the future, and that if there is an alteration made it will be in the direction of giving a vote to the people now if they have it not, we can well imagine the women of South Australia giving a negative vote for fear that the privilege for which they have struggled, and which has been obtained, may be taken from them at the will of the other colonies who have not yet obtained female suffrage; and I can readily understand the people who by this Constitution will be for the first time presented with equal voting power with their other male comrades in their colony, fearing that manhood suffrage may be taken from them by the whim of a Parliament that may be elected. Such power as is now possessed by voters should only be taken from them, if taken at all, through the most difficult process; for while it is proper that Parliament should have the right to facilitate and extend the privileges and powers of the people, it is only right that it should be most difficult to restrict the freedom of the people.

Mr. REID:

At first sight I was opposed to this principle, but I think, in the interest of Federation, it should be assented to. It is perfectly immaterial to New South Wales how the electors of South Australia are constituted. That is my view, and I think that is the view generally taken; we have no right to expose any elector or class of electors, such as the female electors of South Australia, to the risk of d
Sir JOHN DOWNER:
I might suggest that the best thing to do would be to insert the words: Until Parliament otherwise provides.

The CHAIRMAN:
You cannot do that now, because we have decided that the words of the clause shall stand.

Mr. HOLDER:
We should not agree to that.

Sir JOHN DOWNER:
It seems to me we all want Federation. We want to do what is fair and right, but Federation is the main object we wish to obtain, and we do not want to put undue obstacles in the way. South Australia has resolved on female suffrage, South Australia wishes to maintain it, and I suppose the right to alter it if it is thought desirable, although I do not think it is likely to be altered. The other colonies have not adopted it, but they would still like to have the right to have some choice over their franchise, so that they may have female suffrage if they want it. If the amendment is carried, the effect will be that South Australia will have female suffrage for all time; they will irrevocably have it. South Australia cannot alter it; I do not say they want to. The other colonies have not got female suffrage, and cannot obtain female suffrage unless the Parliament of the Commonwealth gives it to them. So far as this matter is concerned, if the proposition is to make each State legislate for itself as to the manner in which it shall return its members, I do not see much objection. They can only return a certain number of members, and they can please themselves as to the way in which those members shall be returned, but I do not think we should say arbitrarily in the Constitution that it should absolutely remain fixed as it is.

Mr. ISAACS:
That is not said.

Sir JOHN DOWNER:
I think that is what it means.

Mr. ISAACS:
It does not.

Sir JOHN DOWNER:
What does it mean?

Mr. ISAACS:
It means that everyone who has a vote under the Commonwealth Bill now shall always be permitted to have that vote.
Sir JOHN DOWNER:
Always have it?

Sir GEORGE TURNER:
It does not prevent the State taking it away.

Sir JOHN DOWNER:
That is not the form of the amendment.

Mr. KINGSTON:
It is not in the original section.

Mr. O'CONNOR:
That is worse. If you once give him the right to vote for the Federal Parliament you can never take it away again.

Sir GEORGE TURNER:
You can always alter it.

Sir JOHN DOWNER:
Where is the authority for any State to alter its own?

Mr. KINGSTON:
In each State it is prescribed by the law for the time being of the State.

Mr. BARTON:
You say no person having the right to vote shall afterwards be deprived of it.

Sir JOHN DOWNER:
If the amendment now proposed is that no one who has now a vote shall be deprived of it, it deprives both the local Parliament and the Parliament of the Commonwealth from interfering with it, and fixes for all time the absolute and eternal right of everybody who has got a vote now. Surely that is not the intention.

Mr. HOLDER:
Although I am not willing to accept Sir John Downer's suggestion, I am quite prepared to accept another suggestion, which emanates from Mr. Isaacs, to make the amendment read:
And no elector possessing the right to vote shall be deprived of that right by the Parliament of the Commonwealth.

Sir GEORGE TURNER:
Hear, hear.

Mr. HOLDER:
That will leave it still open to the Parliament of any State to take away that right.

Sir GEORGE TURNER:
No objection to that!

Mr. BARTON:
Does Mr. Holder mean "elector" at the establishment of the
Commonwealth—this is a mere question of conformity of expression—or any elector who at the time of the establishment of the Commonwealth, or at any time after, shall become entitled to vote, so that any person who at any time after the establishment of the Commonwealth is given the right to vote by a local Parliament—supposing, for instance, an infant of 16 years—shall not be deprived of the right to vote at federal elections by the Federal Parliament?

Mr. HOLDER:

I desire that at any time any elector having a right to vote which he had at the time the Commonwealth came into operation, or which he acquired afterwards by State legislation before the Federal Parliament legislates on the subject shall be protected in the exercise of that vote against any action of the Federal Parliament. I am quite willing to leave the matter of form to the Drafting Committee.

Sir GEORGE TURNER:

We admit the right of the Federal Parliament to declare its own franchise. As soon as it does that it certainly would not be right to allow any State afterwards to alter that franchise, but we claim the right to say to the Federal Parliament: "In declaring that franchise you shall not take from any person or class of persons who have the right to vote that privilege."

Mr. HIGGINS:

Even for State purposes?

Sir GEORGE TURNER:

We do not interfere with State purposes. We are dealing simply with the Federal Parliament.

Mr. BROWN:

I would like to ask whether the object which Mr. Holder has in view will be met by words such as these:

Provided that in case of any State possessing adult suffrage on the passing of this Act, such State shall be entitled to retain it until the Parliament of the State shall otherwise provide.

That, I think, is what most of us are willing to agree to. We wish to conserve our own liberties and let South Australia have adult suffrage as she has it now. We object very much to having the suffrage enjoyed by one particular colony thrust upon the whole Commonwealth. If words such as I have read will meet Mr. Holder's views, he might withdraw his amendment. I would support the adoption of similar words to those I have read; but I will not be a party to tying the hands of the Federal Parliament in such a way as that hereafter to obtain a uniform franchise we would be compelled to take the suffrage now enjoyed by South Australia.
Mr. O'CONNOR:

It is very little use giving the Federal Parliament power to make a uniform franchise if you tie its hands. If you pass this limitation you only make this effect: you stereotype the franchise in every one of the States. There can be no uniform franchise unless the States have arrived at a uniform franchise. You have in one colony, South Australia, woman suffrage; in another colony, Tasmania, there is a special educational franchise, given especially on account of Federation.

Mr. REID:

Tasmania?

Sir EDWARD BRADDON:

That is for the legislative Council.

Mr. O'CONNOR:

I understood it was for both Houses.

Sir EDWARD BRADDON:

No.

Mr. O'CONNOR:

Well, the Tasmanian representatives ought to know better than I do.

Mr. HIGGINS:

There is a wages vote in Tasmania.

Mr. O'CONNOR:

However, one or two illustrations are sufficient to show what I mean, that you never can have a uniform franchise until the States amongst themselves have all the same electoral qualification. The very object of giving this power to the Federal Parliament is that you shall make it uniform; but if you are to leave it in the hands of the States, until they shall agree there is no use in giving the power to the Federal Parliament. It appears to me to be an unwise thing to stereotype the franchises as they are at any particular time when the Parliament wishes to interfere. If we do not wish the Parliament of the Commonwealth to interfere in these matters it would be very much better to say so. But one of the reasons which make it advisable to place this power in the hands of the Federal Parliament is that it is only just, as the whole people are to be represented in the House of Representatives, there should be some uniform basis possible. But you never can have that unless you give the power to the Commonwealth. Uniformity can only be brought about by a process of levelling which may result in the taking away of a particular privilege or a particular franchise in some place or another. And that is done for the good of the whole. If it is good to have a uniform franchise, some portion of the Commonwealth must lose some
portion of its rights in the adoption of that franchise. We are told that if this amendment is not passed there will be a danger that the franchise which is now hold by the women of South Australia will be taken away. Of course there is an absolute right in the Parliament to do all kinds of things. There is the right in the Senate to reject every Bill. There is the right in the Governor to refuse his assent to every Bill. But all these rights must be exercised with reason and judgment, and in accordance with circumstances. I would ask, "Is it not the tendency with regard to legislation to broaden the franchise"? If the supporters of woman suffrage have faith in it, why should not they have faith in the gradual education of the people throughout the colonies till they secure the final adoption of this principle? The power should be simply reserved so as to meet any eventuality which it may happen may come before the Federal Parliament. If you tie their hands in the way suggested, I do not see how they can act at all. I would like to say a word or two about the attempt which has been made to draw a distinction between my hon. friend Mr. Barton's action in respect of another clause and in respect of this one. It is one thing to place a right in a way that Parliament cannot interfere with it, and quite another thing when you give Parliament a power and do not tie its hands in the exercise of that power. That is a perfectly plain distinction.

Mr. REID:
With how much difference?

Mr. O'CONNOR:
I think the hon. member has only just woke up.

Mr. BARTON:
The hon. member though when a Drafting Committee was appointed that he was going to muzzle the members of the Committee.

Mr. REID:
Oh, no.

Mr. O'CONNOR:
I have put these considerations, because, it appears to me it is not a light matter. If we are going to give this power to Parliament, let us give it in some way that it can be exercised.

Mr. HOWE:
Mr. O'Connor has explained matters so plainly that it is patent to every South Australian that unless Mr. Holder's amendment is added to the clause the Federal Parliament would deprive us of the right we now possess to adult suffrage.

Mr. HIGGINS:
It might.

Mr. HOWE:
We gave them the right. Are we going to have woman suffrage come about in all these colonies within the next few years? I rather doubt it. Consequently that is the more reason why this amendment should be added to the clause. Although I would not interfere with the rights of other people in other States to pass into law any franchise they think proper, I will even deny the right of the Federal Parliament to alter the franchise which now exists in our State. I am a thorough home ruler. I believe in self-government, and that law which we have been instrumental in obtaining in this colony I will not give power to the Federal Parliament to alter.

**Dr. QUICK:**

Opposition has been raised to Mr. Holder's proposal, but I hope the Drafting Committee will not insist on opposing the amendment. I think there are some grounds for the acceptance of the amendment.

**Mr. BARTON:**

We are not acting as a committee here, but as individuals.

**Dr. QUICK:**

Very organised individuals.

**Mr. BARTON:**

We are only acting as a committee as far as the phraseology of the Bill is concerned, but we can exercise our own individual opinions.

**Mr. PEACOCK:**

You usually vote together.

**Mr. BARTON:**

Because we are sensible enough to agree.

**Dr. QUICK:**

My hon. friend, Mr. O'Connor, said that there was not much probability of the Parliament of the Commonwealth cutting down the established franchise, but he admitted there was a tendency to interfere with the franchise. That being so, where is the harm in putting in a security? Mr. Holder and others say their friends here entertain some apprehension on the point, but I do not think there is much danger of it being cut down. What people fear is that the right which is now secure under local legislation may afterwards be assailed by federal legislation. I hope that the appeal made by the representatives of South Australia will be successful.

**Mr. BARTON:**

In accordance with the suggestion I made to my hon. friend I have sketched out this amendment, and I will ask the hon. member to follow me in it, for, though I may be opposed to the principle, I desire to have the amendment in as perfect a form as possible. The amendment I have
prepared reads:

And no elector who has at the establishment of the Commonwealth or who afterwards acquires a right to vote at elections for the more numerous House of the Parliament of a State shall be prevented by any law of the Commonwealth from exercising such right at elections for the House of Representatives.

Sir GEORGE TURNER:

That is going further than Mr. Holder suggested.

Mr. BARTON:

If it goes too far, I should like Mr. Holder to apprise me of the fact.

Mr. ISAACS:

All he wants is that the Federal Parliament should not abolish the qualifications existing at the present time.

Mr. BARTON:

I asked a distinct question on that subject. I asked my hon. friend if he intended his amendment to apply only to the rights acquired before the date of the establishment of the Commonwealth, or if it was to apply also to rights to vote acquired after its establishment. The hon. member means that when the Commonwealth proceeds to legislate it shall not make any law in derogation of the right acquired before it legislates, even though acquired after the Constitution has become law.

Sir EDWARD BRADDOCK:

Under this amendment South Australia will obtain for herself her adult suffrage while the other States will retain their respective suffrages. It seems to me that by passing this amendment we shall make the whole clause perfectly ridiculous. We say in this clause that the Federal Parliament shall have the power of passing a federal franchise. What is that federal franchise to be, one for each State, or one for the whole of the States? Clearly it must be a uniform one, and therefore we cannot logically admit that there should be any exception to that in favor of one State or another.

Mr. KINGSTON:

Have the Tasmanian Assembly passed female suffrage?

Sir EDWARD BRADDOCK:

The Tasmanian Parliament has not.

Mr. KINGSTON:

Has the Assembly?

Sir EDWARD BRADDOCK:

The Assembly has passed it, but I do not see that that affects it one way or another. I hope we shall not stultify ourselves and make this Bill ridiculous by putting a clause in it that will not bear scrutiny.
HON. MEMBERS:
What is the amendment now?

Mr. HOLDER:
The Drafting Committee have put it in a form which makes it harmonise with the Bill, and I will accept it.

The CHAIRMAN:
The amendment is:
But no elector who has at the establishment of the Commonwealth, or who afterwards acquires the right to vote at elections for the more numerous House of the Parliament of a State, shall be prevented by any law of the Commonwealth from exercising such right at elections for the House of Representatives.

Mr. FRASER:
Under this amendment, if South Australia put on the roll of the Northern Territory 10,000 Chinamen who might reside in the country, we should be compelled to put them on the roll of the Commonwealth, and I do not think the Commonwealth should be bound in this way.

Mr. MCMILLAN:
I think this goes too far. The principle of this Constitution is that no right shall be taken away that exists at the time of the Commonwealth, but it goes further. It abnegates the whole [P.732] force of the clause, which is that a uniform franchise should be established for the Commonwealth. In reference to the position of South Australia, which has already established female suffrage, members do not think that that right should be taken away on the establishment of the Commonwealth, and that is a very fair thing, but I do not see that the clause should be further mutilated. We have laid, down the principle so far as we can go of a uniform franchise for the Commonwealth, and therefore I think one portion of that clause is quite unnecessary, and that it should be confined entirely to those rights which have been created at the time of the establishment of the Commonwealth.

Mr. BARTON:
I have on two separate occasions asked Mr. Holder if he wishes this to extend to rights acquired after the establishment of the Commonwealth, and Mr. McMillan does not think that is the meaning of it, but that is really the meaning. I have endeavored to put it that way before the Committee.

Mr. HOLDER:
What I wish is that these rights should be preserved which have been
acquired up to the time that the Commonwealth makes its franchise.

Question-That the words proposed to be added be so added-put.

Committee divided.

Ayes, 18; Noes, 15. Majority, 3.

AYES.
Abbott, Sir Joseph Holder, Mr.
Carruthers, Mr. Howe, Mr.
Clarke, Mr. Isaacs, Mr.
Cockburn, Dr. Kingston, Mr.
Deakin, Mr. Peacock, Mr.
Downer, Sir John Reid, Mr.
Glynn, Mr. Solomon, Mr.
Gordon, Mr. Trenwith, Mr.
Higgins, Mr. Turner, Sir George

NOES.
Braddon, Sir Edward McMillan, Mr.
Brown, Mr. Moore, Mr.
Dobson, Mr. O'Connor, Mr.
Douglas, Mr. Henry, Mr.
Fraser, Mr. Walker, Mr.
Fysh, Sir Philip Wise, Mr.
Grant, Mr. Zeal, Sir William
Lewis, Mr.

Pair-Aye, Dr. Quick; No, Mr. Barton.

Question so resolved in the affirmative.

Dr. COCKBURN:
I want to add these words to the clause:
And no property or income qualification shall be required of any elector.
It is a good thing to say that no man shall have more than one vote; it is a
better thing to say that every man shall have a vote if he fulfils the
conditions of registration.

Mr. BARTON:
What is the use of a proposal of this sort? We have prescribed that no
elector should have more than one vote.

Sir GEORGE TURNER:
No, he says every elector shall have one vote.

Mr. BARTON:
What I understand is this: that in countries like Tasmania there are some
people who are not on the roll, and this means to enfranchise them; that is
to say, the laws of the State are not to be interfered with, but they are to be
totally altered. That is so inconsistent that I cannot entertain it for a
moment. There is another point we may look at: We are making a Constitution, not a body of laws for the States. We are not making an Electoral Act for South Australia, and we should not load this Constitution with a multiplicity of provisions.

Amendment negatived clause as read passed.

HON. MEMBERS:

R

Mr. BARTON:

I propose only to take a very few clauses.

HON. MEMBERS:

Report progress.

Mr. BARTON:

If the Convention insists on sitting on Monday I think we should sit while we can sit. I only ask that certain machinery clauses be dealt with. One clause with regard to age in voting will not need much discussion. With that exception down to clause 50 there is only one clause about payment of members that I think will cause discussion, and I promise to postpone that.

Sir JOSEPH ABBOTT:

I have given notice of an amendment in clause 49.

Mr. BARTON:

That's a very short amendment.

Mr. REID:

We will do good work if we go on for a bit.

Clause 30.-Until the Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows:—

I. He must be of the full age of twenty-one years, and must when chosen be an elector entitled to vote in some State at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is elected:

II. He must be either a natural born subject of the Queen, or a subject of the Queen naturalised by or under a law of Great Britain and Ireland, or of one of the said colonies, or of the Commonwealth, or of a State, at least five years before he is elected.

Sub-section 1.

Mr. WALKER:

I move:
To strike out the word "twenty-one," and insert in lieu thereof "twenty five."

Mr. Reid:
For the House of Representatives?

Mr. Walker:
In the United States a person must be 25 to be eligible for the House of Representatives, and to have a seven years' qualification. I maintain that the age of 21 is too young for a senator.

Mr. Peacock:
Now, do not make a speech, or we will vote against you.

Mr. Walker:
I should like to mention another matter. The age of 30 is the minimum for a director of the Australian Mutual Provident Society, of the board of which I have the honor to be a member. If the age of 30 is young enough for a director of that society I think that 25 is very young to be a senator for the Commonwealth of Australia.

Amendment negatived

Mr. Gordon:
I move:
To strike out the words: "or it person qualified to become such elector."
I do this for three reasons

Mr. Reid:
Give us one.

Mr. Gordon:
One is that everyone born in the Commonwealth is qualified to become an elector.

Hon. Members:
Do not make a speech

Mr. Gordon:
My chief point is that I think that registration should be made compulsory. I would not give a man who has lived here for three years without registration a vote.

Mr. Peacock:
His name might have dropped off accidentally.

Sir George Turner:
He may have been away for a trip.

Mr. Reid:
Withdraw. (Laughter.)

Mr. Gordon:
I will ask leave to withdraw the amendment.
Amendment withdrawn.

Mr. HOLDER:
I move:
To add to sub-section I. the words "or must have been born within the limits of the Commonwealth."

Mr. REID:
Withdraw. (Laughter.)

Mr. HOLDER:
I am not going to make that the sole qualification. It would be sufficient in the absence of three years' residence.

HON. MEMBERS:
Withdraw.
Question-That the words proposed to be added be added-put. Committee divided.
Ayes, 6; Noes, 21. Majority, 15.
AYES.
Cockburn, Dr. Gordon, Mr.
Dobson, Mr. Holder, Mr.
Glynn, Mr. Kingston, Mr.
NOES.
Abbott, Sir Joseph Higgins, Mr.
Barton, Mr. Lewis, Mr.
Braddon, Sir Edward O'Connor, Mr.
Brown, Mr. Peacock, Mr.
Carruthers, Mr. Reid, Mr.
Clarke, Mr. Trenwith, Mr.
Downer, Sir John Turner, Sir George
Fraser, Mr. Walker Mr.
Fysh, Sir Philip Wise, Mr.
Grant, Mr. Zeal, Sir William
Henry, Mr.
Question so resolved in the negative.
Clause as read agreed to.

Clause 31.-Members of Senate ineligible for House of Representatives. Agreed to.
Clause 32.-Election of Speaker of the House of Representatives. Agreed to.
Clause 33.-Absence of Speaker provided for. Agreed to.
Clause 34.-Resignation of place in House of Representatives. Agreed to.
Clause 35.-The place of a member shall become vacant if for one whole Session of the Parliament he, without permission of the House entered on its Journals, fails to attend the House.

Amendment (by Mr. Barton) agreed to:
To strike out the words "one whole" and insert in lieu thereof "two consecutive months of any"

Clause as amended agreed to:

Clause 36. -Upon the happening of a vacancy in the House of Representatives, the Speaker shall, upon a resolution of the House, issue his writ for the election of a new member.

In the case of a vacancy by death or resignation happening when the Parliament is not in Session, or during an adjournment of the House for a period of which a part longer than seven days is unexpired, the Speaker, or, if there is no Speaker or if he is absent from the Commonwealth, the Governor-General shall issue a writ without such resolution.

Mr. GLYNN:
I would like to know what is the necessity for having the words "Upon a resolution of the House"? Why should you make a majority determine whether a vacancy is to be filled or not?

Mr. BARTON:
This has been adopted from the Constitution Acts of all the colonies, unless there is any difference in this colony. It has always been the custom when the House is in Session and a vacancy occurs to require the authority of the House for the Speaker to issue the writ.

Sir GEORGE TURNER:
It is not so in Victoria.

Mr. BARTON:
We made considerable search into the Colonial Constitution Acts, and it was found in the majority. The reason is that when a House is sitting it might have some objection to the immediate filling of a vacancy. There have been cases, for instance, where the House of Commons has punished an electorate by delaying the issue of a new writ and so for a time disfranchising it, for reasons-bribery and corruption. This is a question where, for use in extreme cases, a right like this should be reserved. I do not think it is a right which will be abused in any way. Where abuses have been sheeted home, it has been found useful as a punishment for bribery and corruption.

Mr. REID:
With an electorate of 50,000 there cannot be wholesale bribery and corruption.

Mr. BARTON:
That depends upon the closeness of the contest. The question is whether it is not wise to retain words which have stood the test of time.

Sir GEORGE TURNER:

the words should certainly come out. At a time when there may be high party feeling, such as there was in Victoria recently on the tariff debate, where often questions are carried by one vote, or on a casting vote, a majority of one may decide an important point of this kind. The words:

Upon a resolution of the House can have no good effect; they may be injurious; and I move to strike them out.

Amendment agreed to.

Mr. BARTON:

The words "without such resolution" must come out as a consequential amendment.

Amendment agreed to.

Mr. BARTON:

I may explain this. The first part of the case provides that upon the happening of any vacancy while the House is in Session the Speaker shall issue a writ for the election of a new member.

Sir GEORGE TURNER:

Not necessarily while the House is in Session.

Mr. BARTON:

The second part of the clause makes that plain. In case of a vacancy happening when the House is not in Session, or during an adjournment of the House where there is an unexpired period of more than seven days, the Speaker can still issue the writ, but the case is provided for where there is no Speaker, or where the Speaker is absent; and then the Governor General has to do it. It seems that some other words have to come out. But the clause can be reconsidered afterwards.

Mr. WISE:

The clause can be put in about four lines:

Upon the happening of a vacancy in the House of Representatives the Speaker, or if there is no Speaker, or if he is absent from the Commonwealth, the Governor-General shall issue a writ for the election of a new member.

The CHAIRMAN:

We cannot go back now, as we have amended the clause.

Sir GEORGE TURNER:

We can recommit the clause if necessary.
Clause as amended agreed to.

Clause 37.-The presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

Mr. CARRUTHERS:
I think the quorum is too high. In New South Wales it is twenty-five. I propose:
That the word "twenty" be inserted instead of "one-third of the whole number of the."

Mr. BARTON:
I think it is extremely necessary and desirable to keep up a due proportion for a quorum. When this is required it is generally obtained. They generally take advantage of a small quorum to absent themselves when they might otherwise be present. And I do hold that if you are going to pay members they should be obliged to attend to their duties. Of course in the House of Commons the quorum is only forty, but that has prevailed for centuries.

Amendment negatived; clause as read agreed to.

Clause 38.-Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker; and when the votes are equal the Speaker shall have a casting vote, but otherwise he shall not vote.

Mr. HIGGINS:
I think the Speaker of the House of Representatives should be placed in the same position as the President of the Senate. I would suggest to have the same provision in clause 38 as there is in clause 22.

Mr. REID:
You cannot do it.

Mr. HIGGINS:
It is more by way suggestion. I do not wish to dictate.

Mr. BARTON:
The reason appears to be this. The House of Representatives is a body which contains representatives in proportion to the numbers of the people without relation to any particular protection of State interests. Therefore it can make very little difference if the Speaker can only have a casting vote. But in the case of the Senate there is a difference, and that is the State requires the vote of its full proportion of representatives in the Senate for the preservation of its interests, and the President is therefore made entitled to vote.

Clause passed as read.

Clause 39-Duration of House of Representatives-postponed.
Clause 40.-For the purpose of holding general elections of members to serve in the House of Representatives, the Governor-General may cause writs to be issued by such persons, in such form, and addressed to such returning officers, as he thinks fit.

The writs shall be issued within ten days from the expiry of a Parliament, or from the proclamation of a dissolution.

Mr. HOLDER:
I want to ask Mr. Barton whether this ought not to be made to apply to both Houses. I see no provision for writs to be issued for the Senate.

Mr. BARTON:
There is something in this point, but there is a question whether it is necessary to provide that the Governor should issue the writs in any case. The issue of the writs for a general election is an exercise of the prerogative.

The CHAIRMAN:
Is it intended that the word "ten" in italics should remain part of the clause?

Mr. BARTON:
The reason is this: In New South Wales it is fixed at two. In a Commonwealth it is necessary perhaps to make the time a little longer than for a State election, and I think that fourteen days or more was suggested. The Drafting Committee thought they would make the suggestion ten.

Clause as read agreed to.

Clause 41.-Continuance of existing election laws until the Parliament otherwise provides. Agreed to.

Clause 42.-Until the Parliament otherwise provides, any question respecting the qualification of a member or a vacancy in the House of Representatives, or a disputed return, shall be determined by the House.

As a consequential amendment the words "or a disputed return" were struck out and the clause as amended was agreed to.

Clause 43.-Allowance to members.

Mr. BARTON:
I move:
That this clause be postponed,
because one or two gentlemen who were very tired have gone away, and this clause may provoke considerable debate.

Clause postponed.

Clause 44.-Any person:
I. Who has taken an oath or made a declaration or acknowledgment of allegiance, obedience, or adherence, to a foreign power, or has done any act whereby he has become a subject or a citizen, or entitled to the rights or privileges of a subject or a citizen, of a foreign power; or
II. Who is an undischarged bankrupt or insolvent, or a public defaulter; or
III. Who is attainted of treason, or convicted of felony or of any infamous crime:

shall be incapable of being chosen or of sitting as a member of the Senate or of the House of Representatives until the disability is removed by a grant of a discharge, or the expiration or remission of the sentence, or a pardon, or release, or otherwise.

Mr. GORDON:
I should like to ask Mr. Barton whether there is anything in this point: A number of German fellow colonists may have taken the oath of allegiance to a foreign power, especially those who have served in the ranks in Germany. Would it not be necessary to add after "power" in line 27 the words "or who has not since been naturalised as provided in clause 30"?

Mr. GLYNN:
You cannot have two, allegiances.

Mr. BARTON:
No; a man might have to go out of our Parliament to serve against us.

Sir GEORGE TURNER:
He may be Minister of Defence.

Mr. CARRUTHERS:
I would like to put a case to Mr. Barton. It may happen that treaties may be in force between say England and Japan. There is a treaty almost in operation on the very lines I am citing that will give to a British subject travelling in Japan practically the same rights and privileges as he would enjoy as a citizen of his own country. Surely it is never intended that by a person travelling in another country, who becomes entitled to privileges conferred on him by a treaty between two high powers, he should be disqualified from holding a seat in the Federal Parliament. Our members of Parliament who are hardworked take their summer trips, and it may be that some of them may come back and find they have lost their seats as a result of this clause.

Clause as read agreed to.

Clause 45.-Place to become vacant on happening of certain disqualifications. Agreed to.

Clause 46.-Any person who directly or indirectly himself, or by any person in trust for him, or for his use or benefit, or on his account,
undertakes, executes, holds, or enjoys, in the whole or in part, any 
agreement for or on account of the public service of the Commonwealth,
shall be incapable of being chosen or of sitting as a member of the Senate 
or of the House of Representatives while he executes, holds, or enjoys the 
agreement, or any part or share of it, or any benefit or emolument arising 
from it.

Any person, being a member of the Senate or of the House of 
Representatives, who, in the manner or to the extent forbidden in this 
section, undertakes, executes, holds, enjoys, or continues to hold, or enjoy, 
any such agreement, shall thereupon vacate his place.

But this section does not extend to any agreement made, entered into, or 
accepted by, an incorporated company consisting of more than twenty 
persons, if the agreement is made, entered

Mr. GORDON:

I move:

To amend the third sub-section of this clause by striking out the words: 
"An incorporated company consisting of more than twenty persons," and 
inserting in lieu thereof, "A company legally incorporated in any State."

Mr. HIGGINS:

This is a very common clause.

Mr. GORDON:

No doubt. Under the South Australian Companies Act five persons can 
form a company. If you wish to distribute a partnership so as to make sure 
of any one not being influenced by his parliamentary associations then you 
ought to make the number of persons who can form an incorporated 
company 100 instead of twenty.

Mr. BARTON:

No doubt when the words were first placed in the Constitution Act they 
applied to a different state of things. I would urge the necessity of keeping 
in this Constitution a disqualification of this kind up to a considerable 
number of people, so that there will not be the possibility of a body of 
seven or eight persons combining together to form a registered company, 
and then carrying out a fraud upon the public. I think it is better to adhere 
to the clause.

Mr. HIGGINS:

I have known of a company with 50,000 shares, and every one of them, 
with the exception of four, was held by one person.

Mr. BARTON:

"One-man companies" they are called.
Mr. GORDON:  
That is quite legal. The number composing any duly incorporated company should be fixed; if not how easy will it be to have twenty nominal shareholders who could combine to do a certain thing. If we are going to prevent fraud let us make the perpetration of it as difficult as possible.

Mr. CARRUTHERS:  
I would like the hon. member to postpone this clause. I would like to touch upon an amendment I intended to propose. why members of the community should be debarred from entering into an agreement to perform duties on behalf of the State, and that the legal profession should be entitled, as they do in all the colonies, to hold large retainers for Crown work. It has almost become a scandal in Australia that our legal barristers in the various Chambers in the different Parliaments are retained by the Crown to do Crown work. It leads very often to suspicion in the minds of the laymen that they are disqualified while the profession of the law is not disqualified, but is privileged. We know that lawyers are, most of them, the ablest men in the Legislature, and that it is very material to a Government to be able to court the favor and secure the support of such leading men in the Chamber, and so long as we allow this thing to be done with.

Mr. BARTON:  
Possibly the clause may be postponed, but I should like to say a word or two in reply to Mr. Carruthers. He seems to imply that if a barrister accepts a brief for the Crown, that the Crown must be buying him, and that he is willing to be bought. That is not a suggestion worthy of him, and he will not convince anyone that there is corruption in it. I will postpone the clause, but would like to point out that the trouble is that where a case of great moment is pending and where the Crown desires to engage the leading lawyers, if Mr. Carruthers' suggestion is adopted you will find that the private litigants who may be trying to despoil the public treasury have engaged the best lawyers, and that the Crown is unable to secure the assistance of any of them.

Clause postponed.
Progress reported.

PRINTING MINUTES AND EVIDENCE.

Sir GEORGE TURNER:
I understand that the Finance Committee when discussing their resolutions kept minutes of the proceedings, and in discussing financial matters I think we should have them before us.

Mr. BARTON:
Copies have been distributed.

Sir GEORGE TURNER:
I want copies of the proceedings of the Committee, not the resolutions.

Mr. GLYNN:
I want the railway evidence, too.

Sir GEORGE TURNER:
It will be necessary to refer to those minutes in discussing the financial question, and I think that it would be wise if we had a day or two to consider them.

The PRESIDENT:
I may state that the papers laid on the table, and which have been ordered to be printed, have been printed.

Mr. BARTON:
I have not asked for the minutes to be printed, for a reason which I think members will appreciate. The discussion was confidential, and matters were done and undone in the various committees, while members gave votes on questions which were in a consultative position, and if these votes are published they may feel themselves bound by their votes or they may be twitted with inconsistency. Without an express order from the Convention I do not intend to have them printed.

The PRESIDENT:
Only those papers laid on the table which are ordered to be printed by the Convention will be printed.

ADJOURNMENT.
Convention adjourned at 11.53 p.m.
Saturday April 17, 1897.

Leave of Absence - Personal Explanation - Commonwealth of Australia Bill - Order of Business - Adjournment.

The PRESIDENT took the chair at 10.30 a.m.

LEAVE OF ABSENCE.

Mr. HOLDER:
I ask leave to amend my motion by adding, at the end of it, the following words:
And that five days' leave of absence be granted to the hon. member for New South Wales, Mr. Lyne.
Leave granted.

Mr. HOLDER:
I now move:
That ten days' leave of absence be granted to the Honorable Sir John Forrest, the Honorable J. W. Hackett, Mr. Hassell, Mr. James, Mr. Leake, the Honorable Sir J. G. Lee Steere, Mr. Loton, the Honorable F. H. Piesse, and Mr. Sholl, Representatives of Western Australia, on account of urgent public affairs in that colony; and that five days' leave of absence be granted to the hon. member for New South Wales, Mr. Lyne.

Sir RICHARD BAKER:
I second it.

Question resolved in the affirmative.

PERSONAL EXPLANATION

Mr. DOUGLAS:
Before you leave the chair, Sir, I wish to make an explanation.

I understand that Mr. Wood, a member of the South Australian Parliament, has complained that in making a statement in this House I reflected on his character in saying he adjudicated on a case in which he was interested. I had no intention of doing that. Mr. Wood has supplied me with a copy of the newspaper report, which I will read. At the commencement of the case the gentlemen on the Bench were Messrs. J. Gordon, S.M., R. Wood, the Justice referred to, and F. G. Belcher. The report says:

Mr. J. C. Hamp appeared for the informant, and Mr. N. A. Webb for the defendant. Mr. Webb intimated to the Court that evidence would be produced during the trial which would show that quarrels had taken place in consequence of the action the informant had taken to secure the return to
Parliament at the last election of one of the justices on the Bench. He left it entirely to the discretion of the justice as to whether he should sit and hear a case in which evidence of such a nature was likely to be forthcoming. The S.M. said that if there was any justice on the Bench to whom Mr. Webb's remarks might apply he would leave it to him as to whether he would retire or not. [Mr. R. Wood, M.P., then immediately left the Bench.] The S.M. intimated that the Bench was not properly constituted, and adjourned the case for half an hour to secure another Justice.

I did not wish to accuse Mr. Wood of adjudicating on the case, but said, as reported, that he was on the Bench at the commencement of the proceedings.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee.

Clause 47.-If a member of the Senate or of the House of Representatives accepts any office or profit under the Crown, not being one of the offices of State held during the pleasure of the Governor-General, and the holders of which are by this Constitution declared to be capable of being chosen and of sitting as members of either House of the Parliament, or accepts any pension payable out of any of the revenues of the Commonwealth during the pleasure of the Crown, his place shall thereupon become vacant, and no person holding any such office, except as aforesaid, or holding or enjoying any such pension, shall be capable of being chosen or of sitting as a member of either House of the Parliament.

But this section does not apply to a person who is in receipt only of pay, half pay, or a pension, as an officer of the Queen's navy or army, or who receives a new commission in the Queen's navy or army, or an increase of pay on a new commission, or who is in receipt only of pay as an officer or member of the military or naval forces of the Commonwealth, and whose services are not wholly employed by the Commonwealth.

Sir GEORGE TURNER:

In dealing with this clause-I am not certain whether this is the right place-I would like to call the attention of Mr. Barton to section 6 in the Constitution Act of Victoria:

If any person shall, while he is a member of the said Council or Assembly, or within six months after ceasing to be such member, accept any office of profit under the Crown, he shall be liable to a Penalty.

But there is nothing here which prevents a person, who is a member of the Parliament, from accepting an office of profit. The only penalty is that he forfeit his seat. We ought to guard against that, and I shall be glad if the hon. member, Mr. Barton, will look into the matter, and see what can be done to meet the objection which I have raised.
Mr. BARTON:
We find that there is a provision of that kind in the Victorian Constitution, but it has neither been inserted in the Bill of 1891 nor in this Bill, and it does not occur in any other Constitution that I know of, though I have not made a thorough search. If this Convention desires to make it impossible for a member of the Parliament to accept an office of profit under the Crown within a definite period after his leaving Parliament, we think it would be better to leave it to an hon. member to move the amendment, because there was nothing in the instructions to the Drafting Committee to that effect.

Mr. FRASER:
In Victoria a legislator can accept an office of profit after vacating his seat for either six months or twelve months.

Mr. HIGGINS:
A very good provision.

Mr. FRASER:
Yes, a very good provision, and it should be embodied in this Bill.

Sir GEORGE TURNER:
I will move an amendment to give effect to what it seems many hon. members are desirous of seeing inserted. Clause 47 provides:

If a member of the Senate or of the House of Representatives accepts any office of profit under the Crown, not being one of the offices of State held during the pleasure of the Governor-General, and the holders of which are by this Constitution declared to be capable of being chosen and of sitting as members of either House of The Parliament, or accepts any pension payable out of any of the revenues of the Commonwealth during the pleasure of the Crown, his place shall thereupon become vacant, and no person holding any such once, except as aforesaid, or holding or enjoying any such pension, shall be capable of being chosen or of sitting as a member of either House of The Parliament.

I do not like to move an absolute amendment, because I do not want to prejudicially affect the drafting. What I desire to do is to make a provision so that if any person who is a member accepts office, he shall be liable to a penalty, and if any person accepts office within six months after ceasing to be a member, he shall be liable to some penalty. The object is to prevent the Ministry of the day from bestowing its patronage upon members of Parliament.

Mr. MCMILLAN:
What about the office of Agent-General?

Sir GEORGE TURNER:
A Judge of the Supreme Court and the Agent-General are excepted. The object is to prevent the Government of the day from conferring a valuable position on an existing member who could resign his seat and next day be appointed to any office of profit. The object of this section can be frustrated under such circumstances, so we should make it so that a person will be rather chary of accepting a position, and probably he will not run the risk of being out of Parliament so long. I will move:

To insert after "Representatives," I either while he is a member, or within six months after ceasing to be a member.

Mr. KINGSTON:
What penalty would you provide?

Sir GEORGE TURNER:
With us it is £50 a day. Here it appears to be, in a subsequent section, £100 per day.

Mr. BARTON:
The next clause gives a penalty.

Sir GEORGE TURNER:
I have no doubt Mr. Barton will see that the amendment is put in proper form.

Mr. SYMON:
Would it not be better to simply include words prohibiting any member of the Senate or the House of Representatives accepting any office of profit whilst he is a member, or within six months of ceasing to be a member? I do not think you want any penalty.

Mr. KINGSTON:
It would be better in a separate clause.

Mr. SYMON:
A simple prohibition would do. What is the use of fixing a penalty? It would be simply a question of what the penalty amounted to, for a man to decide whether it was worth his while to take the position.

Mr. BARTON:
I think there is a way in which what hon. members desire could be secured without any trouble. "A member" is the governing word, but the amendment goes further, and deals with a man when he ceases to be a member. We might after:

If a member of the Senate or of the House of Representatives, put in these words-
Or if within six months after having been a member of either House, any person accepts.

Then the cases of Judges and Agents-General could be met by subsequent words.
Mr. REID:
    I think you had better have a separate paragraph.

Mr. BARTON:
    As regards Mr. Symon's suggestion I would remind the Committee that this is a disqualifying clause, and it is in the same form that clauses of disqualification have always been, that is to say, any member who accepts an office of profit shall be incapable of sitting.

Mr. HIGGINS:
    The only penalty is that his place shall become vacant.

Mr. BARTON:
    The penalty is £100 for each day he sits.

Mr. ISAACS:
    He does not want to sit.

Mr. BARTON:
    Quite true. After all, it is a question whether you should make the seat absolutely void or impose a penalty on the person who accepted office. If you impose a penalty on the member there is some reason for dealing in like manner with the person who accepts office within six months of being a member.
    It is only a penalty for sitting in the House.

Mr. SYMON:
    Leave this clause as it stands, and put in a special clause.

Mr. BARTON:
    If it is the general view of the Committee that there should be this period of six months during which a person cannot accept such an office, and also that the appointment should be void, or the person made subject to a penalty, then the beat way to deal with the matter would be to frame a new clause. After obtaining the sense of the Committee on these two points, it might perhaps be left to us to draw up a new clause.

Mr. FRASER:
    Hear, hear.

Sir GEORGE TURNER:
    That is the better course.

Sir EDWARD BRADDON:
    We should not forget that there is another side to the question. I admit the force of what Sir George Turner has said, and that it is desirable, if it were practicable without any detriment, to make a provision which should prevent the purchase of a vote in the Federal Parliament by any promise of an appointment. But if we make the provision too stringent we may prevent the Government of the day from making an appointment which would be,
absolutely necessary in the interests of the Commonwealth and of its good government. There might be a member of Parliament admirably suited to some post-more fitted for it, in fact, than anybody else available—and yet the Government of the day would be precluded from appointing that gentleman for six months, which might mean they would be precluded from making the appointment altogether.

Sir WILLIAM ZEAL:
If such an event as that mentioned by Sir Edward Braddon occurred, it would be competent for the Government to introduce a measure dealing with it.

Mr. ISAACS:
Not if it is in the Constitution.

Sir WILLIAM ZEAL:
If it is meant to apply to general cases, as it does in Victoria, it should be made to apply to gentlemen aspiring to seats on the bench. If it is a source of danger to appoint members of Parliament to positions of profit under the Crown, is it not a hundredfold more dangerous to appoint a member of Parliament, he being an active partisan, to the office of Chief Justice? The exemption should be carried out in its entirety, and the clause made to absolutely prevent all members of Parliament from accepting offices of profit. I move the addition of words to carry out that object.

The CHAIRMAN:
The only matter before the Committee at present is the amendment of Sir George Turner.

Sir GEORGE TURNER:
If Mr. Barton will undertake to draft a new clause, I ask leave to withdraw my amendment.

Leave given.

Mr. BARTON:
I should like to have some indication from the Committee as to whether the new clause, if it is to be drawn, should take the form of a more veto of the acceptance of such office, or whether there should be a penalty attached.

Hon. MEMBERS:
Veto.

Mr. BARTON:
And then, whether, its a matter of policy, it is desirable to have a prohibition of this kind at all?

Mr. GLYNN:
No.

Mr. BARTON:

Because, since I said something about it, Sir Edward Braddon seems to have given some reasons why such a clause should not be inserted.

Mr. GLYNN:

Hear, hear.

Mr. DOBSON:

I suggest that the amendment of Sir George Turner should be submitted to the Committee. If it is passed, the Leader of the Convention could draft a new clause. I also suggest, having listened to Sir George Turner's reasons, that this required term of six months should be made twelve. If any Federal Ministers want to reward one of their supporters by giving him a lucrative post, the term should be twelve months, because, after the Session is over, or all the motions of want of confidence are dealt with, six months would not be long enough. The whole thing should be arranged in the way Sir George Turner suggests.

Mr. KINGSTON:

I am disposed to agree with Sir Edward Braddon's expressed views on this question. I know of no Constitution in which a clause of this kind is embodied. I know the Victorian Parliament has legislated on this matter, and that the South Australian Assembly has passed a resolution on the subject. I suggest that it will be sufficient if we give the Federal Parliament power to deal with it.

Mr. DEAKIN:

I cordially indorse what has been said by the last speaker. While the motion of the hon. member appears to be an excellent one, we can all imagine cases in which the provision ought to be set aside, and in which the whole Parliament would desire to set it aside. The Parliament ought to have the power if it desires to make an exception to this rule. Why should it be prevented from doing so if it wishes?

Mr. BARTON:

If it is a question of policy it ought to be kept for the Parliament itself.

Mr. DEAKIN:

Certainly. And giving the Parliament the power would be ample to meet the case.

Mr. FRASER:

That is all very well, but we want to protect Parliament against improper proceedings. I remember a case such as Mr. Deakin refers to, in which Parliament passed an Amending Act making the appointment legal.
Therefore I think the object is now to protect the Parliament against wrong-doing like that.

Mr. O'CONNOR:
I think we may go a good deal too far in tying the hands of Parliament.

Mr. FRASER:
We cannot go too far in doing what is right.

Mr. O'CONNOR:
I agree with Sir Edward Braddon, that there may be some case in which in the public interest some appointment may be made in less than six months. I think we may trust the Parliament to look after the purity of administration. It has always done that before. I think, as long as you absolutely prohibit members of Parliament from taking positions, you may leave Parliament to look after the other thing. It is very seldom that you will have so strong a combination in Parliament in such a thing as to support an improper appointment against the public interest.

Mr. FRASER:
The appointment would be made by the Ministry, and not by the Parliament at all.

Mr. O'CONNOR:
I think we should leave it to the Parliament rather than run the risk of defeating the public interest by a provision of this kind. After all, it is a matter incidental to the carrying out of the powers of Parliament.

Mr. BARTON:
It is already provided for.

Mr. GLYNN:
I think we may go too far in assuming that politicians may be dishonest. If it applies generally it ought to apply to the judges. We know that in America judges have been appointed for the express purpose of upsetting decisions previously given.

Mr. REID:
You could do just the same thing by appointing men who were not members of Parliament.

Mr. GLYNN:
What is good for one is good for another. I would support this exception of the judges, because I think the application of such a principle in regard to their appointment would be bad in the extreme. I would propose:

That the words "Of being chosen or," in line 34, be struck out.

A man holding an office of profit under the Crown, and who would be a candidate for election, could either give up his seat or his salary. Why
should we impose this restraint upon the discretion of the electors? If a man has a salary under the Crown, they know of it, and if they choose to put him in Parliament knowing of it, let them.

The CHAIRMAN:
Does the hon. member Mr. Gordon wish to move his amendment?
Mr. GORDON:
Yes.
Sir WILLIAM ZEAL:
There is an amendment by Sir George Turner.

The CHAIRMAN:
Sir George Turner's amendment has been withdrawn.
Sir WILLIAM ZEAL:
I submit with very great respect that it has not been put to the Committee.

The CHAIRMAN:
I put it to the Committee, and the amendment was withdrawn
Sir GEORGE TURNER:
I withdrew only on the understanding that Mr. Barton was going to prepare a clause to deal with it.
Sir WILLIAM ZEAL:
I certainly entirely concur with Sir George Turner's amendment.
Mr. BARTON:
I would point out that we must be exceedingly careful lest we be trying too often to legislate for the people we are going to call into existence. Our business is to frame a Federal Constitution -that is all the Statute under which we come here enables us to do. I do not think it was intended we should frame a body of laws to guide the Federation. As has been pointed out by Mr. Kingston, this is a matter which has been the subject of legislation in Victoria, and might equally be the subject of legislation in the Commonwealth. Every Parliament has the power to legislate with reference to the capacity and qualifications of its members. That is an inherent power of every Parliament; but, in addition to that, there is at the end of clause 50 a final provision giving power to the Parliament to legislate on all matters necessary for, or incidental to, the carrying into effect of any power given to it by the Constitution. Inasmuch as that sub-section exists-if passed, as I think it will be necessary to pass it-then the Parliament of the Commonwealth will be perfectly free to legislate on this for itself. I am speaking of this as a matter of principle. It may or may not be a most desirable thing that, such a provision should exist as a law of the
Commonwealth, but it is not for us, every time we think that a provision of law would be desirable, to put it into the Constitution, because that is just the wrong place for it.

Mr. FRASER:
It is not a matter of thinking, it is a matter of knowing.

Mr. BARTON:
The hon. member may know a thing and other hon. members may think-

Sir WILLIAM ZEAL:
It is not a matter of thinking, but a matter of fact.

Mr. BARTON:
The whole question of these facts depends on the judgment of the people by way of reason. It seems to me that we ought not to hamper the Commonwealth by too many provisions such as are being constantly suggested.

Mr. HIGGINS:
Ought not this clause 47 to be struck out?

Mr. BARTON:
I do not think so. It is not the legitimate conclusion, because clauses of this kind have been in every Constitution-

Mr. ISAACS:
Not in Canada.

Mr. BARTON:
They have been in all Australian constitutions, or most of them. It must be recollected that a provision of this kind is really a re-affirmance of a certain law which has become part of the Constitution in England; a provision of the kind we find already in the Bill. A provision of the kind suggested is not in that category, but simply in the category of. laws which Parliament has made in this place or that for the purpose of having its own views expressed. This is a matter of policy, and, where we find a matter is distinctly one of policy, it ought to be left to the Parliament of the Commonwealth to legislate upon it, otherwise it will be so hampered that it will be difficult to say to what extent its members or electors are free men.

Sir WILLIAM ZEAL:
With a view of testing the feelings of the Committee, I move:
That the words proposed by Sir George Turner be added to the clause.

I think that a number of hon. members will agree with me that if it has been found necessary-and it has been proved to be necessary in Victoria-that such a provision should be grafted on the Constitution by a measure passed by the local Parliament, it is essential that it should be included in a
Bill framing the Federal Constitution. The object of the amendment is to protect Parliament against itself. I can testify to the fact that it has conduced to purity of administration, and, during troublous times, it has been a great boon. If its insertion is necessary in the case of minor appointments, it is, I repeat, doubly necessary in the case of major appointments, for it is quite possible that Parliament, at the instance of a strong, powerful Government, might be induced to acquiesce in the appointment of a gentleman to one of the chief offices of the Crown as a reward for political services rendered to that Government. Why should we shirk the question? Why not deal with it now and protect Parliament against itself? At all events, with a view of testing the feeling of the Committee, I move the insertion of the words suggested by Sir George Turner, and will force this proposal to a division.

Mr. BARTON:

The words are withdrawn.

Sir WILLIAM ZEAL:

Then I will propose them again.

Mr. MCMILLAN:

Do you propose that there should be no exceptions?

Sir WILLIAM ZEAL:

I do not, but hon. members can express their views, and if this amendment is carried Mr. Barton will, I presume, act upon the instructions of the Convention, and provide a clause in the direction indicated.

Mr. BARTON:

The amendment moves by Sir George Turner was withdrawn partly because it was seen that it would not carry out its objects. If inserted in the place where Sir George Turner wanted it, it would only have the effect of disqualifying people already out of Parliament. That would be no efficient way of carrying out the intentions of the amendment.

Sir GEORGE TURNER:

I said I moved these words to test the feelings of the Committee.

Mr. BARTON:

We must take care that if the words are placed there they will not disfigure the clause in the Bill without the addition of a provision which would be effective. I ask the hon. member to put it in some other way.

Sir WILLIAM ZEAL:

This will not affirm in precise language what this Convention endeavors to be effective. I wish to affirm a principle, which can be done by adding the words suggested by Sir George Turner to the clause. Then that will give Mr. Barton an opportunity of drafting a provision which will carry out the objects of the clause
Mr. LEWIS:
I do not think these words will carry out precisely what the mover wants. If it is desirable that this matter should be tested, I would suggest that either Sir George Turner or the Drafting Committee should frame such a clause as will meet the object Sir William Zeal has in view.

Sir GEORGE TURNER:
I withdrew my amendment under the impression that that would be done.

Sir WILLIAM ZEAL:
Those who might be inclined to support, the principle contained in this clause cannot vote for this clause, because it is not framed in such a way as will carry out the objects of the Committee.

Mr. BARTON:
I Shall not take the responsibility of doing anything that will disfigure the Bill.

Sir WILLIAM ZEAL:
If this resolution is passed the hon. member will understand what are the wishes of the Convention, and it is idle to say that he cannot frame a clause.

The CHAIRMAN:
Order. Mr. Lewis is in possession of the chair.

Mr. LEWIS:
I hope that Sir William Zeal will carry this, and we will then have an opportunity of discussing the proposed amendment in the proper way, I do not think this is the proper form. Whether we can amend the Constitution in the way suggested by Mr. Barton is a question I should like to have further information on. When the Victorian Parliament did what Sir George Turner now proposes it did so by an amendment of their own Constitution Act. Perhaps Mr. Isaacs will say if I am correct.

Mr. ISAACS:
Partly it was and partly it was not. Of course we have power to amend.

Mr. LEWIS:
If it is not put in the Constitution Act it is a question to me whether the Federal Parliament will have power to give effect to the proposed restriction without a distinct amendment of the Constitution. It is questionable whether it will have power to prescribe that certain persons are incapable of taking office by an Act passed by the Federal Parliament alone.

Mr. ISAACS:
They did so in Canada by 41 Vict., cap. v. of the Dominion Parliament. It
was not done, as far as I have been able to discover, by an amendment of
the Constitution.

Mr. LEWIS:

It shown that we should have a clause which we can further think over, and make up our minds whether we can support it or not. I should strongly urge Sir William Zeal to allow this clause to be passed, and, upon the framing and submission of a clause designed to give effect to our wishes, we will then have it in a form that we can think over, and adopt or reject as the majority thinks fit.

Mr. BARTON:

Of course Sir William Zeal will not misunderstand me in this matter. Anything that I have said has been said in a perfectly friendly way.

Sir WILLIAM ZEAL:

I am quite sure of that.

Mr. BARTON:

I think it would be better to withdraw this amendment. The general intention seems that there should be a prohibition which, if it is good in one case, is good in all, and Sir George Turner should not extend it merely to the Judges and the Agents-General, but we should rather extend it to all persons who may hold offices of profit. If the principle is good it should apply throughout, and if that is the intention of the Convention I think this amendment should be agreed to:

But no person, within six months after ceasing to be a member, shall accept any office under this section.

Sir GEORGE TURNER:

He simply vacates his seat.

Mr. BARTON:

Members have asked for a distinct prohibition.

Sir GEORGE TURNER:

While he in a member or for six months afterwards.

Mr. BARTON:

The previous port of the clause deals with that.

Mr. ISAACS:

You do not disqualify him from sitting in Parliament.

Sir GEORGE TURNER:

That is not sufficient.

Mr. BARTON:

It is provided in clause 48 that:

If any person by this Constitution declared to be incapable of sitting in the Senate or the house of Representatives sits as a member of either House, he shall, for every day on which sits, be liable to pay the sum of
one hundred pounds.

Mr. ISAACS:

Only for sitting.

Mr. BARTON:

That is a great deal more than he is likely to receive as salary; Are we to provide in the Constitution for every foreseeable contingency, or are we going to make it a Constitution? If we are to make it a Constitution we must avoid dropping into matters of this sort, I think the Commonwealth will be able to take care of itself in such matters.

Mr. PEACOCK:

Then we should leave out a lot of clauses.

Mr. BARTON:

We went too far in 1891, but for the sake of the Convention we have retained many of the clauses of that Bill. Is that any reason, however, why we should go to an extreme? I wish to point out that if this is a principle which applies at all, it is one that is as applicable to Agents-General as to the meanest officer in the State, and as it operates in that way when pushed to its full application, I think it is one we should not adopt, but, speaking on the drafting aspect of it, this portion of what is aimed at is secured by this amendment. The rest of the clause is not disfigured, and can be amended. This is only a step in the path which hon. members have indicated. Let us test the question on this form of the amendment, which carries the matter to its whole extent. If the Committee does not believe in altering the Bill as proposed in this amendment, it need not alter it in any other part dealing with the subject.

Mr. SYMON:

I would point out that it seems to me there is some misapprehension as to what this clause really is. The whole of these clauses are intended simply to deal with the qualification of members to hold their seats, and this clause is intended to be limited in its operation to that particular point. The whole of the sections from 43 to 49 deal with the disqualification of members, and their right to sit in Parliament, and the penalties to which they are subject for sitting while disqualified. The Parliament should regulate its own procedure, and I think Mr. Barton's amendment is only one that will raise the question of establishing an express prohibition. The question is whether the Convention is going to introduce in the Constitution matters dealing with administration and the manner in which appointments may be made, or whether they are going to limit it to establishing the Federal Parliament. If you introduce a clause saying the Federal Parliament Shall not appoint to an office some particular person who has been a legislator,
you might just as well introduce provisions prohibiting it from appointing a great number of other persons. You are, it seems to me, instead of confining yourself to the establishment of a Constitution, entering

Mr. PEACOCK:
You might drop out a lot of clauses if that be true.

Mr. SYMON:
Let us prescribe the qualifications of the members.

Sir WILLIAM ZEAL:
What about clause 46?

Mr. SYMON:
That clause says that persons holding an office of profit should be disqualified from sitting. But here you are going to declare that the Federal Executive is not to appoint somebody who has been sitting some six months previously. In the same way you may put it that no one should sit who is over 35 years of age, or something of that kind. To deal with such a matter in the Constitution is undesirable. I entirely agree with the propriety of the legislation in this colony which puts a restriction on the power of the Executive to hold out offices as a temptation to members of the Legislature. Nothing could be more desirable than to have a provision like that; but the question is whether we ought to leave it to the Federal Parliament to deal with, or introduce it into this Constitution, and introduce it in a particular portion of the Act where it is not really applicable. We are here fixing the qualification and imposing penalties where the qualifications are not held. Beyond that it seems to be undesirable to go.

Mr. ISAACS:
I would like to put my view to Mr. Barton for a moment. The object of clauses 46 and 47 is to prevent members of Parliament from using their public positions for their private benefit. These clauses as they stand do not carry out that object. They leave the man in possession of the position which his membership has obtained. They say to him, "If you accept a position for your personal advantage you must not sit in Parliament any longer."

Mr. GLYNN:
But we do not admit that is the object of the Act.

Mr. ISAACS:
The object is no doubt to prevent personal interest coming into conflict with public duty.

Mr. BARTON:
I think it is to prevent practical bribery.
An HON. MEMBER:
What about the Judges?

Mr. ISAACS:
I quite admit that the same principle applies to the positions of Supreme Court Judges and to Agents-General as to any other officers. But the section would be incomplete without prohibiting absolutely the conferring of an appointment upon a person while he is a member of the Parliament. The words put by Mr. Barton would prevent an appointment being conferred upon a person within six months after ceasing to be a member, but they do not prevent an appointment being conferred while he is a member. That is the great danger. These clauses would be like locking the stable door after the steed has gone. What would be the penalty under clause 48 for taking an appointment?

Mr. HIGGINS:
It is no penalty to him at all to lose his seat.

Mr. ISAACS:
this is the position that I want to lay down. We assume that A.B. is a member of Parliament, and he is appointed, while he is in Parliament, to a lucrative position in the State. He is told that he is liable to a penalty of £100 a day while he sits in Parliament. But he says "I do not want to sit in Parliament; I have my appointment and I am therefore subject to no penalty whatever." I do not think that would meet the case. If we are to put a clause in the Constitution at all, we ought to say right out that any attempt to confer an appointment upon a person while he is a member, or within six months after ceasing to be a member, shall be utterly null and void. In Victoria we have put a penalty in the Act upon a person who takes a position. It is clause 25 of the Constitution Act:

If any person shall, while he is a member of the said Council or Assembly, or within six months after ceasing to be such member, accept any office, or place of profit, under the Crown, he shall forfeit the sum of fifty pounds for every week he shall hold such office, or place, with full costs of suit for any person who shall sue for the same.

Mr. KINGSTON:
What year was that?

Mr. ISAACS:
I think it was passed in 1883.

Mr. BARTON:
I hinted something similar to that, that there should be a penalty attached to the taking of the office.

Mr. ISAACS:
But I would carry it much further than clause 48. If it is wrong that a
member of Parliament should take an office of profit, we should say that
the appointment should be absolutely null and void.

Mr. KINGSTON:
    Prevent the appointment.

Mr. ISAACS:
    Yes; I would not allow a man to secure the position and merely ask him
to pay a penalty for it.

Mr. BARTON:
    How would this do?
    No person being a member, or within six months of his ceasing to be a
member, shall be qualified or permitted to accept or hold any office, the
acceptance or holding of which would, under this section, render a person
incapable of being chosen or of sitting as a member.
    I think it would do if we put in the words:
    But no person shall, while he is a member of the Parliament or.
    You must put in the words:
    While he in a member,
    if you prohibit him from taking office after he ceases to be a member.

Mr. HOLDER:
    There in one point that may be overlooked. I have listened very carefully
to the arguments of Mr. Barton, and I agree with him that we are making a
constitution, and not legislating for a
future Federation. This point, however, seems to me to be one which
should be dealt with to-day, for this reason, that when the new Federal
Parliament comes into being it will have, within a very few months, an
enormous amount of patronage to dispense. There will be a Chief Justice
and four other Judges, there will be an Agent-General, there will be an
Inter-State Commission of three or five members, and many other
important officers of the State who will have to be appointed. One hon.
member has referred to "shutting the door after the steed has been stolen."
We shall do that with a vengeance if we permit one Parliament to make all
these appointments, and then say to its successors: you shall not make even
one such appointment a year, or even one in five years.

Mr. MCMILLAN:
    I think what Mr. Barton says has enormous weight - that we should not
put into the Constitution anything that we ought to leave to the Federal
Parliament.

Sir WILLIAM ZEAL:
    You want to punish the small man and let the big than go free.

Mr. MCMILLAN:
There are two phases of this question. We may embody in this Constitution only what we understand to be vital matters, but on the other hand we may give direction to Parliament that a certain course should be pursued. I think the general feeling is that the clause should be passed, but that it should be subject to the Federal Parliament afterwards by the insertion of such words as these "until the Parliament otherwise provides." It seems a pity to bind this Parliament and make it necessary to have the roundabout process of a referendum to the people on matters which are purely matters of parliamentary concern.

Mr. DOUGLAS:
I should like to know if there is any place, except Victoria, where such restriction is placed upon such appointments. If no other colony has found it necessary to draft such a law, it seems strange that the Parliament to be established under Federation should not have power to make alterations of a character which only experience can point out to them to be beneficial or prejudicial. At present we are trying to pass a law of a general character as regards the powers of Parliament, but if we put such a restriction in this Bill, which is really the Constitution of the Federation, we shall not have power, even if we find it necessary, to alter it, except by the amendment of that portion of the Constitution which refers to it. We had better wait and see whether the Federal Parliament will do such an improper act as favoritism of this character, instead of, as it were, looking on the Parliament of the Federation as on what will be a corrupt Parliament about to do corrupt actions. The Parliament itself will be the best judge of this question. If the Ministry of the day attempts to make an appointment of a corrupt character, is it likely that the Parliament of the day will permit it to do so against its wishes? The only proper course for us is to establish in the Constitution certain principles, and leave alone details of matters which only experience can point out as necessary or otherwise. In our own colony, when it was found that certain actions were of a corrupt character, the Parliament, soon remedied the evil. If we put this suggested clause in, we tie the hands of the Parliament for a length of time. Then, Mr. Holder has referred to appointments which must be made in spite of this arrangement; Judges, for instance, who may happen to be members of Parliament. It is much better to let the clause stand as it is.

Sir EDWARD BRADDOCK:
Hear, hear.

Mr. DOUGLAS:
At the same time, if we are to have something before us, let it be definite. There are amendment after amendment, and suggestion after suggestion now before us, and no one knows exactly where we are.
The CHAIRMAN:

I think we shall get on a good deal quicker if members will confine their
remarks to the particular
amendment before the chair. The first amendment I am going to put is the
one by Mr. Glynn.

Amendment (moved by Mr. Glynn)—To omit the words "of being chosen
or"—negatived.

Sir WILLIAM ZEAL, having obtained leave to withdraw his previous
amendment, said:

It has been suggested to me by several members that the words:
Until the Parliament otherwise provides
should be added to the new clause.

Dr. COCKBURN:

I hope you will not add it.

Sir WILLIAM ZEAL:

Personally, I would prefer the clause as drafted, but if there is a
consensus of opinion that the words should be inserted, I am prepared to
accept them. I shall press this to a division. My motion is:

To insert a new sub-section to come between subsections 1 and 2, as
follows:—Until Parliament otherwise provides, no person, being a
member, or within six months of his ceasing to be a member, shall be
qualified or permitted to accept or hold any office, the acceptance or
holding of which would, under this section, render a person incapable of
being chosen or of sitting as a member.

Mr. KINGSTON:

I shall vote for the amendment. I did think at first that it would have been
better to have left the Federal Parliament absolutely free to deal with the
matter, and not to impose any limitation until they had so dealt with it. But
I cannot help agreeing with the remarks of my hon. friend Mr. Holder that
there will be an immense amount of patronage to be exercised in the first
instance, and unless we are very careful it will be a case of shutting the
door after the steed is stolen. And if there will be one time of difficulty
more than another it will be during t

Mr. GLYNN:

I wonder how many instances of corruption of this sort can be called to
mind by hon. members. The assumption is that in order to get the votes of
the members of Parliament you put them in an office where their power of
voting will be gone.

Mr. O'CONNOR:
I have not heard any answer to the arguments used a little time ago by Sir Edward Braddon, that in the public interest we may go a great deal too far in amendments of this kind. I say it is impossible to secure the purity of administration by mechanical devices of this kind, and which may be very easily got over. When the time comes which hon. members wish to provide against, when the Ministry wish to appoint a man to some particular office—take a judgeship—they have only to tell him, "You resign; we will give you this appointment, and we will appoint an acting judge for, six months."

Mr. FRASER:
Then they would be voted out of office.

Mr. O'CONNOR:
What is there to prevent that being done?

Sir GEORGE TURNER:
A man would not take the risk.

Mr. O'CONNOR:
A man would not take the risk? I will point out some very strong reasons why we should not put any restrictions of this kind in the measure. I do not think any feeling of false delicacy ought to prevent any member of the legal profession giving expression to his opinions on this matter, and I intend to very freely.

Mr. KINGSTON:
Hear, hear. Do.

Mr. O'CONNOR:
It must be obvious if you have a limitation of this kind it will have this effect: it will prevent men of great ability and eminence in the legal profession from seeking positions in political life. I am speaking in the public interest, which demands that you should have on the bench not only men of high legal attainments, but men of broad views and general knowledge, and it would be a sorry day indeed for this Commonwealth if they were restricted in the choice of their judges to men who had followed law and devoted themselves to nothing else. One of the most important qualifications of a judge is that he should have that knowledge of affairs and of human nature which a man acquires in politics, and which perhaps in no other school can be gained so well as in the school of politics. If you pass this, you will restrict your selection to men who have had their ambitions restricted to the
narrow groove of following the law and the law only.

Mr. HIGGINS:

Would not the same thing apply to the agricultural expert who is farming?

Mr. O'CONNOR:

No; it is quite a different set of reasons. If you wish to have a free choice of the best men to put into the Federal Judicature, you should not in the public interest narrow that choice. I think I may appeal to the experience, not only of England, but of these colonies, and may ask whether there is a case in any of the colonies in which it can be said that a man has been placed on the judicial bench who is corrupt or unfit for the position, or who disgraces the administration of justice, and who has been corruptly placed there. No doubt there have been appointments made which may be directly traced to political partisanship, but I defy any man to say that-taking those appointments as a whole-any appointment has been made of a man who is incapable of fulfilling the position properly. Surely if this is to be government by the people for the people, and if we are to hand over to the will of the democracy which governs this Constitution the power of deciding how it is to be worked, surely we must leave them to judge and to watch over the purity of the administration. And if that administration has been maintained pure for so many years under our system of responsible government, surely we ought not to place these mechanical restrictions on the action of the Executive, which will result in narrowing the choice of the men capable of filling these positions. If we attempt to go too far in these kind of mechanical restrictions, we shall find ourselves restricted in the choice of the best men to fill these positions. I quite agree with many things that have been said by Mr. Isaacs with regard to the provisions in the Victorian Act. I think it might be very well that the Parliament, if it thought fit, should pass some Act of that kind with any limitations they might think proper to make. But the Parliament is the best judge of that.

Mr. ISAACS:

I agree with you.

Mr. O'CONNOR:

If the Parliament of the Federation find it necessary to make any provision of this kind it might be well to give them power to do it. But do not let us beforehand, without knowing anything of the conditions under which it may be necessary to make these appointments, tie their hands under this Constitution more than we tie the hands of ordinary local Parliaments. We trust laws to the people of this Commonwealth; then let us trust to the people the administration of their own affairs.

Mr. FRASER:
The objection raised by Mr. O'Connor does not apply to members of the present Houses of Parliament. It only applies to members of the Federal Parliament, and there will be any number of men eligible for the positions in the local Parliaments. that being so, I do not see there is any great danger.

Mr. O'CONNOR:
You shut them out from positions in the Federal Parliament.

Mr. FRASER:
Members of the local Parliament are eligible for appointments and it is only the members of Federal Parliament who are debarred in this respect.

Mr. BARTON:
Does the hon. member wish to turn these members into provincialists instead of federationists?

Mr. FRASER:
There is a great deal of force in Mr. O'Connor's argument. If the Ministry of the day, in the Federal Parliament, choose to single out a gentleman qualified for the position of Chief Justice, he has only to resign his place in Parliament, remain out of the Legislature for six months, and the country and Parliament will then acknowledge that the appointment is a legal one. Justice will continue to be administered during the six months.

Mr. MCMILLAN:
You want the judge to give six months notice of his death.

Mr. FRASER:
That is only small talk.

Mr. MCMILLAN:
How would you fill up the gap?

Mr. FRASER:
There is no gap.

Mr. REID:
The king is dead; long live the king.

Mr. FRASER:
The administration of justice is going on all the same, and it is easy to fill a vacancy temporarily.

Dr. COCKBURN:
A judge often goes away for a year now.

Mr. FRASER:
Some go away too often; at least, that is the case in our colony.

Mr. O'CONNOR:
Would you not call that a device for getting round the Act?

Mr. FRASER:
The Government of the day will say they are going to appoint John Smith to be Chief Justice of a colony, and they will stipulate that after six months have expired the appointment will be made. If Parliament and the public approve of it, what wrong can there be in that?

Mr. BARTON:
That is a "Sentimental Tommy's" way out of the difficulty.

Mr. FRASER:
It the thing were done clandestinely neither Parliament nor the country would support it, and the probability is that the Government attempting such a thing would be turned out of office,

Sir EDWARD BRADDON:
There is a certain amount of absurdity in this amendment.

Mr. FRASER:
On whose side?

Sir EDWARD BRADDON:
On your side distinctly, inasmuch as it seeks to impose a restriction only upon the first Federal Government, where such restrictions would be least necessary, the first Federal Government having immediately to make appointments before it had held, office for any length of time, and before Parliament had relieved it from these restrictions. That Government having been in office only a short time, would not have found it necessary to apply this political device against which Sir George Turner's amendment seeks to operate. If eminent men who happen to be in Parliament are to be excluded from holding appointments in the first instance, i.e., the appointments effected by the first Federal Executive, this will in all probability exclude a large number of eminent men from that Parliament -men who but for that would have sought election and would have been elected—

Mr. FRASER:
There are plenty of eminent men out of Parliament.

Sir EDWARD BRADDON:
I am not talking about men out of Parliament, but of lawyers in Parliament, for instance, who may think that they are entitled to a judgeship under the Federal Parliament. There might be throughout the colonies half a dozen men who might consider that they would make capable High Commissioners, and they would all stand out by reason of this provision. They would prefer to remain in private life rather than, by entering the Legislature, debar themselves of the worthy object of their ambition; and, inasmuch as it is only a partial preventive, as it is only applicable until otherwise ordered by the Federal Parliament, I think we might avoid it altogether and rather place that confidence in the Federal Parliament and Executive that they, at any rate, are
entitled to, until they show by their actions that they are unworthy of it.

Mr. REID:

I think if we are going to legislate for the Commonwealth, instead of legislating for the establishment of the Commonwealth, our discussion will be endless. If any abuses arise in the Commonwealth it will be perfectly competent for the Parliament to set them right, and if no abuses arise I think it would be a pity to limit the choice of the Executive, especially with regard to the highest offices of the State. Whilst I do not at all say that eminent lawyers or eminent men would remain out of the Federal Parliament if such a provision were inserted in the Constitution, I do say that circumstances might arise in which it might be a positive calamity that such a provision existed in the Constitution. know that in our colony it has been found difficult enough to secure the services of the best men for the highest offices in the State. I remember well a case in which the Chief Justice died most unexpectedly, and there was the greatest difficulty in obtaining the services of a fit person to take his place. Nearly every eminent lawyer was in Parliament, and everyone desired to remain out of the Chief Justiceship, and the eminent man who is now Chief Justice was in possession of a practice worth £10,000 a year. He was a member of the Council, and was the most useful member the Council ever had. He at first refused th

Sir WILLIAM ZEAL:

With reference to what Mr. Reid has said, there is great force in his contention, and it would be much intensified if the practice in the neighboring colonies bore out his argument, but I point out that in Victoria out of the six judges constituting the Supreme Court Bench only one has been a parliamentarian. I read the names of those judges who have not been members of Parliament:—Mr. Justice Williams, Mr. Justice Holroyd, Mr. Justice A'Beckett, Mr. Justice Hodges, and Mr. Justice Hood. The exception is the present Chief Justice, Sir John Madden. Now, I say that shows clearly you have an ample choice outside of Parliament. You may not in small colonies, such as Tasmania, represented by Sir Edward Braddon, where there are not many lawyers, be able to find efficient men, but in the larger colonies this difficulty would not arise. There is no need to place such an argument before this Chamber. If a man supplying a ton of coal to the Federal Government is disqualified from being appointed to a minor office, surely a member of Parliament who probably is an active supporter of a Government is ineligible to hold a higher office. If the hon. member is prepared to expunge the exemption clauses I will withdraw my amendment. We must enact laws to ensure the purity of Parliament.
Sir GEORGE TURNER:
The strong objection is that eminent men, especially in the legal profession, would be prevented from taking seats in the Parliament. That is provided for in the words
Until Parliament otherwise provides.
If the Government of the day had an eminent man in Parliament whom they wished to appoint to a position they would bring in an Act of Parliament, and if Parliament thought it wise in that instance they would pass the Act.
Mr. REID:
What eminent man would submit himself to be discussed in a Bill?
Sir GEORGE TURNER:
If it is wise to say a member of Parliament shall not accept a position, is it not wise to say that a man for six months after ceasing to be a member shall not take it? If the difficulty arises that we cannot get a man outside, the Government of the day will have to go down to both Houses and say, "We think this is an appointment which ought to be made," and if the Parliament and people agree no harm will be done.
Mr. REID:
Then the appointment of a Chief Justice will become the question of a political discussion.
Mr. GRANT:
I agree with Sir William Zeal that in a matter of this kind we should not allow the lawyers to have any monopoly in obtaining appointments under the Crown. All the argument seems to turn upon the privileges of the lawyers, and I think we should not make an exception of them, as is suggested. With regard to the appointment of judges, which seems to oppress them most, I think it would be an admirable arrangement if the nomination of judges were made six months prior to their appointment. Many appointments have been made of an objectionable nature, and although they may not have been corrupt, and though the Government could not be charged with corruption, they have made appointments that have been thought objectionable. Therefore it would be far better to carry the amendment, and at a future time it may be thought advisable to make it a sine qua non that the appointment of judges be made six months before they enter into their office.
Mr. BARTON:
No one has proposed to make an exception here in favor of the lawyers. If the hon. member is under that impression, and gives his vote and supports the amendment an account of that impression, he will be voting
without having realised what the amendment is. The amendment is placed in the present form in order that no exception shall be made in favor of the lawyers, and this form is opposed because the Executive should not have its hands tied in such cases as the appointment of judges and Railway Commissioners. We should not have an exception made as in the Victorian Act, because that excepts them from the purview of such a law as this. That I wish to make clear, and no speech has been made in this debate which puts forward any claim in favor of lawyers. Judges have been selected as an instance because it happens to be a singular example of how a provision such as this would miscarry, for it would either prevent distinguished men—the most eligible for the position—from being selected, or it would result in the subterfuge of getting round the Act, which would be consented to only by lawyers who would be unworthy of such positions. The Executive of the Commonwealth are, in a constitutional sense, the guardians of every right and privilege of the people, and being the constitutional guardians of the people, their right in the choice of appointment to offices high or small should not have an encumbrance placed in its way, because the encumbrance costs a great deal more than it is worth in the loss of services of men the best fitted to occupy the positions, or in the alternative, in a subterfuge which would only be resorted to by men who would be unworthy of such positions.

Question—That the sub-section proposed to be inserted be so inserted—put. The Committee divided.

Ayes, 19; Noes, 18. Majority, 1.

AYES.
Brown, Mr. Howe, Mr.
Carruthers, Mr. Isaacs, Mr.
Cockburn, Dr. Kingston, Mr.
Deakin, Mr. Moore, Mr.
Fraser, Mr. Peacock, Mr.
Gordon, Mr. Quick, Dr.
Grant, Mr. Trenwith, Mr.
Henry, Mr. Turner, Sir George
Higgins, Mr. Zeal, Sir William
Holder, Mr.

NOES.
Abbott, Sir Joseph Berry, Sir Graham
Barton, Mr. Braddon, Sir Edward
Clarke, Mr. McMillan, Mr.
Dobson, Mr. O'Connor, Mr.
Douglas, Mr. Reid, Mr.
Downer, Sir John Symon, Mr.
Fysh, Sir Philip Taylor, Mr.
Glynn, Mr. Walker, Mr.
Lewis, Mr. Wise, Mr.
Question so resolved in the affirmative.

Mr. BARTON:
A verbal amendment will now be necessary. I move:
To insert after "officer" in the second line of sub-section 2 the words "or member."

Sir GEORGE TURNER:
I desire to ask the Committee whether this particular sub-section should remain at all. I should be very glad if we could get an expression of opinion from Mr. Barton as to why this particular exception should be made. We may be told it was made in the Bill of 1891, but it seems to me to be most extraordinary that we are going to say that persons who occupy positions in the Queen's navy and army are to be at liberty to be exempted altogether from the provisions of this section. Why should any distinction be made in their favor when we do not make it in favor of persons in the public service, or who have been in the public service, or similar classes of persons who might be mentioned?

Sir JOHN DOWNER:
We do not pay them.

Sir GEORGE TURNER:
The effect will be that a person occupying the position of Admiral or General may hold a position under the Federal Parliament.

Mr. WISE:
It also applies to local officers.

Mr. BARTON:
No; if you strike it out it would.

Sir GEORGE TURNER:
In Victoria we say:
No person occasionally employed.
That is our clause applies to regular officers who get salaries for what they do.

Mr. BARTON:
Will this part of the subsection cover it?:
And whose services are not wholly employed by the Commonwealth.

Sir GEORGE TURNER:
I have no objection to that. I do not wish in any shape or form to shut out
those who are volunteers, and simply receive some small emolument to enable them to pay for their uniform and expenses, but I do object to permanent officers who are really servants of the State, having the privilege of sitting in Parliament when we debar so many other classes.

Mr. BARTON:

This refers to the Queen's army and navy as distinct from any force of the Commonwealth.

Sir GEORGE TURNER:

But the General or the Admiral who would be here commanding and controlling our army and navy would come under the description of being officers of the Queen's navy and army. Perhaps if Mr. Barton would explain to my dull comprehension what the clause really means, I may see my way clear to support it; but I am strongly opposed to it as I now understand it.

Mr. BARTON:

The reason of this clause is not hard to see, but it is a clause which reads in a rather difficult way. It is practically as it stood in the Bill of 1891. The reason that persons in receipt only of pay, half-pay, or pension, in the Queen's navy or army, are exempted is that they are not holding an office of profit under the Commonwealth at all, but their pay comes from the Imperial Government. It is obvious that there is no necessity whatsoever on the ground of interest to exclude them from having positions in the Parliament of the Commonwealth, because they are not servants of the Commonwealth, and have no interest whatever springing from the Commonwealth such as under the previous branch of the section disqualifies anybody.

Sir GEORGE TURNER:

Then this is not necessary.

Mr. BARTON:

Yes, it is; because it might otherwise be read to apply that way. The hon. member will well remember the case of Sir Bryan O'Loghlen, whose election for County Clare was upset on the ground that, while he was a Minister of the Crown in Victoria, he was holding an office of profit under the Crown. That case shows the necessity of these exceptions. Then those are exempted who receive a new commission in the Queen's navy or army, or an increase of pay on a new commission. That covers the case of those who receive a fresh commission, who happen to have been a member of the Queen's army drawing pay, half-pay, or pension, or who receive an increase of pay, supposing they are only in receipt of a half-pay or pension.
But they are still persons employed under the Government of the Queen, and not under the Government of the Commonwealth. Then the remainder of the clause exempts anyone:

Who is in receipt only of pay as an officer or member of the military or naval forces of the Commonwealth, and whose services are not wholly employed by the Commonwealth.

If he belongs to what

Sir GEORGE TURNER:
No one objects to that.

Mr. BARTON:
The main point is that we exempt persons in receipt of pay, half-pay, or pension, or commission in the Queen's service, apart from the Commonwealth, on the ground that as they do not draw their pay from the Commonwealth, they have no interest against the Commonwealth.

Mr. KINGSTON:
Have you that provision in New South Wales?

Mr. BARTON:
I think we have, but I will reply to that question in a minute.

Sir JOHN DOWNER:
They have it in Queensland.

Mr. Barton's amendment-to insert the words "or member" after "officer" in the second line of sub-section 2 - agreed to.

Mr. GORDON:
I think it is very unfair to exclude from the operation of this clause pensioners of the Queen and not pensioners of the Commonwealth. There is no connection between political and military services, and I fail to see why pensioners of the Commonwealth should be under any disability. I move:

In line 40, after "pay" to insert "or pension."

Mr. BARTON:
I can quite see the point of the hon. member, but we have to read, the remainder of the clause, which includes:

And whose services are not wholly employed by the Commonwealth.

Sir GEORGE TURNER:
Suppose a man has an accident and he is given a pension, would he be then debarred?

Mr. BARTON:
I am putting it from the point of the effect it will have on the clause. It would appear that it would only apply to military cases where the individuals might be in the employ of the Commonwealth. That seems to make the clause self-contradictory if we make the amendment. If the hon.
member will think over it and prepare an amendment and hand it to me it may be looked at on recommittal.

Mr. GORDON:
I will withdraw my amendment.
Leave given.
Clause as amended agreed to.
Clause 49.-The Senate and the House of Representatives may each of them from time to time adopt standing rules and orders as to the following matters:
I. The orderly conduct of the business of the Senate and the House of Representatives respectively:
II. The mode in which the Senate and the House of Representatives shall confer, correspond, and communicate with each other relative to votes or proposed laws:
III. The manner in which notices of proposed laws, resolutions, and other business intended to be submitted to the Senate and the House of Representatives respectively may be published for general information:
IV. The manner in which proposed laws are to be introduced, passed, numbered, and intituled:
V. The proper presentation of any proposed laws passed by the Senate and the House of Representatives to the Governor-General for his assent: and
VI. The conduct of all business and proceedings of the Senate and the House of Representatives severally and collectively.

Mr. WISE:
It will be necessary to make an addition here to give full effect to section 8. By section 8 the two Houses have full power to define the privileges, immunities, and powers of the Senate and House of Representatives. In section 49 to give effect to that there ought to be a clause to this effect:
Maintain, regulate, and exercise their respective powers, privileges, and immunities.

Mr. BARTON:
We have considered that, and I do not think it necessary.

Sir JOSEPH ABBOTT:
The clause as it now stands clearly limits the Federal Parliament in the matters therein mentioned. The Constitution of New South Wales limits the power of that Parliament to pass standing orders best adapted to the ordinary conduct of the Council and Assembly respectively. On a recent occasion a member was addressing the Chamber, and a person in the gallery began throwing stones at him on the floor of the House. The
gentleman addressing the chair was a labor member, and he was reproving another person for having thrown stones at the labor party.

Mr. BARTON:
That is a little nearer here than New South Wales.

Sir JOSEPH ABBOTT:
And a person in the gallery immediately said, "You want a stone at your head," and he thereupon threw two stones into the Assembly. It struck me-

Mr. PEACOCK:
What, the stones struck you?

Sir JOSEPH ABBOTT:
No; they did not strike me. But it struck me as I sat there presiding over that Assembly as an extraordinary thing that the Parliament there could not punish the person guilty of such an outrage. We had to hand him over to the police, and he was brought up at the Police Court and fined twenty shillings. It weakens the power and it weakens the influence of Parliament that it cannot control disorder within its own doors and within its own boundaries, and if we accept these six provisions we limit the power of Parliament to make standing orders for the purposes indicated there. Under the eighth section of the Bill hon. members will see:

The privileges, immunities, and powers of the Senate and of the House of Representatives respectively, and of the Committees and the members thereof respectively, shall be such as are from time to time declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of the Committees and members thereof respectively, at the establishment of the Commonwealth.

But viewing this forty-ninth clause in its restricted form, it appears to me that if we attempt to pass Standing Orders we can only pass Standing Orders in accordance with that section. I therefore move:

That all the words after "as" in line 4 be omitted to the end of the clause in line 21, with a view of the insertion of the words "as they or each may deem to be necessary, and all such rules and orders shall have the force of law."

Perhaps it might be as well to put in what is put in the other constitutions of colonies, namely:

Upon being assented to by the Governor.

Mr. BARTON:
I do not like that.

Sir JOSEPH ABBOTT:
I am not particular about that, but I think at all events the Federal Parliament ought to have power to make its own standing orders for the
purposes of preventing disorder. When I say this I do not suppose the Commonwealth Parliament would attempt to exercise control with regard to people out of its own doors. But within our own dominion we ought to be absolute. If we summon a witness in any of our local Parliaments to the bar of the House, he can decline to give evidence, laugh at us, and walk away. The case I have just mentioned shows the necessity of Parliament having control over any disorder.

Mr. TRENWITH:

Anything to stop them throwing stones at labor members.

Sir JOSEPH ABBOTT:

In Victoria they took the matter in a wholesale manner, and passed an Act of Parliament declaring that the Victorian Legislature had all the powers, privileges, and immunities of the House of Commons. There was no mincing of matters there, and it was in consequence of the Parliament of Victoria having arrested a man, and it having been decided that they had no power to do so, that they immediately declared they had all of the powers of the House of Commons. The man, I think, was connected with Goldsborough's Company, and named Glass. He did something, and the Parliament arrested him, brought him to the bar of the House, and it was declared that they had no power to do so. In all the decisions of the Privy Council in reference to the powers of Parliament, the Privy Council has invariably declared that Parliament has no power outside the very words of the Constitution Act. In the case of Hampton and Fenton, I think, in Tasmania they had the audacity to tell a great colony like Tasmania that so far as it was concerned it had no greater powers than a municipality.

Mr. BARTON:

The Speaker only had the power of a chairman of a public meeting.

Mr. DOUGLAS:

Regarding the case alluded to by the hon. member, I happened to be present when the decision was given. The Privy Council did not declare that the colony had no power, but that any colonial Government, being under a Statute, would have no power beyond that Statute. The result was that the Tasmanian Parliament passed a law giving the powers to which the hon. member has made reference.

Sir EDWARD BRADDON:

I think that the amendment which the hon. member has proposed must be considered in connection with clause 8, page 4 of the Bill, which provides:

The privileges, immunities, and powers of the Senate and of the House of Representatives respectively, and of the Committees and the members thereof respectively, shall be such as are from time to time declared by the Parliament, and until declared shall be those of the Commons House of
Parliament of the United Kingdom, and of the Committees and the members thereof respectively, at the establishment of the Commonwealth.

If the hon. member's amendment is to include the power of punishment it will scarcely be necessary. The effect of the decision of the Privy Council to which my hon. friend has alluded must be read in connection with the Constitutions of the several colonies, which were affected at the time of the pronouncement of these decisions. In New South Wales, and I think in Tasmania, what exists at the present time is a Legislature as distinct from a Parliament. A Sovereign Parliament has punishing power. A Legislature which is created by Act of Parliament, and with the equivalent powers conferred upon it, as they are conferred by section 8, has, in the case of New South Wales and Tasmania, no power except such as can be gathered from the necessary implication of the words of the Constitution. In the present instance we have passed a clause which states that the

Sir GEORGE TURNER:

Has not the House of Commons power to make Standing Orders?

Mr. BARTON:

Yes.

Sir GEORGE TURNER:

Then where is the necessity for this clause?

Mr. BARTON:

The necessity for it does not arise out of the powers of the Standing Orders, which are merely regulations for the conduct of the business within the House, but out of the power of punishment in cases where contempt is exercised by persons within the walls of Parliament. If, for instance, a person throws a stone and the Sergeant-at-Arms can catch him he can be brought before the Parliament and can be imprisoned or dealt with otherwise for contempt. Under the operation of the clause similar action can be taken by the Federal Parliament, and that goes far enough. It does
not require Standing Orders to deal with the powers, privileges, and immunities of Parliament. They exist, and if you made Standing Orders you would really only limit them. Under the Bill we have taken the powers, privileges, and immunities possessed by the House of Commons.

Sir JOSEPH ABBOTT:

Then why do you want clause 49?

Mr. BARTON:

I have already explained that, but I will return to it if my hon. friend wishes. I say in the meantime you have already taken the powers, privileges, and immunities of the House of Commons, and there is no necessity to pass Standing Orders with reference to them. They do not need definition in the Standing Orders; they are not the subject of definition in the Standing Orders; they are totally different in their whole circuit to the Standing Orders which relate to the conduct of the business of each House and its transactions with the other House. That is not a question of the powers, privileges, and immunities of the House of Commons, which exist independently of the Standing Orders. They have a historical application in the House of Commons, and they can be applied to the Federal Parliament.

Mr. TRENWITH:

Could they not make Standing Orders?

Mr. BARTON:

The Federal Parliament, of course, will have power to make Standing Orders for the regulation of its internal business.

Mr. TRENWITH:

If we adopt clause 49 do we not restrict the power of the Federal Parliament with regard to any Standing Orders they may make?

Mr. BARTON:

No. You do not restrict them because you have the clause in the most general terms. My hon. friend wishes the clause to read:

The Senate and the House of Representatives may each of them from time to time adopt Standing Orders as they or each may deem to be necessary, and such Standing Orders shall have the force of law.

That is altogether too wide, as the Standing Orders would then have the effect of law outside the House.

Mr. PEACOCK:

Hear, hear. That is the point.

Mr. BARTON:

It is the point to which I think the hon. member was anxious to come. What we have done is to adopt a clause giving the Federal Parliament power to pass Standing Orders for the con-
duct of their business, and so that there should be no doubt the power has been taken in the widest possible words. The House of Commons does not make its Standing Orders by reason of its powers, privileges, and immunities, but by virtue of its inherent powers as a sovereign Parliament. The Standing Orders are for the internal regulation of the House of Commons, but my friend would like to say that the Federal Houses may make Standing Orders for any matter it may deem necessary. This would have the effect of passing laws without the royal assent. I ask my friend if the clause as it stands is not sufficient.

Mr. HIGGINS:

I am strongly of the opinion that the amendment is too wide. Section 8 gives this Parliament all the powers, privileges and immunities which the House of Commons has and members also, and we want no more than that. Clause 49 merely makes assurance doubly sure by providing that each House of Parliament shall make Standing Orders for the conduct of its own business, and if the amendment be carried as proposed it means that one House of Parliament is able to make laws although the Constitution means that both Houses must concur in making laws. If one House can make laws it will have a very important bearing on the liberty of the subject and the liberty of the press. The words in the amendment are:

As each of them may doom to be necessary, and such Standing Orders shall have the force of laws.

There is no question which comes up more than that of libel, and it is important to see that one House of Parliament shall not make any law affecting the freedom of the press in referring to the conduct of members. Any such law ought to be framed by both Houses; but the effect of this is that one House of Parliament is able to make laws to alter the law of libel and such matters. I think the Speaker of New South Wales will see there is no need for this.

Sir JOSEPH ABBOTT:

I do not agree with Mr. Barton, when he states that this House of Parliament will have inherent powers. The Privy Council has frequently declared that colonial Parliaments have no inherent powers whatever. They only have the powers given to them by the Constitution Act. I think that with clause 8 there is no need for clause 49.

Mr. PEACOCK:

They have not a clause like clause 8 in their Constitution.

Sir JOSEPH ABBOTT:

Then where is the necessity for clause 49? Mr. Higgins says all kinds of things might be done with regard to the press. I have such a regard and love for the press that I cannot realise that Parliament would do anything to
injure that great body. But the hon. member forgets that the eighth clause gives Parliament power to do what it likes with the press.

Mr. HIGGINS:
But both Houses.

Sir JOSEPH ABBOTT:
No. Clause 8, which has been passed, provides that the:

Privileges, immunities, and powers of the Senate and of the House of Representatives respectively, and of the Committees and the members thereof respectively, shall be such as are from time to time declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom.

No one knows what the powers of the House of Commons are. It is a fact that within the last thirty years they have given up the practice of summoning to the bar members of the press for matters of libel. The hon. member who is so anxious and careful about the press-

Mr. HIGGINS:
And the outside public.

Sir JOSEPH ABBOTT:
I ask the hon. member who is in charge of the Bill whether there is any necessity for clause 49, having regard to clause 48. I am anxious that the powers of Parliament should be limited to within its walls.

Mr. GLYNN:
Undoubtedly the effect of the amendment would be to deal with the outside public-that power which does not exist in the House of Commons. In Stockdale v. Hansard it was held that the courts of law were not precluded by a resolution of the House of Commons from inquiring into the legality of the act complained of, and in delivering judgment in the Court of Queen's Bench, Patterson (Justice) drew a distinction between powers -especially the power of invading "the rights of others"-and privilege. These powers are matters of common law in England, and are liable to be restrained by the Court. Under the proposed amendment, the House of Representatives could pass a resolution that would have the force of law to an extent denied to be a similar resolution in the House of Commons.

Sir JOSEPH ABBOTT:
In deference to the opinion expressed on the other side, I am prepared to withdraw my amendment.

Leave given.
Clause as read agreed to.

Part V.-Powers of the Parliament.
Clause 50.-The Parliament shall, subject to the provisions of this Constitution, have full power and authority to make laws for the peace, order, and good government of the Commonwealth, with respect to all or any of the matters following, that is to say:

I. The regulation of trade and commerce with other countries, and among the several States:

II. Customs and excise and bounties, but so that duties of customs and excise and bounties shall be uniform throughout the Commonwealth, and that no tax or duty shall be imposed on any goods exported from one State to another:

III. Raising money by any other mode or system of taxation; but so that all such taxation shall be uniform throughout the Commonwealth:

IV. Borrowing money on the public credit of the Commonwealth:

V. Postal and telegraphic services:

VI. The military and naval defence of the Commonwealth and the several States and the calling out of the forces to execute and maintain the laws of the Commonwealth:

VII. Munitions of war:

VIII. Navigation and shipping:

IX. Ocean beacons and buoys, and ocean lighthouses and lightships:

X. Astronomical and meteorological observations:

XI. Quarantine:

XII. Fisheries in Australian waters beyond territorial limits and in rivers which flow through or in two or more States:

XIII. Census and statistics:

XIV. Currency, coinage, and legal tender:

XV. Banking, the incorporation of banks, and the issue of paper money.

XVI. Insurance, including State Insurance extending beyond the limits of the State concerned:

XVII. Weights and measures:

XVIII. Bills of exchange and promissory notes:

XIX. Bankruptcy and insolvency:

XX. Copyrights and patents of inventions, designs, and trade marks:

XXI. Naturalisation and aliens:

XXII. Foreign corporations, and trading corporations formed in any State or part of the Commonwealth:

XXIII. Marriage and divorce:

XXIV. Parental rights, and the custody and guardianship of infants:

XXV. The service and execution throughout the Commonwealth of the civil and criminal process and judgments of the courts of the States:

XXVI. The recognition throughout the Commonwealth of the laws, the
public acts and records, and the judicial proceedings of the States:

XXVII. Immigration and emigration:

XXVIII. Influx of criminals:

XXIX. External affairs and treaties:

XXX. The relations of the Commonwealth to the islands of the Pacific:

XXXI. The control and regulation of navigable streams and their tributaries within the Commonwealth, and the use of the waters thereof

XXXII. The control of railways with respect to transport for the military purposes of the Commonwealth:

XXXIII. Matters referred to The Parliament of the Commonwealth by The Parliament or Parliaments of any State or States, but so that the law shall extend only to the State or States by whose Parliament or Parliaments the matter was referred, and to such other States as may afterwards adopt the law:

XXXIV. The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States concerned, of any legislative powers which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia:

XXXV. Any matters necessary for, or incidental to, the carrying into execution of the foregoing powers or of any other powers vested by this Constitution in the Parliament or the Executive Government of the Commonwealth or in any department or officer thereof.

Sub-section 1, as read, agreed to.

Sir GEORGE TURNER:

Subsection 2 raises some difficult points which I understood were to be referred to the Drafting Committee for consideration. This clause gives full power and authority to make laws with regard to certain matters, and provides that the law with regard to bounties must be uniform. In various colonies, particularly in Victoria, and more recently in South Australia, the Government has thought wise to encourage production by giving bounties. We have for several years been expending money for the purpose of assisting in the freezing of certain articles which are exported by this means. We have built up a trade. We hope also to build up a trade with regard to the dairying industry. We are at present endeavoring to establish the sugar-beet industry under an Act of Parliament which has authorised us to give bonuses to the extent of £50,000 to the companies, but not to exceed altogether £100,000. It seems from the Bill, however, that as soon as a uniform tariff is passed the whole of these bounties will have to cease.
While it may be wise that Parliament should take control of the granting of these bonuses, I want it to be clearly understood that no bounties or arrangements existing at present shall be jeopardised.

Mr. BARTON:
   After the passing of the uniform tariff?

Sir GEORGE TURNER:
   No agreements or arrangements at present should be interfered with.

Mr. BARTON:
   Do you want the power perpetuated?

Sir GEORGE TURNER:
   In regard to the sugar-beet industry, we have actually entered into an agreement within the last few days.

An HON. MEMBER:
   That is an advance.

Sir GEORGE TURNER:
   It would come under the expression of bounties. I want to have existing contracts protected. It is a question that can fairly be discussed whether we are going to take away from the States their rights, for the purpose of assisting to increase the exports from the Commonwealth, of giving these various bounties. The effect of this and other clauses may be to prohibit a States Parliament from granting any bounty—a bounty which might be not so much to compete with persons within the Commonwealth, but to enable persons who desire to produce for purposes of export to do so. We should carefully consider this, because it might be a serious thing to prevent trade beyond the continent, which a little help to our producers would bring about. Then, too, I should like an expression of opinion on the words:
   No tax or duty shall be imposed on any goods exported from one State to another.
   What is the meaning of the words:
   Tax or duty?
   We, in Victoria, have a harbor trust in control of the harbors and wharves, and they make charges, just as in done in the other colonies. Later on we provide for a uniform tariff, and that trade and commerce between the colonies shall be absolutely free. If the meaning is that our harbor trust shall not be able to impose duties that it does now on commerce coming from the other colonies or other parts of the world, we will seriously jeopardise that body. Take away what is its largest source of revenue and you will leave it practically insolvent.

Mr. MCMILLAN:
Is not your tax equal to a Wharfage rate?

**Sir GEORGE TURNER:**

I want to have it perfectly clear that the effect of the words "no tax or duty," construed in conjunction with the other section which says that the trade between the colonies shall be absolutely free, will not be to prevent the various charges I have mentioned.

**Mr. BARTON:**

I would ask Sir George Turner to look at clause 92, and see whether it would accomplish his object if there were an addendum which said that:

No contract nor anything done under a contract made before the establishment of the Commonwealth shall be affected.

**Sir GEORGE TURNER:**

It is a matter that requires serious consideration, because I feel certain none of us desire to do anything that will interfere with existing contracts,

**Mr. BARTON:**

Look at sections 105 and

**Sir GEORGE TURNER:**

Clause 106 says:

A State shall not, without the consent of the Parliament of the Commonwealth, impose tonnage dues.

**Mr. BARTON:**

It is not a wharfage rate.

**Mr. SYMON:**

Tonnage is a tax.

**Mr. DEAKIN:**

I do not wish to interrupt this discussion, but I wish to make an alteration in the first portion of the clause, prior to the first sub-section.

**The CHAIRMAN:**

That can only be done now by the unanimous wish of the House.

**Mr. BARTON:**

It might be better to put that question when the whole clause is put.

**The CHAIRMAN:**

That would be the better way.

**Mr. DEAKIN:**

I will wait till then.

**Dr. COCKBURN:**

The point raised by Sir George Turner is one of great importance. It will not be sufficient only to protect what has been done in the past by various States in fostering the export trade, but it will be necessary also to continue
those rights to them in the future. Sir George Turner has mentioned several very important industries which are being fostered in this way by the colony of Victoria, but he might have made the list still longer. If anything is going to be done to prevent the State from assisting the export trade a very severe blow will be struck at the agricultural industry generally. Perhaps it is just as well that the Federal Parliament should have the right to give bounties equally throughout the States, go I do not know that this clause is the best place in which to make the necessary amendment, but this clause read together with clause 82 will not only give the Federal Parliament the right to give these bounties, but will absolutely preclude any State Parliament from doing the same thing. We ought, I think, to make the powers concurrent, and might call in the services of the Inter-State Commission, to which body the question of any bonus given by a State Parliament-so as to derogate from the principle of freedom of trade, or to give undue advantage to one State as against another-might very well be referred. As Sir George Turner has said, it is well that the Federal Parliament should have the power to give a bonus which should obtain equally throughout all the States, but it to not likely to give bounties in the early stages of industries, because in each case the industries will arise first; fit some part of the Commonwealth before they become general to the whole of Australia, and so the necessity of giving a bounty will be felt most in that portion of Australia where they first take. toot. An export industry will have to reach a very flourishing stage before it' can enlist the sympathies and secure the assistance of the Federal Parliament. In South Australia we have an export department in which as far as possible we endeavor to make the rate charged cover the cost of services rendered, but it cannot do that in every case, because when an industry first starts there must necessarily be some initial loss. Under the clause which puts the giving of bounties exclusively in the hands of the Federal Parliament any enterprise of this sort carried on at a loss, however small, would probably be regarded as equivalent to giving a bounty. In pioneering an industry a man makes a road which all can travel, and it will be very unfair to say he shall not have some hell) from the community which will benefit by his enterprise. If no assistance is offered no pioneers will come forward.

Mr. REID:

This is one of those subjects on which we might spend a day or two, but on which I think it is quite unnecessary to do so. If we are prepared to leave thousands of vested interests and industries which are affected by the tariff to the wisdom and justice of the Federal Parliament, surely these infinitely smaller questions can remain in the same position. especially
when we recollect that, in the case of exports, there is an almost uniform practice prevailing throughout the whole of the colonies. New South Wales is exactly on the same track as Victoria and South Australia. and we are all pursuing, whether freetraders or protectionists, a similar policy. I think it will be safe therefore to leave this matter to the Federal parliament.

Sir GEORGE TURNER:
As soon as they pass a uniform tariff all our existing bounties have to cease.

Mr. REID:
As soon as they pass a uniform tariff perhaps all sorts of things will happen. But we have to face the contingency. We will have to trust the wisdom and justice of the Parliament, and if we confide the infinitely greater, surely we may confide the infinitely less. In supposing a case such as Sir George Turner has mentioned, where one colony may be in a difficulty, we must trust to the Federal Parliament to have due thought for the difficulty brought about, and endeavor to deal with it in some equitable manner.

Sir GEORGE TURNER:
The Constitution says that when the uniform tariff is framed all bounties must cease, and so they will not be allowed.

Mr. REID:
Yes; but that uniform tariff may contain certain provisions which will safeguard everything in that way. It may be the place in which to do it. It must not be forgotten that this clause 50 does not give the Commonwealth exclusive power.

Sir GEORGE TURNER:
A later clause does.

Mr. PEACOCK:
Clause 82 is the one.

Mr. REID:
It seems to; but it is open to doubt. We know that in the ordinary course of legislation, such as contracts-

Mr. BARTON:
It does not interfere with contracts already entered into.

Sir GEORGE TURNER:
We have laws-Acts of Parliament-offering bounties.

Mr. REID:
But so long as the law has not been acted upon no harm is done. If it has been acted upon, a contract will have been entered into, and the Parliament in dealing with it will use those principles of practice and equity which every other Parl
Mr. BARTON:

I would ask my hon. friend Mr. Isaacs to oblige me by looking into the point as to whether, seeing, that the bounties will cease under this Act, a contract entered into for a bounty by a State must also cease—that is, would he give an ex post facto reading to the clause?

Mr. FRASER:

With respect to Sir George Turner's reference, there are contracts in our colony. We have spent enormous sums of money in providing for new industries, and it would be very unreasonable to think that we could not make fair charges for that expenditure.

Mr. KINGSTON:

Services rendered.

Mr. FRASER:

For services rendered. The bounties that are now being given, and are under promise to be given, should be protected. But I do not think any further provision should be made, because we are yielding to the Federal Parliament the right to establish Customs duties and bounties. It is not to be thought of that the Federal Parliament will not do its duty to the nation, because it would be impossible for the local Parliaments and the Federal Parliament to be doing one and the same thing. The local Parliaments will under this Bill waive their rights to give bounties, and the Federal Parliament must of course be assumed to assist in all matters for the national good. Therefore I agree with my friend Mr. Reid that you cannot have the States doing what we are going to vest in the Federal Parliament. Surely the Federal Parliament will in every way possible assist those industries which are indigenous to the various States. It can easily be arranged. A sum of money—say half a million sterling—can be applied for the purpose, and equally distributed over the whole colonies. Moreover, I suppose that each colony can apply some of the proportion of Customs duties that it will get to support its industries. Further than that I do not think the clause ought to go.

Mr. HENRY:

I rise for the purpose merely of saying that it should be made quite clear what the position of the various harbor trusts is under this section. I am entirely in accord with the view put forward by Mr. Reid in reference to the necessity of having uniform bounties, that the Federal Parliament should be the sole body to deal with this question of bounties. We must trust to the Federal Parliament that every protection shall be afforded to the various industries affected by bounties. I, should like the position of the harbor
trusts in reference to wharfage rates to be made quite clear, because many wharfage rates may be imposed which will really be protective.

Mr. REID:
If they put on two scales of rates, one for the produce of the people of their own colony, and another for the produce of the people of a different colony, they would be acting illegally, as interfering with the equality of trade.

Mr. HENRY:
Then the Melbourne Harbor Trust might charge 5s. per ton on potatoes, but they must levy that charge equally on the Warrnambool producer and the Tasmanian producer.

Mr. REID:
It must be uniform.

Mr. HENRY:
I am entirely in accord with the view that the rates must be uniform, and that the necessary rates must be levied on imports from foreign parts. So long as it is made quite clear that the wharfage rates of the various harbor trusts should be uniform I am quite content.

Mr. TRENWITH:
Surely they can charge rates in proportion to the accommodation they give.

Mr. HENRY:
I am well aware that under existing arrangements wharfage rates sometimes really become a protective duty. But so long as the rates are uniform I am quite content.

Mr. ISAACS:
After providing that the duties of excise and customs and bounties shall be within the purview of Parliament, sub-section 2 of this clause states:
No tax or duty shall be imposed on any goods exported from one State to another.
That contemplates that you put a duty on goods of the State going from one State to some place that is not a State. I have some doubt whether that is right. The Commonwealth might put a duty on, say, Tasmanian apples going to England, and why should that be so?

Sir EDWARD BRADDOX:
Hear, hear.

Sir GEORGE TURNER:
You, have struck the right quarter now.

Mr. ISAACS:
I am glad I have touched a responsive chord in my hon. friend's breast.
Mr. BARTON:
   Sidere mens eadem mutato.
Mr. ISAACS:
   The American Constitution provides in article I., section 9, sub-section 5:—
   No tax or duty shall be laid on articles exported from any State.
   Why should the Commonwealth have the power to put an export duty on articles imported from any one particular State?
Mr. GLYNN:
   Do you not want it to have that power?
Mr. ISAACS:
   I do not see why they should have the power to put an export duty upon goods of any particular State going abroad. That is not the purpose of Federation at all. I should like to hear the reasons for this innovation from the American Constitution as it seems to be an arbitrary power given to the Federal Parliament.
Mr. MCMILLAN:
   It is in the Bill of 1891.
Mr. ISAACS:
   Yes. I am aware that it is in that measure.
Mr. WISE:
   The reason for framing the clause in this way was to allow to the Federal Parliament absolute discretion in handling the fiscal policy. I am entirely with the hon. member, because, as a freetrader, I can see no more reason for the imposition of an export duty than I can for an import duty.
Mr. ISAACS:
   It is not a question of freetrade and protection, but of interference with the States.
Mr. WISE:
   I am willing to support him if he will move an amendment that no export duty shall be levied.
Mr. GLYNN:
   Of course this is a necessary right which must be vested in the Federal Parliament. It is quite as objectionable, from a freetrade point of view, to impose an export as an import duty. If the power is given to the Commonwealth to impose import duties which it is alleged are to encourage lines of production within a particular State, and if that is right, then a similar power must be vested in regard to export duties.
Mr. BARTON:
   Do I understand Mr. Isaacs to urge that instead of providing:
That no tax or duty shall be imposed on any goods exported from one State to another,
we should provide that the Commonwealth shall not levy an export duty, and leave it in the American form so that no tax or duty shall be levied on any goods exported, also that there should be a prohibition against the States from doing so?

Mr. KINGSTON:
The object is only to prevent the Commonwealth doing any thing to interfere with intercolonial freetrade, and it is just as well to say that you shall not impose any duty on goods exported from one State to another as it is to say that you shall not impose a duty on goods imported from one State to another. It is as broad as it is long. I think we undoubtedly understand that the hon. member may make it clearer by adding his amendment, but what is the good of tying the hands of the States themselves, if you allow the Commonwealth to interfere with the freedom of trade?

Sir EDWARD BRADDON:
I hope that the Committee will not agree to the introduction of a duty which is foreign to our policy.

Mr. MOORE:
Wharfage rates have been imposed before now which have been tantamount to a duty.

Mr. BARTON:
Mr. Isaacs has not moved an amendment to the provision which reads:
That no tax or duty shall be imposed on any goods exported from one State to another.
That is a prohibition against a State levying duties on goods imported from another State.

Mr. ISAACS:
I did not say that it was not.

Mr. BARTON:
Then the hon. member thinks that the Commonwealth should be prevented from levying any export duties on goods exported from the Commonwealth to any foreign port?

Mr. ISAACS:
Yes; I am in doubt about this. I wanted to know from any hon. gentleman why the American form was departed from, because I understand and fully sympathise with the desire that there should be absolute freedom of trade between the colonies. That is already provided for, but this is a curious expression. What we want to do is to prevent any duties being laid on goods going from one State to another, but to use the
word exported in this connection raises some doubt in my mind. In the American Constitution it is provided that no tax or duty shall be laid on any article exported from any State. This Constitution says from one State to another. That leaves it open to the Commonwealth Parliament to put a duty on goods going from one State outside the Commonwealth altogether, and the point raised by Mr. Kingston is that if you say you will put a duty on articles exported it is equal to saying you will put a duty on articles imported. That may not be quite right, for exported from New South Wales may not be the same as imported into Victoria. I am not quite persuaded what the object of these words were. They are in the 1891 Bill, and I am not quite satisfied why the change of verbiage has been made.

Mr. BARTON:
I think I can explain. If the hon. member looks at section 9 of the United States Constitution he will see there are certain prohibitions on the Commonwealth, that is to say certain immigration shall not be prohibited by the Congress, that the privilege of the writ of habeas corpus shall not be suspended, and that no Bill or attainder or ex post facto law shall be passed. Then clause 5 says:

No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue, to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

Go from that to the next:

No money shall be drawn from the Treasury, but in consequence of appropriation made by law; and a regular statement and account of the receipts and expenditure of all public money shall be published from time to time.

Then further:

No title of nobility should be granted by the United States.

This is a series of prohibitions on the Commonwealth to prevent them from doing anything in derogation of freedom or free trade between the States. The words are:

That no tax or duty shall be laid on articles exported from any State.

The succeeding words seem to illustrate the whole matter:

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on Imports or exports shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

That is a prohibition against the States, as the former is one against the
Commonwealth; but, taking the whole of the section altogether, clause 5 of section 9 may act as a prohibition on the States as well as the Commonwealth. What is the meaning of the words:

No tax or duty shall be laid on goods exported from any State.

It is made clear by the following words. They are all for the preservation of inter-State free-trade, and it is clear therefore that whether it is the Commonwealth or the State that is enjoined, the tax or duty prohibited is a tax laid on goods exported from one State to another, because it is inter-State freetrade that is the whole subject of the prohibitory clauses in the American Constitution. If hon. members will look through these clauses and those connected therewith they will see clearly that that is the object. It is meant that a tax or duty shall not be laid as a tax or duty on articles exported from one State to another. It is with the Commonwealth to take its own course with regard to articles exported from the Commonwealth, whether they levy these duties or not. In this connection let me give an instance. Many years ago in New South Wales-I think it was in 1881—it was proposed to levy an export tax upon wool, coal, and cattle exported from New South Wales. The Ministry which proposed it was a freetrade Ministry. Two conditions arise under an export tax. One is that the article upon which an export duty is levied is an article which the community produces in common with other communities. In that case the price of the article is not increased by the amount of the duty of the export for the reason that that article of export his to enter into competition with articles similarly produced elsewhere. In such a case the tax falls on the producer. On the other hand, in cases where the exporting community has a monopoly the increased price of the tax has to be paid—if I may use such a comprehensive term—by the foreigner, so that the producer of the State is not taxed. In the one case therefore the export tax may operate as a very great limitation on freetrade, and in the other case it has no such limitation at all. In the one case the whole of the extra cost is paid by the persons in the country which imports from the Commonwealth. The Commonwealth will choose its own fiscal policy, and it is quite clear that the Commonwealth should not be prohibited from levying such duties of export as it may choose. It is clear that the prohibitions laid down in the American Constitution mean that the Commonwealth or any State should not be allowed any interference with intercolonial freetrade, and the intention is made quite clear in this Constitution, as in the American Constitution, by an express prohibition on a State from doing the same. The authority which is prohibited from levying duties of exports upon goods passing from one State to another is probably the Commonwealth.
itself. I think, taking that into account, that the words:

Exported from one State to another

have been inserted as in the 1891 Bill to make it clear, and not to leave
the meaning loose, only to be controlled by the remaining words of the
section, and to make the obvious meaning quite clear to him who reads.

Sub-section 2 as read agreed to.
Sub-section 3 as read agreed to.
Sub section 4 as read agreed to.
Sub-section 5,
Postal and telegraphic services.

Mr. HOLDER:
I move as an amendment to add to this sub-section the words:
Without the boundaries of the Commonwealth.

My purpose is to exclude from the control of the federal authority all
telegraphic and postal matters within the boundaries of the
Commonwealth. I indicated at an earlier stage what my object was in doing
this. Whether profit or lose is sustained in carrying on the services will
make no difference to South Australia, because the accounts will be
entirely federal in character, and debits or credits will be made to the
individual States. It seems to me that postal and telegraphic matters are
matters of purely local concern, and that to transfer them to the federal
authority would be a great mistake. The effect would be to bring about
centralisation in its worst form, and cause great detriment to outlying
districts. I might refer to Western Australia, where such large
developments have been recently seen. How would it have been possible
for a Central Government, so far removed from the centre of operations, to
have adapted itself stage by stage and week by week to the growing
developments so well as the local authority did? In a matter such as posts
and telegraphs we would save time and expense, and the public interest
would be consulted in every possible way if the management were in the
hands of the local authority. I am willing to hear what has to be said on the
other side as to the advantage that is to, be gained by handing over the
control of local affairs to a central authority, but I am afraid any
advantages arising from the transfer will be greatly overbalanced by the
advantages of leaving things as they are.

Mr. BARTON:
I hope the Convention will not accept the amendment, which would only
leave the Commonwealth charge of external mail services and of cables
and other communications outside the bounds of the Commonwealth. The
hon. member would, however, saddle the Commonwealth with the subject
of transcontinental communication, which has been carried on without the bounds of the Commonwealth.

Mr. KINGSTON:

No.

Mr. BARTON:

I was wrong. None of the telegraph lines within the bounds of the Commonwealth would be taken over. The hon. member would saddle the Commonwealth with the question of ocean mails and cables, and would leave in the hands of the various States the various postal and telegraphic services, including the transcontinental service.

Sir GEORGE TURNER:

You would have two controls.

Mr. BARTON:

There will be two portions of one system. Anyone who telegraphs from one portion of the Commonwealth to England or America is using one entire system. His telegram may go from Coolgardie to Adelaide, from Adelaide across the Transcontinental wire, and then by the Eastern and Australian Telegraph Company's cable; so that he is using what really amounts to one system. And the same thing can be said of the postal service as a whole. Is it advisable, even for the purpose of economy or the preservation of State rights, that these systems should not he directed as one? A person expecting a cable from London may be assured that the cable service is in good order, yet he may be inconvenienced by a break occurring in the Transcontinental line which, ought not to have happened.

Mr. HOLDER:

We have kept it in good order for twenty-five years.

Mr. BARTON:

I am not complaining of anything that South Australia has done in this way. But if a person sending a long distance message expects to get an answer, then with respect either to the message or to the answer, he may be in a very queer position unless the whole responsibility rests with the Commonwealth of keeping the whole system as clear as possible. If the colony is to retain its own particular postal and telegraphic service, and the Commonwealth to be in charge of external questions with regard to posts, telegraphs, and so on, then we may have this peculiar condition of things: that there may be cause of complaint with respect to the external services under the charge of the Commonwealth, or with respect to the internal services which are sub-divided among six States, so that there may be a responsibility divided among as many as three different divisions. It would be preferable to make the Commonwealth responsible for the whole service, for by that means you would much more clearly conserve the
interests of every member of the Commonwealth.

**Mr. CARRUTHERS:**

The hon. member has pointed out a very good argument with regard to the telegraphic communication, but it fails entirely so far as his attitude to this Bill is concerned when applied to postal communication. He is quite prepared to let the postal communication be carried on by divided responsibility. We have not got the telegraph wires to carry the mails, but we have railways under State control to carry them; so that if he sees no objection to that portion of the State business which carries postal matter being under divided control, he can surely have very little objection to the telegraph wires being under State control. I should have been in favor of getting this sub-section into the Bill if the Convention had been agreeable to take control of what I consider to be analogous to our postal and telegraphic communication—I mean our railway communication. It is just as important that the Federal Government shall have the care and management of the vehicles which carry human beings and their goods as that it should have the care and

management of the vehicles or ways which carry letters and telegrams. But I see very little chance of carrying a proposal of that kind, and therefore my vote is to be given with a view to preserving the consistency of this Bill having regard to other matters. I do think that there is a great danger in providing for the Federal Constitution to take over too many matters at the onset. I fear that there is a great danger that we shall over-weight Federation at the onset, and we shall have people voting against the Constitution because as regards the particular matters they deem important we are giving up too much of the right to govern themselves. I do say this: why should the Federal Government interfere in local postal matters? What interest would the national Government have in the carrying of letters from Adelaide to Glenelg, or from Adelaide to Hindmarsh, or from one street in Adelaide to another street in Adelaide? These are matters of purely local concern, and you cannot dignify them to a position of national importance. Moreover, I fear that by overloading Federation with these minor and local concerns, you bring in that which has tended so much to degrade public life in America, log-rolling and corruption. If you give over the telegraph and postal business you thereby hand to the custody of the Federal Government all the local appointments—the appointing of the postmasters, clerks, and other officers, who do not do national, but the purest local business; and you at once raise up a large army of civil servants, the influence of which we want to dissociate from our national life. If possible, we should elevate the position of our Federal Legislature above subjects of
purely local concern, and what need is there to thrust these matters into a
great national undertaking? The hon. member's proposal allows us to go
just as far as we ought to go in this business. When this becomes a matter
of national concern, let the national Government do the work, but the
Federation should not do things which are best done locally. What cannot
be done best locally should be handed over to this common executive. It is
proposed to have an Inter-State Commission, which will deal with those
matters where our railways, or our public arteries-our roads, or rivers-come
into conflict. The idea is that the rival interests of one State against another
should be adjusted and controlled by such a Commission. It is very easy to
let this matter of posts and telegraphs outside the boundaries be regulated
by this Commission. They need not take active management, but they
could provide regulations which would have the force and effect of federal
laws governing the various bodies. I do hope that in this matter there will
be a division taken, so that those who are inclined to overweight the
Federation with minor matters may vote for it, and those who are inclined
to leave to the Federation clearly-defined national interests, may give their
votes in that direction. I hope a division will be taken which will test this
and many other matters. I have given notice of similar amendments, but I
shall not persevere with them if Mr. Holder's amendment is lost.

Mr. DEAKIN:
As I understand the remarks of my hon. friend Mr. Carruthers, he admits
the wisdom of transferring the telegraph service to the Federal
Government, but contests the wisdom of handing over the post offices. Do
I understand the hon. member's position correctly?

Mr. CARRUTHERS:
No. My hon. friend Mr. Barton pointed out that with regard to telegraphs
it was, not wise to let these lines be under the control of the various States,
and I answered him by pointing out that with regard to posta

Mr. DEAKIN:
The hon. member's argument was then simply an answer, not an
argument, on the main question. It is not essential to the principles on
which the

Federal Government is to be established that either the post office or the
telegraph service should be transferred to the national Government. But I
submit that the post and telegraph office in both its branches comes first in
the long list of services in which it is evident there are national interests to
be dealt with rather than State interests. It is no imputation upon the
existing post offices of the various colonies that one has sometimes been
more prosperous than the other; that fact to my mind is chiefly due to the
different policies pursued in the different colonies. If the other colonies had
thought fit to pursue with regard to their post offices the policy of the
South Australian Government they could have shown large surpluses. But
they have chosen to use their post and telegraph offices not merely to earn
profits, but as a means of opening up new districts. To my mind there is no
reason why the post and telegraph service should not in every colony pay
well for services rendered there and over the entire area of the
Commonwealth. But the question naturally arises whether these services
should be essentially local services. Surely if there are State undertakings
which require to be administrated geographically and without reference to
the arbitrary limits which separate State from State, the carriage of letters
and the transmission of telegraphic messages are those interests.

Mr. CARRUTHERS:
Outside State boundaries?

Mr. DEAKIN:
Within or without State boundaries. How can it be said that South
Australia is more competent to administer the postal affairs of its Northern
Territory than they would be administered from a central capital? Or how
can it be said that the European mails for the extreme west country of New
South Wales could not be better dealt with by the use of railways and
means of transport through South Australia? Looking at the postal and
telegraphic business of the continent of Australia from a purely business
aspect, from the practical side of affairs, it appears to me that we are more
likely to have satisfactory and complete communication if it be regarded as
one whole and worked from the most convenient centres, without regard to
State limitations. I say in answer to Mr. Holder that his illustration in
regard to Western Australia proves nothing if we may rely upon American
experience. If there has been one great federal success it has been the
American post office, and if there is one regret in their politics it is that the
American telegraphic service is not also in the hands of the Government.
The telegraphic service is in private hands, and the regret is widespread. I
can say, from a short experience of some of the least settled and most
distant territories of the West of the United States, that the postal
communication there is much more complete than I have been accustomed
to find in outlying districts of these colonies under their present State
management. The National Government at Washington, 3,000 miles away,
separated by a whole continent, has proved itself more liberal in its
treatment of the people of the Far West than have the Governments of
Australia proved themselves in regard to our back block settlements. In
America the post office has been a great administrative, financial, and
popular success; and any man who would propose to-day to hand that service over to other than to State administration would find that his proposition was short-lived. We may have greater difficulties to surmount than they have, but there is no reason why the Commonwealth of Australia should not also achieve a conspicuous success in this direction. The arguments used by my hon. friend Mr. Barton with regard to the difficulties arising from a divided control of the telegraph wires appear to be conclusive. It would be almost impossible to make arrangements as perfect and as economical for either postal or telegraphic services within Australia if you retain State boundaries, and it will certainly be more difficult to make arrangements for the extra-Australian services if you are called upon to consider State claims and demands, instead of only considering the real practical wants of the localities immediately concerned. It appears to me a desirable thing as a matter of practical business to transfer both of the services to which I have alluded to the Federal Government. We shall not place too great a burden on the federal authority, and the whole population will be better served than they now are or than remote districts can be by State authority. Placing the means of communication in the hands of the Federal Government will probably permit of that universal reduction of postage and cable rates which is one of the first demands of the commercial interest throughout Australia. The experience of our own colony is that the present cable rates are almost prohibitive. but by a satisfactory combination of the cable and postal services, with unity of administration, we shall be able to secure an immediate reduction in those charges, as well as in postal rates, and give the people of Australia better services than those they now possess.

Sir PHILIP FYSH:

Every postal conference that has been held for years past has tendered a report suggesting that the postal and telegraphic services should be federated. Year by year conferences are necessary in order to keep ourselves in touch with what is going on and to keep pace with development. The clause of the 1891 Bill, transferring the control of post and telegraph offices, was largely for the reason that the losses amounting to £200,000 per annum, incurred by some States were for the benefit of the whole, and therefore should be of federal concern. That state of accounts has since altered, and South Australia, in 1891 the chief loser, and Tasmania, also an important loser, have both since secured profit in these departments, but much services as posts and telegraphs have by means of the postal conferences of postmasters annually, and by their reports, sought to establish uniformity, and tended strongly to support this federal purpose.
The cost of cable subsidies has already been divided intercolonia
dly, and the completion of federal services will tend to support the "United
Australia" purpose of the people. Nothing has a greater tendency to perfect
your union than one postage stamp for Australasia. Uniform postal rate is
also desirable; whereas in Tasmania, in a given radius from the General
Post Office, the rate is one penny, in South Australia and Victoria
twopence is uniform, whether across the street or to the end of their
territorial limit. Mr. Deakin's reference to extra-colonial or over-sea
services will remind representatives of the fact that the federal authority
will, if only oversea services are of federal concern, as Mr. Holder
suggests, pay the contractors, and that the revenue will be collected by the
local or State authorities. The details of departmental works, such as the
pay of postmasters and opening new offices in outlying districts, will by
federal authority be settled upon the recommendations of the Local or State
Secretary of the department in the Federation. To be compelled at the
present moment to supply ourselves with Adelaide stamps, or if you are
travelling in Tasmania with Tasmanian stamps, if; always inconvenient to
that section of the public which is of a migratory character. We have also
to consider that as far as our revenues are concerned they come in unequal
proportions from the various contributors. In Tasmania we give in the city
and suburbs the advantage of a penny service; but here, and I think in
Victoria also, they have the same rate in the city and suburbs as throughout
their territory, and I think if the federal spirit is to be generated by a
Constitution of this kind, and if we wish to continue the belief that we are
one people, we will do much in, this direction by providing a uni-
form postal and telegraphic service. Under these circumstances our various
conferences have invariably tended in this direction, and hence during the
last few years we have pooled all our cable subsidies. It was only natural
that we should so pool them, as we in Tasmania were bearing more than
our share, and we recognise that South Australia was giving to the people
of Australia a large amount of work for which she was inadequately
recompensed. We have reversed the position, and we are no longer losing
by the postal service as we were in 1891. South Australia and Tasmania
have altered their positions, but that is no reason that the remainder, now
that our total loss has been reduced to about £80,000, should not pool the
service which brings in contact every home throughout Australia. Then you
have the money order system also, under which commission is charged in
each colony, but if it were pooled, we would be able to distribute the
money of a majority of our people at a lower rate than we do at the present
time, which is within the scope of some future Treasurer or postmaster to
propose. This advantage can be better secured to the people generally by Federation than it otherwise can be, and therefore I hope that we will respect the opinion of 1891.

Dr. Cockburn:

The proposed amendment will keep the administration of our postal services in the same position as now. By co-operation the colonies have already a federal service in regard to extra-colonial matters. The federal authority may well continue that work, and the local services remain in the hands of the States. I would like to say that this is not a question of revenue only, although some of the speakers have made a great point of that phase of the subject. The extension of the postal and telegraphic system is generally connected with the development of the country. It is a question also of opening up markets, a wheat market, for instance, cannot spring into existence unless it is provided with an adequate telegraph service. The States can better look after these local matters than the federal authority can administer them from a distance. The hon. member Mr. Deakin has mentioned the Northern Territory and some portions of New South Wales. I am not prepared to say that the administration of the post office in the Northern Territory would not be better if the seat of authority was closer to the services rendered, but if any want of good administration due to distance has occurred, would not the evils be multiplied a thousandfold if the greater part of Australia was managed by an authority a still further distance away? Taking over the telegraphs means taking over the telephones, and I think that matter is purely a local one which can be most satisfactorily managed locally. Telephones are local of necessity.

Mr. Deakin:

You can already speak from one colony to another, and probably further by-and-bye.

Dr. Cockburn:

The hon. member has pointed out that the Americans would be pleased to have the telegraph services under any sort of State control, but not necessarily federal. With regard to the post offices, I think he is also correct when he speaks of the general opinion in America, but is there not an argument which may influence the desire of the Americans to continue their present system of federal control of the post offices? Is not the possession of the post offices and the patronage appertaining to them one of the strongest instruments in the hands of party government there? The parties in America could not carry out their campaigns without the advantages which the control of the post offices places in their hands. I think we should keep this patronage and the temptations attending it out of the hands of the Commonwealth. We know that the manner in which postal
appointments are made in America is a grave reflection on the whole people. I think the best way is to add to the clause the words of the amendment, and thereby we shall combine the advantages of a federal and a local administration of the post office.

Mr. WISE:  
I do not rise to continue the debate, but merely to ask as a matter of order that I may be allowed to move an earlier amendment, because, if this amendment is dealt with, I shall be precluded from doing so.

Sir GEORGE TURNER:  
Finish the debate on this.

Mr. WISE:  
I have the concurrence of the gentleman in charge of the Bill for doing this. I propose to omit all the words after the word "Postal," and to make the clause read as follows:  
Postal, telegraph, telephone, and other like services within and beyond the Commonwealth.  
If I move that it will be open to the hon. gentleman moving the present amendment to strike out the words "within and." It is necessary as a matter of drafting, to carry out this to meet the views of Mr. Holder, who moved the present amendment. Unless there are express words implying that this is outside the Commonwealth they will not know its limits. If we want the Commonwealth to have power to deal with cables, there must be express power to enable them to go beyond the Commonwealth.

Mr. HIGGINS:  
What are you intending to cover by the words "other like services?" Do you mean the railways?

Mr. WISE:  
There might be a long distance telephone or phonograph. Mr. Peacock's laugh might then be heard in London. (Laughter.)

Sir GEORGE TURNER:  
We have his laugh here. Do not put him further on.  
If Mr. Holder moves to omit the words "within and" it will come to the same thing. I am sure these words are necessary to enable Mr. Holder to carry out his object.

Mr. SYMON:  
It is a little complicating the present issue to introduce telephones. Some of us would be rather caught by the insertion of these words in deciding upon the amendment by Mr. Holder. The introduction of telephones raises a distinct issue. It would be better to put them separately.
Dr. COCKBURN:
On behalf of my hon. colleague Mr. Holder, I will ask leave to withdraw this amendment, so long as it is not intended in any way to obstruct it.
Amendment temporarily withdrawn.

Mr. WISE:
Then I move:
To insert after "telegraphic," "telephonic and other like services."
I will not discuss this. Telephones are worked with telegraphs in every colony, and it would be a great inconvenience to separate them.

Mr. SYMON:
I should like to hear the views of Dr. Cockburn on this question, as some of us are not familiar enough with the subject to say whether there can be a detachment of the services.

Mr. DEAKIN:
They must go together.

Mr. WISE:
They use the same wires.

Dr. COCKBURN:
I do not think it is possible to separate them.
Amendment agreed to.

Mr. WISE:
I now move to add to the sub-section:
Within and beyond the Commonwealth.

Sir GEORGE TURNER:
What is the object? Would it not apply to many other powers that we are to give.

Mr. SYMON:
I think these words are scarcely required. There could be nothing more comprehensive than the words we have just adopted.

The CHAIRMAN:
I will put Mr. Holder's amendment first.

Mr. REID:
This attempt to separate the post and telegraph services will, I think, be disastrous. It is impossible to work these two services by, two different departments. How is it possible to put on the Commonwealth the necessity of having a department to deal with one part only of the business.

Instead of simplifying the post and telegraph services of the colonies it will only complicate them. One of the strongest reasons for including the post
and telegraph services within the Commonwealth is that, instead of having seven Ministerial Post and Telegraph Departments and seven staffs for the Australian colonies, the whole business can be managed under one federal head. If there is an argument in favor of federalising any service, it applies more strongly to this than to any other I can think of. There are certain side complications which will entirely disappear under federal administration. When one speaks of the colony of New South Wales having a loss on the postal service, and another colony having a gain, that simply arises from separate administrations and separate laws; laws under which, in New South Wales, we allow newspapers to go free, and laws under which in other colonies they do not; laws under which, in New South Wales, we allow one penny stamp over a fifteen-mile radius in all populous localities throughout the colony, and laws in other colonies under which they charge twopence to send a letter from one side of the street to another. Under a federal administration the charges will be regulated on a uniform basis, and all these inequalities will disappear. Why are we putting in various clauses to prevent unequal intercourse between the colonies in matters of trade if we do not put in these clauses which will prevent similar evils in connection with the posts and telegraphs of Australia? You could carry on most offensive State wars with these post and telegraph rates. It is essentially a matter of common concern which could be more economically administered by the Commonwealth. Although I always attach the greatest importance to the views of Mr. Carruthers, and we are generally found acting together, I must say on this occasion I feel it would be impossible to carry out the ocean transit of mails with one department, and local affairs with another. From my point of view there should be only one Post and Telegraph Department for Australia, only one executive head for Australia, and I believe that under that system the interests of the people of Australia will be better and more economically served.

Mr. DOUGLAS:

I hope the clause as it stands, will not be carried. I agree with Mr. Carruthers as to the necessity for local legislation. The arguments used by Sir Philip Fysh have induced me to rise now. All over Tasmania we have one postage, with the exception of the immediate vicinities of large towns, and they have another different one. You, in South Australia, also have a system of your own. Why should these things be interfered with by a general arrangement of this sort? At the present moment all these matters are in two classes-one the outside connection with Great Britain and other countries, and the other, local communications. In Tasmania and in other communities also, I suppose, there are numbers of small post offices where the annual payment of those in charge does not come to more than perhaps
£5 or £6 a year. Why should such small matters as these be interfered with by the Federal Government? In all portions of Tasmania and other colonies new places are day by day rising up, and is postal and telegraphic communication with them to be delayed until the consent of the Federal Government is obtained?

Dr. COCKBURN:
Send deputations to the mainland.

Mr. PEACOCK:
That will soon kill deputations.

Mr. DOUGLAS:
At present the local authorities properly have to deal with such matters, and they ought not to be handed over until there is absolute necessity for it. Connection with outside countries can be regulated easily enough. It is all nonsense to make a bogey of keeping accounts. Other accounts will have to be kept in a separate way, and why should not this one? Better give up everything at once; we are diminishing the Power of the local Parliaments wherever we possibly can, apparently. I think we had better stick to the arrangements we have at the present time.

Sir EDWARD BRADDON:
I think Mr. Douglas is unnecessarily alarmed as to the effect of this provision. If the administration of these systems by the Federal Government is satisfactory and efficient there will be a great measure of decentralisation about it. To a very considerable extent the conduct of local postal and telegraphic services will be left to the local officials.

Mr. REID:
Hear, hear.

Sir EDWARD BRADDON:
The local officials will be allowed a free hand in that respect.

Sir JOHN DOWNER:
Hear, hear.

Sir EDWARD BRADDON:
As to the extension of the postal service for a few miles, or the opening of a new office, anyone administering that department, if he were a capable administrator, would take particular care that such matters were left entirely to the local authorities.

Mr. MCMILLAN:
And recommendations would always be accepted.

Sir EDWARD BRADDON:
I am in favor of the inclusion of these matters in those which shall be of
federal concern, although Tasmania has to lose by it. We are making a profit out of our post and telegraph system as a result of good administration, and we are ready to make a sacrifice. But Tasmanians ought to be satisfied with having the postal and telegraph services through Australia conducted by a federal administration, inasmuch as the federal capital will be in Tasmania, and we shall have the Government quite close. (Laughter.)

Mr. DEAKIN:

Do you want the capital in Tasmania as well as Tattersalls?

Question—That the words proposed by Mr. Holder to be inserted be so inserted—put. The Committee divided.

Ayes, 5; Noes, 30. Majority, 25.

AYES.

Carruthers, Mr. Gordon, Mr.
Cockburn, Dr. Kingston, Mr.
Douglas, Mr.

NOES.

Abbott, Sir Joseph Howe, Mr.
Barton, Mr. Isaacs, Mr.
Berry, Sir Graham Lewis, Mr.
Braddon, Sir Edward McMillan, Mr.
Brown, Mr. Moore, Mr.
Clarke, Mr. O'Connor, Mr.
Deakin, Mr. Peacock, Mr.
Dobson, Mr. Quick, Dr.
Downer, Sir J. W. Reid, Mr.
Fraser, Mr. Symon, Mr.
Fysh, Sir Philip Taylor, Mr.
Glynn, Mr. Turner, Sir George
Grant, Mr. Walker, Mr.
Henry, Mr. Wise, Mr.
Higgins, Mr. Zeal, Sir William

Pair.—Ayes, Mr. Holder; Noes, Mr. Brunker.

Question so resolved in the negative.

Sub-section, as amended, agreed to.

Sub-section VI., as read, agreed to.

Sub-section VII., as read, agreed to.

Sub-section VIII., as read, agreed to.

Sub-section IX., as read, agreed to.

Sub-section x.—Astronomical and meteorological observations.

Mr. REID:
It does seem to me that this is really going to some extravagant extreme. Surely we are going to allow the observers of all the colonies to go on peacefully examining these heavenly mysteries without bringing a Commonwealth law down upon them to regulate them and their observations. It seems to me it is a fanciful item-

Sir GEORGE TURNER:
Would you mind adding the words "outside the Commonwealth"?

Mr. REID:
That would make it a little more sensible. The notion of observations of this kind being brought within the laws of the Commonwealth seems to be altogether too ridiculous.

Sir JOSEPH ABBOTT:
I am not going to let this godchild of mine die a natural death. It is very desirable that we should have uniformity throughout

Australia with regard to these things. I am not so much wedded to the astronomical, but, in regard to meteorological observations, it is most essential that there should be uniformity throughout Australia. On a former occasion I pointed out the consensus of opinion among the best men that these observations would be invaluable to Australia. Why should the Government of Tasmania be called upon to meet an expenditure of this kind when it is admitted by the best men in Australia and elsewhere that these observations would be of more value to Australia than they could be to Tasmania, which happens to be the position from which they could be taken? If there is anything which ought to be the subject of a Commonwealth law, it is these observations, which will undoubtedly prove of great value to shipping and other interests of Australia.

Mr. GRANT:
I regret that the Premier of New South Wales should have taken the view he did of this matter.

Mr. REID:
Another inquisition.

Mr. GRANT:
With regard to the astronomical observations, it is very important that they should be under federal management. Take the case of the United Kingdom at the present time. There we have an observatory at Greenwich which I apprehend is the chief northern observatory of the empire. There is an observatory in Dublin, and another in Edinburgh, both admirably managed institutions, but we do not hear of them conflicting with the observatory at Greenwich, which maintains the paramount position in the
United Kingdom. The same is the case with the Washington observatory of the United States. So also we should have an observatory in the Commonwealth which should rank before the other observatories. It commends itself to our intelligence that there should be a federal observatory, to take precedence over other observatories. I think there are obvious reasons that the meteorological observations should be placed under one general control, and I trust that the Convention will not object to the clause as it stands.

Sub-section, as read, agreed to.

Sub-section XI., as read, agreed to.

Sub-section XII.-Fisheries in Australian waters beyond territorial limits and in rivers which flow through or in two or more States.

Mr. CARRUTHERS:

I thought at first of moving the omission of the whole of this sub-section, but there may be hon. members who are not in favor of the elimination of the whole of the words. I propose to test the sense of the Committee by moving:

That all words after "limits" be struck out.

I think this sub-section is unduly interfering with what is purely a State question, and if the clause is allowed to Stand, it may give rise to a vast amount of local friction. If you concede the rights of the Federal Government to legislate with regard to fish, you must provide similar legislation with respect to game, because the game like the fish, travel from one colony to another. Any legislation introduced with reference to things in the water and on the land must be also made to apply to things in the air. What is aimed at is to give joint control to the people of South Australia of fish in the Murray river and her tributaries. But, supposing the Federal Parliament will pass a law with regard to the Murray fisheries, what Federal officer is to carry out that law? Is the Federal Parliament to have officers posted at short intervals up the river? If the matter be left to State supervision and State legislation, we should have the State policemen and officers employed, and a more satisfactory control would be established than if the Federal Parliament interfered. We, in New South Wales, are just as much interested, and, perhaps, more so, than the people of South Australia, and we have passed laws regulating inland fisheries, while we have officers to see that these laws are enforced. The moment you let the Federal Parliament make laws which prevail over the State laws, you take away local authority, which should look after matters of purely local concern.
Mr. GORDON:
As I believe I am responsible for this sub-section, I wish to say a word in its defence. I think it is recognised in every civilised country, that the fisheries are an important factor, as a wealth producer, much more so than the feathered game of which Mr. Carruthers has made so strong a point. It would be useless for one colony alone to make regulations as to the time of fishing, and the size of the fish which may be netted, and, therefore, it seems to me a most important thing that uniform legislation should be adopted.

Mr. REID:
What rivers do you refer to?

Mr. GORDON:
The Murray and the Darling principally.

Mr. REID:
You might mention the Clarence river and a few others.

Mr. PEACOCK:
The Torrens!

Mr. GORDON:
There are a few other streams in New South Wales, but these are the great rivers in connection with which the Federal Parliament could make regulations regarding the fisheries.

Mr. REID:
The desire of Mr. Gordon to assume control of New South Wales is no new desire, as ever since he appeared at a Convention he has been endeavoring to annex as much of New South Wales as he possibly can. In another subsection he wishes to take over a great part of Queensland, but that is a mere detail. We have very little water in New South Wales, and what we have we wish to keep. I have no objection, as far as water flowing between two States is concerned, to the Federal Parliament having the control, as it would put an end to difficulties which arise between two colonies at present in connection with the waters and the fisheries, but I must repudiate any idea of the Commonwealth assuming power over a river which is wholly in one colony, I do not think that any other colony would like the Commonwealth to assume control of the rivers within its boundaries, and what they would not like themselves, I am sure they would not force on New South Wales. I understand Mr. Gordon is not satisfied that we give him free trade over our borders, but in a spirit, which looks like ingratitude, he is trying to take from us something which he has no right to take. Whilst I am perfectly prepared to give the Federal Government authority over waters flowing between two States, as that would remove a great deal of difficulty, we must draw the line between
waters flowing between two States, and water flowing entirely in one colony.

**Sir JOSEPH ABBOTT:**
I would suggest that Mr. Carruthers should withdraw his amendment to enable me to move:
That the words "or in" be struck out.
It will be competent for him to move his amendment afterwards.

**Sir GEORGE TURNER:**
No, you cannot go back.

**The CHAIRMAN:**
I would point out that if we amend the clause by striking out the words "or in," Mr. Carruthers' amendment cannot be put.

**Mr. FRASER:**
I think we should confine ourselves to the 1891 Bill.

**Mr. BARTON:**
It Mr. Reid's view were carried out there might be a difficulty, because the whole course of the river would be covered. His view would be better carried out by saying:
Rivers, which are the boundary between two or more States.

**Mr. KINGSTON:**
I hope we will make some provision on this subject, for there have already been difficulties in the matter. I remember having had a letter from Sir George Turner on the subject. They were desirous of preserving the fish in the River Glenelg, and he pointed out that whilst they were trying to prevent poaching-

**Mr. FRASER:**
Netting.

**Mr. KINGSTON:**
Or the use of illegal instruments in their portion of the river, South Australia was not exhibiting the same industry in the protection of the fish in the portion of the river in this colony, and he desired the appointment of a federal officer who would look after the interests of both and see that the fish were not exposed to any more risks in one colony than the other. We ought to do something in this matter. Our fisheries are important, and if one colony is careless it will not only endanger the fisheries of that colony, but probably the fisheries of the other colonies. I think the clause recommended by the Constitutional Committee should be adopted by this House.

**Mr. O'CONNOR:**
The suggestion is to provide for a river flowing through two or more territories, and to protect the fish which are travelling up and down from one colony to the other. The question is whether we should give this power to the Federal Parliament at all. I think this power is much better left in the hands of the States. It means giving power to deal with the waters all through the separate States, because it means every part of the river.

Mr. KINGSTON:
Only for fishery purposes.

Mr. O'CONNOR:
It may be a difficult thing to have the question raised whether the water in a river was not being so diminished by irrigation, or manufactures that the fish could not live in it. I think it would be better to leave things as they are.

Mr. BROWN:
Could not the question be dealt with by sub-section 33:
Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to the State or States by whose Parliament or Parliaments the matter was referred, and to such other States as may afterwards adopt the law.

I think it is one of those matters which should be dealt with in that way rather than in the way proposed. I mean as to the control of fisheries in rivers which flow through or in two or more States. As to fisheries in waters beyond territorial limits, I think they should be left as in the Bill of 1891.

Amendment agreed to; sub-section as amended agreed to.
Sub-section 13 as read agreed to.
Sub-section 14 as read agreed to.
Sub-section XV.-Banking, the incorporation of banks, and the issue of paper money.

Mr. ISAACS:
Anticipating another subsection, I notice that insurance, including State insurance, is to be dealt with by the federal authority. As regards banking, I believe in South Australia there is a State bank. It will be a question to seriously consider whether the Commonwealth is to deal with purely private banks, and not State banks. I understand that it is intended to have uniformity of legislation in banking matters throughout the whole of the Commonwealth, that financial institutions shall know exactly what laws they have to comply with, and that the laws shall apply equally over the various parts of the Commonwealth. But where a State Bank carries on business purely in its own State, I desire to know why that should come
under the operation of the Commonwealth?

Dr. COCKBURN:

I am glad that this matter has been called attention to. It is a very serious one to those colonies which want to go ahead.

Mr. GLYNN:

How is that?

Dr. COCKBURN:

Because the federal authority may take the power out of the hands of a State to carry on the business of banking. This would be a concurrent power, and in its exercise in such a matter as the issue of notes, for instance, it would be very easy for the Federal Parliament by implication to compel any State to discontinue it. It might also explicitly forbid the States to undertake it. A hostile majority in the Federal

Sub-section as read agreed to.

Sub-section XVI.-Insurance, including State insurance extending beyond the limits of the State concerned.

Mr. HIGGINS:

I desire to understand whether by the word "State" here is meant a particular colony, or is it used in the general sense-the State as distinct from the individual? I apprehend that the word "State" means a particular colony, but I confess I do not understand the meaning of the term.

Mr. O'CONNOR:

This is a new subsection. It proposes to include insurance, and I think it is a very desirable inclusion amongst the list of powers. However, it involves a principle. The part the hon. member referred to is for this purpose: It was suggested that colonies might undertake State insurance, as was done in New Zealand, and it was held that State insurance should not come under the general laws. From that view I entirely dissent; but this clause was drawn in accordance with the views of the Constitutional Committee. The hon. member will see, therefore, that the words "State insurance" simply indicate that whereas a State within its own boundaries should have control of all its insurance business, and the regulation of its insurance under any State system, so far as it deals with the people within its own boundaries, any part of its system that proposes to deal with people beyond its boundaries should come under the general laws. "State" is used to designate colony. I should support the hon. member if be moved to strike out:

Including State insurance extending beyond the limits of the State concerned.
Mr. ISAACS:  
It would include all insurance then?

Mr. O'CONNOR:  
Yes; and I think it ought to. If a State chooses to go into the business of insurance—I do not say it is wise or not—I do not see why any departure should be made as to the uniformity of laws with regard to insurance. The State should be subject to the same limitations as the individual if it goes in for State insurance. It would be absurd to say it should not. Supposing every State adopted a system of State insurance, according to this exception each State would be able to adopt a different method, so long as it kept within its own boundaries, and you might have five different Systems of insurance outside the general law.

Mr. ISAACS:  
Is that not States rights?

Mr. O'CONNOR:  
No; because you start with the proposition that general insurance laws must be the same throughout the colonies.

Mr. SYMON:  
The object of this, I understand, is to exercise a federal control over any State undertaking the business of insurance outside its own boundaries. I agree, and most people will too, that if a State enters upon a commercial undertaking it should have no privileges and exemptions from which ordinary individuals are not free; but the language used here seems to be open to the criticism of Mr. Higgins.

Mr. WISE:  
By keeping it in you give special privileges within its boundaries.

Mr. SYMON:  
To that I do not object. If South Australia chooses to establish a System of State insurance, I do not see why she should not within her own limits. It affects her own subjects only, and we should diminish the rights of self-government if we decided otherwise; but if South Australia opens agencies in Victoria, then the federal law should be able to say, "If South Australia chooses to enter into commercial rivalry with those companies outside her own territory, she should be subject to the conditions imposed in other countries." I think that is the extent to which this provision was intended to go.

Mr. O'CONNOR:  
Hear, hear.

Mr. SYMON:  
It seems tome that these words:
Including State insurance extending beyond the limits of the State concerned
ought to be, in the sense in which they they were inserted-

Mr. HIGGINS:
Struck out.

Mr. SYMON:
No; retained. But I doubt with Mr. Higgins whether they exactly and clearly give effect to that sense. I suggest some verbal modification such as the following:
Including any business of State insurance extending its operations beyond the limits of the State adopting it.

Mr. O'CONNOR:
Hear, hear. That would be better.

Mr. SYMON:
The words:
State concerned
are a little ambiguous.

Mr. HIGGINS:
I agree thoroughly in principle with Mr. Symon as to his intentions, but I would suggest that what is wanted here is an excluding phrase, and not an including phrase. Insurance covers all kinds of insurance. You want an excepting phrase. "Insurance" will be the general expression, and then will follow:
Except State insurance confined to the limits of the particular State.

Mr. SYMON:
That is the better way.

Mr. KINGSTON:
Put it this way:
Excluding State insurance within the State limits.

Mr. GLYNN:
We ought to be careful as to how we restrict the operations of State insurance. In 1869 New Zealand State insurance was established, and now, as a matter of fact, a very large business is carried on by the Government of New Zealand beyond the limits of that colony. According to the statistics of 1891, the position of New Zealand State Insurance in Australia was second only to that of the Australian Mutual Provident Society.

Mr. FRASER:
The New Zealand Government do not go beyond their own limits.

Mr. GLYNN:
They do. Policies are taken up elsewhere. And we ought to be careful how we attempt to confine the business of the New Zealand State
insurance to that colony, because Australian insurance companies do large business in New Zealand, and the New Zealand Government may retaliate by excluding them. In 1891, out of 56,000 policies in force in New Zealand, the Government held 29,256, and the Australian Mutual Provident 16,761. If you impose a federal law, restricting the operation of State insurance without the limits of that State-

Mr. HIGGINS:
That is not intended. The intention is to have the federal law only to apply to insurance which is general over the colonies.

Mr. GLYNN:
You can impose a restriction upon New Zealand in carrying on business within the limits of the federal power.

Mr. O’CONNOR:
Why should New Zealand State insurance be in any different position from the insurance of any company?

Mr. GLYNN:
The present law extends to New Zealand State insurance. If you impose a special law upon State insurance, the result will be that New Zealand will probably impose a company law in New Zealand.

Mr. FRASER:
I do not think, notwithstanding what Mr. Glynn says, that the New Zealand Government Insurance department is doing any business outside of New Zealand, with the exception of receiving premiums.

Sir PHILIP FYSH:
Only that their policyholders travel.

Mr. DEAKIN:
They only receive the premiums here.

Mr. FRASER:
If a policy-holder goes to Kamtschatka, of course the premiums will be paid to the department all the same.

Mr. DEAKIN:
Is that near Oodnadatta?

Mr. FRASER:
Yes, I suppose. I think it would be grossly unfair to allow a State to extend its operations in life or any other insurances beyond its own limits. A department might be as rotten as possible, and carry on a huge business at great risk, and nobody would be able to control it. I think it is the duty of the Federal Parliament to make a law for the whole Commonwealth, giving a State power to establish an insurance department within its own borders; but to give a department the liberty of going outside its borders would be
as absurd a thing as could be allowed.
Mr. WALKER:
    I would like to move:
    That all the words after "insurance" be deleted.

The CHAIRMAN:
    You cannot do that. An amendment has been made by Mr. Higgins.
Mr. HIGGINS:
    I do not want to embarrass Mr. Walker if he has an amendment which
    ought to be discussed, but I cannot see at present how my amendment may
    fit with his. My idea is this: That the Federal Parliament should be allowed
    to deal with all insurance matters, with only one limitation. I would refrain
    from dealing with State insurance in the colony establishing it, but if that
    colony extends its operations to other colonies, I do not see why it should
    not be treated like an ordinary company.

The CHAIRMAN:
    As a matter of procedure, Mr. Walker wishes to make no exceptions at
    all. He therefore proposes to strike out all the words after "insurance."
Mr. HIGGINS:
    Of course, if it will help him to have the question discussed, so long as it
    is understood that my amendment is to be submitted, I am quite agreeable.

The CHAIRMAN:
    I would point out that you cannot do that afterwards.
Mr. HIGGINS:
    Well, I must press it then.
Sir GEORGE TURNER:
    I might point out that those who are desirous of striking out the words
    might do so without proposing that some other words be inserted. It would
    then leave a blank to be afterwards filled.
Mr. HIGGINS:
    I agree to that.

The CHAIRMAN:
    Mr. Higgins proposes to strike out the word "including," with the view of
    inserting something else.
Mr. FRASER:
    I do not quite understand what this will lead us to.
It will lead to a blank which the Committee mayor not fill up.

Mr. KINGSTON:
I understand that if the word "including" is struck out Mr. Higgins will afterwards move to insert:
Excluding State insurance within State limits.

Sir GEORGE TURNER:
Then if you propose to put in the words, that means striking out the lot.

Mr. FRASER:
I am more in favor of striking out the whole lot.

HON. MEMBERS:
Then vote against it.

Mr. FRASER:
I am anxious that others should do so as well as myself.

HON. MEMBERS:
We will.

Mr. HIGGINS:
I think my friend is under a misapprehension as to this. I am limiting insurance matters for the Federal Parliament to have control over. I propose to exclude certain matters from federal control. The expression then will be to the effect that the Federal Parliament is to have power to make laws for insurance, but it is not to have power to make laws as to insurance effected within the limits of a colony by that colony. Then I think that my friend will be in favor of my view that the word "excluded" ought to be inserted.

Mr. WALKER:
I am sufficiently old-fashioned to consider that insurance is a business, and I therefore want law to apply to all insurance companies, whether State insurance companies or otherwise. I intend to vote against any amendment.

Amendment-striking out all words after "insurance"-agreed to.

Mr. HIGGINS:
I now move:
To insert "excluding State insurance not extending beyond the limits of that State."
Amendment agreed to; sub-section, as amended, agreed to.

Mr. HIGGINS:
Now I want to add as a sub-clause the words:
Industrial disputes extending beyond the limits of any one State.
It seems to me that having just dealt with insurance, extending through the various colonies, and having very recently dealt with banking, &c., this is the right place to add the words mentioned. Of course the object is to enable the Federal Parliament, if it think fit, to-create Courts of Conciliation and Arbitration, but I do not want to ask members of this Convention to approach the matter and say that there should be Courts of Conciliation or Arbitration. We cannot tell what is in futurity, and I want simply to give the Federal Parliament a power to establish these courts if it think fit. Therefore there will have to be an incidental alteration in the judicature part of the Bill, so as to enable the Federal Parliament to create a court for the purpose. It may be said, "Leave the industrial disputes to the States"; but it is well known that these disputes are not confined in their evils to any one State If there is a shipping dispute in Sydney it is sure to be felt in Melbourne; if there is a coal dispute in Newcastle it is sure to be felt at Korumburra. Any one State is unable to cope with the difficulty. If it should hereafter be found expedient to have a Court of Conciliation and Arbitration, it must be a Federal Court which can extend its power over the whole Federation. As Australia is so isolated from the other countries of the world by sea, it would be eminently apt to have a Federal Court of Conciliation and Arbitration for the purposes of Australia. I shall therefore move the addition of the sub-clause I have read.

Mr. KINGSTON:

I hope we will give some power to the Federal Parliament to legislate in matters of this kind. It is a question in which I have taken some interest. When first I attempted to deal with it I thought that for the purpose of making any effectual provision on the subject federal legislation was necessary on account of the extent of the disputes which occurred in industrial matters, and upon which local legislation, confined to provincial limits, is not competent to deal. The opinion I affirmed is borne out by a variety of cases. If you had federal legislation dealing with this matter, you could establish courts which would exercise a wider jurisdiction and command greater respect and confidence than can be hoped for under any system of provincial legislation. Something has been done here-perhaps not as much as we would wish—and in New Zealand; and I was pleased to notice from the remarks of the hon. the Premier of that colony, Mr. Seddon, that he calculated that through the efforts of the tribunals and the officials appointed under legislation he has been able to carry, as much as a million pounds sterling has been saved to the colony of which he is the chief executive officer. I do not think we can over-estimate the importance of a matter of this sort. We at great pains provided tribunals dealing with disputes between individuals, but the magnitude of the issues involved in
an industrial dispute like the shearers' strike, the maritime strike, or the Broken Hill strike, seemed to exceed altogether the whole interests involved in the individual differences to which I have called attention. I would like my hon. friend Mr. Higgins to have moved his amendment in a somewhat larger form, and make it a subsection which would read:

Conciliation and arbitration for the prevention and settlement of industrial disputes.

I think for a variety of reasons that this is preferable. It would be larger, and give more extended and effectual power to the Federal Parliament to deal with the question. As long as the prin-

Sir GEORGE TURNER:
Would it include the settlement of strikes and disputes in hospitals-I mean federal hospitals? (Laughter.)

Mr. KINGSTON:
It would give power to look into matters of that sort if the Federal Parliament thought that its attention could be wisely directed to them. On questions of that sort a provincial government has been capable of dealing with some of these matters. Still, as regards the greater matter of industrial disputes, I do not think that anyone who has noted what has taken place during the last few years can come to any other conclusion than that we should be acting wisely in giving the Federal Parliament the greatest power to legislate as they may think fit under the circumstances.

Mr. MCMILLAN:
It seems to me that we must decide whether we will give this power to the Federal Government or leave it to the States. The object of Federation is, while federating on common matters, not to interfere with the industrial and local life of the States. This is a proposition which goes a step too far, as you are giving a distinct power to override the States legislation. Is the power simply to be exercised with the consent of the States, or is it to be an overriding power.

Mr. KINGSTON:
It is a power which the Federal Parliament may exercise.

An HON. MEMBER:
If they make any law it will override any local law.

Mr. KINGSTON:
Only where it is inconsistent.

Mr. MCMILLAN:
I have no legal knowledge to guide me, but it seems to me that everything that we put among these sub-sections is practically a power which necessarily overrides every other power, and therefore there is no doubt that while in some trade disputes their ramifications extend throughout the different colonies, still they are to a great extent local matters of dispute.

Mr. HIGGINS:
It will only apply where the dispute extends outside the limits of one colony.

Mr. MCMILLAN:
Here again I am met by my want of legal knowledge; but it seems to me that it is a difficult thing for the Federal Government to interfere, even where the ramifications of the disputes extend beyond the limits of a colony, without the consent of the States. I think there are sufficient powers in this Bill to enable some conjunction of interests between the Federal Government and the States in matters of this kind being effected; but I do not think that there should be any power included in this Bill which will so interfere with the local industrial life of any State as practically to dictate to the State with regard to trade disputes.

Sir JOHN DOWNER:
I confess I do not understand the clause, nor do I see what it means. Industrial dispute extending beyond the limits of one colony are the words used, but how can that happen?

Mr. HOWE:
A maritime strike affects the whole national life.

Sir JOHN DOWNER:
It does not extend beyond the limits of a State. The dispute is complete in itself in each State. Because there is the same dispute in other colonies, it does not create a dispute extending beyond the limits of the State. Each dispute is a dispute complete in itself in each State, and each State will have power to deal with it. Such a provision I think will be a fertile source of dispute. As far as the words are concerned, they appear to be simply meaningless, and I cannot conceive
any dispute which in itself can extend beyond the limits of the State.

Mr. CARRUTHERS:
How about a dispute with the masters in one State and the men in another, as in the shipping trade?

Sir JOHN DOWNER:
That is not a dispute extending beyond the State. It may be a very difficult thing to work out, but if it is to be done at all-and I can see great difficulty in doing anything with it, because it will be extending the limits of the Commonwealth legislation to a most dangerous degree, which I think all the colonies will not be prepared to accede to-it will be a departure from the proposition that there must be a formula in which you can give the jurisdiction. These words, I submit, will not do it, because the dispute will be a dispute in the State alone, and will not extend beyond it.

Mr. HOWE:
I rise, as one of the laymen, in fear and trembling to give my opinion against those of the legal luminaries here. A maritime dispute may affect the life of the nation. We have before seen the whole commerce paralysed by these disputes, and if we give the telegraphic departments to the federal authority why not give them authority to settle a national dispute which is endangering the commercial enterprise and industrial life of the whole community. I am with Mr. McMillan on that point, and if these words will not accomplish their object I want Sir John Downer to find words that will.

Mr. DEAKIN:
I am entirely with my hon. and learned friend Mr. Higgins in the amendment he has moved so far as he has indicated his purpose. I had the pleasure in 1891 of supporting the Premier of South Australia when he made a similar proposition. It is a cause in which he has taken a continuous and active interest ever since. Some of the difficulties which confront Sir John Downer confront me, although I see the problem from another point of view. This sub-section would give concurrent federal power in dealing with industrial disputes when they extend beyond the borders of a single State. The granting of such a power is desirable, properly belonging to a Federal Government, because the disputes may be extended over large areas, and if they are to be dealt with as a whole they must be dealt with by the Federal Parliament. Concurrent legislative power here differs from the concurrent power usually given in other respects in this Bill. A dispute might arise in South Australia, where there is a law now on its Statute-book

An HON. MEMBER:
So it ought to.
Mr. DEAKIN:

Yes; but it will be difficult to determine the moment of overflow even if you can determine the point of overflow. We can scarcely say it there is to be a law in each State that the federal law must not differ from some, if not from all, of these. Consequently it will be a curious problem in relation to penalties and observances for those concerned to know the moment when they have passed from under the dominion of the State law to the dominion of the federal law. That is the great difficulty to settle. Although I am prepared to support the motion of the hon. member, I see grave difficulties in this proposal which is to retain the State law and federal law upon the same question as both may have to be applied in times of emergency and urgency. If you had merely left power to the State to legislate on industrial questions until the Commonwealth Legislature intervened, then the situation would be comparatively simple. But I know that neither of my hon. and learned friends desires that. They both desire to retain for their Several States for all time the privilege of controlling industrial disputes within their own borders. But then they are confronted with the difficulties to which I have referred, and upon which I would desire the Drafting Committee to throw some light so as to enable a determination to be come to. As to the time difficulty, I suppose it could be determined by proclamation of the Federal Parliament that a particular industrial dispute had ceased to be a State dispute, and had become federal. But the hon. member wants to obtain more than that. He wants, if possible, to graft a federal law upon the State law in such a way that the federal law should only be applied where the State law cannot be applied. If South Australia and Victoria had each a law enabling them to deal with a dispute, it might be advisable that each State should deal with it. It might be better that the dispute on the Victorian side should be dealt with according to the Victorian law, and that it should be dealt with on the South Australian side according to the South Australian law. But where the States altogether find themselves unable to cope with an intercolonial struggle, it seems to be highly desirable that there should be provision for federal action. I hope the hon. gentlemen will indicate to the Drafting Committee how they are going to distinguish between those two separate spheres of action.

Mr. FRASER:

This proposed provision will be adding another difficulty, and the worst of all. Suppose we pass a clause giving the federal authority power to settle disputes in a certain way, we will override the local law. The law of the colony may be quite different, or there may be no law at all. Therefore you
must get the consent of the State to assimilate its local law with the federal law before you can effect your purpose. You load the Federal Constitution enormously by adding difficulties like these. All that is necessary is to give the Federal Parliament authority to deal with it as best it can when it is constituted.

Mr. KINGSTON:
That is all we are asking.

Mr. FRASER:
If that is really all, I have misunderstood the purpose of the amendment. I want to be clear. I understand if you pass this amendment it would override the present local law.

Mr. SYMON:
So it will.

Mr. KINGSTON:
It will not.

Mr. FRASER:
I am beginning to learn upon whom I can rely, and I am prepared to take my friend Mr. Symon's opinion as conclusive. Leave well alone. Let the Federal Parliament deal with it. It represents the whole of the people.

Mr. KINGSTON:
That is what we propose to do.

Mr. FRASER:
I would go any length in the direction of conciliation; but we may do a great deal of harm by overloading the Federal Constitution. This was not in the 1891 Bill, and I hope Mr. Higgins will not insist on his amendment now.

Mr. WISE:
It would not be fair to criticise the language of this amendment too closely, but I entirely agree with the observations that have been made by Sir John Downer and Mr. Deakin, that the amendment as now drawn is very unsatisfactory. The language is either too large or too limited. In one sense it is hard to say that any industrial dispute is a dispute outside the limits of the colony. I agree with Sir John Downer that it is impossible to say when any dispute extends outside the limits of a colony, because a dispute is always in one colony although it may be going on in every colony. In another sense every dispute extends outside the limits of a colony.

An HON. MEMBER:
Indirectly.
Mr. WISE:
Sometimes, and sometimes directly. I rose rather to call attention to another aspect of the question. If the effect of the amendment is really to provide for the possible establishment of a Federal Court of Conciliation, I am at one with that object; but the essential part of the language used in the amendment - I am not criticising casual expressions-indicates a much wider object, which would turn this power into a weapon of very great danger. It would, I think, deprive those concerned in these industrial disputes, whether as masters or employés, of one of their greatest safeguards. There is no matter which the industrial population of Australia would more desire to confine to the local Parliaments, where they can make their influence upon members felt, than matters affecting industrial disputes. To give the Federal Parliament power to make laws affecting industrial disputes gives them authority to regulate by penalties every detail of the industrial life of every trade in the colonies.

Mr. MCMILLAN:
Hear, hear.

Mr. WISE:
Surely that cannot be desired or intended. There is no matter in which varied local development it; more necessary or desirable to a State than the development of its industrial conditions, and the industrial conditions in every part of this continent in years to come may, and probably will, very largely develop.

Mr. HIGGINS:
Will you not trust the Federal Parliament with the same powers as the States?

Mr. WISE:
Will the working classes of this country be prepared to surrender the right of local self-government over industrial disputes?

Mr. SYMON:
Hear, hear.

Mr. HIGGINS:
That is not my question. Will not the Federal Parliament be equally to be trusted as the States

Mr. WISE:
I do not think the Federal Parliament or any centralised authority will be as competent as a local authority to deal with the necessary local conditions of trade.

Sir JOHN DOWNER:
Hear, hear.

Mr. HIGGINS:
This is not local.

Sir JOHN DOWNER:

What is not?

Mr. WISE:

If these States develop, especially if the different colonies become split up, as many of us hope and anticipate they will, we may have one State with a very stringent law against what is now termed "blacklegging"; we may have another State, with very stringent laws in the interests of the employers, and of an altogether different kind. Is the Federal Parliament to have the power of overriding either class of laws at the dictation of persons in quite other parts of the continent, who know nothing of the local and industrial conditions which gave rise to that development in that part? I strongly oppose the proposal.

Mr. SYMON:

I think Mr. Higgins will feel that his amendment, as proposed, will not exactly give effect to his views on this subject.

Mr. HIGGINS:

If my hon. friend will allow me, I think I can save time by explaining that I do not adhere to the exact form of words of my amendment. I thought it better to have the question raised in substance by the ordinary popular phraseology, but I have been met on every side by small points as to whether this or that ought to be accepted. As long as it is decided that the Federal Parliament is to have power to make legislation with regard to industrial disputes, provided they extend over more than one colony, I have no objection to have these words improved. I however, find it difficult to improve them myself on the spur of the moment, but the task of deciding exactly when there is overflow of a dispute from one colony to another will fall upon the shoulders of the Federal Parliament and not upon us. It is very difficult to tell exactly when night ends and day begins, or when high tide ceases and low tide begins. But, admitting all these difficulties, I think we ought not to deprive the Federal Parliament in such manner, in such time as it thinks fit to deal with widespread industrial disputes. I do not think we ought to deprive it absolutely for all time. Unless there is some clause of this sort put in, the Federal Parliament will be absolutely incompetent to deal with it.

Mr. WISE:

If a clause were put in, the Federal Parliament would have power to fix a uniform rate of wages all through Australia in any particular trade.

Mr. HIGGINS:

If that is so, and if the hon. member has great confidence in the popular
character of this Parliament
Mr. WISE:
   I prefer local authority.
Mr. HIGGINS:
   If the hon. member has confidence in the popular character of this Parliament, I do not see that there is much to fear of a uniform rate of wage being fixed below what it ought to be.
Mr. WISE:
   Suppose they take the Victorian standard. How will our workmen like that?
Mr. HIGGINS:
   I do ask hon. members on this matter to meet me in substance. Are they in favor of power being given to the Federal Parliament to establish Courts of Conciliation and Arbitration?
Sir EDWARD BRADDON:
   No.
Mr. HIGGINS:
   That is a fair issue, and I hope we shall meet on a fair issue. I hope that we shall not be put in fear by the criticisms of Sir John Downer, who has pointed out with legal acumen that it there in a dispute you must have two to quarrel. You might have 100 men in the shipping trade in Sydney and 100 in Melbourne quarrelling with the same company, and they might say they would not work for a certain wage. Let the Federal Parliament deal with such a matter. Sir John Downer says it is impossible for the Federal Parliament to define what is an intercolonial labor dispute. Surely we are not here to haggle over quibbles. Suppose an industrial dispute is confined to New South Wales. I meet that at once by saying that I do not propose to deal with a dispute like that; but when a dispute is so widespread that a State cannot possibly deal with it, let the Commonwealth deal with it.
Mr. SYMON:
   My hon. friend interposed his speech as a kind of parenthesis to the speech which I had begun: but I take up the story where I left it off.
Mr. WISE:
   I call attention to the state of the House.

The CHAIRMAN:
   According to the Standing Orders I must report it to the President.
Mr. WISE:
   I withdraw it then.
You cannot withdraw it.

After the matter had been reported to the President, the Committee was re-constituted.

Mr. SYMON:

I was about to say that I hope in the very few observations I shall make on this amendment proposed by Mr. Higgins, I shall not do so in the spirit of that minor criticism to which be alluded, because I do not think myself that it is possible to exaggerate the importance of the subject. I do not think that my hon. friend said one word too much in referring to the difficulties and to the widespread influence of these industrial disputes when they arise. Nor do I think he and other speakers who followed him exaggerated one particle when they alluded to the very grave and really calamitous evils which follow in the train of many of these industrial disputes. But the difficulty I feel, whilst conceding these principles, is that first of all pointed out with so much force by my hon. friend Mr. Deakin, and secondly those others pointed out with force by my hon. friend Mr. Wise. The substance of the amendment, putting aside the language of it altogether, is that the Federal Parliament is to be given unrestricted power of legis-

lation in respect of industrial disputes, where those industrial disputes overflow, or exercise an influence beyond the limit of a particular State. Now, venture to say, first of all, that an industrial dispute is really a matter of local concern. In its essence and in its origin it is a matter of local concern. And, undoubtedly, if there is one thing more than another which ought to be preserved to the individual States it is the power of dealing-by means of conciliation, or by means of any other method that can be adopted-with those terrible evils which sometimes flow from these disputes, without interference, by the federal authority. That seems to me to be an unquestionable principle, and we ought not to give to the Federal Government the right to interfere with the self-government of a State in this respect. Then if we did give it that power, just think of what it involves. It would not be limited to the establishment of a court or tribunal of arbitration or conciliation. If it is to be limited to empowering the federal authority to establish tribunals of arbitration that is one thing, but I am not dealing now with the language of the amendment, which-as Mr. Higgins himself admits- is not very apt, but I am dealing with the substance of it, which confers on the federal authority power to legislate in every way on industrial disputes. That would involve-as my hon. friend Mr. Wise pointed out in a question which he addressed to Mr. Higgins-the settlement of a uniform rate of wages applicable to the whole five or six, or it may be, if the continent was further divided into provinces, of the seven
or eight different provinces of the group where local conditions might
govern and differentiate the rate of wages in the different trades. For
instance, if you have regard to trade in a tropical part of Australia, you
could scarcely apply the same rates of wages as you would in South
Australia. Then, again, you will be handing over to the federal authority a
two-edged sword, which might operate with equal danger in the interests of
the workmen as in the interests of the employers. It would entirely depend
upon a majority of the members in the Federal Parliament as to which way
that power would be exercised. If the majority were leaning in one
direction legislation might go that way; if a majority were leaning in
another direction the legislation might be directed accordingly. -It would
be impossible to see the end of it, and I submit that it is outside the federal
ambit for us to legislate in this direction. The point taken by Mr. Deakin
appears to me to be insuperable. How is this court to act? Are its functions
to be limited to a particular State where the industrial dispute occurs, or is
it to travel outside the Commonwealth? There is no limitation. The way
you get the test would be by asking whether it escapes beyond the limits of
the particular colony affected by the trouble or whether it remains within.

Mr. HIGGINS:
The Commonwealth has no jurisdiction beyond its own limits.

Mr. SYMON:
The test my hon. friend would put would be as to the jurisdiction of this
tribunal, and as to whether the dispute affected some country outside its
own particular limits. Then if you treat it federally, how is the jurisdiction
to be exercised as to the conditions of one colony to another? There can be
no industrial dispute in New South Wales or Victoria without the
ramifications of the organisations of employers or employes being utilised
for the purpose of putting pressure-I am dealing with the matter now with
perfect moderation and treating it as applicable to both sides-to bear in one
colony or the other, to affect one side or the other. That would create
intense bitterness in the particular colony affected. That might happen if
there was to be a strike or a lockout. I assure you I look at this thing in a
most disinterested manner. You might have such a state of tension
developing as would produce something like a civil war. We know the
difficulties which arise in con-
sequence of the sense of injustice which may be generated either on one
side or the other, and the side which feels the injustice may consider it
beyond the relief of any court; and if you give power, whether by means of
a court of arbitration or of conciliation, you are importing into the
Federation an element which may result in bitterness between the federal
authority and the States when you should promote at all hazards harmony. Above all things let us preserve to each State its own jurisdiction in this matter; let us promote conciliation, but do not let us impose upon the federal authorities anything which by any possibility will create occasions of difference between the State and the federal authorities. In regard to taking over the railways, I thought the Inter-States Commission would be unadvisable as compared with taking over the railway altogether, because it might give occasion for bitterness, and the difficulty was insurmountable. There, however, I do not think the difficulties are insuperable. As Mr. Kingston has pointed out, we have had efforts made that should be commended with the view of dealing in a harmonious and conciliatory spirit with difficulties which we all deplore and which, unfortunately, often arise. I say: leave them to the States to deal with, because it is a matter of home jurisdiction, or home rule. If we have a dispute in any trade it is a local matter, but if for some reason, or in pursuance of some particular policy, it is extended into some other State let us ask the other State to deal with it as a matter of home jurisdiction.

Mr. DEAKIN:
You would not object to the Federal Government dealing with it as far as two colonies are concerned?

Sir JOHN DOWNER:
They can surrender it to the Federal Government.

Mr. SYMON:
I am only dealing with the position as it now stands. If two States find themselves overwhelmed and unable to deal locally with any Industrial dispute, and desire the aid of the federal authority, I should be prepared to consider any scheme with that object, and if it were workable to give it every favorable consideration, but I doubt very much whether such a scheme would be found to be practicable.

Mr. HIGGINS:
There are some disputes which cannot be dealt with by one State alone.

Mr. SYMON:
I think that every dispute is local to the State in which it originates.

Mr. BARTON:
If they arise in a particular State they must be determined by the laws of the place where the contract was made.

Mr. SYMON:
No doubt. There is another point I wish the hon. member to consider. You are not going to interfere with the laws of the States dealing with contracts. If the Federal Parliament deals with disputes it will be hampered by the varying laws relating to master and servant which may exist in the
different colonies. If an industrial dispute in several colonies were treated as one it could not be dealt with as an ordinary dispute, but the laws of each separate State would have to be taken into consideration. Now that would be, I think-so it strikes my mind at present-a difficulty hard to be overcome. At any rate, what I am dealing with is rather the general proposition that is put in this amendment, not the language of it, but the general proposition, and if you are to give the Federal Parliament power to deal, as my honorable friend puts it, with industrial disputes-I will leave out the subsequent verbiage-I for one cannot see where the limit of its operation will come in. You give it a weapon which might be used according to the dominant majority in the Federal Parliament for the moment in a way we would not like. You are intensifying the possibilities of bitterness-that is to say, if they avail themselves of this power-without seeing the benefit that is likely to arise. I desire to emphasise the observation made by Mr. Deakin. It would be impossible to say at what time the overflow into the adjoining State begins and ends. If the Federal Parliament is to decide-

Mr. FRASER:
The judiciary.

Mr. SYMON:
I do not think it would be the judiciary. We lawyers do pour oil on troubled waters, but that is rather in a tribunal of contest than a tribunal of conciliation. This matter should be in a separate enactment dealing with this by itself. I ask my hon. friend whether it would not be better to withdraw this and frame an independent section dealing with it from the point of view of arbitration. The difficulties, and I may say dangers seem to me very much greater than any possible gain, and we should be unable to impose restrictions on the Federal Parliament which would do justice to both sides and all parties concerned in any dispute.

Mr. KINGSTON:
I sympathise with the remark which fell from Mr. Fraser, who suggested that a matter of this sort might come under the Federal Judiciary. We do not ask so much as that. We do not ask that there should be, as part of the Constitution, an elaborate and highly-paid court permanently constituted for the purpose of contesting to the bitter end any issues placed before it by a noble and much-maligned profession. We do, however, ask that in the interests of the State the Federal Parliament should be clothed with the authority, if it sees fit, to call into existence tribunals which will prevent industrial disputes of the highest magnitude, which will conciliate the
parties at the earliest possible stage, preventing huge loss to the parties concerned and even greater loss to the community. I contrast two things—an elaborate creation for people who would cut one another's throats and whose interests may be a matter of purely trivial personal concern, and the attempted denial to a Legislature the power to create a tribunal which would prevent huge industrial troubles and injury to State and Commonwealth. Where we contrast the treatment of the less important matters, it seems to me from a public point of view, with the more important matter now suggested, we have little cause for encouragement. I would like to say to Mr. Fraser that all we are asking is that the Federal Parliament should have power to deal with this matter if it sees fit.

Mr. FRASER:
   And override the local Parliament.

Mr. KINGSTON:
   Yes.

Mr. FRASER:
   There is a dispute at once.

Mr. KINGSTON:
   So there maybe over other clauses we have passed, small and large, as regards the appointment of a postmaster, or the granting of extra postal services, for instance.

Mr. HIGGINS:
   And Customs officers.

Mr. KINGSTON:
   Yes. No longer shall they be under control of the State. Take another matter—marriage and divorce. No longer shall the relations between a man and his wife be within the State control. Laws may be made on the subject by the State, but the Federal Parliament, if it pleases, shall have power to override them. The laws of marriage and divorce are proposed to be handed over to the Federal Parliament by this particular clause, and just in the same way with the power of creating tribunals for industrial conciliation. Until the Federal Parliament acts the State's powers are absolutely untouched. So with reference to this matter of industrial conciliation. On a matter of this sort we hear a great deal about the time strike. Are they to be absolutely powerless, to stand by and see the industrial machinery of Australia thrown out of gear without the possibility of rendering help to prevent trouble. It seems to me that if the Federal Parliament is to be trusted, surely it may be trusted in a matter of this sort. We are not confining ourselves to the question of the precise terms of the amendment proposed by Mr. Higgins. What I understand the hon. member
desires is this: that the Federal Parliament if it sees fit should have the right to legislate for the purpose of calling into existence a tribunal which shall endeavor to prevent industrial strife by trying to reconcile the disputing parties, and if necessary making an award, declaring on which side the right may be. I would like to tell Mr. Deakin, having had to some extent to consider this question in connection with a Bill we now have on our Statute book, that I do not think there will be the slightest trouble as regards defining where the State should deal with the question and where the Commonwealth should step in. In our local Parliament we were faced by the question, to some extent because it was necessary to consider whether we should not have two sorts of boards, one to deal with matters of general concern for the whole provinces State board-and the others local boards to be constituted in a variety of ways in different localities to deal with matters simply of local concern. We made provision accordingly, the State board dealing with troubles of general application, and the local boards confining themselves to matters of local importance. A provision was made that when a dispute arose the question of which board it should be referred to should be decided by the chief industrial officer, the President of the State Board of Conciliation. He would investigate matters and on his recommendation a proclamation would be issued by the Governor, thus doing away with the possibility of clashing, declaring which tribunal should deal with the matter. So it seems, in regard to the suggested clashing as to the matters which should be dealt with by the Federal Board, or the State Boards, this can be avoided by giving the chief federal industrial officer power to look into the matter and report to the Executive Council if necessary, and on his decision the proclamation could be issued. If it is a matter of provincial concern it could be remitted to the State authorities, either to be dealt with there by the State board or a local board as thought fit, and if the matter is of general interest to the Commonwealth it could be sent to the federal board. Further, any future developments might be provided for by a power to the chief industrial officer to further investigate the matter, and, if necessary, remove it from the jurisdiction of the board to which it was originally sent, and send it to the board of the Commonwealth or vice versa.

Mr. HIGGINS:
That is for the Federal Parliament to arrange.

Mr. KINGSTON:
Just so. As regards the question of form, I would prefer, if Mr. Higgins thought well, instead of taking the power in the limited form he suggests, to make it read:

Conciliation and arbitration for the prevention and settlement of
industrial disputes.

If a provision of that sort were in the Bill, what it would accomplish would be this: power would be given to the Federal Parliament-whom we are told on so many occasions we ought to trust, because it will be constituted of the very best men in Australia-if it thought fit, to legislate on those matters, and I do not think that in the interest of either State or Commonwealth a power of this sort should be denied.

Sir EDWARD BRADDOX:

I have the very highest possible opinion of the influence for good of boards of conciliation in matters of industrial dispute, in spite of the fact that in South Australia, I believe, they have been a positive failure, But what we have to consider in framing this Constitutional Bill is that we shall not load the Federal Parliament with duties and obligations which can be better fulfilled by the local Parliaments of the several States. I think if we introduce anything of this sort into our Constitution it can only have the effect of increasing rather than diminishing the difficulties in regard to these industrial disputes. It would have the effect possibly of interfering with trades unionism in some of the colonies, and of interfering largely with both employer and employees; and I think that should be in every possible way avoided if we can possibly do so. There is no occasion for our committing to the Federal Parliament or Government any matter whatever that the States can better deal with. These industrial matters, I think, are distinctly more within the province of the States to deal with than of the Federal Parliament.

The Chairman had put the question and declared it carried, when Mr. Higgins, who had been sitting on the opposite side of the House, crossed over to his place and began to speak.

The CHAIRMAN:

I have put it.

Mr. KINGSTON:

Mr. Higgins was on his feet.

Mr. BARTON:

He has already Spoken twice.

The CHAIRMAN:

Four times.

Mr. HIGGINS:

If the Leader of the House thinks that my delay in speaking in consequence of having to pass over from one side of the House to the other
should preclude me from speaking now, I shall sit down.

Mr. BARTON:
I do not wish to curtail the hon. member's right to speak. I was only thinking of the time at the disposal of the Convention. I have myself a great deal to say about this question, but as a member desiring to save time I have refrained from speaking, and I do not want to see a member who has already made one or two speeches on it make another after the question has been put.

The CHAIRMAN:
Strictly speaking the question has been put.

Dr. COCKBURN:
Many of us did not cry out when you put it, so as to give Mr. Higgins a chance to speak.

The CHAIRMAN:
If there is a general wish that the hon. member should speak, he may do so.

Mr. BARTON:
I do not want to enforce my objection if the hon. member is particularly desirous of speaking.

The CHAIRMAN:
I shall put the question again. For the question say "Aye"?

Mr. HIGGINS:
About three minutes have been wasted by that little difficulty. This matter is very simple. The principal objection to this proposal is from Mr. Symon, who says all industrial disputes are local. If they are, then there certainly can be no harm done in providing for cases where the disputes are not local. But to speak of all industrial disputes being local is absurd in the face of the fact that our maritime disputes spread through all our ports.

Mr. SYMON:
Their origin is local.

Mr. HIGGINS:
It is not a question of origin. Everything has an origin; even a river "extends," and I am speaking of things extending to a larger area. I say, therefore, if it is admitted that all industrial disputes are not confined to a particular colony, it is a mere question of detail to ascertain when a dispute commenced within a colony and where it extended beyond that colony. I am prepared to accept the suggestion of my hon. friend the President to have before the words "industrial disputes," these words:
"Conciliation and arbitration for the prevention and settlement of" industrial disputes.

I would prefer, personally, to have the words end there, but in order to obviate the fear which some members entertain that this may enable the Federal Parliament to interfere in disputes purely local, I think it better to put in the words I had originally at the end of my previous amendment:

Extending beyond the limits of any one State.

The whole thing would then read:

Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State.

If it is in order, I ask leave to withdraw the first amendment and I move this.

Leave given.

Question—that a new sub-section containing the proposed words be inserted—put. The Committee divided.

Ayes, 12; Noes, 22. Majority, 10.

AYES.
Berry, Sir Graham Higgins, Mr.
Clarke, Mr. Isaacs, Mr.
Cockburn, Dr. Kingston, Mr.
Deakin, Mr. Peacock, Mr.
Gordon, Mr. Quick, Dr.
Henry, Mr. Turner, Sir George

NOES.
Abbott, Sir Joseph Grant, Mr.
Barton, Mr. Lewis, Mr.
Braddon, Sir Edward McMillan, Mr.
Brown, Mr. Moore, Mr.
Carruthers, Mr. O'Connor, Mr.
Dobson, Mr. Reid, Mr.
Douglas, Mr. Symon, Mr.
Downer, Sir John Taylor, Mr.
Fraser, Mr. Walker, Mr.
Fysh, Sir Philip Wise, Mr.
Glynn, Mr. Zeal, Sir William

Question so resolved in the negative.
Sub-section 17, as read, agreed to.
Sub-section 18, as read, agreed to.
Sub-section 19, as read, agreed to.
Sub-section 20, as read, agreed to.
Sub-section 21, as read, agreed to.
Sub-section 22: Foreign corporation and trading corporations formed in any State or part of the Commonwealth.

Sir GEORGE TURNER:
With regard to this clause, we have already given power to deal with the question of banking, and we are now giving power to deal with foreign corporations and trading corporations. I fail to see why we should limit the sub-section to trading corporations. There are financial institutions which are not banking institutions, and if we are going to give the Federal Parliament power to legislate with regard to banking, and with regard to trading corporations, we should go a step further and give it power also to legislate with regard to financial institutions.

Mr. BARTON:
I do not know.

Sir GEORGE TURNER Building societies.

Mr. BARTON:
I think the present wording of the sub-section covers as nearly as may be the intentions of the Constitutional Committee, and really for the amendment, which is a desirable amend

Mr. ISAACS:
I suggested the word for temporary consideration.

Mr. BARTON:
I Should like to be favored with any arguments in favor of the suggestion.

Mr. DEAKIN:
We recently passed a law in our colony which placed a strict limitation on the meaning of the word "banks," excluding from it particular kinds of financial companies which had hitherto been called banks, or treated as banks.

Mr. BARTON:
You mean that kind of financial company that went down so often.

Mr. DEAKIN:
We distinguish them from banks on the one hand and trading corporations on the other. We want to include all limited companies because the class of companies I am speaking of deal with lands and with deposits, and they require to be carefully regulated.

Mr. MCMILLAN:
You want to include everything outside private companies.

Mr. DEAKIN:
Especially land and finance companies which caused so much litigation
in the past.

**Mr. SYMON:**

In the original Act corporations simply are mentioned. Why this difference?

**Mr. BARTON:**

The reason of making the difference was this: It having been seen that the word "corporations," as it existed, covered municipal corporations, the term was changed to "trade corporations."

**Mr. SYMON:**

Why not simply use the term "company"? If you use that word it will be well enough understood.

**Mr. BARTON:**

Why not adhere to "corporation"? That governs everything under the Companies Act.

**Mr. SYMON:**

Why not leave out the word "trading"?

**Mr. BARTON:**

Or add the word "financial"?

**Sir JOSEPH ABBOTT:**

I move:

To insert the word "financial" before "corporation."

**Mr. BARTON:**

Would it not be better to make it thus:

Any trading or financial Corporation.

So as to separate that branch from foreign corporations?

**Sir JOSEPH ABBOTT:**

I will consent to that and move:

To insert after trading "the words or financial."

Amendment agreed to.

Sub-section as amended agreed to.
Sub-section 23 as read agreed to.
Sub-section 24 as read agreed to.
Sub-section 25 as read agreed to.
Sub-section 26 as read agreed to.
Sub-section 27 as read agreed to.
Sub-section 28 as read agreed to.
Sub-section 29 as read agreed to.
Sub-section 30 as read agreed to.
Sub-section 31-The control and regulation of navigable streams and their tributaries within the Commonwealth and the use of the waters thereof.
Mr. WISE:
I was not on the Constitutional Committee, and when I heard that this clause had been moved by Mr. Gordon, I took it for a joke.

Mr. GORDON:
I have an amendment to move. Will you allow me to do so?

Mr. WISE:
Certainly; but I would suggest that it should be struck out altogether.

Mr. GORDON:
I move:
To strike out the words "navigable streams and insert instead thereof the words "navigation on the Rivers Murray, Darling, and Murrumbidgee."

Mr. REID:
What have you to do with the Darling?

Mr. GORDON:
I propose to show the hon. member. I am responsible for this subsection, and so far from it being a joke, I consider it a very serious and important intercolonial matter.

Mr. REID:
You will want the Blue Mountains next.

Sir GEORGE TURNER:
They will want Reid next, and that will be worse.

Mr. GORDON:
I recognised that the clause as it stood was somewhat too large in its scope, and as I have no desire to cloud the real issue by raising points about which there may be some needless debate, I have moved this amendment in view of keeping the discussion absolutely to the point about which there must be discussion. So far from the question being a joke, as some hon. members from New South Wales would like to make it appear-

Mr. WISE:
I am sorry it is not.

Mr. GORDON:
I regard it as a most serious intercolonial question, and one which must be settled if we have Federation. It would be fatal to leave this question unsettled. Apart altogether from the question of Federation, it is almost disgraceful to the colonies concerned, except South Australia, who has always been willing to confer, that this matter has not yet been made the subject of convention. Of course I shall have to answer the question put by Mr. Reid and Mr. Carruthers, "What have you to do with our rivers?" That is founded on the theory that the Government of the country through which a river flows is the sole owner of the river, even though its course is continued through other countries, but that theory of law has been
exploded for many years past. It is not true that these rivers belong to either South Australia,
New South Wales, or Victoria. They are the property of all the people of these colonies. I say that the contention that the country through which a river runs is necessarily the owner of the waters has been for years exploded in all civilised countries. It is a contention which will not stand examination, and "is opposed to the progress and destiny of mankind."
These are not my own words. I am using the words of an eminent writer, and when my hon. friends raise this narrow argument, and seek to lock up to one colony a great national fertiliser and channel of communication, they are raising a contention which has long ago been discredited. As a matter of fact, there are scarcely two civilised countries in the world which have not made conventions about the rivers running through their territories, even, although, as in Europe, these countries are armed to the teeth against each other. There is no single river in Europe with respect to which a convention has not been made.
Mr. BARTON:
Does that refer to their use for navigation,?
Mr. GORDON:
I am prepared, to meet the catchy argument of my friend, and will deal with it later on. Pitt Cobbott, Professor of Law in the University of Sydney, after stating the argument of strict law, says:
But though in strict law each State could thus appropriate and regulate waters wholly within its territory, the use and navigation of most of the more important navigable rivers that traverse the territory of different States, have now come to be generally regulated by treaty or convention.
I have other authorities here by the dozen.
Sir GEORGE TURNER:
We will take your word for it,
Mr. GORDON:
This writer summarises the law with regard to rivers flowing in or between two or more countries. In the abstract, he says it river is the property of the country through which it flows, although the boundaries of it belong to both. He proceeds to show that this strict law is in violation of natural justice, and that conventions made in Europe, and now recognised as the public law of the world, have restored that natural right to its proper position. He speaks, you will see, both of the use and the navigation of rivers then he goes on:
So far as European rivers go it was provided as early as 1814 and 1815 by the treaties of Paris and Vienna: (1) That the navigation of rivers
bordering on or passing through several States should be free to their mouths. (2) That, subject to this freedom of navigation, States might exercise rights of sovereignty over rivers traversing their territories, but storehouses and stations for transhipment were not to be established, nor were those already in existence to be preserved, except so far as they was of use for navigation or commerce. (3) That navigation dues should be independent of the quality and nature of goods transported, and should not exceed the maximum fixed in June, 1815. (4) That the police regulations relating to navigation should be uniform and should not be changed by one State without the consent of others.

Sir WILLIAM ZEAL:
The Darling does not go through one State.

Mr. REID:
The waters of the Murray do.

Mr. GORDON:
The waters of the Murray are fed by those of the Darling and Murrumbidgee, and they all flow into the sea in South Australia.

Mr. REID:
Do not you know that the great rivers in Europe running through different States are fed by hundreds of rivers over which there is no general control?

Mr. GORDON:
There are no tributaries of such importance and value as the Darling and Murrumbidgee. I will trouble hon. members with a little history which will show how acute is this question, how necessary it is that it should be settled, and how absurd it would be to enter into Federation unless it is settled. In 1887 a Commission was appointed by South Australia to deal with the question of the navigation and riparian rights of the River Murray. My hon. friend Mr. Glynn was a most valuable member of this Commission, and the Hon. Mr. Howe was another member. I will read a few extracts from the progress report of the Commission. This recital is necessary to show how acute the position has become.

In order to a mutual recognition of their several riparian rights, from time to time it has been proposed, and even urged, that a conference should take place between authorised representatives of South Australia, New South Wales, and Victoria; but up to the present no such conference has been made possible, though the Victorian Government has expressed itself as distinctly favorable to such an arrangement.

In order to a clear perception of the aspects of the question as it now
stands, your Commission present the following summary of the facts:—

Correspondence respecting the Murray dates back many years; and prior to May, 1886, this suggestion for a conference on riparian rights and Murray improvements was regarded by the three Governments as desirable, the Victorian Government being understood to promise that no such conference should be held without a proper representation of this province. It, however, transpired that in May, 1886, a conference - or something of that nature - took place in Melbourne between commissioners of New South Wales and Victoria, at which resolutions were pawed relating to and apportioning the waters of the Murray in a way that threatened serious consequences to the trade and riparian rights of South Australia, although this province was not represented at such conference, nor had been invited to send any representative. The then Premier, Sir John Downer, made a strong protest against this procedure, which elicited explanations and a disavowal of any attempt to interfere with the riparian rights of South Australia. This Government pointed out the extreme desirability of holding at once a formal conference for dealing with the whole matter, at which each of the three colonies should be represented. The Victorian Government at once assented, and suggested that such conference should be held at Adelaide. Subsequently this Royal Commission was appointed, and the Governments of the other colonies were apprised of the fact. At one of the earliest meetings of the Commission a resolution was passed requesting this Government to earnestly press the importance of such conference being at once hold, and the Hon. the Premier (Mr. Playford) in April, 1889, forwarded to the Governments of New South Wales and Victoria a review of the correspondence, and strongly urged an agreement for the proposed conference. The Victorian Government once more expressed its acquiescence, but no reply was received from the Government of New South Wales. On the 20th May direct application was made to Sir Henry Parkes for a reply, and a month later that hon. gentleman promised to write fully in a few days. No communication, however, was received; and on the 23rd July he was informed that this Government still awaited his promised reply. The hon. gentleman then intimated by telegram that the question was receiving special consideration, and that he would communicate the views of his Government in relation to it in a short time. A very long period, however, elapsed without this direct assurance being fulfilled, and once again was forwarded a respectful request that the promised reply should be sent. In response to this Sir Henry Parkes definitely replied on the 6th of September, 1869, stating that he would write in the course of a week. No communication was received, and on the 18th of that month the Honorable
the Premier (Dr. Cockburn) found it necessary to intimate to Sir Henry that this Government still awaited his reply. From that date no reply, an promised, to the communications mentioned has been received from the Government of New South Wales, though the letter, dated 6th March, 1890, set forth in Appendix J, mentioning the appointment of Mr. McKinney, and stating the position taken by the Government of New South Wales on the question of riparian rights, was received by the Premier, and has been forwarded to the Commission. It will, from, the foregoing, be perceived that this Commission has been unable to perform one-and perhaps the most important-of the duties assigned to it by your Excellency, all endeavors to bring about an intercolonial conference on riparian rights having been foiled by the unresponsiveness of the New South Wales Government.

These representations in themselves might not have amounted to very much, but they were supported by the most, startling facts which came to the knowledge of South Australia.

Mr. REID:

One of the startling facts was that we had been snagging the River Darling at our own expense for your benefit.

Mr. GORDON:

I shall give information which will show that my hon. friend is not quite fair. A conference was held with representatives from New South Wales and Victoria without any invitation being extended to South Australia, though it had been understood that she would be invited.

Mr. REID:

Why go in to ancient history? Let the thing be settled on its merits.

Mr. GORDON:

We know the hon. member would be glad to shirk it.

Mr. REID:

I do not want to.

Mr. GORDON:

If he will promise to support me I will not go on.

Mr. REID:

The history of ten years ago does not affect the merits of your amendment.

Mr. GORDON:

It shows the necessity for the amendment. It is not as if we did not know the intention of New South Wales regarding the use of the waters of these rivers. We have heard in the most pronounced way that they intend to do an injustice. It is a most acute dispute, and we ought to settle it now when
we are making an intercolonial agreement.

Mr. REID:

If my hon. friend will permit me to interrupt him, I should like to say a word about one point on which I do not wish to be misunderstood. So far as any waters, no matter where they come from, between two States are concerned, I think that the two colonies should have control over the navigation. My point is with reference to a river the whole course of which is in one colony. I agree with the hon. member as to the Murray, which flows between Victoria and New South Wales and then into South Australia, that its navigation should be controlled by the two colonies between which it runs, but as to rivers which are only in one colony, such as the Yarra, the Clarence, the Derwent, the Tamar, or the Darling, that colony should have the control over them.

Mr. GORDON:

I have quoted from the report of the River Murray Waters Commission a statement showing how ineffectual their efforts were to procure even a conference upon this question with the colonies of New South Wales and Victoria, and that not only were their efforts in this direction unsuccessful, but that after a promise by Victoria and New South Wales that a conference would be held to which South Australia would be invited, a conference was held behind the back of South Australia, between commissioners representing the colonies of New South Wales on the one hand and Victoria on the other. I would like very briefly to show what those gentlemen said was right to be done with the waters of the River Murray. I shall not go into details, but I shall give one item of figures. They proposed to divert 244,500,000,000 cubic feet of water per annum into Victoria and New South Wales. These were no vague assumptions; they were definite proposals to use the water of the river to that extent, and the result would have been, according to the calculations of our Conservator of Water, that the River Murray within South Australian boundaries would be dry in such years as 1884-5, and reduced to the average of summer level during the whole of a year as 1886. It is almost incredible that those gentlemen should have coolly proposed behind the back of South Australia, schemes of irrigation which would have resulted in the River Murray, within the territory of South Australia, becoming dry. At that conference it was resolved:

That the waters of the tributaries of the Lower Murray, except such proportion thereof as shall under the direction of the trust be required as compensation water for the main river, may be diverted and used by the respective colonies through which they flow.

The whole of the waters of the Upper Murray and its tributaries, and the
whole of the waters of the Lower Murray, shall be deemed to be the common property of the colonies of New South Wales and Victoria, and, subject to the reservation of such compensation water as the trust may from time to time determine, each of the said colonies shall have the right to take and divert one-half of such water at such point on points as may, with the sanction of the trustee be fixed on as most suitable for the requirements of such colony: Provided always that the totals of the quantities diverted by the two colonies when the whole surplus (after providing compensation water as above) is utilised shall be equal. Those resolutions have, however, not been confirmed by the respective Governments.

Thus these gentlemen calmly decided, as I have said, to divide up between New South Wales and Victoria what would be in dry years practically the whole of the waters of the River Murray.

Mr. BARTON:
To what extent have those reports been acted upon?

Mr. GORDON:
I am stating only the fact that these commissioners made such suggestions. Proposals made by such a body must be seriously considered.

Mr. BARTON:
They are no menace to you.

Mr. GORDON:
They are, indeed, a permanent menace to us. These were officers appointed by Governments to consider this matter. They were scientists and experts; they suggested definite schemes; and, notwithstanding the fact that long after this, and repeatedly after this, representation has been made to the Governments of New South Wales and Victoria-especially-to the Government of New South Wales-these Governments have never given the slightest intimation that they do not consider these schemes proper to be carried out, or that they do not intend to carry them out.

Mr. BARTON:
In what year were those recommendations made?

Mr. GORDON:
I do not know that I can give the year just at this moment; the report is not dated.

Mr. BARTON:
I think somewhere between 1887 and 1890.

Mr. DEAKIN:
It was in 1886.

Mr. BARTON:
It has not been touched since.
Mr. GORDON:

The hon. member seems to know little of what is going on in his own colony. I know from gentlemen in New South Wales that these schemes are still being recommended. Who can say we are not justified at being alarmed at the menacing suggestions which will leave the Murray absolutely dry within our boundary? Mr. Jones, our Conservator of Water, who states that fact with the grave reticence of the cautious official mind, concludes as follows:

When it is remembered that at what is known as summer level in the river between the boundary and Morgan the discharge of the river is about 120,000 cubic feet per minute, the assumption that from 20,000 to 30,000 cubic feet per minute for five months in the year is an equitable "compensation water" is, to say the least, startling. Such a discharge would reduce the depth at many parts of the river to less than one foot. It would thus appear that the irrigation schemes proposed or under consideration in New South Wales and Victoria are designed to take all the waters of the Murray and Murrumbidgee in low years, except a very small quantity passed down which will probably be insufficient for navigation, and keep the river in South Australia throughout most of the year down to or below what is known as summer level.

That is the conclusion of an entirely unprejudiced and highly competent authority. Of course I admit that these schemes have not yet been acted upon, but they have never been repudiated. It has been represented to the New South Wales and Victorian Governments how South Australia was threatened by these schemes, and anxious and urgent requests for conferences have been since then made, but absolutely without satisfaction. Here are a few words from the progress report of the Commission a year after the report which I previously quoted:

It is with very great regret that your Commissioners have to report that upon the most important part of the inquiry—that relating to a settlement between the colonies interested of the question of mutual riparian rights—they have been utterly unable to make the slightest advance, despite their strenuous efforts. The aim has been to obtain, in amicable conference with authorised representatives of the colonies of New South Wales and Victoria, an equitable agreement as a foundation for legislative action in each colony. For several years past this Government has sought in every possible way to promote this arrangement, and your Commissioners have been anxious to assist in securing so desirable a result. But the numerous communications forwarded by the South Australian Government pressing the subject upon the attention of the Governments of the other colonies have unhappily wholly failed in effecting their purpose. The Government
of New South Wales, your Commissioners are led to understand, has with official terseness barely acknowledged the communications, and where fuller replies have been promised has omitted to send them. The Royal Commission has been dissolved, and the conservation of the whole river system, your Commissioners are informed, has been placed in the hands of one Government official, The Government of Victoria

Your Commissioners would lay stress upon the fact that whilst the Government and this Commission have been endeavoring to obtain a conference on this important subject large irrigation schemes in the other colonies have been energetically pushed forward, and your Commissioners are justified in expressing their strong conviction that the results of the withdrawal of such large supplies of water from the national highway—the Murray—must prove highly detrimental to the interests of this province.

And then Mr. Glynn adds a note to that report which so concisely summarises the legal position that I cannot refrain from quoting it.

The water rights of the province to be preserved depend a good deal upon the extent of their recognition by the other colonies. What they are according to the principle of international and private law—the analogy of which should guide us in defining them—may be clearly stated, but the mere statement of the colonies' respective rights in the river, unless made the basis of an agreement for the mutual exercise and respect of them, would be of little use. There is no tribunal to which a colony, on breach of its water rights, can appeal for a remedy, so that the rights are legally ineffective.

Mr. Glynn goes on to state what really should be made the subject of this arbitration, viz.:—

1) Generally, the mutual rights and equities of the riparian colonies in and to the River Murray and its tributaries:

2) Particularly, the minimum quantity of compensation water that should be allowed to flow into or pass by each colony for each month of the year, both before and after the construction of locks, or other conservation works on the rivers:

3) Subject to clause 2, the proportions in which New South Wales and Victoria should share for irrigation purposes the waters of the river flowing between their territories

That is a fair statement of the points by one who has carefully studied this question. These considerations were urged again and again on the Governments of New South Wales and Victoria, and finally, thoroughly disheartened by all their efforts, the Commission threw up the work in
despair.

Mr. BARTON:
What date was that Commission?

Mr. GORDON:
The final report was in 1890, and it was only ordered to be printed by the House of Assembly in 1894.

Mr. BARTON:
Was that after the general report which my hon. friend has spoken about?

Mr. GORDON:
Yes; I am quoting the reports in their order. Between the times of all these reports the Commissioners never failed to urge on the other colonies the necessity for a settlement of this question. They knew, of course, what the result would be to the waters of the Lower Murray if these irrigation schemes were carried out, and they persisted in their representations to the other colonies. But in 1890, as I have said, utterly disheartened by their failure to secure even the courtesy of a reply from New South Wales and the courtesy of anything more than a mere "put off" from Victoria, the Commissioners resigned their commission. They refer to their unsuccessful attempts to secure a conference and say:

As we considered such a conference indispensable to a proper inquiry into, and report upon, the question submitted to us, we endeavored, as previously mentioned, to impress upon the Governments of the other interested colonies the expediency of holding one, but, in the case of New South Wales, without success. The disinclination of that colony to meet us has led to the consideration of the proposal for a conference being deferred from time to time; and we cannot see that the last communication, dated October 27th, 1892, received by this Government from the Honorable the Premier of New South Wales, Sir G. R. Dibbs, K.C.M.G. (a copy of which is enclosed), contains such an assurance that the question of a conference is being seriously considered

as would justify us in postponing the presentation of this our final report.

Mr. BARTON:
Is that in the report of 1890?

Mr. GORDON:
I am not quite sure about that. It was printed in 1894.

Mr. BARTON:
It was made in 1890, you said?

Mr. GORDON:
This last report is evidently in 1893, but it is not dated.

Mr. GLYNN:
The report was presented in June, 1890.

**Mr. BARTON:**
If there is anything from Sir George Dibbs in it he could have only acted for the Government between January and March, 1889.

**Mr. GORDON:**
There is a letter appended from Sir George Dibbs, dated Colonial Secretary's Office, 1892, so that this report must have been presented in 1893.

**Mr. GLYNN:**
They suspended proceedings for a while and presented their final report after.

**Mr. GORDON:**
The report refers to the unsatisfactory letter from Sir George Dibbs, dated October, 1892, and continues:

Your Commissioners, under these circumstances, feeling that they have exhausted all the means at their command to bring about a satisfactory intercolonial agreement in respect of the waters of the River Murray, beg to be relieved of any further responsibility.

There is thus ample evidence that since 1887 the colony of South Australia has been entreating the other colonies to adopt that procedure which every other civilised European nation has adopted.

**Mr. BARTON:**
You are dealing with the rights of navigation.

**Mr. GORDON:**
Yes, and the use of the water also.

**Mr. BARTON:**
In the quotation you read from Mr. Pitt Cobbett's book were you not dealing only with navigable streams?

**Mr. GORDON:**
The quotation refers to the navigation of the streams and their use. The contention that only navigation and not also the use of the water should be the subject of convention is a mere lawyer's quibble, as I shall be able to show.

**Mr. BARTON:**
That, perhaps, will not be distasteful to the hon. member.

**Mr. DEAKIN:**
The use of streams in Europe differs from their use in a country like this.

**Mr. GORDON:**
The navigation and use of these rivers is a question of international law. I am speaking from memory now, but I think it is either Kent or Wolseley who says that it is considered discreditable if any civilised nation refuses a
convention on such a matter of mutual interest as this. Hon. members who have not been privy to the circumstances of this dispute, who have no personal interest in it, or are not influenced by any local bias—I am afraid some hon. members are blind to the justice of the case—will say: I am sure that this matter must be settled if we are to have Federation. It would be fatuous to enter upon an agreement, unless some settlement of the question is arrived at or some tribunal appointed to settle it. I think I have clearly shown that there is nothing in the argument that the other colonies—South Australia, for instance—has no right to make any interference with the river which has its rise in New South Wales and flows into South Australia. The conventions of all civilised nations show that a mutuality of property exists with regard to rivers which flow through more countries than one. I have been met by Mr. Barton with the argument that I can find instances of mutual arrangement with regard to navigation, but none with reference to irrigation. That, as I replied, can only be characterised as a mere lawyer's quibble.

Mr. BARTON:

That is to say that you keep a river open to take another man's water out of it.

Mr. GORDON:

In the treaty of Washington—

Sir JOSEPH ABBOTT:

What has that got to do with the Murrumbidgee?

Mr. GORDON:

I hope to educate the non. member a little on this question. The following is an article of the treaty of Washington:

The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion on terms of equality with the inhabitants of the Dominion.

What the precise terms were the treaty does not say. But they were terms of equality, and the treaty supports my contention that we have examples of conventions giving equality of interests to the countries through which waters flow-equality of use. Probably the reason why I am unable to adduce any other instance besides this of a mutual arrangement for irrigation is this, that the great volume of American and European rivers renders any arrangement on the question unnecessary. They are rivers down which large volumes of water flow permanently, and there is more than enough water for all. But with us the question of the use of the water is vital, absolutely vital, and I contend that the claim of a mutual use for...
irrigation is founded on the same principles of natural justice that promotes and procures a convention with regard to a mutual arrangement for navigation and improvement. The Danube Convention includes arrangements for the mutual improvement of the river, as well as for navigation. What principles does this Convention rest on with regard to rivers running through contiguous territory? I contend it is this: that running as they do through great lengths of the earth's surface and being necessary to all the countries through which they run, they equally belong to all. I contend that principle cannot be disputed. On the same principle rents the riparian rights of individuals. It is as just to say that one riparian owner can stop the stream from flowing to the owner lower down as to say that one nation can take the water from a stream which is running to a nation lower down. There is no difference. Can any lawyer contest that proposition?

Sir EDWARD BRADDON:
Several.

Mr. GORDON:
The principle upon which this contention rests is, I think absolutely sound, that no nation has any right to divert or seriously diminish the flow of a river running to another nation. The only difference is that individuals are in a forum where that principle can be enforced, whereas the final reference, if nations cannot agree, is the arbitrament of war. But the principle of justice remains the same.

Sir WILLIAM ZEAL:
What if it can be shown that we have doubled the resources of the river?

Mr. GORDON:
If the hon. member can show that, I will say Victoria has laid the Australian continent under a load of obligation. Still, if she has conferred such a benefit upon her neighbors, it is one in which they are entitled to share.

Mr. SYMON:
We only want as much water as will maintain the navigability of the river.

Mr. GORDON:
We want a little more. We make a claim for a fair proportion of the water of the Murray for irrigation.

Sir WILLIAM ZEAL:
We have doubled the quantity.

Mr. GORDON:
If the hon. member's colony has done that it is, as I say, one more addition to the obligation under which the neighboring colonies lie to the
colony of Victoria. That, however, is another question.

Sir WILLIAM ZEAL:
You want all the advantage and want not to pay for it.

Mr. GORDON:
I am answering the argument that no case can be shown, except the one I have quoted, for a mutual right to waters for irrigation.

Sir GEORGE TURNER:
That case does not show it.

Mr. GORDON:
I think it shows that such an agreement was recommended by the Treaty of Washington.

Sir GEORGE TURNER:
That is only for purposes of navigation.

Mr. GORDON:
It stipulates for equality of use of the waters. My contention is that navigation and irrigation stand on the same footing as regards the justice of the case. In Europe, the necessity for joint control in the interests of all is generally expressed to be confined to the improvement and navigation of the rivers; but with us the necessity exists, in addition, for the control of the actual consumption of the water in the interests of all. The principle which calls for this joint control to enjoy the rivers equally obtains with even greater force in regard to irrigation than to navigation. Our rivers are not only the means of communication between the colonies through which they run, but they are the great fertilisers for their joint benefit. It is not simply a question of having them as the means of communication and navigation; they are the only great fertilisers of the continent, and to us it is a question almost of life and death.

Sir EDWARD BRADDON:
How are you going to divide them?

Mr. GORDON:
I would leave it to the Commonwealth Parliament to say what is fair between the colonies. To continue the absolutely unfair and intolerable position which exists at present is opposed to the practice of all civilised nations. I appeal to Sir Edward Braddon, who knows a great deal of international law and the customs of most countries, whether the present position can be described as anything but discreditable. The rivers are the natural highways and fertilisers of the whole of that part of the continent through which they run—the channels of God. To stop them at their fountain-heads, or to exhaust them during any part of their course, while they have other colonies to serve, is to act not only against the comity
which should prevail between colonies under the same Crown, but to act also against natural justice. You cannot honestly refit a claim to do this upon possession or upon any narrow words in the New South Wales Constitution or upon the abstract law. If the members of this Convention are prepared to trust our mutual interests to the Federal Parliament they are acting in the true spirit of Federation. What have members to be afraid of? Either they know that they are holding that to which they have no right under the comity which should govern these colonies, or they are afraid to trust the federal authority. We have had eloquent appeals from some members to trust the Federal Parliament, to act in a federal spirit. Let them shew that they have not been mere empty words. To leave the matter as it now stands, to leave South Australia threatened by injustice is nothing less than monstrous. I am not binding myself to the exact words of this motion. All I want to see is fair play between the colonies and to break up the intolerable position which at present exists.

Mr. MCMILLAN:

Had you not better confine your motion to the Murray?

Mr. GORDON:

I am always willing to accept suggestions, and I know the hon. member will do what is fair.

Mr. REID:

We have had the use of the Murray for a good many years.

Mr. GORDON:

The hon. member was not here when I read the correspondence, which showed the intentions of New, South Wales and Victoria. We are threatened specifically with the menace that we shall not have the water very long.

Mr. CARRUTHERS:

The hon. member has quoted authorities to show what is the international law on this subject, but unfortunately in Australia we have a state of affairs which is perhaps without parallel in any other country in the world. Our rivers are of a totally different character to the rivers in any known portion of the world, and we shall have, to at large extent, to make a law unto ourselves. The moment we attempt to apply the old world laws of riparian rights we begin to deal with our rivers in a way that will like them useless. There-in the old world-they have rivers which flow all the year round, large and permanent streams. Here they have no continual flow, with the exception perhaps of the Murray. They are only running streams, four or five months during the year. Take the Darling and the Murrumbidgee, they do not flow all the year round; with regard to the
other rivers, the waters in them are absolutely necessary to be used in conjunction with the land if we are to have any settlement on the land. If you decide that these great rivers of Australia shall be conserved for navigation purposes, you may bid goodbye to putting the people on the land. Every sup of water will be required for the thirsty soil, to enable people to occupy the land profitably. I maintain that in the course of less than perhaps a hundred years we shall find that these rivers aimed at in this resolution—the two tributaries of the Murray—will be for portions of the year absolutely drained dry. It will be more profitable to the people than to have them as streams for ships to ply up and down. What is the use of navigation on these rivers if you have the people driven away from settlement, and you have no goods to carry? As far as New South Wales is concerned, this matter cannot be approached from any sentimental point of view, and it cannot be governed by precedents derived from old countries of the world where the conditions are not similar to ours. There are 140,000,000 of acres of land in New South Wales which depends for its waters on the tributaries of these streams. That 140,000,000 acres to-day sustain practically a mere handful of people, and it is by the development of that great and rich territory that we hope to have the teeming population of the future. But if you shut out from the people the source of the water supply you shut off the possibilities of development in the future. So far as we are concerned, and I think that all reasonable men will admit it, land communication can be just as profitably carried on as water communication, and navigation is a matter of secondary importance. The matter of importance is to get the people settled, to increase the productiveness of the soil by promoting increased population, not by increasing the facilities for navigation, but by increasing the facilities for closer settlement. But the moment you hinder us from using the water that moment you hinder that settlement. We have got to trust to our own State, not to Federation, for the moment we hand over the control of these rivers we bring in an authority which will not be so much in sympathy with the aims and desires of the New South Wales people to settle its people on the land as the local authority, and we shall never persuade the people of New South Wales to accept a Federation which hands over the great arteries of our colony to another power, even though that power be one in the authority and influence of which we share. I have had many instances during the last three years which would perhaps open the eyes of those who look at this matter from a mere theoretical standpoint. Only a few days ago, on one of the tributaries of the Murray, the billabong running from Albury down to Jerilderie for several miles was dry. The only water practically was that conserved by the construction of a dam. A time of
drought was on. Stock were perishing from want of water. The settlers below the dam, just like the South Australians here, were crying out that the flow of water was impeded. They set to work and cut the dam to let the water out, and in twenty-four hours there was no water in the billabong. What they thought would benefit them was a suicidal policy. It takes an immense body of water before you can satisfy the soil itself, and the tributaries, if not dammed up would, in many parts of the year, contain no water at all. I can give another instance. There is another tributary of the Darling—the Warrego. For six months of the year it is practically a dry bed, and you can drive across it.

Mr. FRASER:
There is the Paroo, too.

Mr. CARRUTHERS:
On the Warrego water is conserved in flood-time by dams. These dams have been cut, and the water has disappeared in the course of a few hours. It is not the water that is used by the New South Wales people, by the stock-owners or the settlers, which deprives the Murray of its flow, but that water which mysteriously but surely percolates into the hidden streams of Australia, that water which disappears by evaporation, and which no amount of legislation can retain. That is the water, which if we could retain it, would be employed to supply the requirements of humanity, and which would be used for navigation. The hon. member's aim is manifest. It is to give to South Australia not riparian rights for the use of the water for fertilising the soil, but to give her rights so that she may carry on navigation, so that she may have an increased flow of trade. Well, we are not prepared, for the sake of seeing the trade of our colony go through South Australia, to inflict a death blow on every settlement on what we rightly consider to be perhaps the best land in our colony. We have looked that land up for twenty-eight years against any closer settlement, because we hoped during that period to devise some scheme by which we can so utilise the water that we can place men there in occupation of small holdings. We have at present the greatest expert of the British Empire, Colonel Home, engaged in reporting on some system of irrigation, and, notwithstanding all the objections that may be put to me, I say it will be a distinct boon to Australia-federated or not-if the supply of water in the Darling can be used by those occupying the land. There will be just as full benefit derived from that as would be derived if the water were left in the river. Again, if hon. members study the geography of New South Wales they will see that we have a number of lakes which are fed by the overflow
of the Darling. If we choose to shut off the openings of these lakes we can
diminish the supply of water in the Darling to such an extent as to render it
only navigable for half the period that it is now navigable. A federal law
may, by preventing the flow of water into these lakes during flood time,
cause a greater flow for navigation purposes, but if we could enclose the
entrance to these lakes a large area of country could be watered so as to
carry half as many sheep again and produce half as much wool again as it
does now. There is another instance on the Lachlan, where we constructed
the Willandra weir. What was the result? In a district where it had been
almost impossible to carry stock to any extent, without going to great
expense in conserving water, we dammed the water back for 100 miles,
and there has since been a permanent supply of water, and the country
carries twice as many sheep as it did before. Increased settlement and
increased production on those lands will benefit South Australia, because a
great proportion of the traffic will go through the colony. Hon. members
may think the amendment will, to some extent, minimise the difficulty, but
it minimises the difficulty to this extent—that it concentrates the full force
and effect of the sub-section on New South Wales; instead of having the
right to interfere with the rivers of Tasmania and West Australia, it will
confine the right to the rivers and their tributaries in Now South Wales,
right to our Far North; to our New England waterways—the Namoi, the
Gwydir, and the McIntyre—and all those rivers where the dams are
absolutely essential to the settlement of the country. Federal legislation
might be passed prohibiting any interference with the natural flow of the
waters. This is a very far-reaching section, which, if passed, will in the
future threaten the best interests of the great colony of New South Wales.
What does Mr. Gordon, with his
double-barrelled amendment, propose? Not to have legislation merely to
protect the people lower down the river Murray; but it is within the
cognisance of this Committee that the hon. member has proposed that the
Federal Government should undertake the work of cutting a deep water
channel at the Murray mouth, so that large ships may come in and out of
the Murray with freedom, and that if the Federal Parliament does not do
this, authority may be given to the local Government to do it He knows that
if the channel is cut, the water will flow away much more freely than
before, and so be of no benefit to the settlers on the river, but all this is to
be done for the benefit of the colony of South Australia only, so that traffic
may flow through its territory. So far as Australia is concerned, the old-
world law with regard to waterways w

Mr. MCMILLAN:
This happens to be a very wide subject, which might occupy us here for
days. We have heard tonight a very able and exhaustive speech from the
hon. member for South Australia-absolutely exhausting, I think, his side of
the question. We have heard a speech from the Minister of Lands of New
South Wales who has peculiar opportunities of knowing all about this
question. Now, the question has been put by these two gentlemen in nearly
all its aspects.

Sir WILLIAM ZEAL:
It has not, indeed; we have something to say.

Mr. MCMILLAN:
I should advise the hon. gentleman who proposed the amendment, if I
might respectfully do so, to confine it entirely to the River Murray. In sub-
section 33 of the clause we are on now, there is opportunity given for a
great deal of federal influence in many matters which cannot be decided by
this Convention, and I look forward to the Federal Government as the chief
negotiator in all these matters of difference between the different States.
But I do not think there is the slightest chance of a single vote being given
by the representatives of New South Wales for the larger amendment of the
hon. member. I think the question, as before us now, is as broadly and fully
stated as it possibly can be, and I would respectfully ask, for the sake of
our time, that we should get to a vote as soon as possible.

Mr. WISE:
Hear, hear. Divide.

Mr. DEAKIN:
I would not intrude in this discussion, which has practically been
narrowed down to a discussion between New South Wales and South
Australia, but for the fact that I happened to be the President of the
Commission from Victoria which was concerned in the proposed Murray
river treaty about which our friend Mr. Gordon has told us so much this
evening. I may say that at the time that conference between the two
Commissions-the one representing Victoria and the other New South
Wales-was held, there had not been, to my knowledge, any previous
intention to admit South Australia to it, nor, so far as I was aware at the
time, had there been any expression of a desire on the part of South
Australia to come into it. The reason why that conference was held
between New South Wales and Victoria only was because it dealt with
questions relating to the head waters of the Murray, which, so far as we
knew, were of no direct interest except to those two colonies. New South
Wales has special legal claims to the bed of the Murray, which complicate,
though they by no means settle, the question of the riparian rights upon that
stream, and it was partly because of this complication that this conference
was held. It is perfectly true that

the conference arrived at an agreement as to the relative rights of diversion, but it never was contemplated that within the life of living men, or for a long time to come, anything more than a fraction of those quantities ever could or would be diverted. It was simply laid down as a maximum in order, if possible, to establish an equality of benefits as between the two colonies. If the province of South Australia was then omitted it was for the reasons I have given. Afterwards when a request was made by South Australia for a conference we at once cordially and freely assented, and without any reserve, but we felt that it was useless to hold any such conference unless New South Wales was also represented, a colony quite as interested as ourselves. Now, the colony of New South Wales and its various Governments did not see their way to consent to that meeting. They did not ignore the subject. To my knowledge they spent a large portion of the time that intervened in making exhaustive enquiries about the water supply of the Murray basin and what quantity could be used or diverted. They caused researches to be made which had not up till then been made, and without which no determination could be arrived at. Mr. Gordon has stated his case fully and clearly, but he will admit that if there were cast upon him the task of determining how these waters should be apportioned the task would be almost beyond the capacity of man. The position is as Mr. Carruthers has clearly stated. First of all, if it be a legal issue, this is practically a question of international law, and though it may be the custom of adjoining nations in the old world, and also in the new, to agree to conferences in regard to the navigation or the use of the waters of rivers, I know of no power to coerce any self-governing colony into holding such a conference. I am not arguing against the reasonableness of the hon. member's claim, nor am I contending that New South Wales in this instance would not be acting a courteous part in agreeing to a conference. It seems to me highly desirable that some friendly enquiry into this matter and into the circumstances surrounding it should be entered upon.

Mr. GORDON:

I only want a tribunal to which it may be referred.

Mr. DEAKIN:

But if we have a tribunal we must have some general idea of the principles upon which the tribunal is to proceed to try the case. In this instance there is no basis upon which the Federal Parliament could proceed to decide it.

Mr. DOBSON:
Have you not said that international law could be applied?

Mr. DEAKIN:
No; I do not know of any international law that can deal with this question. I do not remember where it has enforced the purely private doctrine of riparian rights. But if there were any such reference in the old world experience I would go quite as far as my hon. friend Mr. Carruthers in saying that the principles of riparian law are no more applicable to this country than they are to the Western States of America. Almost the whole of the States of America have adopted the common law of England; but some of the Western States of America, where rivers like this are found, and where exactly the same circumstances of dearth exist as in the Murray basin—in such States as Colorado—they have expressly set aside the common law of England in order to get rid of the riparian law. They have felt that the riparian law of England was so absolutely opposed to every principle of public policy that they have set aside the common law of England rather than be entangled in its meshes.

Mr. DOBSON:
That is not the case here.

Sir JOHN DOWNER:
Did they not do it on terms that were fair to each other?

Mr. DEAKIN:
They did it in the constitution of a new State.

Sir JOHN DOWNER:
They grabbed.

Mr. DEAKIN:
They colonised. The mother-country "grabbed" this country when she colonised it. But I am not speaking adversely to Mr. Gordon. I am merely showing the difficulties which surround this case. It is impossible to apply the principles of riparian law to the River Murray.

Mr. DOBSON:
Do not add to the difficulty, but get us out of it.

Mr. DEAKIN:
I am afraid I should require much more time than this Convention could allot me if I were even to offer an opinion on that subject. But I want to show Mr. Gordon the unwisdom of endeavoring to include in the Federal Constitution the settlement of a problem such as this: the acquirement, in point of fact, under this Constitution of a legal right where at present no legal right exists or is enforceable; and, inasmuch as this is the claim of one colony against another, it is a matter for a conference treaty or discussion between those countries, and not a matter that is ripe for reference to a
federal authority. No doubt when the federal authority is established there will be a growth of the federal spirit which it; yet but in its germ, and under these circumstances the reasonable and proper application of the hon. member and his colleagues for a conference upon this question would probably be acceded to, and in my individual opinion ought to be acceded to. But I wish to point out the practical reason why riparian law could not be applied to the river Murray. That law, of course, requires that the waters should be allowed to pass undiminished in quantity and unimpaired in quality. This means that the only persons authorised to draw water from the River Murray, which is capable of being so materially reduced in certain seasons, would be the persons immediately situated at the mouth of that stream, and that practically the only irrigable portion of the Australian continent which is watered by that enormous river would be the low-lying lands surrounding the mouth of the Murray. It would be impossible to withdraw any large quantity of water such as Mr. Gordon has spoken of, and such as may be drawn from the waters or that stream on its remoter watersheds, without the probability in dry seasons of the general body of the river being seriously impaired. This would mean that in order to preserve riparian law the whole of the waters of the greatest river of the Australian continent—a river, whose waters might periodically be said to be almost worth their weight in gold, would be allowed to flow idly and uselessly to the sea for all time in order that the theoretical riparian rights of the dwellers near its mouth might be conserved. Surely that is an utterly unreasonable and untenable position.

Mr. BARTON:
And the ruin of the proprietors of the land through which the river runs.

Mr. DEAKIN:
No great benefit will accrue to the proprietors near the mouth of the river, and ruin to all the rest in some seasons. If then riparian law must be set aside other principles can be adopted. The hon. member recognises that there must be some general principles of fairness and equity discoverable in connection with this problem.

Sir JOHN DOWNER:
That is all we ever asked for.

Mr. WISE:
Railways and rivers must be dealt with together.

Mr. DEAKIN:
I agree; as to the ownership of railways I have changed my views since I came to this Convention.

An HON. MEMBER:
It is not proposed to touch the railways.

Mr. DEAKIN:

Looked upon as highways the railways and rivers should be dealt with together, because one of the chief factors which helps to bring about differential rates is water carriage. If any part of the river, as the hon. member partly implies, though not entirely maintains, in to be retained for navigation only, that can only be done on terms of equity. Mr. Gordon must recognise that the matter is complicated in many ways. There is this fact: New South Wales has spent large sums of money, partly in conserving and partly in distributing its river waters, and also in improving their navigation, by means of which South Australia has benefited. Victoria has spent thousands of pounds in snagging the Murray, to the serious injury of her railway system, and South Australia has obtained practically the whole of the benefit of the improved navigation. The balance is not altogether on one side, as the hon. member seems to think. The two colonies concerned have done something—and, indeed, a good deal—by improving the navigation of the river and its tributaries, without displaying any selfish spirit.

Mr. GLYNN:

All the colonies have done something.

Mr. DEAKIN:

What South Australia has done, I am not in a position to say; but what she has done has been for her own benefit and the benefit of her railway system. I take it that, in the territory through which this magnificent river flows, there must be federal action, of a kind and upon a scale not contemplated as yet by any colony of this group. The absolute necessities of the drought-stricken inland districts will lead to expenditure upon it in the way of dams, locks, diversions and storages-undertakings which may equal that enormous expenditure which in the United States was incurred at the head of the waters of the Mississippi and Missouri. The Government of the United States has spent enormous sums in improving their navigable streams, and in the future in the basin of the Murray enormous sums will also be disbursed, but whether that will be spent for navigation I am not prepared to say. It might be found advisable in the future to have a joint scheme of navigation and irrigation whereby, while the traffic on the Murray was increased, along the banks of the streams you would have a quantity of produce raised which would move down, towards the South Australian border, until finally only a comparatively small proportion of that rainfall actually finds its way into the river. We have also located some places where there are great subterranean losses. Whether they can ever be
checked I am unable to say. It is possible that in many parts of the basin some water could be withdrawn and used for irrigation, and yet a considerable proportion of that water would find its way back again into the bed of the river and swell the stream lower down. Until we know something of the physical facts relating to this enormous territory it would be premature in the extreme to attempt to define State rights to its waters. So I say to my friend Mr. Gordon that the very reasonable, proper, and legitimate claim of South Australia for federal action in this matter is one that must be met in the future and must be determined; but I urge him not to submit any premature resolutions. If he embodies his proposal in this draft Constitution it must afterwards be submitted to the people and Parliament of each colony. If he applies for a conference to fully investigate the subject he can also get that by the consent of the people and Government of New South Wales. The object he has in view can be obtained by him directly instead of by the indirect way he proposes, which may imperil Federation in New South Wales.

Sir JOHN DOWNER:

We know we cannot get it as it is. They have always refused to do anything about it.

Mr. REID:

When was the last request?

Mr. DEAKIN:

As far as I know the present Government of New South Wales has never refused to confer on the subject, and the present Government of Victoria has never been asked to confer. If the present Government of South Australia wishes to enter what must be hereafter a great field of federal action, I believe I can say on behalf of the Government of Victoria, although I have not consulted the Premier, that they would probably cordially concur with the proposal to have a conference to see how far even a temporary arrangement can be made. We all know that the Government of New South Wales have obtained the services of a gentleman whom I have not had the pleasure of meeting personally, but whom I heard of during my trip to India seven or eight years ago as one of the most eminent authorities in the Indian Empire on irrigation—and that is the country where modern irrigation has been carried out on a greater scale than anywhere in the world. The New South Wales Government has not obtained the services of that gentleman for nothing, and he in his report on the water resources of the interior will probably indicate to that Government the extent to which it is advisable and possible to utilise river waters for
irrigation, and if so how they will require to be controlled by storage and preservation. If so controlled, it may be possible to spare a sufficient quantity to furnish the compensation water required for rendering the greater part of the river as navigable as it is to-day.

Mr. GORDON:
It would be so short that the river would be below navigable point.

Mr. DEAKIN:
I know that is the opinion of Mr. Jones, but I know that the Engineer-in-Chief of Victoria does not concur. He says that the quantity in the Murray is larger than Mr. Jones calculated. I sympathise with the him member, and feel that the question must be jointly dealt with, and that as there is a comity of nations we must have a comity of colonies. No colony should appeal to its neighbors in vain for just and fair consideration. I adjure him to omit his proposal from the Constitution. There is no reason why some arrangement should not be made between the several colonies before this Constitution can be accepted. The work of collecting data must go on for some time before any colony can risk the loss of any of its rights and privileges-rights and privileges which mean life and subsistence to those inhabiting the arid interior of these colonies. Before the colonies can enter into any intercolonial agreement there must be a far more searching enquiry, and the accumulation of a great many more data than are at present amassed. Before any conference or committee could venture to arrive at a settlement of this great and vexed question-a question which must be settled, but which cannot be settled here-we must be much better acquainted than we are with the needs and possibilities of our vast arid area.

HON. MEMBERS:
Divide.

Mr. FRASER:
I am loth to waste time, and if there is a desire to take a division, I will sit down.

HON. MEMBERS:
Divide.

Mr. FRASER:
Then I will not speak.

Mr. GLYNN:
I am not going to be bluffed out of this matter. It is all very well for the members for New South Wales and Victoria to talk about shutting up the debate, after they have spoken, but this is a matter of extreme importance
to South Australia, and of far more importance than many of the constitutional questions on which some members have spread themselves. Various efforts have been made to settle this question, and, I think, it is about time that we took legislative power to do so. The first effort was as far back as 1857, when South Australia and Victoria considered a joint scheme for maintaining the navigability of the River Murray. In 1863 there was a meeting held in Melbourne by the colonies interested, and the question of the riparian rights in connection with the Murray was discussed. South Australia, Victoria, and New South Wales were represented, and this resolution was arrived at:

That in the opinion of this Conference the commerce, population, and wealth of Australia can be largely increased by rendering navigable and otherwise utilising the great rivers of the interior, such as the Murray, Edward, Murrumbidgee, and Darling, and that the obligation of carrying into effect the necessary works to accomplish these objects devolves primarily upon the respective Governments having jurisdiction over such rivers.

Then, again in 1887 two Commissions sat together, one from Victoria and another from New South Wales, and the result was communicated through the medium of the Press to South Australia. They then decided to divide between them the whole of the waters of the Murray as far as the South Australian boundary.

Mr. REID:
How long ago is that?
Mr. GLYNN:
In 1887.
Mr. REID:
And have all the waters been divided?
Mr. GLYNN:
It is all very well to talk like that, but schemes are projected which will materially affect the flow of the Murray. These Commissions met, and an effort was made by South Australia to hold a conference with these Commissions, so a Commission was appointed here in 1887. We formed a Commission in 1887, and at the moment our Commission was formed, New South Wales dissolved theirs. You have heard from Mr. Gordon of the efforts made during the sittings of our Commission to get an answer to our demands made on New South Wales. Our report was sent in, and immediately came a letter from Sir Henry Parkes claiming the whole of the waters of the Murray. I think he claimed that, according to the 14th
Victoria Act, as subsequently amended, a grant was made to that colony of the waters of the Murray to the point where they entered South Australian territory, and he cautioned South Australia against diminishing the normal level of the river. We were not to interfere with the so-called paramount rights of New South Wales. Mr. Gordon simply asks that power might be given to settle this. Mr. Deakin asks its to wait until something can be done by compromise. I say the time is now, and it is of extreme importance to us. Let us see what was attempted in Victoria. Mr. Deakin, who is an excellent authority on this question, will remember there were schemes contemplated in Victoria which would practically exhaust the whole of the waters of the Murray.

HON. MEMBERS:

No.
Sir WILLIAM ZEAL:
Absurd.
Mr. GLYNN:
It is not absurd. I am dealing with a pamphlet published by Mr. Deakin, and in this he showed that the Cavour Canal in Italy had a capacity for irrigating two and a quarter million acres, and its discharge was considerably more than the Murray's. It was about 1,600,000 cubic feet per minute, while that of the Murray at navigation level was 356,000ft. per minute. The Victorian schemes that were contemplated were to irrigate more than 2,250,000 acres.

Mr. DEAKIN:
How much?
Mr. GLYNN:
The number of acres was considerably over 2,000,000. This is an undoubted fact, and I think the hon. member will agree with me. He will agree with me, too, that not more than 3 per cent, total waterfall on the Darling watershed ever reaches the sea.

Mr. DEAKIN:
I know nothing about the Darling.
Mr. GLYNN:
What has New South Wales spent in improving the navigation of the Darling?

Mr. REID:
A good deal.
Mr. GLYNN:
In improving the navigation of the Darling?
Mr. REID:
Yes; the Murray and Darling.

Mr. GLYNN:
According to the evidence taken in 1887, New South Wales had spent £100,000 on the Darling and Murrumbidgee, and we had spent about £57,000, so there is not a large difference.

Mr. REID:
Yours was all on yourself; ours was all on you.

Mr. GLYNN:
New South Wales is anxious to bluff us on this point, and you can see the reason for it. Mr. McKinney stated in 1889 - I will quote from his report:

Again the commissioners were in favor of constructing canals from the Murrumbidgee to irrigate two systems of 540,000 and 180,000 acres each, and stated that their engineer, Mr. McKinney, now at the head of the Water Conservation Department of New South Wales, proposed to dam back the waters of the Darling lakes, which feed the river when low. What this damming means may be seen from the statement that lake Menindie alone contributes "so materially to the volume of the river as to prolong by two or three months the period for which navigation is possible."

The fact is simply this, that the Darling overflows into Lake Menindie, and that you can, for an expenditure of about £100, dam up the inlet, and by keeping back this water for irrigation, the reflow into the Darling would be stopped. That is only one of the lakes with which the extensive scheme of New South Wales proposes to deal. Let me show what would be the effect upon Victoria if the scheme advocated by New South Wales is carried out. As I pointed out in 1891:

The New South Wales Commissioners regarded navigation as quite a secondary matter to irrigation. They only considered the possibility of maintaining a constant stream in connection with an extension of the Bourke railway to a lower point than Bourke, so as to direct to Sydney a considerable amount of trade which now goes to adjoining colonies. Though the river is admitted to be the natural highway of settlers on the Darling, who suffer great inconvenience and loss when the water is low, the interests of Sydney are regarded as paramount. . . . . The Commission says that Victoria in proceeding so rapidly with works for water conservation that "in all probability, within a few years from the present time, no quantity of water will reach the Murray, except in high floods, from the Victorian tributaries west of Albury, except the Ovens."

We find New South Wales complaining of the schemes contemplated in Victoria as being likely to interfere with New South Wales, and if I quote from Victorians we find complaints made on behalf of Victoria that if New
South Wales goes in for her contemplated schemes Victoria would suffer as much as New South Wales. We in South Australia have also a reasonable cause to complain. Look at the position as regards South Australia. If the navigable depth of the river is not kept up it will practically extinguish our trade down the Murray to the South Australian railways. That trade goes on according to the navigable state of the river. I will give hon. members some figures to show how vital to our trade is the maintenance of the navigable depth of the Murray. In 1884 the imports to South Australia from New South Wales by way of the Murray were £785,000 in value, in 1885, when the river went down, they sank to £101,000 in value; in 1886, when there was an increase in the depth of the river, they were £571,000; and in 1888 again, when the river was low, the imports went down to £101,000. If you carry out even one-fifth of the schemes contemplated in the other colonies you will keep the river continually below the navigable depth, and by doing so you will practically rob South Australia of her trade—that is a very important standpoint.

Sir WILLIAM ZEAL:
Will you show how that is?

Mr. GLYNN:
I do not want to go at great length into this matter.

Sir WILLIAM ZEAL:
It is not a fact.

Mr. GLYNN:
I will tell the hon. member that it is.

Sir WILLIAM ZEAL:
So will I.

Mr. GLYNN:
The depth required to be kept in the river for the purpose of navigation is 4ft, I am speaking from the evidence of experts before the South Australian Commission.

Mr. FRASER:
Some boats can run at 2ft.

Mr. GLYNN:
The constant depth ought to be about 4ft.

Mr. FRASER:
Two feet three inches would do.

Mr. GLYNN:
There are some boats, no doubt, with a capacity of 2ft. 3in., but for the purpose of trade they should rely on steamers that have a draught of between 3ft. and 4ft. That is, at any rate, the effect of the evidence given by
Mr. Landseer, who is a practical man, and knows more about it than any hon. member of this convention.

Mr. GORDON:
He is a large boat owner.

Mr. GLYNN:
I am taking an average, and I say if you do not allow for a depth of about 4ft., the use of navigation for the trade between these colonies will be gone. If you carry out one-fifth of the the schemes contemplated you will absorb more water every year than is required for the navigable depth of the river. At some times of the year you can even walk across the Murray at Overland Corner. Mr. Deakin has referred to riparian rights. I ask you are you going to settle this question from the point of international questions, or from the point of view of municipal rights. Mr. Deakin says that you must not touch the riparian question, because our conditions are new. Can it be said that the carrying out of extensive irrigation schemes would not interfere with the flow of the river. If you put State against State, and if you find that a State scheme of irrigation is likely to destroy the navigable depth, on what ground of international law and common sense can you refuse the just right or equity of one State given under the law of riparian rights? New South Wales says it owns the bed of the Murray. The reason the bed was ceded to New South Wales was to give her rights over offenders under the customs laws, and for no other reason. When the mid-channel was the extent of the limits of the riparian owners it was impossible to punish offenders against the Customs laws, because they could not tell in whose territorial jurisdiction the offence was committed. In drawing up the Constitution of New South Wales it was expressly provided that, for the purposes of Customs jurisdiction, the watercourse of the river would be considered to be in the territory of New South Wales. That was put in by the Imperial Parliament without any derogation of the right of the Victorians on the other side of the river. Further, I say, the right to the uninterrupted flow depends not on the ownership of the bed of the stream, but on the ownership of the banks.

Mr. HIGGINS:
Hear, hear.

Mr. GLYNN:
That is a rule of law which requires no arguing. Members will see it is a matter of great interest to South Australia. If New South Wales carries out her schemes of irrigation and diverts the ordinary flow of the water, we are done so far as navigation is concerned. I think, as Mr. Wise has said, we should work the rivers in conjunction with our railways. It is a question which should be met with some breadth of grasp. It the rivers were taken
over by the federal authority, a scheme could be brought about to lock the
Darling and Murray, and the receipts could be pooled. I believe that is the
scheme which should be adopted. It is a strong scheme to be presented
now, and one not likely to be adopted, but we should give the Federal
Parliament power to, as time goes on, deal effectively with this question.

Mr. KINGSTON:

Hear, hear.

Sir JOHN DOWNER:

I have listened with great interest to the debate on this matter. A little
impatience has been shown by the representatives whose colonies are not
interested in the question, but it is of great interest to South Australia. The
speech of Mr. Carruthers really put the matter very much on the
lines which I thought New South Wales would want. For many years we
had some correspondence with New South Wales on the subject—it was
mostly on my side, because they did not always reply—and we took a good
deal of trouble to try and get some sort of understanding, but without any
result. But now that I have heard Mr. Carruthers, I do think, if he
represents the position which New South Wales takes in the matter, that I
understand that position. He says first, that you cannot apply the laws
which appertain to civilised nations in respect of navigable streams in
Australia. He says he admits that by the comity of nations there is, in the
countries where civilisation has made any advancement, some sort of
understanding that the person above must not steal the water from the
person below, but must keep the stream navigable. He says in Australia,
with her limited water supply and the limitless separate advantages that
might be obtained from irrigation, to preserve the navigability of the
stream altogether a different line of consideration and international
arrangement ought to be adopted. That line of international arrangement is
to be, he says, that the State which is higher up the stream can use the
whole of the water for irrigation and leave the other dry right through. If
that is not an act of supreme selfishness, in respect of a navigable stream in
a country where water is particularly required for every purpose, I have
never heard of one. But we have really to go on some principle. I do not
want to go the length of the motion of Mr. Gordon. It would be quite
enough from my point of view, if we gave the Commonwealth the control
of navigable streams running through or on the boundaries of two or more
States, so far as the preservation of their navigability is concerned. At all
events that would be the least that one could ask for.

Mr. GORDON:

Hear, hear.
Sir JOHN DOWNER:
That is what would be allowed as a matter of course in every part of the
civilised world.
Mr. HIGGINS:
Would you include the Darling?
Sir JOHN DOWNER:
I am not going into the question of the Murray, or the Darling, or the
Murrumbidgee, or any other stream.
Mr. KINGSTON:
The names are enough.
Mr. REID:
Call it all the catchment area of South Australia.
Sir JOHN DOWNER:
I am always glad to hear the interjections of my hon. friend, and they
appear to be very amusing to those on his side. They are certainly always
very good tempered, and amusing to his friends.
Dr. QUICK:
And very much to the point
Sir JOHN DOWNER:
And sometimes to the point. We have a question before us that has been
a subject of dispute for a great many years, in which assertions of right
have been made public—which fortunately nobody has ever tried to
exercise—which have produced a great deal of correspondence and also
caused a great deal of uneasiness in the minds of people in South Australia;
and when we come to the question, as we ought now, of trying to make a
lasting union between the colonies, we surely ought to try and prevent the
possibility of disputes about this river which must create the greatest
misunderstanding in the future. What is the way New South Wales
proposes to get over the difficulty? By simply ignoring it. By promising us
a conference, and saying it is quite impossible to put anything in the Bill
that will deal finally with this question. South Australia has never asked for
anything more than she ought to get. She only wanted an inquiry made to
settle finally what she ought to get, and to get it, and have no further
dispute. The position which New South Wales and her Committees took
was this "You have no right to this as a navigable stream. The general law
of nations does not apply in the altered state of circumstances in these
colonies;
and, therefore, we have to come to a method by which we, higher up, can
take all the water, and you have to do the best you can." While this line of
argument is very simple, but in which no agreement can possibly be
arrived at, it is not at all a line of argument which is calculated to bring about that kindliness of feeling with which we are to carry out the federal idea. And I do ask Mr. Reid, if he can, to help us to settle this question. I am not at all sure that it might not be that the Murray waters could be made more useful for irrigation purposes than for navigation. That is a question I do not wish to make any assertions about one way or the other, but I want something to preserve the right which we have in the navigability and to the use of the waters of the Murray, or, if we are not to have the ordinary right which citizens would have, supposing a stream passed through only one State, then to fall back on the rights which prevail by the comity of nations between foreign States in respect to rivers that pass through their boundaries; or if we are to have a new method applied altogether, through the inapplicability of the old one of settling it in the best way that these matters can be settled-in a way that is fair and just to all-then give the jurisdiction in the four corners of the Bill to the Parliament of the Commonwealth. Why should New South Wales and Victoria have any reason to doubt the Commonwealth? Nothing could be done without an Act of Parliament. Their representation will be much larger in the Federal Parliament. It is only asking for jurisdiction. We do not want to take anything we are not entitled to. We only want security against a stronger power, which we think is right, not only as between friendly colonies, but as between nations, and will be a guarantee of security to us by well understood international law. Surely it cannot be said that we are seeking to obtain any undue advantage when we ask our friends of the other colonies, our brothers, to give us only that which we might ask as a matter of international right against hostile nations next door to us. Let us have it settled now. We can do it by a few words in the Bill, if New South Wales will accept the amendment I suggest. Then I say put it in any form that suits them, which will give the Commonwealth jurisdiction to control the matter.

Mr. FRASER:
Section 33 will do it.

Sir JOHN DOWNER:
I do not see a single word except the clause we are dealing with now. That has been the difficulty, to get them to refer to it. Where is the difficulty of letting the Commonwealth deal with the question? For my own part I would be willing to accept it in the form I suggested.

Mr. FRASER:
It would be a danger to Federation. They would insist upon this.

Sir JOHN DOWNER:
That is an old gag. Everyone says if this is not carried or that is not
carried Federation will be endangered. I look upon it as a little fit of temper which arises in youth, but which passes away when we get older. I do entreat Mr. Reid, who, judging from his utterances, and his actions, has tried very hard to assist the cause of Federation, I do ask him to try and assist us now. We do not want any precise lines laid down, but we want the Commonwealth to have authority to deal with it. He can limit the lines if he likes, so long as these lines will give the Commonwealth power to give right and justice. But then we must take care that when that is done, all the water is not taken by the people at the upper end of the stream, and lessened for those lower down, till there in none left for those-

Sir WILLIAM ZEAL:
That is impossible.

Sir JOHN DOWNER:
It might be impossible to take the whole of the waters.

Sir WILLIAM ZEAL:
Or to take half of them.

Sir JOHN DOWNER:
I do not know.

Sir WILLIAM ZEAL:
I will show you presently.

Sir JOHN DOWNER:
I do not know, but at all events, for the purpose of bringing the matter to an issue without taking up further time, I move:

To strike out all the words after "navigable" with a view of the insertion of the following words:—"Rivers running through or on the boundaries of two or more States so far as is necessary to preserve the navigability thereof."

The CHAIRMAN:
I would suggest that as the two amendments appear to clash, the best way would be-in order that the Committee may have an opportunity of voting on both-for Mr. Gordon to move to insert:

"Navigation on the rivers Murray, Darling, and Murrumbidgee," after the word "of," in line one.

If these words are inserted, the others can be struck out. If they are not inserted, then Sir John Downer can move his amendment.

Mr. GORDON:
I withdraw my amendment in favor of Sir John Downer's.

Sir WILLIAM ZEAL:
I think my hon friend Sir John Downer unwittingly did the Hon. Mr.
Carruthers an injustice, for that hon. member did not speak generally on this question, but only gave a special instance. Mr. Carruthers dealt entirely with the River Darling, and he mentioned a case where Lake Menindie might be made more useful by conserving the flood waters of that river. That illustration does not apply to the waters of the River Murray. From personal observation I endorse all that the Hon. Mr. Carruthers has said, having lived near the locality for many years, and I further state that what he has said about the Willandra billabong is not exaggerated. Before South Australia can claim the exclusive advantages she desires to obtain from the use of the waters of the Murray, what, I enquire, has she done or proposes to do to justify her claim?

Mr. GORDON:

We have spent £67,000.

Sir WILLIAM ZEAL:

Why, we have spent £670,000 on the Callum reservoir alone, which puts millions of gallons every day down the river that flows into the Murray. There are scores of reservoirs made by the Victorian Government on the various rivers between the Ovens and the Wimmera, at a cost of millions sterling, which provide daily millions of gallons of compensation water during the summer season for the Murray, thus preventing the river from practically becoming too shallow to be navigable. Has the Government of South Australia paid her share for those improvements? The reservoirs to which I have alluded are conserving water during flood time, and the surplus is passed down the stream in the shape of compensation water to keep the Murray navigable. While two colonies, Victoria particularly, have spent millions in the conservation of water, South Australia has not expended any large sum. The £60,000 to which Mr. Gordon has alluded did not go towards increasing the volume of water in the Murray, but merely increases the facilities of transit. Do hon. members know that during times of flood the River Murray at Echuca is sometimes nearly two miles wide, and that during summer time, when the surplus water is turned back into its natural channel, South Australia gets the advantage of that surplus water? I hope South Australia will join her neighbors in considering the question of the riparian rights of the Murray on a fair and equitable basis; but does she think it fair that she can enter the New South Wales territory and take water that does not belong to her? Is she prepared to pay her fair share for locking and snagging the River Darling, and making it constantly navigable? If she does, no doubt the Governments of New South Wales and Victoria will meet her, but it is idle otherwise to say South Australia has claims on the waters unless she will perform a neighbor's part, and pay her fair share of the necessary improvements.
Mr. SYMON:

I think Sir William Zeal has dealt with the subject as though we were engaged in the negotiation of the terms on which South Australia and Victoria should jointly deal with the waters of the Murray. We are only inviting the Convention to empower the Federal Parliament to deal with the subject. When the matter is brought before the Federal Parliament or Executive, then all these questions of compensation in connection with this great reservoir will arise.

Sir WILLIAM ZEAL:

There are dozens of them.

Mr. SYMON:

Then so much the greater will be the claim of Victoria to compensation. All we are now asking the Committee to say is that this is a matter of federal importance, that the federal authority is competent to deal with it, and that it may be removed from the individual control of the States who have been unable to come to any agreement on the subject. For my part I recognise very strongly the difficulties which have been pointed out in the possible adjustment of the question. There can be no doubt as to the position taken up by Mr. Carruthers, and that many of the rules of the common law and rules of international comity in other countries cannot be justly applied here. Then, if you are separating the question of the navigability you are met with the difficulty of how the volume of water is to be ascertained that is to be passed from one State to another. I hope the amendment in something like the shape proposed by Sir John Downer will be adopted. There can be no question as to the navigability of the river being vital to us, as much so as its use for irrigation and conservation is to the neighboring colonies. If we were foreign and independent States the question of the navigation of the river would have to be settled according to the principles of international comity.

Mr. HIGGINS:

It would be done by agreement.

Mr. FRASER:

Or settled by arms.

Mr. SYMON:

In case of an obstruction to the navigation by one State it might be so settled. Surely, however, we can trust the federal authority by devolving on them the duty of controlling the navigability of the stream. That is all we ask you to do, and it seems to me that, without entering upon questions of great difficulty, no fear need be entertained by either of the colonies concerned as to the fairness with which the Federal Parliament will deal
with this question, or the justice that will be meted out. I feel indisposed to
go to the length of the amendment which Mr. Gordon first put, as I do not
think either justice or law would lead us to interfere with the control by
New South Wales and Victoria of the rivers which are absolutely necessary
for the development of their own country. As far as the Murray is
concerned, it is a different question, and I think the interests of the three
colonies would be conserved by leaving the control of the rivers as a
navigable stream to the Federal Government.

Mr. KINGSTON:
I think we are indebted to previous speakers for having devoted so much
care and attention to the statement of the South Australian view of the case.
I trust that the Convention will not separate before we have framed a
Constitution which will render it possible that an existing source of friction
may be at once and for ever removed. There is no doubt that, in connection
with this particular question there has been a great deal of friction, not to
say irritation, between the various colonies which are affected, by what
appears to me to be an extravagant use of the head waters of the Murray, to
the detriment of those through whose territory the river flows.

Sir WILLIAM ZEAL:
That is not as far as the Murray is concerned.

Mr. KINGSTON:
I was referring to the Murray as including the tributaries by which it is
fed. I know that Sir John Downer at different times devoted a great deal of
attention to the subject and corresponded with the Government of New
South Wales on the subject with but very little effect. It seems as it our
protests or representations in connection with the

matter were put quietly away in a pigeon hole; certainly we heard nothing
more of it. I am able to take up the history of the question at a later stage.
When Sir John Downer had given up any attempt to deal with the question,
it fell to my lot to communicate with the Government of New South Wales
before the present administration was formed, and with a similar result. I
do not think we were even favored with an acknowledgment, but when the
present Government was formed and we heard who was at its head we
were sufficiently sanguine to believe that a personal interview with the
leader of the Government would be productive of the very best results, and
under those circumstances my colleague, Mr. Holder, waited on Mr. Reid
and directed his attention to the question, and sought a conference amongst
the colonies interested for the purpose of, for once and for all, coming to
some reasonable arrangement on the subject. We were met by Mr. Reid
with his usual courtesy.
Sir WILLIAM ZEAL:
Did you get anything else?

Mr. KINGSTON:
We got an assurance that justifies us in pressing this subject on the attention of the Convention. We were told it was not a matter for a conference, but that it should be dealt with by Federation, by a Federal Government and a Federal Parliament.

Mr. REID:
The Murray. You never had the assurance to mention the Darling.

Mr. KINGSTON:
We were told it is not a matter for a conference, that that is an informal gathering from which nothing results. We were told we would have their assistance in establishing a Federation, that the whole thing would be referred to the Federation, and there would be no more trouble. We have acted on that, and I await with a great deal of interest the explanation of the Premier of New South Wales as to how he will enable the Federation to deal with the matter, for he promised years ago a fair and satisfactory reference of the question.

Mr. REID:
I am loth to say anything on a matter which has been canvassed so much; but so many observations have been made by my friends of South Australia in reference to the colony I represent that I really, with an apology to the Convention, must say a few words on the subject. One would think my hon. friends provided the watershed for all the rivers that flow through New South Wales. The fact of the matter is that the rivers to which they have referred are fed by nearly the whole colony of New South Wales, and none of them but one comes to South Australia, and the claim put forward by Mr. Gordon was practically an annexation of New South Wales as a catchment area for South Australia. I know Mr. Gordon is a prince of jesters, and imagine he was entertaining us in his usual bright manner. But Mr. Kingston is of the same idea, and it is necessary for me to point out that South Australia has no more to do with the Darling or the Murrumbidgee than Fiji, and never will have. But I am very glad my friends have come down now to a proposition that we may consider. I would remind my honorable friends that we have spent money on these rivers, with the result that South Australia can use them against our railways, and I have not noticed any offer from South Australia to share in that expense, so we have paid for many years to clear these waterways for the benefit of our friends in South Australia. I am sorry that after our efforts in the scavenging line we should be accused of doing this with South Australian waters. Consequently we are not prepared to give up the
control of our own internal rivers, but so far as any rivers which flow between two colonies are concerned I am prepared to meet South Australia in the fairest possible way. I quite admit that they should be subject, as navigation should be, to federal control. But the whole bed of the Murray so far as its boundary in New South Wales is

concerned is conferred by Imperial Statute upon New South Wales. Even then we have never asserted our rights, as Victoria has carried out schemes for irrigation without ever asking the favor of our consent to their doing it. Still we never have complained. Several islands in the Murray belonging to New South Wales have been leased by Victoria, but we have not written any warlike despatch upon the matter. That shows the way in which we have been dealing with our neighbors, and it is really discouraging to see South Australia wishing to annex the watersheds of New South Wales. However, they have repented of that, and now they propose to make another annexation which I do not quite understand, and which is almost as objectionable as the other. "Preserve the navigability of the river," they say; that is not easily done. Sometimes rivers in Australia become a chain of waterholes. The Darling over and over again is a mere chain of waterholes, and navigation is impossible. This is a nice task to put upon the Commonwealth, when the water is not there. The Commonwealth will have to bear the burden of the expense necessary to preserve the navigability of the River Murray. The amendment is ambiguous and objectionable. The true power to give the Commonwealth is the regulation of the navigation of rivers, so far as they form boundaries between States. It goes beyond navigation where there is no water to navigate.

Mr. KINGSTON:

Dry channels.

Mr. REID:

I believe the Murray above South Australia runs so low as to make navigation impossible. I understand that long before irrigation was thought of in Victoria the Murray was so low that navigation was impossible.

Mr. FRASER:

A chain of waterholes for years.

Mr. REID:

In fact I believe that these attempts at irrigation really increase the volume of the river, and that were it not for them the flood would pass to the ocean with lightning speed, whereas water conservation has preserved the water for use. I am prepared to give the Commonwealth power as to the regulation and use of water so far as the rivers form boundaries between States.
Mr. GORDON:
Or running through States.

Mr. REID:
The River Murray is always a boundary between two States, except where it is wholly within South Australia. Pitt Cobbett lays down the law on this matter very shortly:
Where a navigable river lies wholly within the territory of one State dominion and user belong exclusively to that State.

After reading that my hon. friend tried to annex the Darling. That is the strict law with reference to the rivers entirely in New South Wales, and that is the law we intend to apply to you. I know that I would get the strict law if I came into South Australia and kept some of the water back. The second principle laid down in Cobbett is:
Where a river constitutes the boundary between two States the frontier line is the middle of the channel or thalweg; but there is a presumption that both States have a right of user or navigation.

Let me point out this: As to most of the course of the Murray it is a question between Victoria and New South Wales, not one between the States and the Commonwealth, and consequently the Commonwealth would be taking over a matter which has nothing whatever to do with the Commonwealth as a Commonwealth, but only with two States—Victoria, and New South Wales—and perhaps we must add South Australia. In the interests of peace and goodwill I think we should all be prepared to hand over this matter to the Commonwealth, so far as the waters run as a boundary. If it does not form a boundary it is only a question of one State to deal with, and the Commonwealth has nothing to do with it. We do not want any ambiguity. I will support anything like what I have suggested, though it will be placing an arduous task on the Commonwealth, and will involve a number of very troublesome questions.

Mr. MCMILLAN:
Is there any other river but the Murray?

Mr. REID:
No; and we might almost specify the Murray. The only objection to it is that by and bye if there were any sub-division of States it might happen to apply to other rivers.

Mr. WISE:
The Murrumbidgee might be a boundary.

Mr. REID:
I am quite prepared to accept any amendment to hand over to the Commonwealth the control of the navigation and use of rivers so far as
they form boundaries between States, but not where they are entirely within a colony. But Sir John Downer's question of preserving the navigability of rivers suggests difficulties which nature itself may war against.

Mr. WISE:
Divide!

Mr. GORDON:
I have heard nothing whatever which appears to me to materially weaken the arguments I have adduced, although what I heard from Mr. Deakin and Mr. Carruthers showed that there are many difficulties to be overcome before a settlement can be properly arrived at. They have pointed out very fairly and clearly that these difficulties do exist, but the fact that we know there are difficulties is no justification for not attempting to find a remedy for them. The federal authority, or some commission to which the matter must be referred, is the real tribunal for such difficulties. Mr Reid has admitted that it is a matter for the Federation to settle. It occurs to me that since it appears to be generally conceded that our railways must not be used by any colony to the injury of the adjoining colony-railways which are artificial means of communication, built at great cost to the colonies—how much more strongly should that principle be true of the rivers, which have cost the colonies practically nothing, except in matters of improvement, and which are natural, not artificial, highways. Why should a State be allowed to use the rivers to the injury of its neighbor? The argument from railways is really in favor of my position. Mr. Reid made some exceedingly witty remarks, as he always does, but most of them were essentially wide of the question. He is, I am sure, really thoroughly ashamed of the position taken up by New South Wales, and tries to put it off with a laugh and a joke—an accomplishment in which he shines, as we all see. But this matter is really too serious, and if we are met here to establish a federal agreement, it is one which must be settled. He offers us thin air—nothing. We are entitled to a mutual share in the navigation and use of the Darling, Murray, and Murrumbidgee, because they are rivers which, having their rise somewhere else, still flow through our colony, and in respect of which—if we are to have fair play at all some such proposal as I attempted to move, or as has been moved by Sir John Downer, must certainly be agreed to.

Question—That the words proposed to be struck out stand part of the sub-section—put. The Committee divided.

Ayes, 24; Noes, 10. Majority, 14.

AYES.
Abbott, Sir Joseph McMillan, Mr.
Barton, Mr. Moore, Mr.
Braddon, Sir Edward O'Connor, Mr.
Carruthers, Mr. Peacock, Mr.
Clarke, Mr. Quick, Dr.
Deakin, Mr. Reid, Mr.
Fraser, Mr. Taylor, Mr.
FYSH, Sir Philip Trenwith, Mr.
Grant, Mr. Turner, Sir George
Henry, Mr. Walker, Mr.
Isaacs, Mr. Wise, Mr.
Lewis, Mr. Zeal, Sir William

NOES.
Berry, Sir Graham Downer, Sir John
Brown, Mr. Glynn, Mr.
Cockburn, Dr. Gordon, Mr.
Dobson, Mr. Higgins, Mr.
Douglas, Mr. Kingston, Mr.
Pair-Aye, Mr. Holder; No, Mr. Brunker.

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Question so resolved in the affirmative.
Question-That the sub-section stand part of the clause-put. The Committee divided.
Ayes, 10; Noes, 25. Majority, 15.
AYES.
Brown, Mr. Glynn, Mr.
Cockburn, Dr. Gordon, Mr.
Dobson, Mr. Higgins, Mr.
Douglas, Mr. Kingston, Mr.
Downer, Sir John Symon, Mr.

NOES.
Abbott, Sir Joseph McMillan, Mr.
Barton, Mr. Moore, Mr.
Berry, Sir Graham O'Connor, Mr.
Braddon, Sir Edward Peacock, Mr.
Carruthers, Mr. Quick, Dr.
Clarke, Mr. Reid, Mr.
Deakin, Mr. Taylor, Mr.
Fraser, Mr. Trenwith, Mr.
Fysh, Sir Philip Turner, Sir George
Grant, Mr. Walker, Mr.
Henry, Mr. Wise, Mr.
Isaacs, Mr. Zeal, Sir William
Lewis, Mr.
Pair-Aye, Mr. Holder; No, Mr. Brunker.
Question so resolved in the negative.

Mr. WISE:
I have given notice of a printed amendment to debar the Commonwealth-

Mr. DEAKIN:
A new subsection was to be proposed to take the place of this.

Mr. WISE:
I do not propose to move the new sub-section which has been printed.
Mr. Barton has assured me that this is a matter which the Drafting Committee will take into consideration, and draw a clause to meet the difficulty.

Mr. BARTON:
We did not say that.

Mr. DEAKIN:
I understood a new subclause would be drafted to take the place of this.

Mr. BARTON:
I was under the impression one would be moved.

Mr. WALKER:
I propose to add a few words.

The CHAIRMAN:
Sub-clause 31 is struck out.

Mr. DEAKIN:
Words can be substituted for it.

Mr. ISAACS:
I move to insert in its place the words:
Control and regulation of rivers between two States, and the use of the waters thereof.

Mr. BARTON:
Say "so far as they form the boundary between two States."

Mr. ISAACS:
I think if they are between two States it is the same. I cannot appreciate the difference.

Mr. BARTON:
It might not take in their whole course, but only the part which is the boundary.

Mr. ISAACS:
I understand Mr. Reid wishes to put under the federal control only such
parts of these rivers as form the boundary between two States. I do not quite understand how that is practicable, and I will move it in this form:

The control and regulation of rivers between two States and the use of the waters thereof.

Mr. GORDON:

That is a nice little amendment. It means that the Federal Parliament may agree to a compact between New South Wales and Victoria, leaving South Australia out of it.

Mr. ISAACS:

No. I want to keep the control of the whole of the Murray under the Federal Parliament.

Mr. GORDON:

Then if it does that it is in the direction of justice, and I thank the hon. member even for so much, but I thought it was giving the Federal Parliament control of that part of the river which only flows between the two States.

Mr. REID:

That was my proposal.

Mr. GORDON:

Then it was a proposal which I can only characterise as simply monstrous.

Mr. ISAACS:

Perhaps the proposed words do not go as far as I intended. I propose that the whole of a river that flows between two colonies should be under the control of the Federal Government, but not its tributaries. If you will allow me, I will reframe the amendment.

Sir EDWARD BRADDON:

I would ask the hon. member whether he means those rivers flowing between two States and constituting the boundary between two States.

Mr. PEACOCK:

Yes.

Mr. HIGGINS:

I understand that the bed of the Murray is in New South Wales, so that you cannot say that the Murray forms the boundary between New South Wales and Victoria. The only way will be to use some expression that it is at the boundary, or perhaps as it is intended only to refer to the Murray, it might be as well to restrict it to that river.

Mr. MCMILLAN:

The only other river is the Tweed between New South Wales and
Mr. SYMON:

We might make it:

The control and regulation of rivers between and through two States.

That would cover the case of the Tweed.

Sir JOHN DOWNER:

I would suggest to Mr. Symon that he should put his amendment, and I think Mr. Isaacs must have had it in his mind, because I cannot think that he merely meant to say that the Commonwealth was to have control of the rivers simply as far as they were the boundaries of States, and to have no control over them in their course through the States. Not that I am at all sure but that the Commonwealth would have control of the river simply by the words describing the boundaries of the States. Let them have control of any part of the river and they will have power to deal with it by regulation, and this will do what my Tasmanian and South Australian friends think ought not to be done. We will be content that as between colonies the same rights should exist as would be respected between foreign nations. That is all we have been asking for, and to me it is simply shocking that this is not granted. It is so against the friendly spirit, not to say federal spirit, for friendly States to meet here for the purpose of making a federal union, and for them not to concede to the poorest State that asks for it the rights that one State should give to another. Mr. Isaacs thinks something ought to be done to bring the matter back to a more reasonable basis. If he will amend his motion as suggested by Mr. Symon I think it will meet the case. The effect would be to put the colonies in the same position in which the comity of nations places nations.

Mr. PEACOCK:

Keep on talking, Sir John. All the lawyers are preparing amendments.

Mr. GORDON:

I have an amendment:

The control of the navigation of the River Murray, and the use of the waters thereof.

Mr. BARTON:

I have a further amendment:

To leave out all words after the word "the," for the purpose of inserting the following words: "navigation of rivers so far as they form boundaries between two States."

Mr. GLYNN:

But the River Murray is not the boundary between two States. The exact words of the Act 14 Vict., see. 59, are:

The territories therein described as bounded on the north and north-east
by a straight line drawn from Cape Howe to the nearest source of the River Murray and thence by the course of that river to the eastern boundary of the colony of South Australia should be erected into a separate colony to be known and designated as the colony of Victoria.

This was explained by a subsequent Act as giving the watercourse to New South Wales. That is the boundary between the States; the banks are the determining point.

Mr. GORDON:

Leave out "control and regulation" then.

Mr. WISE:

I should like to ask Mr. Gordon whether if his amendment is carried he intends that the Federal Parliament shall make provision to purchase irrigation works in Victoria. Are the representatives of Victoria prepared to hand over all their works to the Federal Parliament? If they are it is just as well that we should know. This matter affects the representatives of Victoria more than it affects any others.

Mr. GORDON:

In the Federal Parliament New South Wales and Victoria will have such an overwhelming majority that it is very unlikely that anything unfair to Victoria or New South Wales will pass through very easily. Besides, we can trust the Federal Parliament to deal honorably and fairly in this matter. I believe that it will do what is absolutely fair and just to the colonies.

Mr. DOBSON:

I have already given two votes with very much hesitation, and I would like to be spared the anxiety of giving a third vote upon a matter which is very complicated and intricate, and the most far-reaching question with which we have had to deal since we met. What rights has the colony of New South Wales in the waters of the Murray and all the magnificent tributaries which form that large river? If the colony of New South Wales has certain legal rights, and by my vote I am taking away those rights without her consent, I am doing her an injustice. If South Australia thinks she has certain rights, and South Australia is not allowed the full exercise of those rights, because of the prior rights of New South Wales, she has a perfect right to say if we are to federate, if we are going to be one people, and have, as far as possible, unity of interest, "We ask you honestly and straightforwardly-are you prepared to give up some of your rights and vested control of this great river which is the great highway to us as well as to you." From that point of view I think that the South Australian people are not asking anything unfair, and it is that aspect of the question which
has already gained my vote on two occasions. Now, I think, however you may trust the Federal Parliament—and I am going to trust it as implicitly as my hon. friends opposite—that Parliament is not competent to deal with this question. That may be belittling the tribunal we are here to erect, but, so far as I can see, this question is too complicated for the Federal Parliament to deal with. Why not have some provision by which the claims of all the States interested in the Murray may be submitted to the Federal Parliament, not for its decision, but in order that it may remit them to the High Court, which is the only body capable of dealing with this complicated legal question.

Mr. DEAKIN:
It is not a legal question.

Mr. DOBSON:
The only point Mr. Carruthers dealt with was the absolute necessity that New South Wales should have control over those rivers in order to develop her territory. That is exactly the point of view that South Australian people take: that they want the waters of the Murray with which to form a highway and irrigate their desert lands. Now, the point I want answered by some of my legal friends is this: May New South by constructing enormous irrigation works and cutting channels entirely cut off the flow of these waters before—they enter the boundary of South Australia?

Mr. BARTON:
I think not.

Mr. DOBSON:
If they have a right to do that it is simply a question for the South Australian Government to say, "Will you give up some of your rights or not?" I do not think we can make a proper settlement of this to-night. Anything we do may work injustice to some one.

Mr. FRASER:
There are millions of tons of water going to waste in the Murray and its tributaries because we do not conserve it. The conservation of the water will tend to make the streams more navigable in the dry months. Victoria has spent hundreds of thousands if not millions of pounds in the conservation of water at a time when it would otherwise go to waste. The proper policy is to conserve it where it can be done with the contour of the country, and thus make the river more navigable during the dry months. Millions of human beings could be supported on the banks of these rivers, and it in infinitely more to the interests of the colonies that they should be there. The whole population of South Australia could be put

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into one corner of the Darling country if the waters were properly
conserved and utilised, as in India and other countries. Difficulties of navigation will not arise for 100 years, and the Federal Parliament can deal with them when they do arise. It will be best to let the people of the future deal with this question.

Mr. MCMILLAN:

It seems to me that the question has now narrowed down, if we are to come to any practical result, to the question of the Murray River; and I think that is narrowed down to a question of navigation. It seems to me, if you narrow it down to navigation, or introduce the word navigation at all, that you must not only take that part of the Murray which flows between two colonies, but you must take the whole course of the river. I humbly advise that the new clause be confined to the River Murray and the mode of its navigation.

Mr. CARRUTHERS:

The Committee may imagine that in voting for this amendment of Mr. Gordon's, they are voting with reference to the River Murray from w

Mr. FRASER:

Hear, hear.

Mr. CARRUTHERS:

That is the Tumberumbera, the upper Murray districts, right up to the Monaro and Snowy Ranges. In these districts is the natural watershed where you can construct your enormous works for irrigating on the lower level. We have in no other part so favorable a site for irrigation, because there we have the great help of gravitation. If you hand over the control of the Murray, as the amendment proposes, you do not limit it to the head of navigation, but you also take it right up to its source.

Mr. FRASER:

Hear, hear.

Mr. CARRUTHERS:

You hand over a good asset of New South Wales, who can put it to a far better purpose than merely making the Murray navigable. As Mr. Fraser says, you can irrigate and use the water there as much as you like and hardly interfere with the navigation. I hope the Committee will confine itself to what we are all agreed upon. There is only one river in Australia which divides colonies. Why not expressly confine the division to the Murray from the head of navigation, say Albury, right down to its entrance to the sea, and we will support an amendment of that character.

Mr. TRENWITH:

I respectfully submit that the River Murray is a river which has divided colonies in more senses than one, and that seems to me to be a reason why it should be handed over to federal control.
Mr. SYMON:
Hear, hear.

Mr. TRENWITH:
While the disputes that are continually arising over the proper use of it are possible, the colonies will continue to be divided in that other sense to which I referred. Mr. Wise asked, in connection with some irrigation works whether Victoria was prepared to hand over its irrigation works. It seems to be altogether unnecessary. That is not involved in the resolution.

Mr. GORDON:
Hear, hear.

Mr. TRENWITH:
Because, if we handed over the control for navigation purposes, and the control of the use of it-it is not to be assumed that the Federal Parliament will act unjustly. It will properly and fairly treat both the navigation and the use of the river. And Victoria will not be afraid to trust the Federal Parliament. But where disputes arise between two or more colonies in connection with the waters of this river the Federal Parliament will be able, it seems to me, in a more unbiased manner to appreciate the difficulties and the interests of the respective colonies. For that reason I will support the resolution as submitted by Mr.

Gordon, feeling confident that the Federal Parliament elected by all the States, having only the interests of the whole of Australia to consider in connection with all its legislation, will so control the navigation and use of the waters that injury is done to none of the States.

Mr. O'CONNOR:
With a view of testing the opinion of the Committee upon a matter about which we are all agreed, I move in Mr. Barton's amendment:
That all the words after "navigation" be struck out, with a view to adding "of the River Murray from Albury to the sea."

The CHAIRMAN:
I wish to point out that the question is "That the words proposed to be struck out stand part of the proposed sub-section." If those words are not struck out then of course the new sub-section as moved by Mr. Gordon will be the substantive question, but if they are struck out then Mr. Barton's amendment will come on for consideration, and Mr. O'Connor's amendment to amend Mr. Barton's amendment will be taken.

Mr. O'CONNOR:
It would be a simpler way to withdraw Mr. Barton's amendment. On behalf of Mr. Barton I withdraw his amendment, with the consent of the
committee.

Mr. Barton's amendment withdrawn.

The CHAIRMAN:

The proposed new sub-section now reads:
The control of the navigation of the River Murray, and the use of the waters thereof.

Mr. O'CONNOR:

Then I move:

To strike out the latter part of the sub-clause with a view of adding the words "from Albury to the sea."

Mr. ISAACS:

I would point out that that will do no good whatever. To say you shall have control of the navigation means that you shall say what size ships shall be upon it, how they shall sail, to regulate the bridges with relation to navigation, the rules as to loading and unloading, &c. That is utterly useless for the purposes now desired, and those who vote for that will vote for nothing.

Mr. KINGSTON:

I must say now that I am altogether disappointed as regards the attitude of this Convention in reference to this river question. There is no doubt whatever that the use of these rivers, both for irrigation purpose's and for the purposes of navigation, is of the greatest value, not only to the colonies in which these rivers have their source, but to all the colonies through which they flow. What is the position? So far as the divisions which have already taken place allow us to form an opinion of the intentions of this Convention, it appears that although the rights of those lower down stream in the case of foreign nations, even on the least friendly terms, would have been secured by a friendly Convention, yet in the making of a Federal Constitution the recognition of those rights is repeatedly denied by the colonies in which the rivers have their source to those colonies lower down. We are not proposing even now that a treaty should be made once and for all as regards this question. Here we are, in the discharge of our duty, discussing terms of a friendly Federation, and we only ask that all the colonies represented in the Federation should have power to consider and deal with these questions. This, however, is refused us.

Mr. FRASER:

You are bringing in colonies that have nothing to do with it.

Mr. KINGSTON:

We are trying to bring in all the colonies interested in it; and I utterly dispute the suggestion put forward with a great deal of force and candor by
Mr. Carruthers that the colonies in which these rivers have their sources have a right to drain their channels lower down perfectly dry, and leave South Australia no opportunity for the navigation of the stream to which she is rightly entitled, and no opportunity for the use of its waters for irrigation. Is this, the way in which we are to be met? I look at the proposal before the Convention. It savors, to my mind, of an attempt to placate one colony-Victoria-by a partial recognition of those rights with a view to the establishment of something in the shape of an alliance which is denied to a colony lower down in connection with this matter. As regards Victoria they say, "Where the river is between us and not higher up than Albury we will let the Federal Parliament have some power to deal with the question of navigation." This even is a most limited concession, having no reference whatever to the use of the waters of the river for other purposes. Is Victoria going to be satisfied with a concession of this sort?

Mr. DEAKIN:

It is not a question between Victoria and New South Wales.

Mr. KINGSTON:

It ought not to be. How is it they will only allow the Federal Parliament to deal with this matter as regards the river which runs between Victoria and New South Wales and forms the boundary line? Is it simply on account of its position as a boundary line? After considering the matter to the best of my ability, I think that if it is only intended to give the Federal Parliament such limited power of dealing with this question and settling it in a friendly spirit, it would be infinitely better to leave the matter to the High Court of Australia, which it is proposed to create, and give the court also the power of dealing with our legal rights, which in connection with the use of rivers and streams like the Murray would correspond very closely to equitable rights. It seems to me, as regards the concession now proposed, it is not worth the paper it is written on, and it augurs ill to Federation that the representatives will not trust the Federal Parliament representing all the States, in which Victoria and New South Wales will have a much larger representation than we can have, in connection with this matter in which we feel so deeply, and on which we have sought so long and vainly to obtain a recognition of our rights. It is a pity indeed that the decision we have arrived at has been reached. I hope it may be reconsidered, and that a measure of hope may be held out that the Federal Parliament will be trusted with federal questions of the gravity involved in the use of the waters of the Murray.

Mr. WISE:
I agree with the Prime Minister of South Australia that there is grave cause for disappointment, but it is not at the attitude of the representatives of New South Wales, but at speeches like that to which we have just listened. Let me ask the Convention to think what is meant by the assertion that we are giving up nothing. If that is the answer we receive, I hope Mr. Reid will withdraw the offer. The water is as much the property of New South Wales as any inch of its territory. The bed of the river is ours, and we have the power to gather a pretty considerable revenue from wharfage and tonnage dues, the whole length of the boundary between New South Wales and Victoria. That power we have never exercised; and the Prime Minister of our colony has offered to give it over to the Federal Government without receiving one penny of compensation. When that offer is generously made in order to carry out Federation it ought to be received in a federal spirit. It is, however, rejected in the language to which we have listened tonight, as though we were trying to cheat others out of their rights. On the contrary, we are making a free and handsome gift, and it augurs ill, as the Prime Minister of South Australia has said, if conduct of this sort is to be so received. I have always entertained the view that it is a mistake to give these rivers unless the railways go too. I had intended to vote for the amendment moved by Mr. Reid.

Mr. PEACOCK:
Mr. Reid did not move it.

Mr. WISE:
Mr. O'Connor has practically moved it for him.

Mr. PEACOCK:
No; entirely different.

Mr. WISE:
No doubt the Victorians regard the matter in a different light, for they have also used our waters for years and not paid for it.

Mr. DEAKIN:
It could be diverted before it reaches the Murray at all.

Mr. WISE:
It is admitted we have the right of imposing tolls on navigation.

Mr. GLYNN:
No, it is not.

Mr. WISE:
I would like to know what vessels could land on the New South Wales shore or sail on her waters without her permission, or refuse to pay tolls, where the bed belongs to us?

Mr. GORDON:
You would be acting like a barbarous uncivilised people in doing so,

Mr. WISE:
Are we to be asked to give up more, and put all our country at the head of the Murray at the mercy of people whose feelings are such as have been exhibited in the speeches of the representatives of South Australia?

Sir JOSEPH ABBOTT:
As members of the

Mr. HIGGINS:
I wish to inform Mr. Wise that he is wrong with reference to the statement that because the bed of the Murray is in New South Wales, she has the right to levy dues. In 19 Victoria, chap. 54, sec. 5, it will be seen that it is left to New South Wales and Victoria, by proviso, to make rules for the regulation of the navigation of the river by vessels.

Question-That the words proposed to be struck out at the end of the proposed new clause stand part of such new clause -put. The Committee divided.


AYES.
Abbott, Sir Joseph Henry, Mr.
Brown, Mr. Higgins, Mr.
Clark, Mr. Isaacs, Mr.
Cockburn, Dr. Kingston, Mr.
Deakin, Mr. McMillan, Mr.
Dobson, Mr. Moore, Mr.
Douglas, Mr. Peacock, Mr.
Downer, Sir John Quick, Dr.
Fraser, Mr. Trenwith, Mr.
Glynn, Mr, Turner, Sir George
Gordon, Mr. Zeal, Sir William
Grant, Mr.

NOES.
Barton, Mr. O'Connor, Mr.
Braddon, Sir Edward Reid, Mr.
Carruthers, Mr. Walker, Mr.
Fysh, Sir Philip Wise, Mr.
Lewis, Mr.

Question so resolved in the affirmative.

Mr. CARRUTHERS:
I desire to limit this sub-section now, and I think my friends opposite will concur in this. I desire to limit it so that it will control the river from where it first forms the boundary between Victoria and New South Wales down
to the sea.

**Mr. PEACOCK:**
So there will be no interference with the tributaries.

**Mr. CARRUTHERS:**
At its source it has, so to speak, several tributaries. There are about a
dozen streams, and it is difficult to say which is the Murray. I propose to
add these words:

From where it first forms the boundary between Victoria and New South
Wales to the sea.

**Mr. DEAKIN:**
There is not very much in that. There are several small streams and there
is a dispute as to which is the Murray. One is known as the Little Murray. I
think the least we can do is to meet New South Wales.

**Mr. BARTON:**
Say:

From Albury to the sea.

**Mr. DEAKIN:**
No; it will be best to meet him.

**Mr. REID:**
That is exactly what I said at first, that wherever a river forms a boundary
it should be subject to Federal control. When we remember that the whole
bed of the Murray is in our colony it is the least you can do to meet Mr.
Carruthers.

**Sir JOHN DOWNER:**
If this amendment is carried we are not a bit further on.

**Mr. PEACOCK:**
Better report progress, and we shall know what we are doing.

**The CHAIRMAN:**
The amendment now before us reads:

From where it first forms the boundary to the sea.

**Mr. GORDON:**
The point is that it never forms a boundary.

**Sir GEORGE TURNER:**
These words seem very vague and very inconclusive. It may hereafter be
contended that the river never does form the boundary at all if it all belongs
to New South Wales, that is, unless you fix the boundary definitely.

**Mr. REID:**
Say from Albury.

**Mr. TRENWITH:**
I respectfully submit that the fears appeared to be entertained by my hon. friends Mr. Carruthers and Mr. Reid are altogether groundless. It is assumed that the Federal Parliament may so legislate as to prejudicially affect the people of New South Wales with reference to these head waters. That is an assumption so unreasonable and so altogether improbable that we need not have any fear.

Mr. GORDON:
Hear, hear.

Mr. REID:
I suppose it is not very unreasonable that we should give you the whole of the river to which we have the statutory right.

Mr. TRENWITH:
My friend Mr. Reid has made a very gracious offer when he agrees to forego any claim that New South Wales has within certain limits. I am endeavoring to urge upon him that he may yet extend his graciousness by trusting the Federal Parliament, which will have the interests of all Australia always in its mind, and will certainly in no circumstance order regulations with reference to the Murray, so as to injure New South Wales in connection with the heads of the rivers spoken of. If we say from where the river first forms the boundary—and it has been suggested that it does not form a boundary anywhere—I think it will be a mistake. It would be a mistake to limit it anywhere, because there may arise contingencies in which it may be necessary to regulate the water flow. The control should be made as complete as possible. We would surely be justified in handing over such a trivial matter as this.

Mr. REID:
Trivial if it does not belong to them, of course.

Mr. TRENWITH:
Of course if we are going to stand upon mine and thine—

Mr. REID:
Will you hand over the Goulbourn River in Victoria?

Mr. TRENWITH:
We have spent an immense sum of public money in irrigation works, and we have no fear that the Federal Parliament will treat us unjustly. I think we are perfectly willing that regulations for its control shall be in the hands of the Federal Government, which is to be created to advance the interest of all the colonies rather than to injure or retard the interests of any of them.

Mr. REID:
I should like my hon. friend as a practical man to see that if we are prepared to accept a certain settlement on behalf of New South Wales it is
well to secure that assent instead of our determined opposition. The whole of this question has turned on navigation, but beyond Albury nothing turns on what we have been talking about. If the amendment is amended so as to make a definite point from Albury, we will remove any further disputation or opposition. There can be no navigation above Albury.

Mr. CARRUTHERS:

I desire to amend my amendment by inserting:

"Albury" instead of "from where it first forms the boundary between Victoria and New South Wales."

Mr. DEAKIN:

I ask the hon. member not to make that request. The first point is definite, and it has the advantage of being the commencement of the boundary between the colonies. The river above that point is practically wholly in New South Wales territory, and it seems to me unreasonable to ask that the river, where it is purely in New South Wales territory, should be placed under federal control. Only the point from where it becomes the boundary is it a proper subject for federal control, and for that reason. Though nothing has been done, and nothing is proposed, something may be proposed to be done to the river above Albury. We are dealing with a principle, and the amendment as framed will be more in accordance with the principle, while it will provide for the future.

Sir JOHN DOWNER:

Meanwhile you confirm the title of New South Wales, not only to the bed of the river, but to every drop of water in the river. You give the Commonwealth no control over it, and if in this case for the benefit of the humanity which is centralised in New South Wales, the whole water should be used in their interests, then Victoria, whose territory it bounds, and South Australia, through whose territory it passes, will just have to grin and bear it. It reminds me very much of the old story of a dispute over a beast. When the two men decided that it belonged to both of them, one man said, "I wish to kill my half." We are to have, as a generous concession, the fact that New South Wales retains substantially all she has got, with an admitted right to take away from the river all the water, without which there is no river at all, and to use it for those irrigation purposes of which they properly think so highly, and the Commonwealth is to be able to legislate down below as much as it likes, when there is nothing of any value there to legislate about. I do my friends in both colonies the justice to think that in practice they will not do those things. We give up our share of the river to the Federal Parliament; they give up nothing.
Mr. GORDON:
   Hear, hear.
Sir JOHN DOWNER:
   They are to have control over parts of the river which bound Victoria, and which run through South Australia. We have no wish to make anybody pay anything.
Mr. GORDON:
   Hear, hear.
Mr. CARRUTHERS:
   That is not proposed.
Sir JOHN DOWNER:
   We are perfectly satisfied to leave it to the Commonwealth to do everything that is just and right as far as every penny expended by any State to make the river more navigable is concerned. We are not trying to run any game at all. We are asking for what is fair and right, and that the control of these waters and their navigation should be in the hands of the Commonwealth. Then we are met with a so-called generous compromise, which is not only not a compromise, but will be a legislative assertion a conclusive establishment of a right which does not exist now, except it be the right of might.
Mr. KINGSTON:
   Hear, hear.
Sir JOHN DOWNER:
   And which would not exist between two unfriendly States under th
Sir JOHN DOWNER:
   But which we are asked now, under the guise of a concession, to formally concede and so legislatively fix for ever. I shall be no party to it. I wish nothing but what is fair and right for New South Wales or Victoria; if they have spent a lot of money and made this river more valuable, that is for the Commonwealth to consider, and if they want the Commonwealth to consider it let them vote to give them that power. I have no fear of the Commonwealth. They seem to have. To assert by a substantive enactment by Act of Parliament that New South Wales has a title, which she never had, to the flow of a river that belongs to all the countries through which it flows, is a thing to which I will not submit. It
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   will be a matter of dispute in the future, and without benefit to New South Wales, through having this exceedingly reasonable clause omitted, the wrong and injustice will be asserted to be right, and a bar will be placed in the way of that fair dealing, which alone can be a proper basis on which we can arrive at an arrangement. I ask for no advantage or concession, nor do I
wish to give any. We merely ask them to give us, friendly colonies under the same Crown, what men or nations individually unfriendly with one another would not fail to concede. I support the motion as it stands.

Question-That the words proposed to be added be so added-put. The Committee divided.

Ayes, 18; Noes, 10. Majority, 8.

AYES.
Abbott, Sir Joseph Lewis, Mr.
Barton, Mr. McMillan, Mr.
Braddon, Sir Edward Moore, Mr.
Brown, Mr. O'Connor, Mr.
Carruthers, Mr. Peacock, Mr.
Deakin, Mr. Reid, Mr.
Fraser, Mr. Turner, Sir George
Fysh, Sir Philip Walker, Mr.
Henry, Mr. Zeal, Sir William

NOES.
Clarke, Mr. Gordon, Mr.
Cockburn, Dr. Grant, Mr.
Dobson, Mr. Higgins, Mr.
Douglas, Mr. Kingston, Mr.
Downer, Sir John Trenwith, Mr.
Pair-Aye, Mr. Wise; No, Mr. Isaacs.

Question so resolved in the affirmative.

Mr. BARTON:
I wish to make an explanation with reference to the division before the last one. My hon. friend Mr. Symon had to go away, and he asked me to pair with him on the amendment. I incontinently forgot the pair. It does not much matter, as there were only five or six "noes" but it is only right that I should explain that I voted by pure inadvertence.

Sir JOHN DOWNER:
I hope the subsection will be rejected. As it stands now I consider it is a re-affirmance of a very bad law, both internationally and domestically, and I can only hope that as this subject was introduced for the purpose of making a concession to South Australia, and as South Australia is very clear that she will be worse off under this supposed concession than she is at the present time, the sub-section will be rejected. We shall at all events stand as we were before, and not affirm legislatively that we have received a concession. Mr. Carruthers made a speech in which he asserted with transparent clearness the right of New South Wales to take whatever water was in their territory whether we had a right to it or not. His selfishness on
behalf of his colony is so clear that one does not want to discuss the
subject. On behalf of the representatives of South Australia-I think I may
speak on behalf of my fellow representatives-they wished this subject to be
introduced to obtain a settlement of a long-vexed question which they, as
true-hearted federationists, feared in the future may be a constant source of
trouble. However, we refuse to admit that any concession at all has been
made by the colonies from which we asked and expected it.

An HON. MEMBER:
Did you expect it?
Sir JOHN DOWNER:
We did expect that they would treat us no worse than if we had been
enemies instead of friends. They have taken a position which instead of
making our position stronger renders it weaker. I hope that both the New
South Wales and Victorian representatives, who profess to be giving a
concession, will accept the assurance that we have had none, and will not
assist in putting us in a worse position than before. I hope this will be
struck out.

Sub-section agreed to.
Sub-section 32 read and agreed to.
Sub-section 33 read and agreed to.
Sub-section 34 read and agreed to.
Sub-section 35 read and agreed to.

Clause 51-The Parliament shall, subject to the provisions of this
Constitution, have exclusive powers to make laws for the peace, order, and
good government of the Commonwealth with respect to the following
matters:

I. The affairs of the people of any race with respect to whom it is deemed
necessary to make special laws not applicable to the general community;
but so that this power shall not extend to authorise legislation with respect
to the affairs of the aboriginal native race in any State.

II. The government of any territory which by the surrender of any State
or States and the acceptance of the Commonwealth becomes the seat of
Government of the Commonwealth, and the exercise of like authority over
all places acquired by the Commonwealth, with the consent of the State in
which such places are situate, for the construction of forts, magazines,
 arsenals, dockyards, quarantine stations, or for any other purposes of
general concern:

III. Matters relating to any department or departments of the Public
service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth:

IV. Such other matters as are by this Constitution declared to be within the exclusive powers of the Parliament.

Mr. DEAKIN:

I have now the opportunity of pointing out to the Drafting Committee, as already instructed by the Constitutional Committee, at my instigation, that they ought to look into the question as to whether the first sub-section, giving power to the Federal Government to regulate the trade and commerce of the Commonwealth, does not take away unintentionally from the several States the power, which each of them undoubtedly possesses at the present moment, of regulating and of absolutely prohibiting the importation of alcohol and opium or other imports calculated to be injurious to the State. Such powers exist in each colony at the present time. There are a series of American decisions which decide that power to regulate trade and commerce with other countries, having been given to the federal authority, it is not in the power of any State to do so, without an Act of the federal authority, authorising them to prohibit. In the decision of Brown v. Maryland, 12 Wheat., page 419, it was determined that the State of Maryland had no power to prevent the introduction of goods from abroad the sale of which was prohibited in the State. In a later case Bowman v. the Chicago and North Western Railway Company, 125, U.S.L.R., page 465, the importation from, one State to another, that is to say, from a State in which there was no prohibition to a State in which there was, was held not to be capable of prohibition, for the same reason that it was an interference with the sole power of Congress to regulate trade and commerce. In the historical case of Lesley v. Hardin, 135, U.S.L.R., 100, it was decided that liquor introduced as an original package imported from abroad could be sold in a prohibition State in the original package. In consequence of this the Wilson Act was passed in 1890, by which the Federal Parliament re-endowed the several States with power to prohibit the introduction of alcohol or opium even if in original packages.

Mr. BARTON:

The Drafting Committee were of opinion that the clause about-

Mr. GRANT:

I draw attention to the state of the House.

The house having been constituted,

Mr. BARTON:

It is now twenty minutes to 12, and I do not propose to sit until 12 o'clock, but we have sufficient time to deal with the subsection.
The CHAIRMAN:
The only question which can be dealt with, and that is by special leave, is sub-section 1.

Mr. BARTON:
If we carry that I will report progress. The point Mr. Deakin has raised will come in more properly with regard to the sub-section dealing with the freedom of trade. The Drafting Committee will frame a clause if Mr. Deakin will move it.

Sir GEORGE TURNER:
I desire to ascertain the meaning of the word "country." Supposing Queensland and Western Australia do not come into the Federation, they are not State;. Are they countries?

Mr. BARTON:
Yes.

Sir GEORGE TURNER:
I very much doubt it. Would it not be better to insert the word "colony."
Clause as amended agreed to.

Progress reported.
ORDER OF BUSINESS.

Mr. REID:
It would be a great convenience to myself if the financial clauses were taken on Monday, as I am afraid I will have to leave on Wednesday. I think it would be more satisfactory to the Convention if I were present during the discussion.

Mr. BARTON:
There is nothing until the end of the part which need cause debate except clause 51. Then there are two or three clauses dealing with the Royal assent and such matters which are formal. That will take us to the end of the chapter, and I then propose to postpone the part dealing with the Executive Government and the judiciary, and that will bring us to the financial clauses.

Mr. REID:
That will suit me very well.
ADJOURNMENT.
The Convention, at 11.45 p m adjourned until Monday, at 10.30 a.m.
Monday April 19, 1897.

Commonwealth of Australia Bill - Adjournment.

The PRESIDENT took the chair at 10.30 a.m.
COMMONWEALTH OF AUSTRALIA BILL.
In Committee.
Clause 51.- The Parliament shall, subject to the provisions of this Constitution, have exclusive powers to make laws for the peace, order, and good government of the Commonwealth with respect to the following matters:

I. The affairs of the people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community; but so that this power shall not extend to authorise legislation with respect to the affairs of the aboriginal native race in any State.

II. The government of any territory which by the surrender of any State or States and the acceptance of the Commonwealth becomes the seat of Government of the Commonwealth, and the exercise of like authority over all places acquired by the Commonwealth, with the consent of the State in which such places are situate, for the construction of forts, magazines, arsenals, dockyards, quarantine stations, or for any other purposes of general concern:

III. Matters relating to any department or departments of the Public Service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth:

IV. Such other matters as are by this Constitution declared to be within the exclusive powers of The Parliament.

Sub-section 1.

Mr. HIGGINS:

According to the first sub-clause:
The Parliament shall, subject to the provisions of this Constitution, have exclusive powers to make laws for the peace, order, and good government of the Commonwealth with respect to the affairs of the people of any race with respect to whom it is deemed necessary to make special laws,

and so forth. I confess I do not like the expression. I do not think it carries out the idea. It is the same phrase that is used in the Bill of 1891. I apprehend it is to provide for the Parliament dealing with the kanaka question for, instance. I would suggest that the object of the clause is not to allow the Federal Parliament to deal with the affairs of the kanakas, but rather with the relations of the kanakas towards Australia, and the
difficulty to which they may be-

Mr. O'CONNOR:

It is included in emigration and immigration.

Mr. HIGGINS:

I apprehend this first clause relates to the same thing. It strikes me the words here are apt to lead to questions hereafter as to the extent with which the Federal Parliament may deal with the important question of the exclusion of the kanakas. It may be said this gives the Federal Parliament power to deal with the affairs of kanakas in their own islands. I want to make it clear, and would suggest that the words at the beginning:

The affairs of the people of
be left out. It will then read:
With respect to any race.

Mr. REID:

It does not make the slightest difference which way you put it.

Mr. HIGGINS:

No doubt the Premier of New South Wales has made up his mind to support it as it is. I have no doubt Mr. Reid has good reason for it. But I consider that I am entitled to put the position as it appears to me. It will make a difference. So far as I can see, it is liable to misconstruction. It is a matter, however, which I would rather leave to the Drafting Committee, because no one more than I realises how important it is not to interfere with the drafting. But it is our duty to call attention to what, to my mind, will be an ambiguity.

Sir JOHN DOWNER:

The words are quite sufficient as they are. I cannot see that the alteration suggested by the hon. member will make the slightest difference.

Mr. O'CONNOR:

This is Sir Samuel Griffith's clause. He had a special knowledge of the matter.

Sub-section I as read agreed to.
Sub-Section 2 as read agreed to.
Sub-section 3.

Mr. ISAACS:

As regards this third sub-section, I am sorry that my hon. friend Mr. Barton is not here. I asked the question on a previous clause with regard to taxes on exports. This subclause deals with matters relating to departments the control of which is to be transferred to the Executive Government of the Commonwealth. We find by clause 67 that that includes Customs and excise. I want to refer for the consideration of my hon. friends opposite to
the matter of taxes on exports. I think on consideration that my hon. friend Mr. Barton will find that the interpretation he was disposed to attach to the expression in the American Constitution restraining the imposition by Congress of taxes upon exports upon any article is not confined to exports between States. The particular subclause to which he has regard in the American Constitution as to the proposed tax is put quite distinctly from subsequent paragraphs, and I think is so dealt with in American works on taxation. Judge Cooley's work, on page 38, deals with the subject. The extract I shall give is very short, and I will read it so that it may be referred to afterwards:

Taxes on exports. These, if the articles exported are a necessity to foreign countries, tend to transfer to such countries a part of the burden of supporting our own government. If not a necessity they diminish exportation and production. In either case they will usually be impolitic: in the latter, almost certainly, and in the former by inviting retaliatory legislation by the countries affected. In this country the States cannot levy export duties without the consent of Congress, except for the purpose of inspection, and Congress is also, prohibited to lay any tax or duty on articles exported from any State.

And that is apparently the view of American jurists, and the same idea is in Story and Burroughs. Reading the Constitution with the aid of these, there seems an absolute prohibition, apparently well-established in the Constitution, against putting export duties upon any articles exported from any State anywhere, and the reason of it, after reading the debates of the Philadelphia Convention, will be seen to be this, that it was considered, as regards various States exporting articles of different classes, it would be impossible for Congress to levy uniform export duties upon those exports with equal justice to the various States, and that therefore any such tax would unfairly prejudice the various States That was exactly the same matter I was referring to the other day, when I said that the Parliament might put a tax on the export of Tasmanian apples or Victorian butter, or New South Wales coal or wool; and it was the view of the majority of the Philadelphia Convention that Congress should be restrained from putting export duties at all upon the produce of the States. The idea apparently was that if there were to be any export duty at all, the State should be allowed to put it on as advancing its own interests, but only with the consent of Congress, as protecting the general welfare, and not to allow Congress to interfere with the production of the States and their exports to foreign countries at all.

Sir JOHN DOWNER:
I have taken a note of it.
Sub-section, as read, passed.
Sub-section 4, as read, passed.
Clause, as read, passed.
Clause 55.-Royal assent to Bills.

Mr. ISAACS:
I apprehend a note has been taken of the alteration that has been made in the word "law," and that it will be altered right through.

Mr. O'CONNOR:
That will be done as a matter of course.
Clause, as read, passed.

Clause 56.-Disallowance by Order in Council of law assented to by Governor-General. As read, passed.

Clause 57.-A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent, the Governor-General makes known by speech or message to each of the Houses of The Parliament, or by Proclamation, that it has received the assent of the Queen In Council.

An entry of every such speech, message, or Proclamation shall be made in the Journals of each House.

Mr. REID:
I am inclined to think the period of two years is a long one to keep the Commonwealth in suspense as to whether the proposed law which it has passed is to become a law or not. I move:
To strike out "two years" in the second line of the clause with the view of inserting "one year in lieu thereof.

Mr. LEWIS:
I hope the amendment will not be agreed to without consideration. "Two years" is the maximum within which the Queen's pleasure may be announced, and it may be necessary for a considerable time to elapse in correspondence backwards and forwards. Only within the last two years a Bill passed through both Houses of the Tasmanian Parliament was reserved for the signification of Her Majesty's pleasure. It was a Bill dealing with foreign companies. The Bill was sent to England, and was there referred to the Board of Trade. Their views were recorded and sent to Tasmania. A lengthy correspondence followed, and I believe it was considerably more than a year before the Queen's assent was given to that measure. Something of the same sort might happen again; as "two years" is only a maximum time, I hope the words will not be altered.

Mr. ISAACS:
I think Mr. Reid overlooks one important consideration. In the previous clause the period is "one year."

Mr. REID:
I have not overlooked that.

Mr. ISAACS:
In the previous section it is provided that if the Commonwealth Parliament passes a Bill the Queen's power of disallowance shall not extend beyond one year.

Mr. REID:
We all understand that.

Mr. ISAACS:
This clause relates to a Bill which is reserved for Her Majesty's assent. "Two years" does not seem to me to be too long. It is the time which has been in force for many years.

Mr. REID:
It used to apply at a time when it took 120 days for a mail to arrive here from England.

Mr. ISAACS:
My hon. friend's amendment would limit the power of the Commonwealth.

Mr. REID:
It hangs a law of the Commonwealth up too long.

Mr. ISAACS:
Suppose, in the case that Mr. Lewis has referred to, it had been necessary for the Home Government to consult or correspond with other countries with which they had treaty obligations. There would be a long correspondence be-

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tween the Colonial Government and the Home Government, and perhaps replies and re-replies, and then communication between the Home Government and the foreign Government; and if one year happened to elapse without the matter being definitely settled, all our work in the two Houses of the Federal Parliament would be thrown away and have to be gone through again. There can be no harm in keeping in "two years," while to limit that time would limit the powers of the Commonwealth.

Mr. KINGSTON:
I agree with Mr. Reid, and think that the only effect of curtailing the time will be that we shall get the assent sooner, and prevent the matter being hung up. I had some knowledge of the matter to which Mr. Lewis has referred, and it strikes me that if there had been this alteration then the sole effect would have been that be would have got the assent earlier.
Sir GEORGE TURNER:

He might not.

Mr. GLYNN:

I would like to see all the clauses the same in this matter, and that if an Act of Parliament is not disallowed within a certain time it shall remain law. But we have throughout the Bill made the word Parliament to include the Queen, whereas in England it does not now really include the Queen. We are really fixing the Queen still as a legislative power of the realm. although constitutionally the position of the monarch in that respect has been dead for the last 200 years.

Question-That the words "two years" proposed to be struck out stand part of the clause-put. The Committee divided.

Ayes, 17; Noes, 16. Majority, 1.

AYES.

Abbott, Sir Joseph Higgins, Mr.
Braddon, Sir Edward Isaacs, Mr.
Brown, Mr. Lewis, Mr.
Carruthers, Mr. Moore, Mr.
Clarke, Mr. Trenwith, Mr.
Dobson, Mr. Turner, Sir George
Fysh, Sir Philip Walker, Mr.
Grant, Mr. Wine, Mr.
Henry, Mr.

NOES.

Berry, Sir Graham Glynn, Mr.
Cockburn, Dr. Gordon, Mr.
Deakin, Mr. Holder, Mr.
Douglas, Mr. Kingston, Mr.
Downer, Sir John McMillan, Mr.
Fraser, Mr. O'Connor, Mr.
Peacock, Mr. Symon, Mr.
Reid, Mr. Zeal, Sir William

Question so resolved in the affirmative.

Clause agreed to.

Clause 58-Executive power to be vested in the Crown.

Mr. REID:

It was arranged that this chapter should stand over until after the chapter on finance has been considered.

Sir JOHN DOWNER:

I will move:

That chapters 2 and 3 be postponed till after the consideration of chapter
4.

Question resolved in the affirmative.

Clause 79—All duties, revenues, and moneys raised or received by the Executive Government of the Commonwealth, under the authority of this Constitution, shall form one Consolidated Revenue Fund to be appropriated for the Public Service of the Commonwealth in the manner and subject to the charges provided by this Constitution.

Mr. MCMILLAN:

There seems to be a general desire that some statement should be made with regard to the work of the Finance Committee of an explanatory character. During the course of our debate on finance and trade, the work of the Committee will practically begin from clause 87; and, in order to avoid a general, debate at the beginning, I should be inclined to ask your indulgence until we come to clauses 87, 88, 89, and 90, which are really the most important part of the work of the Committee. The other clauses do not exactly admit of the same detailed debate.

Sir JOHN DOWNER:

I move a little alteration. As the clause stands it would cover loan moneys, and of course we do not want that. We do not want loan moneys to form part of the consolidated revenue fund to be appropriated for the public service of the Commonwealth.

Mr. ISAACS:

They form part of the public accounts.

Sir JOHN DOWNER:

I propose:

That the words "duties" and "moneys" be struck out and "profits" inserted instead of "moneys."

So that it would read:

All revenues and profits raised or received by the Executive Government of the Commonwealth, &c.

We do not want to have loan moneys included.

Mr. PEACOCK:

What are profits?

Mr. SYMON:

Are they not moneys you have received?

Sir GRAHAM BERRY:

Why not let it stand as it is?

Sir JOHN DOWNER:

Because we do not want loan moneys taken into the revenue for the purposes of the Commonwealth.
Mr. REID:
Why not insert a proviso at the end of the clause:
Provided always that moneys raised by loan shall be passed to the credit
to the Loan Account.

Sir JOHN DOWNER:
I think it is well to put it shortly I will first propose:
To strike out the word "duties,"
And then:
To strike out the words "and moneys."
Amendments agreed to; clause as amended agreed to.
Clause 80, as read, agreed to.
Clause 81.-No money shall be drawn from the Treasury of the
Commonwealth except under appropriation made by law and by warrant
counter signed by the Chief Officer of Audit of the Commonwealth.

Sir JOHN DOWNER:
I propose:
To strike out the word "by" before I warrant with the view of inserting
the word "under."
It is only a verbal alteration.

Mr. ISAACS:
What is the object of that? It is right as it is. It is appropriated by law and
drawn by warrant. You must leave it as it is.

Sir JOHN DOWNER:
Very well then.
Amendment negatived; clause as read agreed to.
Clause 82.-The Parliament shall have the sole power and authority,
subject to the provisions of this Constitution, to impose customs duties, and
to impose duties of excise upon goods for the time being the subject of
customs duties, and to grant bounties upon the production or export of
goods.
But this exclusive power shall not come into force until uniform duties of
customs have been imposed by the Parliament.
Uniform duties of customs shall be imposed within two years after the
establishment of the Commonwealth.
Upon the imposition of uniform duties of customs all laws of the several
States imposing duties of customs or duties of excise upon goods the
subject of customs duties, and all such laws offering bounties upon the
production or export of goods, shall cease to have effect.
The control and collection of duties of customs, and excise and the
payment of bounties shall nevertheless pass to the Executive Government
of the Commonwealth upon the establishment of the Commonwealth.
The CHAIRMAN:
I will put the clause in separate paragraphs. The question is, that paragraph I be agreed to."

Mr. WALKER:
I ask for information. Perhaps my hon, friend Mr. McMillan will favor us with a definition of the word "bounties" in line 29.

Mr. MCMILLAN:
I should rather be inclined, upon a general question of this kind, to turn to my friend for a definition, as I do not at all pretend to be a higher financial authority than he is. It seems to me that the word "bounties" is a general term which might include almost anything specially done by the Government to induce trade or foster any particular industry. I think the word is general in its application.

Sir GEORGE TURNER:
This clause provides that:
The Parliament shall have the sole power and authority, subject to the provisions of this Constitution, to impose Customs duties and to impose duties of excise upon goods for the time being the subject of Customs duties, &c.

Why should we limit our power to impose excise upon articles which are the subject of Customs duty. I fail to see the necessity of these words. because, it might be that we would deem it to be advisable to have an excise duty on an article which was not subject to Customs duty. If we leave these words in we limit the power of the Federal Government, but if we strike them out we enlarge their power. Unless some strong reason can be shown for the retention of the words, I propose:
To leave out "upon goods for the time being the subject of Customs duties."

The CHAIRMAN:
I would point out that it will be necessary first to strike out the word "and" in line 3 of this paragraph.

Sir GEORGE TURNER:
Then I will move that.
The amendment to strike out the word "and" in line 3 of the paragraph was agreed to.

Sir JOHN DOWNER:
I think the other words ought to remain in. We had a great deal of
discussion in 1891 upon the question of whether they were to impose excise duties on goods that were not the subject of Customs. I think Mr. McMillan, who took a prominent part in the discussion, will recollect the circumstances and the reasons.

Mr. MCMILLAN:

It seems to me that under almost every conceivable circumstance an excise duty would be a sort of counterpoise to an import duty. But you may have an excise proposed upon an article which is not the subject of Customs duty, and perhaps in a Bill of this sort it would be as well not to do anything that would restrict the power of the Federal Parliament.

Amendment—to omit the words "upon goods for the time being the subject of Customs duties"—agreed to.

First paragraph of clause as amended agreed to.

Paragraph 2.

Mr. HENRY:

Hon. members will notice that the exclusive power of levying duties of excise is not to come into force until uniform duties of Customs only have been imposed. In the subsequent clause it states that:

Upon the imposition of uniform duties of Customs all laws of the several States imposing duties of Customs or duties of excise upon goods the subject of Customs duties, and all such laws offering bounties upon the production or export of goods, shall cease to have effect.

Now it is tolerably clear to me that it will be necessary that the uniform excise duties should be imposed at the same time as the Customs duties, because all the existing excise duties would be imposed on that. There is no provision in this sub-section for imposing excise duties.

Mr. REID:

That again is a matter with which the Federal Parliament must be trusted. They will not overlook the fact that the local excise will cease until a uniform tariff is passed.

Mr. HENRY:

But this sub-section states that the exclusive power should not come into force until uniform duties of Customs have been imposed by the Parliament.

Mr. SYMON:

This is only fixing a time.

Mr. HENRY:

I think it is necessary to add after "Customs" "and excise."

Mr. REID:

That is compelling them to impose duties of excise.

Mr. MCMILLAN:
I do not think the excise duties would cease.

Mr. HENRY:
If the hon. member will read the sub-section he will see that they will cease, and we are to be in this position, that the Federal Parliament may not think it necessary to impose uniform excise duties. It is just as necessary that the Federal Parliament should be authorised to deal with excise as well as Customs duties.

Mr. O'CONNOR:
The revenue would cease, and they would have to do something.

Mr. HENRY:
I move to add after "Customs," in line 32, "and excise." I think that will coincide with the ideas of the framers of the Bill.

Mr. SYMON:
May I point out to my hon. friend that this amendment is unnecessary, for the only object of the first sub-section is to confer the sole power of authority on the Parliament, is to impose Customs duties and to impose duties of excise upon goods for the time being the subject of Customs duties, and to grant bounties upon the production or export of goods; that is to say, that there is to be exercised by the Federal Parliament alone a power in substitution for the power previously exercised by the different States. This object of the sub-section is merely to define the time in which this is to come into operation, and there is no obligation imposed on the Federal Parliament to do what the hon. member seems to imagine. It does not say that the Parliament should declare uniform Customs duties, and therefore I think the amendment is not necessary.

Mr. HIGGINS:
I should like to call attention to the wording of this sub-clause, and I have spoken to Sir John Downer on the subject, but he does not appear to see with me that my objection is material. The section has led to considerable criticism as to the expression used. The first subsection says the Parliament is to have sole power and authority to impose Customs duties, and the second says this exclusive power should not come into force until uniform duties have been imposed. The thing is inconsistent and absurd, and the object will be better attained by saying:

But this power shall not be exclusive.

I understand any State can alter its duties until uniform duties have been imposed.

Mr. REID:
I think it will be accepted.
Sir JOHN DOWNER:
   It is exactly the same thing.
Mr. REID:
   Exactly.
Mr. HIGGINS:
   You first say Parliament has the sole power to impose duties, and then
you say the power is not to come into force until uniform duties have been
imposed. I suggest therefore that the words:
   This exclusive power shall not come into force should be struck out, and
that we insert in place of them:
   This power shall not be exclusive.
Mr. ISAACS:
   The way it strikes my mind is this: if we turn to section 50 it is provided
that the Parliament shall have power to make laws for Customs duties and
bounties, and that power comes into force at once. It is a concurrent power.
Clause 82 says they shall have the exclusive power, but that it is not to
come into force until the happening of a certain event. We have this
concurrent power, and as the power provided in this clause does not come
into force until this event happens-
Sir JOHN DOWNER:
   The clause is properly worded.
Mr. ISAACS:
   I think it is.
Mr. HIGGINS:
   The point is that the only power to impose Customs duties is a power to
impose uniform duties; and until uniform duties are imposed a State
Parliament can impose any duties it likes. It follows, therefore, that the
sub-clause should read:
   But this power shall not be exclusive.
Mr. REID:
   Is not that what it means now?
Mr. SYMON:
   Yes.
Mr. HIGGINS:
   No.
Mr. SYMON:
   The governing word is "exclusive."
Mr. HIGGINS:
   I have carefully avoided this question of drafting, but before I submitted
this to the Committee I put it to Sir John Downer. This particular wording
has been criticised by Sir Charles Dilke and others as being weak and
inconsistent, and I suggest that the wording should be put right.

Mr. HENRY:
I ask leave to withdraw my amendment.
Leave granted.

Mr. HIGGINS:
I move to amend the clause
By striking out "This exclusive power shall not come into force," and inserting "This power shall not be exclusive."

Mr. SYMON:
I ask Mr. Higgins not to press this amendment. I do so for this reason: I quite agree that this clause is not drafted with that clearness and precision that it might have been, and at the risk of being considered critical, I may say that the same applies to other clauses as well. We cannot, however, sit as a supervisory Drafting Committee, and, therefore, I ask the hon. member to withdraw the amendment and allow the Drafting Committee to deal with it.

Mr. HIGGINS:
I will withdraw the amendment.
Amendment withdrawn.
Paragraph agreed to.
Paragraph 3.

Sir GEORGE TURNER:
I have a little doubt in my own mind regarding this paragraph.

Sir WILLIAM ZEAL:
Is it about drafting?

Sir GEORGE TURNER:
No. In imposing uniform duties of Customs it should not be necessary for the Federal Parliament to make them commence at a certain amount at once. We have pretty heavy duties in Victoria, and if the uniform tariff largely reduces them at once it may do serious injury to the colony. The Federal Parliament will have power to fix the uniform tariff, and if any reductions made are on a sliding scale great injury will be avoided. Before the clause is passed I should be glad if Mr. O'Connor will say if the fair and true reading of this particular clause is that in imposing uniform duties the Federal Parliament has power to impose them on a sliding scale?

Mr. MCMILLAN:
I think the reading of the sub-section is clear. The reductions may be on a sliding scale, but they must always be uniform.
Paragraph agreed to.
Paragraph 4.
Sir GEORGE TURNER:

This paragraph raises a very important question, that of protecting existing arrangements which have been entered into with regard to bounties. It provides:

Upon the imposition of uniform duties of Customs all laws of the several States imposing duties of Customs or duties of excise upon goods the subject of Customs duties, and all such laws offering bounties upon the production or export of goods shall cease to have effect.

This only provides for laws, but there may be other arrangements for bounties.

Mr. REID:

May I suggest that the point you are raising will come in better under clause 85, which specially provides that in a certain event the local laws as to bounties shall cease. A rider could be added, if a majority agrees to it, protecting these existing arrangements.

Sir GEORGE TURNER:

That is only until uniform duties are imposed. Clause 85 is limited.

Mr. REID:

We are all agreed that the local legislatures should not give bounties, and a rider as to existing contracts would come in better under clause 85, which terminates the local laws.

Sir GEORGE TURNER:

I do not understand the necessity for the two clauses.

Mr. KINGSTON:

Carry this sub-section into clause 85.

Mr. REID:

It is somewhat of a repetition in clause 85.

Sir GEORGE TURNER:

I do not exactly understand the object. I would point out that this only applies to laws offering bounties, and many of them are given by virtue of regulations.

Mr. O'CONNOR:

The regulations are framed under Acts.

Sir GEORGE TURNER:

Of course these regulations are made by virtue of laws. The main point I wish the Committee to consider is with regard to contracts already in existence, or which may be in existence before this Act comes into force, or before the uniform duties of Customs come into operation. I think that where a colony has already entered into arrangements, or where before this Bill becomes law, the colony chooses to enter into an arrangement, that arrangement ought to be protected; otherwise we may have this position,
that by giving a

bounty we have encouraged the starting of some new industry, and if that is to cease suddenly it may mean ruin to that industry. I am not prepared to draft an amendment. I think that is the duty of the Drafting Committee, if they are of the same mind as myself. There is that question, and also the other question whether we will take away from the States the right to give bounties for exports if they so choose. That, however, is another point altogether. What I want to deal with now is that the Drafting Committee will take some steps to draft an amendment to protect the industries that are supported by bounties.

Sir JOHN DOWNER:

The Drafting Committee will be glad to prepare the amendment, which the hon. member wants, but as one of that committee, would vehemently oppose it, because I think it would be dangerous. We would enable a coach and four to be, driven through this Bill, which cannot come into force for some time, and in the meantime, by giving bounties right and left, we would have the policy of free trade handicapped to a great extent. We would be glad to assist the hon. member in framing the amendment, but, so far as the Drafting Committee are concerned, I do not think any one member would support it.

Mr. FRASER:

Undoubtedly existing bounties should be protected.

Mr. PEACOCK:

Certainly.

Mr. FRASER:

And I think they might properly be made a charge on Customs. They are not so extensive that we need strain at them. I quite agree with Sir John Downer that any future bounties might jeopardise the Customs revenue hereafter, and they should not be allowed.

Mr. O'CONNOR:

From now?

Mr. FRASER. Yes; from now.

Mr. O'CONNOR:

There would be no objection to that.

Mr. FRASER:

Each colony should keep faith with the work we are doing, and give no more bounties from now.

Mr. REID:

No one would object to that.
It is absolutely necessary that no harm should be done to existing industries, but only existing bounties should be protected.

**Mr. HOLDER:**

I want to mention an instance. In the Northern Territory we have paid a bonus on the export of cattle. The contract has two years to run, and if Federation came about within that two years, even in spite of that clause South Australia would be compelled to carry out that contract and pay the export bounty—I think a pound a head.

**Mr. FRASER:**

It is no very big matter.

**Mr. HOLDER:**

We ought not to pass legislation here which would have the effect of requiring any of the States to abrogate any contracts they have entered into. There is some force in the statement that the matter should not be left open so that all sorts of bounties may be paid, but we should provide that all contracts should be recognised before the coming into operation of this Bill,

**HON. MEMBERS:**

No. Before this day.

**Mr. HOLDER:**

I wish I was sanguine enough to feel that Federation was so close.

**Sir GEORGE TURNER:**

It will prevent us giving bounties during the next twelve or eighteen months.

**Sir JOHN DOWNER:**

And a good thing, too.

**Mr. HOLDER:**

If we are to provide that it shall be up to to-day a State will have considerable difficulty and delicacy in giving bounties which it may not be able to continue. If it were quite clear that Federation were coming about within a year or two, we might well fix the date; but as it is impossible to say how long it will be it is reasonable to say that up to the date of the issue of the Proclamation bounties may be given. I want to follow Sir George Turner in his desire to leave out the words "or export." It is quite proper to prevent bounties being given by a State for the production of goods that are disposed of in Australia, because that would strike a blow at the very root of equality of trade. But the States should not be prohibited from giving assistance in the production of goods for the foreign market. South Australia has done something in that
direction, Victoria is doing something, and did so before South Australia, and other colonies are contemplating doing something of the kind with the view of promoting the export of colonial produce; and I cannot see at all why we should absolutely prohibit any State from rendering aid from its revenues in that way to develop a particular industry. It may be said that the federal authority should give these bounties, but there are various difficulties in the way of that.

Mr. FRASER:

The Dominion of Canada gives them, and very liberally too.

Mr. HOLDER:

But I want to point out the difficulty of following the example of the Dominion of Canada. Canada includes country not much different in various parts from other parts in its natural character and productiveness.

Mr. FRASER:

Oh, yes; very different.

Mr. HOLDER:

But herein Australasia the conditions are not the same. Supposing, for instance, that it were desired to develop the beet sugar industry in South Australia or Victoria, how could any Federal Government having in view the sugar industry in Queensland give bounties out of its federal funds to develop the sugar beet trade in Victoria or South Australia? The same remark would apply to other industries. Any movement in this direction must be local, or confined to one colony or two colonies; it cannot have a general application. In spite of what has been said, any proposal of a bonus must of necessity be for the benefit of one or two colonies, and cannot be shared by all the colonies, because of the different character of the colonies. Seeing the different character of the colonies, and the different conditions that prevail, each State must be left to develop its own territory, and its own territorial industries. Therefore, if the words "and export" are struck out, I shall be quite prepared to follow the suggested amendment.

Mr. FRASER:

I contend that each colony will have to take the full responsibility of what it is doing, and as each colony will be fully aware of about the date when Federation will come about—if ever it does come about, for it will not come in a night or like a thunderstorm

Mr. SYMON:

It will be like the dawn—not a thunderstorm.

Mr. FRASER:

If each colony should carry on its bounties for, say, one year the producers will not be caught in a trap. I do not think the clause requires any alteration at all.
Mr. MCMILLAN:

I am advised that this question of bounties, of which we are anxious to get a definition, has been made a very close study by the Hon. the Minister of Education in Victoria, and that hon. gentleman may enlighten us on this subject.

Mr. PEACOCK:

I have sent it on to the Attorney-General. You do not have me that way.

Mr. MCMILLAN:

Now, this is a very serious matter. It is a very serious matter to turn our backs on an absolute and complete system of intercolonial freetrade; and I am very much afraid we must either make a sacrifice in some direction or we must trust implicitly to the Federal Government to find a way out of the difficulty. If you once begin to allow certain exceptions to this absolute system of intercolonial freetrade by which the respective States can give bounties, foster industries, and do all sorts of things of that kind, it will be almost impossible to avoid subterfuges which will affect the general principle of intercolonial freetrade. Therefore this seems to be one of those things where we must practically yield to the Government, trusting to them to deal with it on a broad and comprehensive system. With regard to this question brought up by Sir George Turner, it was one of the suggestions made in a memorandum to the Drafting Committee that the respective rights should be preserved, but I agree with other Speakers, that unless we make a definite date, very soon from now-

Sir JOHN DOWNER Make it the date of the beginning of our proceedings.

Mr. MCMILLAN:

It will be impossible to prevent matters being done in contravention of our own Act. It would not do to make it the date of the establishment of the Commonwealth, because in the meantime this work might be going on, and it might be building up huge obstacles in the way of the Federal Treasurer. I think we might make it the first day of the meeting of this Convention.

Mr. TRENWITH:

Make it January, 1898.

Mr. SYMON:

I hope that neither the amendment of Sir George Turner nor that hinted at by other speakers will be adopted. I seems to me that this is striking a much more serious blow at the policy of this proposed Constitution than at first eight appears. To begin with, if we introduce any exceptions at all we are striking a blow at not only the symmetry, but at the essential features of this scheme of intercolonial freetrade. I hope hon. members will not be
carried away by any suggested compromise, which is really not a compromise, but is an evasion of that principle. What is suggested is that first of all we give to the federal authority the power of imposing uniform duties of Customs. That power is to be exercised within two years. They are also to impose uniform duties of excise, and all local duties are to cease. It is also to have the power of granting bounties, and the State power of granting bounties is also to cease. Why should an exception be made in the case of bounties which is not made in the case of Customs or excise? Why are excise or Customs duties, in respect of which large vested interests of the greatest importance have grown up, not to be protected against the onslaught of the Federal Parliament? If you are to trust the Federal Parliament in one respect, surely you can in another. If you are to invade its authority in the direction of bounties, why not in the direction of excise and Customs? In this colony we might have industries which those who happen to be protectionists—and I am not one—may wish to put on a high tariff; and it may be difficult to get the men interested in these particular industries to yield up the control of the duties which protect them to the Federal Parliament. But there will be no more difficulty in that case than in the case of those who want to be privileged to have bounties.

Mr. FRASER:
Bounties are bound by contract.

Mr. SYMON:
So are these. Is it not a matter of parliamentary contract?

Mr. PEACOCK:
That is too fine a point.

Mr. SYMON:
Undoubtedly it is subject to repeal, but no Parliament in the world would play fast and loose with what is entrusted to it, and I for one, freetrader as I am to the very core, would protest against any wholesale or wanton interference with these Customs duties.

Mr. FRASER:
Hear, hear.

Mr. SYMON:
I think it would be dangerous and unjust indeed.

Mr. FRASER:
Hear, hear.

Mr. SYMON:
But it is not more unjust in the case of Customs than of bounties.

Mr. PEACOCK:
Bounties have to be paid for a certain number of years.

Mr. SYMON:
I admit that is so if there are contracts at this moment. We cannot take a better case than that put by Mr. Holder, the existing contract to give bounties on the export of cattle from the Northern Territory. Will anybody suggest for one moment that the Federal Parliament would be so lost to all sense of the solemnity and the binding character of contracts as not to give effect to that?

Mr. Reid:
Hear, hear.

Mr. Symon:
The thing would be absurd. That contract would be protected.

Sir George Turner:
They could not do so if the local laws are to cease.

Mr. Symon:
I look on this as simply transferring the controlling power with regard to bounties from the State to the Federal Government. It is simply a matter of transference, and not a cessation of the bounties.

Mr. Peacock:
Would it leave to the Federal Parliament the power to carry out the contract?

Mr. Symon:
Undoubtedly. If it does not, I have altogether misunderstood the Bill.

Mr. Reid:
It will leave the obligation of the State unimpaired.

Mr. Symon:
If anyone can say it is an intimation to the federal authority to abrogate all existing contracts I think the sooner we tear that page out of this Constitution the better.

Mr. Henry:
If the powers as to bounties are to be uniform, as they must be, how does that affect your view?

Mr. Symon:
If the bounties are to be uniform I do not know whether they will be.

Sir George Turner:
They would be. Look at section 50.

Dr. Cockburn:
Sub-section 2.

Mr. Symon:
Even assuming they would be, the Federal Parliament undoubtedly would have the power to protect existing contracts under the legislation
which imposed these bounties.

**Mr. PEACOCK:**

Why not make certain and put it in?

**Mr. SYMON:**

I should have no objection whatever to that. So far as regards existing contracts, so long as you can frame the words in such a way as not to make an exception to the system which is to be established by this Constitution-

**Mr. REID:**

Hear, hear.

**Mr. SYMON:**

I mean the intention of having a symmetrical and just system of intercolonial freetrade. If we had to make exception as to bounties it ought to be extended to Customs duties, which certainly ought not to be repealed so as to inflict injustice on any person or business. We are entrusting that to the Federal Parliament, and if we are to give them any power in this connection and under the system we are framing, it ought to be to the full width of the scheme which is being established, and we ought not to introduce any exceptions unless it be in the direction indicated by Mr. Peacock: simply to reserve those matters which are the subject, not of legislation, but of special contract, when the Federal Parliament comes to deal with uniform duties. I do not want to save much about striking out the words "or export." I submit it will be a very great mistake to strike those words out. Whilst I appreciate what has been said as to the difference between offering bounties upon production and bounties upon export, still by giving to a State the power of conferring bounties upon exports you may practically cut away from the Federal Parliament the exclusive right which it is to have to give bounties on production. By giving them on exports of local production to foreign parts you indirectly give bounties on production. It might lead to great abuses-to great difficulties between the State Parliaments and the Federal Parliament, and it would be better, as we are desirous to have this as free as possible, and so that causes of irritation and difficulty may be avoided, to leave the clause as it stands.

**Mr. TRENWITH:**

Before you put this paragraph it seems to me this question of how to deal with bounties is of much greater importance than at first eight appears. There are a number of industries, I think, in a new country such as ours is, that are continually appealing to the State for assistance, and it frequently happens that industries of immense importance are incapable of development without State assistance. And if we deprive the States of the power to give bounties for the development of industries within their own
boundaries, we may very materially cripple the States and retard the development of Australia. It just occurs to me now that we give in Victoria every year very large sums for the development of mining. I do not know whether these would be called bounties, and whether the State should be prohibited from giving them.

Mr. Barton:
The words are:
And to grant duties upon the production or export of goods.
That can scarcely apply to mining.

Sir William Zeal:
It cannot apply to mining.

Mr. Trenwith:
Perhaps not. Then we have the iron industry. We have discovered no iron within our borders in Victoria yet but it is assumed that we have large deposits of iron, and it may be in the very near future found expedient to give from the State coffers some encouragement for the development of the iron industry.

Mr. Wise:
How would that work out in regard to New South Wales? We are producing iron, and sending it to Victoria.

Mr. Trenwith:
Suppose this iron industry does not develop to any extent in New South Wales, and she found it expedient, as I think she may, to give some substantial monetary assistance for the development of her iron industry, would it not be a misfortune if she were prohibited by this Constitution from doing so? I am pointing these difficulties out because it is important that we should get over the difficulty by some amendment providing that bounties may be given by the respective States with the consent of the Commonwealth Parliament.

Mr. Walker:
At the expense of the State?

Mr. Trenwith:
At the expense of the State. This is merely a suggestion which has just occurred to me. I have not thought out an amendment, but I do wish to point out one of the hundred and one ways in which this difficulty may confront the various sections of the Commonwealth unless some safety clause is adopted by which, without infringing that freedom of trade between the colonies which we are anxious to achieve, we may at the same time give the greatest possible facility to the States to develop their natural resources. I would strongly urge upon hon. members this view, and suggest to the Drafting Committee the desirability of seeing if some clause could
not be framed by which any infringement of the freetrade we are anxious to achieve should be prevented, and at the same time liberty given to the States within fair and proper limits to develop their internal resources.

Consequential amendment - to omit "upon goods the subject of Customs duties"-agreed to.

Sir EDWARD BRADDON:

Although I agree to the-very fullest extent with Mr. Symon as to the desirability of freeing our trade and commerce in every possible way, I think we ought to pay due regard to those engagements which have been entered into by the different colonies in regard to these bounties. I see a very wide distinction between bounties on the one hand which are a matter of contract between governments and individuals and excise and customs which are not matters decided between contracting parties. And inasmuch as a breach of any contract entered into up to the present time by any one colony with manufacturers or others to whom bounties have been promised, would be an absolute breach of faith which we should not desire to see committed. I will move to add to the sub-section the following proviso:

Provided that this sub-section shall not affect any bounty contracted for prior to March 31, 1897.

Mr. HOLDER:

The hon. member Mr. Symon used with very great effect the argument that any bounties given by the federal authority must be equal. If they could be equal I should say nothing against committing the whole matter to the care and control of the federal authorities; but I want to point out certain instances-three at least-in which any attempt at equality would simply be a pretence, and that equality in respect of the things to which I refer is a matter of impossibility. Supposing, for instance, that a bonus should be given for the export of cane sugar, does not everyone see that that would be a bonus offered to Queensland alone?

Mr. FRASER:

Not necessarily.

Mr. HOLDER:

Supposing that a bonus were given for the export of beet sugar, does not everyone see that that would be a bonus offered to the southern colonies, and that Queensland might suffer a serious disadvantage? Or supposing that a bonus were given for the export of wine, would not that be a bonus from which New South Wales, Victoria, and South Australia might get an advantage, but which the other colonies could not get any advantage from at all?
Mr. FRASER:

Queensland would.

Mr. HOLDER:

Queensland, from wine? Queensland's wine is not very good yet, and is not going to be. Some of the most southern districts of Queensland may be able to produce wine, but I was told by a Queenslander the other day that some people called it wine, but he called it bad vinegar. So far as the greater portion of Queensland is concerned, it is impossible that it can ever become an exporter of wine in any quantity. It is impossible to make this much-vaunted equality work out throughout the Commonwealth, on account of the different conditions under which we live. It ought to be left to each State to provide the funds out of its own revenues, and to deal with this matter as it thinks fit. We leave the question of territory-land with all its associated problems—in the hands of the various States, and what has more to do with the development of the Crown lands and the foundation of the settlement of these lands, as well as enlarging the industries dependent upon th

Mr. MCMILLAN:

You are confining your remarks to export.

Mr. HOLDER:

Yes, and that only. I am pointing out that in these matters we ought to give a free hand to the States, for which I plead for larger freedom.

Mr. DEAKIN:

The question of bounties is important from either aspect. In the first instance, any attempt to impose nominal conditions upon the granting of bounties would, as Mr. Holder points out, be futile. Personally, I do not find that a ground for State alarm, nor do I find the illustration which the hon. member has offered any ground for alarm either. It appears to me that the representation in both Houses will be efficient enough to deal with all the districts included in all the States; and no scheme of bounties would be likely to receive the consent of the Federal Parliament unless there were coupled with bounties which could only be to the advantage of particular portions of the Continent, other bounties offering an equivalent advantage to other colonies. There must be in a colony with such diverse products as those of South Australia, in an even greater degree than in Victoria, where so many experiments of this kind have been made, the proof that bounties are given which affect only small parts of the colony, and yet we have found no difficulty in equalising concessions made to particular districts. I fail to see why the Federal Parliament should not adopt a similarly equitable course.

Mr. HOLDER:
Australasia is a bit bigger than Victoria.

Mr. DEAKIN:

The same principle applies, and therefore I do not see the application of the interjection. All I have to say is that on this and on similar matters we must trust the Federal Government. I am with the hon. member in looking upon the restrictions apparently sought to be imposed by this clause in the matter of bounties as extremely serious. For instance, under the wide wording of this clause I have no doubt, as Mr. Trenwith has pointed out, that the bounties we grant on our gold mining industry might be affected. Only during the last six months our Parliament voted large sums of money to encourage the production of gold, which is mainly exported. It was never intended by the most ardent federalist that there should be the right to interfere with each State in dealing with such industries. If we adopt the suggestion that has been thrown out, following up the clue given by Mr. Holder, we may find a way out of this difficulty. The State need not be prohibited from granting bounties on all goods which are exported and sold abroad. If it is possible to effect freetrade between the different colonies in the group without this restriction, although such a privilege might enable that State to give an advantage to its products abroad over those of the other States of the Commonwealth, it appears to be an unnecessary limitation of State powers to forbid them absolutely on that account. I would rigorously enforce the principle embodied in the 86th clause, that:

Trade and intercourse throughout the Commonwealth shall be absolutely free.

I would make every bounty invalid that in any way attacked the principle laid down in that clause. Provided that this can be preserved, it appears to me there is no necessity for the Federal Government to seek to interfere with the States in granting bounties for every export so long as this freedom is absolutely preserved. This matter is of serious importance, and it should not be left with the mere bare statement contained in this clause, which, with the apparent object of rendering trade and commerce absolutely free, might unnecessarily deprive the States of rights they possess, and ought to possess in the future, of being able to foster their mining and other similar interests.

Mr. REID:

The illustration made as to bounties and export duties, as if they differed from the ordinary principle underlying Customs, seems to me to entirely fail of analogy. For instance, if you offer a premium for the export of a single article, is not that placing, the production of a certain colony in a
superior position to that of another colony which does not offer bounties, and which regards the system as a pernicious one. Will it not affect the position of that colony where there is no such premium or fiscal encouragement? The whole question of bounties is wrapped up in the fiscal policy. Take the case of a protective tariff. If a Parliament honestly goes about its work to pass a protective tariff, will that not be the means of protecting articles produced in only one part of the Commonwealth, and which cannot possibly be produced in any other part? Will not that be a preference to that one particular part of Australia over every other part? But it is entirely justified from a broad protectionist point of view. The protectionists, if their area of view is enlarged will, I am sure, apply the principle just as fairly to products grown in the distant parts of Australia as at their own doors. We must trust the Parliament to carry out the principle, if carried out at all, honestly and fearlessly. Suppose, for instance, there were a protective tariff, it would be the duty of the Parliament to put a duty on coal, and that would benefit only a few parts of Australia. I mention this as one of thousands of instances to show that we must trust to the Federal Parliament to fairly and honestly and fearlessly do their work. On their broad principle the protectionists allege that anything that will benefit a particular part of the Commonwealth will benefit the whole, but it appears to me, if we are handing over the paramount power of the fiscal policy, we cannot allow the different colonies to apply the fiscal experiment for themselves. The result would be that, in self-defence, colonies would be compelled to adopt a policy which they might thoroughly repudiate. If one colony sets itself to work to encourage an industry by bounty it is clearly the duty of others to interfere. If one colony is allowed to, in this way, alter the conditions of production of any article it will alter the conditions of production throughout the whole Commonwealth, and in consequence people who may disapprove of the policy may be forced in self-defence to offer similar bounties in their own colonies.

Mr. DEAKIN:  
You do not object to grants in aid to mining?

Mr. REID:  
They cannot come under the operation of the clause, as mining or local enterprises do not fall within the meaning of the words "finance and trade." What has the development of a gold mine to do with trade and finance in the ordinary acceptance of the word?

Sir GEORGE TURNER:  
You cannot apply it to coal mining.
Mr. REID:
I do not see how it can be applied. The premium for the discovery of mines or of gold at a certain depth surely does not come under a clause of this kind. If it does, we can safeguard it. I do not much object to Mr. Trenwith's proposal that a State should have the power to offer bounties with the consent of the Commonwealth.

Mr. SYMON:
That is only the power of the Federal Parliament over again.

Mr. REID:
I do not object to elasticity where it is safeguarded. The basic principle on which we are acting is the withdrawal of the right of States to offer bounties. Existing contracts are quite different things. I am quite sure that no court of law, on the face of the words of the section as it stands, would decide that it abrogated existing contracts. It would want much stronger words than these to do so, especially when work has been done.

Sir GEORGE TURNER:
It may not be done.

Mr. SYMON:
The word is "law."

Mr. REID:
If you destroy the root you destroy the tree. In spite of that I do not think any court would hold any contract to be void without express terms. At the same time I think the clause should be altered, and I am quite agreeable to the amendment of Sir Edward Braddon, which will protect every bounty which has been established up to the present time. We must all admit, now that we are on the brink of knowing whether we are to have Federation, that we should hold our hands as far as possible, and Sir Edward Braddon's amendment may be safely introduced. It would recognise a just principle, and leave the obligation of paying the bounty on the State which imposed it, whereas the effect of the words in the clause-I would draw Mr. Barton's attention particularly to this-would lay the obligation of the payment of the bounties imposed by any State on the Federal Government, although the bounty was established by a local body in its own interests, and the benefit would probably be reaped by the community which imposed it. I do not think the Commonwealth should be saddled with such payment.

Sir GEORGE TURNER:
That should not be done.

Mr. REID:
I am quite in favor, as every honest person must be, of protecting existing contracts. It is a question of morality, and I think Sir Edward Braddon's amendment would make it plain. I believe that without his amendment they
would be protected, but I do not think we should object to a few words if they have the effect of making it clearer. They would certainly remove any anxiety from the minds of those who have expended money on the strength of the bounties. I would point out to Mr. Barton that the responsibility of paying a bounty should remain on the State which imposed it.

Sir EDWARD BRADDON:
My hon. friend Mr. Symon has suggested a better form of wording for my amendment, and it is this:
But any contract subsisting with any State on the thirty-first of March, one thousand eight hundred and ninety-seven, under which bounties are given by such State shall not be impaired.

Sir GEORGE TURNER:
If you put that it will shut Mr. Holder out. He comes before that.

Mr. BARTON:
He has not put an amendment.

Mr. DEAKIN:
I think the answer of the Premier of New South Wales in regard to this is sufficient. I do not see how we can preserve what I desire to preserve without running grave risks. What I now suggest is that the object I had in view might be partially met by adding the words:
Wares and merchandise
after
Goods.
This would help to show that gold mining is not intended to be included. We want some definition of the word "bounty," or some understanding that it is to be read in connection with the clause providing for freedom of trade and commerce. What is wanted is a prohibition against a State interfering with clause 86, providing for the absolute freedom of trade and commerce. Subject to, that one important qualification we need not hamper State action in this regard.

Mr. BARTON:
I think there is something in what my hon. friend Mr. Deakin has suggested as to adding the words "wares and merchandise" after "goods."

Mr. DEAKIN:
It was Mr. O'Connor's suggestion.

Mr. BARTON:
It has occurred to Mr. O'Connor and myself that a bounty would not be a reward for the discovery of a goldfield.

Mr. PEACOCK:
Would goods, wares, and merchandise cover gold productions?
Mr. DEAKIN:
It narrows the meaning.

Mr. BARTON:
If Mr. Deakin's suggestion were adopted the Chairman might have permission, as he had before, to make the addition of the words where necessary.

Mr. DEAKIN:
I have pleasure in moving that, as I understand my hon. friend does not desire to move amendments-

Mr. KINGSTON:
The control and collection of duties of customs and excise, and the payment of bounties shall nevertheless pass to the Executive Government of the Commonwealth upon the establishment of the Commonwealth.

The word "nevertheless" shows that this paragraph was intended to follow the second paragraph:

But this exclusive power shall not come into force until uniform duties of Customs have been imposed by the Parliament.

It would be better to have paragraphs 3 and 4 dealing with the position of affairs on the imposition of a uniform tariff in clause 86 than in this one, which simply deals with the powers of the Commonwealth in various respects. As it is now the paragraph is out of place.

Mr. BARTON:
There are now five paragraphs instead of four as in the 1891 Bill.

Mr. KINGSTON:
I am now suggesting to the Drafting Committee that we ought to deal in one broad and comprehensive clause with what will be the position of affairs upon the adoption of a uniform Customs tariff. There are at present two provisions on the subject introduced in two different places, and it would be much better that they should appear together. Clause 82 should be more properly confined to dealing with the power of the Commonwealth with reference to various matters, and as to what happens when that power is exercised in a certain way we might put it where we find a similar provision on the subject in section 86, which deals with what is the position upon the adoption of a uniform tariff.

Mr. BARTON:
Would it be sufficient if we obtained a transposition of this subclause and put it next after clause 86?

Mr. KINGSTON:
It seems to me that section 82 more properly deals with the powers of the
Commonwealth with reference to various matters, that clauses 83 and 84 deal with incidental matters, clause 85 deals with what is to happen until uniform duties are imposed, and that clause 86 deals with what shall happen so soon as the powers referred to as regards the imposition of uniform duties have been exercised by the Commonwealth.

Mr. BARTON:
I will look into these matters. Notwithstanding the able draughtsmanship of the 1891 Bill, there are several clauses not quite in their right place in it, and it would be well to alter their order. The Drafting Committee will look into that matter, and at the end of the proceedings will ask hon. members to give their attention to such alterations as they may suggest. It will be better to transpose some of the clauses. With reference to Sir Edward Braddon's amendment, which is put in a better form than that suggested by Mr. Symon, I do not think there is any actual necessity for it. I find in Maxwell on "Interpretation of Statutes," 1st edition, page 192, this passage:

It is where the enactment would prejudicially affect vested rights, or the legal character of past Acts, that the presumption against a retrospective operation is strongest. Every Statute which takes away or impairs vested rights acquired under existing laws, or create a new obligation, or imposes a new duty, or attaches a new disability in respect of transactions or considerations already past, must be presumed, out of respect to the Legislature, to be intended not to have a retrospective operation. Thus the provision of the Statute of Frauds, that no action should be brought to charge any person on any agreement made in consideration of marriage, unless the agreement were in writing, was held not to apply to an agreement which had been made before the Act was passed. The Mortmain Act, in the same way, was held not to apply to a devise made before it was enacted. So it was held that the Act of 8 & 9 Vict., c. 106, which made all wagers void, and enacted that no action should be brought or maintained for a wager, applied only to wagers made after the Act was passed.

Sir GEORGE TURNER:
There is no doubt about those cases, I should say.

Mr. BARTON:
In subsequent editions these examples are multiplied. The principle underlying the matter is this: that a court in construing an Act assumes that Parliament never intended to do a thing which is unjust. I am quite sure that Mr. Symon will agree that the provision is not necessary.

Mr. SYMON:
Hear, hear.

Mr. BARTON:
There need not be the least fear that any court of justice would so
interpret the provision as to apply to anything made before the law took
effect. But there is something in the amendment which, of course, must not
be overlooked, and that is that it imposes a limitation as to time which may
be most valuable; that is to say, it would prevent anyone belonging to any
State from so arranging contracts under a system of bounties-if the
probability of this Convention resulting in Federation were ascertained-
which would have the effect of enabling contracts mountains high to be
heaped up which the Commonwealth would have to allow to continue. I
should like to endorse very strongly what has been said by Mr. Reid with
reference to the argument used by Mr. Holder. The object of a bounty is
the encouragement of the production of an article ascertained to be
producible in a country in the same way as you would encourage its
production by placing an import duty upon it. If you are to consider that the
question of a bounty on sugar, the produce of Queensland, is only of
interest to Queensland and that Queensland alone should bear the expense
of it, then it follows that a protective duty on that article would be a matter-
though it would be paid by the rest of the colonies-which

would be of interest to Queensland alone, and therefore of no interest to the
Commonwealth. The two arguments must go together; that is to say, what
is said about the policy of a bounty must apply to the policy of an import
duty. Take the case of iron in the United States. If the United States had
placed enormous bounties on the manufacture of iron, and had not made
high duties having for their object the encouragement of its production, it
would have been arguable that those who favored the production of iron by
an import duty were taxing the whole of the United States for the benefit of
the State of Pennsylvania. The argument may be held by protectionists to
fail in one respect, because there was a national importance in the
production of iron which outweighed the payment of the duty by the whole
community; and so with a bounty, extend your area, as you may. If New
South Wales puts a heavy duty on sugar, principally produced in the
Clarence, Richmond, and Tweed districts, it is argued that New South
Wales is taxing the whole of her inhabitants to enable the production of
sugar to be carried on in one portion of her territory. That may be urged,
but on the other hand it is urged that this is an industry of importance to the
national entity, and the encouragement of it in that way is arguable
precisely in the same way. My argument applies to bounties, and it has its
application even if you extend the area to which it applies. The federation
of Australia into a Commonwealth for fiscal purposes does not affect the
argument. If the industry is sufficiently important to be encouraged, the
same argument applies to the imposition of a duty as to the offering of a
bounty. It would be as much an infringement of the principle of equality of trade and fair play all round to allow a State to continue to offer bounties as to continue to impose duties. The suggested amendment of Mr. Trenwith partially meets, but does not wholly answer, that argument, because if the Commonwealth allows a State to go on offering bounties it is the same as if it allows a State to go on imposing duties on goods. One cannot be allowed any more than the other, but if it is sufficiently important for the whole of the Commonwealth, on the ground of national importance, the Commonwealth would be justified in imposing an import duty or offering a bounty.

The CHAIRMAN:
Do I understand that Mr. Barton presses the amendment as to wares and merchandise?
Mr. BARTON:
Yes; I should like to press it. I ask to have it put in at the end of line 38.
Sir GEORGE TURNER:
That will probably shut Mr. Holder out.

The CHAIRMAN:
Mr. Holder has given notice of an amendment which comes at the end of the clause.
Mr. HOLDER:
I am afraid I am precluded from moving that just now because I understand Sir Edward Braddon has one which comes before it.

The CHAIRMAN:
Several amendments have been indicated, but I have not put any yet.
Mr. HOLDER:
Mr. Deakin is moving in the direction in which I am very anxious to see some action taken, but I wish to suggest to him that the first sub-section is the one which really declares that the Federal Parliament shall have the sole power of authority.
Mr. DEAKIN:
Hear, hear. I was referring to that.
Mr. HOLDER:
But to make that alteration in sub-section 4 would not accomplish the purpose Mr. Deakin has in view.
Mr. DEAKIN:
I quite see that.
Mr. HOLDER:
It would be better if the hon. member could introduce an amendment to modify the effect of sub-section 1, whereas the addition of words to the words already existing would rather leave the difficulty unmet. If we leave out the word "goods" and insert the word "merchandise," well and good, but if we leave in the word "goods" and add by way of amplification some further items, we shall get very wide of the mark. While I admit the weight of what Mr. Reid and Mr. Barton have said as to the close relationship between bounties and Customs duties, I would strongly press the point that this question of bounties has everything to do with the development of our territory.

Mr. KINGSTON:
Hear, hear.

Mr. HOLDER:
We have large areas of land, the price of which, the value they are to the State Governments, and the extent to which population is settled on them, and to which production is encouraged, depend on the power of the State to grant these bounties. The practical advantage in leaving the States free in these matters is sufficiently great to justify us in departing from some of that scientific accuracy which some hon. members—at least on this occasion, though not on others—have urged upon us.

Mr. DEAKIN:
Perhaps it would be the simplest course if I were given leave to move to insert in line 30-

The CHAIRMAN:
I do not think we can go back.

Mr. BARTON:
If we put it in line 38, we can authorise you, sit, to go back and make the consequential amendments, as we did with regard to the words States Assembly and Senate.

The CHAIRMAN:
I will put it to the Committee, and if they are unanimous, we can go back.

Mr. REID:
I was going to make a suggestion which might remove all these difficulties about the mining matter. Supposing we put in the word "trade" in front of the word bounties in line 38, that would clearly exempt the mining industry.

Mr. BARTON:
Has that word any well-known technical meaning?

Mr. REID:
It will mean a bounty with the object of promoting trade, which would be export, or import, or local consumption. Clearly no one can consider such an expression as prohibiting a bonus for the development of the mining industry. The expression "trade bounty" covers all we want in this clause; it is used as a general expression covering every bounty on an object.

Mr. SYMON:
I think neither of these amendments will carry out the objects of the movers. They are not clear.

Mr. REID:
There is nothing clear about it.

Mr. SYMON:
If we put in "trade" before "bounties," it does not, to give a concrete instance, include the power of Victoria to give large bounties on the export of coal.

Mr. REID:
That would be a trade bounty surely?

Mr. SYMON:
You do not wish to exclude that?

Mr. HIGGINS:
Oh, no.

Mr. SYMON:
If you aim at giving bonuses for mining discoveries and purposes of that kind, it will be very much better to secure it by way of a proviso, either here or at the end of the clause, as suggested by Mr. Kingston, than to do it as has been suggested; as it would give rise to a great deal of ambiguity, involving much difficulty in interpretation. I cannot see what possible gain you get by putting in the words "wares and merchandise." That is simply an amplification of the word "goods." Therefore, what I suggest to my hon. friend to do is to propose what he wants done as an exception, and then in dealing with that exception we might have other matters in view. I would suggest the use of language that would cover our wishes. To put in "wares and merchandise" is to use language already covered.

Dr. COCKBURN:
I have already twice called attention to the importance of this matter, once in the Convention and once in this Committee. It is all very well to provide for the further development of our mining industry, but it is also necessary to provide for the development of other industries; and I feel that if we give the sole power of granting bounties to the Federal
Parliament we shall practically abolish the giving of bounties altogether. I cannot imagine a case in which the Federal Parliament would grant a bounty. Unless those who advocated a bounty in the Federal Parliament were able to point to some part of the Commonwealth where a similar bounty has been given with success, it would have no chance of being carried. I think this matter of granting bounties should be a concurrent power, to be exercised by the Federal Parliament if it chooses to do so, and to be exercised also by the State Parliaments. I propose:

That at the end of this sub-section the words be added, "If in the opinion of the Inter-States Commission they derogate from equality of trade."

Sir GEORGE TURNER:

We may not have an Inter-States Commission.

Dr. COCKBURN:

Then if we do not, the clause may be recommitted. I am sure that Sir George Turner and the other hon. members who come from Victoria will see the importance of this, because Victoria has earned a debt of gratitude in this respect from the whole of Australia. Victoria has really led the way in Australia, and has shown what a good influence may be exercised by the judicious granting of bounties.

Sir GEORGE TURNER:

Are we justified in doing that with a uniform tariff?

Dr. COCKBURN:

Yes; I think there are many cases in which the granting of a bounty will not interfere with equality of trade.

Mr. DEAKIN:

What do you mean by equality of trade?

Dr. COCKBURN:

Supposing there was a bounty for exports outside the Commonwealth, there cannot be any disadvantage to anyone within the Commonwealth. I do not think the granting of a bounty on butter, for instance, did anything but good to the whole of Australia.

Mr. SYMON:

The Federal Parliament could do it.

Mr. REID:

I wish Victoria had extended it to us.

Sir GEORGE TURNER:

You are so far behind the age that no bounties would do you any good.

(Laughter.)

Dr. COCKBURN:

There are some bounties which would derogate from equality of trade, but there are others which would not. This is really a matter of vital
importance; it is one of the most important questions we have had before us—that is of the minor questions—and we should do everything we can to avoid the possibility of a bar being placed in the way of the development of our producing interest. Take away from the States this power of encouraging production and you practically take away the power of encouraging production altogether, because the Federal Parliament will not grant bounties. All industries must start in some locality before they can be recognised as legitimate subjects of a bounty. By the time they come under the notice of the Federal Parliament sufficiently to enlist the sympathy of that authority the bounty is unnecessary. But unless the bounty is given in the first instance that time will never come. That power can only be exercised by the Federal Parliament if it has already been exercised with advantage by the local authorities. This will practically be an initiatory bounty, and I do not think the other States will feel an interest in the matter until they see that the conditions are favorable in their territory also.

Mr. FRASER:

Let it be given with the consent of the Federal Parliament. There is no harm in that.

Dr. COCKBURN:

I am quite willing to do that, because I can see quite well that the industry must start in some locality where the conditions are specially favorable for the industry. It would be at first a purely local matter, and the Federal Parliament or Inter-States Commission would recognise that. They would say: "This is an industry which may or may not become general, but at present it affects only those who are so striving to encourage it." As long as the various States have to bear the expense I do not see why the federal authority should prevent assistance being given to pioneers. The pioneers of an industry should be assisted in the first instance because they are making a road on which everyone has the right to travel. To the pioneer who starts an industry the reward of his efforts is a reward, not only to him personally, but to all who choose to travel on the road he has made. Unless the States have the power to encourage this pioneering work there will be a great limitation put upon the development of various industries.

The CHAIRMAN:

I must ask Mr. Barton if he wishes his amendment put. If he does, I will withdraw it in favor of Mr. Reid's amendment, which comes first.

Mr. BARTON:
I think Mr. Reid's has only been a suggestion. I really think what has been suggested already is the best way of meeting the difficulty-goods, wares, or merchandise."

Mr. DEAKIN:
I am afraid that helps us very little.

Mr. BARTON:
It helps us to some extent.

Mr. DEAKIN:
Do you not think, although it might not be properly expressed, that the idea suggested by Dr. Cockburn might be applied, namely, if there is to be an Inter-State Commission that that Commission should be given power on certain principles to offer State bounties, if it does not derogate from freedom of trade or give any undue advantage to a particular State?

Mr. BARTON:
I should say that Dr. Cockburn's proposed amendment is one which I would ask the Convention not to entertain. Of course, we may or may not have an Inter-State Commission. I think we shall. But the amendment will have no effect unless we have an Inter-State Commission; in point of fact, it will become mere surplusage then. I think it would be a mistake to propose to hand over this question to be decided by an Inter-State Commission, because the Commission has first to see that the offering of trade bounties on productions for export will not derogate from freedom of trade. Although I am a protectionist, I see clearly that the offering of these bounties by the various States must be a derogation from freedom of trade, and I do not think it should be handed over to any authority, but this Constitution itself, to proclaim that there shall be freedom of trade from the establishment of the Constitution. Unless we can say that there are bounties which are not practically protective, we have no business to consent to an amendment handing over the decision of this question to another authority.

Mr. SYMON:
If we are to make exemptions, where are we to stop?

Mr. BARTON:
If it is to be left to the decision of the Inter-State Commission, whose chief business is to regulate commerce, I think it would be taking away first from those who make the Constitution, and afterwards from the Federal Parliament, the power of deciding for themselves on such questions.

Mr. PEACOCK:
The hon. member Mr. Barton has put the view better than I could do it. I think the feeling of the whole of the people of Australasia in regard to the need for Federation is due to their desire for freedom of trade between the
whole of the States. Whilst I am a protectionist, I do not think we could follow the advice of Dr. Cockburn, for if we did we would be placing on the Inter-States Commission the duty of deciding upon the policy to be adopted. I am only a layman—another poor layman!—interfering and causing trouble.

Mr. ISAAC:-hardly a layman now after the distinguished part you took on the Judiciary Committee.

Mr. PEACOCK: The matter is perfectly clear, and we are all practically unanimous on the point over which we have spent an hour's talk, that the Federal Parliament should have the power of dealing with the tariff and bounties, while every man in this Convention is of the same opinion concerning existing contracts, which ought to be preserved for the reasons given by Mr. Barton. As we are all agreed that there should be no interference with the assistance given to gold mining, it would be far better for our legal friends to give us a sub-clause dealing with this point. We are all practically agreed upon what we want. In Victoria there has been a great deal of agitation over the duty on coal. If Federation is to be an accomplished fact, and if power is left to the local Parliament to give encouragement to the coal industry by promoting our railway system through offering reduced rates, that would be an interference with the policy. That would be thoroughly wrong, and would give a great deal of trouble.

Mr. BARTON: The question of mining for gold or silver does not affect "goods, wares, or merchandise."

Mr. PEACOCK: If, as I suggested before, a sub-clause were introduced dealing with this, we would progress a little faster.

Mr. HIGGINS: There is a difference here on a question of drafting and on a matter of principle. I quite agree with Mr. Barton that existing contracts will not be prejudiced by an enactment that all laws offering bounties are to cease to have effect. But I think on the question of drafting we ought to yield to any timidity expressed by members with regard to the effect of the wording of the clause. There is a distinct difference of principle between what was said by Mr. Holder and Dr. Cockburn, on the one side, and Mr. Reid and Mr. Barton on the other. Mr. Holder wants, as I understand it, upon a matter of principle to leave to each State the power to grant bounties for the development of its own Crown lands; but both Mr. Barton and Mr. Reid
are against that on principle. It is not a question of drafting; and Mr. Peacock is wrong in stating that we are agreed upon this matter. Although it seems to be a hardship upon South Australia that it cannot give a bounty for the development of its own Crown lands, still the same argument exactly applies to a proposal for a protective duty for the development of those lands. You must trust the Federal Parliament in this matter. There are certain protective duties that will have effect, perhaps, only on the industries of South Australia, and if you propose to trust the Federal Parliament with that tremendous power, then why not trust them in the matter of bounties? Therefore, without in any way presuming to dictate to the Drafting Committee as to what is to be done, I suggest that the words "Wares and merchandise" will not give us any help. "Goods" is the widest term we can have. I suggest that at the end of the clause, in order to guard against the fears of those who have existing contracts that they may be impugned, we should add:

But this section shall not prevent any bounties for the discovery of gold or minerals, nor shall it prejudice any contract of a State to give bounties it made before March 31st, 1897.

We are all agreed that we should not prejudice the bounty for mining.

Mr. BARTON:
Do minerals include coal?

Mr. HIGGINS:
Yes. The bonus given in Victoria for gold is not for its production or export, but it is simply a bounty for the discovery of gold. Perhaps the words of the amendment are not the best that can be used, but they will indicate the sense of the Committee.

Mr. SYMON:
Sir Edward Braddon's amendment will cover that.

Mr. HIGGINS:
No; it will not. We want to protect the prospecting vote. I think the Drafting Committee may much better deal with my amendment than I can in the haste of debate, and I suggest it to them. We have a distinct question of principle here. I am with Mr. Barton on the principle, and I say we should not hinder existing contracts nor interfere with the prospecting vote.

Mr. BARTON:
For the present I shall withdraw my amendment.

Amendment withdrawn.

The CHAIRMAN:
I will put Sir Edward Braddon's amendment.
Mr. BARTON:
Will you wait a minute until we we the amendment suggested by Mr. Higgins? We might be able to accept it.

Mr. SYMON:
I suggest to Mr. Higgins that, for the sake of clearness, he had better accept the suggestions of Mr. Kingston; that is to say, to except mining under clause 86. The only object which Sir Edward Braddon and the committee have in view is to take care that this provision, which declares that the offering of bounties by a State shall cease on a certain date, shall not apply to existing contracts.

Mr. BARTON:
I have now before me Mr. Higgins' amendment which may be proposed in place of Sir Edward Braddon's. It reads:
But this sub-section shall not prevent any bounties for the discovery of gold or minerals, nor shall it prejudice any contract of a State to give bounties if made before March 31st, 1897.
I think that gives effect to the object both of Sir Edward Braddon and Mr. Symon.

Mr. SYMON:
It is better.

Sir EDWARD BRADDON:
It takes in any contracts made before March 31st, 1897.

Mr. SYMON:
It will keep alive the right of a State to give bounties for minerals.

Mr. BARTON:
It will do so indefinitely, while the latter part only relates to the right of a State to give bounties made before March 31st, 1897. Shall I move it or will you, Mr. Higgins?

Mr. HIGGINS:
I will move it.

Mr. DEAKIN:
I would suggest that the word "discovery" is too limited. As a matter of fact we in many cases give assistance to a mine in which gold has been discovered and it becomes a question of going to a greater depth.

Mr. REID:
It would still be the discovery of gold.

Mr. DEAKIN:
In certain cases we have bored and discovered that the gold is there, and it is simply a question of assisting them to get at it by special means to surmount special difficulties.

Mr. BARTON:
The words "for the search or discovery" would get over it.

The CHAIRMAN:
Does Sir Edward Braddon press his amendment?

Sir EDWARD BRADDON:
I ask leave to withdraw my amendment.
Amendment withdrawn.

Mr. KINGSTON:
I would suggest that what is intended to be reserved to the State regarding what can be done in the way of mining would be met by the word "encouragement" or "development."

Mr. BARTON:
That goes too far.

Mr. KINGSTON:
I am not at all disposed to agree with the limitation which is proposed to be imposed on the State with reference to the offering of bounties. No doubt it has been put fairly enough that the effect of offering bounties must be to some extent felt in the local market, but I take it that the two things, protection and the offering of bounties, are adopted with precisely opposite objects. In the one case, by a system of protection we hope to preserve for the benefit of particular localities the local trade, and no doubt it is wisely provided as a fundamental provision of the Federation that is to be, that there should be freetrade between the federated colonies; but, on the other hand, I think that an equally im-

important matter is the development of our export trade; and I think also that the slight effect in the way of interference with local trade which the offering of bounties on exports might have, is as nothing compared with the importance of developing our export trade. We know full well what has been done in this respect by offering bounties in the past. Victoria has profited immensely, and set an example to the rest of Australia. We were pleased to follow it-I am referring particularly to the bonus on butter-and we have every reason to be satisfied with the result. What has been our experience in this respect would be our experience in the future in other matters, with equally beneficial results, if we had our way. I think we are making a mistake in laying it down as a hard and fast rule that a State should not offer anything in the shape of a bounty, even though out of its own funds. Where is it going to stop? It has been said that if we do this we cannot offer anything in the shape of preferential rates to producers as regards exports. What is to become of our export departments; are they to be abolished or shut up?
Mr. REID:
Surely it would not be a preferential rate if it was equal throughout the colony. What relation is there between the people here and on our eastern boundary? You can fix rates to suit your people.

Mr. KINGSTON:
I am glad to have it a little clearer. I have an idea—I may be wrong—that if it was found that the State was offering to its producers in particular lines certain preference and advantage as regards goods exported, that would be held to be an interference with the Bill as it is proposed to be amended. What can we do for the purpose of encouraging the export of our products?

Mr. REID:
Leave it to the Commonwealth.

Mr. KINGSTON:
My friend is very ready to leave everything to the Commonwealth now. A little while ago, when we proposed to leave the right of dealing with our waters to the Commonwealth he was not so willing. (Laughter.) It is all very well to smile about it. No doubt a little diversion in that way is good, but at the same time it is a question on which I feel strongly. No doubt my friend Mr. Reid will have an opportunity of reconsidering his decision on this point. Are we not to be allowed to make arrangements for our people exporting their produce? What is to become of our export departments? Will it be possible to continue the arrangement by which we take charge of products, wine and other things, and see to their being put on to the European markets in proper condition, and do what we can to get the best price for them? Are these things to be interfered with? We are particularly interested in these questions, because we have not had the system for very long, but so long as we have had it we like it, and the more we see of it the more we like it; and if it is going to be taken away from us under the proposal before the House it is well to make it perfectly clear. I think that the general desire amongst the people of South Australia will be found to be that such a proposal as that should be resisted. I am interested to note the desire on the part of some hon. members to preserve the right to continue certain bounties. We also desire to preserve our right to continue ours. Without entering into a compact, I would like to say that we are relying upon their assistance to help us. This proposal of my honorable friend Sir Edward Braddon is to make the thing worse than we had it when the Bill was first introduced. When the Bill was first introduced, according to the interpretation which would be placed upon the Statute by a court of law, any contract which was in existence at the time that the Federal Parliament legislated for the adoption of a uniform tariff would be held to be good, and would
be preserved, but now Sir Edward Braddon proposes that from March 31st in this year the hands of the State should be absolutely tied. What does that mean?

**The CHAIRMAN:**
I would point out that the hon. member, Sir Edward Braddon, has withdrawn his amendment.

**Mr. KINGSTON:**
There have been so many amendments or suggested amendments that some little confusion is to be excused; but I understand that there is an amendment which embodies the same principle. Nobody can predict when Federation is going to be accomplished; but however long it may take, it must, in the natural course of things, be some years before the Imperial Act is passed; and consequently until we have a uniform tariff provided. Notwithstanding all that, no contract with reference to a bonus made in the meantime after the end of last month is to have any effect whatever.

**Mr. HIGGINS:**
Until after uniform duties have been imposed. All contracts made up to that date are to be carried out.

**Mr. KINGSTON:**
But what does that mean? Every contract made after the 31st March would be absolutely void.

**Sir GEORGE TURNER:**
None will be entered into then.

**Mr. KINGSTON:**
There will be no power. The whole thing will be strung up. It will be subject to this possibility, that if the power is exercised the contract will be void. There will be a State responsibility to some extent, and there is a direct enactment of the Federal Parliament that it shall not be given effect to.

**Mr. MCMILLAN:**
The agreements for bounties will have to be made for short terms.

**Mr. KINGSTON:**
In such a circumstance it will be practically paralysing industries.

**Mr. FRASER:**
Give bounties for a year.

**Mr. KINGSTON:**
I know that in this matter the hon. member Mr. Fraser brings a vast amount of commercial experience and knowledge. But as regards a contract for only a year, would he be prepared to launch out on an
agreement of that sort, and embark his capital, laying out a considerable sum, when he knew that he had a guarantee in the shape of a bonus for say only a year; and when, further, it is possible that even a contract of that sort can be declared void by federal legislation?

Mr. FRASER:

The subsidy might be made greater during one year.

Mr. KINGSTON:

Then the State is to pay more and get less.

Mr. REID:

It would come to the same thing. You would pay the same in one year as you would in five.

Mr. KINGSTON:

Then the industry would be stopped altogether. I object to unnecessary interference with the rights of the State regulating these matters for itself; it will have a very bad effect. I speak of these matters because South Australians take a considerable interest in them.

Mr. FRASER:

So we do in the other colonies. I ask hon. members to thoroughly consider these two propositions--the declaration that there shall be intercolonial freetrade-no doubt necessary in the establishment of Federation to secure to all federated States the commercial advantages they are entitled to with regard to local markets-and the proposal to abolish the bounty system when that system has worked well enough in the past without injury to other Australian States, simply existing to assist our producers to exploit outside markets.

Mr. REID:

I think our friends in South Australia are so steadily developing the tone and attitude of a band of martyrs--

Mr. SYMON:

I hope you do not consider that I am one of them!

Mr. REID:

That I think it is time I told them that we in New South Wales are prepared to give most vital powers to the Parliament of the Commonwealth.

As a freetrade people we are prepared, for the sake of Federation, to expose our people to the risk of a protectionist policy such as, if they had a choice, the majority of them would be the last to accept. We are prepared to leave the whole of our policy of trade and bounties at the mercy of the Federal Parliament. My hon. friend begins to feel timid on the question of bounties
and the regulation of the export trade. Why should he, when he knows that on that question all the colonies are agreed? In every colony the same system is being followed. In New South Wales of late years we have established a Board of Export Trade and a Government department to facilitate the export of the produce of our farmers and others. Now if the policies of Victoria, New South Wales, and other colonies are identical with the policy which my hon. friend advocates, where is the necessity for this fear and timidity?

Mr. GLYNN:
It is anti-federal.

Mr. REID:
This fear is entirely without foundation, because we are all agreed as to the wisdom of the policy which the South Australians are advocating, and we ought to believe that the Commonwealth will not interfere in a way we will not wish to see. I hope my hon. friend will see that other colonies are taking greater risks than South Australia, and since we in New South Wales make no reservation, and wish the whole of these troublesome matters handed over to the Federal Parliament, I do not think it is right that any one colony should fear as to its local interests, and try to impair the freedom of the Commonwealth. There is no need for fear. In the Commonwealth Parliament, if ever I reach it, I would be found just as earnest as my hon. friend in advocating quite as great export facilities for the benefit of the producers of Australia as the producers in South Australia now have.

Mr. HIGGINS:
I will withdraw my amendment, and move instead of it:
That the following words be placed at the end of the sub-section:—"Contracts subsisting with any State on March thirty-first, one thousand eight hundred and ninety-seven, under which bounties are offered or given by such State, shall not be impaired, and any State may continue to offer and give bounties and rewards for mining prospecting or discovery."

Sir GEORGE TURNER:
If you extend it to mining development I will go with you.

Mr. ISAACS:
I should like to say that the amendments that have been moved up to the present would be highly risky with regard to pursuits in mining both in Victoria and Tasmania, which have no relevancy whatever to the question of protection or freetrade. All mining for metals in Victoria, especially gold mining, and silver mining in Tasmania, is purely local. There is no question of interference with the trade of other countries, and I am strongly opposed to handing over to the federal administration any powers with
regard to those industries. If we merely put in an amendment at the end of sub-clause 4 of clause 82 to the effect that existing contracts under existing laws shall all subsist in full force and effect, or even if we say the existing laws are to remain, that will not be nearly sufficient, because sub-clause 1 of that clause would prevent any State-Victoria or Tasmania for example-in the future from making any law with regard to gold or silver mining; and we do not intend, so far as we can prevent it, to hand that power over to the Federal Government. We want to preserve to ourselves as independent States the right to develop industries which are purely local; and therefore I should suggest to one of my hon. friends who have charge of the various amendments that they should propose, if they will-if not I shall have to do it hereafter myself-a new sub-clause to the effect:

That the provisions of this section shall not apply to mining for gold, silver, or other metals.

That will not touch industries which are admittedly outside the controversy of protection or freetrade. Then with regard to coal I recognise some difficulty. I recognise that a serious question arises as to interference with equality of trade if bounties with regard to coal mining are allowed to be given without any restriction, but as to that I should like to hear some more argument, and to be more strongly convinced than I am at the present that the full power even in this regard can be safely and properly and fairly handed over to the Federal Government, and the States Governments deprived of it. I am very loth without more information on the subject, and without having certain difficulties that now beset me cleared up, to say to the coalminers of Victoria: "We are going to abandon you; we are going to hand over to the Federal Government the question whether you are to have any more assistance, and whether the coal mining industry in Victoria-which has to a great extent become one of our staple industries-should be placed outside the reach of assistance from the Government of Victoria."

Mr. O'CONNOR:
No assistance for prospecting?

Mr. ISAACS:
I do not know. I am not prepared at the present moment to abandon all claim to it. I am determined to go as far as necessary to have intercolonial freetrade in coal as well as in every other commodity, if that can be done with fairness to the miners of Victoria, and no undue abandonment takes place with regard to local development. I certainly hold with my friends from New South Wales that we must have intercolonial freetrade. I do not intend to support any proposal to interfere with that great principle. But I
am not satisfied that that principle would be departed from altogether if we still maintained some power to develop an industry which is to a great extent local and of very great importance, but with regard to mining for gold or silver or other metals, no question whatever can arise. The colonies should have the fullest power to deal as they please with those industries.

**Mr. GLYNN:**

I agree with what Mr. Isaacs has said, that the encouragement to the gold mining industry does not affect us in a federal way at all. The powers you give a local body in regard to mining for gold does not affect its price at all. But it is a different matter with regard to coal, the price of which would be affected by the amount of duty placed on, or bounty given to it. The export bounty on it can affect its internal price by taking from the consumers of coal to the extent of the bounty on coal. On the question of general bounties I am altogether at issue with the Premier of South Australia. I say that encouragement by way of export bounty on local production is nothing more nor less than protection. It is a form of protection. By giving a bonus on the export of some local production two things may result: You may have the local price increased, and the price so far as the foreign consumer diminished. That took place in connection with the bounty on sugar at the beginning. When large bonuses were given for the manufacture of sugar in Germany the effect was that sugar could be purchased cheaper in the English market than in the place where it was manufactured. How can it be asserted, therefore, that putting bonuses on the export of particular lines—such as for instance sugar—does not operate in effect as a protective duty? If you once admit this principle you may be in this position: The encouragement of production may be so used in particular States that other States, which ought to share in the manufacture of those particular lines, would be tempted to put on corresponding bonuses. I think we ought to stick to this principle, that bonuses granted for local production are only protection in another shape, and that if we once grant this power to local Parliaments, we will injure the extension of intercolonial freetrade.

**Mr. HIGGINS:**

Before the adjournment some of my hon. friends felt that the wording of this amendment as I put it could be improved, and, yielding to their views, which I think are right, I have written it out in the form in which I think it ought to be now. I think we have to deal with two things. One is the preserving of existing contracts as up to the end of March, 1897, for any kind of bounty if there is a contract made up to the end of March, 1897. I think we are all agreed with
that. That ought to be allowed. I therefore propose:

That at the end of this particular sub-section the following words be inserted:—"Contracts subsisting with any State up to March 31st, 1897, by which bounties are ordered to be given by such State shall not be impaired."

That is the same in effect as Sir Edward Braddon's amendment, and the same words as I put before you before the adjournment. With regard to the other matter as to mining, it has been pointed out to me that in Victoria it is the practice not only to give a bounty in respect of prospecting or discovery, but to give assistance in the direction of erecting batteries or other mining plant. So that the words which I used before the adjournment would not cover that, but I understand-if I may judge from some private expression of opinion from those who are interested in the clause-there it no objection to Victoria or any other State still having a power to give a bonus or bounty in the direction of erecting batteries or other plant upon mines. Therefore I would suggest that at the end of the whole section - which whole section deals with the granting of bounties after uniform duties are imposed-we should have this short clause:

This section should not apply to mining for gold, silver, or other metals.

Of course, very naturally, hon. members will ask, "Will that enable Victoria, say, to give a bonus for coal mining?" The answer is "No," because it is not a metal, and I am confining it to gold, silver, or other metals.

An HON. MEMBER:
Why other metals?
Mr. HIGGINS:
We do not wish to limit it to gold or silver, as there may be a bonus on copper for instance.
Sir EDWARD BRADDON:
There might be a large production of copper.
Mr. HIGGINS:
After consulting with those gentlemen who were so good as to assist me during the adjournment, I find that Mr. Barton and Mr. Symon concur that there is no objection to t
Mr. GLYNN:
I would like to point out to the Committee that it may be possible that some of these contracts are not for any definite period, but may be terminable by notice being given by either of the contracting parties. Under such circumstances we may have these contracts going on for a number of years. Sir George Turner may be able to give definite information as to
whether there are any such contracts in existence. If there are contracts of
that sort in existence by the different governments, any government
concerned may keep them going for an indefinite period. I think we ought
to prevent the possibility of any such indefinite extension of bonuses taking
place in these colonies.

Mr. GRANT:

I think in the early part of the discussion, Sir, you ruled that it was
competent for hon. members to deal with the clause generally.

The CHAIRMAN:

We will get on much quicker if we deal with one thing at a time; and the
one question now proposed to be dealt with is simply the question of
bounties, and has nothing to do with mining.

Mr. GRANT:

I want to take exception to the first part of the clause.

The CHAIRMAN:

You are too late, as that has been passed, and the clause now under
consideration is sub-section 4, to which an amendment has been moved. I
ask the hon. member to confine his remarks to that sub-section, and to the
amendment.

Mr. GRANT:

I have certain words to move, and I think the Drafting Committee will
find them applicable to the position put before us, and will endeavor to
incorporate them in the Bill. In our own colony there are certain bounties
and gratuities given for the purpose of stimulating trade in different
districts, and it would be disastrous to that colony if the State were
prevented from giving assistance in matters which would not be of
sufficient importance to be dealt with by the Federal Government, but
could be dealt with by the local Government. I will therefore move to
insert at the end of the clause:

But the Parliament may permit any State to offer bounties on goods
exported provided that such do not derogate from equality of trade.

I have no doubt the Drafting Committee will be able to deal with this.

The CHAIRMAN:

I would point out that I cannot put that amendment unless the amendment
before the chair is withdrawn. We have had so many amendments
proposed and withdrawn that I suggest we should now come to a
conclusion.
Mr. BARTON:

I would suggest that the name of the Drafting Committee be changed to "Grafting Committee." The Drafting Committee was appointed by the Constitutional Committee to draft a Bill, but from that it must not be implied that they are everybody's three niggers, if I might use the term without being disrespectful. I think they are entitled, as they sit morning, noon, and night, to some consideration, and I would suggest that each hon. member put his own proposals in a shape which would not be unworthy of the ordinary form of such a measure as this. Although we are prepared to do as much as we can, we cannot do more than that.

Mr. DEAKIN:

Not much work at present in watching the progress of the Bill.

Mr. BARTON:

There is more anxiety than hurry about it. With regard to the amendment proposed by Mr. Higgins as amended, I think it is superior to the form in which it was originally suggested, but I ask whether the proposed addition to the fourth paragraph provides against the impairment of contracts entered into before March 31st, 1897, and I ask whether there are any contracts on behalf of any colony which are in their nature perpetual and subject only to defeasance by the State itself, that is, so long as the person is ready to perform services or export goods, whether he will continue to draw payment from the Treasury. If so, we might fix the Federation, but we may have ad infinitum a system of contracts entered into by a State which would be a derogation from trade in the Commonwealth, and which would have a perfect life as against any attempt on the part of the Commonwealth to bring it to a conclusion. I should like to know whether any member knows of any such cases before I can state whether I shall accept the amendment or not.

Mr. GORDON:

I should like to be quite clear about the position this dispute has arrived at. Is it conceded by everyone that bounties, so far as home consumption is concerned, are to cease? If so, there are two positions. The disadvantages and advantages of these positions have been well exemplified on the one hand by the arguments of Mr. Glynn, and on the other hand by those of Mr. Holder. Mr. Glynn contended that bounties on goods for export would have some reflex influence upon intercolonial freetrade, and prejudicially affect the home market, and that must to some extent be admitted. On the other hand, we have it argued by Mr. Holder, that if the colonies are shut out of granting bonuses on goods for export their hands will be tied for a long time, perhaps, in respect to many matters in

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connection with which they might like to grant bonuses. It is absurd to say, as Mr. Fraser has put it, that bonuses for a year will have any value in promoting production. With regard to bonuses for the export of cattle from the Northern Territory, the people who got the bonus had to build a special steamer which cost many thousand pounds, and they had to enter into arrangements with the various stations for the supply of stock; a bonus for a year would have been nearly worthless to them. I am inclined, although I was not so at first, to vote with Mr. Holder, because while the influence of bounties on goods for export on intercolonial commerce must be comparatively small, the disadvantage of preventing the colonies from offering any bonus is considerable.

Mr. WISE:
I should like to have an answer from Sir George Turner to the question put by Mr. Barton. I understand the question to be: are there any contracts in existence by which bounties will be given so long as the goods are produced subject to defeasance by Act of Parliament? If they are in existence it will be necessary to alter the amendment of Mr. Higgins so as to provide a time at which these contracts shall absolutely cease.

Sir GEORGE TURNER:
Of course it will be impossible for me at a moment's notice to give a certain answer to such a request as the hon. gentleman has made. We have promised our coal mines for a period of two years, fifteen or eighteen months of which have yet to run, to give them certain assistance, and we cannot go back on that concession. We have also promised the growers of vines certain concessions, but I do not know that we have entered into any definite, contracts.

Mr. BARTON:
They operate so long as the Statute exists.

Sir GEORGE TURNER:
No, because we appropriated a certain sum of money which in twelve months will be expended, and after that we will leave to again make grants on the Estimates in the ordinary way.

Mr. BARTON:
Then all these things may go on indefinitely so long as you make a grant on the Estimates.

Sir GEORGE TURNER:
Independently of any law which may be passed by the Federal Parliament, so long as we chose to place a sum on the Estimates which will enable the persons to be paid it would go on indefinitely. I cannot say that we have any contracts entered into before a particular date which would last any specified time.
Mr. ISAACS:
I should like to point out before the clause is passed that we are going a long way in fixing this date.

Sir EDWARD BRADDON:
You are not going a long way back.

Mr. ISAACS:
The meaning of the clause is that the Parliament of the Commonwealth is to have the sole power to impose duties of Customs and excise and the granting of bounties as soon as the uniform duties have been imposed by that Parliament, but until that time the States are to have power to make laws granting bounties amongst other things. It therefore recognises in the first instance that until the uniform duties are imposed it shall be perfectly lawful to grant these bounties, and then comes this amendment which says that although the States may do this in the meantime, yet as soon as the Parliament of the Commonwealth imposes a uniform tariff—it may be two years after the Commonwealth is established—the States shall be retrospectively powerless as from March 31st, 1897. But surely that may work a very great wrong. I do not see why we cannot trust to the honor of the States in respect to that as to all contracts that may be entered into after March 31st.

Mr. FRASER:
That covers it.

Mr. ISAACS:
Oh yes. Of course it covers it, and it may cover a great deal of injustice too. When the Commonwealth comes into existence it may be some time before uniform duties are imposed, and in the meantime those contracts entered into may be declared illegal.

Mr. PEACOCK:
In the meantime could any object of the clause be defeated?

Mr. ISAACS:
No, because the clause recognises the right of the States to grant it until the last moment. It says:

But this exclusive power shall not come into force until uniform duties of Customs have been imposed by the Parliament.

But though this says that in fact and actuality the States shall be deprived from the moment we pass this resolution, because no one will then enter into a contract.

Mr. HOLDER They want to tie us from the instant.

Mr. ISAACS:
I think that is very wrong. It ties the hands of every Government and of all who want to take advantage of the Acts now in existence.

Mr. WALKER:
It will hasten the coming of the Commonwealth.

Mr. ISAACS:
I do not think it will. If it does it will be all right, but this was not the course pursued in 1891. I think great hardship will be inflicted, and it only comes to this: this Convention says it does not trust the honesty of the States. It is no use putting in these dates if you do not wish to trust the States. I think our presence here to-day is a guarantee that we will keep faith with one another. This proposal, if carried, may be a serious obstacle to development in the meantime. I move:

That the words from the thirty-first March, one thousand eight hundred and ninety-seven," be struck out with a view to inserting in lieu thereof "from the establishment of the Commonwealth."

Sir EDWARD BRADDON:
As the member who moved this amendment, including the date mentioned, I desire to say frankly that I had it in my mind to prevent any colony from entering into these contracts hereafter, as well as doing that which might provide for a possible breach of faith in respect of past engagements. It is just as desirable to do one thing as the other, and I conclude that the hon. member Mr. Higgins, who has adopted my amendment, sees the matter from my standpoint and endorses the view that I take.

Mr. BARTON:
I hope the amendment which Mr. Isaacs has proposed will not be accepted. It is important that there should be some definite limit on the existence of bounties upon the production or export of

Mr. SYMON:
Not void, for if they are made subject to the provisions of the Constitution they will be good. We should say that they should be determined after a certain time.

Mr. BARTON:
Well, determined after a certain time. I would submit an amend-

To insert at the end of line 39, after the fourth paragraph, the words: "Every contract for any bounty made by any State, and subsisting at the establishment of this Constitution, shall be good if made before the 31st
March, 1897, but every contract so made before the 31st March, 1897, shall be illegal and void at the expiration of three years after the establishment of this Constitution."

**Sir GEORGE TURNER:**

Oh! Why men on the faith of the bargains we have made have entered into contracts which may last three years. They may only get the benefit of the State help at the end of three years.

**Mr. BARTON:**

Well, will the hon. member name a definite date?

**Sir GEORGE TURNER:**

How can I?

**Mr. BARTON:**

If the hon. member cannot, then this Convention must do it. If we agree upon a Constitution which becomes acceptable it will be quite a year and a half or two years before it becomes the law of the land, and if there are three years after that, there will be five years altogether.

**Mr. FRASER:**

That is more than ample. The man who does not take that is not reasonable.

**Sir GEORGE TURNER:**

Well, I am not reasonable.

**Mr. BARTON:**

If the hon. member will name a certain definite date, then we may meet him.

**Sir GEORGE TURNER:**

I cannot. It will be a bad day for Victoria if she gets into Federation on these terms.

**Mr. BARTON:**

Hon. members will see that is necessary to fix a definite time, so that we may know where we are, and if that is done so that the people will know whether they are standing on their heads or their heels, I shall be satisfied. Here we provide a guarantee to protect certain obligations, and so long as these obligations are protected by the law of the Commonwealth, that is all that is necessary. If we have nothing fixed we have no Federation at all, for the basis of Federation is destroyed. If we have a time named, then we shall know where we are. I am not wedded to the term

Illegal and void.

In the suggested amendment of my hon. friend Sir John Downer that part may be robbed, perhaps, of its sternness by a milder form of expression; but that there should be a time fixed beyond which the Commonwealth shall not be deprived of its freedom of trade is a matter of certainty; and we
must be able to have some such term, or the Parliament and the people will not know what we are asking them to undertake.

Mr. SYMON:

I think I can make a suggestion which will meet the case. I prefer the amendment in the form in which Mr. Higgins has moved it. It avoids the use of those expressions to which objection may be taken, expressions which perhaps are hard.

Mr. BARTON:

I am willing to accept a suggestion. If we leave the amendment in the form Mr. Higgins has moved, then we will have to regard certain contracts.

Mr. FRASER:

There are none. I have not heard of any.

Mr. BARTON:

I do not mind the words "cease and determine" instead of illegal and void."

Mr. SYMON:

I think we might add to Mr. Higgins' amendment

Except that any such contract terminable on notice may be terminated by the Federal Executive in accordance with its terms.

Sir GEORGE TURNER:

I do not object to that.

Mr. BARTON:

That will not do.

Mr. SYMON:

You recognise the validity and force of all contracts, but if there is any contract that is not of a fixed period, but is terminable on notice, then the Federal Executive may give that notice.

Mr. BARTON:

Does my learned friend see this; that if it is terminable on notice

in accordance with the terms of the contract, that depends on the manner in which it is terminable on notice, and it may not be terminable for twenty-five years?

Mr. SYMON:

I do not agree with imposing a hard and fast time for the termination of these contracts. We have to do what is fair and reasonable on all sides. Some of these bonus contracts it might be well to terminate in three years, but in other cases it might be unjust, in connection with an industry which was being built up, that a contract should terminate in three years. I think the words "on notice" might be left out of the amendment I suggest.

Sir GEORGE TURNER:
I could, of course, have no objection to the words suggested by Mr. Symon, because if the State has entered into a bargain which the State has a right to determine it would be only fair that the Commonwealth should have an equal right; but is it fair, right, reasonable, equitable, or just that where the State under an existing law has entered into a bargain with one of its people, another body shall come in and say, "Though you have entered into a bargain under the existing law, and in faith with that contract have done certain things, you shall get no benefit out of your contract after three or five years." That is unfair, and we ought not and dare not provide that. If bargains have been entered into we should carry them out. So far as I know, there are no contracts which extend over many years, but I would not like to pledge myself without inquiry of the various departments as to the length of time which their contracts will run. In the case of vignerons, for instance, we have agreed that if they plant a certain area we will assist them for a certain number of years. If we say that contracts entered into on the 31st of March will be respected that will simply prevent the governments entering into other contracts until we know definitely whether Federation will or will not take place.

Sir Edward Braddon:

Hear, hear.

Sir George Turner:

Because no man would be idiot enough to enter into a contract with the Government that he is going to prepare and cultivate and plant his land, knowing that the moment Federation takes place all the benefits he could possibly derive would immediately cease and determine. While I would accept, but with a good deal of reluctance, the fixing of a particular date, I still say that when a Government has entered into a contract with one of its citizens in good faith, that contract ought and must be respected.

Mr. Barton:

I understand it is intended to make the proposed amendment, or the suggestion of Mr. Symon, read this way:

Except that any terminable contract may be terminated by the Federal Executive in accordance with its terms.

Mr. Symon:

I put it:

In accordance with the terms of such contract.

But the shorter form:

In accordance with its terms,

will be better. It simply substitutes the Federal Executive for the local.

Mr. Higgins:

I do not see any objection to the addition of those words which Mr.
Symon and Mr. Barton have referred to.

The CHAIRMAN:
Had we not better deal with one amendment at a time?

Mr. SYMON:
Hear, hear; carry yours first.
Amendment-To strike the words "31st of March, 1897," out of the proposed amendment-negatived.

Mr. BARTON:
I would like to point out to Mr. Symon that if to the amendment of Mr. Higgins be added the words he suggests:
Except that any terminable contract may be terminated by the Federal Executive in accordance with its terms,
there are still contracts which, as Sir George Turner has already told us, must have effect as long as the Victorian Government itself appropriates the money. So that to terminate this contract in accordance with its terms, would simply be on terms which have relations between the contractor and the Victorian Government, and as long as the Victorian Government want to appropriate that money the power of the Federal Executive to terminate that contract would be nonexistent.

Sir GEORGE TURNER and Mr. PEACOCK:
Oh, no.

Mr. BARTON:
It is a matter that we can discuss calmly at any rate, and the words may or may not have the meaning I am attributing to them. What I have just put applies to certain contracts which Sir George Turner has indicated, so long as the Victorian Government finds certain money by way of annual appropriation-

Mr. SYMON:
There will be no purpose to put it to.

Mr. PEACOCK:
The contractors will bring sufficient pressure on the Government to make it find the money, you may be very sure.

Mr. BARTON:
So long as that money was found by the Victorian Government it would not be in accordance with its terms if the Federal Executive put a stop to that contract.

Sir GEORGE TURNER:
Oh, no.
Mr. BARTON:
If you left this clause alone the contract would be void, but as the clause stands now it would not. The clause goes to the case of actual contracts in existence. And I think it is one of those case
Sir GEORGE TURNER:
I cannot object to that so long as you give the undertaking that it shall be recommitted.
Mr. BARTON:
Certainly; we can pass this without the amendment proposed.
Mr. PEACOCK:
We will only start another discussion on the whole thing when we come back to it.
Mr. BARTON:
We have reached something near a climax of varying conditions, which will not appear so varied when we have dealt with the other clauses.
Mr. DOBSON:
Although there are a great many lawyers in the Convention-
Mr. BARTON:
It is a pity you are not a solicitor.
Mr. DOBSON:
It seems to me we have got into great confusion from a wrong interpretation of the word contract. Mr. Holder said something about a contractor purchasing from squatters in the Northern Territory cattle and receiving £1 per head as a bonus for each carcase exported. Therefore the only contract that comes into this discussion is a contract in which a man purchases goods or animals relying upon an export bonus or duty granted to him by an Act of Parliament. Then Sir George Turner pointed out his meaning of the word contract-every man who, owing to Act of Parliament, can export something, or produce something, or spend something, which will enable him to receive a bonus or bounty. I do not think that is the meaning of the word contract.
Mr. TRENWITH:
Surely the Government have contracted to do that.
Mr. DOBSON:
I would point out that I think that the whole question will have to be dealt with as two distinct matters. I think the amendment of my friend Mr. Higgins, supported by Mr. Symon, is absolutely correct and right. Then you want another clause of one line that says that any bounty or bonus granted by Act of Parliament in any State must cease at the expiration of a fixed period from the imposition of the uniform tariff. If Mr. Barton would
approve the plan suggested. it would be a simple way of dealing with the question.

Mr. FRASER:
Pass the clause.

Mr. DOBSON:
If you pass the clause you are really not providing that all bonuses and bounties shall cease.

Mr. HIGGINS:
I will propose that we postpone this clause.

Mr. BARTON:
We can pass this clause as it is and then recommit it afterwards.

The CHAIRMAN:
Do I understand that Mr. Higgins proposes to withdraw his amendment?

Mr. HIGGINS:
Do I understand the wish of Mr. Barton is to have the clause passed as it stands without, my amendment and recommit it subsequently?

Mr. BARTON:
Yes; and recommit it if Sir George Turner requests.

Mr. HIGGINS (to the Chairman):
Certainly.
Leave given.
Paragraph agreed to.
Paragraph 5 agreed to.
Clause as read agreed to.

Clause 83.-Upon the establishment of the Commonwealth, all officers employed by the Government of any State in any department of the Public Service, the control of which is by this Constitution assigned to the Commonwealth, shall become subject to the control of the Executive Government of the Commonwealth; and thereupon every such officer shall be entitled to receive from the State any gratuity, pension, or retiring allowance, payable under the law of the State on abolition of his office.

Mr. GORDON:
Two points arise out of this. Is it the intention of the draughtsman to make compulsory service under the Federal Parliament whether the officers like it or not? I think the words "if they elect to serve thereunder" should follow the word "shall," in line 4.

Mr. BARTON:
They can always resign.

Mr. GORDON:
It reads like compulsory service. If, for instance, you say that a man shall
serve in the military, he must serve whether he likes it or not. The second point is more important. In the sixth line of the clause it says:

And every such officer shall be entitled to receive from the State any gratuity, pension, or retiring allowance, payable under the law of the State on abolition of his office.

So that if a man only happens to be 21 years of age, and is transferred to the federal authority, he is to receive from the State the full compensation he is entitled to receive on the abolition of his office, although for the rest of his life he may be employed by the federal authority. Surely that is not the intention. Such a proposal would impose on the States a very heavy burden which they ought not to incur. I draw the attention of the Committee to both these points.

Sir GEORGE TURNER:

I was about to draw attention to these particular words, because they do, to my mind, provide that

any person who is transferred over, in addition to being transferred over, is to get the benefits which he would have got if his office had been abolished, In our Victorian Act we have power to abolish offices, but the effect of the Act is that a man in such a case no longer serves up. In that case he gets a month's pay for every year of service, which is fair and reasonable. But that certainly would not work well here, because the federal authority takes over the officer, and then practically says:—"Because we employ you in future instead of the State, we are going to make you a present of several hundreds of pounds," or perhaps an even larger sum than that. Many of these officers, too, have inchoate rights to a pension when they arrive at 60 years of age, but you are going to transfer these officers to a body that is not bound to preserve those rights. That will not be fair to the public servant, because, although you give him the amount that you will give him on the abolition of his office, that will not be so beneficial as if he were allowed to retire on his pension. What you want to say in this clause is not that he is to got a certain sum under all circumstances, but that whatever his rights are you will preserve them. When these men enter the service of the various States they have given to them by Act of Parliament certain rights which they enjoy so long as they remain in the service of those States. If, therefore, they are transferred over to some other body, surely it is only fair and right that they should carry to that new body whatever right to they had in the old body.

Mr. BARTON:

Supposing they serve a State for fourteen years, you do not mean that the Commonwealth should pay them for having done it?
Sir GEORGE TURNER:

I would not mean that. I told Mr. McMillan the other day that we had a clause in the Bill we passed in Victoria last Session, whereby we transferred the Post Office Savings Bank to Commissioners. There we provided that the officers should carry over their rights with them, so that when they came to retire they would get their retiring allowances, which should be divided between the new body and the old body, and certified to by the Commissioners of Audit. No one was injured by that—the new body was not injured, the old body was not injured, and the man himself was not injured.

Mr. MCMILLAN:

Have you got a copy of that Bill with you?

Sir GEORGE TURNER:

I can get a copy. Such an arrangement is fair to the State, fair to the Commonwealth, and fair to the man. This proposal, however, is certainly unfair to the State under certain circumstances, and unfair to the man under other circumstances.

Mr. O'CONNOR:

I think we are all agreed that when an officer is taken over by the Commonwealth he should not be placed in an unfair position, or lose any rights by being taken over, because it is no fault of his that the continuity of his service has been broken. The Bill of 1891 provided that all existing rights should be preserved, but nothing more. That would be quite inoperative in many cases, for this reason: In the case where a pension was due after a certain number of years' service, the period might have been almost complete to entitle a man to a pension, but if it were not actually complete, he would have no rights whatever.

Sir GEORGE TURNER:

I suggested the insertion of the words "rights existing and accruing."

Mr. O'CONNOR:

The difficulty there is that an existing right would be really nothing unless it were taken over by the Commonwealth. That would impose a serious obligation on the Commonwealth, because I take it from the structure of this Bill that the Commonwealth probably would not introduce a system of pensions, and consequently that would, as I have stated, impose upon it the obligation of taking over the right or duty to pay pensions to its officers. The way of dealing with the difficulty is this: Inasmuch as the service of the officer was stopped compulsorily by the Commonwealth taking him over, any rights which he had at that time should be recognised. In New South Wales a certain service entitles a man
to a pension, and the abolition of office, after a certain number of years, entitles him to a gratuity. Therefore it would be unfair to saddle the Commonwealth with the payment of any pension which would be taken during life, and the better way to do it would be to treat him as if his office were abolished by reason of his being taken over by the Commonwealth.

Mr. HIGGINS:
He would still be in the employ of the Commonwealth.

Mr. O'CONNOR:
Yes. He has already been in the State where he has a right to a gratuity, and why should he be deprived of that? The merit of the proposal is that it leaves all payments and liabilities to be met by the State, and it imposes no new obligation either on the State or on the Commonwealth.

Mr. KINGSTON:
Have you any idea what this means in figures.

Mr. O'CONNOR:
I have no actual idea, but it would not mean a great deal, because there are not many c

Mr. KINGSTON:
We have retiring allowances.

Mr. BARTON:
Have they not almost died out?

Mr. KINGSTON:
Oh, no.

Mr. O'CONNOR:
In answer to Mr. Kingston's remark, I should like to call attention to the wording of this clause, that he is only entitled to what becomes payable under the law of the State on abolition of office. If the law of the State gives nothing on the abolition of office, no right accrues to him. There would be no right to take over a pension. Of course there would be no objection to the payment of the retiring allowance or gratuity being deferred until after his services to the Commonwealth have ceased. That might be done. What we really want to get at is that his right shall be crystallised at the time, and that the money shall be payable not by the Commonwealth, but by the State.

Mr. HIGGINS:
The State has a chance of his dying.

Mr. O'CONNOR:
On the other hand, you take away from him the right that he would have if he did not die.

Mr. HIGGINS:
There will be a lot of grumbling.
Mr. O'CONNOR:

You cannot do absolute justice in this case, and we have to do the best we can. Something ought to be done by which the same rights should be given to those officers whose services are taken over, and whose rights, by being taken over, are somewhat interfered with.

Sir GEORGE TURNER:

And you make the State pay this money too?

Mr. O'CONNOR:

I understand Mr. Wise has an amendment which may meet the views of hon. members.

Mr. CARRUTHERS:

I suggest that clauses 83 and 84 be postponed. If members will look at clauses 64 and 68 they will find that there we deal with the question of payment of the Civil Service and other matters in connection with the taking over of departments. It seems to me that that is the proper place to deal with this question of the public officers. It is out of place to deal with it amongst the questions of finance and trade, because we shall have two distinct subjects under the one head if we do. Only a little time is wanted to draft an amendment that will suit everyone, and if we add it to clause 64 our business can be better proceeded with, and we will save time.

Mr. WISE:

I beg to move to add at end of the clause:

But shall not be entitled to demand payment of the same so long as he remains in the service of the Commonwealth.

Mr. DEAKIN:

This meets one objection I was going to raise. The clause would impose a heavy burden on the States at once, and give to the men who only change their employer a solatium, without having deprived them of their employment in any way. But I am not quite sure that even with this we shall meet all that requires to be met. The language of the clause is:

Every such officer shall be entitled to receive from the State any gratuity, pension, or retiring allowance payable under the law of the State on abolition of his office.

I do not know whether the Drafting Committee have satisfied themselves if in every other State likely to join the union there is payment of compensation on the abolition of office.

Mr. BARTON:

There are some States where there is not.

Mr. DEAKIN:

Then their public servants, if transferred, are not provided for.
Mr. WISE:
They will have to be provided for by the Parliament of the Commonwealth.

Mr. BARTON:
All that we suggest is that where a person is entitled to a locally-accruing right under the law of the State in which he has served that right shall not be impaired; but where under the law of the State in which he has served he is not entitled to any gratuity, pension, or retiring allowance the mere fact of the transfer does not give him the right to the payment of such.

Mr. DEAKIN:
That is not provided in this clause., He would only receive whatever he was entitled to on the abolition of his office. If entitled to nothing on dismissal he would get nothing, and all his other rights would be disregarded. As matter of fact he simply changes masters and his office is not abolished at all. I do not understand why all rights and privileges are not simply continued, and why, a change of master should involve any change in the conditions under which he is employed.

Mr. BARTON:
A person may be entitled to a pension after serving fifteen years, and he has served thirteen. He should be entitled to demand what he would have received, or a proportionate amount of it, on the expiration of the fifteen years.

Mr. DEAKIN:
I should say that he is entitled to receive that in two years from someone; I will not at this period say whom. He would be entitled to it after his fifteen years' service, although there had been a change of masters. Any statutory rights which exist should be continued, as the change is only a change of master and not a change of functions. As that is only a nominal change, why should there be any change in his privileges?

Mr. WISE:
There may be a change of locality.

Mr. REID:
You cannot impose on the new master the policy of the old master, which may force on the Commonwealth a system of pensions.

Mr. DEAKIN:
It would save a great deal of anxiety and risk on the part of the civil servants if their existing rights under Statutes were conserved to them under the Commonwealth. It would be a simple thing to do, and no one's position would be injured or improved. Nothing could be fairer. Then there comes the second question raised by Messrs. Barton and Reid, and that is the question as who is to pay. I am of opinion that it is the Commonwealth
that should pay.

Mr. REID:
Would it not be better to postpone this clause and go on with the real financial clauses?

Mr. WISE:
I object to clause 84 being postponed,

Mr. REID:
We are anxious to get to the real financial clauses.

Mr. BARTON:
I have not the slightest objection to clause 83 being postponed.

Mr. DEAKIN:
I have no objection to it being postponed, but I will state one point first. The Commonwealth should pay if for no other reason than that provision is made for the taking of accounts between the Commonwealth and the States. Compensation should not be paid until it is due, and then it should be paid by the Commonwealth and deducted from the sum returned to the State simply as a matter of convenience. I shall argue the matter at greater length when the clause once more comes on for consideration.

Clause postponed.

Clause 84.-All lands, buildings, works, and materials necessarily appertaining to, or used in connection with, any department of the Public Service the control of which is by this Constitution assigned to the Commonwealth, shall, from the establishment of the Commonwealth, be taken over by and belong to the Commonwealth, either absolutely, or, in the case of the departments controlling customs and excise and bounties, for such time as may be necessary.

The fair value thereof, or of the use thereof, as the case may be, shall be paid by the Commonwealth to the State from which they are taken over. Such value shall be ascertained by mutual agreement, or, if no agreement can be made, in the manner in which the value of land, or of an interest in land, taken by the Government of the State for the like public purposes is ascertained under the laws of the State at the date of the establishment of the Commonwealth.

Mr. WISE:
I desire to move an amendment in line 12. I propose.
To add after the word "Commonwealth" it and the railroads."

I do not want a discussion. If there is to be a discussion I will withdraw the amendment. I am well aware this has been talked over in Committee and privately, and I know I am in a minority; but I want to put my views on
the subject on record. I want to have this matter decided and put on one side, so that it will leave the financial discussion clear. I mean that the railways of all the colonies go over to the Commonwealth, whether it is against the will of the colonies or not.

Sir GEORGE TURNER:

I intend to vote against it as it is now, but when we come to deal with the clause later on there is a proposal that all the debts be handed over; and many who feel doubts about handing over the railways would be prepared to do so if the Commonwealth is to take over the debts. To put this question at once without discussion would be absurd.

Mr. REID:

I would like to point out in reference to what Sir George Turner has said that to know the mind of the Convention on this point would clear away a number of difficulties in considering the other point. Certainly if the railways are to be handed over I would be the first to say the debts should be handed over. I am opposed to handing over the debts without the railways, but if the Convention is in favor of the railways being handed over I will remove my objection as to the debts.

Mr. FRASER:

So would I.

Mr. REID:

I am going to vote against the amendment, for I think the two should certainly go together. I think we might find out the will of the Convention on the point.

Mr. FRASER:

I am glad to hear Mr. Reid speak as he has done. If the debts are to be taken over, then I will waive my objection to the railways being taken over. There is great difficulty in taking one over without the other, although in any case there is difficulty in taking over the railways, particularly the railways of a colony not connected with us by land.

Mr. WALKER:

I do not wish to detain the Convention. I am in favor of both the debts and the railways being taken over, and will vote with Mr. Wise.

Mr. MCMILLAN:

This is one of the most important matters that can be adopted here, and it would be considered curious outside if we were to pass it without discussion, I think it should be fully and freely discussed. Therefore I trust it will be put in its right place, and be fully discussed.

Mr. WISE:

I am pleased that our arguments have had such weight, for we were in a very small minority when we came here four weeks ago—that some hon.
members have been induced to agree with our feeling that the railways should be taken over.

Mr. REID:
I shall not.

Sir GEORGE TURNER:
I am prepared to vote against it now.

Mr. WISE:
Desirous of encouraging that feeling to the utmost, and finding that this proposal will not save time, I will with the permission of the Committee, ask leave to withdraw my amendment.

Amendment withdrawn.

Mr. BARTON:
There are one or two verbal amendments to be made in this clause. If the words "belong to" are changed to "vest in" it may become more clear that lands, buildings, and works in connection with the department will pass to the Commonwealth without the necessity of any legal assurance given by the operation of this Constitution.

Mr. REID:
What about buildings used only in the State?

Mr. BARTON:
They will be vested in the Commonwealth until such time as might be necessary, There will be no confusion there because the State may vest in the Commonwealth, either for fee-simple or for a number of years. I propose:
To leave out the words "belong to" and insert "vest in" in lieu thereof.
Amendment agreed to.

Mr. BARTON:
I also propose;
To strike out in the last line of the clause the words "the date of."
This is merely for conformity. The expression:
At the establishment of the Commonwealth, is used right through the Bill.

Mr. DOBSON:
I should like to know if Mr. Barton proposes to leave in the words The fair value thereof, or the use thereof.

Mr. BARTON:
Yes; for the reason that lands, buildings, &c., are to be taken over absolutely, or in the case of departments controlling Customs and excise and bounties, for such time as may be necessary, There will be a large number of buildings and lands in connection with Customs which will only
be taken over in the time intervening between the establishment of the Commonwealth and absolute free trade. There will be a number of such lands, buildings, and works, and the Commonwealth does not want them after it has got uniform Customs. For instance, there will be those on the border, which will not be wanted after five years; but these periods cannot be determined at present absolutely, and the only phrase that can be used is:

For such time as may be necessary,
"Vest in" is commonly used, and will apply to either.

Sir PHILIP FYSH:
The hon. member Mr. Barton has not met the case referred to by my hon. colleague Mr. Dobson. I know of post offices and telegraph offices connected with supreme courts, and it will be impossible for those buildings to be taken over in the sense of complying with this clause. The use of such buildings must necessarily be vested in the federal authority for which a certain rental will be made. I presume the term "use" includes rental. On that point I desire to be informed.

Mr. BARTON:
The probability is that in such circumstances the building would itself vest with the Commonwealth for the time necessary to hold it, whether the building were rented by the State or not., and the Commonwealth would make its own arrangements with the State.

Mr. DOUGLAS:
It cannot vest in the Commonwealth.

Mr. BARTON:
It Must.

Mr. DOUGLAS:
Take, for instance the post and telegraph office at Hobart, which is part and parcel of the building used for the Supreme Court. That could not be vested in the Commonwealth.

Mr. BARTON:
That is met by the words:
Or used in connection with any department of the Public Service.
That is to say, so much as is necessary would be vested in the Commonwealth.

Mr. CARRUTHERS:
I do not intend to move an amendment now, because I do not carry enough guns to fight the three members of the Drafting Committee, but I give fair notice that I shall endeavor in the New South Wales Parliament to improve the drafting of this clause. Mr. Deakin, who
is not a member of the Drafting Committee, will probably agree with me. There is no title known in the law as:

For such time as may be necessary.

In my position as Minister of Lands in New South Wales, when these Customs houses on the border have to be disposed of, they will be sold through my department. I can give no title to the purchaser, because the vesting is, so far as the State is concerned, for an indefinite period. I trust that, before we meet again, some of these legal cobwebs may have been swept away.

Mr. BARTON:

My hon. friend says he does not carry so many guns as the Drafting Committee, but he seems to know more about drafting than they do. I leave him to enjoy the position.

Amendment agreed to; clause, as amended, agreed to.

Clause 85.-Until uniform duties of Customs have been imposed, the powers of The Parliaments of the several States existing at the establishment of the Commonwealth, respecting the imposition of duties of Customs, and the imposition of duties of excise upon goods the subject of Customs duties, and the offering of bounties upon the production or export of goods, and the collection and payment thereof respectively, shall continue.

Until uniform duties have been imposed, the laws of the several States in force at the establishment of the Commonwealth respecting duties of Customs, and duties of excise on goods the subject of Customs duties, and bounties, and the collection and payment thereof shall remain in force, subject to such alterations of the amount of duties or bounties as The Parliaments of the several States may make from time to time; and the duties and bounties shall continue to be collected and paid as theretofore, but by the officers of the Commonwealth.

Mr. GORDON:

I would like to point out what seems to me to be an anomaly. The first part of the clause provides that the State Parliaments shall retain all their existing powers with regard to the collection and payment of duties, but the next sub-section provides that the duties shall be collected by the officers of the Commonwealth. It appears to me that there is a contradiction there. A good many of the powers relating to Customs have to be exercised conjointly by a State officer and the Ministers of the States. It will be necessary to clothe the federal officer, in conjunction with the States Ministers, with the various powers now given by the Customs Acts of the colonies.

Mr. BARTON:
There is no contradiction. The proposal is that the imposition of duties, the offering of bounties, and the collection and payment of them shall continue with the single exception that, as regards the collection and payment of them, the persons appointed to do that shall be the officers of the Commonwealth.

Mr. O'CONNOR:

It is a change of masters but not of men.

Mr. MCMILLAN:

I should like to test the feeling of the Committee on one important point. In the second section of this clause appears this very remarkable statement:

Subject to such alterations of the amount of duties or bounties as the Parliaments of the several States may make from time to time.

That, I believe, was in the Bill of 1891, but the records of the debates do not show exactly for what reason it was introduced. I presume the idea was that the Federal Parliament would fail after coming together to create a uniform tariff, which might thus be indefinitely postponed, and cause a great deal of trouble to State financiers. But we have in this Bill, in a subsection of section 82, which we have just been discussing, the following words:

Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth.

I think the introduction of that sub-clause does away with the necessity of this part of the clause.

Sir GEORGE TURNER:

What part?

Mr. MCMILLAN:

I am objecting to any State Government being allowed to touch the tariff after the Commonwealth is established. The uniform tariff has to be established at the outside within a period of two years. See the position you will be in. You give over the Customs machinery and officers, so that the State will practically have nothing to do with the Customs, and yet you allow a State Government—which has practically transferred this power—to deal with it in its most important aspects. Furthermore, you might have this difficulty: that while you are bending all your efforts upon a uniform tariff, you may by the operation of this clause have a perfect war of tariffs going on, and the whole subject of the fiscal policy discussed in every State. It is absolutely necessary to make that two years a period of truce, as Mr. Reid mentioned.

Mr. REID:

Hear, hear.
Mr. MCMILLAN:

It is necessary that the whole mind of the Commonwealth should be fixed on a uniform, tariff, not on a local basis, but on a basis for all Australia. If no one has a further amendment, I will move to strike out-

Mr. BARTON:

I have an amendment in the first part of the clause, but I should like to point out to Mr. McMillan that it is not a certainty that after the establishment of the Commonwealth, and before the Commonwealth itself takes the matter of a uniform Customs tariff in hand, the States should be prohibited from making any alterations in the Customs laws. Until the Commonwealth assumes absolute control of the finances, all the States are interested, as they may have to make certain dispositions for the collection of revenue for the period which must elapse until the Commonwealth legislates, and we do not know what emergency may arise which may not impel them to the collection of further revenue; but it would be forcing them to apply themselves to one system of taxation only-one of direct taxation, for instance, which might not be their policy-if they were prevented during the interregnum, if I may so term it, from imposing such duties on Customs and excise as seemed good to them. We must leave the several States perfectly free to direct their own fiscal policy until the ultimate direction of that policy by the Commonwealth, upon the imposition of uniform duties of Customs and excise. You should not interfere with the rights of the States in this respect until uniform duties have been imposed.

Mr. KINGSTON:

In matters of bounty as well?

Mr. BARTON:

They may not be so important. They are not so important to the fiscal position of the States. But matters of bounty in this clause will have some relation to this question of bounty discussed in clause 82.

Mr. MCMILLAN:

Will not the provision which I have mentioned interfere with the Federal Treasurer's arrangements, too?

Mr. BARTON:

There may be a difficulty in that direction, I admit, but inasmuch as the interests of the States may be paramount until the Federation gets into full owing, it is a very arguable question whether you should strike the power of dealing with their tariffs out of the powers of the States. It is therefore a question of what the interests of the States may be before ever Federation becomes really complete in all its parts, as it will not be until the imposition of Customs duties. I wish to make two verbal amendments in
this clause. They are consequential amendments:
That the word "and" in lines 23 and 33 be omitted, and the words "upon
goods subject to customs duties" be struck out of lines 27 and 28 and lines
33 and 34.
Amendments agreed to.
Sir EDWARD BRADDON:
On the sub-clause, which gives the power to the States until uniform
duties can be imposed to regulate all matters with regard to Customs duties
and bounties, I think, having regard to what we have already done, and the
restrictions we have laid upon various States in regard to the imposition of
contracts for new bounties-
Mr. WISE:
That has been postponed.
Sir EDWARD BRADDON:
My hon. friend says that has been postponed, but we have postponed it
with the agreement that we are to make distinct provision for regulating
bounties as they may be contracted for by different States, and if we have
postponed that we ought to postpone this.
Mr. HIGGINS:
It is postponed, and will be recommitted.
Mr. BARTON:
The clause was passed.
Mr. SYMON:
Subject to recommittal.
Sir EDWARD BRADDON:
I understood that it was passed. I shall move:
That the words "and bounties" in the thirty-fourth line be struck out.
The CHAIRMAN:
Ought not the amendment to remain in the first part of the clause, on the
twenty-eighth line?
Mr. REID (to Sir Edward Braddon):
You do not need that.
Mr. BARTON:
In clause 82 we have practically provided for that by saying they shall
remain until then.
Mr. REID:
That is a question of administering existing laws by officers of the
Commonwealth instead of by the local Parliaments.
Sir EDWARD BRADDON:
I do not wish to press my amendment.

Sir GEORGE TURNER:
I quite agree with Mr. Barton that we should allow those, words to remain. I am speaking with regard to the words referred to by Mr. McMillan.

Mr. MCMILLAN:
I will move to strike them out, if you like.

Sir GEORGE TURNER:
He has suggested to strike out the words:
Subject to such alterations regarding duties and bounties as the Parliaments of the several States may make from time to time.
The object of these words is to make it clear that until the uniform tariff is actually imposed the States may deal with their own individual tariffs, and that if passed the money to be derived from these tariffs goes to the State in which it is collected. Surely it is for the State to say what amount of money it desires to raise by Customs duties. A case might happen in which the Treasurer of the day, being short of funds, might say that for twelve months or two years he desires to have a primage duty of £80,000 or £100,000. And if so, why should he be deprived of that power? On the other hand, suppose the Treasurer of the day had a surplus. He might say that for twelve months or two years he desires to give the people the benefit of the surplus by reducing or abolishing the duty on tea or sugar or some necessary of life. I quite understand that a difficulty may arise with New South Wales. It might be contended that it would be impossible to detect whether they would have a protective duty or not, but we have not now to look into that particular point. This is a reasonable power. It does not take away from the States the power of moulding their tariffs until the uniform tariff is fixed. It will enable them to do anything they like with existing Customs.

Mr. BARTON. It may lead the Federal Parliament to settle the question of the uniform tariff as soon as possible.

Mr. REID:
I would not have a word to say on this matter if Sir George Turner would apply the same rule in another way. Sir George Turner is thoroughly in favor of leaving the colonies unfettered until the Federal Parliament begins to exercise its powers. I am equally desirous not to fetter the Commonwealth afterwards as to how certain amounts are to be received. There is no consistency between the two positions, If you are not going to allow the colonies to be fettered until the uniform tariff is arranged, then, I say the Commonwealth should not be fettered afterwards, I strongly sympathise with the view which Sir George Turner expresses if he will
apply it to the movement in reference to the Federal Commonwealth after it passes the uniform tariff, and not compel it to raise a certain amount of money whether it likes it or not. I have always been in favor of leaving the Commonwealth free, and the colonies free, as far as possible. I will not press my views on the Committee on this clause, but when we come to other clauses I shall strongly contend for the application of the views to which I have referred.

Mr. MCMILLAN:

I fancy that the Committee is against me in this matter. At the same time I would make another remark. It is all very well to look at the State side of the question, but I am perfectly certain it will be a great trouble to the Federal Treasurer if this clause is passed as it is, because you allow the whole of the colonial tariff to be interfered with. You might want to take off a duty in order to give the benefit to your budget, but on taking it off you might much embarrass the Federal Treasurer.

Sir GEORGE TURNER:

He does not get the money,

Mr. MCMILLAN:

But he has to Pay the federal expenditure, everything, connected with the Federal Government. You might also very much dislocate the machinery if you put on a new tax, or take off an old one. You embarrass altogether the machinery of government therefore, while I do not intend to move an amendment, there is no use going to the trouble of putting it now. I am perfectly certain that the way I contend for is most in accord with a successful financial operation.

Clause as read-agreed to.

Clause 86.-So soon as uniform duties of Customs have been imposed, trade and intercourse throughout the Commonwealth, whether by means of internal carriage or, ocean navigation, shall be absolutely free.

Mr. DEAKIN:

Previously I suggested that a proviso should be added to the first subsection of clause 50, providing that the power which all the colonies at present possess of prohibiting the introduction and sale of any injurious article within their own borders should be placed in that sub-section, but at the suggestion of Mr. Barton I withdrew the amendment with a view to moving it on this clause. I now beg to move that the following words suggested by him be added to the clause:

But nothing in this Constitution shall prevent any State from prohibiting the importation of any article or thing, the sale of which within the State has first been prohibited by the State.
Sir GEORGE TURNER:

I desire to draw attention to the words "absolutely free" in this clause, which reads:

So soon as uniform duties of Customs have been imposed trade and intercourse throughout the Commonwealth, whether by means of internal carriage or ocean navigation, shall be absolutely free.

I can understand you saying that they should be absolutely free from any duty on importations. These words are about the largest that could be possibly used, and might include all charges for tolls, wharfage dues, and other matters like that. We ought to be careful about using words which may have a wider interpretation than was originally intended. I will ask Mr. Barton to tell us what the words mean, for the desire of the Committee is that when we have a uniform tariff as against the outside world, as between State and State there should not be any Customs tariff.

Mr. GLYNN:

It would be better to strike out the clause, which goes further than was intended, and has given to the Bill a scope that was never contemplated. If we decide upon taking over the navigation and control of rivers it might be necessary to impose a toll upon navigation within our limits, but it would be impossible to put a toll on the passage of the steamers into South Australia.

Mr. REID:

This clause is a financial peroration.

Mr. GLYNN:

I will draw Mr. Deakin's attention to this fact: would it not be possible for the State to totally prohibit the importation of any goods that might be subject to Customs duties? There is a concurrent power dealing with the matter of Customs duties set out in section 50, and then there is an exclusive power regarding duties. Is there any power denied to the States prohibiting the total importation of the goods the jurisdiction of the Customs duties on which has been shifted on the Federal body? That would lead to complications in every line of the Customs tariff, and if what is suggested is done every single line of the tariff might be subjected to prohibition by local law.

Mr. DEAKIN:

My amendment is that no State should be prohibited from importing any article the sale of which within the State has first been prohibited by the State.

Mr. GLYNN:
I can quite see the force of that amendment, which leaves it open for the State to say: "You cannot import in the future." Of course it would be a ridiculous thing to do, but that would apply to other articles.

Mr. BARTON:
I was under the impression that these words were in the American Constitution.

Mr. ISAACS:
They are not.

Mr. BARTON:
But so far as my Search has extended just now that impression does not appear to be correct. It was thought in 1891 that this clause should be as absolute in its terms as possible. If there is to be any exception to absolute freedom of trade and intercourse from end to end of of the Commonwealth it should be expressed by way of exception. We take it that if we are to make provision for this or that as the necessity arises, and that this thing shall not be charged with Customs while that shall be, we may have prolonged attempts to make things definite. Make them indefinite and the best way for the protection of the Commonwealth in its internal intercourse, which is the object aimed at in this clause, is to prescribe definitely that all trade and intercourse may be absolutely free except with regard to these derogations or exceptions which the Constitution imposes. That was the view with which the clause was drawn now and in 1891, and it is better to plan the clause that way than to plunge ourselves into a difficulty by inserting constant repetitions. The clause does not make it unnecessary for any man to pay for any services he has done for him by a State or a private person.

Mr. HOLDER:
Light and tonnage dues?

Mr. BARTON:
Light dues Stand in the same position, and tonnage dues are dealt with in another part of the Bill.

Mr. HOLDER:
Wharfage dues?

Mr. BARTON:
Wharfage dues come in the nature of services and rents for the use of the wharfs. We shall have to pay for services rendered, but if this clause were construed in the way it has been suggested a person could send a letter from one end of the Commonwealth to the other without putting a Stamp on it, and that is not what is meant at all. Every ordinary service must be paid for, but, subject to the services which are to be paid for, trade and intercourse is to be absolutely free. We had better leave the clause in its
The question which I am raising is altogether separate from fiscal issues. It is only proposing that the present power of any colony to prohibit the importation of any article for fiscal reasons or not may be exercised under the Commonwealth, provided that the sale of that article has been prohibited in the colony itself, in which came the prohibition of importation from abroad can have no fiscal effect whatever.

Why not effect prohibition by the same Act?

My amendment reads:

But nothing in this Constitution shall prevent any State from prohibiting the importation of any article or thing the sale of which within the State has first been prohibited by the State.

Why the emphasis on the "first"? Do it by the same Act.

I do not think the word "first" is necessary.

Is there such an article?

Such articles as opium and alcohol?

You cannot prohibit them for medicinal purposes.

A Bill was introduced in Victoria for the purpose of prohibiting the importation of opium as an article of commerce, except as a drug. Possibly it maybe necessary to make this amendment a little more specific, because in all cases it may be necessary to introduce some opium and some alcohol for medicinal purposes. It may be therefore necessary to alter this amendment, which has been prepared at my request by the Drafting Committee; but as I did not mention this point they naturally did not provide for it. The question has nothing to do with the fiscal issue. Hon. members will recollect that I called attention to a case in which the Supreme Court of the United States ruled that the language which we propose to adopt in this Constitution is sufficiently wide to prevent any Government, except the Federal Government, from prohibiting the importation of any article, and that, in 1890, an Act known as the Wilson Act was passed. to re-endow the States with the power of prohibiting the
introduction into their territory of opium or alcohol if its sale was prohibited within their borders.

Mr. MCMILLAN:
Would that not render necessary all the machinery of the Customs House?

Mr. DEAKIN:
The Federal Government would then have the Custom-house. Each colony has the power of prohibition at the present moment, and there is no necessity why it should be sacrificed on its entering into the proposed federal union. I think hon. members will agree with me that a proposal to prohibit could be better dealt with by the several States, each for itself, than by leaving the sole power to the Federal Parliament, with whom the only question could be whether there should be prohibition throughout all the colonies at once and as one whole. There is no reason why the Federal Government should be the only political body to have that power.

Mr. MCMILLAN:
How could you do it without creating all the troubles of border Customs-houses?

Mr. REID:
It is limited to articles the sale of which is prohibited within the colony.

Mr. DEAKIN:
The object of the amendment is that if either Tasmania or Victoria, for instance, desires to prohibit the introduction of opium or alcohol, it may do so. The terms of the Constitution as at present worded would deprive it of that right. I wish to prevent any colony from being shut out from exercising a power which it at present enjoys.

Mr. REID:
Will you allow me to suggest that we should postpone this clause in order to reach the substantial financial clauses?

Mr. DEAKIN:
I think there will be no discussion on this amendment.

Mr. REID:
I am told that there will be.

Mr. DEAKIN:
I wish that had been stated, and I would not have commenced to speak.

Mr. REID:
I find that the days are going, and we are not getting to the pith of the subject.

Mr. DEAKIN:
I understand that this means I can have the hon. member's support when it does come on.
Mr. REID:
If I am here when it comes on. It is not likely.

Mr. DEAKIN:
I move:
That the clause be postponed.
Question resolved in the affirmative.

Clause 87.-Until uniform duties of Customs have been imposed, there shall be shown, in the books of the Treasury of the Commonwealth, in respect of each State:

I. The revenues collected from duties of Customs and excise, and from the performance of the services and the exercise of the powers transferred from the State to the Commonwealth by this Constitution;

II. The expenditure of the Commonwealth in the collection of duties of Customs and excise, the performance of the services, and the exercise of the powers transferred from the State to the Commonwealth by this Constitution:

III. The balance, if any, in favor of the State.

From the balance found in favor of each State there shall be deducted its share of the expenditure of the Commonwealth in the exercise of the original Powers given to it by this Constitution, and this share shall be in the proportion of the number of the people of the State to those of the Commonwealth as shown by the latest statistics of the Commonwealth. After such deduction the surplus shown to be due to the State shall be paid to the State month by month.

Mr. MCMILLAN:
The idea was, I think, that as I had the honor of being Chairman of, the Finance Committee I might be able to explain from the chairman's standpoint the difficulties that arose in dealing with these financial questions and also to give a fair explanation of the general tenor of them. I think that in dealing with this financial question we cannot be too honest to ourselves or to our constituents. There are a great many matters involved in this question, and I think we have to meet them clearly and fully. We have heard a great deal about compromise in this Committee and in the Convention, but it seems to me now that, unless we are very careful, we may, as far as New South Wales is concerned, be getting into the region of sacrifice. The difficulties that have beset us in dealing with this question of finance are the varying conditions of the various colonies. We have got five colonies now attempting to federate. Three of them have distinctly, protective systems; one, Western Australia, is in a practically abnormal state at present, and New South Wales has, during the last couple of years,
been gradually cleansing her tariff, so that it is now absolutely free trade, or as near that as can be. In 1895 the position of the colonies was much more in line with regard to the tariff. In 1895 the Dibbs tariff came to its last stage, and the duties realised in that year were larger than those realised in any year previously or since. If we had been attempting to federate in the year 1895, a great many of the difficulties that now beset us would not have come into operation. The tariff, which in New South Wales in 1895 yielded £2,200,000, will now yield in July next-if certain further duties have been removed-only £1,400,000. In other words, we have to place the tariff of New South Wales, which is established practically on free trade principles, alongside others which are highly protective. The question is with regard to the distribution of what is known as the surplus—that is, the amount of money that will remain after the payment for the services transferred and for the special administration of the Central Government. What that surplus was during the first two years before the uniform tariff has been imposed will be found by a system of book-keeping. Therefore, under the clause before us now, there will scarcely be any comment necessary in the debate. But the difficulty comes after the uniform tariff has been imposed, and there we have to deal with practically an unknown quantity. We have had a great many tables of figures placed before us to show us what under different sets of circumstances would be the result an regards different colonies; but I am quite prepared to allow that no calculations of that kind can be substantially correct, because it is impossible to know what the peculiar tariff will be, whether it will be on protective lines or on revenue-producing lines. Therefore, we can only get tolerably near to our conclusions. At the same time a great problem arises because we apply these anomalous conditions to a colony that is one of absolute free trade, and imagine that all the difficulties will disappear as if by the magician's wand. We are giving away under this Federal Constitution the most elastic and powerful piece of machinery for the collection of taxation. Therefore, the difficulty is how can we come together as federated colonies, agree to a uniform tariff, and at the same time prevent the great danger of the dislocation of the State finances? I will give a few figures just from memory to illustrate the position. Taking the tariff of New South Wales as it will be in July, at the present time the total amount collected from Customs duties for these five colonies is about £4,200,000.

Mr. PEACOCK:

For twelve months?

Mr. MCMILLAN:
Yes.

Mr. PEACOCK:
Under the present tariff?

Mr. MCMILLAN:
Yes, under the present tariff. It is near enough to say about four millions.

Sir GEORGE TURNER:
There would be another million if you had a tariff in New South Wales.

Mr. MCMILLAN:
Coming to the question of border duties, these are, roughly speaking, about a million of money. There have been various calculations made from £500,000 to £1,000,000; but I think it is safe to consider that, one way and another, there will be a million to be made up with regard to those duties. Besides that, you will have something between £400,000 and £500,000 for the special services connected with the administration of the Central Government. I am not now putting the matter with regard to my own fiscal opinions, but stating it as it appeared in the Committee. You will therefore see the difficulties which surround the State treasuries in the future, and if you are not going either to economise very much or increase your direct taxation in the various States, you will have to create through Customs duties a revenue equal to the whole of the present amount now collected, plus the expenditure for the central administration. If you lose a million of money in connection with your border duties, and if it costs £500,000 more for your central administration, and if you want to put the States in a position to absolutely lose nothing—which we do not—and if you want to put the States in exactly the same position as before Federation, so as to give them back a surplus which would place their treasuries in the same position as before with regard to the transferred services, then you will have to raise at least a million and a half further money by some way or other in order to create these co

Sir GRAHAM BERRY:
One million, and it is only a transfer.

Mr. MCMILLAN:
Not at all. You lose a million.

Mr. REID:
It does not affect your argument.

Mr. MCMILLAN:
It does not affect my argument that you would have to increase your duties because you lose a million that you will have to make up from extra duties or some other source. I am stating the position of the State Treasurers of the protected colonies. Very well. Now, I would be perfectly willing to leave this conundrum to the Federal Parliament. We have passed
the machinery, which is only a mere bookkeeping process, by which during the first two years, presumably as they are framing the uniform tariff, everything goes on exactly on the present lines, and after paying per capita the amount of the Central Government's expenses we get returned to us absolutely what is due to us. That is to say that supposing Now South Wales pays, say, £140,000 to the central administration, its finances would be exactly the same, with the exception of the £140,000, as if there had been no Federation.

Mr. PEACOCK:
That is for two years.

Mr. MCMILLAN:
Yes. Now, the position taken up—I want to state it fairly for the benefit of the Committee—the position taken up by certain Treasurers of the different States is this: They say, "We must have a certainty with regard to our State finances, at any rate for four or five years, and therefore, no matter what policy may be adopted, we must have a definite minimum amount given back to us." But the difficulty, especially to New South Wales, is, that if you fix a definite sum you practically dictate the tariff of the future.

Mr. SYMON:
Hear, hear.

Mr. MCMILLAN:
There is no use getting out of it by a sort of quibble, and saying: "Oh, but you have got direct taxation to go to, and it does not follow because you fix the sum you are going to increase the burdens of the people through the Customs." That is to my mind nonsense. We know well enough that whatever revenue is raised during the first few years of Federation must be practically raised through the Customs. We may as well face the position, because this condition we all believe will be the actual condition of things. Very well. Now, it seems to me, that if we are going to hand over the whole of our Customs revenue to this federal authority, we are giving them such enormous powers, and we are surrendering to them such a tremendous engine of taxation, that anything else we leave to them is practically child's play. Therefore, I believe in leaving the whole adjustment of this matter to the Federal Parliament.

Mr. REID:
Hear, bear.

Mr. MCMILLAN:
Furthermore, you will see that by indicating these surpluses, and by putting in this Bill a certain modus operandi, as this clause would, we are
establishing a financial link between the Federal Government and the State Governments which cannot be ignored. Just take the operation of our elections for the Federal Parliament. Will it not be perfectly just and right that influence—the legitimate influence of public opinion, I mean—should be brought to bear on the men who will be elected for the different States to represent those States in that Federal Parliament? And it is not as if we were transferring these things to a foreign power.

Mr. REID:

Hear, hear.

Mr. MCMILLAN:

We are simply transferring them to ourselves in our corporate capacity as a whole, so to speak. Therefore all these difficulties of the State treasurers will be known as well to the Federal Treasurer, through the States representatives, as they are known here by us to-day. Therefore it seems to me, if we were not allowing that surpluses were to be given at all—if we were giving over certain revenues for good and all—there would be an absolute break between the Federal and State finances; but that break is not going to occur; and it seems to me that there will be exactly the same influences at work in the Federal Parliament which are at work here in this Convention for the protection of the different State treasuries. It will be very plain to hon. members who think out this matter that any minimum amount that may be fixed for these surpluses must put the freetrade colony of New South Wales in a very unfortunate position, because it practically dictates the policy of the future. I have determined to be perfectly honest in this matter; to say exactly how it would appear to us in dealing with our constituents, in order to get this Federal Constitution passed. We shall have to confess to the people of New South Wales that we have absolutely embedded in this Constitution certain arrangements by which it will follow as an absolutely logical result that Customs duties must be increased for the people of New South Wales. At the same time, there is no necessity, as far as I can see, to face that extreme position, and I would further say, that, although there has been a great deal of criticism upon this Finance Committee—criticism which I think to some extent unreasonable we have to face, if we do not leave it to the Federal Parliament, an almost insoluble enigma. You cannot on any scientific grounds settle this question. And, why? When we go into this Federation, and create a uniform tariff, that tariff will not operate immediately in exactly the same way in the different colonies. I will take it, for the sake of example, and purely as an illustration, that the tariff of Victoria were accepted. If that tariff were accepted, and if there were any
scientific arrangement made such as the distribution of the surplus on a per capita basis, it can be proved— you may make all allowances for exaggeration, but it can be absolutely proved—that New South Wales would practically be losing on a per capita basis from £500,000 to £750,000 per year.

**Mr. DEAKIN:**

What do you mean by "losing"? Who gets it?

**Mr. MCMILLAN:**

I mean that a tariff must take some time before it brings about its legitimate result. Any hon. member will see clearly that a country that has been practically freetrade for many years will not begin to feel the effect of a protective tariff until some years have elapsed. It is practically a matter of fact that for the first five years of that tariff, which after a while, if a protective tariff, would become a reducing quantity, there will be hundreds of thousands of pounds' worth of importations into that freetrade colony which would not come into the other colony with the same population.

**Sir GRAHAM BERRY:**

But you get a larger revenue.

**Mr. REID:**

If we get it back.

**Mr. DEAKIN:**

You do not lose it.

**Mr. GLYNN:**

It will make the fortunes of all the merchants in Sydney.

**Mr. MCMILLAN:**

If we get it back. I am now coming to this point, that you can have no absolutely scientific arrangement, and therefore that leads me to the next point of our financial operations. In order to meet the difficulty we have had to keep up this destable system of bookkeeping for a period of five years. I look upon that as the weakest point of the whole of our arrangements.

**Mr. DEAKIN:**

Hear, hear.

**Mr. MCMILLAN:**

I want to be perfectly fair to all the other colonies. There are two proposals that might be made—we are shut up to two if you want to avoid book-keeping. We must either simply keep alive the book-keeping for the first year and make that a test for those five years during which the tariff is supposed to gradually operate until it comes into line in its results with the same tariff of the other colonies, or we must go right at once to a per capita basis of distribution. Thus when the uniform tariff comes in, and I take for
the matter of illustration that it may be a protective tariff, from the first year under that tariff New South Wales, with almost the same population as Victoria, would practically get—it is almost certain she would get—at least from £750,000 to a million pounds more of duties than Victoria. Consequently it would not be fair to Victoria to take the first year as a gauge for the whole five years because the principle is this: that year by year under the influence of that tariff, if it continues, this relative difference between the two States of the same population would decrease. If my hon. friend Sir George Turner would agree that we should take for that five years the basis of the first year of the uniform tariff then I should be delighted.

Sir GEORGE TURNER:

I would not.

Sir WILLIAM ZEAL:

We want to know what the Government of New South Wales would do.

Mr. REID:

I do not think it would be fair to the other colonies. I would not ask it.

Mr. MCMILLAN:

It would not be fair to Sir George Turner. Now, Mr. Reid, I may say, without any disclosure of confidence, in the Committee thought that the period should be extended for ten years, and probably he was right; but, for the sake of stopping this wretched and miserable book-keeping system, we agreed in the end to extend it to five years, and then we should have a per capita distribution. Then I come to the other proposal, namely, to start at once with a per capita basis of distribution. The one thing applies the same as the other, and on a per capita basis New South Wales would be losing during the first few years from £500,000 to £750,000 a year. Thus, while the first proposal to end the book-keeping in the first year would be manifestly unfair to Victoria the proposal to start at once with a per capita distribution would be even more unfair to New South Wales. Therefore the Committee, in its wisdom, decided after the most painful consideration—after about a thousand and one schemes had been set up and knocked down—that the only process was this process of bookkeeping. If that process is allowed, nothing can be fairer. There is no doubt it is a great nuisance to carry on the machinery on the borders of the different colonies. There is no doubt you will not be able to get at an exact result because there will be thousands of goods coming backwards and forwards in broken packages which it would be ridiculous to take any notice of. You will have to deal with the thing in the bulk, and strike a balance in the beat way you can. After all if that matter is agreed to—although it will be very unpleasant, and
although it is a project that I am ashamed of personally - it is not a matter which involves much principle. The great question involved in these clauses is the question of fixing a minimum for the different Treasurers in the different services. And I may say that is a tremendous block on our arrangements. Is seems to me that it opens out an enormous difficulty as far as New South Wales is concerned. Of course I see the difficulty of different Treasurers. I am told that in one colony it is absolutely impossible to go further in the way of direct taxation; and these Treasurers, according to their own statements, will have to face their constituents by telling them they have practically given over this great engine of taxation to the Federal Government and have no absolute guarantee that after the first year of the uniform tariff they will not have to face a large deficiency. I am not touching now so much upon the debts, but I think I have explained pretty fully the exact difficulties of the position. I may say one word more incidental to the debts, but I will not deal with them exhaustively. Another question will arise with regard to the surplus. If you get a certain surplus which is payable in the early part of the Federation, say a surplus arising either on the first year of the uniform tariff's operation, or on the last year of the old regime, the question arises as to the covering of that particular surplus, and no doubt if it could be covered by a similar amount, of interest capitalised, it would be a very good operation; but that is not for all by the Central Government. But still the question will always arise in regard to these surpluses. I would point out that all we do in this complicated position is simply to direct a definite operation for five years.

Even after five years surpluses may occur, and there we agree to leave the amount to the Federal Government for per capita distribution. The question naturally arises "Would it not be better to allow the Federal Parliament, which will be as just and equitable as we can possibly be, to deal with that matter themselves?"

Sir GRAHAM BERRY:
What matter?

Mr. MCMILLAN:
The matter of dealing with the surpluses, the getting at the amount, and its distribution during the first five years of the Commonwealth after the uniform tariff has come into operation.

Mr. HIGGINS:
You want us to go in blindfold.

Mr. MCMILLAN:
I am quite ready to recognise that difficulty, and I have recognised it in
the remarks I have made. But at the same time if the different States gave way in this it would clear the atmosphere tremendously with regard to this question, and I think would make it completely acceptable to the people of New South Wales.

Mr. WISE:

The Commonwealth must see that the States pay their way.

Mr. MCMILLAN:

I do not know that they would at all. The Commonwealth might say you had better go in for direct taxation and tax your people for any deficiency you have got. I think it would be better, if I might so suggest, to deal first with this question of the surplus as we have it in this clause, and then afterwards deal with the matter of the debt. I have put the question as clearly and as concisely as I could to the Convention, and I do think that we may be able to get at a solution of the difficulty, though there is no solution of an absolutely scientific character possible under the circumstances.

Mr. BARTON:

Did the Committee take into consideration the question that if the debts were taken over there would be no authority for the regulation of the subsequent portion of their debts?

Mr. MCMILLAN:

They divided that matter altogether. In the first place, the opinion was that if it were not to be absolutely a taking over the debts, then it was considered that the question of the present and the future debts should be left. There is some difference of opinion as regards the drafting of that clause, but it is so drafted that if an alteration is agreed to it can easily be effected. At the present time, as far as I have understood the position in the Committee, we have not decided for the compulsory taking over of the debts, but if we had done so then certainly there would have to be some arrangements made with reference to the future debts, or something indicated with regard to the position of the Commonwealth in the future in relation to the debts of the particular States, because if we absolutely decide that the Commonwealth shall take over the debts then it would be absolutely necessary for us to indicate how we are to deal with future debts. There are two objects in taking over the debt, the first, in part, being the covering of the surpluses. In looking at the matter broadly, the great object is to have one consolidated debt, to prevent a lot of small debts, so that if we decide to force the Commonwealth in this Bill to take over the debts it would certainly be necessary to indicate how we are to deal with them in the future. The difficulty of a debt to my mind is that it belongs to two different classes of assets in the State. You have got, including
Queensland, 169 millions, and while you have 110 millions covered by railway construction, you have got fifty-nine millions in other different services. Now, it does not follow that a certain amount of the debt could not be taken over in connection with these other services, but you must recollect that when you give over the whole of the debt which covers these promiscuous services, which will be to a great extent self-supporting, you open up a very difficult and complicated question. I have always held from the beginning-and from time to time I have thought over this matter seriously too—that this Convention is scarcely in a position to deal either with the debts or railways. I have always held that it will be better to leave the whole of these complicated questions to be dealt with by the Federal Parliament as the great negotiator with the Federal States. Therefore, it seems to me, on broad lines, that we should leave the question of the debts for the present as purely local matters, giving the Commonwealth power, with the consent of the States, to take them over, either consolidated or under a certain arrangement satisfactory to all. I am perfectly certain from a financial point of view, both with regard to the railways and debts, that it will be much more satisfactory, as a matter of arrangement and economy between the States and the Commonwealth, to allow those operations to take place not by arrangements made in this Convention and embedded in this Bill, but by arrangement or negotiation between the Federal Government and the State Governments hereafter. I am sure if we touch these matters it will create a large amount of feeling. It will be almost impossible to adjust them on proper lines, and I doubt very much whether they will assist this Bill when it comes before the people of our respective States. After all, we have come here with a sort of mandate that we are not to take away from the States in this first step to Federation anything that can reasonably belong to them, and which can possibly, until opinion ripens, be better done by the States. I am sure if we leave this question of debts and railways outside of present arrangements we are far more likely to have this Constitution made acceptable to the general body of the people.

Mr. HOLDER:

I think Mr. McMillan is to congratulated upon the exceedingly clear and fair way in which he has placed before us the extremely difficult problem with which the Finance Committee had to deal, and with which we have now to deal. While I recognise that he has most fairly placed this matter before us, there are one or two matters surrounding it from my side which require a little more attention and a little further development. I hesitate somewhat to raise these points, because there are some who speak of the
action of anyone who refers to difficulties in connection with Federation as being anti-federal. I protest against being stigmatised as one who is anti-federal. I point to these difficulties because someone must, and in the hope that if I cannot point to a way out of them someone else may be able to do so. Although I see many serious difficulties, no one is justified in saying I am anti-federal. The position as it affects the small States is that they do not at all know how, without the Customs revenue, they are going to make both ends meet. I am not going to say South Australia is better off or worse off than any other colony, but I shall take her case, because I know it best, and am most familiar with the details of her position. We have a debt which involves the payment of nearly a million a year in interest. A considerable portion of that annual payment is derived from the profits on railways and from returns over and above the expense of working other loan undertakings; but we depend upon the £500,000 we realise from Customs for the payment of so much of the interest on the debt, and if we are going to hand over to the federal authority this sum of £500,000 yearly, unless we can see we are going to get it, or a large portion of it, back, we can see very clearly that South Australia is within measurable distance of a serious difficulty. We might increase our direct taxation, but I should be very sorry to be the Treasurer to propose it, as the people are already sufficiently heavily burdened with various measures of taxation. I should be very sorry to have to propose any addition to these burdens, and yet nothing else could possibly be done by any Treasurer who wished to

make both ends meet. There are two points of view. There is the point of view of the Federal Treasurer who wants his hands free, and wants to be able to come down and propose a freetrade tariff, if he be a freetrader. He may want to frame a tariff that will bring in an exceedingly small amount-enough only to cover the expenses of the Federation-and if we leave him a free hand, and permit the majority to sanction a tariff that will produce but little more than is necessary to cover the cost of the Parliament, we make provision for their returning practically nothing to States for the surrender which they make of four millions sterling. That position, if it were tolerable to the larger colonies, would be intolerable to the smaller ones, and while we should like to give the Federal Treasurer an absolutely free hand, I do not hesitate to say that we cannot afford to do so. South Australia cannot give that free hand, nor can Tasmania, nor Western Australia, nor Queensland, if she were here.

Mr. MOORE:

Or Victoria.

Mr. HOLDER:
Victoria can speak for itself, and I have no doubt that Sir George Turner is fully prepared to take his own part. We cannot afford to surrender these large sums of revenue unless we receive large returns from the sums we surrender. That brings me to this point: while we would like from the point of view of the Federal Treasurer to leave him free, we cannot from the point of view of the States. In saying this I must not be called parochial. Surely it is to the interests of the Federation as it is to the interests of the States that the States should be solvent. What is the use of contemplating a Federation whose Treasury will be full to overflowing, while the States themselves are insolvent.

Mr. GLYNN:
How will that happen?

Mr. HOLDER:
My answer to the hon. member is that such would happen if we gave to the federal authority power to make what might possibly be a freetrade tariff under which there would be no return of Customs duties to the States.

Mr. SYMON:
Would they make it freetrade?

Mr. HOLDER:
The hon. member then accepts the proposition that we cannot leave it within the power of the Commonwealth to adopt a freetrade tariff, which would ruin the States.

Mr. GLYNN:
It might be a high revenue tariff.

Mr. REID:
What would you call the tariff of England, which produces millions each year?

Mr. HOLDER:
I lay myself somewhat open to criticism when I use the phrase "protective tariff," as there might be a high revenue tariff which would produce as large an aggregate as a protective tariff, and perhaps more permanently. I will substitute, with the permission of the Convention, the words "high revenue tariff-meaning a tariff which would produce some 25,000,000 yearly-for the phrase "protective tariff." Returning to my argument, I say we cannot afford to give the federal authority a free hand in levying a low tariff, or to play fast and loose with the subject.

Mr. REID:
You cannot trust the Federal Treasurer.

Mr. HOLDER:
I am not keeping to the track which I had marked out for myself, but I
shall get there all the same. I return to the point at which I think it was Mr. Peacock thought I was tripping.

Mr. PEACOCK:

No; I am following you closely all the time.

Mr. HOLDER:

We are charged with not being willing to trust the Federal Government. Now, I could trust the Federal Government exceedingly well under certain circumstances. If South Australia were going to have twenty-five or twenty-six members in the House of Representatives, I think we could put a good deal more confidence in it, and could exercise much more trust. If we had a strong Senate, such as some of us wanted, a Senate strong enough to demand for any State its rights and the protection of all its interests, I should not now be saying what I am. I would say, "Trust the whole thing to the federal authority." But with a Senate, such as we are offered, and with such small representation in the House of Representatives which we are entitled to, and against which I make no complaint, I say the smaller colonies cannot trust themselves as fully and as restfully as the larger colonies can. Now, the difficulty seems to me between two points, shall we leave the Federal Treasurer to be free, by which the solvency of the States would be endangered, or shall we secure it by requiring a certain return back to the States at the expense of the Federal Treasury? I would rather tie the hands of the Federal Treasurer than I would risk the solvency of the States by leaving the hands of the Federal Treasurer free. I would prefer to leave the Federal Treasury free, but we cannot afford to do it. They must tie the hands of the Federal Treasurer so that the States may feel safe, and that for some time to come. So far as the scheme of the Bill is concerned, which is based on the recommendations of the Finance Committee, I have no criticism to offer in respect to clause 87. It is much the same as I suggested when the subject first came before the Convention. It embodies, not in the same way as I suggested, but in another, the very principle for which I then contended. I pointed out then that the cost of the Government should be borne per capita. The accounts are to be made up so that a special expenditure in one colony should be debited to that colony. The expenditure of the federal authority is to be charged per capita for the whole Commonwealth, and the balances will be returned. The only difference is in the manner. This involves a double operation—the collection and the paying back. But as the result is the same, I will not seek to have it altered. Clause 89 says:

During the first five years after uniform duties of Customs have been imposed, the aggregate amount to be paid to the whole of the States for any
year shall not be less than the aggregate amount returned to them during the year last before the imposition of much duties.

I have serious objection to the five years' provision. One of the greatest advantages accruing to us all through the establishment of this Federation is intercolonial freetrade. Besides that, everything else so far as the advantages South Australia will gain, is scarcely worth mentioning, unless it be the question of defence. I say there is no other matter which will be a gain to us beyond the freedom of trade. If we are to have on our borders still these Customs officials not collecting duties, but passing entries and taking accounts of goods passing backwards and forwards, we shall be deprived for five years of the advantages of intercolonial free trade. We know something of the difficulty in this colony, for in all our accounts we have kept the affairs of the Northern Territory distinct from South Australia. We have been very scrupulous in this matter, and have treated the colony as if it had been a separate colony. This is precisely what would have to be done here for five years between colony and colony. Our arrangement was not with respect to goods passing from one State to another, but from one part of this colony to another, and yet there are frequently difficulties arising as to the exact amount of duties to be charged. The quantity passing over the Northern Territory border is very small, but with the same system between the colonies we will have to deal with large quantities of goods in different stages of manufacture, some of which come in as unmanufactured, some of which pass through stages of manufacture in the colony to which they were first introduced, pass to another, and may be to a third. I do not hesitate to say that the difficulties, the friction, the trouble, the delay, and the loss to traders resulting from the keeping of these accounts must be most serious, and so I hope that the Convention will take the utmost care to expunge from this Constitution all provisions requiring

the maintenance of those most difficult interests between colony and colony through the Custom-houses on the border. But if we are not to keep these accounts so that the surplus of the different States may be returned to the States in which it was produced what shall be the method by which it shall be returned equitably? When I spoke at the beginning of this Convention, I said that I had looked at this matter until the problem seemed to be insoluble Mr. McMillan has told us that even after the further inquiries of the committee, after the fullest investigation, and with all the ability he possesses, he is inclined to come to the conclusion that there is no solution of these difficulties; so that it seems to me that I was right after all, indeed, that in almost the exact words as I used on that occasion Mr.
McMillan has put the position to-day. If we had a Senate such as I have referred to, and if we had representatives in the other House such as I have referred to, then I should be prepared to say after a uniform tariff has come into force, "Leave it to the Federal Parliament as it is," but we cannot consent to that, nor can we consent to these accounts being kept on the borders, and we are therefore driven back to the position that we must seek some compromise, which seems to me the only possibility between the two colonies most vitally concerned—the two great colonies of New South Wales and Victoria. We must seek at their hands some compromise to enable us to get over the difficulty, for the representatives of South Australia have not in their hands the power to concede what is required to meet this difficulty. If the Governments of New South Wales and Victoria can, by any compromise whatever, or by any method of adjustment they can devise, say by taking the figures of 1895 or 1896 as a basis for the calculations, arrive at any basis which is fair to them, then they will have solved the difficulty, and we in South Australia would be content with anything which is fair to them.

Mr. McMillan:

The only year we would be content with is 1895, but that might not be suitable to the other colonies.

Mr. Reid:

Ninety-six would be much better.

Mr. Holder:

Ninety-six would suit us. Our Customs duties were rather low in 1895, but in 1996 they mended, and this present year they are considerably more, and we would rather have the adjustment on the basis of this year; but that would be impossible as far as New South Wales is concerned. If an adjustment can be arrived at in New South Wales and Victoria on the basis of the 1895 or 1896 figures, so as to save the necessity of keeping officers on the borders, then those two colonies will have laid the smaller colonies under a deep obligation. But then would come the difficulty as regards Western Australia. The extraordinary fact appears that Western Australia, with a population of less than half of that of South Australia, and with a Customs tariff lower than that of South Australia, will this year collect twice the Customs duties to be collected in South Australia, or, to put it in another way, Western Australia is to day collecting Customs more than four times as much per head of her population as is the case in South Australia. Now, I think that we must admit that this is absolutely abnormal, and must be considered as such, and that any attempt to arrive at a settlement on that basis is out of the question. We cannot afford to consider Western Australia's tariff to-day or her revenue returns from Customs as a
fair basis for a settlement. A fairer basis, and I think we may well do this, would be to consider that under a uniform tariff, with fairly uniform conditions, with people about equally prosperous, when the special difficulties arising from the change from free trade to protection have been overcome in New South Wales—that is the only point of difficulty—then a uniform tariff operating over the whole Commonwealth would produce for all practical purposes a uniform amount per head of the population.

Mr. MCMILLAN:

We allow that.

Mr. HOLDER:

I emphasise now that all we have to settle is this one difficulty of the five years while New South Wales is adjusting her condition to the new tariff. I say again that the difficulties of that five-year period can be met by no one else than the Governments of New South Wales and Victoria. I have spoken early in the debate, purposely before Mr. Reid and Sir George Turner, so that I might put this point, and ask whether they can assist this Convention by facing these difficulties and arranging between themselves in some way—which I am sure will satisfy all the rest of us—how this obstacle can be overcome? I do not regard the Western Australian difficulty as permanent. I think it will settle itself very soon, and that we may expect to receive from Western Australia at the time the uniform tariff comes into force practically the same amount as from the other colonies. When we come to clause 90 we find that the surplus revenues, after the five years' period, are to be distributed per capita over the whole population. If the amount is collected equally per capita then the distribution per capita must be fair. Let me now go back to the point that the fair distribution of the surplus after the expenditure under the Commonwealth has been met does not absolutely place the States in an assured position, because the Commonwealth may launch out into extravagant expenditure.

Sir EDWARD BRADDOON:

Hear, hear.

Mr. HOLDER:

That is one of the most serious difficulties I can see. It seems to me that nothing is more likely under some circumstances than that a power called into existence as this Commonwealth is might launch out into heavy naval and military expenditure. We all know how easily money can be squandered in that way. Millions are nothing. Unless there were some safeguard, some provision made for securing all the States' Treasuries, we
might find some fine day that, though we had arranged for an absolutely equitable distribution of the surplus, there was no surplus to distribute. Therefore we must keep in mind, not only the equitable distribution of the surplus, but that there shall be a surplus, and that that shall amount to, as nearly as possible, what the States surrender. I strongly object to clause 88. No more unfair provision could be devised. To say to a power such as this will be, a sovereign power, "You shall not, under any circumstances that may arise in the performance of the duties of the Commonwealth, on any of the matters referred to in this Constitution, spend more than, say, half a million a year "-the amount is blank in the clause-"for four years," is to say what we should not say, and what this Convention, I believe, will not say.

Mr. HIGGINS:
What would happen if there were a war?

Mr. HOLDER:
Of course in that case, Constitution or no Constitution, money would have to be spent. But the hon. member Mr. Higgins will see the absolute impossibility of putting in such a safeguard as that. If this clause were qualified by words such as that the specific expenditure might be exceeded in case of emergency, then everything would be an emergency. We could all get through that if we wanted to; so that the clause will not do as it is, because it is a clause which ought not to pass, as tying the bands too tightly of a sovereign power, and it would not do if we put in an emergency section.

Mr. MCMILLAN:
An abnegation of Federation.

Mr. HOLDER:
What is required is not to say that the federal authority shall not spend more than so much, but practically to put in something which will have the effect of a special appropriation. We all know what they are. We have them in every colony, and before we begin to make up our ordinary estimates of expenditure we have to provide for these special appropriations, which are by Statute. If we can put in some provision which will have the effect of a special appropriation, and which will require the Federation before dealing with its moneys to pay out to the States some fixed proportion of the revenues which it collects and which they are now deprived of, then, and not otherwise shall we have sufficiently safeguarded the interests of the States. I suggest that when the negotiations are proceeding between the two Premiers most concerned in arranging terms, they should at the same time consider whether there cannot be some fixed percentage of the Customs
received which can be returned to the several States from time to time, so that they may be assured in their solvency and that through their prosperity the prosperity of the whole Commonwealth may be assured.

Sir GEORGE TURNER:
You would have to first fix the amounts they are going to collect by Customs before you can fix that percentage.

Mr. HOLDER:
I do not think so.

Sir GEORGE TURNER:
Supposing they only handed over small amounts the percentage to be returned will be a small amount, and the State Treasurer will be in a difficulty.

Mr. HOLDER:
We know precisely what the amount will be during two years, and if we say that the percentage to be returned during the next five years shall not be less than during the two years after the tariff comes into operation, we shall have absolutely assured the position of the State Treasurer.

Mr. MCMILLAN:
YOU make a calculation of the minimum amount for central expenditure, including services transferred?

Mr. HOLDER:
I do. But the hon. member will see that, while I make my calculations of the estimated return upon the basis of the estimated expenditure, I should not necessarily tie the Federation down to that expenditure.

Mr. MCMILLAN:
You make a calculation of, say, 70 per cent. returned, while 30 per cent., under ordinary circumstances, covers the other, and you let them extend it?

Mr. HOLDER:
Yes. They should return to the States not less than 70 per cent. of the sum which is collected as Customs and excise duties and not less than the aggregate returned to them as the mean of the two years before the uniform tariff came into operation. Besides this the Federal authority would relieve the States of certain charges, such as defence, now borne by them. Then we should have assured the States as far as we ought, and would not unduly bind the Federal Treasurer in the exercise of his responsibility. There are several matters in connection with the debts which I should like to touch on, but it is not opportune to deal with them just now.

Sir GEORGE TURNER:
Hear, hear.

Mr. HOLDER:
If we can keep the surpluses and their distribution separate from the debts
and their conversion or otherwise, we shall, I think, save time. We can deal
with the debts when we come to them in the due course of business. I
commend what I have said to the Convention, and I hope that, great as the
difficulties are, someone may be able to find a way to get past them before
we conclude.

Sir GEORGE TURNER:

I agree with my hon. friend Mr. Holder, that Mr. McMillan in dealing
with the question has placed before the Committee the difficulties in a fair
and straightforward manner; and it is for us to endeavor, as far as we
possibly can, to reason out the various points which he has placed before
us. The great difficulty of course is occasioned by the fact that the majority
of the colonies have their revenues derived from Customs tariffs based
practically on protection,

whereas New South Wales lately has thought it wise to alter the system in
operation there up till 1895, and receives a smaller amount of revenue,
practically on the principles of free trade. For the first two years I think
there can be no objection to the system taken in the Bill, because that
leaves the colonies exactly as they are at the time Federation takes place,
only requiring them to pay per capita amounts for the expenses of the
Federal Government. Unless the colonies are prepared to pay that, power
would have to be given to the Federal Government to raise an extra amount
by some means in order to meet the federal expenditure. With regard to
border duties, my hon. friend Mr. Holder estimates them at £1,000,000. I
do not think they would come to so much as, that, for while at the present
time they come to £700,000 or £800,000, a considerable amount is allowed
by way of drawbacks, so that on the whole the estimates of border duties
would be rather larger than the amount which would have to be actually
taken into consideration. So far as the requirements go, I think the amount
set down—£400,000, or £500,000—will not be wide of the mark. Probably
when we come to deal with the details we may be able to reduce it. We
ought to keep in our minds that we will have to provide that amount. The
border duties will be lost, so far as the Treasurers are concerned,
throughout the whole of Australia. The people themselves will probably
reap some benefit by the fact that foreign imports will have to pay these
duties. But the amount will have to be collected from some other source.
The duties on goods now passing from colony to colony are now paid by
our own people, but under the proposed system that will not be in
operation. There is no question about one limit. We must, if we possibly
can, take care that the States Treasurers will have for a certain number of
years a full amount returned to them, equal at all events to the amount
which we give up to the Federation, and we must face this matter. It is all very well to say that we must not deal with it in any spirit of huckstering. There can be nothing unfair in saying to the Federal Treasurer: "You must for a period of seven years place us in such a position that we know as soon as possible what we are going to receive, and moreover that for that period, at all events, we will receive as near as possible an equivalent to what we have given over to this Federation." Mr. McMillan suggests that we should leave the whole matter to the Federal Parliament. The Federal Parliament will have first a grave difficulty to deal with in endeavoring to deal with the surplus. We are here as representative men, and can we go back to our various colonies and say that we, as representative men of the Colonies, have met together, we have appointed from our midst a Finance Committee, and ended our discussion by deciding that the only way we can deal with the question is to say that it shall be passed on to a new body which is to be created? I do not think we ought to do that. If we do, what will the people say? Will not the people say, "What is it going to cost; what extra amounts have we to find, and how are we to find them?" If we put this Federation to the people, with extra difficulties standing in the way, will the result not in all probability be that they will say, "Well, these men could not solve this difficulty, and how do we know that the Federal Parliament will solve it in a fair and reasonable manner? If you tell us what your plan is as to how these difficulties are to be met, we are then in a position to know what to do. But if not, you are asking us to take a leap in the dark, you are asking us to enter into a system when you yourselves cannot formulate the most important portion of that system—the financial portion." And where there are waverers, those who are wavering as to whether this scheme will be advantageous or not, when we raise the point that this proposal should be left over to the Federal Parliament to deal with, will vote against the scheme altogether. Therefore we should use every possible effort to place in this Bill a definite and distinct proposal before attempting to hand it over and shelve this matter in the way that my hon. friend Mr. McMillan would seem to, suggest. The colonies are unquestionably in such a position at the present time, and have been for some years past, that they cannot afford to give up any considerable part of the revenue they have been collecting. We know it would be very difficult indeed in any of the colonies, for the purpose of raising this extra money, to attempt to impose any form of direct taxation. I can understand if we went to our people and said, "We think the incidence of taxation ought to be changed, for the purpose of reducing charges we have to make on our farming population and other
portions of our community, and we propose, therefore, to make certain reductions in this direction, and in lieu thereof to impose direct taxation," the matter might be considered on its merits and debated. But if we are to go and say "We are going to lose £700,000 by this proposal, and we are going to work this scheme by direct taxation," then the people will say "You are going to charge us extra amounts without any corresponding benefit, and therefore we will go against the scheme."

**Mr. HIGGINS:**

It is only a fraction of the £700,000 that will fall to each State.

**Sir GEORGE TURNER:**

It is only a fraction of £700,000, but in Victoria, as our share of it, we will probably have to raise from £300,000 to £350,000, and I think if the Treasurer told the Parliament of Victoria that he required £350,000 for this purpose he would find very great difficulty in getting either Parliament or the people to endorse his proposal. My hon. friend Mr. McMillan fairly puts it that the Customs revenue which we hand over is one of our chief sources of revenue, and that it is elastic. We must not forget that seven or eight years ago we received in Victoria something over three million pounds for Customs; now we get under two millions. But in ten or fifteen years' time, if a gradual improvement takes place, the amount of Customs duties will steadily increase.

**Mr. REID:**

That will disappoint those who believe in the efficacy of a tariff to prevent importation.

**Sir GEORGE TURNER:**

No, because seven or eight years ago we were at the height of the boom, when we all had immense sums to spend. The great falling off has not merely been in the articles which are protected, but in other articles, such as spirits and tobacco, which the people when they have plenty of money will buy freely, but which as soon as they get a little hard up they will do without. No doubt that the Customs duties are down at the present time as low as they are likely to go, but they are gradually increasing in all the colonies, and with the increase in population and prosperity they must rise rapidly, and in a few years' time the amount received from that particular source will be very large indeed. The hon. member seems to think that by influencing the State elections and by pledging candidates to certain views and lines of action we could force the Federal Parliament to provide a tariff which would give the necessary amount of money to allow of the needful returns to the States.

**Mr. MCMILLAN:**

What I said was that the views and wishes of candidates would be known
as thoroughly as our views are known now on the question.

Sir GEORGE TURNER:

No doubt, but we have the power in our own hands. We may say to the Federal Parliament, "You must raise a certain amount of money," but if we leave the matter unsettled we part with that power, and the views of the members of the Federal Parliament may be adverse to the course that we think ought to be taken. That is a strong reason why we should endeavor to settle the difficulty and not leave it to the Federal Parliament. We can then go to the people and say, "This is the best bargain we can make; you know what you will get, and what you will have to pay," and they will be able to say whether they will come into the Federation or not. We influence Parliament through the elections; we might influence it to give us back the full amount required of us. The people would be chary of entering into an agreement of this sort blindfolded. The hon. member raises the objection to the proposal that a certain minimum amount must be returned every year because that would leave those who advocate the cause of Federation in New South Wales in a more difficult position. It might be said that they had bound the Federal Parliament to put on a protective tariff in a colony, and that the views of that particular province might be in the direction of freetrade. You say it will be in the hands of the Federal Parliament to raise a certain amount of money, and that they could get that money by a freetrade tariff.

Mr. MCMILLAN:

Perhaps I should have said by increased Customs duties. I look upon all taxation as a burden to the people, and what I simply meant to convey was that the Parliament might say to us, "You are increasing the burden of the people through the Customs by this particular act of yours."

Mr. REID:

Irrespective of whether it was a freetrade or a protective tariff.

Sir GEORGE TURNER:

My hon. friend need not have selected New South Wales for his illustration, as we all have had our difficulties. Whatever means we take to raise the money, the State Parliament will have to raise it. Where is the difference? If that is the only difficulty in the way he will have to tell this to the electors of New South Wales: "If by fixing the minimum we have increased the Customs taxation, is it not as great a difficulty as that by not fixing the minimum we have increased taxation?"

Mr. MCMILLAN:

The difference is that the people have to pay whether you make it protective taxation or Customs.
Sir GEORGE TURNER:

I was under the impression that my hon. friend thought that by fixing the minimum we were declaring that the tariff in the future must be a protective one. We simply declare that that amount must be raised by some means, either from Customs or direct taxation; indeed we say, "You are going to take away from us certain sources of revenue which bring in a certain amount, and we expect you for a certain number of years to return us an equivalent amount." We will leave them to raise the amount by means of a protective or freetrade tariff, or in any other way, so long as they return it. We have thought over it, and it is impossible to have any scientific settlement of this question. Therefore, it must be admitted that, whatever we do, we are dealing with it in practically a rough-and-ready mode. With regard to the statement as to the distribution, at the present time or immediately after the uniform tariff comes into operation, of the amount of loss—£700,000—to New South Wales, I hardly followed Mr. McMillan. I am prepared to admit that, being a freetrade colony, the imposition of a protective tariff would for some time give that colony a decreased revenue, but year after year it would gradually increase, and instead of importing articles from the outside world and paying Customs duties they would soon import largely from the adjoining colonies, and would pay no duties. They would not pay into the general fund either, so that the amount Mr. McMillan mentioned would have to be largely discounted. As ye
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diminished, and it is unfair to take the first year and say it is the basis on which a calculation should be made.

HON. MEMBERS:

We admit that.

Sir GEORGE TURNER:

The proposal is to keep up the present system for five years to obviate the difficulty, but as the Bill is drafted it appears to me it does not carry out the report and does not carry out what I think was the desire of the Finance Committee. It was resolved in the Committee:

That during the first five years after an uniform tariff has some into operation, the Federal Government shall continue to keep such statistics as may be necessary to secure the distribution of the surplus to each State on the same basis as that adopted during previous years.

The basis adopted during previous years was simply that whatever amount was collected in the State was to be credited to the State, and, after the expenditure was debited, that the amount should be returned; but under
the proposal in the Bill we have a complicated system of book-keeping to ascertain what amount of money is paid by any one State on goods consumed in another. If we are to do this we are to have a most complicated system, and it will postpone for five years the benefit of an intercolonial freetrade tariff. I did not know that was the intention of the Committee, or I should have entered a protest against it, and endeavored to have had it altered.

Mr. MCMILLAN:
All the members of the Committee have pretty well assured me that that thoroughly interprets what was intended.

Sir GEORGE TURNER:
It certainly may have been my obtuseness, but I was under that impression; because if I had not been I would have raised objection against a scheme which will delay the benefits of intercolonial freetrade for five years, and which must necessitate what we must all admit is an impossibility. I really cannot understand how a majority of the Finance Committee, to whom my hon. friend refers, could have held an opposite view.

Mr. MCMILLAN:
It would have been useless to have had other than this modus operandi.

Sir GEORGE TURNER:
The objection to having this per capita distribution at once was, that it would be unfair to New South Wales, because they would be paying a large amount of money into the pool which would be divided in a manner which would compel them to suffer to a considerable extent, and, in order to prevent that, I was prepared that the accounts should be kept exactly, as they are decided to be kept under the Bill; that is, that the money collected in each State should be credited to that State, the expenditure should be deducted, and the balance distributed. It is unfortunate that we did not all agree as to the meaning of our report. I am not in favor of keeping up that system for an extra period of five years, and of keeping up these impossible accounts.

Mr. REID:
Why should you, if you gain a lot of money by not doing so?

Mr. MCMILLAN:
By the system you propose, all the duties on the goods going to the Riverina would be credited to Victoria.

Sir GEORGE TURNER:
So they will, under this proposal for two years.

Mr. REID:
Indeed, they will not.
Sir GEORGE TURNER:

Of course the question of drawbacks may come in here. If we are to adopt the view of the Committee, it is a further argument why we should not have a period of five years, and why we should endeavor to have some fixed basis which should come into operation at once. We ought to agree that, after the period of five years, we will leave the distribution to the Federal Parliament; but it is one thing to say we will leave the distribution to the Federal Parliament at once, and a different thing to say it shall be at the end of five years, because, at the end of that period, they will know that they have to provide a certain amount of revenue to return to the States, and that they have to frame their policy on those lines. After that period it is not likely, unless there is some very strong reason for it, that they will change that policy. We must start with the fact that we have to fix some definite and final amount on which we can act not by scientific, because that is impossible, but by some rough and ready means. I am prepared to hand over to the Federal Parliament the collection of the Customs, the Post and Telegraph Departments, and the administration of the Public Debt.

Mr. PEACOCK:

That is the only way to solve it.

Sir GEORGE TURNER:

There is no doubt that, for the first few years, the Federation would lose money, because they would have to pay a sum over and above that which they were receiving, but with the rapid increase which would take place-

Mr. REID:

Is not "the administration of the Public department rather vague?"

Sir GEORGE TURNER:

I would hand over to them the responsibility of paying the interest on our public debt.

Mr. REID:

About five and a half million.

Sir GEORGE TURNER:

No doubt it is about that sum, and nearly the whole of that is made up of the surplus revenue which they would have to return to us, so that the amount they would have to raise would be comparatively small even at the commencement.

Mr. MCMILLAN:

You would still have to adjust the accounts between the Federal Government and the States.

Sir GEORGE TURNER:
Which could be done by a simple mode, because it is easy to tell the amount collected in each State.

Mr. MCMILLAN:
It would not stop the question of credits and debits between the States.

Sir GEORGE TURNER:
You must, under any circumstances, keep records of the amount collected in each State, so that there can be no difficulty with regard to it.

An HON. MEMBER:
Would that scheme bring any State in a debt instead of a surplus?

Sir GEORGE TURNER:
That scheme at present would bring in some in debt, probably all. It would bring in South Australia in debt to a large amount, but there is the question of the post office, where they make a large profit, and their expenditure on telegraph lines and other matters, and we would have to consider the debt on these and the interest they have to pay. Then there are other services on which we have spent a large amount of money, and we have to pay interest on these. In our debt we have some £5,000,000 which is being paid to us, representing advances made by us to Corporations. There is £2,000,000 to the Metropolitan Board. In the first few years the Federation will lose some money, but in time it will not, owing to the greater receipts from Customs. I am endeavoring to point out that it is impossible for us to have any scientific mode of dealing with this most troublous question.

Mr. HOLDER:
May I suggest, Mr. Chairman, that this is a matter of such importance that there should be a quorum?

A quorum having been constituted:

Sir GEORGE TURNER:
Instead of endeavoring to undo the Gordian knot, it would be better if we possibly could, by some means fair to all the colonies, cut it at once. A view I hold is that, as the amount we have to pay interest on in most of the colonies closely approximates to the amount that we collect for net Customs revenue, it would be simple indeed and reasonably fair to all the colonies to at once hand over the liability with regard to our interest to the federal body, and let them take all the Customs, seeing that, although in the first instance they might have to pay somewhat more than they received, they would gain large benefits from it, not alone by increase of Customs duties, but in the saving of interest. That would be a very good bargain for the Federation; but perhaps if we carefully consider it we may
say that in years to come it would work unfairly towards the States. There, of course, is a difficulty, that while at the outset it would be beneficial to the States, eventually it would be a heavy lose to the States. If that mode cannot be adopted, then we have to endeavor to devise some other means to overcome the difficulty. In any scheme, be what it may, we have to deal exceptionally with the colony of Western Australia, because that colony has abnormal circumstances, and, with her increasing consuming population, a very large Customs revenue. Mr. Holder puts it very clearly. My hon. friend refers to section 88, which prevents the Commonwealth from spending yearly for the first four years a larger amount than is reasonably sufficient to pay the new expenses and the expenses of the various services which have been taken over, and he points out that emergencies may occur which would render that absolutely impossible. Now, I do not advocate that we should limit the expenditure of the Commonwealth under all circumstances. The object of this is to see that there is returned to the States a reasonable amount of money, and to put a check on the Federal Parliament, so that they may not run into extravagance, as we know all Parliaments do when they have plenty of money to spend. That difficulty might be easily obviated by saying that, so far as this limit of expenditure is concerned, we would only fix as regards amounts to be returned to the States. I would give the Commonwealth a free hand, but if we fix it in that way they would have to take means to return the revenue, and if we do not the States Treasurers will never be able to calculate what they will receive. Then we say:

During the first five years after uniform duties of Customs have been imposed the aggregate amount to be paid to the whole of the States for any year shall not be less than the aggregate amount returned to them during the year last before the imposition of such duties.

That may act unfairly to some of the colonies. My own idea with regard to that is that in order to place the State Treasurers in a safe position we should say that the amount to be returned to each State in each year should be a sum not less than the amount received during the year prior to the placing on of a uniform Customs tariff. Again, the freetrade policy of New South Wales disturbs these calculations, but rather than see any grave difficulties arise-the colony of Victoria will lose by the proposal that the aggregate amount to be divided shall be not less than the aggregate to be divided in the year previous-I would agree to that proposal in order to bring the matter to a settlement, if we possibly can Then my hon. friend seems to think that we should say that the amount to be returned to the States should be not less than a certain percentage of the amount of Customs duties collected. The difficulty I see with regard to that is that we do not say how
much they are to collect, and therefore we leave ourselves in just the same
doubt and difficulty as State Treasurers as we were before.

Mr. HOLDER:

Not less than the mean of the two years preceding the uniform tariff.

Sir GEORGE TURNER:

So long as we fix a certain percentage, and so long as we provides that
the mean shall not be less than the amount they got in the year or two years
before, there is no difficulty.

Mr. BARTON:

But if the mean of two years is taken, then that would pre-suppose that it
will take two years to impose the uniform Customs tariff.

Sir GEORGE TURNER:

I suggest that we take a year before the passing of the tariff, and that we
take the minimum of that year. As Mr. Barton points out, there would be a
difficulty in taking the

mean between two years if there were not two years during which we could
take it. Still I cannot see why we should limit the amount to be returned to
the States. If we fix a certain definite percentage, the amount may be more
than that particular mean. What I say is that the Federal Government
should so provide that the amount to be returned to the States during this
period of suspension-five years-should be not less than the amount paid in
the previous year, and that is practically the provision that is contained in
the Bill. We ought to be careful not to disturb, more than is absolutely
necessary, the State finances, because we know what a difficulty that
would be to the Treasurer, and what a difficulty it would occasion to the
people interested, because the first question they will ask is "How much is
it going to cost us.; how much extra will we have to pay?" And that will be
the stumbling-block with regard to the matter when we go back to our
various colonies. I am entirely in accord with those who say we should not
have an elaborate system of book-keeping. Such an arrangement would be
a great mistake, and create many difficulties. And with that object I would
suggest that, as we probably cannot carry out the simple scheme of handing
everything over, the wisest plan will be to take some year, 1895 or 1896,
for instance; so far as Victoria is concerned it does not matter which.

Mr. REID:

1895 would be better for you than 1896.

Sir GEORGE TURNER:

No. We received certainly a larger amount of revenue in 1895, but the
expenditure was heavier, whereas in 1896, though the revenue was smaller,
the expenditure had been so considerably reduced that the net amounts
came to practically the same in both years. We might possibly pass a scheme of taking either one or other of those years to settle the tariff of the colonies, then ascertain how the Customs revenue was collected during that year, and form some percentage.

**Mr. MCMILLAN:**

That was one of the proposals to the Committee.

**Sir GEORGE TURNER:**

I was only suggesting that the scheme might be considered as a way of getting over the difficulty. I did not say it was original, because none of there schemes are. They have been all stated before by means of speeches and pamphlets and papers. Our duty is not so much to think out something original as to take that one which is fairest to all the colonies and the one which will be the simplest to work in years to come. After doing this we could then ascertain what percentage the surplus was of amounts collected, and then deal with them year by year with regard to the amounts collected in the various States. Let it be a fixed percentage that is to be returned, and that will obviate to a very great extent the question of book-keeping, and the question of keeping Customs-houses on the borders, or of collecting statistics, which will give as much annoyance and trouble and bother as at present, the only difference being that now they collect money, but under the new circumstances they would not. If we can adopt some simple scheme that will be reasonably fair to all the colonies we ought to, rather than carry on an elaborate system of book-keeping for a long period. I should much prefer it if we could have a distribution per capita straight away.

**Sir EDWARD BRADDOX:**

Hear, hear.

**Sir GEORGE TURNER:**

And were it not for the unfairness that might occasion to New South Wales I should advocate it.

**Mr. REID:**

And to Western Australia even more.

**Sir GEORGE TURNER:**

Yes; perhaps to Western Australia. But can we not fix some arbitrary amount? Would it not be possible, say, for the Treasurers to consider the various items, and then, instead of having a book-keeping or percentage allowance, to by some means fix a scheme by which we would see a certain fixed and definite amount returned to each colony? That, I am convinced, would simplify the matter altogether, and leave us free from the...
complications which we shall get into if we endeavor to follow out what I admit to be the true scientific method, and we shall avoid the complications of elaborate book-keeping. I might also point out that as New South Wales has a freetrade policy now, as soon as Federation takes place, and there is a probability of a uniform tariff coming into operation, the merchants of New South Wales will take care to lay in good solid stocks.

Mr. PEACOCK:

Hear, hear.

Sir GEORGE TURNER:

And then, having got them free of duty, they will be able to send them into our colonies for some considerable period after the uniform tariff has come into operation, and, although the Treasurer of New South Wales will derive no advantage from that, the merchants and people of New South Wales will derive a large amount of profit at the expense of the merchants of the other colonies.

Mr. GORDON:

Merchants in the other colonies can do the same thing.

Mr. REID:

A Victorian merchant can do that just as well as a Sydney one. So could a Russian merchant or any other merchant for the matter of that.

Sir GEORGE TURNER:

No, he could not, for you must not forget the difficulty he would have of getting storage accommodation, and that he would have far and away heavier expenses in connection with that matter than those who have their business established there and their storage all ready. The merchants of Sydney are unquestionably going to receive a very large benefit and advantage from the freetrade policy being in operation when the uniform tariff comes into operation—if the policy of New South Wales is still freetrade at that time. I do not desire to detain the Committee any longer on this question, which is, however, to my mind, the crux of the whole matter, but I would impress on hon. members that it will never do for us to shirk our duty and try and put this away, to put it out of sight, or hide it, but we must devise some scheme, whether good or bad. Then, when we do, and evidence has been brought forward, and we are satisfied that the proposals are unjust to any colony, we must do what we can to make them fair. I would urge you not to put this on one side or leave it to the Federal Parliament. If you do we will have the Treasurers in doubt and the people in doubt, and we will imperil what we all desire.

Mr. REID:

I have listened to the speeches delivered by my hon. friends the Treasurers of South Australia and Victoria with great pleasure. I am fully
sensible of the difficulties in this matter, and I say at the first that the mere matter of £100,000 or £200,000 a year I would not allow to stand in the way. My difficulties arise owing to a more serious thing than that. In the first place, to get rid of one point used by my hon. friend Sir George Turner, that Sydney merchants could, before the duties came into operation, make a large profit by storing goods which would subsequently be liable to taxation, I would point out that there is nothing whatever to prevent Victorian merchants doing precisely the same thing. If the Victorian merchants wished to lay in a stock of dutiable goods, although I do not suppose they would do that, because the duties are not likely to be increased, but supposing they were to lay in a stock of goods which are not now subject to duty, they would have just the same advantages as the Sydney merchant.

Sir GEORGE TURNER:
But we have a much smaller number of lines to import free of duty.

Mr. REID:
When there is a duty, they could place them in bond. There is not the slightest difficulty in putting dutiable articles in bond, and that is what anyone would do. In the ordinary way goods which are subject to duty and upon which it is likely an increased duty will be put.

Sir GEORGE TURNER:
Will my hon. friend pardon me? Perhaps I did not make myself clear. New South Wales has no duty on woollens. Supposing the merchants there import a large quantity, and put them into their stores. When a duty is put upon them, they can make a handsome profit. But, in Victoria, there is a duty on woollens, and hence Melbourne merchants could not profit in the same way.

Mr. REID:
I see you are right there, but what the Sydney merchant can do in Sydney the Melbourne merchant can do in Sydney, and no one knows it better than the Melbourne merchant, who has found it to his interest to establish a number of branches in Sydney. As to this point, it would be unworthy of the colony of New South Wales to dwell on such a small point. It is our place to show a capacity for development. We should not be too nice about £100,000 or £200,000 a year, but the figures which have been pressed upon me are much more serious than that, and we cannot be prepared without any reserve to accept them. For instance, what has been the policy of Victoria for the last twenty-five years? The policy of preventing imports, and encouraging the production of articles for home consumption within
the home market, and as a result of that policy the tariff of Victoria has gradually become higher and higher, a matter of satisfaction to the protectionist, because he was having his way. Then, take a country under a different policy, which has not established these high barriers. We know well-taking the two different markets-that you might apply the same tariff to those different markets, and the same duty will produce a great deal more per head of the population in one market than it will in the other, plus this advantage to the market which has made the duty a heavy one, that it has had twenty years start in the manufacture of articles over the market in which that duty did not prevail. Without any federal conditions, we have thrown our markets open freely and willingly to the manufacturers of Victoria, though I will lay no stress on that point. But when I find from the best information I can procure that the difference on the per capita basis would be so enormous, that I could not, as the guardian of the interests of the people of Victoria-

HON. MEMBERS:
Of Victoria?

Mr. REID:
I mean of New South Wales, but I am happy to say that I am becoming so federal now that it makes very little difference. Applying any conceivable tariff I can to the facts of the mean average home consumption in New South Wales and the other colonies for a given period of the three years, 1893, 1894 and 1895, I find under the per capita basis that the people of New South Wales, if they only got back per head at the same rate as the people of the other colonies, would leave in the Commonwealth exchequer an amount so large over and above what they got back that that inequality would pay the expenses of the Federal Commonwealth. In other words, out of the excess taxation per head levied in New South Wales, so large an amount would be obtained by the Commonwealth that would not come back to New South Wales that it would more than pay the expenses of the Commonwealth for all the other colonies. That would be a delightful state of things for the selfish men of the other colonies, but we here, I am sure, do not wish to bring about that state of things even if we could. It is not likely that New South Wales would allow any such thing to be done. Take again the case of Western Australia. On the per capita basis West Australia is even in a worse position than New South Wales. I will give the figures. I have tested them by all the tariffs I know of in the Australian Colonies, and I will just take two tariffs-the Victorian and South Australian-and see how the figures work out on the facts of the trade of the
respective colonies, the average for the three years I have mentioned on an intercolonial freetrade basis, as if we had had a federal system of Customs during that time. Taking the Victorian tariff and applying the facts I get these results: Under the Victorian tariff there would be—after deducting the federal expenditure, which we estimate at £1,518,000—for distribution £4,881,282. In New South Wales we would receive £2,847,766, and her share of the expense would be £628,000. Under that she ought to get back a sum of £2,216,000, but she would only get back on the per capita basis £1,755,000, a loss of nearly half a million a year. Do not for a moment suppose that I think this would be a perpetual loss—

Mr. DEAKIN:

That is only an estimate.

Mr. REID:

But in very serious matters some of us have to test these general forms of words by figures and facts. This, too, has the advantage of being an estimate based on the actual facts of trade during the time I have mentioned.

Mr. DEAKIN:

And as if you

Mr. REID:

Things cannot change with the swiftness of magic in industry and commerce. In ten months you cannot revolutionise the industrial position of a country. I do not for a moment say that this serious state of things will continue for any lengthened period, but it is the state of things we have to face. If I were in my hon. friend's position I should decline to face it, because there is no occasion to do so in Victoria, for she can shut her eyes and take all the plums.

Sir GEORGE TURNER:

We do not get much while New South Wales is about.

Mr. REID:

Apply the tariff to Victoria on that colony's own facts of trade, and during the years I have mentioned she would contribute £1,704,620; her share of the expenses would be £568,877; she ought to get back £1,135,743, but would get back £1,698,568, so that there would be a loss of £460,000 to New South Wales and a gain of £562,825 to the people of Victoria.

Sir GEORGE TURNER:

We will undertake to give you back our gains.

Mr. REID:

They are in too many pockets. South Australia on the basis of the Victorian tariff would receive £609,767; her share of the Federal
expenditure would be £174,418; she ought to get £435,349, but would get £496,359, or a gain of £61,010. Tasmania would receive £216,716; her share of the expenditure would be £80,431; she ought to get £136,235, but she would get £220,925, or a gain of £84,690. Take Western Australia's position; the position there is even worse than ours. Under Federation the federal Customs officers would get £389,684; her share of the federal expenditure would be £66,802; she ought to get back £2322,882, but she would only get £74,962 or a loss of £247,920 to the revenue. Take South Australia, which has a different tariff altogether from Victoria, although it has high duties. On the basis of the South Australian tariff New South Wales would lose £455,000, Victoria would gain £480,000, South Australia would gain £108,000, Tasmania would gain £76,000, and Western Australia would lose £313,000. I only mention these figures to show that it is impossible to apply what we were all desirous of doing from the beginning—the principle of the per capita basis. If we could have done it I would have been the first to support it, because we have shown in a frank way our desire to free Australia from the restrictions of border tariffs, Our sincerity cannot be questioned in that matter, and we are prepared now to make considerable sacrifices. These figures, which have been revised over and over again by our Government Statists, are too serious, and I dare not go back to New South Wales and say to the people, "Federation is to start on this financial basis." The people would not listen to it.

Mr. TRENWITH:
In these figures is there any allowance made for intercolonial freetrade?

Mr. REID:
These figures are based upon the state of intercolonial freetrade, as if it had been in full force during the time the facts were taken.

Mr. TRENWITH:
Is any deduction made on the goods coming from one colony to another?

Mr. REID:
Yes, on all dutiable goods which went from one colony to another, and the duties where quantities are in the different colonies are all eliminated, and goods are treated as if they were Australian, being duty free. I cannot escape from these figures. Here is another aspect of this subject. First of all I have given you what we know on principle ought to be the state of things. If in a freetrade country you suddenly apply duties up to 20 or 30 per cent. the return per bead must be enormously greater than a duty of 30 per cent. on clothing, for instance, in Melbourne. There the duty is 30 per cent., and we know it produces only it small amount of money. Apply that duty to the
port of Sydney on one line of drapery alone, and it would produce half a million or perhaps £750,000 in a year. The fact that Western Australia would be debarred on the per capita basis is enough. I do not wish to go into the views of the Committee, but members will see that Western Australia cannot accept the per capita basis. It would simply rob her of nearly all of the money she gets. Under that basis she would pay about seven times her share. I have only to mention that to show how impossible it is to start the distribution on that basis. The next thing is that we all agree that anything like taking accounts is a gross state of things we wish to abolish at once. In abolishing the duties, and still retaining the Customs houses and officers, and doing routine work, we are only half performing the work of Federation. In view of that, I am at one with Mr. Holder and Sir George Turner in the great anxiety I have to dispense with the taking of any accounts. I am prepared to arrive at any liberal arrangement, not regarding whether it meets our just claims, but on any basis defensible. I am agreeable to dispensing with the taking of accounts, and will be prepared to do this: Take 1895, when we had the Dibbs tariff, with its ad valorem and other duties-or take the average of 1893-4-5, but I think 1895 was the fairer year-as the basis or actual movement of trade throughout the colonies-you must have a uniform basis for all of the colonies, because we cannot have one colony different to another.

An HON. MEMBER: You cannot take Western Australia.

Mr. REID: That will destroy it then. We cannot have two financial systems of the Commonwealth, one for one colony and another for another. Any system which involves that is destructive. We must have the one system applied to all of the colonies. If we cannot do it in any other way, I will be prepared to make this arrangement: Take the first year when the federal tariff is actually in operation and let it be taken as a basis for the distribution of the customs revenue, and so far as New South Wales is concerned, I will be quite prepared, as a special concession which I would not ask other colonies to make-that is, Victoria, Tasmania, and South Australia-for the five years mentioned in this Bill-I thought it should be ten, but the Committee said five, so I take it at five years-I shall be quite prepared to consent that during the remaining four years a percentage each year shall be deducted from a basis which might be arrived at by consultation. For instance, so much per cent. should be taken off the basis of our receipts in the second year, and so on for the remainder of the
period. I do not wish to mention any figure without consultation, but I am prepared to have a liberal percentage taken off, because with each year the inequality will disappear; but we begin with too serious an inequality for me to ignore it, and after all, even if we are compelled to keep accounts for these two years, we are securing absolute freedom of trade over our borders for all generations to come. With reference to another proposal which has been made that an aggregate amount should be returned to the colonies, I have no sort of sympathy with it. All through our desire has been to leave to the Commonwealth the settlement of its financial affairs, but the effect of this proposal is to make the Commonwealth the financier for the States. In saying that I quite realise the difficulties of my hon. friends who have spoken. Fortunately for us, at least in one respect, we have the advantage of an illimitable source for fresh taxation, but the colonies which have pushed the theory of taxation to an extreme now find themselves in an anxious position with regard to anything involving fresh demands on the people as suggested, and therefore I do not differ from my friends strongly nor have I the desire to push it to a fighting point. I strongly dislike any project to tie up the finances and financiers of the Commonwealth in the way described, and when Mr. Holder thinks that there is any danger of the Commonwealth by its financial system pushing any state into a condition of insolvency, I think he goes a little too far. There can be no possible desire on the part of a new Commonwealth composed of five or six colonies to do anything to cause any financial distress or difficulty to those colonies.

Mr. HIGGINS:
Not the desire.

Mr. REID:
The whole of the colonies will be represented by men possessing sufficient financial ability to do that which they desire.

Mr. HOLDER:
That will be the necessary result of a low tariff.

Mr. REID:
The hon. member does not quite speak by the book, because it would be possible to frame a freetrade tariff on a comparatively small number of articles, and yet receive more than the Victorian tariff of to-day yields, and certainly a great deal more than that of South Australia.

Mr. HOLDER:
By a low tariff I mean one which produces a low amount.

Mr. REID:
If the tariff is small and has a small number of articles, which is the sort of tariff I would like—and if I cannot get precisely the tariff I would like,
and I do not think any one of us will get what we want in the
Commonwealth, I shall endeavor to produce the revenue by as small a
tariff as possible-it would be possible to produce the amount that a
protective tariff would yield on the basis of a revenue tariff.

Mr. HOLDER:
A tariff which would not yield that amount would be a low tariff.

Mr. REID:
I have been looking at the figures as they affect South Australia. Take
South Australia and her position. She has a revenue of about £525,000
from Customs.

Mr. HOLDER:
£570,000.

Mr. REID:
Take that £570,000 under the phenomenally small tariff of New South
Wales. I am speaking of the small number of goods on which duty is
charged in our colony, and South Australia would receive in Customs
revenue £312,000, as against £570,000.

Mr. HOLDER:
£260,000 less.

Mr. FRASER:
Is that on their own basis?

Mr. REID:
That is on a freetrade basis. South Australia would collect £312,000.

Sir GEORGE TURNER:
How much would that be on spirits and narcotics?

Mr. REID:
I do not know. We are
at present on a question of figures. How much money will come back to
South Australia? It is immaterial where it comes from, and I do not see that
there need be any anxiety on the part of South Australia in connection with
the freedom and discretion of the Commonwealth. Then let us remember
that every pound less than £575,000 would represent so many pounds in
the pockets of the South Australian people. They are not losses, but gains
to the people. They represent so much less taxation taken out of the
pockets of the South Australians. But at the same time, I see and fully
recognise the difficulties of a Treasurer under those circumstances, because
in South Australia they have direct taxation to a pretty high extent, and I
am aware that my figures do not altogether remove the difficulties my hon.
friend has mentioned.

Mr. FRASER:
How would you raise the balance, seeing that they cannot have the Customs and excise?

Mr. REID:

In some way that would frighten the soul of my hon. friend. The Customs-house has been the fairy godmother of the substantial interests of Australia. I do not know whether it will always continue to be so. It is only fair to admit that a large revenue to the Commonwealth does not at all mean a high Commonwealth tariff, and that is one of the points I wish to put to those who wish the Commonwealth to be a large financier and tax-gatherer of the State. While you may fix on the Commonwealth Treasury large liabilities, large necessities for raising taxation, you will open up responsibilities and you will open up methods of collecting taxation from the people that will require serious consideration. If you graft on the Commonwealth the responsibilities of your finances you make the Commonwealth absolute master of all the sources of taxation, and, instead of a mild Customs tariff more or less protective, you must see that the Federal Parliament will be at absolute liberty and possibly absolute necessity of imposing direct taxation upon the States. I do not want to see taxes multiplied and piled upon the people in any form, and direct taxation takes perhaps the most obnoxious form of all, however fair it may appear to be. The strong objection that I have to loading the Commonwealth with a debt of 141 millions - taking the five colonies, and leaving out Queensland at present - is this: You do not propose, I understand, to hand over the works which represent the debts; you do not propose, I understand, to hand over the net earnings of the works in respect of which these debts were contracted, and this represents very much that sort of transaction which has been closely scrutinised in the insolvency jurisdiction, where certain gentlemen having a number of heavily-mortgaged estates, form a partnership, put the mortgages into the partnership, and get the estates.

An HON. MEMBER:

No.

Mr. REID:

It is suspiciously like it. These five colonies receive as a fair contribution towards the interest on these debts, net railway earnings over working expenses, a sum amounting to £2,875,000 a year. Those moneys belong to those debts, they belong to the reduction of the interest payable on those debts, and I will never be a party to that sort of finance which loads upon any Commonwealth say 140 millions of debt with the obligation to pay five and a half millions a year as interest, whilst the different colonies give
themselves £2,800,000 to play with in any way they like. That is the inherent viciousness of that proposal.

Mr. BARTON:

What about the receipts from Customs they would lose?

Sir GEORGE TURNER:

Hear, hear. That is a complete answer to it.

Mr. REID:

Well, I say there is nothing like facts-net railway earnings and Customs revenue. The New South Wales net earnings of the railways amount to £1,321,000 under our low tariff. At the present moment we receive about £1,500,000 of Customs revenue under any sort of tariff that would be required. To raise seven millions for the Commonwealth-that is five and a half millions for interest, and for expenses of the Commonwealth one and a half millions-and to return to each State what it received the year before this uniform tariff was imposed you would have to plunge New South Wales into additional taxation to an enormous amount, whilst at the same time you would present her with this amount of net earnings from the railways.

Mr. TRENWITH:

We propose to ask for a return if the debts are taken over.

Mr. REID:

But I am wiping out any surplus. I am simply speaking of the operation of a tariff on that basis. There is another fatal objection to this proposal. The Customs tariff of South Australia yields about £576,000 a year. It is a high tariff, and it is very probable that no Commonwealth tariff would be likely to give them much more, especially after deducting their share of the new expenditure. Well, the railway interest debt of South Australia is £954,000 a year, nearly double. After deducting her share of the federal expenditure, the net expenditure-because, of course, we must allow for the fact that a number of expenses are taken over-from £575,000, you come to this condition of things in the case of the public debt of South Australia, that the Customs would only pay one-half per annum of her liability in the shape of interest on the public debt.

Mr. GLYNN:

Are you not taking interest on the whole of our public debt?

Mr. REID:

I suppose I am. I supposed the whole debt was to be taken over. I have never heard of a proposal to take over half.

Mr. DEAKIN:

Both proposals have been made.
Mr. REID:

Let me say at once that this sort of thing would be a godsend to colonial treasurers who were in a tight place. I am not, and I do not feel driven to it; and I will not be a party to what I call vicious finance under any circumstances unless I am driven to it. Let me pursue the situation of South Australia. South Australia clearly—my friend, the Treasurer, admits it—would pay into the federal exchequer half the total of the interest on its public debt. That is to say that, unless there was some tremendous effort of some financial genius to meet this difficulty of giving South Australia a million or so back in the shape of Customs revenue, no possible tariff or system of taxation—of course I quite admit all these moneys could be made by direct taxation as well as by a tariff—no arrangement of that kind, which would be at all tolerable in the other States, would produce a sum which would enable the Commonwealth to set South Australia's share against South Australia's interest on her public debt. And I must say I should be very slow, with all implicit confidence in the stability of South Australia and her people—which we do not in the slightest degree doubt—to be a party to a system of finance under which the people of New South Wales, under any Customs tariff you fix, would give three times the amount of the interest on her debt, while another colony would only give half the amount of her interest. I would decline to be a party to a position in which the Commonwealth might, perhaps owing to a dispute between South Australia and the Commonwealth owing to some other matter, be under the painful necessity of putting financial compulsion to bear on South Australia to secure payment of the interest on her debt. There is no one who has higher respect for the colony of South Australia, but I would not, if I were a South Australian, ask you to allow me to occupy this position. The position breaks down from the fact that the Customs revenue, as it is at present, would not enable all the States to pay the interest on their debts.

Mr. GLYNN:

Why not adopt the Canadian scheme of making allowance for the interest on the debt?

Mr. REID:

And wipe off the difference of £500,000?

Mr. GLYNN:

They open an account when the interest on the debt is more than the Customs duties.

Mr. REID:

I wish I could open an account. It is not always that you are allowed to open an account. It is simply a matter of when you can manage it. That
does not help you out. My objection is that one State would have to open an account with the Commonwealth, and the Commonwealth would have to make itself personally responsible for a debt of about 120 millions sterling, without being able to do anything more than open an account for it. Because, who would listen to any suggestion that we should put in this Constitution a power that if the contribution of a State fell short of its share and it did not pay, the Commonwealth should take some power over the State in order to raise special taxation? Who would listen to it?

Mr. GLYNN:
That was not the Canadian system.

Mr. REID:
No; I do not know what it was. I am glad my friend is learning the Canadian system. I know it is very different from ours. Is not the main railway debt of Canada in respect of trunk lines, national lines?

Mr. FRASER:
There was very little expenditure on railways.

Mr. BARTON:
There was only one small railway to take over in Canada.

Mr. REID:
Now that is too bad of my friend. My friend is open to a joke occasionally; he is profoundly versed in all the literature of this subject, and knows I am not, and so he fires off that little joke at me. He must know there is a great difference between the affairs of Canada, with one railway in one colony, and the continent of Australia, where there is a railway debt of getting on for £150,000,000.

HON. MEMBERS:
£110,000,000.

Mr. REID:
Yes; I meant the public debt, about £141,000,000, I must say frankly, that while we are prepared in New South Wales to take the risks of the future as to the financial policy and the fiscal policy, while we are prepared cheerfully, with the odds against us staring us in the face, to leave the fiscal policy of the Commonwealth absolutely in the hands (if the Commonwealth, we are not prepared by such questionable means to allow the interests of the Commonwealth to be loaded to a maximum point so as to make certain that that which we fear shall, as a matter of necessity, Push against us to its absolute extreme.

Mr. HIGGINS:
But you said that under a freetrade or revenue tariff you could get as much money as under a protective tariff.
Mr. REID:

There is a limit even to that. We may have to make a number of allowances to colonies which have established industries. Although I am a very ardent freetrader, I am not altogether blind to questions of that kind, and I do not think I could afford to be, except under the pressure of some great national necessity. I do not think that this financial scheme will be favorably received in our colony if this sort of finance is to be practised. It is a sort of finance which complicates very seriously the problem we have before us, because, as is well known, there is a very strong objection in our colony to the railways being taken over by the Commonwealth, and I for one, although I admit it is quite possible to take over the debts with the railways, look upon such a transfer as a very questionable one indeed, and one which sound financiers in the colonies generally will not be found to concede. It is a splendid thing, I say again, if the finances are in difficulties-a splendid stroke of policy. But believing as I do that the finances of these colonies are sound-thoroughly sound-I do not think there is any necessity to take this step, and it does not get rid of the difficulty of the surplus at all. Supposing the interest on the public debt were taken over to-morrow from New South Wales, this difficulty about the allocation of the surplus would remain.

Mr. KINGSTON:

Hear, hear.

Mr. REID:

It would not be removed at all. It does not touch the great difficulty we have. These proposals are made very much to remove this difficulty, which has arisen owing to the unequal conditions of the consuming powers of the different colonies in dutiable goods. That will not touch this difficulty at all, because, so far as the people of New South Wales are concerned, they would not thank you one half-penny for taking over the interest of their public debts. They are perfectly competent and able to pay it themselves. They would not thank you for taking anything from their shoulders, and they would not accept as anything at all bearing upon the fact that whatever your Customs tariff is it will produce infinitely more per head than the colonies of Victoria, South Australia, or Tasmania. And the same trouble remains with Western Australia in a more aggravated form. Now, we have thought these things out day after day, and the taking over of the debts offered a solution. This solution was the best we could arrive at. It is not a solution that I approve of altogether, but it is a solution I am not going to vote against. It is a solution I can take to my colony, but I can only tell them that I do not think it is for us to be too nice, even if we do lose a few
hundred thousand pounds upon this matter during this intervening period. I can only justify my position on these grounds, and I think there will be no cavil over these grounds in New South Wales. But if you load this Commonwealth—which is to be established for strictly limited purposes—if you make the Commonwealth the means of unloading the debts of the colonies on to the Commonwealth, you remove a very serious obstacle in the way of Federation.

Sir GEORGE TURNER:
Nobody wishes to unload them.

Mr. REID:
But if you make the Commonwealth pay the interest, you unload the colonies and put the load on the Commonwealth. I do not know whether anyone wishes to do it, but wishes will not alter the position. I am told to get it from the Customs, but I desire to point out to you, as a man representing 41 per cent. of the total taxpaying power of this Commonwealth, that the people of New South Wales have a very strong voice in this matter, and they will decline to be taxpayers to that extent in respect of the railways of the other colonies. I say that frankly.

Sir GEORGE TURNER:
You have never been asked.

Mr. REID:
Well, if this obligation is paid and the interest of the public debt is loaded on to New South Wales, 41 per cent. of the obligation is loaded upon us in New South Wales.

Mr. HIGGINS:
We have the burden of your debts as well.

Mr. REID:
But we decline to burden you with our debt. We do not want your assistance. We do not need it. We did not come here to federate the railways.

Mr. PEACOCK:
The proposal to federate the railways came from New South Wales.

Mr. REID:
Not from New South Wales. I do not know who has said so.

Mr. PEACOCK:
Mr. Walker, Mr. Wise, Mr. Carruthers.

Mr. REID:
They have their own opinions.

Mr. PEACOCK:
Still they are delegates of New South Wales sent here.

Mr. REID:
But does my hon. friend think, because these gentlemen hold these views, New South Wales sent them here to advocate them?

Mr. PEACOCK:
They did not come from Victoria.

Mr. REID:
This proposition of paying debts by the Commonwealth comes from Victoria.

Mr. HIGGINS:
Is that so?

Mr. REID:
It is so. Sir George Turner has advocated that here to-night. I think he advocated it here to-night. I hope I am not stating what is not correct.

Mr. DEAKIN:
It was first proposed at the Bathurst Convention in New South Wales.

Mr. REID:
Well, you know, lots of things have been proposed in lots of places; but I am dealing with what has been proposed here by a responsible statesman, Sir George Turner, and proposed to us for our acceptance.

Sir GEORGE TURNER:
What is the proposal?

Mr. REID:
My hon. friend couched it in the delightfully vague term of the administration of the public debt." I asked him what he meant, and he told me that he meant the interest on the public debt. Whilst some may say it is an answer to me that it comes out of Customs, my answer to them is that probably-I cannot speak positively, of course, none of us can, but I am giving the Committee the benefit of my judgment, knowing the people of New South Wales pretty well as I do-the people of New South Wales will not consider that you are relieving them from any burden if you take the interest of the public debt from them. They prefer to pay their public debt, not out of Customs at all. We are fortunately in a position in which we do not need to look to Customs for the interest on our public debt. I do not wish to mention this, except as showing how the circumstances of the colonies differ. Our Customs are not needed at all for the interest on our public debt. As hon. members know our revenue stands by a mere accident on a number of footings which are not so strong perhaps in the other colonies. But we came here with a certain definite mission and to place a certain definite number of things on the Commonwealth, and it will not do in order to meet some other difficulty to raise these startling propositions, which I never came to this Convention either to accept or consider.
Mr. FRASER:  
What are you prepared to do?

Mr. REID:  
I am prepared to meet my friends Sir George Turner and Mr. Holder—the Treasurers of the different colonies in fact—and to see if we cannot hit on some arrangement which will prevent this taking of accounts. I think it is necessary perhaps to take them for one year at the most, but we might hit on some understanding to prevent the taking of a single account on the establishment of the Commonwealth. But this is one of those matters which I think my hon. friend from Victoria and myself will need some amount of reflection upon. It is a most important thing. We are all anxious to do what is fair and right by each of the colonies, and we ought to use our utmost endeavors to prevent the continuation of these accounts the moment the Commonwealth is declared. I promise my hon. friends that I will not be nice about this or that account.

Mr. BARTON:  
I hope my hon. friends were not all on the Finance Committee at the one time.

Mr. REID:  
We had to look after you and some other members of the Constitutional Committee so much that we had a divided allegiance. I was drawn upstairs against my will.

Mr. HOLDER:  
Can you suggest some plan as to the surplus?

Mr. REID:  
I suggest two plans. The one I would rather prefer is that we should take the facts of trade for the year 1895 on an intercolonial free trade basis, that we arrive at some estimate of the inequality so far as it affects New South Wales and Western Australia, that we arrive at some sum which will be added to the per capita of those two colonies, or rather that the per capita should be distributed after it certain allowance has been made to those colonies and then that the amount of that allowance shall diminish each year until the whole five years have expired. Each year of the five there should be a considerable percentage taken off.

Sir GRAHAM BERRY:  
You do not know that you are entitled to a single penny.

Mr. REID:  
I am prepared to have any inquiry made in order to arrive at that fact. I am advised by those whom I consider competent to advise me, that the facts are as I have mentioned. I cannot, unfortunately, take my advice from
my distinguished friend in these matters. I have got these facts, not only from the Government officers, but from one of our ablest writers in New South Wales, who, independently of the Government, has placed his finger on this very spot. Mr. Nash, in the Sydney Daily Telegraph, has pointed out that this was the great difficulty in the way of the per capita principle, and has proved that on the facts New South Wales must pay hundreds of thousands of pounds more than she should. Other writers join in attesting to the same facts, and the matter is too substantial to enable me to dismiss it as the representative of New South Wales. That was the difficulty of the Finance Committee. I wish to pay my strongest tribute to Sir George Turner and Mr. Holder for the thoroughly honorable and indefatigable way in which they have tried to bring about a just settlement of this matter.

Mr. BARTON:
I have been very much impressed with the speeches made by the three Treasurers to-day, and as Mr. Reid has made such a good suggestion perhaps we might act upon it. Supposing we adjourn till to-morrow morning, and leave the Treasurers of the four colonies to debate these points, up to a certain time-without injuring their health say, not beyond 2 o'clock in the morning, so as to try and arrive at a solution of the difficulties.

Mr. REID:
You can go on with some other work in the meantime.

Mr. BARTON:
We could go on with the executive and the judiciary clauses. If hon. members agreed to this it would be an admirable idea, and while we went-on with other matters the Treasurers might take the substance of this debate into their own ken, and settle it in a way never attempted before.

Mr. WALKER:
I think that Mr. McMillan, who is an ex-treasurer of New South Wales and was chairman of the Finance Committee, ought to be at the Conference.

Mr. PEACOCK:
Why not confine the Conference to the Treasurers? We do not want too big a Committee.

Mr. BARTON:
These clauses can be postponed, at any rate, and we might get through the other parts of the Bill rapidly. I am not hurrying them, but the Bill has to be dealt with.

Mr. REID:
Go on with the other parts.

Mr. BARTON:
If the suggestion is not a real one, what is the use of postponing the clauses, but it seems to me to have been reasonable that the Colonial Treasurers present might well consider the matter while we go on with the other work. If I get a favorable response to that from the Treasurers, I shall move the postponement of the clauses.

Sir GEORGE TURNER:
    I should like to hear Sir Philip Fysh.

Mr. BARTON:
    He intends to speak on the main question.

Sir PHILIP FYSH:
    I do not intend to discuss the main question at this time because of the suggestion thrown out by Mr. Reid that the Treasurers of the colonies withdraw to see if they can agree whether any basis for division of revenue can be established upon a scale during five years, which, diminishing or increasing yearly, shall, on the expiration of that time, bring us all to the happy conclusion that bookkeeping shall promptly cease, and after the fifth year adopt the division upon a purely per capita basis.

Mr. KINGSTON:
    I think it is infinitely preferable that we should adjourn at some reasonable hour to-night, and to-morrow morning the Treasurers might meet and discuss this before we begin work again, say at 11 o'clock. I do not think it is desirable that we should lose the services of the Treasurers in the discussion on the other business.

Sir WILLIAM ZEAL:
    Can we not go on with the debate on the other clauses?

Mr. KINGSTON:
    These are all of sufficient importance to make it desirable that the Treasurers should be present. We shall hardly know where we are if we go on turning from one clause to another.

Sir GEORGE TURNER:
    We had better meet for an hour to-night and discuss the matter.

Mr. KINGSTON:
    Upon a question of this sort I think it would be well to adjourn at a reasonable hour, so that the Treasurers could consider it.

Mr. BARTON:
    If the Treasurers will take advantage of the comparatively early hour, and discuss it this evening, I do not think we need adjourn. I think we are agreed that the remaining difficulties are to be summed up in the clauses from where we are to clause 96, and I will undertake that these shall not be touched to-night. Are the Treasurers willing to discuss it?
Mr. HOLDER:
Yes.

Sir GEORGE TURNER:
I do not object.

Mr. REID:
Nor do I.

Mr. BARTON:
As Sir George Turner, Mr. Reid, and Mr. Holder are willing, I will move:
That the clauses be postponed.

The CHAIRMAN:
Chapters II. and III. were postponed until after chapter IV., so that if we postponed clauses 87 to 96 until after the consideration of these we can go back to II. and III.

Mr. BARTON:
We can postpone them until after the short chapter relating to the States. I move:
That clauses 87 to 96 be taken after chapters II. and III.
Question resolved in the affirmative.

CHAPTER II.
The Executive Government.
Clause 58-The executive power and authority of the Commonwealth is vested in the Queen, and shall be exercised by the Governor-General as the Queen's representative.

Mr. REID:
It will be observed that in clause 2 of chapter I. there is this provision:
The Queen may, from time to time, appoint a Governor-General, who shall be Her Majesty's representative in the Commonwealth, and who shall have and may exercise in the Commonwealth during the Queen's pleasure, and subject to the provisions of this Constitution, such powers and functions of the Queen as Her Majesty may think fit to assign to him.

I only call the attention of the Committee to that, and pass on to the clause now under consideration. For a long time I have been impressed with the view that since we are now expressing, in precise written characters, the various functions of the Governor, and conditions under which the power of the Commonwealth is to be exercised, it would be well in this clause, whilst providing that the Executive power and authority of the Commonwealth shall be vested in the Queen, and shall be exercised by the Governor-General as the Queen's representative, that we should add that which will in reality be the practice, that it is by and with the advice of the Executive Council. Members will notice that the legislative powers in
the Queen are expressed under Statute as being exercised with the consent of Parliament. The Queen sets her seal upon Acts, and it is attested in the Acts themselves that they are by the authority and with the consent of the Parliament—that is, the two Houses of Parliament. Now, I think we had better, since we are going to put in black and white the full functions of the Commonwealth, state what I deem will be the fact in practice, that the executive power is to be exercised by and with the advice of the Executive Council. I have looked through the works on the prerogatives of the Crown, and I find that they really came as far as anything in these colonies is concerned to the question of the right to assemble, dissolve, and prorogue Parliament, the pardoning of offenders, the issuing of proclamations, and so on. That is about the whole scope of the prerogatives which could be exercised under this Commonwealth. In the old country the Queen, of course, is the supreme head of the Church. That does not apply here. She has the power of making war or peace. That does not apply here. I am simply referring to things within the reach and range of this Constitution. In reference to the right to assemble, prorogue, and dissolve Parliament, that is always done on the advice and consent of the Executive Council. The refusal to receive advice is not an executive act at all. An executive act is something which affects the subjects of the country. The refusal to do it affects no one, except that it creates a crisis and would probably effect a change of Ministers.

Mr. BARTON:
It is an exercise of the prerogative.

Mr. REID:
It is an exercise of the prerogative, which is not an executive act. The refusal to accept advice does not fall within that category. The carrying out of the steps necessary for the assembling or proroguing of Parliament would, and that would be with the advice and consent of the Executive Council. There is not one appointment in the United Kingdom which the Queen makes, but that the counter signature of a Minister of State is required.

Mr. FRASER:
How about a dissolution?

Mr. REID:
Supposing Ministers ask for a dissolution, and the Governor says "no"; that is not an executive act. It is a refusal to do an executive act. To issue a proclamation would be an executive act. This difficulty would not arise. It would leave the independence of the Governor as to accepting the advice
of his Ministers absolutely intact. In England nothing can reach the state of
an act affecting the subjects, unless there is the signature of a Minister to it.
That is the practice all over the world under similar conditions. So I say
that if the British Constitution were being reduced to black and white, that
might be put in. If the British Constitution were being drawn up to-day, the
main feature would be that the Queen must act on the advice of responsible
Ministers. The moment she does not you have no constitutional
Government at all.
Mr. SYMON:
   How about the appointment of Ministers?
Mr. REID:
   Some Ministers' appointments would have to be countersigned by a
   Minister.
Mr. SYMON:
   That is, the publication only.
Mr. REID:
   Yes; my honorable friend is quite right. Of course this comes afterwards.
By section 2 of chapter I., Her Majesty would assign that prerogative to the
Governor, amongst other prerogatives, which she would assign to him.
That prerogative would remain in the Governor under section 2, chapter I.
This executive power and authority of the Commonwealth is something
different altogether from the prerogative of the Crown. The executive
power and authority of the Commonwealth is a thing which must be
exercised by Ministers. The other is a prerogative matter which is
safeguarded by the section I have referred to.

An HON. MEMBER:
   What about the dismissal of Ministers?
Mr. REID:
   Even if Ministers are dismissed, they have to hold office until their
successors are appointed.
Mr. KINGSTON:
   Not dismissed; they resign.
Mr. REID:
   Yes; they hand in their resignations. But even if His Excellency exercised
the extreme prerogative, and dismissed them-a thing never heard of in
these colonies-supposing the Proclamation had to go out before the new
Minister was sent for, could the Governor dismiss them without a
Minister?
Mr. SYMON:
   No; that would be done before the Minister left office.
Mr. REID:

Exactly; that was what I was endeavoring to point out. But I do not want to press this matter too strongly, because I quite admit that this Bill, as at present, will ensure that the practice will be carried out. What necessity was there to put in clause 2 that Her Majesty's representative could exercise Her Majesty's prerogative. What reason was there for it?

Mr. SYMON:

No reason at all.

Mr. REID:

Well, it is put in. If we safeguard in this unnecessary way the prerogative of Her Majesty, and the prerogative of the Governor-General, surely we can put in black and white the principle of executive action which always is that the Governor shall act with the advice of the Executive Council. Why could we not understand all this? What is the use of putting it in at all? Did it not follow, as a mere matter of course, that if Her Majesty appointed a Governor-General to represent her, he would exercise the powers which she had and has? However, I do not press my suggestion, because it is practically in the Constitution; but I would point out, that whilst we have been careful to put certain clauses in the Constitution, I think others are of sufficient importance to be there.

Mr. BARTON:

The hon. member has not moved in the matter, and as he admits that what he desires is secured in section 61, which is an adaptation of what is in the South Australian Constitution Act, and is somewhat similar to the Victorian Act, it is just as well not to take up much time in debating it. Executive Acts of the Crown are primarily divided into two classes: those exercised by the prerogative-and some of those are not even Executive Acts-and those which are ordinary Executive Acts, where it is prescribed that the Executive shall act in Council. These are the offsprings of Statutes. The others are Acts so far as they are not affected by Statutes. Now there is no necessity to make any alteration in this clause. The clause has been drafted in precisely the ordinary way-it was similarly drafted in 1891-which is simply to express in a document of this character the depository of the Executive power in the kingdom or the Commonwealth. Moreover there is no necessity to add the words:

With the advice of the Governor in Council,

because in a constitution of this kind it is no more possible than it is under the English Constitution for the prerogative to be exercised as a personal act of the Crown. The prerogative is never in these days exercised as a personal act of the Crown as we understand it, but there are certain
acts which have become, either by the gradual march of statute law or in any other way, nothing but ordinary executive acts and these are expressed to be exerciseable only with the advice of the Executive Council. There are others again which have not been expressly affected by legislation, and while these remain nominally in the exercise of the Crown they are really held in trust for the people, although they are exercises of the prerogative. This is explained by Dicey in "The Law of the Constitution," and the extract I will read will be followed with interest by lay as well as by legal members.

Mr. REID: He was writing of an unwritten Constitution.

Dr. COCKBURN: Hear, hear.

Mr. BARTON: The Constitution of England is not wholly unwritten. A vast body of it is in statute law, a vast body is unwritten. But let us understand that the Imperial Parliament has in all its drafting of the Colonial Constitutions drawn the distinction. Yet it is understood that the Crown exercises the prerogative only upon ministerial advice, and it is exercised not personally by the Crown, but only with the advice of the Ministry or a Minister. Every Constitution is explicit on that point. You do not find it anywhere in the Australian Constitutions nor in the Canadian Constitution, which is written like this, that there there is a prerogative act expressed to be exercised with the consent of the Executive Council.

But we all know that it is exercised with the advice of those who must answer to the people. The point of the matter is that where the expression of the Act is in the form commonly used to indicate prerogative act—that is without the addition of the words, "in Council"—that does not indicate any real personal power in the depositary of the Crown's authority. That is made clear by the passage I am about to read, and it applies just as strongly to written Constitutions as to those Constitutions which are partly written and partly unwritten. Dicey says:

The survival of the prerogative, conferring as it does wide discretionary authority upon the Cabinet, involves a consequence which constantly escapes attention.

The survival of the prerogative really means that where the prerogative act is to be exercised the Cabinet meets, and the Governor or the Queen cannot for a moment intrude. The Cabinet, of course, is not expressed in any Constitution, but it is one of the living powers which must exist in such
a Constitution as this. The Cabinet meets and something is determined, or where the Act does not require the assistance of the Cabinet, the Minister determines to do it. In both these cases a formal resolution is passed by the Executive Council with the Governor as chairman, or, when he is

It immensely increases the authority of the House of Commons and ultimately of the constituencies by which that House is returned. Ministers must in the exercise of all discretionary powers inevitably obey the predominant authority of the State. When the King was the chief member of the sovereign body, Ministers were in fact no less than in name the King's servants. At periods of our history when the Peers were the most influential body in the country, the conduct of the Ministry represented with more or less fidelity the wishes of the Peerage. Now that the House of Commons has become by far the most important part of the sovereign body, the Ministry in all matters of discretion carry out, or tend to carry out, the will of the House. When, however, the Cabinet cannot act, except by means of legislation, other considerations come into play. A law requires the sanction of the House of Lords. No Government can increase its statutory authority without obtaining the sanction of the Upper Chamber. Thus an Act of Parliament when passed represents, not the absolute wishes of the House of Commons, but those wishes as modified by the influence of the House of Lords. The Peers no doubt will in the long run conform to the wishes of the electorate. But the Peers may think that the electors will disapprove of or, at any rate, be indifferent to a Bill which meets with the approval of the House of Commons. Hence, while every action of the Cabinet which is done in virtue of the prerogative is in fact, though not in name, under the direct control of the representative chamber, all powers which can be exercised only in virtue of a statute are more or less controlled in their creation by the House of Lords; they are further controlled in their exercise by the interference of the courts.

Then also the Bill in 1872 for the abolition of the system of purchase in the army is referred to; it is interesting, but I do not think I need read it at length. It will be remembered by everybody that the Bill was rejected by the Lords, but that the system of purchase should be abolished was ascertained to be the definite wish of the House of Commons, and also of the people. The result of the rejection of the Bill by the Lords was that Mr. Gladstone, who was then Premier, by royal warrant—a distinct exercise of the prerogative—abolished the system of purchase in the army.

Mr. REID:
If we can dish the Upper Houses that way, I am agreeable.

Mr. BARTON:
From what I know of my friend it ought to suit him finely.
Mr. REID:
    Hear, hear. Down to the ground. But unfortunately our army is under an Act.
Mr. BARTON:
    Our federal army is not under an Act yet.
Mr. REID:
    Oh, I mean the local forces.
Mr. BARTON:
    This Bill having been rejected by the Lords, and the will of the people and of the House of Commons having been distinctly ascertained, the system was then and there abolished by royal warrant—an exercise of the prerogative.
Mr. REID:
    For which Mr. Gladstone was responsible; it was not a personal act of the Queen.
Mr. BARTON:
    If the House of Commons or the people had been against the abolition of this system, Mr. Gladstone would have paid the ordinary forfeit-loss of office.
Mr. FRASER:
    Hear, hear.
Mr. BARTON:
    Which goes to show that the exercise of the prerogative, although there is nothing in statute law to say it must be exercised on the advice of a minister, must still take place on the advice of a minister, and that that minister is responsible for its exercise. This is what the author says to some of these matters:

    The change, it will probably be conceded, met with the approval, not only of the Commons, but of the electors. But it will equally be conceded that, bad the alteration required statutory authority, the system of purchase might have continued in force up to the present day.
* * * *

    The existence of the prerogative enabled the Ministry in this particular instance to give immediate effect to the wishes of the electors, and this is the result which, under the circumstances of modern politics, the survival of the prerogative will in every instance produce. The prerogatives of the Crown have become the privileges of the people.
Mr. REID:
    Hear, hear.
Mr. BARTON:
And anyone who wants to see how widely these privileges may conceivably be stretched as the House of Commons becomes more and more the direct representative of the true Sovereign,

being a Sovereign Chamber itself, mind:

Should weigh well the words in which Bagehot describes the powers which can still legally be exercised by the Crown without consulting Parliament; and remember that these powers can now be exercised by a Cabinet who are really servants, not of the Crown, but of the representative Chamber, which in its turn obeys the behests of the electors.

Then there is a passage from Bagehot's book on the English Constitution, pages 35-6 of the introduction, which I might as well read also, because it will tend to shorten argument on my part:

I said in this book that it would very much surprise people if they were only told how many things the Queen could do without consulting Parliament, and it certainly has so proved, for when the Queen abolished purchase in the army by an act of prerogative (after the Lords had rejected the Bill for doing so) there was a great and general astonishment.

Astonishment at the fact that a Minister could exercise the powers of the Crown by merely advising the Queen to issue her royal warrant. He goes on:

But this is nothing to what the Queen can by law do without consulting Parliament. Not to mention other things, she could disband the army (by law she cannot engage more than a certain number of men, but she is not obliged to engage any men); she could dismiss all the officers, from the general commanding-in-chief downwards; she could dismiss all the sailors too; she could send off all our ships of war and all our naval stores; she could make a peace by the sacrifice of Cornwall, and begin a war for the conquest of Brittany. She could make every citizen in the United Kingdom, male or female, a peer; she could make every parish in the United Kingdom a "university;" she could dismiss most of the civil servants; she could pardon all offenders. In a word, the Queen could by prerogative upset all the action of civil government within the government, could disgrace the nation by a bad peace or war, and could, by disbanding our forces, whether land or sea, leave us defenceless against foreign nations.

All that Dicey has to add to that is this:

If Government by Parliament is ever transformed into Government by the House of Commons, the transformation will, it may be conjectured, be effected by use of the prerogatives of the Crown.

All that passage goes to show this, that every prerogative which the Queen retains is retained in trust for the people, and it does not matter whether she is told in the Statute that she is to exercise that prerogative by
the advice of the Executive Council or not, if she is given the power in the
Statute she can only exercise that power of prerogative by and on the
advice of the Ministers. In other words, if you have a Statute embodying a
Constitution, or if you have a Constitution in

which the moving power is responsible government, in one case or the
other, whether acting as a prerogative or in Executive, there must be a
Minister responsible for the action to the people. And that is the principle
embodied in this Bill as drawn. We shall be told if we alter the drafting of
it in this particular, if we say we are not aware of the distinction between
the Acts which are assumed to be prerogative and which cannot be
received without Executive advice, if we say that we do not know the
distinction between these, we shall be told how the distinction would be
made every time. The words:

With the advice of the Federal Council
would be struck out and the words:
The Queen
or
The Governor-General

would be left. There will be this little further result: We shall be told that
we did not know how to draft an Act of Parliament because we did not
have sufficient constitutional knowledge. It is all very well for my hon.
friend to propose an amendment, but if the Bill is accepted as drawn he can
take this conclusion: that all executive powers must be in trust for the
people, because every Constitution has been workable only by responsible
government. As there is at the end of clause 61 provision which makes
what my hon. friend desires safeguarded there is no more contest needed
about the matter. We have provided in clause 61 that officers shall be
members of the Federal Executive Council and shall be the Queen's
Ministers of the State for the Commonwealth; that after the first general
election no Minister of State shall hold office for a longer period than three
calendar months, unless he shall be or become a member of one of the
Houses of Parliament; and that Ministers of State shall be in the
Parliament, and that is the hold by which Parliament, if there were no other
hold, would make them responsible to the people. This Act, as it was,
would have made the Ministers responsible to the people, and have given
us cabinet government responsible to the people. I do not think there is
need for further discussion. We can take the clause as drawn.

Mr. CARRUTHERS:

My hon. friend's new argument shows that if the words were inserted
they would at the very most be mere surplusage, and if this surplusage will
satisfy the minds of the hon. members the surplusage is justifiable. I paid particular attention to the last argument, that it might possibly expose us to some adverse criticism from the home authorities in regard to the drafting of the Bill. I should think we would be prepared to put up with a little bit of criticism. We are not supposed to understand the whole of the laws of the Empire, and possibly if we make a mistake we will stand being corrected. We will not be like little little children-set our backs up in obstinacy because someone can point out how to do better. Mr. Barton first of all recites Dicey to show what occurs under the unwritten Constitution of England. But here we are framing a written Constitution. When once that Constitution is framed we cannot get behind it.

Mr. REID: Why should we have said the executive authority is vested in the Queen?

Mr. CARRUTHERS: We have been told before on the question of "proposed laws" that the federal judiciary is established for the purpose of keeping us right down to the very text of our Constitution, and if we are to be so kept down it is better to let that Constitution clearly express what it is intended to effect; do not let us have to back it up by quoting whole pages of Dicey. This is a Constitution which the unlettered people of the community ought to be able to understand. We have had it cited that in Canada a similar provision is enacted. But the provision in Canada is not similar. The provision in Canada uses words to this effect:

The executive power and authority of the Commonwealth shall continue and be vested in the Queen.

That means simply that that executive power, which by the unwritten Constitution or the unwritten law was vested in the Queen, should remain so vested. The words "shall continue" have a very marked and clear meaning. You cannot "continue" the existence of a thing except in so far as it did exist. Here, however, is the creation of its existence. In the next place, in the Canadian Constitution there are no such words as we have in clause 2 of chapter I. If the Canadian Constitution had these words, how different the arguments would be. In clause 2 of chapter I. we specifically deal with the matters of the Queen's prerogative, and, having dealt with them, we provide that they shall and may be exercised by the Governor. The section reads:

The Queen may, from time to time, appoint a Governor-General, who shall be Her Majesty's representative in the Commonwealth, and who shall have and may exercise in the Commonwealth during the Queen's pleasure, and subject to the provisions of this Constitution, such powers and
functions of the Queen as Her Majesty may think fit to assign to him.

That is the section dealing with the prerogative rights, and all those matters cited by Mr. Barton are matters where the Queen must exercise her prerogative, and even her prerogative has been limited by the constitutional usage of the mother-country. Here all these matters, however, have been dealt with in clause 20, and are introduced for the first time in Federation Bills in this Bill. For what specific purpose? Surely the draughtsmen have some particular purpose in introducing this clause 2 of chapter I. It must have some meaning, and what does it really amount to? The very words of it clearly show that it relates wholly and solely to those matters which are matters of the Royal prerogative. We propose that they should be handed down to the Government under the advice of the Executive Council there. Then when we come to the next clause:

The executive power of the Commonwealth is vested in the Queen.

That is totally different from the divesting of prerogative rights—a very different thing. Here we are handing over matters totally distinct from the prerogative rights, and the argument of my hon. friend goes to show that the executive powers must be exercised by and with the advice of the Executive, and if that be so, what harm can there be in clearly expressing within the Constitution itself what we mean? I hope that we shall not be detained for some hours in discussing this, when we have got the admission from Mr. Barton and the Drafting Committee that practically without these words the work will have to be done by an Executive Council with a reference to the home authorities and constitutional usages. I hope the Committee will adopt the proposal of my hon. friend. In the pamphlet, "Notes on the Commonwealth Bill of 1891," Mr. G. P. Barton says:

It is contended that this clause, as it stands, vests the executive power in the Governor-General independently of the Executive; and that it ought to have concluded with the words "acting by and with the advice of the Federal Executive Council." If those words had been inserted they would not amount to anything more than surplusage. Parliamentary Government being established as the basis of the Federation, the Governor-General could not act otherwise than "by and with the advice of the Federal Executive Council," unless he was prop trod to take the responsibility of acting without it and against it.

We do not want to be put in this position, that the Governor could, if he liked, exercise this executive responsibility and powers, and we want to have the functions as set out in the clause distinguished from the exercise of the Royal prerogative. We do not want the Governor to have the power to do wrong; we want to have him limited by the terms of the Constitution
Act, and kept to the straight paths by a Federal Judiciary.

Mr. REID:

He holds no responsibility to us at all.

Mr. CARRUTHERS:

We do not want the Federation to be plunged into a broil through the Governor taking responsibility on his own shoulders. I hope my hon. friend's suggested amendment will be carried.

Clause, as read, agreed to.

Clause 59—There shall be a Council to aid and advise the Governor-General in the government of the Commonwealth, and such Council shall be styled the Federal Executive Council; and the persons who are to be members of the Council shall be from time to time chosen and summoned by the Governor-General, and sworn as executive councillors, and shall hold office during his pleasure.

Mr. GLYNN:

On the question of responsibility I would like to draw attention to the fact that we are creating an Executive Council, a portion of which cannot be responsible. We had a discussion just now on the question of the obligations of the Governor to the prerogative of the Crown, and the responsibility of Ministers. Under this it is possible that you might create a responsible Council who would not be responsible at all, because there is a certain number of members of the Council who may not be Cabinet Ministers. In Canada the Council is swollen by the continuance as Executive Councillors of ex-Cabinet Ministers. Here we can do the same, and also appoint men to the Council at once who would never be in Parliament. If that is so you can have the prerogative of the Crown exercised by men who are not at all subject to parliamentary control. In Canada they have a non-parliamentary Council simply by accident; and it is by the accident of Ministers going out of office that they are retained as a matter of honor in the Executive Council. In England the Executive Council does not exist practically outside of the Cabinet. You are going to create under this a large Executive of thirty or forty, and you are going under the express terms of this Act to let them carry out the prerogative of the Crown in conjunction with the Governor-General, altogether overlooking the fact that the Executive Council ought to be responsible. Here we have a clause which says there shall be a Council to advise the Governor-General of the Commonwealth, but a portion of the Executive need not be Cabinet Ministers, and is it not possible, therefore, to create a large Council, some of the members of which would be responsible while others would not?
Mr. O'CONNOR:
What possible powers could they have?

Mr. GLYNN:
Well, what is the use of them? You are going to fix an Executive Council that is not required. Todd, the leading authority on parliamentary government in the colonies, says we should stick to the principle of having only Cabinet Ministers in the Council. The Queen's Privy Council is retained more for the honor than for its use. At one time the Privy Council, with the Sovereign, was the legislative body. The monarch called the Council together whenever it was considered necessary, but as time went on the legislative function of the Council was taken over by the people, and the Privy Council was kept up simply as an honor. The Council has not been called upon, except as regards the members of the Cabinet, to discharge any executive function since it signed the Utrecht. I say that, under this proposal, we will be putting in the Constitution the possibility of having an Executive Council who can sign proclamations and advise the Governor-General, but who still need not be in the slightest degree responsible to the Parliament.

Mr. TRENWITH:
YOU will have the advantage of their experience if you want them, but generally they will take no part.

Mr. GLYNN:
You are going to create a body that is of no use, and an appendage to the Governorship that is not required.

Mr. SYMON:
I think my hon. friend has rather found a mare's nest, because he seems to be under the impression that the Governor will take it into his head to surreptitiously pack the Executive Council to the serious detriment of the Ministers of the State, and the public interests generally. We can hardly imagine under the present era of responsible government anything of the sort taking place, and if there was any idea that the Executive Council might be interfered with it is set at rest by clause 61, which says that the seven Ministers of State shall form the Executive Council. We want some fringe of ornament to the Constitution; it cannot all be prosaic.

Clause, as read, agreed to.
Clause 60, as read, agreed to.
Clause 61 as read agreed to.

Clause 62.-Until the Parliament otherwise provides, the number of Ministers of State who may sit in either House shall not exceed seven, who shall hold such offices, and by such designation, as the Parliament from
time to time prescribes, or, in the absence of provision, as the Governor-
General from time to time directs.

Mr. HIGGINS:
I would ask as to the number of Ministers, whether there is any need for
seven?

Mr. O'CONNOR:
The number is not to exceed seven.

Mr. HIGGINS:
It seems to me that we must be very careful not to frighten the people by
huge expenses.

Sir GEORGE TURNER:
There are seventy-six members to begin with.

Sir EDWARD BRADDON:
Move to reduce the number.

Mr. HIGGINS:
I would not undertake that responsibility, but I wish members to consider
whether we should put any particular number or any particular sum as their
salaries in the Bill. I think it might be left open.

Sir WILLIAM ZEAL:
I point out that if the hon. member feels any difficulty they can give four
members to the Senate and three to the House of Representatives.

Clause, as read, agreed to.

Clause 63, as read, agreed to,

Clause 64—Until the Parliament otherwise provides, the appointment and
removal of all other officers of the Government of the Commonwealth
shall be vested in the Governor-General in Council.

Mr. WISE:
I think this will be the place to move an amendment of which I have
given notice, which is drawn with the view of preventing the coming into
existence in this country of a state of things which is such a drawback to
the public life of the United States, and which is known as the "spoil"
system. I propose to move:

That the following words be added, "Provided that no such officer shall
be removed except for cause assigned."

That in no way limits the power of the Executive to remove an officer for
any cause they please, such as inability to perform his duties, or that big
services are not required, and so on, but it imposes on them the
responsibility of stating to Parliament and the country at large what their
reason is, and it will prevent the wholesale removal of officers to make
room for political friends. It also gives a security of tenure to the general
body of civil servants, who as a rule are not overpaid compared with the
responsible duties they have to perform. It will prevent them being removed by secret commissions or by commissioners who take evidence in secret, and who listen to charges which the civil servants may not have the opportunity of answering, and which may prove fatal to their positions. My real object is to put into this Constitution a clause which will establish a custom, which will ripen into a law, and will prevent civil servants from being removed from office for purely political reasons.

Sir GEORGE TURNER:

I trust this amendment will not be made. The practice which my hon. friend has cited with regard to America is one not likely to come about in any of our colonies. It is on a different basis. They have an Executive not responsible to Parliament. Here the Executive will be responsible to Parliament, and I do not think would ever dare to take this step of dismissing a large number of public servants for the purpose of putting their friends into their places. If a Ministry in our colony were to do that they would not sit on the Treasury benches for twenty-four hours. Then it is wished to insert the words "for cause assigned"; that is, if you dismiss a telegraph boy or messenger you must assign a cause. The very same danger that the hon. member apprehends might exist then, for if the Government were so corrupt as to put their supporters in office they would take very good care to find some reason for making dismissals.

Mr. ISAACS:

It says, "Until Parliament otherwise provides."

Sir GEORGE TURNER:

As the Attorney-General for Victoria points out, it is simply "Until Parliament otherwise provides," and it would be quite in the power of Parliament to make amendments. There is the matter of pensions which we might consider.

Mr. TRENWITH:

I would point out to Mr. Wise that his amendment might be doing considerable injury to some civil servants whom it might be necessary

Mr. WISE:

Such officers could always resign.

Mr. TRENWITH:

We have to get rid of people for unsteadiness, and we should not publish the cause to the world and say they were unsuitable. We should let them do the best they can to get another position. If the amendment were carried we would have to say that John Smith or James Brown had been dismissed for some cause, and it would be very unwise. I think Sir George Turner has shown that in the colonies we have never had even the suspicion of
corruption in connection with appointments in the public service, at any rate not in a wholesale manner. In the United States the circumstances are different. The Senate is not responsible to Parliament, and there goes on notoriously an immense amount of logrolling that could not happen here.

Sir JOHN DOWNER:
I cannot see what object there is in this amendment, because if the officer is not to be dismissed, except for cause assigned, that must surely be with a view to allowing some tribunal to decide whether the cause is adequate or not. I am quite sure that my hon. friend cannot be moving this motion simply for the purpose of declaring that no Minister shall dismiss an office boy without giving the precise reason for doing so. I suppose he must give a good cause.

Mr. WISE:
Only state a cause to the public. Put it on record.

Sir JOHN DOWNER:
But does my hon. friend not think that this is a matter of too small importance to introduce into the Constitution?

Mr. WISE:
No.

Sir JOHN DOWNER:
I think we have quite enough elaboration in this Constitution Bill. Having established a Government which shall be responsible to the Parliament, we may fairly leave the control of the officers in the hands of the Government, without introducing provisions which might do the greatest injustice to individuals.

Mr. FRASER:
Divide! Divide! Divide!

Sir EDWARD BRADDON:
I think in the interests of the civil servants this is a very desirable amendment. I can see every reason for protecting them against dismissal without cause.

Mr. FRASER; Is that ever done?

Mr. WISE:
Yes; I have known it done.

Sir EDWARD BRADDON:
No harm can arise by defending civil servants from dismissal without cause. When I am told, as I am told by Mr. Trenwith, that this will be inimical to the interests of the civil servants, inasmuch as they will not like to have the causes of their dismissal published, I laugh at that argument, because if the causes are such that they do not wish to have them
made public, the matter is in their own hands.

Mr. TRENWITH:
No; it is not.

Sir EDWARD BRADDON:
They need not publish them.

Mr. TRENWITH:
There must be a reason assigned.

Mr. ISAACS:
And who shall be the judge?

Mr. WISE:
There is no necessity for any one judging; there is necessity to publish it.

Sir EDWARD BRADDON:
There is no necessity whatever for publication. A Civil servant is defended by this to the extent that he cannot be dismissed unless a cause is assigned.

Mr. DEAKIN:
I would remind my honorable friend Mr. Wise that clause 83, which deals with this subject from another standpoint, has not yet been disposed of, but was postponed. That deals with the whole of the public servants taken over by the Commonwealth, and if their rights, as at present enjoyed, are preserved, that clause, if so amended, will no doubt carry a larger measure of protection to them than this does to new appointees. I cordially sympathise with my honorable friend's proposal; but it does not go far enough. I am quite sure that the Federal Parliament will provide for a satisfactory tenure of office for its servants. In the meantime, if their rights are to be safeguarded, as no doubt they ought to be, we may accept this amendment as an indication that equal protection should be afforded to all public servants.

Mr. WISE:
I think there may be something in what Mr. Deakin Says. But I prefer to take a division now, and if my learned friend's idea proves correct, we can easily alter clause 83 when we come to it, and the Drafting Committee can put it into shape. It is by no means the unimportant matter Sir John Downer seems to think. I regard it as of the highest importance that the Federal Commonwealth should be launched with a competent staff of administrators, and I am not speaking on a subject on which I have no knowledge, for I have had the honor of a seat on the Civil Service Commission of our colony. In our colony there has been a steady depreciation in the quality of the Civil servants in consequence of the growing insecurity of tenure which has attached to their office. It is not only on account of the system of "the spoils to the victor" being introduced
that I want the amendment passed, and the remarks of Sir John Downer and Mr. Trenwith were beside the mark. They say, "You can trust the people"; but in America they do not, or regard that system as dishonest. The custom has grown up, and they regard it as honest enough for a man to be given a position on account of his political opinions.

Mr. TRENWITH:
They do regard it as dishonest.

Mr. WISE:
Some do, but a Government man does not. It has become second nature with them. I want to enforce the direct responsibility of the Executive for dismissal from the Civil Service. In some colonies the Executives have shirked the responsibility by appointing Commissioners, who have absolute authority; and of course then nobody is to blame for dismissals. To my knowledge some acts of injustice have been done.

Mr. KINGSTON:
But is a dismissal an act for the Executive or a Commission?

Mr. WISE:
I understand, in one case, an Executive disclaimed responsibility, and put it on the Commission. Unless the amendment is carried tenure of office may be as insecure as it is to-day.

Mr. FRASER:
This amendment means that the Executive Government will not do their duty, that they are dishonest, and unfair, and will make appointments improperly.

HON. MEMBERS:
No, no.

Mr. FRASER:
You can say "No" as much as you like, but that is the meaning of it. There may be one case in a million of injury to a civil servant, but that is inseparable from our form of Government. Are we going to pass an amendment like this because of one isolated case? I have known many cases during my twenty-seven years of public life where civil servants should have been dismissed but were not, because they brought such an enormous amount of influence to bear. I do not say anything against the Civil servants. They have great responsibility, and are deserving of every protection in this Act, but do not let us cumber the Act with provisions like this.

Mr. ISAACS:
There are two or three reasons in addition to those given by Sir George
Turner why the amendment should not be carried. The first is, that it is not a matter for the Constitution at all. We are not framing a code. We are not legislating in a Federal Parliament; but it seems to me that if we are going to descend to details of this kind, we had better start and frame, as Mr. Deakin has said more than once, "a three-volume set of Statutes."

Sir EDWARD BRADDON:
You are making a new departure with a very large body of civil servants.

Mr. ISAACS:
We have the Constitution of every colony in Australia, and with exactly the same power to start with no such wrong and injustice has been done as the hon member has referred to.

Mr. WISE:
There has been a steady increase in the ease with which civil servants are dismissed.

Mr. ISAACS:
I think it is quite the other way. So far as Victoria is concerned that remark has no application whatever. There are thousands of men employed in the Railway Department at the pleasure of the Railways Commissioner. None of them would be dismissed on a political ground, and no one would dream of doing it or permitting such a thing to be done.

Mr. WISE:
Look at New Zealand.

Mr. ISAACS:
I do not know about New Zealand, but I can say that not one of the colonies in Australia would dream of dismissing civil servants, if they had it in their power, for political reasons. But my hon. friend's amendment gives no protection whatever to the civil servants, and I am prepared to support a real protection to them. But this proposal will be the most illusory thing in the world. He says they are not to be dismissed" without cause assigned." The cause may be political reasons.

Sir EDWARD BRADDON:
Very likely, is it not?

Mr. ISAACS:
But no one would dare to may so, and the civil servants would suffer all the same. To whom is the Governor-in-Council to assign the reasons? He may put any reason he likes, and nobody can challenge it; there is nobody to decide whether it is right or wrong or justifiable or not, yet we are told there is a great protection to be given to civil servants.

Mr. WISE:
It will prevent a stab in the dark.

Mr. ISAACS:
That is just what it will not do. I sympathise strongly with the desire that men shall not be dismissed for political reasons, and had I the honor to have a seat in the Federal Parliament I would support an amendment to give real protection to civil servants, and not an illusory one such as this.

Mr. SYMON:
I shall vote with some regret against the amendment, because out of these words there would really come no protection whatever to civil servants. If the amendment was "without just cause" that might possibly be some protection.

Mr. WISE:
That would hamper the Executive too much.

Mr. SYMON:
And this hampers it too little.

Mr. WISE:
It makes a man act in the open.

Mr. SYMON:
Suppose a man is dismissed, and a reason has to be assigned. The reason would simply be "because his services are no longer required." You would never be able to pin a Government down to a reason when they wished to get rid of an undesirable civil servant. To carry the amendment would be to introduce words having no real effect, affording no real protection, and beneath the dignity of the Constitution.

Question-That the words "Provided that no such officer shall be removed except for cause assigned," proposed to be added, be so added-put. The Committee divided.

AYES.
Braddon, Sir Edward Douglas, Mr.
Carruthers, Mr. McMillan, Mr.
Clark, Mr. Walker, Mr.
Deakin, Mr. Wise, Mr.

NOES.
Abbott, Sir Joseph Holder, Mr.
Barton, Mr. Howe, Mr.
Berry, Sir Graham Isaacs, Mr.
Brown, Mr. Kingston, Mr.
Cockburn, Dr. Moore, Mr.
Dobson, Mr. O'Connor, Mr.
Downer, Sir John Peacock, Mr.
Fraser, Mr. Quick, Dr.
Fysh, Sir Philip Reid, Mr.
Glynn, Mr. Symon, Mr.
Gordon, Mr. Taylor, Mr.
Grant, Mr. Trenwith, Mr.
Henry, Mr. Turner, Sir George
Higgins, Mr. Zeal, Sir William.

Question so resolved in the negative.
Clause, as read, agreed to.
Clause 65-Authority of Executive-as read, agreed to.
Clause 66-Command of military and naval forces-as read, agreed to.
Clause 67.- On the establishment of the Commonwealth the control of the following departments of the Public Service shall be assumed and taken over by the Executive Government of the Commonwealth, and the Commonwealth shall assume the obligations of any State or States with respect to such matters, that is to say

- Customs and excise:
- Posts and telegraphs:
- Military and naval defence:
- Ocean beacons and buoys, and ocean lighthouses and lightships:
- Quarantine.

Mr. HIGGINS:
I called attention to this clause before. There is an ambiguity about it which may lead to considerable pain and trouble. I am in a quandary as to what is meant by the framers of the clause. It is in the same form as the Bill of 1891, as Sir John Downer has shown me, but what is meant by the Commonwealth assuming the obligations of any State or States with respect to such matters as military and naval defence? There are some of our colonies which have borrowed money specifically for defence work; others have spent large sums of money on defence works from revenue; and it would be obviously very unfair to those who have paid for their defences from revenue if the obligations which stand as fixed debts against defence works by other colonies were taken over by the Federal Parliament. Is it meant or is it not that permanent debts for defence works shall be taken over?

Mr. BARTON:
Would not that come in in clause 84?

Mr. HIGGINS:
If you look at clause 83 you will see that in the establishment of the Commonwealth all officers employed are to be transferred to the Commonwealth, but the State retains the obligation of any gratuity,
pension, or retiring allowance. Then clause 84 states that all lands and property which belong to these specified departments are to be vested in the Commonwealth. I understand they are to be vested in the Commonwealth with a liability to pay a fair value, to be ascertained by arbitration. But I apprehend it is not intended that, in addition to the price to be paid as a fair value, there is also to be paid the amount standing against it as a fixed debt.

Mr. MCMILLAN:

Not the powder that has been blown away, but the powder that remains.

Mr. HIGGINS:

But supposing the powder that remains is £10,000 worth, and supposing there is standing against it £8,000, surely it is not intended that the Commonwealth shall pay for both. I do not think that section 67 of chapter 2 means to transfer to the Federal Government the obligations which stand against a particular State. All that that clause ought to mean is that the Commonwealth is to assume the functions of any State or States.

Sir JOHN DOWNER:

That would not be obligations, you see.

Mr. HIGGINS:

Obligations, I need not remind the lawyers here, who are sufficiently numerous, ordinarily includes debts.

Mr. ISAACS:

Contracts.

Mr. HIGGINS:

I only want to have a word put in which shall prevent any possible inference that the debts are being taken over. I would suggest that the second half of section 67, which appears to have no meaning whatever, should be left out altogether.

Mr. BARTON:

I would leave that part in, because it seems to me that the obligations there intended are not public debts, but certain duties such as contracts—works that are to be taken over, and in respect of which, as to their lands, buildings, and materials, clause 84 provides. Surely there are also duties and obligations such as the dealing with the current claims of contractors. There are a number of these claims constantly in existence, and it is only right that such obligations as these should be taken over by the Commonwealth when it takes over the matters to which the obligations are attached. A more material question I think has been raised by my hon. friend's arguments, and that is whether the provisions of clause 84 might not be worthy of extension so as to make it clear that all lands, buildings,
materials, etc., are to be taken over, and a fair price to be paid. But there are other things besides lands, buildings, and works. Suppose we count posts and telegraphs among "lands, buildings, and works." The clause might not cover the expenditure, we will say, on naval defence. In addition to lands, buildings, and works, there may be ships taken over which are not covered by clause 84. That is the clause which makes it necessary to assume the obligations by way of debt in this way, that the Commonwealth must take over lands, buildings, works, &c., and will have to pay a fair price for them. Probably the Commonwealth too will have to borrow money for the purpose of discharging the obligations of the States so far as regards the taking over of works constructed by loan, and assuming these obligations themselves as representing fair value. That applies to matters which are more than lands, buildings, and works. I think the better way would be to make an amendment in clause 84 on its recommittal, providing for the enlargement of the scope of it, so that there could be no doubt about that point. Under the present clause "obligation" must have the necessary limitation attached to it, and that is that the obligations which are connected with the administration of these matters should be taken over; so if there are any works incomplete the obligation is in the completion of them.

Mr. HIGGINS:
Does not "obligation" mean the taking over of defence works, posts and telegraphs, &c.?

Mr. BARTON:
Clause 84 deals with that.

Mr. HIGGINS:
The point I want settled is to make "obligation" clear.

Mr. BARTON:
I think it is sufficiently clear for all purposes. Clauses 84 and 67 must be read together.

Mr. HIGGINS:
I think the expression is too wide.

Mr. BARTON:
If the hon. member takes clauses 67 and 84 together he will see that the purpose of one is to take over the departments, and discharge such obligations as are attached to them, and the other is the taking over of lands, works-and vessels I think should be added-
I think under the heading of "Naval Defence" should be included the liability of the colonies under contract with the Imperial Government for a matter of £120,000 in respect to the naval squadron. I would ask if it is not so intended?

Mr. BARTON:
I am afraid we could not include this here, because this is a joint contract between the colonies and the Imperial Government, and I do not see how that could come under "obligations"

Mr. KINGSTON:
Suppose we federate to-morrow surely the Commonwealth would relieve the States of their liability with reference to that agreement. I will draw attention to the wording of the Clause which stated:

The Commonwealth shall assume the obligations of any State or States with respect to such matters, that is to say.

Mr. BARTON:
That must be read with with sub-section 6 of clause 50.

Mr. KINGSTON:
My mind at present is that this clause does relieve us of this responsibility, and I would ask Mr. Barton to look closely into it. If he has any doubt on the subject he can give us the opportunity of considering the matter. If we are going to continue under this liability, then half the benefit of our association for naval defence purposes-.

Mr. ISAACS:
I would ask if he thinks this is provided for, "or whether an existing debt for a past benefit which the Federation does not get" but which is connected with these matters.

Mr. HIGGINS:
A spent power.

Mr. ISAACS:
Yes, a spent power. It has been carried out for the benefit of the State, but does the obligation exist?

Mr. BARTON:
A sum of money spent, but the object has past and gone.

Mr. ISAACS:
Yes.

Mr. BARTON:
That would depend upon whether it existed for lands or buildings or other such assets.

Mr. ISAACS:
It may be for mail service.

Mr. BARTON:
That would not be included.

Mr. ISAACS:
It might be one of the obligations.

Mr. BARTON:
That is for money spent?

Mr. ISAACS:
Money owing for services rendered.

Mr. BARTON:
Supposing there has been some work undertaken the purpose of which is past and gone, if the money has been spent I take it that is not an obligation which the Commonwealth is to take over. Supposing the State has used loan money for a particular purpose, it would be hard to contend that, the State having had the full benefit of it and having discharged its debt in respect of the matter, the Commonwealth should take the debt over. I think this clause means current obligations.

Mr. WALKER:
I intend to propose at the end of the clause:
To insert "railways" after "quarantine."

Mr. BARTON:
Let us settle this point first. I do not think it is necessary to add any word. It is plain enough. When we are choosing the clauses to be recommitted we will consider all of these suggestions.

Mr. HIGGINS:
If Mr. Barton will undertake to reconsider the clauses I will let this one pass.

Mr. WALKER:
I move:
That the word "railways" be inserted after quarantine."

I have given notice of a new clause to be inserted later on, so I need not now enlarge upon the proposal as to the way in which the railways should be taken over. The clause I intended to bring forward later on is as follows:
The Parliament shall take over the whole of the railways of the several States, except Tasmania and Western Australia, and each State shall be charged with any deficiency or credited with any net profits on the working of such railways.

On Saturday night we established the principle that the Federal Government is going to have some control over the means of communication by federalising the River Murray.

Mr. ISAACS:
It is very important that the Premiers should all be here while this matter is being discussed, and it will be far better for the hon. member to make his proposal on the clause when we come to it.

HON. MEMBERS:
Let us have it now and get the whole thing over.

Mr. WISE:
They will be here for the division. Get it over.

HON. MEMBERS:
Go on.

Mr. WALKER:
Very well. Several of us in Now South Wales informed the electors that we intended to bring forward this question, and I have waited patiently up to the present for an opportunity to speak, and now I propose to say something.

Mr. DOBSON:
I rise to a semi-point of order. We have allowed the different Treasurers to retire in order to settle the financial clauses of the Bill, which are the greatest trouble we have, and it is known to us all that their schemes exclude railways. I am sure that Mr. Walker is frustrating their efforts to come to a conclusion upon the financial question by bringing forward this motion.

Mr. WISE:
It will dispose of all their difficulties.

Mr. O'CONNOR:
It must be discussed at some time. It may as well be now.

Mr. WALKER:
Of course there is some force in that point, but I believe that the members absent have made up their minds, and therefore all I can say will not affect their votes, but I shall try to convert some of the representatives who are present. We have heard a great deal about the difficulties connected with the financial clauses. I had the honor with Dr. Quick to attend a Convention a few months ago held in the city of Bathurst. At that we had also the honor of being on the Financial Committee which brought up a report, in which was recommended, amongst other things, that the non-political control of the railways should be vested in the Federal Government, and that there should be a consolidation of the public debts. I should not have much difficulty to give figures by which, if the Federal Government were to see its way clear to take over the control of the railways and the consolidation of the public debts, as well as the Customs
and excise, it would be able to carry on the Federal Government at a practically less burdensome charge to the community than existing governments cost at present. I shall have an opportunity of speaking on the consolidation of the public debts later on, so at the present time I shall confine my remarks to the control of the railways by the Federal Government. It is not intended that any colony shall lose the advantage of its railways. It is proposed that there shall be a non-political board, and that the initiative for the construction of any new lines shall rest with each State, so that they will, for all practical purposes, continue to own the railways, and will have the control of the construction of new lines. There will be in consequence a considerable saving in the working of the lines, and we may also in time, with the approval of the Federal Government, bring about a uniformity in the gauge, and in all respects these lines will become national undertakings in the best sense of the word. I regret on this subject not to have seen the evidence of the railway experts who were recently here. I was one of those who heard with great pleasure the intention of the Premiers to allow the Railway Commissioners of the various colonies to give evidence. They did so, and I heard indirectly and unofficially that the three Commissioners are strongly in favor of a uniformity in the gauge. In the improbable event of the Convention agreeing to grant to the Federal Government the control of the railways, I am prepared to submit several additional clauses as to the management of details, but I shall not enlarge on that aspect of the question at the present time. Of course I recognise that in the event of our taking over the railways we shall have to treat Tasmania in a somewhat different manner from the rest of Australia. Tasmania stands by itself, and there is no absolute necessity why her railways should be under the same control as the lines on the continent. I believe that the Tasmanian representatives are indifferent as to whether their lines should be handed over or not. For the like reason it may be unnecessary to deal with the Western Australian lines, but we must look to the future of the Commonwealth and to the time when we shall have the Western Australian lines connected with Port Augusta. It seems to me that in the matter of Federal defence it is necessary that we should have an opportunity of sending troops from one end of the country to the other without needless delay. With regard to this matter of connection with Western Australia, within the last few weeks, and even to-day, we have had instances of the disadvantages that the Western Australian people are under through the breaking out of smallpox or some other Eastern epidemic. If we had a railway they could come right through, and would avoid this. That may be
a comparatively small matter, but it is by the way. Again, I think it is very undesirable that the Federal Government should rely only on Customs revenue for the payment of interest on the national debt. If they had an income partly from Customs and partly from railways, they would be in a splendid position to meet the obligations for the colonies, besides returning something considerable to the States. Including Queensland, which I trust will enter the Federation, the Customs and excise revenues amount to £6,000,000 a year, and the net profit on the railways is £3,000,000 a year, so that these sources of income produce £9,000,000 a year, and at thirty years' purchase that would represent a capital value of £270,000,000. The cost of the lines has been £110,000,000, and the balance of the national debt, £70,000,000, would be amply represented by the income from Customs and excise. We have heard a lot about leaving it to the States hereafter to hand over the control of the railways to the Federal Government. I think the Constitution should do it. Otherwise, you have to consult six different Governments, and it is a very difficult matter to get six different Governments to come into agreement. With regard to the Constitution of the Federal Government it seems a great pity to erect a magnificent piece of machinery and not to give it sufficient work to do. I can scarcely believe it was ever intended that the Federal Government should have only control of Customs and excise, post and telegraphs, and defence. Surely it was intended it should have the control of the railways, and should arrange for the consolidation of the debts, by which I think the annual saving would suffice to pay all the expense of the establishment of the Federal Government. I trust that some other representative will see his way to endorse what I have said, and afterwards, if need be, I may have something to say in reply to others.

Mr. MCMILLAN:

I think the Convention owes a great deal to Mr. Walker for the painstaking manner in which he has investigated this question. I spoke at length on the question in the opening debate, and I do not intend to repeat what I then said, but I would like to say something about the general view held by most of us. To consolidate the debts and bring them under a Central Government would be a very fine, symmetrical, and statesmanlike action. At the same time we are bound to consider the feeling of our respective colonies, and while I hope that in the evolution of our Federation we may yet have the railways united under some central power free from political influence, I am strongly of opinion that that time has not yet come, because railways and debts involve very complicated processes of
negotiations. The interest earned by the respective railway systems, the differential rates in our loans, and other matters which are complicated with these, make it clear to me from my position that it is impossible for this Convention to deal with questions like these. I do hope that when the railways become more interlaced between the different colonies the very exigencies of the position will necessitate some common control. But you must recollect that you will have to evolve a scheme under which the construction of new lines must be left entirely at the discretion of the respective States. The development of the Crown lands of many of these colonies is largely involved in railway construction, and when you take the map of Australia you will clearly see that the present development of our railway system is merely in its infancy, and when you recollect that our railways are much in the same position as roads and bridges, and that many of them would be, in certain instances, purely local lines, I think it will be clear that this railway question is at present to a great extent purely a local matter. I feel very strongly, as I have said before in referring to the debts, that if we attempt to overload this Federation in its earlier stages with things which more properly belong to our local life, and which are in the early stage of development, we shall be creating a Constitution which will not be acceptable to the great body of the people at present. Therefore, while from a broad administrative point of view, I should like to see our railways under one common control, and while, as a business man, I should like to see a complete consolidation of our debts, I believe that these things will be brought about much earlier if we trust to the course of federal evolution. For instance, we propose to create an Inter-State Commission, in order to watch over varied matters of a federal character, arising out of the railways which come near our respective borders and in the Inter-State Commission we may have the nucleus of a future board free from political influence. But there is such a mass of matter which will be so necessary to understand that it cannot be at our command at present. It will involve months of consideration; so that we are, at any rate, as far as I am concerned, closed up to the necessity, under any circumstances, of leaving this question over for the future. Then we are told that if we do not do the thing now the Central Government will have to negotiate with five or six colonies, but we must recollect that when we once have this Federal Government as a negotiator we have got one central power to dominate and influence, and deal directly with the different States; whereas at the present time all that we can manage is a conference among the States in which one power is exactly on the same level as the other. Therefore, while I hope that something may result through the future movement of Federation, still I do unhesitatingly say from what I know of the feeling of
my own colony, and I believe these feelings exist among the other colonies, that we are not yet ripe to embody this in the great scheme of our Constitution. While I am in the fullest sympathy with many of the views expressed by Mr. Walker and those who think with him, I shall be obliged to vote against his proposal.

Mr. SYMON:
I should like to express my indebtedness to Mr. Walker for the very clear and succinct way in which he has put the case he has presented for the taking over of the railways. I thank him also for the research and care with which he had previously placed his views on this question in print, with a clearness which has been of great service to many members of the Convention. I should have preferred, however, that he would rather have adopted the plan suggested by some members of the Committee, and had taken another opportunity of moving in this p

Mr. MCMILLAN:
I think everyone allows that if the railways are taken over the debts must go with them.

Mr. SYMON:
It is on that assumption, if the two go together, that I should be found voting with Mr. Walker. Undoubtedly there are great difficulties in carrying this into effect, and there are also reasons which have been indicated by Mr. McMillan, reasons of convenience, and perhaps prudence, which should be considered in connection with introducing it into the Constitution; but I do not assent to the strong way in which Mr. McMillan put it when he suggested that it was impossible that this could be done, or that it could be done now. It seems to me that if we have, as we have, taken over the post and telegraph system—and in that respect I agree with Mr. Carruthers—the two are parallel undertakings, and if we are prepared to take over the post and telegraph services throughout the whole of Australia, we ought to be prepared, so far as the question of feasibility is concerned, to also take over the railway systems.

Mr. MCMILLAN:
They practically balance each other except by about £100,000.

Mr. SYMON:
All the difficulties I have heard against taking over the railways I have heard as objections to taking over the post and telegraph services. The point was put with great force by Mr. Holder that you would have difficulties with the local services. It has also been said that in many instances telegraph systems—telegraph extensions—were established for the purpose of opening up new country and facilitating trade in remote parts of
the separate States. It has also been put forward as a very strong objection to taking over the post and telegraph systems that you would create a federal army of servants which might constitute a danger in the political life of the States - that you would ally to the Federation a body of officers who, although holding their employment and carrying on their duties in the separate States, would give their influence and voice in favor of federal matters. All these and many other objections are the same as have been raised to the taking over of the railways, and if they may be overcome in the case of the postal and telegraph services it seems to me they may be equally overcome in the case of the railways. Then, again, it is said that you would have to undertake the control of these local railways which are mostly for the purpose of local development. From that I do not shrink for one moment; there ought to be no exception, and the same power which would be enabled to deal with trunk lines and lines of commerce would equally deal with these local lines which are for the development of particular parts of the country. It is true of course that each State has to develop its present unopened lands, but the federal authority, if it is to be trusted at all, would equally see to the development of those parts of the different States that require opening up, and be ready to deal justly with the development of the railway systems for that purpose in which all are interested-as this is not a State matter, but a national matter-and no difficulty can possibly arise in commencing the construction of new lines or maintaining those lines which already exist.

There are perplexities no doubt, and difficulties no one can fail to see; perplexities which we are unable to think out at the moment often work themselves out when we face them and enter upon the task of solving them. I quite agree with my hon. friend in reference to gauge, differential railway rates, and every topic in connection with railways, that all those difficulties which are supposed to be met by the establishment of this Inter-State Commission would be much more effectually met and much more satisfactorily disposed of in the common interest if the railways were bodily taken over and these difficulties at once faced. I cannot see any merit in half measures, and it appears to me that the troubles have been magnified, and on closer examination will disappear. At any rate, if we only grasp the nettle-if this is a difficult subject or a troublesome one-firmly, we shall do no harm. I shall be found supporting my hon. friend's motion if he presses it to a division.

Mr. GRANT:

I have much pleasure in supporting the arguments of my hon. friend Mr. Walker in regard to the Commonwealth taking over the railways, but am
not quite clear that he proposes the best way of putting it in the Bill. I rather think we missed our opportunity of having this matter of the railways before us in the proper form in clause 50. We should have given the Commonwealth power to deal with the railways in a sub-section of that clause. That clause at its best was very inconsequential, inasmuch as it only gave the control of the railways for military purposes to the Commonwealth. There is very little value in that, because if such control were necessary in time of war or great emergency the Federal Government would undoubtedly do all that was necessary to secure it; or at least it would satisfy itself that the railways would be temporarily managed in the best interests of the Commonwealth. I am very much impressed with the arguments of the Hon. Mr. McMillan as to the difficulty of dealing with the railway at the present time, but all things must have a beginning. I do not doubt that if we did arrange that the Commonwealth should take over the railways of all the colonies at the same time, the scheme would be found to work out to a satisfactory conclusion; but I think that the proper opportunity of giving the Commonwealth full powers to take over the railways, at any time it seemed fit to them to do so, was when we passed the 50th clause. Rather than lose the opportunity I will take advantage of that afforded by Mr. Walker's motion, specifying in this 67th clause that the railways should be under the control of the Commonwealth. I see an exception is made of the railways of Tasmania and Western Australia. The railways of Tasmania will always remain distinct systems to themselves. I do not think they will be prejudiced in any way by being controlled by a board of experts rather than the political officers of the State. It has been my lot in practically considering the working of the railways to find the baneful effect of the State interference therewith on many occasions. At a recent inquiry I was engaged in that was brought prominently before us, and I have no hesitation in saying that political and local influences are prejudicial to the working of the railways. Those influences should be abolished as far as possible. The railways should be worked as a commercial undertaking purely and simply, and although that would not prevent their being operated in connection with the real estate of the colony, still this should be subordinated to their working commercially in every respect. I believe that in the working of the New South Wales railways commercial principles have received more attention than in other colonies, and that the highly satisfactory results obtained is due thereto. I feel sure that if the railways were under the federal control of a central power they would all be made to pay their own way, and conduce to the benefit of the Commonwealth in every
respect, and they would be worked in a more profitable manner. I have very small hope of the inter-State railways being worked satisfactorily in regard to differential or preferential rates, unless they are federated, or until a system is adopted for pooling the receipts. Federation of the railways would be far the better course. I hope we may look forward to the federation of railways in the near future. I quite agree with previous speakers that the debt of all the States also should be consolidated at the same time that the railways are taken over. A very large portion of that debt was incurred for the construction of railways, and it seems a sound-principle, that when the liabilities are handed over, the assets should also at the same time be parted with. I agree with Mr. Walker's motion to add the railways to the 67th clause, but I would rather it had appeared as a subsection, and been more fully dealt with in the 50th clause.

Mr. DEAKIN:
The proposition for the federalising of our railway systems came in the first instance from New South Wales-from certain leading members of its delegation. It therefore commanded general attention. But to-night we have heard from the Premier of New South Wales a peremptory assurance that any such project would not, in his opinion, be taken into consideration by the people of New South Wales, and that its adoption here would prejudice the fate of the draft Commonwealth Bill. That assurance has been, in more moderate terms, endorsed by another high and independent authority from the same colony—the Hon. Mr. McMillan. We are also greatly pressed for time. Under these circumstances I cannot but feel that the question of federalising the railways has become for the present rather theoretical than practical and that it is unnecessary to detain this Convention with any observations upon it. I have already admitted the extent to which my mind has been swayed, and my opinions materially modified by the further consideration of this proposal, afforded during the sittings of the Convention. I have not yet been enabled, on a question of such magnitude and complexity, to arrive at a final opinion; but the whole bias of my mind at present is in favor of the proposition submitted by Mr. Walker. If it were pressed to a division I should vote for it, with a view to its further consideration; but with a view to its further consideration only. For after the distinct avowal of Mr. Reid and Mr. McMillan, it seems to me, I will not say fruitless and I will not say hopeless, but at all events unnecessary to endeavor to grapple with this great problem in detail, as if we were now endeavoring to arrive at a fixed determination upon it. This question will come up again perhaps at the adjourned meeting of this Convention.

Mr. HIGGINS:
I regret very much that this matter to which the hon. Mr. Walker has
given so much time, labor, and attention should have to be dealt with in so thin a House, and at so late an hour at night. Only that it has been rescued from inattention by the utterances of Mr. McMillan, Mr. Symon and Mr. Deakin, I should think that one would be treating this debate as almost a piece of amusement rather than a piece of work. I am not quite sure whether a piece of amusement is the correct expression under the circumstances. The more I think about this subject the more I think that if you federate without the railways being taken over you are like playing Hamlet with Hamlet left out. I think these railways are the arteries of our continent, and in place of having the arteries ministering to the system of Australia as one whole we have a miserable wretched system of each colony trying to manage its own arterial system and ministering only to one centre of itself. I feel that this is not merely a question of break of gauge being awkward, it is not a question of preferential or differential rates being awkward, but the question is more important to the whole of Australia than any other question can possibly be. The analogy of posts and telegraphs Mr. Symon has referred to. What possible ground can there be for federating posts and telegraphs in all their ramifications which cannot be applied also to the railways? I should like to treat them as we should treat the rivers. I say you cannot treat the main rivers of Australia independently of their tributaries, and neither can you treat the main trunk lines independently of their tributaries. Just as the Murray watershed has to drain a huge area comprising three colonies practically-perhaps it may be more-so I say that this railway system of Australia must be dealt with as one whole. It is equally absurd for any colony to insist upon any tributary or any river in Australasia as belonging to that colony exclusively, and to treat subsidiary lines apart from trunk lines. You cannot sever the principle of a trunk line, as you cannot sever the principle of a river from its feeding streams. I feel that we are losing a chance which we will not have so soon again, of showing a true federal spirit, and we are not treating rivers and railways on that broad federal basis upon which they should be treated. The opportunity is going, and will be gone presently because we cannot make up our minds to break down that wretched system of trying to bring the most trade into one district or other of the colonies. There can be no proper regulation of the rates so as to benefit Australia as a whole, and there can be no proper regulation of the construction of railways so as to prevent the terrible waste of money, as well as the prevalence of a painful feeling which should be obliterated. Roads and bridges are radically different from railways. A railway is a road and a bridge is part of a road. Roads and bridges are more
of a local character, and can be dealt with by local authority for local interests. You cannot, however, treat railways in the same way. It may be that Victoria has got no interest in the road which runs between Sydney and the Glebe, but it has got an interest in the railroads. A great deal, in fact too much, has been made of the break of gauge question. No doubt it is important to have one gauge, but I think our military authorities have overstated the case. There might be a delay of an hour or two in the transhipment of troops, so they say. The chances are so infinitesimal of troops being required to be mobilised, and of any troops, if mobilised, being seriously delayed, that I hope we shall in this matter, of the break of gauge not incur any huge expense upon the mere advice of military men, but look at the matter as men of common sense ourselves. I think the proposal to appoint an Inter-State Commission an important one.

The CHAIRMAN:

Does the hon. member think this is relative to the issue?

Mr. HIGGINS:

I think it is. My hon. friend Mr. Walker says you must give the railways wholly over to the Commonwealth. No railway ought to be constructed without the sanction of the Commission. In Victoria we have excellent work done by our railway board; and no line can be constructed without its auction. I suppose we shall be told that we are talking quixotically, while Mr. Reid will no doubt say, as he does of every argument he wishes to dispose of, that it is academical; but I feel strongly on this that we are losing a grand chance because we are not sufficiently federal in feeling yet, but the Inter-State Commission I hope will deal not only with the question of rates, but also with the question of construction. I shall therefore, if Mr. Walker goes to a division, feel it to be my duty to vote with him. If I felt it would endanger the prospects of Federation I would not, but I do not think it will.

Sir WILLIAM ZEAL:

I shall not detain the Committee more than a few Minutes, because I feel it is unnecessary to repeat what other members have said; but I wish to call attention to a matter not fully considered. It has been alleged that now is not the proper time to consider this question, because it is fraught with difficulties, and that we must wait until some future time when the matter can be more opportunely dealt with. It seems to me that this is not a statesmanlike way of dealing with the difficulty. When we have a difficulty to meet it should be grappled with at once and dealt with in a businesslike way; but is it
businesslike to shelve the question on the arguments advanced? Because it is surrounded by complications should we discuss it in such an unworthy fashion? When we look at the history of the railways since 1852 we see that it has resolved itself into a question of six or seven different systems of management, and that the break of gauge difficulty is entirely due to the absence of any uniform system. If members will examine Coghlan's work they will see how the break of gauge arose, and the cause which brought it about.

Mr. Howe:

Between Melbourne and Sydney.

Sir William Zeal:

And this colony also. With regard to what has been said in respect to taking over the railways, do members not know that the problem which the Premiers are now discussing in another Chamber arises from the railway difficulty, and that had the railways and the State debts been taken over it would be unnecessary for their conferring together? There is no more difficult subject than that of controlling either the Customs or the railways. When we reflect that we have over our State railways three most experienced men capable of grappling with the subject, if the railways were taken over by the Federal Government there would be no necessity to divest them of their local management, but specially difficult matters might be referred to the Federal Government for settlement. The question of preferential and differential rates and the unnecessary and ruinous competition for traffic arises out of the competition of the State railways, and how are we going to grapple with the question unless the Federal Government takes them over? The Inter-State Commission cannot grapple with it. If the steamboat proprietors desire to evade the Act it will only be necessary for them to make some private arrangement, and that will entirely thwart the wishes of the Federal Government.

Mr. Higgins:

Would not this happen in a Federation of the railways also?

Sir William Zeal:

No; it would not arise if the railways were federated and taken over by the Central Government. As to the commercial aspect of the case the advantages are manifest. Let members examine the railway returns which have been published by the Government of New South Wales and they will find that after paying working expenses our State railways returned upwards of £2,913,778 for the year 1896, and that the net revenue of these railways for 1897 will considerably exceed £3,000,000. If these railways could be dealt with by the Federal Government we should do away with localism or that parochialism which in Victoria, at all events, has been the
great curse of our present railway system. The more difficult you make it for public men to interfere with departments like the railways the less abuses there will be. As it is Ministers are constantly troubled by representations made to them by interested persons for the advancement of their friends holding office in our State railways. The larger the service the more difficult that will be. Moreover, members must know that there is a desire amongst the different colonies to introduce a cheaper system of railway construction, and surely that should be under some well-ascertained system, which should receive the support of the railway authorities. It will be necessary that some general arrangement be given

effect to by the representatives of the three great railway systems. I quite agree that there is little probability of Mr. Walker's amendment being carried, but that does not lessen the duty of those who believe in it voting for the principle, which will do more than anything else to make Federation an undoubted success.

Mr. GLYNN:

We are certainly indebted to Mr. Walker for the study he has made of this question, and although he has not spoken at length in Committee he has compiled a number of facts which have been very helpful to members who have discussed the matter in private. He has also had drafted under his own advice a series of clauses, which, if the Convention would favor the adoption of this policy, would enable it to be put into effect. I would remind members of this fact that the question of the gauges was mentioned as far back as 1857, when the matter of the Federation of the colonies was discussed in England, and it was recommended that there should be uniformity in the gauges of the railways in the colonies, so that as far as I can gauge the opinion of the Convention there has been a retrogression in public opinion. In 1889 I tabled a motion in the South Australian Legislature regarding the assimilation of the railway gauges in the colonies. I suggested then that the Railway Commissioners should decide what the gauge should be, and that it should be declared by Act of Parliament that that should be the gauge of the future, and that any rolling-stock ordered in the future should be so constructed as to allow of alteration for that gauge. That was carried here, but except in New South Wales, little attention was paid to the subject. I would remind Mr. Higgins that the question of adopting a uniform gauge does not altogether receive its importance from its efficacy for military purposes. That is a subordinate one, and one, judging from the possibilities of Australia, we need not pay much attention to. We are more industrial than aggressive, and will not probably be called into defensive action for many long years to come. It
has been shown by Mr. Eddy and English authorities that by the establishment of a uniform gauge a saving can be effected, a saving that would pay the interest.

Mr. HIGGINS:
If you can show that, by all means do it.

Mr. GLYNN:
I can refer the hon. member to the facts in print on this point, which I think will lead him to the conclusion at which I have arrived. A very great saving can be effected by this. As regards the rolling-stock, the Great Western railway had a gauge of 7ft. 3in. or 7ft., and they changed it to the standard gauge of the world-the 4ft. 81/2in.-and some of the existing rolling-stock was used. If it is possible there with such a difference in the gauge I say it would be possible to use the rolling-stock at present used for the 5ft. 3in. gauge on the 4ft. 81/2in. If you carry out Mr. Eddy's idea and have a uniform gauge of 4ft. 81/2in. in them, the work of converting all our lines to one uniform gauge can be brought about in a week. It has been said that if you take over the debts you should take over the railways. I think too much is said of the dependence of the debts on the railways, and I cannot see the connection between them. If you take over the debts I think you must buy the railways on the principle of giving a certain number of years of purchase for the net profits of the railways. A suggestion made by the Commission of the House of Lords was that power should be taken to purchase the railways at twenty-five years. The purchase must be altogether distinct from taking over the debts. In taking over the debts we do not take them as a set-off against the railways. It would be utter folly also to say that when you take over the Customs revenue you must, as an exact set-off, take over the debts. That would be exceedingly stupid, seeing that the interest on the debts and Customs duties do not bear any relation to one another. It this motion of Mr. Walker's fails we are necessarily driven back on the principle of adopting this Inter-State Commission. I am sorry evidence was not taken by the Finance Committee about taking over the railways. They took evidence of Mr. Eddy and the other Commissioners, but the moment Mr. Eddy started to give his evidence as to vesting he was stopped by the chairman and told that they had decided the railways were not to be taken over. It seems to be rather curious that they should first decide without evidence what should be done. On the question of vesting the Committee decided first and then declared that, under the circumstances evidence was unnecessary, and limited themselves merely to the possibility of control. The Committee should have taken evidence as to the expediency of vesting
railways from the points of view of-first, more economic working; secondly, the abolition of preferential rates; thirdly, the abolition of differential rates which are in effect preferential; fourthly, the saving of capital expenditure on political lines; and fifthly, the probability or otherwise of lines of development, not at once or directly productive, being constructed. They might also have gone into the efficacy, as an alternative, of control by a Federal Act. They limited themselves to control, and did not examine as to the working in America and England. If they had had the evidence of the experts it would have helped to decide between the two alternatives now before us. The Committee found that preferential rates are injurious to the States—a fact patent as noonday—that differential rates may be necessary for a development—they might also have deduced that—and that differential rates may be in effect preferential. Now, as regards the new departure suggested to this Committee, I would impress upon hon. members that this principle of control has broken down in practice in England and America. The new departure is expensive. You will have to create a body of men to whom you will have to pay substantial salaries. There is the initial expense. There must be men of considerable competency, and they must be able to find out what will be a fair return upon railway capital. That has been stated in England to have been a difficulty—the failure of the Board of Trade to settle rates properly.

Mr. BARTON:
How are we ever to get on?

Mr. GLYNN:
This question of railways has been raised now. The only possible alternative to taking over vested railways is the adoption of the interState Commission. Though this Convention is not going to settle this question of the purchase of railways, there is the referendum to be considered, and it is perhaps as well to educate public opinion upon this vital question. The report of the Lords and Commons Committee presented in 1872, said that up to that time:

The Acts passed in consequence of these reports contained nothing which had any effect in checking and regulating monopoly.

They were all passed for the purpose of interfering with certain rights which had worked prejudicially to the public interests, all of which were exercised by the railway companies. A Railway Commission was then appointed similar in character to the one proposed to be appointed under this Bill, and that Commission was in three years found to fail in its work. Then the control of the railways was vested in the Board of Trade, but in the face of that there were over eighteen reports presented by committees appointed to get over the difficulties the Board of Trade was unable to
check. In 1872, a report of a Committee of the House of Lords stated, after making a recommendation in favor of the amalgamation of various lines on the principle that you may more economically work and more efficiently control the railways if they are amalgamated:

It is generally easy to show that the public will gain largely by harmonious arrangements; and considering how doubtful is the extent of competition, or of the facilities it produces, the balance of advantage to the public, as well as to the shareholders, may often well be thought to be on the side of amalgamation.

I stated that the Inter-State Commerce Commission is a failure. There is a book on the subject, published in 1890 by Boneham, on "Railway Secrecy and Trusts," and, after going into the various attempts through legislative control that were made to check the working of the public railways in America against the public interest, he states:

Notwithstanding the latest efforts of the Inter-State Commerce Commission to preserve equal rights to competitors, the Standard Oil Trust is now effectually obstructing refiners of Pittsburg and the interior in their efforts to get to the seacoast to reach the consumer.

Now, I will just allude to the head of one of the chapters, because I do not want to load the subject too much with quotations. The head to which I allude to is "The Impossibility of Reforming the Inherent Evil of Railway Management by those in Control of the Railways." The chapter, then, is an extension of the note to the effe

The vices of railway management lurk, then, in secrecy-in organised secrecy: for the secrecy is part of a system whereby a corporate franchise, conferred by the citizens for their benefit, is operated for unlawful ends. Dishonesty, born, of this secrecy, is an essential part of the system. I say it is an essential part, because it has become a prime condition for success in the rivalry among the different corporations.

Again the writer states:

The inter-state commerce legislation which Congress has thus far enacted does not furnish the power necessary for reaching the secret practices of the railway managers, which it was the object of the legislation to expose and to prevent. Indeed, it has not proven even sufficient to extract here and there in specific cases that information which was necessary for the determination of such cases.

I could point to quotation after quotation to the very same effect, but I think I have shown sufficiently at all events that the efficacy of an Inter-State Commerce Commission cannot be accepted without the evidence of
its working. A suggestion has been made that the railways should be worked in connection with the rivers. Let me just quote upon the question of river traffic the report of an engineer, Mr. Gordon:

Inland navigation, after having for some time been almost at a standstill owing to the rapid extension of railways, has of late years exhibited a revival in both England and more especially on the Continent, its numerous advantages, more especially the low cost of haulage and of maintenance, enabling it to contrast favorably with railway traffic. When a river is canalised, and the navigation, is independent of floods and drought, the one great advantage of railway communication-its regularity-disappears, while the capacity of a canal is much greater. The total cost of carriage on a canal or navigable river decreases in a far greater ratio with the increase of traffic than does that by railways.

In the Contemporary Review for April, 1891, General Hamley writes upon railways and canals as systems of traffic-

The CHAIRMAN:
Does the hon. member think that has anything to do with the question?
Mr. GLYNN:
Yes; it has been said that the best way is to take over the railways and work them in connection with our rivers.
Mr. BARTON:
Wherever a railway can carry is not too remote from the question.

Mr. GLYNN:
I shall finish the quotation, and then finish, and then the hon. member's impatience may cease.

Fifteen years ago it would scarcely have been disputed that canals must give place to railways. The teaching of to-day is, however, quite different. There is a widespread belief that inland water carriage may compete successfully with railways, and a general desire to bring the former mode of transit into more extensive use. It has in fact been found advisable, even where railway communication already exists, to contract lines of navigation or to improve rivers, at a cost of from £7,000 to £11,500 per mile.

I think I have said sufficient to show that a very strong case can be made out, on account of its manifest advantages and the difficulty of getting an advantageous alternative scheme, for the adoption of Mr. Walker's amendment. This is a big question which ought to be properly faced; I know it raises a great many difficulties, but we are sent here to face a big task.
Mr. WALKER:
Hear, hear.

Mr. GLYNN:
And we should face it with the fortitude and grasp of statesmen, and not consider it from the standpoint of timid and temporising politicians.

Mr. ISAACS:
While personally indebted to Mr. Walker for introducing this question, I must say I think it would have been better to defer it, because until we have discussed the question of the finances, and know what conclusion has been arrived at by the Premiers and Treasurers, and until we have positive information as to whether we shall be able to properly arrange so as to have no preferential or differential rates, we shall not be in a position to say definitely whether we are prepared to hand over the railways to the Federal Government. I for my part consider that provided you can permit the Federal Government to have sufficient transport arrangement for Commonwealth purposes, and also prevent a war of cut-throat tariffs, you will have done all that is necessary for the present.

Mr. KINGSTON:
Hear, hear.

Mr. ISAACS:
And the railways of this country, we should recollect, are in many cases constructed and used for internal development, for putting the people on the land and keeping them on the land, and other State reasons of local concern; those are questions outside the object of Federation. After considering these matters I am not prepared to vote, at the present moment at all events, for handing over the railways to the Federation, and I feel sure for the people of Victoria that they would hesitate very long before consenting to transfer the railway System to the Commonwealth Government. I shall, therefore, be compelled to vote against the proposal of my hon. friend.

Question-That the word "Railways proposed to be added be so added-
put. The Committee divided.
Ayes, 12; Noes, 18. Majority, 6.

AYES.
Braddon, Sir Edward Grant, Mr.
Brown, Mr. Higgins, Mr.
Carruthers, Mr. Symon, Mr.
Deakin, Mr. Walker, Mr.
Fysh, Sir Philip Wise, Mr.
Glynn, Mr. Zeal, Sir William

NOES.
Abbott, Sir Joseph Holder, Mr.
Barton, Mr. Howe, Mr.
Clarke, Mr. Kingston, Mr.
Cockburn, Dr. McMillan, Mr.
Dobson, Mr. O'Connor, Mr.
Downer, Sir John Peacock, Mr.
Fraser, Mr. Reid, Mr.
Gordon, Mr. Trenwith, Mr.
Henry, Mr. Turner, Sir George
Pair-Aye, Dr. Quick; No, Mr. Isaacs.
Question so resolved in the negative.
Clause agreed to.
Clause 68-Powers under existing law to be exercised by Governor-General, with advice of Executive Council.
Clause read and agreed to.
Clause 69-The judicial power of the Commonwealth shall be vested in one Supreme Court, to be called the High Court of Australia, and in such other courts as the Parliament may from time to time create or invest with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than four, as the Parliament may from time to time prescribe.

Mr. CARRUTHERS:
I desire to move: To strike out of lines 7 and 8, the words "Not less than four."

My reason is that there seems to me no good reason for tying the hands of the Federal Parliament so as to insist that there are to be five judges at the very onset. In your good sense three judges may be sufficient; four judges may be sufficient. But here is a hard and fast rule to be laid down at the very outset of the Federation that there must be five judges.

Mr. ISAACS:
Had we not better take a night to consider that?

Mr. BARTON:
We will never get through the Bill unless we make some progress.

Mr. CARRUTHERS:
The Court of Appeal in New South Wales consists of four judges. Surely if there is anything you can trust the Federation on it is as to the number of officers. Here, when dealing with Cabinet Ministers, we did not say that there shall be seven, but that the number should not be more than seven. In this section, however, a minimum is fixed. The court is to have five judges. If five judges are necessary they will be appointed -that is a certainty. I
quite agree that five judges may be necessary, but if we can do with four let us do so. Why insist on the Federal Government employing five judges?

Mr. SYMON:

I do not think this is an occasion for any very inflammatory speech, but surely there can be no particular reason for having less than four judges, which was the number originally fixed in the Bill of 1891. I do not put that forward as part of the compact—in fact, my own view originally was that the number should not be less than two. But it has been pointed out that appeals will come to this court—it is intended to make it an appellant court—and it seems to me therefore that four would be a fair minimum, and that we should adhere to that number. I was not at first disposed to fix the minimum at more than two, but arguments have been advanced which satisfy me and may satisfy the Convention that four would be a better minimum to fix than two.

Mr. WISE:

This matter was very fully discussed in the Judicature Committee and the reasons urged there were briefly these: that it is of the very greatest importance that this court should be a court of dignity, a court whose decisions should carry weight, and a court suitable to review the decisions of the courts of any colony.

Mr. CARRUTHERS:

Cannot you trust the Federal Government to do it?

Mr. WISE:

The hon. member who interjects that question can hardly fail to have noticed the very great distinction between the provisions of clause 69 and the Bill of 1891 in that particular. The whole object of the Judicature Committee in drafting these clauses in regard to the High Court has been to make the High Court in all essential parts independent of Parliament.

Mr. CARRUTHERS:

You have not made it independent, as the section reads:

And so many other Justices as the Parliament may from time to time prescribe.

Mr. WISE:

The hon. member did not hear me. I said in all its essential characteristics it was to be independent of Parliament; that is to say, it comes into existence by the Constitution and not by Act of Parliament, and the same instrument which brings it into existence as a court in the opinion of those who formed the Committee ought to prescribe that on its coming into existence it shall be of sufficient number to worthily uphold the dignity of the Commonwealth, and to be a fit body to which appeals shall be brought from the Courts of the Commonwealth, and also promise that it shall not be
competent for Parliament to reduce its members below the limit of efficiency. We cannot close our eyes to the fact that in the future controversies may arise between Parliament and the court, and it is therefore desirable that there should be no power left to reduce the efficiency of the court by reducing its numbers below what should be sufficient to inspire respect. In the Full Courts in Victoria there are sometimes six judges, and it is quite possible that their decision, sitting in the Full Court, might be upset by the Federal High Court, consisting of only three members.

Sir WILLIAM ZEAL:
I have never known of that happening.

Mr. WISE:
I have known of similar cases in our own colony where seven judges sit.

Mr. HIGGINS:
It does happen.

Mr. WISE:
Is there a member of this Convention who would say that three was a sufficient number to hear appeals from any court in this colony?

An HON. MEMBER:
Yes.

Mr. WISE:
I am surprised to hear that. If we want to get a powerful court, and if we want to have a sufficient number of capable men to inspire respect, I hope this will be left as it is, and let us not leave it in the power of Parliament to improperly reduce its numbers.

Sir EDWARD BRADDON. We at any rate have to consult the interests of the colony, and we have to see that the Federal Judiciary and the Federal Government generally are not extravagant and beyond our means, and it is a great mistake on our part to insert anything in our Constitution which will involve us in any larger expenditure than is necessary. For that reason I cordially support the motion to strike out these words.

Mr. SYMON:
My hon. friend Mr. Wise has gone into the many reasons which actuated him in influencing myself in agreeing to the number being fixed at four in the Constitution. There was another thing that influenced me, to which he has not adverted. We are fixing the establishment of the court by the Constitution, and the court is to exercise high functions and powers under that Constitution. Under clause 70 it is provided:

The Justices of the High Court and of the other courts created by the
Parliament:

I. Shall hold their offices during good behavior.

II. Shall be appointed by the Governor-General, by and with the advice of the Federal Executive Council:

III. May be removed by the Governor-General with such advice, but only upon an address from both Houses of the Parliament in the same Session praying for such removal:

IV. Shall receive such remuneration as the Parliament may from time to time fix; but such remuneration shall not be diminished during their continuance in office.

If we intend to establish a strong court I take it that it will be so formed as to inspire confidence, and if the element of numbers is to be taken into consideration we ought to fix that number by the Constitution; otherwise Parliament might. We cannot tell what may happen in the future.

Sir WILLIAM ZEAL:

What will they wish to do?

Mr. SYMON:

That involves another question as to the powers to be given. We give them sufficient work to do, but if we are to establish a strong court, and one that should be beyond the reach of Parliament, we should fix it by the Constitution. This is the reason which convinces me that it is desirable to have the number fixed at four. The Federal Supreme Court of the United States is an entirely irremovable body. It is appointed during good behavior, and there is no power on the part of the Congress to remove any part of it. Here we are introducing into the Constitution and in relation to the judiciary that which belongs properly to a unified Government, viz., the power of removal of the judges, which does not exist where the system is most perfect, in the United States. I desire to point out that if you want to have a strong court to discharge the functions which the Constitution imposes upon it, and it is to be beyond the reach of the Parliament, you should fix by the Constitution the number and strength you desire it to possess. I am satisfied that must have been the reason which actuated the framers of the Bill in 1891 in fixing four in addition to the Chief Justice as constituting the court, and I think the Committee will do well to adhere to the four fixed in the Constitution, leaving it to the Federal Parliament to make the number as many more as they think fit, subject to the power of removing them at any time.

Mr. DOBSON:

While I agree with Sir Edward Braddon that we should do everything to
keep down the expenses of the Federal Parliament, I think the High Court is the one exception to the rule.

**Sir WILLIAM ZEAL:**

Lawyers again.

**Mr. DOBSON:**

It is something far above the lawyers. It is the rights and protection of the citizens. Mr. Wise has pointed out that this judiciary is an inherent part of the Constitution, and I would remind members that it is to be the interpreter of the Constitution. If America is to be any guide, the High Court there gives decisions on the most vital and important questions between the States and the Commonwealth, and considering that the bench of New South Wales consists of seven judges, and the bench of Victoria consists of six or seven, and that sometimes the decisions are given by five judges, I think that as this High Court is to be a Court of Appeal and the interpreter of the Constitution, it would to some extent belittle the court if you had to take a case from five strong judges in New South Wales or Victoria to even three eminent judges of the Federal Court. Hon. members will at once see that if this is to be a court of appellate jurisdiction and to interpret the Constitution, you cannot be penny wise and pound foolish. Members will notice that we have taken away the right of the private citizen to appeal to Her Majesty the Queen in Council, and an appeal is only given where a matter of public interest is concerned. I do not believe in that, as I think you have no right to take away that power of appeal on the part of a private citizen, and the argument against it is that you want to make the High Court eminent, and one to command the respect and confidence of the citizens; but if it wins that respect which I am sure it will, no one will want to appeal to the Privy Council, except one case in a hundred, and in that case the right should not be taken away. If you take it away you must keep up the number of judges of the High Court, and for that reason I hope the amendment will not be passed.

**Mr. CARRUTHERS:**

I only wish to reply to those hon. members who have treated this amendment to a considerable amount of argument. I confess I am influenced by those arguments, but they have not been convincing. All that they say goes to show that it is necessary that the Court should be a dignified body and one of sufficient numbers as to be able to properly perform the work, but these are matters which will equally commend themselves to the Federal Parliament as they do to this Convention.

**Mr. WISE:**

Perhaps the Court is in conflict with the Parliament.

**Mr. CARRUTHERS:**
I ask members how it is that they leave it to the Federal Parliament to fix the remuneration of the judges, which is a far more important matter than the numbers of the judges.

Mr. WISE:
We have not left it to the Parliament once the remuneration is fixed.

Mr. CARRUTHERS:
We are trusting the Federal Parliament to fix the remuneration from time to time, or when a vacancy occurs they can fix it at £10, which would destroy the Constitution.

Mr. WISE:
But do you think they would do that?

Mr. CARRUTHERS:
I do not wish to be compelled to tell my constituents that we are binding the Federal Parliament to a lavish expenditure on what the people do not well tolerate. The people do not care about a large expenditure on law and lawyers.

Mr. SYMON:
This is not an expenditure on law and lawyers, but on the administration of justice, which is a very different thing.

Mr. CARRUTHERS:
It is not a popular expenditure.

Mr. GLYNN:
It is in this colony.

Mr. MCMILLAN:
You should not be rounding on the profession.

Mr. CARRUTHERS:
As far as my constituents are concerned I should not like to go back and tell them that by a hard and fast rule we have fixed the number of judges, all of whom will be receiving large Salaries. The people may think that they are required, but we can leave it to the Federal Parliament to decide this question. I say there are other matters far larger and of far greater importance which have been left to the Federal Parliament than a matter of this kind involving the appointment of officers about whose utility or whose good work we have no judgment at all. Supposing it is found after these judges have been appointed for two years that there is not enough work to keep them going, then we find that Parliament would be tied up by this Act and could not reduce the number. Then if the Constitution is to be altered a motion must be passed by a majority of both Houses, and a referendum of the people taken. I intend to push the matter to a division.

Sir JOHN DOWNER:
If all these things happen, and supposing the judges have nothing to do, I should still think it was absolutely necessary to have a very strong bench. What I understand to be practically at the bottom of this is that the hon. member does not see the necessity of a Federal Supreme Court at all.

Mr. Carruthers:
I said nothing of the kind.

Mr. Barton:
The hon. member said so during the election.

Mr. Carruthers:
That is incorrect.

Sir John Downer:
I can see the impatience against having a protection of this Constitution. That is what it is. This is a court by analogy similar to the American court, which is to take care that the Constitution is protected. It is no paltry question of lawyers and lawyers' fees.

Mr. Wise:
The lawyers are giving up more money than anyone else in coming to this Convention.

Sir William Zeal:
They are taking up more time, too.

Sir John Downer:
If the Constitution is to have stability we must take care of this court that protects the Constitution. Look at its power. Both Houses may pass an Act, and the court can upset it if it is unconstitutional. Surely if a court is to have such excessive power it must be strong in numbers.

Sir William Zeal:
How does that strengthen the court?

Sir John Downer:
Does my hon. friend think that the Legislature which is being over-ruled would be equally satisfied whether one judge decided the point or whether eight or ten decided it? And does he think that one man would resist popular pressure as a phalanx of eight or ten would?

Sir William Zeal:
Yes.

Mr. Higgins:
I feel there are strong arguments in favor of having five judges, and it is very important that this court and its decisions shall be respected, and if the judgments be final, the decisions should be the finding of a big court. Those are good arguments to be addressed to the Federal Parliament, but not to be addressed to us. The question is whether we shall make it a rule that they shall appoint five judges. I am not at all impressed by the
argument that the Federal Parliament may perhaps be at loggerheads with
the Bench. Supposing it is, what happens? The Federal Parlia-
ment can, if it thinks fit, pass an address to remove a judge.

Sir JOHN DOWNER:
We will consider that when we come to it.

Mr. HIGGINS:
I think we are entitled to consider it as it stands now. The position is that
to be considered as it stands now. The position is that
anyone can be removed upon an address without showing cause.

Mr. SYMON:
You must have four judges.

Mr. HIGGINS:
They can remove one man and put another in his place. We must not be
impressed with the argument that there will be a quarrel between the
Commonwealth and the judges, because if they quarrel with a judge they
can by address remove him and put another in his place. The second thing
is that if there is a vacancy in the bench by death or resignation the Federal
Parliament, if it wants to lower the status of the judges can reduce the pay
of the next judge who fills the vacancy, and so on. I think we must trust the
Federal Parliament in this thing. I find that in this House, as soon as it suits
an hon. member to trust the Federal Parliament he does so, and as soon as
it does not suit him, he says, do not trust them.

Mr. BARTON:
That seems to cut very much both ways.

Mr. HIGGINS:
Perhaps it does. But before we know the amount of business to be done
by the judges are we going to fix the number of judges? For years after the
United States Constitution was formed only a few cases arose affecting the
Constitution.

Mr. WISE:
Then they had no original jurisdiction.

Mr. HIGGINS:
Yes; and we have in addition appellate jurisdiction, but we have no more
appellate jurisdiction than the Privy Council. There are very strong reasons
given for having five judges, but we should leave those reasons to be
worked out by the Federal Parliament.

Mr. PEACOCK:
I have taken but very little part in connection with these debates, but my
experience of the electors of Victoria is that, whilst they are desirous of
seeing Federation an accomplished fact, and a reasonable Constitution
framed by this Convention, they are particularly anxious to see a strong
Court provided in the Constitution. In listening to my friends on the Judiciary Committee, I was particularly impressed with the view put forward by some speakers who have addressed the Committee to-night that it is absolutely essential that there should be a strong Court provided in the Constitution itself. I know well that the arguments Mr. Carruthers adduced, if put before the average body of electors in any one of our centres, would immediately make them think that we were increasing the expenditure; but everyone of us knows from his own experience that when any vacancy has to be filled in connection with the local Supreme Court any gentleman who accepts a position does so at great personal sacrifice. Then again, this court which is to be constituted should be placed in such a position that the very possibility of conflict between it and the Parliament should be provided against, and therefore it would be wise that there should be a strong, powerful court constituted.

Sir WILLIAM ZEAL:

Why not go for the four judges then?

Mr. PEACOCK:

The hon. gentleman knows that one of the chief inducements held out for the appointment of this court is, that there shall not be any necessity to go to the Privy Council, and I anticipate that a large amount of work will be placed before the court. It would not be right to neglect the possibility of conflict.

Mr. CARRUTHERS:

Would there not be greater danger in sub-section 4, which allows the Parliament to fix the salaries of the judges?

Mr. PEACOCK:

I do not say it would not be desirable to make that sub-section stronger, but that is no argument against providing against a weak court. The case of the Transvaal Republic shows the necessity of having a strong court. Again-this is better known to the legal men-the Supreme Court of the United States had to deal with direct taxation, and say to Parliament that the law was ultra vires and could not pass. These contingencies may occur in our Commonwealth. It must be remembered that we are not legislating for the present only, but for years ahead.

Mr. TRENWITH:

It has been urged that all the arguments that have been submitted in favor of having a strong and dignified court are arguments that would appeal to the Federal Parliament, and that therefore we need have no concern. I respectfully submit that we have to submit this question of the Constitution
to a jury, which under this Constitution is to be deprived of the right to appeal to the Privy Council, therefore we have to give that jury an assurance that in depriving them of the privilege that now exists we are giving them a court competent to do the work. That is an important consideration, and that comes before the Federal Parliament comes. For that reason we should fix in the Constitution the certainty that it will be a court worthy of respect. There is another aspect of the case. We are creating a Constitution in connection with which we are fixing all kinds of matters for protecting State rights; but, whatever we do, unless we provide a competent tribunal to act as custodian of the Constitution, the people will have doubts as to whether the Parliament will exceed the powers that were intended by the Constitution, and thereby curtail the State rights about which we are all so anxious. We want to create unification in a central body for specific purposes, but we are extremely anxious that the central body shall deal with nothing else but what we submit to it. Therefore, we shall have a strong and dignified custodian of the Constitution. I feel, as I have all along, that where you give you must trust the Federal Parliament, but you must give the people the assurance that, if you take from them a privilege that they now have and prize very highly indeed, they will have a court strong in numbers, strong in intellect, and dignified in its character.

Mr. CARRUTHERS:
That should be left to the Federal Parliament.

Mr. TRENWITH:
I agree that the Federal Parliament may be trusted, but I respectfully submit that before we have a Federal Parliament this Bill will go before the people of this continent, and when they see we are taking from them rights they now possess they will naturally ask what protection they are to have in substitution of the protection they now have in the Privy Council, and we shall be able to say to them, "Here is provision that, at any rate, there shall be a reasonably strong and competent tribunal to take the place of that of which we are depriving you"

Mr. KINGSTON:
I believe that for the safety of the Constitution we must have a High Court of Australia, and I think we should have one worthy of the name. At the same time I am inclined to think its dignity and reputation will not depend so much on its numbers as on the learning and integrity of the judges which constitute it. I do not, however, quite like the amendment suggested by Mr. Carruthers, which would strike out the words:

Not less than four,

leaving it absolutely in the power of the Federal Parliament to do two things; the first, if there are five judges originally, to remove four of them,
without cause shown; and secondly, if they appoint any successors to fix their salaries so low that they cannot secure judges worthy of the name, or refrain from making the appointments at all. I do not think that ought to be the position. I think we ought to strain to the utmost to give these judges absolute security of tenure as regards office.

Sir JOHN DOWNER:

Hear, hear.

Mr. KINGSTON:

So long as they conduct themselves in the way in which the nation has a right to expect. And I put it most strongly that the construction as suggested by previous speakers, that on the mere passage of a motion by the two Houses of the Federal Parliament there should be power on the part of the Federal Executive to remove a judge of the High Court of Australia from his position, independent of any consideration as to whether be was incapable or misconducted himself, should not be allowed for one moment.

Mr. TRENWITH:

The two Houses of the Federal Parliament could not and would not do that.

Mr. KINGSTON:

Such a construction I am inclined to think is against the express terms of the Act. I pay considerable deference to the views of those by whom these clauses were framed, and I understand the contrary opinion to be held, and that, although in the first instance it is declared that a judge shall hold office during good behavior, yet notwithstanding there is no suggestion of misconduct or incapacity on his part, on the passing of an address by both Houses of Parliament he may be removed.

Mr. SYMON:

Hear, hear.

Mr. KINGSTON:

If this is so it is a direct contradiction of paragraph I of clause 70.

The CHAIRMAN:

I must ask the hon. member to confine his remarks to this clause. We will come to clause 70 directly.

Mr. KINGSTON:

It would be an absolute cutting out of the first paragraph of section 70. Undoubtedly the section ought to be so altered that the power to remove by address will be confined to cases of misconduct or incapacity on the part of the judge who holds that office. I trust that will be done. At the same time, though I favor economy, I do not think it will be a good thing to strike out
the whole of these words because the court might be left in a position constituted of only the Chief Justice and one judge.

Sir WILLIAM ZEAL:
It cannot be one.

Mr. KINGSTON:
It is proposed to strike out "not less than four."

Sir WILLIAM ZEAL:
And a Chief Justice.

Mr. KINGSTON:
I would not object if it was not less than two. As to the score of economy, I suppose the salaries of five justices would total £15,000 a year. It cannot be a less salary to each than the average salary of the various provincial Chief Justices.

Sir WILLIAM ZEAL:
We pay ours £3,500.

Mr. KINGSTON:
I put that as a reasonable estimate. Reduce the numbers by two and you will put it in the power of the Federal Parliament to save 26,000 a year. This saving in two salaries of 26,000 is worthy of consideration, and if we cannot trust the Federal Parliament altogether it will be just as well to provide that there is an efficient High Court of Appeal, and you can constitute that with a Chief Justice and two judges. If Mr. Carruthers would bring in the amendment in the direction I suggest, which was evidently the original view of the Chairman of the Judicial Committee, I think that we will do what we ought to.

Mr. SYMON:
I must endorse the strong expressions to which the hon. member Mr. Kingston has given utterance against giving the right of removal of the High Court of Justice to the Federal Parliament.

Sir WILLIAM ZEAL:
That is the tenure of the office in Australia.

Mr. SYMON:
Indeed it is not.

Sir WILLIAM ZEAL:
It is in Victoria.

Mr. SYMON:
The hon. member, Mr. Isaacs, was good enough on Saturday to show me the Constitution Act of Victoria, in which the judges are appointed during good behavior. Nevertheless they are liable to be removed by the vote of both
Houses of Parliament. It is the same in our Constitution.

Mr. PEACOCK:

So a Government could say that there is not sufficient work for two, and ask for the removal of one.

Mr. SYMON:

I feel certain that in that Mr. Kingston is mistaken. Under clause 30 of our Constitution Act our judges are appointed during good behavior, and no power is given for the removal or the judges except by address to Parliament. The federal principle is-make the judges of the High Court once appointed irremovable. The High Court in its position should be equal to, if not above, the Parliament and Executive.

Sir GEORGE TURNER:

Irremovable except for misbehavior.

Mr. SYMON:

Most certainly.

Sir WILLIAM ZEAL:

Suppose there was corruption!

Mr. SYMON:

I do not know what you call that. I call it misconduct. Under the federal system rightly understood, the Judges of the High Court to be established ought to be appointed beyond the reach of Parliament. They ought to be placed in such a position that their pulses ought not to beat one atom faster in consequence of the animadversion or the efforts of any one party in Parliament. Therefore I agree with what has just been said as to the desirability of making them irremovable. For that reason I would ask Mr. Carruthers not to press his amendment, nor to accept the suggestion of Mr. Kingston. I do value what Mr. Trenwith has said on this question. If we abolish the Privy Council and confer on this court the right of determining these appeals, then we should have to go before the people and offer them something that is an equivalent. A court of three members is not an equivalent. It will neither inspire confidence nor have that dignity which we want to see associated with it. I admit that the main elements in any court are integrity, learning, and experience. But you want in addition to that numbers. One judge may not have the moral courage to decide great questions of State alone, but when he has others associated with him be will not be so influenced. I am sure that hon. members will feel that the amendment which has been so effectively supported by Mr. Wise for reasons which certainly convinced me is a right one, and that we ought to adhere to it.

Mr. CARRUTHERS:
There is no Constitution in Australia like this, limiting the acts of Parliament.

Sir WILLIAM ZEAL:

It appears to me that if Mr. Carruthers' amendment is carried it will not have the effect which its opponents say it will, because if the words he objects to are struck out it will not prevent the Federal Government from appointing six or seven judges if they are required. The section reads:

The High Court shall consist of a Chief Justice, and so many other judges, not less than four, as the Parliament may from time to time prescribe.

There is nothing therefore to prevent the Government from appointing a Chief Justice and five or more other justices. My hon. friend Sir John Downer has stated that numbers will constitute power, but I may tell the hon. member something he has probably forgotten. During the time of one of the most severe crises in Victoria-occurring under the McCulloch Government-and at the time of Mr. Higginbotham holding the office of Attorney-General in the strongest Government that has ever held office in Victoria-

Mr. PEACOCK:

Excepting the Turner.

Sir WILLIAM ZEAL:

I will not except the Turner Administration-the then Attorney-General had the misfortune to differ with Mr. Justice Molesworth, and the latter, though single-handed, would not be dictated to by the Attorney-General or the Government. Mr. Justice Molesworth persisted in his duty, and succeeded. Mr. Justice Molesworth showed the then Attorney-General that he was not to be dictated to, or to be prevented doing his duty.

Mr. SYMON:

You do not get Molesworths every day.

Sir WILLIAM ZEAL:

If you have five or more judges I would give them a secure tenure of office. I also believe in paying efficient men good salaries, and I think these justices should have fixed salaries, which the Federal Parliament should not interfere with. The integrity and independence of the judges should be upheld, and not be interfered with by Government. If a division is taken I will vote for the striking out of these words.

Sir GEORGE TURNER:

We certainly ought to have three, and two others ought not to be objected to.

Sir WILLIAM ZEAL:
I think five judges are unnecessary, and that a Chief Justice and three other justices will be sufficient. Three judges form a Court of Appeal in Victoria and that is ample. Sir George Turner has constantly referred to the difficulties in ways and means in connection with this matter. Does he want to overload the Federal Government with a larger amount of expenditure than is necessary?

Question-That the words "not less than four," proposed to be struck out, stand part of the question-put. The Committee divided.

Ayes, 16; Noes, 13. Majority 3.

AYES.
Barton, Mr. Lewis, Mr.
Brown, Mr. McMillan, Mr.
Clark, Mr. O'Connor, Mr.
Dobson, Mr. Peacock, Mr.
Douglas, Mr. Symon, Mr.
Glynn, Mr. Trenwith, Mr.
Henry, Mr. Walker, Mr.
Kingston, Mr. Wise, Mr.

NOES.
Abbott, Sir Joseph Grant, Mr.
Braddon, Sir Edward Higgins, Mr.
Carruthers, Mr. Holder, Mr.
Cockburn, Dr. Reid, Mr.
Deakin, Mr. Turner, Sir George
Fraser, Mr. Zeal, Sir William
Fysh, Sir Philip

Question so resolved in the affirmative.

Clause, as read, agreed to,

HON. MEMBERS:
Report progress!

Mr. BARTON:

Let us take the next two clauses. This Bill will never be passed if we do not make greater progress. We have the crux of the matter yet to deal with in the financial clauses, and the Treasurers have retired to consider the question. I do not wish to coerce members, but I think we ought to go on with the Bill a little further.

Sir GEORGE TURNER:

I urge Mr. Barton to report progress. In the morning we have to consider the most important part of the measure, and we should be fresh, but if we are to stay here until 2 o'clock we cannot be fresh. The Treasurers have
been considering that portion of the Bill, and they will want some little
time to think over it by themselves. They have to meet again at 10 o'clock
in the morning, Find it will be unfair to them to go on. We have been here
since 10.30 on Monday morning, and it is now 12 o'clock, and surely that
is long enough. If we sit later we shall not be in a fit state to properly
consider the matters we have to in the morning.

Mr. BARTON:

I shall accede to the request. I do not wish to do anything in an arbitrary
way, nor to try and enforce my views upon members, but if we do not
make better progress than we have to-day then I say it was useless and
cruel to make us sit on Saturday and to-day.

Progress reported.

ADJOURNMENT.

Convention adjourned at 12.5 a.m.
Tuesday April 20, 1897.

Petition - Commonwealth of Australia Bill - Adjournment.

The PRESIDENT took the chair at 10.30 a.m.

PETITION.

Mr. REID:

I have to present a petition requesting that a declaration should be made in the Constitution that no State in the Commonwealth should be allowed to make any law respecting religion, or prohibiting the free exercise thereof. It is signed by 2,337 persons—839 from New South Wales, 1,269 from Victoria, 129 from South Australia, and 100 from Tasmania.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (consideration resumed from April 19th).

CHAPTER III.

The Federal Judicature.

Clause 70-The justices of the High Court and of the other courts created by the Parliament:

I. Shall hold their offices during good behavior:

II. Shall be appointed by the Governor-General, by and with the advice of the Federal Executive Council:

III. May be removed by the Governor-General with such advice, but only upon an Address from both Houses of the Parliament in the same Session praying for such removal:

IV. Shall receive such remuneration as The Parliament may from time to time fix; but such remuneration shall not be diminished during their continuance in office.

Mr. SYMON:

I have a verbal amendment in the first line. I move:

To strike out the word "justices" with the view of inserting "judges."

This will restore it to the form adopted in the 1891 Bill.

Sir JOHN DOWNER:

I think "justices" is a very good word. We have not here, but they have in the other colonies district judges, and we use the word "justices" to indicate the judges of the High Court.

Mr. SYMON:

It is true that the word refers to the judges of the High Court, but there may be other Federal Courts, and those who preside over them will be
known as judges. The generic word "judges" will be better although "justices," it is true, is the technical term.

Sir JOHN DOWNER:
I would treat the Federal Courts as courts of high dignity, and after all it is merely a question.

The CHAIRMAN:
The word justices is used in the 69th clause.

Mr. SYMON:
This is not exhaustive. This clause deals not only with the judges referred to in clause 69, but all judges by whatever designation they may be known.

Mr. WISE:
"Justices" is a far better word.
Amendment negatived.

Mr. SYMON:
I have an amendment which will shorten sub-section 2. I propose:
To strike out the words "by and with the advice of the Federal Executive Council," with the view of inserting the words "in Council."
Amendment agreed to; sub-section agreed to. Consequential amendment in sub-section 3.

Mr. GLYNN:
I think the whole of subsection 3 should be struck out with the object of rendering the judges irremovable except on impeachment. I do not propose to argue the matter at any length. I will only say this, that when the court was instituted in America it was stated in the Federalist that the permanency of the judiciary was the very citadel of public justice. It shows the necessity of having the Court secure above popular clamor and political influence. Wilson in his work on "Congressional Government says:
Then, too, the Supreme Court itself, however upright and irreproachable its members, has generally had, and will undoubtedly continue to have, a distinct political complexion taken from the color of the times during which its majority was chosen. The bench over which John Marshall presided was, as everybody knows, staunchly and avowedly federalist in its views; but during the ten years that followed 1835 federalist justices were rapidly displaced by democrats, and the views of the court changed accordingly. Indeed, it may truthfully be said that, taking our political history "big and large," the constitutional interpretations of the Supreme Court have changed, slowly, but none the less surely, with the altered relations of power between the national parties. The federalists were backed by a federalist judiciary; the period of democratic supremacy witnessed the triumph of democratic principles in the courts; and
republican predominance has driven from the highest tribunal of the land all but one representative of democratic doctrine. It has been only during comparatively short periods of transition, when public opinion was passing over from one political creed to another, that the decisions of the federal judiciary have been distinctly opposed to the principles of the ruling political party.

I say, even with this safeguard in America, attempts have been made to influence the court, and, therefore, it is necessary to have this as a protection. Then let us go a little further. Wilson shows that attempts have been made to, what Webster calls, dilute the Constitution by adding additional judges to upset a previous decision. They even went to the length of endeavoring to deprive the Supreme Court of a portion of its jurisdiction when they found the judges did not fall in with the views of some of the representatives of Congress. In the United States and here, as members will see, if they refer to section 72, there is power to interfere with the jurisdiction of the Supreme Court. According to that:

The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament may from time to time prescribe.

"With such exceptions" gives the opening here. In America attempts have been made to take away the jurisdiction of the judges where the judges were not complacent to Parliament. Wilson says:

A Democratic Congress swept away, root and branch, the system of Circuit Courts, which had been created in the previous year, but which was hateful to the newly-successful Democrats because it had been officered with Federalists in the last hours of the John Adams' administration.

I think I have said sufficient to recommend this proposal. There was only one case in America where an attempt has been made to remove a judge, and that was in the case of Judge Chase in 1803.

Mr. HIGGINS: It has no meaning under our Act.

Mr. GLYNN: It has no meaning in America. You can impeach a judge for corruption or if his brain failed him. You leave it to the discretion of the two Houses of Parliament to remove a judge, but that power should not be put in their hand.

Sir WILLIAM ZEAL: Is it dangerous to be connected with politics?

Mr. GLYNN: It should not be regarded as a danger to have the matter connected with politics; but there is the fear of having a repetition of what has occurred in
America, and the likelihood is greater here than under the inception of the system there, because with the larger franchise, we are so subject to being swayed by popular opinion.

Mr. WISE:
I entirely sympathise with the object of this amendment, but I can see that if it is carried it will raise difficulties out of all proportion to the value of what my hon. friend seeks to obtain. In the first place, we have no provision for conducting impeachments under this Constitution. In the United States the Senate is expressly given power to hear impeachments. We have no machinery for conducting impeachment. It is a cumbrous process. The carrying of the amendment would necessitate the drafting of further clauses, and although that is no particular objection, because if it is desirable to make amendments nothing is to be gained by refusing to spend the requisite time in doing so. But I do not think it is so necessary as the hon. member imagines. The power of removing upon an address from both Houses for misbehavior is a power well understood by all English colonies. It is a part of the Constitution of New South Wales and of the Constitution of Victoria, and, speaking subject to correction, something of the same power exists here.

Mr. DOUGLAS:
And in Tasmania.

Mr. WISE:
Yes, and in Tasmania. We are all familiar with this practice, but we are not familiar with impeachment, and there is really no necessity to graft an entirely new procedure upon this Federal Constitution. There was one case of removal, either in Tasmania or in the early days in New South Wales.

Mr. KINGSTON:
And there was one here.

Mr. WISE:
The power was exercised, I believe, in both these cases for very serious faults, faults which would hardly have justified impeachment, because they did not come into the category of criminal acts, but there was no doubt that the judges were properly removed. If, however, it had been by impeachment, the court would have been compelled to have adjudged them not guilty, and to have retained them in their positions.

Mr. DOUGLAS:
That was before responsible government.

Mr. WISE:
Yes. I trust that the amendment will be rejected, and the clause retained as it is.
Mr. KINGSTON:

I think we should be at great pains to secure the absolute independence of the Judges of the Federal Court, particularly of the Judges of the High Court of Australia, who are intended to adjudicate on matters which may affect the Federal Executive and the Federal Parliament. To my mind we shall be committing a glaring mistake if we do not protect these judges from ill-considered action either by the Federal Executive or by the Federal Parliament. I note that the first paragraph of this section declares that:

The judges shall hold their office during good behavior.

That is a most excellent principle to lay down, and we should be very careful lest we introduce any provision which may have the effect of limiting the declaration to which I have referred. Now, although we have that declaration in paragraph 1, in paragraph 3 we have a provision which, if allowed to pass in the shape in which we find it in the section, will-and I understand that the Judiciary Committee so intended-have the effect of allowing a judge to be removed although his behavior is everything that could be desired.

Mr. WISE:

Certainly not.

Mr. KINGSTON:

That is what I understand.

Mr. SYMON:

That is not intended,

Mr. WISE:

It is not the effect of the provision, either.

Mr. KINGSTON:

I interjected an inquiry yesterday, and the information I received was of the character to which I have referred; and I have no doubt that if you pass the clause as it stands now that will be the effect. I am glad Mr. Wise did not intend it. Besides the first declaration that he shall hold office during good behavior, we have also this:

May be removed by the Governor in Council upon an Address from both Houses of the Parliament in the same Session, praying for such removal.

It strikes me that if you pass that the effect will be that on the address of both Houses a judge can be removed independently of whether or not he has been guilty, and that should not be so.

Mr. BARTON:

You must read sections 1 and 3 together.

Mr. KINGSTON:

You may, but we must make the thing as clear as clear can be. We should amend the clause. I move:
To strike out "may be removed" from subsection 3 and insert in lieu thereof "shall only be removed for misconduct, unfitness, or incapacity."

Mr. SYMON:
Substitute "misbehavior" for "misconduct."

Mr. KINGSTON:
I am inclined to think that that would require some active act on the part of the judge, and would not apply in a case where there was unfitness or incapacity, resulting from old age or some other similar cause. I want to protect the judges as far as ever I possibly can.

Mr. WISE:
Leave out "unfitness."

Mr. KINGSTON:
I think there are a class of cases in which this would be required. There is, for instance, a distinction drawn between unfitness and incapacity in the case of trustees. A trustee becoming insolvent-may be a case of unfitness, though not of incapacity. I agree entirely with the provision that the judges shall hold their offices during good behavior. I want paragraph 3 turned into a clause for the further protection of

the judges, so that it shall not be a case in which the Federal Executive can act of their own mere motion, but they will have to consult Parliament on the subject; and there must be a consensus of opinion between the two Houses of the Federal Parliament and the Federal Executive that the judge in question has been guilty of misbehavior, or is unfit or incapable, and then, and then only, shall the power to remove be exercised. It seems to me that this is a matter of considerable importance, and I draw the attention of the Judiciary Committee to the fact that the clause as we had it in the Commonwealth Bill did not leave the same room for doubt as to whether this sub-section 3 was an active power that can be exercised on the mere motion of the Executive Council with the consent of the two Houses, independent of any misbehavior. In that Bill it was expressly declared, after the judges had been given a tenure of office during good behavior, that it should not be lawful for the Governor-General to remove any judge except upon the address of both Houses. It was an additional safeguard, and that is what we ought to require in connection with this particular case.

As regards the special form of the amendment, I commend the matter to the attention generally of the Convention, and particularly of the Judiciary Committee, and believe there will be a general desire on the part of the convention to do what it can to preserve intact the absolute independence of the judges, both in relation to the Federal Executive and the Federal Parliament; that they may have nothing to hope for, and nothing to fear
either; and that in doing their duty they may feel secure in their office.

Mr. ISAACS:

I wish to point out that there is some danger of confusion in this matter. I think that if we just look at the present position of English and colonial judges it will be the best guide in this matter. There seems to be an apprehension that judges in England and in the colonies can only be removed for misbehavior. That is not so. Far back, up to 1688 or thereabouts, as shown by all the constitutional textbooks, judges were absolutely at the mercy of the Crown, held their positions at the pleasure of the Crown, and drew their salaries at the pleasure of the Crown; and that was felt to be such a wrong position of affairs that under the Act of Settlement in the year 1700 they received a distinct and firm position by which they held their office thereafter during good behavior, but with a proviso that they might be removed by the Crown upon an address of both Houses of Parliament. I want to point out to the Convention that they held their office under two conditions, which are preserved down to the present time. If they are guilty of judicial misbehavior in regard to their office, they may be removed without any vote of the Houses of Parliament at all; but it Parliament comes to the conclusion that, for reasons good and sufficient for Parliament, these judges ought to be removed, they may, without any judicial determination on the question of misbehavior, ask the Crown to remove them, and the Crown has power so to do. Now, I think if we take the position that the judges are not to be removed on the vote of the two Houses of Parliament, as suggested by my hon. friend, Mr. Glynn, we shall be making a very great mistake, because it will then always be a matter in dispute between the judge in the particular case and the governing power. I hope the circumstance will never arise, but if it should arise there would probably be a litigious contest between the judge and the governing power. The proviso that was inserted in the English Act and copied into our colonial Statutes, giving the Parliament the power by an address of both Houses to petition the Crown to remove a judge, was intended to get rid of these litigious proceedings. Of course we know Parliament would not do that unless there were good grounds. For instance, a judge might not be guilty of judicial misbehavior, but he might suffer such incapacity as to unfit him for the proper discharge of his high and important functions, and Parliament might have a case of this kind to deal with. In one portion of the British Dominions there was a case where a judge became deaf and eccentric, and unfit to carry out his duties; but he refused to go. He said that he had not been guilty of any
judicial misbehavior; but a gentle hint was given him that unless he did resign Parliament would present an address to the Crown to remove him. He at once consented to resign, and if my memory serves me aright a very handsome pension was granted to him. If we introduce into this Bill any alteration from the present British practice of allowing Parliament the right in the highest interests of the nation at any particular juncture to petition the Crown to remove a judge, then I think we shall be making a very great mistake. It will bring upon us much possible litigation; but if Parliament comes to the conclusion—if not merely one, but both Houses, after serious and careful consideration think—that a judge ought to be removed, and they petition the Crown, and the Crown remove him, the judge may fight the matter out somewhere—I do not know where, but in the courts of law, I suppose—and if he were not guilty technically of misbehavior as a judge, he may defy the Parliament, the Crown, and the nation. That is a position which we ought not to court.

Sir JOHN DOWNER:
That is a balance of risks which we might well take together.

Mr. ISAACS:
I do not know that any trouble has arisen during the nearly 200 years in which the British Constitution has adhered to its present practice. In the thirty-eighth section of the Victorian Constitution we have this provision:

The commissions of the present Judges of the Supreme Court, and all future judges thereof, shall be, continue, and remain in full force during their good behavior, notwithstanding the demise of the Queen or of her heirs and successors, any law, usage, or practice to the contrary hereof in anywise notwithstanding: Provided always that it may be lawful for the Governor to remove any such judge or judges upon the address of both Houses of the Legislatures.

So that a judge holds office subject to removal for two reasons—first, if he is guilty of misbehavior, and, secondly, if the Parliament thinks there is good cause to remove him, when they may petition the Crown to do so. We must trust the Parliament in the last resort, as representing the will of the people in that respect, for what the two Houses of Parliament would do would be equivalent to an Act of Parliament. I have referred to Todd, page 190, as laying down the rule I have alluded to, and at page 191 this is what he says:

"The legal effect of the grant of an office during 'good behavior' is the creation of an estate for life in the office." Such an estate is terminable only by the grantee's incapacity from mental or bodily infirmity or by his breach of good behavior. But, "like any other conditional estate, it may be forfeited by a breach of the condition annexed to it, that is to say, by
misbehavior. Behavior means behavior in the grantee's official capacity. Misbehavior includes, first, the improper exercise of judicial functions; second, wilful neglect of duty, or non-attendance; and, third, a conviction of any infamous offence, by which, although it be not connected with the duties of his office, the offender is rendered unfit to exercise any office or public franchise."

Mr. HIGGINS:
Does that include ordinary unfitness?

Mr. ISAACS:
I do not know what is meant by ordinary unfitness.

Mr. HIGGINS:
That he is incapable, because of age.

Mr. ISAACS:
It continues:
"In the case of official misconduct, the decision of the question whether there be a misbehavior rests with the grantor, subject of course to any proceedings on the part of the removed officer. In the case of misconduct outside the duties of his office the misbehavior must be established by a previous conviction of a jury. When the office is granted for life by letters patent, the

forfeiture must be enforced by a scire facias. These principles apply to all offices, whether judicial or ministerial, that are held during good behavior."

The legal accuracy of the foregoing definitions of the circumstances in which a patent office may be revoked is confirmed by an opinion of the English Crown Law Officers (Sir William, Atherton and Sir Roundell Palmer) communicated to the Imperial Government, in 1862, wherein it is stated, in reference to the kind of misbehavior by a judge, that "would be a legal breach of the conditions on which the office is held," that "when a public office is held during good behavior, a power of removal for misbehavior must exist somewhere; and when it is put in force the tenure of the office is not thereby abridged, but it is forfeited and declared vacant for non-performance of the condition on which it was originally conferred."

Then there are other technical observations which I pass over, and I come to page 193, where it is laid down:

But, in addition to these methods of procedure, the Constitution has appropriately conferred upon the two Houses of Parliament-in the exercise of that superintendence over the proceedings of the courts of justice which is one of their most important functions-a right to appeal to the Crown for the removal of a judge who has, in their opinion, proved himself unfit for
the proper exercise of his judicial office.

Hon. members will observe that it is Parliament's opinion of the matter which is to be paramount.

This power is not, in a strict sense, judicial; it may be invoked upon occasions when the misbehavior complained of would not constitute a legal breach of the conditions on which the office is held. The liability of this kind of removal is, in fact, a qualification of, or exception from, the words creating a tenure during good behavior, and not an incident or legal consequence thereof. In entering upon an investigation of this kind Parliament is limited by no restraints, except such as may be self-imposed.

Then it goes on practically to say that of course Parliament would always regard the public welfare, and indeed no instance can be cited during the 200 years that this system has been in operation where Parliament has been actuated by a sudden impulse of public feeling or has been swayed by a political desire to bring pressure on any judge. In a matter of this kind it is highly important that we should not put in words which would prevent judges from being removed even by Act of Parliament. Otherwise it would simply be open to the judge on every occasion, though he was removed by both Houses of Parliament, to bring his action, possibly before his brother judges, or if he went to the Privy Council and established his case, however technical the point of success might be, he would come back, sit on the bench, and could not be removed. That is a state of things which we should not drift into. It is quite right that the judges should hold their offices for life and should have their independence carefully preserved, but it is highly important that there should also be preserved the power to the two Houses of Parliament to petition the Crown on the highest grounds of public welfare, and for the Crown to act upon that petition and remove the judge. I think it would be well if we should do here as is done in some Constitutions - our own and others - provide that the salary of the judges shall be beyond the reach of the annual appropriation.

Mr. HIGGINS:
That is done.

Mr. SYMON:
There is no doubt about that.

Mr. HIGGINS:
Look at clause 4.

Mr. ISAACS:
I am not quite sure that it is done as effectively as it ought to be. The section says:

Shall receive each remuneration as the Parliament may from time to time fix; but such remuneration shall not be diminished during their continuance
in office.
That in my opinion is not quite full enough. It is not an appropriation of it.

Mr. WISE:
It is in effect. It goes into Schedule A and cannot be touched.

Mr. ISAACS:
It has not gone as far as the colonial Constitutions. I think we would be making a very great mistake if we departed from the lines that have worked so well for nearly two centuries under the British Constitution.

Mr. SYMON:
I shall have the greatest pleasure in supporting the amendment to strike out the word "may," and to insert the word "shall."

The CHAIRMAN:
No; that is not the amendment. The amendment handed in to me is to strike out all the words down to "by" with a view of the insertion of the words "shall not be removed except for misbehavior, unfitness, or incapacity, and."

Mr. SYMON:
I have the greatest pleasure in supporting that amendment, with one exception, to which I shall refer, and it seems to me it will have the effect of setting at rest any doubt as to possibilities which may arise inimical to the independence of judges, or as to the control that Parliament may have over that independence under the sub-section as it stands. It seems to me that my hon. friend Mr. Isaacs is not quite accurate when he suggests that the Convention misapprehends the position that already exists in constitutional law regarding the position of judges. The misapprehension is on his own part in assuming that we are now dealing with the ordinary state of things which exists in the colonies and in England. He does not sufficiently discriminate between a Constitution in the unified state and a Federation. Now, the position of the High Court which is being established under Federation is entirely different in many respects from that which prevails in connection with the Supreme Court of the colony or the High Court in England. The Federal High Court is placed in a position to safeguard the liberties of the subject and the rights of the individual States against the encroachment of the Legislature. It is placed in a position in which its independence must be absolutely assured. Without attempting to take up the time of the Committee unduly I would like to read two sentences from one of those articles in the Federalist, which are even at this day wonders of constitutional learning and foresight upon this question.
Hamilton, in one of his articles on the federal judiciary, says:

If, then, the courts of justice are to be considered as the bulwarks of a limited Constitution against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges which must be essential to the faithful performance of so arduous a duty. The independence of judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors, which the arts of designing men, or the influence of particular conjunctures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the Government and serious oppressions of the minor parties in the community.

He goes on to elaborate that point with very great care, and he concludes by emphasising the fact that unless you have not only a powerful High Court but a High Court which shall be constituted under such a Constitution that it will maintain its fortitude under all conditions, you will damage what is really the keystone to the federal arch. If it is necessary to maintain the independence of the judges under a Constitution such as we have in the colonies, and I admit there are no instances so far as I am aware in which the power vested in the Parliament has been abused, we must guard not only against instances that may be likely to be founded upon some precedent, but against the possibility of abuse, and if these instances of abuse have not occurred, we may also say no instance has occurred except one in this colony, so far as I am aware, in which the power of the Parliament to remove a judge has ever been exercised. The occasions are rare in the extreme when judges have wished to retain their seats when incapacitated. I should like to call the attention of Mr. Isaacs to the arguments which were used with much force last night in connection with clause 69 and the number of judges to be appointed. It was then pointed out that if the clause

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stood and had the effect contemplated, the result might be that the Federal Parliament might defeat the object of the Constitution by removing some objectionable judge and putting some one else in his place. Mr. Higgins said, "What is the use of appointing four judges if, when they become objectionable, they can be removed and the bench packed" he did not use that word- "by others being put in their places." That argument, which was used with so much effect by Mr. Higgins, is a strong argument why we should not put it in the power of the Parliament to remove any of the four
judges and substitute others who would be wholly amenable to the popular will. We have passed clause 69, and declared it is necessary to have a strong court with four judges, and we may defeat that by giving this power to the Parliament, which may be exercised to the detriment of the High Court. The amendment which has been proposed meets the difficulty, and limits the power of the Parliament to deal with cases of misbehavior, incapacity and unfitness, but I shall ask the hon. member to eliminate the expression "unfitness." It is a wide and rather uncertain expression. It is used in connection with trustees, as he said; but there is a tribunal to determine cases of unfitness, and that is the court before which the matter is brought. The tribunal to determine the tenure of the judges will be the Parliament, the Senate, and House of Representatives, and it would be introducing an element of great uncertainty if the word "unfitness" were left in, as all that it is necessary to guard against is misbehavior and incapacity.

Sir JOHN DOWNER:
I think misbehavior has always been the word, and is all that is necessary.

Mr. SYMON:
I should be content with putting in "misbehavior," but if the amendment is pressed I shall have no objection. The two words suggested are exhaustive of the conditions under which the Parliament should exercise its power of removal, otherwise we would place the High Court, which is supposed to be coequal with the Parliament, entirely under the dominance of the legislature for the time being, and that would be fatal to that independence of the High Court, which we all desire to secure. Its functions are enormous and are of the most critical and serious character in the interests of the Constitution, and they involve not only the interests of the States, both large and small, but of the individual as well; and therefore their independence should be placed above the interference of Parliament. I think, with the inclusion of these words, we shall be able to secure a high-minded and capable bench, and therefore, speaking for myself and the other members of the Judiciary Committee, I am glad that the amendment has been moved. I think it is a distinct improvement, as it accomplishes the purpose which everyone who has the interests of the Constitution at heart desires, namely, the independence of the judges.

Mr. BARTON:
I would point out that the Constitution of Canada seems to show a misapprehension which we should avoid in a true federal union. It expresses this in clause 99, and in expressing it carries out the view held by Mr. Isaacs, which is applicable to a unified or separate State. The provision
declares:

The judges of the Supreme Court shall hold office during good behavior, but shall be removable by the Governor-General on address of the Senate and the House of Commons.

That practically carries out the ideas of Mr. Isaacs, which, if we were not making a Federal Union, would be applicable to this Constitution. The Canadian Constitution is not a Federation, but belongs to those large number of bodies which have been included under the names of unions and confederacies, with the exception that the tendency, in the case of Canada, is towards unification. In the United States Constitution it is provided in Article III.:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The Judges, both of the Supreme and inferior courts, shall hold office during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

There is no word in that about any manner of removal from office; and from the nature of the Constitution I do not think it can be gathered that the Executive can remove them under their own power. We, however, look at the power of the Senate, and we find how the judges can be removed. In article 1, section 3, clause 6 states:

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Mr. ISAACS:

That puts it in the hands of one of the Houses.

Mr. BARTON:

It may put it in the hands of one of the Houses, but it must be recollected that that House is not like the House under this Constitution which it is proposed to establish, but it is one which from the very beginning has been invested with certain executive and certain judicial powers. Besides there is the great difference that that House in the United States cannot remove anyone except by trial at law. The Canadian Constitution amounts to an attempt to place it in the hands of Parliament to remove a person on presentation of an address, without actual cause assigned. That is no doubt the meaning of the Constitution, as my friend Mr. Isaacs has stated-without pause assigned and without a trial. There is a difference between a unified
and a Federal Constitution, and I think we ought to make this Constitution as clear as possible in the federal element, and therefore I agree with Mr. Symon in that respect.

Mr. ISAACS:
Who would be the judges of misbehavior in case of removal of a judge?

HON. MEMBERS:
The Parliament.

Mr. BARTON:
The two Houses of Parliament.

Mr. ISAACS:
Would they be the judge of the misbehavior?

Mr. BARTON:
Unquestionably.

Mr. ISAACS:
If that is so it is all I contend for.

Mr. BARTON:
If we do not insert some provision making it plain that it is only for certain causes a judge can be removed, then we shall have the position that a judge may be removed, notwithstanding the life tenure, without cause assigned and without trial, so long as both Houses concur. I might quote a short passage from Dicey, who shows the difference between the Canadian Constitution and that of the United Kingdom. The words "official mendacity" which he uses are apt to express the untruth of any statement in the Canadian Constitution which might describe that Constitution as a federal one or one like that of the United Kingdom. It is neither; it is a mongrel between both. The Federal Judiciary must be the bulwark of the Constitution. It must be the supreme interpreter of the Constitution, and it is not true that in the United States the Supreme Court is above the Constitution, and the Parliament below it. That is the way in which the matter has been stated by Englishmen who have not thoroughly studied the question. The truth of the matter is this, as laid down in the American Constitution in few and stately words:

This Constitution is the supreme law of the land. It is over judge, President, Parliament, and citizen, and it is that Constitution, characterised in few and stately words, which it is the office of the court to carry out, and that cannot be done if the judges are to be questioned unduly by those who may be the party most annoyed by a decision which wrests from their hands the power to make any attempt to mutilate the Constitution. When the Federal Judiciary or the Supreme Court of the United States
has confided to it the maintenance of the Constitution, which is confided to it by that very phrase, the settlement of any question in which Parliament makes an attempt to transgress the law of the land comes within their jurisdiction. Acrimony may arise between the Parliament and the Supreme Court, and we have to ensure that the judges shall not be removed upon the occurrence of that acrimony. What will be the case if that happens? As Mr. Symon points out, there will be a crumbling of the keystone of the federal arch. That is the danger we must avoid. Whatever we do in this Convention, I hope we shall be able to arrive at some mode of putting this principle in such a way that the judicature will be saved, because upon the safety of the judicature rests the safety of the Constitution. That is the only way in which the Constitution can be maintained. I confess my indebtedness to hon. members for suggestions, and will say that I quite agree with any hon. member who will endeavor to amend this clause—if it is not clear enough as it stands—in such a way as to show that there must be misbehavior and incapacity before removal, and personally I shall be better pleased if it be made so plain that some proceeding must be gone through which would give a judge the opportunity of being heard in his own behalf and of indicating his own defence before he can be removed from office.

Mr. HIGGINS:
I understand the amendment is this, that a judge ought not under any circumstances to be removed from office except for misbehavior.

Mr. SYMON:
Or incapacity.

Mr. HIGGINS. Or incapacity. Who is going to be the judge of incapacity or misbehavior?

Mr. SYMON:
The Parliament.

Mr. HIGGINS:
Is the hon. member willing to say that if in the opinion of both Houses a judge is guilty of incapacity or misbehavior he shall be removed.

Mr. SYMON:
Yes.

Mr. HIGGINS:
Then the end of it all is to leave it to the two Houses; and my friend the Attorney-General has urged that the final power should be left in the Federal Parliament. It is true that there is a distinction between unity of Government and a Federation, and we must keep this bench as independent and strong as possible, especially as it has to decide between the States and the Federation and upon encroachments by the Federation upon the States. I admit all that; but what is the protection given in America? Judges can
only be removed by impeachment. That means that one House brings a charge before the other House, and a judge cannot be removed unless both Houses agree.

Mr. BARTON:
The Senate alone has sufficient power to remove.

Mr. HIGGINS:
Yes; but one House in the United States is able to remove upon indictment by the other House. I think that the British system affords sufficient safety. I do not think that there is any practical danger about it. You really have eventually to come to the judgment of both Houses of Parliament, no matter how you reduce it; and having reduced it to that, my friends say "Let it be a joint address." There is no difference of principle. We all want the judges to have as strong and independent a position as we possibly can give them. I hope we shall adhere to the British Constitution so far as we can, because we are more used to it. May I point out to Mr. Kingston that his amendment will not leave it to the judgment of the Houses of Parliament as to whether there has been misconduct or not. It will put a burden on them first to prove in a court of law that there has been misconduct or incapacity, and Secondly to pass an address. I say then it will be almost impossible to remove a judge if we put in that he shall only be removed on an address of both Houses of Parliament, leaving it to the Houses to prove inca-

Mr. FRASER:
I endorse the amendment of Mr. Kingston. If the removal of a judge is to be left to Parliament it would depend how this clause reads whether the Parliament would remove a judge. They would want to have it clearly set out on what grounds they could remove him. They would not dare to remove him unless he was guilty of something or other. Therefore Parliament is the Supreme Court in this case. I do not follow the argument at all that there is no necessity to take this precaution, because a judge of the Federal Court will have very different duties to perform to the judge of the ordinary court. There may be a momentous State question to be settled, and it is absolutely necessary for the future of the Commonwealth that the judges should be in an independent position.

Sir WILLIAM ZEAL:
What more do you want than you have in the clause?

Mr. FRASER:
I want everything possible.

Sir WILLIAM ZEAL:
It is here.

Mr. FRASER:
It is not. Parliament may be in a hurry; the may be misinformed; the Ministry of the day may tell them a bushel of lies about a judge. I see no danger in making the amendment; there are all sorts of good reasons for carrying it, and there is no justification for rejecting it.

Mr. DOBSON:
It is rather difficult to answer the well-put arguments of Mr. Kingston, Mr. Symon, and Mr. Barton, but such judgment as I have tells me they are in error, and have not sufficiently answered the strong arguments of Mr. Isaacs. The danger they wish to guard against is not, to my mind, so great as the danger they are creating, of having a Parliament turned into a kind of tribunal to try whether a judge has been guilty of misconduct or incapacity. There will be caused an enormous amount of litigation, and the judge may have the right of appeal to the Privy Council on some technical point, even when the whole Commonwealth might, know that, in the best interests of justice, that judge ought to be removed.

Mr. SYMON:
Would not Parliament be turned into a tribunal just as much the other way?

Mr. DOBSON:
No; I think not. For 200 years there has not been a single instance of Parliament having tried to do the slightest injustice to the judges.

Mr. SYMON:
Then what is the harm of the amendment?

Mr. DOBSON:
A judge will not be found guilty of embezzlement by a jury, or of any other crime; that is a very simple question. But a judge may act in such a way as hardly to be guilty of misconduct or incapacity, and yet it may be most undesirable that he should continue to be a judge. What is the first thing that goes wrong in the machine called man? The brain. A judge gets a kink in some direction in that brain, yet he might be in other points a most upright man—a most honest judge; and yet that small disturbance of his brainpower might render it undesirable that he should still sit on the bench.

Mr. SYMON:
Then would not that be incapacity?

Mr. DOBSON:
It would be a very nice point which the Parliament would be called upon to decide judicially, and the judge would have an appeal against their decision. That is more undesirable than the present clause, which comes from the Canadian Act, and Mr. Barton is hardly consistent when he says that Canada is not a Federation, or at least is not such a Federation as gives us an authority for the clause. He turns then to the United States, which I think still less to the point, while the quotation which Mr. Isaacs read to us exactly sets out the difficulty which will arise if we adopt the amendment of Mr. Kingston. The judge removed in Tasmania thirty or forty years ago did nothing very dreadful, but as you walked down to your office you heard that judge so and so was being sued for his milk bill, and the next day you saw a bailiff waiting at the judge's front gate; in fact the judge was like Micawber, his assets were not quite equal to his liabilities; and he brought the administration of justice into disrepute and contempt. It is much better to leave with the Federal Parliament a case of that sort, which may only happen perhaps once in fifty years or so, where some little disturbance of a judge's brain makes it most undesirable that he should continue to be a judge. I shall vote for keeping the Canadian clause as it is in the Bill, and shall not be found supporting Mr. Kingston.

**Mr. DOUGLAS:**
I take the exactly opposite view from Mr. Dobson. I think we are under an exceedingly great obligation to Mr. Kingston for having introduced this amendment. It is a most important one, and the quotation made by Mr. Isaacs in reference to Great Britain, is entirely out of place as regards this Federation.

**Mr. DOBSON:**
Very much in point.

**Mr. DOUGLAS:**
Here the judges are called upon to express their views upon an Act of Parliament. In England the judges do not express any opinion as to the legality or otherwise of an Act of Parliament, because there, however queer or undesirable an Act of Parliament may be, as long as it is an Act of Parliament the judges have to obey it, right or wrong. Here, however, the judges are called upon to express opinions that may be exceedingly adverse to the views of Parliament, but which may be right, and we know that in a recent decision in America the opinion given by the judges was contrary to the views of Parliament or of the Congress. If these judges had held their offices as proposed by Mr. Kingston, they could not be removed. The words which Mr. Kingston proposed would prevent such a removal unless misconduct or incapacity were proved as facts. The hon. member Mr.
Higgins asks how we are to prove it. It is easy to prove a fact. If a judge is incapacitated from want of brain power he ought to be removed. If he is guilty of misconduct, either moral or judicial, he ought to be removed. These are questions of fact, and they ought to be laid before Parliament in some way or other before a judge should be removed. Therefore I hope that those who are connected with the legal profession as I have been will support the view of Mr. Kingston coupled with the slight amendment of Mr. Symon, and assist in carrying it out. We cannot make these judges too independent of outside feeling. They should be upright, and independent and fearless in doing their duty, which they could not be in matters involving party politics or any particular laws passed by the Senate which were unconstitutional. Therefore I shall support the view of my hon. friend Mr. Kingston.

Sir JOHN DOWNER:
I was a little shocked to hear the radical sentiments which fell from Mr. Dobson.

Mr. PEACOCK:
Radical?

Mr. SYMON:
Radically wrong.

Mr. BARTON:
Revolutionary!

Sir JOHN DOWNER:
And which almost justified the term used by Mr. Reid-"A firebrand."

Mr. DOUGLAS:
A Tory, not a firebrand.

Sir JOHN DOWNER:
I thought so before. But as far as this particular part of the Bill is concerned, I am surprised at my hon. friend. The bench ought to be placed in the highest independent position. Do not we follow the American precedent on this point in preference to following the English Constitution, which has no possible relation to what we are doing now? I look upon this part of the Bill as the most important part of all, because this court is what we have to look to, what all the States have to look to, for the protection of the Constitution.

Dr. COCKBURN:
Protection against federal encroachment.

Sir JOHN DOWNER:
Yes; against federal encroachments. We have to make it noble and lofty, and we have to put it beyond all possibility of being terrified by influence
of any kind. The Americans took much care to avoid this, and my hon.
friend Mr. SYMON has read some passages from Hamilton showing the
views that actuated them.

Mr. ISAACS:
They apply to any court.

SIR JOHN DOWNER:
Those remarks may apply to any court, but they apply more particularly
to this court.

Mr. ISAACS:
Not a bit.

SIR JOHN DOWNER:
Because there is no such likelihood of conflict between the judges of any
English or colonial court and the Legislature as might be not unreasonably
expected to arise between the Federal Parliament and the High Court of
Justice. One does not anticipate, one, hopes it will not arise, but we want to
make the judges strong enough to do their duty if it does take place,
because we look to them to preserve us against encroachment, against the
destruction of the Constitution, and the injury of the weaker. What is
provided here? In Mr. Kingston's amendment, if the Houses of Parliament
can come to his conclusion, they have got to find whether a man is guilty
of misbehavior, or unfitness, or something else, but there is no method
prescribed as to how they have to find this out. It may be done without a
trial and without hearing the person affected at all, and this power which is
to be exercised by the Parliament, to which in certain important matters the
court is superior, may be exercised in a manner that will tend to injure the
prestige of the judiciary and diminish the independence of its members.
The Americans required two things to be done, and their custom has
worked well. I think we had better do the same. They require an
impeachment to be made by one House and a trial by the other. With
reference to the trial of an official in America, to which reference has been
made, the facts were that before one of the Houses impeached it had come
to a conclusion, using such popular methods as it thought fit. Having come
to a conclusion, it incapacitated itself from judging, and had to give this
officer and high dignitary a proper trial. To do that the matter had to go to
the Senate, and then even after it had reached that Chamber the judgment
of the majority did not rule. The judgment that was to remove this high
officer had to be the judgment of two-thirds of the members present. I hope
hon. members will consider that time has not been wasted in talking about
this part of the Bill. If troubles and difficulties arise between States in the
future concerning the interpretation of the Constitution we will have this to
fall back upon. If the citizen is in trouble this is his anchor, and is, as my
hon. friend Mr. Barton suggests to me, his ultimate protection. Parliament will know he has got that protection, and will be careful that his liberties are not invaded. We ought to surround the removal of the judge-who himself can be the judge of the acts of the Legislature-with all sorts of precautions. We ought to ensure him a trial, and not act upon the loose talk of the two popular Houses in a mere debate, to which he has no possible opportunity of replying. A judge might be accused on account of all sorts of causes and prejudice apart from the merits. If we want to make this office a protection to the citizens of the Commonwealth—and we should give the person charged a trial before the highest tribunal, surrounded by the greatest solemnities—there must be some way of removing a judge, and this the Americans understood, for they prescribed accordingly, and in doing that they did well. They not only insisted upon what is the first attribute of justice, that a man should not be convicted without first being heard, but that the trial should be conducted under the most solemn circumstances and by the highest tribunal. The Senate and House of Representatives will be representative of the citizens. They will represent the same class in both Houses. I suggest the following substitution:

May be impeached by the House of Representatives and tried before the Senate for misbehavior; but shall not be convicted without the concurrence of two-thirds of the members present, and if so convicted shall be removed from office and disqualified to hold any office of honor, trust, or profit under the Commonwealth.

Sir WILLIAM ZEAL:
Why not make it an absolute majority?

Sir JOHN DOWNER:
This is more than an absolute majority.

Mr. BARTON:
With a jury you would want the whole lot unanimous.

Sir JOHN DOWNER:
The system to which I have just alluded has been in force 100 years, and has worked well, and in beginning the erection of this new edifice we ought to be careful we do not make a foundation mistake, for while we are pretending to make these judges the protectors of the citizens in the Commonwealth, and even superior from certain points of view to Parliament itself, at the same time we ought not to give Parliament, against whose unauthorised acts we intend the High Court to protect us, authority to remove the judges without the greatest cause and the gravest trial. I think this is a matter well worthy of the serious consideration of hon. members. We should make our Supreme Court so strong and powerful that
no Government will be able to set the Constitution at defiance owing to the presence of a majority in either House, whereby an authority would be obtained that was never intended by the founders of the Constitution.

Sir WILLIAM ZEAL:

I should like to make a few remarks with reference to the popular view of this matter. Hon. members, particularly of the legal profession, have discussed this question at great length and have pointed out many contingencies, which in the ordinary course of events never arise and are never likely to arise. There are two conditions stipulated. One is that the judges can hold office on good behavior, and secondly they can only be removed by an address from both Houses. What has been the contention throughout this debate in reference to the position which the two Houses occupy, viz., that the Senate and the Assembly never agree? Are hon. members going to suppose that, for the sake of committing an injustice on an honorable and distinguished man, these two Houses will sink their differences and enter into a conspiracy to oust him from his office? It is perfectly monstrous to suppose such a thing. Are we going to put the judges into a position that they are not to be assailed When they do wrong, and that they cannot be censured when they neglect their duty? I say that these gentlemen are not entitled to any more consideration than the clause affords them. It is extraordinary that the whole business of this Federation is now being subordinated to the rights of the legal profession. Here we have hour after hour legal gentlemen getting up and discussing the matter at inordinate length, while the great question of Federation is trembling in the balance.

Mr. ISAACS:

This is Federation.

Sir WILLIAM ZEAL:

The great question of Federation is to make the States one for the purpose of our common interest and our common defence. Yet we have had legal gentlemen continually getting up and practically hair-splitting as to the meaning of words. Let us go to work and try to complete this Federal Constitution. Under the clause now being considered a judge will get every protection that the unanimity of the two Houses can afford him. If a judge does wrong punish him, but if he does that which is
Constitutions ever since the colonies have enjoyed self-government, and we have never heard of one instance of where the power has been abused. Sir John Downer speaks of the necessity of a trial of the judges by the Parliament, but can we contemplate that this power will ever be exercised without a trial? Parliament would never be so debased as to remove a judge from his position without first making a trial. There is a suggestion that there should be an impeachment by the Lower House, but the moment the judge is assailed there is an impeachment. Under the Bill he has to be impeached by both Houses, and we have provision practically for an impeachment by one House and a trial by the other—a trial in fact by the two Houses. Sir John Downer suggests that the judges should not be removed except by a two-thirds majority of the Senate, and can we fancy such an intolerable position of having a judge on the bench against whose occupancy or position a majority have voted, but not a two-thirds majority, and therefore he retains his seat. I will undertake to say that if a position of that character were conceded, and if a majority, although not a two-thirds majority, voted for the removal of a judge the public would instantly lose confidence in the administration of justice if a man were allowed to remain on the bench against the will of the majority of the House. Such a judge would feel compelled to resign at once if he had any sense of decency. The whole argument is based upon the assumption that Parliament will be so corrupt as to remove judges without due cause. We have never seen the power entrusted to our present communities abused, and still we are asked to do away with a power which has never been badly used, in order to so strengthen the hands of the Federal Judicature that if we get a judge whose brain faculty is disappearing we cannot remove him.  

Mr. KINGSTON:

That would be incapacity.  

Mr. CARRUTHERS:

You can remove him by a roundabout process. I was much struck by the observations used by the mover, and by every member who has supported this new departure. They speak of the Federal Judiciary as being the bulwark of the liberty of the citizens and safeguard of the Constitution, and they desire to have it so constituted as to be above parliamentary interference.  

Mr. SYMON:

And improper interference.  

Mr. CARRUTHERS:

That brings me at once to say that the dilemma that these hon. gentlemen are in arises from the fact that they are cutting off their right of appeal to that tribunal, the Privy Council, which is far removed from any local
parliamentary influence. If you preserve the right of appeal to that body you have a court with which no local legislation can interfere.

Mr. SYMON:  
If you abolish the Privy Council, why not put this High Court above political influence?

Mr. CARRUTHERS:  
You are not abolishing the Privy Council as far as some of the decisions of the High Court are concerned. It has been put that if from a feeling of resentment on account of the decisions of the Federal Judiciary, any action was taken for the removal of the judges there would be interference with the administration of justice. It is put that, in order that the judiciary should not be interfered with, this power should be taken, and that we should have a body which cannot be overawed by any local Legislature. Members talk of the High Court as being the bulwark of the Constitution, but they are taking that bulwark away when they abolish the right of appeal to the Privy Council, which is far removed from any influence exercised by our local Parliament.

Mr. PEACOCK:  
Do you believe in a High Court of Justice for Australia?

Mr. CARRUTHERS:  
I believe in the establishment of a High Court for Australia, but not of the character proposed, which will sever all connection with the Privy Council, and which will, if we follow the logic of my hon. friend, be placed in a position above any power of the Commonwealth to control it. All men are human, and it is human to err with lawyers as much as anyone, and are we not to have any regard for the liability of our having a corrupt bench as we may have a corrupt Parliament? History shows that benches sometimes become corrupt. It is highly improbable and we cannot conceive it, but how can we conceive a Senate and a House of Representatives—a majority in each combined—being so corrupt as to inflict an injury upon another component part of the Constitution, simply because it has not done that which the legislature desired? By all means give a correcting power to the judiciary, but let there be a restraining influence in the other power; but if we adopt the amendment we shall be creating a power too strong for its proper strength in the Constitution. I shall, therefore, vote for the clause as drafted.

Mr. SYMON:  
I wish to point out the extremely anomalous position in which Mr. Carruthers has placed himself. He wants to retain the right of appeal to the Privy Council, which he says will be above the reach of local influences.
and totally beyond the control of the local legislature, and in order to have an argument to support this contention be wants to make the High Court subject to the dominance of the local legislature. If that commends itself to the minds of hon. members the sooner we sweep the High Court of Australia out of the Constitution the better, if my hon. friend's contention is correct. I would suggest, Mr. Chairman, that you should put the first part of the amendment first,

The CHAIRMAN:

The question I will put is:

That the words proposed to be struck out stand part of the clause.

Mr. SYMON:

I propose to ask you to first strike out the word "may" with the view of substituting "shall only be." It is a better form of expression. The substance of the amendment is the latter part.

The CHAIRMAN:

Mr. Kingston's amendment is "shall not be."

Mr. KINGSTON:

"Shall only be."

The CHAIRMAN:

I have it in the hon. member's writing "shall not be."

Amendment agreed to.

Mr. KINGSTON:

I have altered the amendment The way I now move it is that "except for misbehavior, unfitness, or incapacity." As regards the word "unfitness," I think that might perhaps be left out and I will leave it "misbehavior or incapacity." I think it will be idle to talk of these judges holding their offices during good behavior if, by the express terms of the Act, we render them liable to removal at the will and pleasure of the Executive and of the Parliament.

Mr. ISAACS:

Who will be the final judge?

Mr. KINGSTON:

The Parliament. I think the complaints should be investigated by the two Houses in such way as they see fit. I have such a high idea of the honor of the Federal Parliament, so long as you lay down principles for their guidance-and we do lay them down-that I think it will be unnecessary to provide here the precise mode in which these powers shall be exercised; and that is why I take a little exception to the argument of Sir John
Downer. The Federal Parliament will provide the necessary machinery for carrying out the law. There is difficulty in providing that the Senate shall deal with the matter first.

Sir JOHN DOWNER:
The House of Representatives first.

Mr. KINGSTON:
I think it will be as well to leave it to the Federal Parliament to regulate that.

Mr. ISAACS:
Then they will not be the final arbiters.
The amendment was altered so that it provided to insert the words:
For misbehavior or incapacity and.
Amendment agreed to.

Mr. BARTON:
The judges shall not be removed except for misbehavior or incapacity, and then only upon an address, &c.
Would that not be sufficient, because the removal must be by the Governor-General with the consent of the Executive? If the two Houses decide to remove a judge then the Executive act must be carried out by the Executive authority. So we may simply say:
Shall be removed only for misbehavior or incapacity, and then upon an address.

Mr. SYMON:
Yes, that would do.

Mr. BARTON:
If that is acceptable I will move:
To strike out the words "Governor-General with such advice" and insert in their place "and then only."

Mr. KINGSTON:
Is there any particular object in striking out those words when it is made so clear.

Mr. BARTON:
Except that it is not necessary to retain the words. The authority which appoints is the authority which removes. It reads more clearly and makes better English, I think, if the words are struck out.

Mr. KINGSTON:
I would suggest that we make the section read as follows:
Shall not be removed except for misbehavior or incapacity, and then only by the Governor-General in Council, upon an address, &c.

Mr. SYMON:
That will do.

**Mr. BARTON:**

If that is so, I will move then:
To further amend the clause by inserting "then only" after "and."
Amendment agreed to.

**Mr. BARTON:**

I now move:
That the words "I but only," be omitted.
Amendment agreed to.

**The CHAIRMAN:**

The sub-section as it stands now reads:
Shall not be removed except for misbehavior or incapacity, and then only by the Governor-General in Council upon an address from both Houses of the Parliament in the same Session, praying for such removal.

**Sir JOHN DOWNER:**

I have said what I had to say in reference to the form in which, in my opinion, this very important Constitutional question should have been worded. But I, found myself so much in a minority amongst the members of the Convention generally that I did not think it expedient to force a division on the matter. I would like that the amendment I had intended to move should be put in print and circulated amongst hon. members for their careful consideration. I consider-and most of the lawyers who have studied constitutional subjects will agree with me-that this is about as important as any part of the Bill. I shall probably, before the Convention is over, bring the matter up again with the view of seeing whether they have not made a mistake and weakened the Constitution by depriving it of the safeguards which have proved so efficacious in the great American Constitution.

**Mr. ISAACS:**

As the clause will stand now, except during a session of Parliament, there are no means whatever of dealing with a judge, no matter what he may do. The power found in British and Colonial Constitutions of suspension or removal in flagrant cases is entirely absent.

**Mr. SYMON:**

What sort of flagrant case could you imagine?

**Mr. ISAACS:**

The hon. member can imagine them as well as anybody else. We are doing this with our eyes open. We are not only, as I think with Sir John Downer, weakening the Constitution, but we are wilfully shutting our eyes to the safeguards introduced in England And throughout the colonies for bringing any
officer, however high and dignified his position, within the range of the Constitution under which he is appointed.
Sub-section as amended agreed to.
Sub-section 4—Remuneration of justices—as read agreed to.

Mr. KINGSTON:
I would like to ask Mr. Barton whether he does not think it would be an improvement to provide in this clause, as we have provided with regard to the salary of the Governor, not only that it shall not be diminished during continuance in office, but that it shall not be increased?

Mr. BARTON:
I think it would.

Mr. SYMON:
I hope Mr. Barton will not so readily agree to that, because there is a great distinction between the appointment of the Governor-General and his salary, and the appointment of a judge and his salary. The appointment of a Governor-General is for four, five, or six years. The object of the clause fixing his remuneration is to prevent him intriguing for an increase of salary during that short period; but where you are appointing judges for life, during good behavior, the conditions are so altered that the condition would not be essential.

Mr. ISAAC:
Would not your argument apply to diminishing as well as to increasing?

Mr. SYMON:
No; because the provision with regard to diminishing is again introducing the principle of preventing pressure being put on on a judge.

Mr. O'CONNOR:
A judge should have nothing to hope for.

Mr. KINGSTON:
Hear, hear.

Mr. SYMON:
That is a very convenient phrase, yet like other phrases it is one which creates a good deal of misapprehension. I should only like to call the attention of Mr. Barton to the view taken by the Federalist on this very point. It is a singular thing how little alteration there has been in the points which have been raised on this judiciary question, and indeed on many other questions.

Sir JOHN DOWNER:
In fact, on any other question.

Mr. SYMON:
And how little the objections have changed in the last 120 years or so in
relation to these matters. This very point was taken, that if you provided that the remuneration of the President of the United States of America should not be increased nor diminished during his term of office you should provide the same for the judges. This is what Hamilton, in one of his exceedingly able disquisitions,

It was therefore necessary to leave it to the discretion of the legislature, to vary its provisions in conformity to the variations in circumstances, yet under such restrictions as to put it out of the power of that body to change the condition of the individual for the worse. A man may then be sure of the ground upon which he stands, and can never be deterred from his duty by the apprehension of being placed in a less eligible situation. The clause which has been quoted, combines both advantages. The salaries of judicial officers may from time to time be altered, as occasion shall require, yet so as never to lessen the allowance with which any particular judge comes into office, in respect to him. It will be observed that a difference has been made by the Convention between the compensation of the President and of the judges. That of the former can neither be increased nor diminished; that of the latter can only not be diminished. This probably arose from the difference in the duration of the respective offices. As the President is to be elected for no more than four years, it can rarely happen that an adequate salary, fixed at the commencement of that period, will not continue to be such to its end. But with regard to the judges, who, if they behave properly, will be secured in their places for life, it may well happen, especially in the early stages of the government, that a stipend, which would be sufficient at their first appointment, would become too small in the progress of their service.

Mr. Isaacs:

Why is not the contrary correct?

Mr. Symon:

That is the view on which all these provisions with respect to the salaries of judges have been drafted, and I would beg my hon. friend not to place too readily this provision with regard to judges' salaries on the same footing as that which applies to an executive officer, who only holds his office for a comparatively short term.

Mr. Higgins:

When did Hamilton write that?

Mr. Symon:

After the Constitution had been framed, when he was dealing with objections taken to its provisions.
Mr. ISAACS:
When he was pressing the people to accept it.

Mr. SYMON:
Yes, just as, I suppose, the hon. member is trying to persuade us to reject the proper provisions of this Constitution.

Mr. BARTON:
The suggestion made is one worthy of consideration. Although it may be that the circumstances of a new country may show that the salary which a judge is paid on his accepting office becomes inadequate as time goes on, I think that is a question which he should consider for himself before he takes office.

Mr. KINGSTON:
Hear, hear.

Mr. BARTON:
I do not think it is a good thing under any circumstances that a judge under a Federal Constitution, at any rate, should have anything to hope for from Parliament or Government.

Mr. KINGSTON:
Hear, hear.

Mr. BARTON:
Where you have a sovereign Parliament, and the judge is merely the interpreter of the laws as they arise, and not the guardian of a Constitution in the same sense as a federal judge is, the same circumstances remain in part; but where you will have a tribunal constantly charged with the maintenance of the Constitution against the inroads which may be attempted to be made upon it by Parliament, then it is essential that no judge shall have any temptation to act upon an unexpected weakness—nor we do not know exactly what they are when appointed—which may result, whether consciously or not, in biasing his decisions in favor of movements made by the Parliament which might be dangerous to the Constitution itself. My friend Mr. O'Connor points out that the most important questions that may arise may be those between the States and the Commonwealth, the validity of State laws, and the validity of Commonwealth laws which may overlap or override them. Those very questions which the Senate exists to prevent may be arising and embarrassing the Constitution. The Senate will have to exercise its powers to prevent overlapping of that kind, but if it fails to exercise its authority power must be present in the court to adjust matters. You may easily conceive a case in which there might be a desire to reward a judge for past services, and with the view that he may be insensibly influenced in regard to future cases. I do not think a judge should have anything to expect in that way.
Clause as read agreed to.

Clause 71. The judicial power shall extend to all matters:

I. Arising under this Constitution, or involving its interpretation:
II. Arising under any laws made by the Parliament:
III. Arising under any treaty:
IV. Of admiralty and maritime jurisdiction
V. Affecting the public ministers, consuls, or other representatives of other countries:
VI. In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:
VII. In which a writ of mandamus or prohibition is sought against an officer of the Commonwealth
VIII. Between States:
IX. Relating to the same subject matter claimed under the laws of different States.

Mr. GLYNN:
I have given notice of a proposed amendment by the addition of the words as sub-section x.:

Any matters that the Parliament may prescribe.

The effect of that will be that the Federal Parliament may pass an Act giving wider
powers than are conferred by the Constitution upon the judges. I would remind hon. members that my proposition simply goes the length of vesting the power of passing an Act in the Federal Parliament. Some hon. members may say that it is a dangerous question of policy, but I would remind them that in Acts 3 and 4 Victoria, chapter 41, the power is vested in the Government in England to refer to the decision of the Privy Council in all matters whatever that the Crown may think fit to refer to the Council. Now it is not at all certain that we will retain this power of appeal to the Privy Council. We propose abolishing the right of appeal to the Privy Council, and if we succeed in that, another amendment will be necessary. We will have to invest our High Court with the power which is vested in the Privy Council to decide certain matters which are not matters of contentious litigation at the time. I may mention that under the Canadian Act—the Supreme Court Act of 1875—wider powers are vested in the Executive Council. Todd, in his last edition, says:

By the Supreme Court Act 1875 the Governor in Council is empowered to refer any matters whatsoever to the court for hearing or consideration; and the judges are required to examine and report upon any Private Bill, or petition for the same, that may be referred to them by the Senate or House
of Commons of the Dominion. And by the Act 54 & 55 Vict., c. 25, the power was greatly enlarged of reference to the court for opinion of the judges; and important questions of law or fact touching provincial legislation, appellate jurisdiction relating to educational matters, constitutionality of any legislation of the Parliament of Canada, or touching any other matter with reference to which he sees fit to exercise this power, may be referred by the Governor in Council to the Supreme Court for hearing or consideration.

Of course, as I have said before, I am not proposing that that should be vested in the Supreme Court. My proposition is that the powers vested there by Act of Parliament should be given under the Constitution. Again, in eight of the State Constitutions of America this power of reference to the judges is preserved, so that to some extent, at all events, we have precedents for the adoption of the amendment I suggest. Upon the expediency of doing this -not to rely merely on my own opinion in reference to this matter, which would carry very little weight-I will refer to Bryce, page 448, where it says:

It may be thought, and the impression will be confirmed when we consider as well the minuteness of the State Constitutions as the profusion of State legislation and the inconsiderate haste with which it is passed, that as the risk of a conflict between the Constitution and statutes is great, so the inconveniences of a system under which the citizens cannot tell whether their obedience is or is not due to a statute, must be serious. How is a man to know whether he has really acquired a right under a statute? How is he to learn whether to conform his conduct to it or not? How is an investor to judge if he may safely lend money which a statute has empowered a community to borrow, when the statute may be itself subsequently overthrown? To meet these difficulties same State Constitutions provide that the judges of the Supreme Court of the State may be called upon by the Governor or either House of the Legislature to deliver their opinions upon questions of law, without waiting for these questions to arise, and be determined in an ordinary lawsuit. This expedient seems a good one, for it procures a judicial and non-partisan interpretation, and procures it at once before rights or interests have been created.

He goes on afterwards, of course, to discount this statement of the case for vesting the power in the Supreme Court by showing that it is open to some corresponding disadvantage. I might also mention that in 1886, in the Government of Ireland Bill introduced by Mr. Gladstone, power was given to the Lord Lieutenant to similarly refer matters to the Supreme Court.

Mr. DEAKIN:

Did you quote Bourinot? He speaks favorably of its operation.
Mr. GLYNN:
I have it here. I simply ask that this power should be given to the Federal Parliament. It is simply preserving to the extent of the delegated powers the absolute authority of Parliament. For these reasons I submit the amendment to the Committee.

Mr. BARTON:
I think we will have to be rather careful before adopting a sub-section of this kind, because it framed in such a wide way as to include any matters that the Parliament may prescribe. We shall have in the first case to determine-and we shall have to invoke the power of the Supreme Court to determine it-whether a matter prescribed by Parliament is a matter within their power to so deal with under the Constitution. We should there find some fruitful sources of litigation if a proposal of this kind were carried.

Mr. SYMON:
It is in the wrong place altogether.

Mr. BARTON:
An amendment giving power to prescribe that anything is within the judicial power may not only have a very great effect in taking matters outside the ambit of the judicial authority, but the power to legislate for contingencies tells us that any attempt made in this respect may go so far as to bring about great ambiguities, in deciding whether a matter prescribed by Parliament is one that is within their power under the Constitution. That is to say, that there may be a new jurisdiction imported which would conflict with the jurisdiction conferred by the Constitution. To accept the proposal of my hon. friend would, I say it with all respect, condemn it. In England the House of Lords has the power of consulting the judges; and a similar power has been conferred on the Canadian Privy Council. The Governor-General in Council may refer to the Supreme Court for hearing or consideration any matter which he thinks fit to refer, and that court is required to certify its opinions to the Governor in Council. That is a substitute, according to Munro, not for the power of the Queen to refer any matter whatsoever to the Privy Council, but for the power which the House of Lords has to to consult the judges. It is only in a judicial capacity that the House of Lords ever wants to consult the judges. There is no such body created, or likely to be created, as far as is suggested, as far as I can see, and we cannot see that there is anything of the kind likely to be dealt with under this Constitution. The reason for which similar power has been conferred upon the Governor in Council on Federal legislation does not exist here. If we look at the clause as it stands we shall be satisfied that we
have given judicial power to the Commonwealth which is likely to be sufficient for all its purposes. In the clause setting out the jurisdiction of the High Court we say that:

In all matters affecting public ministers, consuls, or other representatives of other countries, arising under any treaty between States in which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party, in which a writ of mandamus or prohibition is sought against an officer of the Commonwealth, the court shall have original its well as appellate jurisdiction.

I ask the hon. member if it is necessary to go beyond these powers?

Mr. BARTON:

Yes; in cases that come before a Court having jurisdiction under these judicial powers so defined. The question which seriously exercises my mind is whether we are not giving sufficient jurisdiction to the Supreme Court in this clause.

Mr. SYMON:

It is not jurisdiction.

Mr. BARTON:

It is a definition of the judicial powers.

Mr. SYMON:

Parliament has no right to alter that.

Mr. BARTON:

I am not saying that it has, and therefore Mr. Symon was right in his interjection that this amendment was moved in the wrong place. The judicial power, which includes the jurisdiction of the Supreme Court, is sufficient for the cases we have defined. We have a provision here dealing with the jurisdiction which may be conferred upon other courts. We have it in clause 74 that:

Within the limits of the judicial power of the High Court the Parliament may from time to time: Define the jurisdiction to be exercised by the Federal Courts other than the High Court: Prescribe whether the jurisdiction of the Federal Courts shall be exclusive of, or concurrent with, that which may belong to or be vested in the courts of the States, and invest the courts of the

States with federal jurisdiction within such limits, or in respect of such matters, as it thinks fit.

Then we are told that in certain matters, which include many of the most important of these referred to in clause 71, the High Court shall have original as well as appellate jurisdiction. I ask Mr. Glynn whether he thinks it is worth while proceeding with the amendment - first, because it is too
wide, second, because there is jurisdiction, and third, because if it ought to be inserted this is the wrong place to insert it.

Mr. SYMON:

My hon. friend's amendment is directed to one point, and that is to enable matters to be dealt with and constitutional questions to be raised by the High Court and dealt with without suit. If this is the point he has in view, it deals with the procedure or jurisdiction of the High Court and not its judicial power. It has nothing to do with the judicial power, which is contra-distinguished from the executive and legislative power under the Constitution. There are three elements in the Constitution. One is the legislative, the second is the executive, and the third is the judicial power, and that judicial power exists quite irrespective of the procedure under which it is exercised. My friend is moving the amendment with a view to enable questions to be submitted to the Federal Judiciary without the intervention of a party or suit. It may or it may not be a good object. The Canadian Act has secured it. Our provisions do not secure it. The Home Rule Bill of 1886, introduced into the Imperial Parliament, provided for it, but it is not a question of judicial power. Judicial power is one thing, and it is sufficient to embrace what is desired provided the machinery is good, and what my hon. friend desires is to provide machinery. I suggest, if he desires to see it carried into effect, that he should introduce it in a separate section, to be inserted in a more appropriate place. On the question itself, I submit for his consideration, that really it is not a desirable thing to introduce. The great charm of the judiciary in the Supreme Court of the United States consists in the fact that they do not mix themselves up with the questions of legislation or constitutional law or the question of executive control until their attention is directed to it in some suit between parties, and it seems to me that this is a very desirable course to preserve. If my hon. friend had followed his own quotation from Bryce he would have seen the encomiums which the writer passed upon the United States system. He says:

It is nevertheless true that there is no part of the American system which reflects more credit on its authors, or has worked better in practice. It has had the advantage of relegating questions not only intricate and delicate, but peculiarly liable to excite political passions, to the cool dry atmosphere of judicial determination. By leaving constitutional questions to be settled by the courts of law another advantage was incidentally secured. The court does not go to meet the question; it waits for the question to come to it. When the court acts it acts at the instance of a party. Sometimes the plaintiff or the defendant may be the National Government or a State Government, but far more frequently both are private persons seeking to
enforce or defeat their private rights. For instance, in the famous case which established the doctrine that a Statute passed by a State repealing a grant of land to an individual made on certain terms by a previous Statute is a law "impairing the obligation of a contract" and therefore invalid, under article 1, section 10, of the Federal Constitution: the question came before the court on an action by one Fletcher against one Peck on a covenant contained in a deed made by the latter, and to do justice between plaintiff and defendant it was necessary to examine the validity of a Statute passed by the Legislature of Georgia. This method has the merit of not hurrying a question on, but leaving it to arise of itself. Full legal argument on both sides is secured by the private interests which the parties have in setting forth their contentions; and the decision when pronounced, since it appears to be, as in fact it is, primarily a decision upon private rights, obtains that respect and moral support which a private plaintiff or defendant establishing his legal right is entitled to from law-abiding citizens. A State might be provoked to resistance if it saw as soon as it had passed a Statute, the Federal Government inviting the Supreme Court to declare that Statute invalid.

That is exactly the difficulty which is met by leaving these matters to arise between private parties. You then do not provoke the resistance of a State which has its law brought by the intervention of the Commonwealth before the judiciary to have its validity tested. Immediately you do that you arouse a debate which may never otherwise arise, and you bring about a mongrel suit to determine some matter which may otherwise never be brought before the court. I advise my hon. friend, if he desires to push the matter, that it should be done by way of a separate clause.

Mr. KINGSTON:

Although my professional sympathies may not be expected in a case of legal procedure to be in the direction of haste, I thoroughly agree with the object of Mr. Glynn with regard to the propriety of providing some facile, expeditious, and inexpensive means whereby the highest judicial pronouncements on matters of great public concern can be obtained. I do trust we will not attach too much weight to the suggestion that we should go through the old routine of having to find some unfortunate people to make it a personal quarrel before we can obtain the decision of the highest court in the realm. I trust that Mr. Glynn, although for the reasons I shall presently mention I shall be unable to support him in the amendment, will do what he can by the adaptation of something similar to that we find in the Canadian Constitution, to enable the Federal Government or a State
Government to obtain, without waiting for litigation between private parties, a decision from the High Court as to whether the federal law or the State law is valid and ought to prevail.

Mr. HIGGINS:

Even if the facts have arisen on which there is a dispute?

Mr. KINGSTON:

On a question of dry law, as to the legality or otherwise, the constitutionality or otherwise, of the Federal Act or the State Act, I imagine that there would not be the slightest difficulty in stating a case to which the judges could address themselves, with perfect confidence of their being able to pronounce a judgment which would satisfactorily deal with the point raised. I hope Mr. Glynn will confer with Mr. Deakin, who has already directed the attention of the Committee to a matter of this sort. I would, however, say that I agree with the objection which has been taken to the amendment which is now before the Convention. It seems to me that if you assent to the extension of the judicial power to all matters which the Federal Parliament may prescribe, it is simply in another way giving to the Federal Parliament the absolute power of arrogating to itself all the judicial powers it may wish, even to the extent of ousting State legislation. I hope that my friend Mr. Glynn, under these circumstances, will not press the amendment he has now moved, but I do trust that the principle to which he seeks to give effect by his motion will be embodied in the Constitution, and will prove acceptable to the Convention, and enable the Federal Parliament or State Parliaments to obtain a declaration from the High Court of Australia on matters of public concern, without all the routine, delay, and expense which are involved in litigation as we generally know it.

Mr. HIGGINS:

I feel strongly that it is most inexpedient to break in on the established practice of the English law, and secure decisions on facts which have not arisen yet. Of course, it is a matter that lawyers have experience of every day, that a judge does not give that same attention, he cannot give that same attention, to a supposititious case as when he feels the pressure of the consequences to a litigant before him. If he feels that the effect of his decision will be ruin to this man or that man he will take the utmost pains in considering his decision. But here is an attempt to allow this High Court, before cases have arisen, to make a pronouncement upon the law that will be binding. I think the imagination of judges, like that of other persons, is limited, and they are not able to put before their minds all the complex circumstances which may arise and which they ought to have in their minds when giving
a decision. If there is one thing more than another which is recognised in British jurisprudence it is that a judge never gives a decision until the facts necessary for that decision have arisen. I think it is advisable that private people should not be put to the expense of having important questions of constitutional law decided out of their own pockets. But I feel sure that is not the way to do it. If it is thought by the Convention or Federal Parliament that private persons who raise important points of constitutional law ought to be reimbursed out of the State coffers that is another matter. That is for Parliament to deal with. But with our knowledge of how English jurisprudence has grown up, and has the confidence of the whole empire, for us to allow judges the power of ruling on hypothetical cases would be most injurious. I sympathise with the desire of the President to prevent people being put to this expense. I hope we shall adhere to the clause, and not provide for the judges giving decisions until the facts have arisen.

Mr. DEAKIN:

Some days ago at a time which did not appear appropriate, I introduced this particular question, and introduced it guardedly because I felt in advance the weight of the arguments which have just been forcibly explained by my friend Mr. Higgins. But it appeared to me then that possibly a sufficient safeguard by way of limitation might be found and at the same time some extra protection afforded to the smaller States. If the exercise of this judgment in advance were allowed first of all only when State interests were supposed to be involved, and secondly, only on the application of accredited representatives of the less populous States, that limitation would rob the suggestion of a good deal of its danger and many of its difficulties. But on further consideration I recoil a little from even that proposal, and have fallen back to something like the position of my learned friend who has just sat down. While recognising the end in view to be eminently desirable, I feel great diffidence in lending any sanction to a proposal of this kind until it has been better digested. I am cordially with my hon. friends Mr. Glynn and the President in admitting the hardships inflicted upon innocent litigants, and the dangers and difficulties which they run, but the more I consider the great risks we must run the more I hesitate to take any decisive step towards placing in this Constitution such a power of reference as has been suggested.

Proposed sub-section negatived; clause agreed to.

Clause 72 - The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament may from time to time prescribe, to hear and determine appeals, both as to law and fact, from all judgments, decrees, orders, and sentences of any other federal court, or
court exercising federal jurisdiction, or of the Supreme Court of any State, whether any such court is a court of appeal or of original jurisdiction; and the judgment of the High Court in all such cases shall be final and conclusive: Provided that no fact tried by a jury shall be otherwise re-examined in the High Court than according to the rules of the common law.

Until the Parliament otherwise provides, the conditions and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

Mr. GLYNN:

It seems to me that the words:
With such exceptions and
are exceedingly wide, and gives power to the Parliament to cut down the powers to practically nothing. I move:
To strike out "with such exceptions and"
Amendment negatived.

Mr. WISE:

I move:
To strike out of the third line of the clause the words "both as to law and fact."

If this is carried it will be necessary to strike out the proviso at the end of the first sub-section. I think I was the cause of these words being put in, but on further consideration I have come to the conclusion that they are unnecessary. It is better to give the unrestricted power to appeal to the High Court, and let the Parliament fix the conditions. It has been laid down in New South Wales that where there is an appeal it does not include the power of re-hearing, and a similar decision has been given in Victoria, though, in my opinion, it does. The words were taken from the American Constitution, where the High Court has the power of reviewing a decision of the jury on a question of fact.

Amendment agreed to.

Mr. WISE:

I now move:
That the following words at the end of the first section be struck out - "Provided that no fact tried by a jury shall be otherwise re-examined in the High Court than according to the rules of the common law."

Mr. ISAACS:

I quite agree with my hon. friend that the words are not needed. I have been extremely puzzled to know what the words mean to-day. There might
have been some meaning in them and some necessity for them 100 years ago, when judges exercised such extreme powers, and when they tried to override trial by jury.

Amendment agreed to; clause as amended agreed to.

Clause 73 - No appeal shall be allowed to the Queen in Council from any court of any State or from the High Court or any other federal court, except that the Queen may, in any matter in which the public interests of the Commonwealth, or of any State, or of any other part, of her dominions are concerned, grant leave to appeal to the Queen in Council from the High Court.

Sir GEORGE TURNER:

This is a clause which, as I understand it, takes away from us the right of appeal to the Privy Council, and I shall test the feeling of the Committee as to whether appeals may be made in any case provided the consent of either the Federal Court or the Queen in Council is given. I agree that it would be wise to have some restriction on these appeals, so that there will be real cases in which the decision of the highest court in our land should be obtained. If we have a provision by which the appeal cannot be made in every case, but only with consent of the High Court, from whose decision is to be made, or from the Queen in Council, we will obviate any difficulties. I move:

That we strike out "may in any matter in which the public interests of the Commonwealth, or of any State, or of any other part of Her dominions, are concerned."

If that is carried I will move To insert after the word "Queen," the words "or the High Court may grant leave to appeal."

Mr. HIGGINS:

Would you allow appeal even from the High Court?

Sir GEORGE TURNER:

Yes, by special leave of the court or of the Queen.

Question - That the words - "In any matter in which the public interests of the Commonwealth, or of any State, or of any other part of Her dominions are concerned," proposed to be struck out stand part of the clause - put. The Committee divided.

Ayes, 17; Noes, 14. Majority, 3.

Ayes.

Barton, Mr.
Berry, Sir Graham
Cockburn, Dr.
Deakin, Mr.
Downer, Sir John
Sir Edward Braddon:

I think this is a clause which ought to receive greater attention than it has received, inasmuch as a division has been taken, I understand, without any debate whatever. I think we ought to remember that this is possibly one of the most important provisions in the whole of the Constitution Bill. We have but very few links uniting us with the British Empire. We have sentimental bonds which, although very strong, are not sufficient for every purpose. The substantial links are very few indeed, and this particular one is one of these, and by limiting the power of the subject to appeal to the Queen we are, I think, doing a wrong to the subject in whatever part of the empire that subject may be. We are denying by this particular clause as it is drafted the right of the people of
Australasia to do that which is in the power of the people everywhere throughout the British Empire to do, whether he be a native of Canada, whether he be a native of the British Isles, or whether he be a native of any other part of the British dominion. I should like to read in this connection the opinion of a distinguished judge, the Chief Justice of Tasmania. He writes:

I do not know anything that contributes more to the constitution of a united British Empire than the fact that every subject may appeal to the Queen herself in Council if he considers himself wronged by the decision against him of a colonial Supreme Court. A Committee of the Privy Council - the Judicial Committee, as it is styled - hears the appeal and reports to the Queen in Council, by whom the judgment is finally given. This general right of appeal is a strong binding link between the Crown and the colonies. The Supreme Court of Australia cannot be as powerful a court as the Judicial Committee of the Privy Council. Judges of the same experience and ability as those who form the Judicial Committee are not to be found in Australia. We have no Sir Horace Daveys or men of that calibre. The Supreme Court of Australia will presumably consist of three or five judges; but the Supreme Court of Victoria already consists of six judges, and an appeal from the Full Court of Victoria to the Supreme Court of Australia would be an appeal from a powerful bench to a tribunal probably not so strong as the Full Court. The appeal would be more expensive. Counsel from the different colonies would probably attend the Supreme Court to argue the appeals from their colonies. The expense of counsel coming from one colony to another, and so abandoning and losing business in his home colony, is heavy; 150 guineas is the lowest sum paid for counsel coming from Melbourne to Tasmania, and I have known £800 paid. Now, in England £25 to £50 are fair leaders' fees in ordinary appeals to the Privy Council. Again, the solicitors' costs in England are, as well as the counsels' fees, more moderate than those charged and allowed in Australia. Delay may be urged against the Privy Council, but except as to the time taken in transmitting the papers to England, which is insignificant, the probability is that solicitors and counsel in England act with at least the same promptness that is likely to be shown in Australia. The Privy Council does not sit during the long vacation, nor will the Supreme Court of Australia sit continuously. For these and other reasons I should be sorry to see the appeal, as of right to the Privy Council, that is now enjoyed in every case of reasonable importance, taken away and conferred upon another tribunal which holds out no one advantage over the Judicial Committee. If the Supreme Court of Australia is to be constituted a Court of Appeal, I should say let it be left optional to each of the colonies to
adopt it as its Court of Appeal by its own legislative enactment, or else let the Supreme Court have only concurrent jurisdiction with the Judicial Committee, leaving the suitor to elect to which tribunal he will appeal. This would leave the matter optional with the colony or the suitor, but do not let the Constitution take away the right of the subject to appeal for justice to the Sovereign. I think that is an opinion that ought to be heard with considerable deference by hon. members of this Convention, and notably by those hon. members who are of the legal profession, because it is the opinion of one who is a leading member in their own profession, and whose opinion, therefore ought to be of especial value. My hon. friend Mr. Carruthers I hope has some amendment to propose. I have led the way and given him time by reading this opinion to frame any amendment which he may desire to submit.

Sir JOSEPH ABBOTT:

I entirely agree with every word that has been uttered by Sir Edward Braddon. It appears to me it would be a calamity if, throughout the British Empire, we had for every place except for Australasia, a uniform law. If we established this Court, giving it power to interpret the laws of the Australian Colonies, how do we know that we shall be following the laws of the Empire at all. At the Convention of 1891, a very able letter written by Mr. Justice Richmond, of the New Zealand Supreme Court, to the late Sir Henry Parkes, was received. Possibly that letter is not available at the present time to hon. members.

Mr. KINGSTON:

It is in the proceedings.

Sir JOSEPH ABBOTT:

But very few hon. members have had copies of those proceedings. And, although I may detain the Committee at this time - and I am not one of those who has done much to waste time - still I feel so strongly the necessity for uniformity of law throughout the British dominions that I will crave the indulgence of the Committee while I read it.

Mr. WISE:

Have you read Mr. Clarke's reply to that letter?

Sir JOSEPH ABBOTT:

The hon. member can do that. I will accept the opinion of a man who was on the Bench for more years than Mr. Clarke has been a lawyer, and who was associated in a large degree with the public life of New Zealand. On March 11th, 1891, Mr. Justice Richmond wrote to the late Sir Henry Parkes as follows:

Although I have not had the advantage of a personal introduction to you,
I make no doubt that you will excuse my addressing you on a subject of interest and importance to the whole of Australasia. It is one of which I may claim to have some special knowledge, being now in the twenty-ninth year of my service as a Judge of the Supreme Court of New Zealand, and having previously had some executive experience as a Colonial Minister. The subject I refer to is the proposal now made at Sydney to establish an Australian Court of Appeal, whose decisions shall not be subject to review by the Judicial Committee of Her Majesty's Privy Council.

Of course, this is at present a mere proposal and I cannot but think that, on deliberate consideration, good reason will appear for not insisting upon it.

1. The first and most obvious objection is one which must necessarily have occurred to yourself, and to any other statesman who has given the matter a thought. British capital is, and it is to be hoped will continue to be, largely invested in these colonies. It appears, therefore, to be a perfectly reasonable demand on the part of the mother-country, that any British subject feeling himself aggrieved by the decision on his civil rights of a local court shall, if the case be of sufficient importance, have his right of final appeal to an Imperial tribunal. However fair colonial judges and juries may have shown themselves, it is inevitable that persons resident in the United Kingdom, or in other colonies, who should find themselves worsted in litigation before a colonial court from which there was no appeal, would, in many cases, both feel and express a doubt that justice had not been done them, and would be ready to impute the decision against them to local prejudice and favoritism.

It always makes things plainer to give an example of the working of a principle, and I will, therefore, shortly state a recent case in this colony. A large ship, owned by an English shipping company, with a valuable cargo, was lost in attempting to leave the artificial harbor of Timaru, in the South Island. The accident was attributed by the company, or its underwriters, to the negligence of an officer of the Timaru Harbor Board, and an action for damages was accordingly brought in the name of the company against the board. The issues of fact were tried by a Wellington jury, and a verdict was returned for the plaintiffs for about £40,000, the value of ship and cargo. This, however, was subject to a large number of reserved points of law, which were subsequently argued before our New Zealand Court of Appeal. Two judges, out of three who formed the court, upheld one of these objections as fatal, and gave judgment setting aside the verdict. But a considerable proportion of the costs was thrown by our judgment on the defendant board as having failed on the main issues of fact. The shipping company appealed, as was, of course, expected, to the Privy Council; and
Lords Halsbury and Bramwell sat with the ordinary members of the Judicial Committee to hear the case. The argument occupied five days. Finally a reserved judgment was given upholding the decision of the New Zealand Court of Appeal on a wider ground than we had taken, and charging the appellant company with the entire costs of the proceedings. Now, in a case of this kind, it is obvious that the result, from a public point of view, is far more satisfactory than it would have been had the plaintiff company been compelled to submit to the colonial decision in favor of the local body as final. It is more satisfactory to the people of both countries concerned; more satisfactory to the members of the colonial tribunal - I should say the same if the decision had been the other way; more satisfactory even to the defeated litigants - in this respect at least, that they must feel that justice, so far as attainable in courts of law, has been done them.

To quit this part of the subject: It is to be expected that the proposed measure, if ever carried must have a prejudicial effect on the financial interests of these colonies. The confidence with which investments of all sorts are now made in Australasia by people at home must be largely due to the knowledge that rights of property will be dealt with here by the Law Courts on British principles of justice, and subject to final review by one of the highest English courts.

If we establish this court, it does not follow that these rights will be established upon principles of British judgment, but rather upon principles of determination of this Australasian court, which will be final. We will have in the British dominions one law for the majority of the dominions - that is, the law of the Privy Council; and we will have this law for the Australasian colonies, which will be the law of this federal judiciary. Judge Richmond goes on to say:

I conceive that this confidence must certainly be impaired if we constitute ourselves a foreign country in regard to the administration of justice.

The decisions of a colonial court of ultimate appeal would not only give less satisfaction to an important class of litigants. Such decisions would in all probability be lose satisfactory to litigants in general, and intrinsically less satisfactory. It is no disrespect to the Australasian benches to say that the chances are against our being able to furnish a court of appeal equal in legal attainment to the highest English courts.

I ask members to bear in mind that this is a member of one of the Australasian benches, and who has been a member for twenty-nine years,
who is now speaking. He goes on:

Of course, we may produce great jurists here, and please God we shall.

Too many of the judges have got on to the Supreme Court benches because they have been members of Parliament, and not for the reasons which ever distinguish the judge who gets on to the British bench. He continues:

Of course, we may produce great jurists here; and, please God, we shall. But the present area of selection for the bench is a very narrow one. English judges, on the other hand, are taken from amongst the leaders of a numerous bar. They have had their ability tested in practice at the greatest business centre in the world, and have succeeded in a competition with which the colonies have nothing to compare. The composition in late years of the Judicial Committee may not have been entirely satisfactory-on that subject I have a word to say-but important appeals to the Queen-in-Council are generally attended by some of the most eminent English Judges.

3. It would be a dead loss to both bench and bar if the legal standard to which we have now to submit ourselves were removed—as in great measure it would be were decisions here rendered final. I should be sorry to see the judgments of lawyers reared in our comparatively narrow circle become our most important authorities. I say this, fully recognising the excellence of much judicial work amongst us. The public is more interested than it knows in maintaining the highest scientific standard in the administration of the law. The intellectual interest thus created in the profession is one of the best guarantees for purity of administration. Thoroughbred lawyers are supremely anxious to be right in their law. They may not always succeed in freeing themselves from class prejudices and party ties; but their interest in abstract law makes them generally incapable of showing favor to individuals.

4. The establishment of colonial precedents as paramount would lead to divergencies from the law of the mother-country which would be productive of considerable inconvenience; nor could colonial judgments be entitled to the same favorable reception in the courts of the mother country as they now meet with.

I take it that this is the very strongest argument against appointing this court as the final court of decision. The decisions may be just, and I have no hesitation in saying I believe the decisions of most, indeed of all, the Supreme Courts of Australia have been, according to the views of the bench, entirely just; but there will always be the feeling that we have in the British Empire two final courts, one in England for the whole empire with the exception of Australasia, and one in Australia for the Commonwealth alone. This will create a feeling in Australasia amongst a large class of
people that they have not got the same rights as the rest of the people of the empire. Then he says:

5. A very important consideration is the following:—In every colony possessing a Constitution the legislature is exercising powers created by a Statute of the Imperial Parliament. Its powers are limited by this document, and the document is subject to the interpretation of the Court, of law of the country. The Supreme Court of each of these colonies has jurisdiction to decide that a colonial Act is ultra vires. The power has actually been exercised in this colony in the case of an Act for deporting fugitive offenders, it being held that the General Assembly of New Zealand is incompetent to provide for the custody of such persons during their passage over-sea to another colony. The difficulty has since been removed by Imperial legislation. Now, it is evident that if the integrity of the empire is to be maintained (which is our common object), the decision of a local court in regard to the powers of the local Parliament ought to be subject to review by an Imperial court. Otherwise, all limit to the local power of legislation might be disregarded, and practically set aside, by judges with strong separatist tendencies.

6. It may appear paradoxical, but in point of fact the Australian courts themselves will be degraded by the proposed measure. They will sink from the position of Imperial to more local tribunals, with, I apprehend, a corresponding contraction of their present jurisdiction, and, in the future, a probable diminution of judicial independence. To illustrate my meaning, I will again cite a recent proceeding in this country. A few years ago a gentleman resident in Samoa was forcibly removed from that island by Sir Arthur Gordon, then Her Majesty's High Commissioner for the Western Pacific, who supposed himself to be exercising powers conveyed by the Order in council constituting his office. The person so dealt with conceiving himself aggrieved, brought an action for wrongful arrest and imprisonment against Sir Arthur in the Supreme Court of New Zealand, both parties being then in the colony. Commissions to take evidence in Samoa and in London were issued and executed. It was understood that Sir Arthur was defended by the British Treasury; and the present Mr. Justice A. L. Smith, of the English High Court of Justice, acted as his counsel on the execution of the Commission in London. No objection was taken on behalf of the defendant to the jurisdiction of the New Zealand court, No doubt this was on the ground, established in the leading case of Mostyn v. Falrigas, and other oases, that a British subject may be sued for damages in any British court within whose jurisdiction he is found for a personal
wrong done to another British subject in any part of the world. But such a jurisdiction is one which cannot belong to a merely local court. Supposing that it could in law survive the contemplated alteration, it is plain that the British Parliament could not allow it to remain. It may be asked: What loss would that be to the colony? I maintain that it would be a real loss. For by the existence of such a jurisdiction the remedy for injustice and oppression in this quarter of the globe is made more prompt and easy. The dignity of the tribunal exercising so high a function is enhanced. The unity of the empire is affirmed in a striking manner. To destroy such a jurisdiction would be an act of separatism and a degradation of our courts. If this view is regarded by anyone as sentimental, I would observe that it is exactly by the prevalence of such sentiments, if at all, that the unity of the empire can be maintained.

In Sir Arthur Gordon's case the decision was on the main point, favorable to the defendant, the question being one of law, but judgment went against him for a small sum. There was no appeal lodged. The plaintiff, it is said, would have appealed had his means permitted. The British Government acquiesced in the decision.

One point more in this connection: I believe Sir Arthur Gordon, though still in the colony, was no longer Governor when the writ in the action against him was served. But, had he been Governor, it is established by the case of Musgrave v. Pulidos before the Privy Council [Law Reports 5, Appeal Cases 102] that he would none the less have been liable to the jurisdiction of the Supreme Court of the colony. Such a court has, under our present Constitutions, the right of determining whether any act of power done by a Governor is within the limits of his authority. Evidently this high jurisdiction could not continue to be exercised by a colonial court whose decisions were not subject to appeal.

7. No doubt it will be said that the expense and delay of appeals to London are great. I do not pretend to be able to speak with certainty upon these points. But it may be questioned whether in either respect there need be much difference between appeals to the Judicial Committee and appeals to the proposed new court. Distances in Australia are great, and the local lawyers would seldom be content to leave their appeals in the hands of the bar of the city where the court happened to sit. Hence a large outlay in travelling expenses would be apparently inevitable. As regards delay it would not, I apprehend, be found practicable at present to appoint special Justices of Appeal to sit continuously. The court must be formed by the attendance of members of the existing benches, and could only sit periodically, as is our practice in New Zealand; these, however, are points on which I do not venture to express any positive opinion.
At present the Judicial Committee appears to be overloaded with work. If the committee wants strengthening in point of numbers so as to be able to sit in two or more divisions, the British Parliament is bound to find the means. Indian appeals which seem to take up a great deal of time might, one would think, be dealt with by a separate division. There can be no good reason why appeals should not be much accelerated.

8. Although several eminent judges have been amongst those who regularly sit on the Judicial Committee, the court has not maintained the extraordinary authority it had with the profession during the years when Lord Kingsdown commonly presided over it. Looking to the present importance of the colonies, and I venture to say, to the learning of colonial lawyers, it is not satisfactory that any but the most eminent in the profession should sit as judges of appeal from colonial courts. It is unfortunate that the attempt to constitute a single court of appeal for the whole empire did not succeed. The colonies have, I conceive, a right to ask that the ultimate appeal from colonial decisions shall be to the same tribunal, whether the House of Lords or some court to be substituted for the House of Lords.

9. But to sum up: whatever may be the defects of existing arrangements, they are such as appear to be remediable without extraordinary difficulty. Even taking things as they are, we shall be wise, I conceive, not to seek a change open to objections such as I have endeavored to state-objections which seem even more important and significant in a political point of view than in one purely juridical. As I desire the fullest and most public discussion of the subject of this letter, I need scarcely say that you are at liberty to deal with it in any way you think proper.

That letter was handed over by Sir Henry Parkes to Mr. A. Inglis Clarke, who was then Attorney-General of Tasmania, for his observations. Mr. Clarke did not agree with Mr. Justice Richmond. Against his views of the matter I place the opinion of Mr. Justice Richmond, who for twenty-nine years was a judge of the Supreme Court in New Zealand, and for a long time before that was mixed up with the public affairs of New Zealand, and was also a leading member of the bar. Added to that, we have a letter to day read by Sir Edward Braddon from the Chief Justice of Tasmania. We know the opinion of our own Chief Justice in New South Wales, who endorses that of the Chief Justice of Tasmania, and we know the opinion of Sir Samuel Griffith, the Chief Justice of Queensland. In the face of all these opinions, are we going to say that for one part of the British Empire
there should be one law and for the rest of the Empire a different and perhaps bad law? I believe all the colonies ultimately will be joined in this Federation. Suppose we have for many years a neighbor in the north and another in the south that will not join, we will have this absurdity: we will have a law which is not a law all over Australia. Queensland—if not of the Federation—will be able to go to the Privy Council, while the other federated colonies and Tasmania will be bound by the law of this Federal High Court. I admit this Federal High Court will be a body superior to anything we have had in Australia, but at the same time it will be a body without that experience which the Privy Council has got in England, and it will be a body which will never command for its decisions the same respect.

Sir JOHN DOWNER:
The judgments of the Supreme Courts command respect.

Sir JOSEPH ABBOTT:
The judgments of the Privy Council command greater respect. The decisions of the supreme Court command respect for themselves, but more largely because they follow the decisions of the Privy Council. The judgments of the Commonwealth Courts will, under this proposal, not be bound by the decisions of the Privy Council, but by the Federal High Court. The Supreme Courts at present are not free to give their opinions as they think fit, for they have to follow the law as laid down in England, and therefore their decisions command the greatest respect. If we establish this Federal Court, and take away the right of appeal to the Privy Council, the Federal Court will have to establish its own precedents and its own laws, following or disregarding Privy Council as they think proper.

Sir JOHN DOWNER:
Like the American Courts.

Sir JOSEPH ABBOTT:
The American Supreme Court represents a nation.

Mr. SYMON:
So are we going to be.

Sir JOSEPH ABBOTT:
When we are a nation separated from England it will be different.

Dr. COCKBURN:
The American courts have no appeal outside the States.

Sir JOSEPH ABBOTT:
The American courts in the States are not courts which I would like our colonies to follow. The bulk of the American State courts are not courts which are held in respect in any place in the world, and they are held in
less respect in their own State than outside. The decisions of the Supreme Court of America are held in respect, but that Supreme Court is a Supreme Court of a nation, as the Privy Council is the Supreme Court of the British Empire, and, acting for the British Empire, all its decisions are held in respect, and although they may not be agreed with, our courts must follow them. They have not got to strike out a path for themselves, but this Federal Court will do just as they like when they know that there is no review of their decisions.

Sir JOHN DOWNER:
No.

Sir JOSEPH ABBOTT:
The hon. member, Sir John Downer, laughs. How much better it will be to have uniformity of the law by compulsion throughout the British Empire than by the will of a particular court. The Supreme Courts of all the colonies are now respected, not because they give decisions of their own, but because they give decisions in accordance with the laws of the British Empire. But let us once set up this court of our own, which is not bound by any decisions of the Privy Council, and it will never command the respect which the Supreme Courts at present command throughout Australia. The very fact that they command respect is because they are guided by the principles laid down by the highest court in the British Empire. But this proposed court will not be guided by any such principles. This court will do, as I have heard some lawyers say, what they like. They may say that the Privy Council does not know anything about Australian matters; that the Privy Council does not know the circumstances under which a decision was given. One of the ablest judges in New South Wales has said-I will not say he said it publicly, because he was too wise to do that, but he has nevertheless said it-that the Privy Council was wrong, and that the Supreme Court was right. But whether right or wrong we have the advantage that uniformity of decisions results from following the decisions of the Privy Council. I remember the case of a lawyer practising in one of our courts. He was then very young and inexperienced, but he is now a Queen's Counsel and leader of the Bar in New South Wales. He said to the judge, "I think you are wrong." The judge said, in reply to him, "When I was a young man I often thought the judges were wrong, but I never had the impudence to tell them so." The public will have to take these decisions, whether right or wrong, and submit, because there is no appeal, but if there is an appeal to the highest tribunal of the nation, the public will acquiesce in these decisions, and when the public know that the Federal Court would be compelled to follow these decisions no doubt they will accept these decisions as heartily and as readily as they accept the
decisions of the Supreme Courts. I am not one of those who believe that we are to place no restrictions upon these appeals. Some restrictions should be placed upon them. Too often an appeal to the Privy Council is used as a weapon, but we can restrict that to some extent, and I would much sooner see any number of restrictions placed upon these appeals than see the decisions of the highest court in the British Empire ignored for a Federal Court, which may mark out its own path without following precedents.

Sir JOHN DOWNER:
I have a good deal of sympathy with the two speeches that we have listened to, because one naturally has inclinations towards the way in which one has been brought up. But I would like to ask both Sir Edward Braddon and my hon. friend who has just sat down, whether we are ever to get out of our swaddling clothes? What are we here for?

Mr. FRASER:
Not to cut the painter.

Sir EDWARD BRADDON:
Not to deprive a British subject of a right.

Sir JOHN DOWNER:
We have come to the conclusion that we may cease to be provincial, and form the foundation of a nation. We do not propose in any way to separate from the British Crown, but on the other hand we look to it with reverence. We consider ourselves the same people, but the very essence of the difference is that we think we can make laws which will suffice us; in other words, to put it colloquially, we think we can manage our own affairs. I ask these two hon. gentlemen to think for a moment or two. We are to have powers dealing to an unlimited extent with the most sacred of all subjects-life-and with property; in fact everything that can affect us is to be within the legislative power of the Commonwealth. Our relations to foreign powers so far as they do not interfere with Imperial concerns, we wish to have in our own hands, but when we come to the subsidiary thing, the administration of our own laws, we have got to admit our inefficiency.

Mr. FRASER:
They may not be our own laws.

Sir JOHN DOWNER:
They are our own laws, because the laws we bring from England are only our own laws so long as we do not please to alter them.

Sir JOSEPH ABBOTT:
What about the Merchant Shipping Act?

Sir JOHN DOWNER:
That is a question for the Imperial Parliament to consider, and no doubt
they will. That will in all probability remain in force in spite of this or any other Act. We are asking for an Imperial Act, and we shall use the powers that that Act gives us. But when we are told we are quite competent to make laws as regards our own lives and property, and also as regards external relations with other nations we are in the same breath warned that we are not competent to establish an administrative body in ourselves.

Mr. FRASER:
    Small talk.

Sir JOHN DOWNER:
    Indeed it is not small talk. It is small talk on the other side. It appears to me to be a contradiction in terms. The greater includes the less. I venture to think the arguments we have heard arise from the prejudices that have grown up with us.

Sir JOSEPH ABBOTT:
    What prejudice can I have? I have never been out of the colonies.

Sir JOHN DOWNER:
    I believe Sir Joseph Abbott means what he says. I am talking with the same fairness as he did.

Sir EDWARD BRADDON:
    You call ours prejudices, but yours are opinions.

Sir JOHN DOWNER:
    Perhaps mine is a prejudice.

Sir EDWARD BRADDON:
    Hear, hear.

Sir JOHN DOWNER:
    The only thing is mine is a prejudice upon a prejudice, for I had a prejudice, the same as my friend had, but I have superseded it with another which is founded on reason. If we are good enough to do all these things that we have arranged that we can do, and good enough to become a nation, we ought to be good enough to administer our own affairs among ourselves.

Mr. CARRUTHERS:
    That is just it. We are not becoming a nation. If we were I would go with you.

Sir JOHN DOWNER:
    And then, Sir Joseph Abbott says:

What will happen? We shall have the restraining influence of the Privy Council taken away, and the judges will develop the natural corruption of human nature.

Sir JOSEPH ABBOTT:
    I never said anything of the kind. It is not right to charge me with having
said words which I never uttered, and which even by im-
[99x763]putation cannot bear the construction put upon them.

Sir JOHN DOWNER:
I know you did not use those very words, but you said:
The judges will do what they like.

Sir JOSEPH ABBOTT:
Hear, hear.

Sir JOHN DOWNER:
I do not think I put an unfair construction on what you said. Let us consider another great country, which took with it the English law, and which has, with such alterations as their Constitution has b

Mr. REID:
Hear, bear.

Mr. SYMON:
Why should we not have uniformity?

Sir JOHN DOWNER:
We shall follow English precedents. It will make no more difference than it does in America, which respects the House of Lords almost as much as we do.

Mr. HIGGINS:
And we respect American decisions.

Mr. SYMON:
Hear, hear.

Sir JOHN DOWNER:
And this difference which ought to have resulted in the judges doing as they liked, and in endless confusion, has led to greater wisdom and better administration. There are certain stages in conflicts between individuals in which it becomes almost a question of the temperament of the judge how the decision goes. In many of, these matters it gets both by law and fact to such a refinement that it depends almost on the meal a man may have had, or his local condition, as to the manner in which he shall decide.

Mr. SYMON:
I suppose digestions are no better in England than here?

Sir JOHN DOWNER:
No. I expect human nature is no different here. have heard my hon. friend say so. What we want in law, above all things, is finality.

Mr. FRASER:
We want justice.

Sir JOHN DOWNER:
Of course we want justice. But when the question of what is just comes
to the question of what a judge has had for breakfast, or reaches such a state of refinement that it becomes a mere matter of temperament of the individual, do not let finality be destroyed for the purpose of indulging in that new experiment of uncertainty. For my part I think it follows as a corollary of what we are doing that we ought to give our courts final jurisdiction in the ordinary cases in which appeals are now prosecuted. When we come to matters between States or between Commonwealth and State, or matters of Imperial concern, then it would be wise, and the Imperial Parliament will insist on it, not to interfere with appeal to them, and that is what this clause preserves. As far as ordinary private litigation goes, the decisions of the Court of Australia are final, as they should be, but when we come to matters in which the public interests of the Commonwealth or of any State, or of any other part of Her Majesty's dominions are concerned, then there is a power to grant leave. I say that so far from sacrificing any right what we are doing is only a corollary of what we have done, and that to assume we have not the competency of appointing our own tribunals to finally decide these matters is to assume what is not correct.

Mr. Reid:

I do not underrate the gravity of this matter. It is really one of the most important matters we have to consider, and I also attach very great weight to the views which have been expressed in favor of preserving the right of appeal to the Privy Council. But it occurs to me that we really in this matter only have the choice between a Federal Court of Appeal without an appeal to the Privy Council, or no Federal Court of Appeal at all. That is the position we are in. I have every sympathy with the desire for scientific law, which great banking institutions can afford to try to get, and which desire they manifest on special occasions. I have every sympathy with them, and so far as I am concerned I would always be willing to help them on in their desire for scientific justice; but if you had a court above the Privy Council find another tribunal upon that again, you might be as far from the attainment of scientific justice as ever. We have to look at this matter in the interests of the mass of persons who are engaged in litigation. Looking at this mass of persons and their interests, I believe that the Federal Supreme Court of Australia would be a decided boon to those persons. To get a settlement of disputed points is sometimes a supreme question. As for bringing about any state of things in which the litigant will be satisfied after he is defeated, I despair of any such result. You may go to the Privy Council, and if you are successful, then it is the most august and just tribunal in the world. If
you are not successful, you think it is the very opposite of that. I give up any search for scientific justice. It is only the great, wealthy corporations who can afford to look after that sort of thing. What we have to consider is this: will the Federal Supreme Court give as much justice as any other tribunal of a similar kind? I think it will, and I believe its decisions will create uniformity within the Commonwealth. I think we all value our present privileges very much. I have, as I say, the greatest respect for the Privy Council. I would have still greater respect for some tribunal higher, than that, and so on, and so on, but we have to consider the average litigants. They want justice, but cannot get justice; they, want decisions as near their own homes as possible. The Privy Council is, so far as the mass of people is concerned, beyond their reach. They can never get there. The Federal High Court of Australia will be much more accessible to them. I believe in bringing an important superior tribunal as near the people of Australia as we can. The federal tribunal will, I know, be for a great many people too far away also, but, looking at the choice between the Privy Council and the Federal Court of Appeal, in the interests of the great masses of those who are unfortunate enough to become plaintiffs and defendants, I say again it is the choice between a Federal Court of Appeal or no Court of Appeal at all, as far as the bulk of the people are concerned. I admit that we will require a Federal Court for other purposes. But I think this Convention will agree with me that we must decide this matter on the simple issue: Are we going to bring the final settlement of litigation nearer home to the Australian people? If so we must make the decisions of the Federal Court final; but if, on the other hand, we think that the loss of the advantage of Privy Council decisions would be so great that it overbalances the advantage of bringing the final decision nearer home, then let us bid good-bye to the Federal Court of Appeal. We have to make our choice, either to leave things as they are and allow the people of several colonies to appeal from the local Supreme Courts to the Privy Council, or to make this Federal Court the tribunal of Australia. On the whole, while admitting that the arguments on the other side are very weighty, I am prepared to take the step of creating, this local final tribunal. It will have the advantage of the decisions of the Privy Council and the House of Lords just the same.

An HON. MEMBER:

It will not be bound by them.

Mr. REID:

They will not be bound to follow them, but the decisions of such bodies will carry the greatest weight in the Federal Court even though there be no
appeal from the Federal Court, just as the
decisions in America do in the House of Lords or the Privy Council. I
believe that in the end, flowing from the establishment of this Federal
Court, the tone and precision of the laws of the empire may be improved,
instead of the opposite result coming upon us. It is admitted that American
jurisprudence has thrown lights on the British law of a most valuable kind.
So in the administration of justice in Australia it may well be that in the
course of years the fact that we have a final tribunal here, instead of
creating confusion, will tend to improve the state of law. But the main
point is, "Are we going to make the choice?" It would simply be mocking
litigants to create a new and expensive obstacle in their way without
removing any of the existing obstacles. These are sufficiently numerous
already. On the whole, I prefer to take the clause as it stands.

Mr. CARRUTHERS:

The hon. member who has just resumed his seat appeals to the vote of the
Committee, chiefly on the ground of saving expense to litigants. Well, if
this proposal is carried the litigants will not be dragged to London, but they
will be dragged with their case possibly to one of the inland towns in one
of the States. Counsel, too, will have to travel a considerable distance, and
they will not go for nominal fees; so that when you come to the question of
fees to be paid to them, I will undertake to say that they will be much
higher than you would have to pay counsel in London. You will have to
pay them for travelling perhaps to Ballarat or Goulburn. With the multitude
of men of great ability who are offering their services to litigants in
London you can fix your price at a reasonable figure.

Mr. REID:

You would prefer to have both courts?

Mr. CARRUTHERS:

No; I do not believe in giving this right of appeal to the Privy Council
unless both parties consent. Do not make these obstacles for litigants to
surmount. My hon. friend here has never been in the unfortunate position
of having had to take a case to the Privy Council, and he is never engaged
in a case except where it pays him well. Sir George Dibbs at the 1891
Convention expressed the opinion that he would find it much cheaper to go
to the Privy Court than to a local court. The law is just as cheap in England
as in Australia. We have so few men at the bar to take great cases in hand
that they almost put whatever fee they like upon their services, and those
fees are often enormous. If you go to an English bar you have the choice of
2,000 men of great ability, and the experience is that the Privy Council
cases are not expensive. The reverse is the case, as the great bulk of the
expense is incurred in the trial of the cases here-in Australia-and this plea about expenses being saved to litigants is one that will not bear examination, or if it be examined it will be found to be as I have indicated. With all due respect, I say that this is one of the steps towards separation from the mother-country. We have too few links left now binding us to the Crown. I am in favor of maintaining connection with the mother-country, for I do not want to see the links whittled away and destroyed one by one, unless there is a distinct mandate from the people of Australia to do so. Edmund Burke says Change is a word of ill omen to happy ears. Has there been any agitation for this? Has there been any complaint as to the administration of law by the Privy Council? Why force this change upon the people, then? Why should we take away from the people a civil right which has nothing to do with Federation? We are here for the purpose of federating the Australian States, and to increase the rights and liberties of our people, not to deprive them of their privileges. You are by this action taking away from the people of Australasia that which they may hold dear, and even if only a large minority hold it dear, you have no right to deprive them of it, and risk Federation in making experiment of this character. If it is necessary to take away this right, then leave it to you Federal Parliament to do it. Do not attempt a thing which will imperil Federation. I know of circumstances which I am not at liberty to repeat here, but which make me hold strong views on this question. It is a matter of public notoriety that our own Chief Justice is against this being done, and after this and the testimony which has been added by Sir Edward Braddon we must pause before we deprive men of their civil liberty. This, I repeat, is one of the first steps towards separation from the mother-country, and this change is utterly uncalled for. My hon. friend Sir John Downer said it was a necessary corollary of our right to make our laws that we should be capable of interpreting them. The laws are made by the Parliament, of which the Queen is a component part. The laws are as much made by the Queen as by the people here, and you are going to cut out from the judiciary that which is an essential part of the legislation. The laws are not made by the two Chambers, but, in the words of the Act, by the Queen,

By and with the advice of the two Houses of Parliament.

We do not yet take the right to make our laws.

Mr. TRENWITH:

We take the right to make them in this way, if the Constitution is passed.

Mr. CARRUTHERS:

We are not competent, in the sense urged against this Federal Court of
Appeal, to make our laws, because we recognise the necessity, of approaching Her Majesty. The hon. member speaks of this as one of the essentials to our becoming a nation, but we are not becoming a nation.

**Mr. SYMON:**
What are we becoming, then?

**Mr. CARRUTHERS:**
We are becoming a dependency; we are a dependency; we, are not an independent nation.

**Mr. TRENWITH:**
A nation within a nation.

**Mr. FRASER:**
Part of a nation.

**Mr. CARRUTHERS:**
These interruptions sometimes help a speaker, but they do not help me. I hope it will not hurt hon. members if I do not reply to them. There have been strong arguments urged in the letter which was read by Sir Joseph Abbott, and they are arguments which cannot be lightly put aside. An additional argument, which would never be used by a judge, and which I dare to use, with all respect, is that with men selected in small communities where every man is known to the other, and where influences not felt in great communities are strong and make themselves manifest, even the most strong-willed and right-minded men are unconsciously biased. That bias is undoubtedly felt by judges in small communities, and would not be felt by judges in the court of any great empire. Knowing that the bias must exist, it is well to provide that the court should be as pure as the stream from the fountain by administering justice from that fountain-head where these influences are absent. I can give an instance which imputes no dishonor to anyone. I remember Mr. McMillan moving our House in New South Wales to take into consideration the case of the pastoral lessees of the Crown who were being rack-rented. The decision of the Supreme Court was given in the case of Allison v. Burns that the Minister of Lands had the power to put his pen to paper and fix the rent of pastoral leases. It was held that the Legislature intended that to be so, but an appeal was taken to the Privy Council, and the decision was given that the Minister of Lands had not this power. The power of determining given to his hands was merely that of fixing it after it had been determined by another authority and recommendations on the subject had been made to him. That decision on the question put every lawyer of the colony on his feet, and they said it was against

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the intention of Parliament. Parliament was then appealed to, and it
declared that the Privy Council had properly announced its intention. There we had an instance of a body, not surrounded by local influences, and not breathing the air of local circumstances, which led up to the fact, and which was not influenced by evidence given in the court here, nor by the surroundings and circumstances which local men cannot possibly put on one side, giving an independent decision. As a result of that decision the pastoral lessees effected a saving of £200,000 or £300,000 per annum. Would that body of men in New South Wales, recollecting their experience, and recollecting that justice had been given by the Privy Council, and that it was denied them by the local courts, be prepared to hand over their civil rights to this Federal Court of Appeal? I will take another ease in which at the time most men thought the local court was right. I refer to the case of Taylor v. Barton, in which the privilege of Parliament was concerned. The decision of the local court was, however, overruled by the Privy Council, but at the first blush nine men out of ten thought the decision of the local court was right. What has been the result? Is there a man now who questions the decision of the Privy Council?

Mr. BARTON:
Will my hon. friend pardon me. He is utterly wrong, because the decision of the Privy Council was the same as that of the Supreme Court, which shows that the Supreme Court was sufficient.

Mr. CARRUTHERS:
I may have been wrong in this ease. It was one which occurred to my mind while speaking. The English Court has opportunities of arriving at knowledge on legal matters which the courts here have not. Its lawyers have better opportunities and better experience, and, more than that, there is a greater selection of men to fill the positions than we will ever have here. I hope, therefore, that there will not be this unnecessary interference with the privileges of the people. We have declared to them that Federation will not curtail the civil rights of the people, but will enlarge them; but here is a curtailment of a right which every Englishman holds dear-the right that justice shall flow free from the fountain head. We are going to demand more than was conceded to Canada, more than has ever been demanded from the British Government, as we are demanding that the Queen shall give up her right to administer justice, through her best men, to the people who are her subjects. In a matter of this kind, do not let us jeopardise the cause of Federation by introducing this foreign element. For whose benefit is it? It is not for the benefit of the litigants, because it will be quite as costly, and the delays are as great now in the Local Courts as they are before the Privy Council. I can give cases where the Department of Lands has been waiting for two years for decisions from our Local Courts. We do
not have to wait longer for a decision from the Privy Council. For the sake of uniformity of decision, and of that confidence which the people have in the Privy Council, do not let us make this change. Another thing the hon. member pointed out was that human nature affects men. We know that our judges, as well as any other men, are better for having a corrective influence behind them. There is no man so good, but he is better for knowing that there is a corrective influence behind him, and our courts would be all the better for having a power behind them, which could correct their judgments, if they are against the law. Do not let us remove this corrective influence, and take away the rights of the people. If the matter has to come, let it come in its own time, when public opinion has shaped itself. Let us remember that there is a large body of men who will vote against Federation, if only because the Constitution contains this innovation. Do not let us jeopardise the cause of Federation by imposing this distasteful provision.

Mr. SYMON:
The hon. member, as he very often does, has adopted that uncompromising tone which carries him beyond the necessities of his argument. He reminds one-in fact he is an Australian reproduction-of that celebrated English politician known as "Tear'em." When he attempts, in that emphatic manner of his, to prove that the effect of the clause will be to take away rights which British subjects possess all over the empire, he is imposing a little too much on our credulity. This clause does not take away what is known as the inalienable right of a British subject in one single particle. The inalienable right of a British subject is to approach Her Majesty as a suppliant. That is left entirely untouched by this Constitution. It is the right of every British subject, the humblest in the realm, whether in this portion of the Empire or any other, to go to the Throne for the redress of grievances, but Her Majesty has constituted in various parts of the Empire, courts for the redress of grievances, and each of these courts is as much the court of Her Majesty the Queen, whether it exists in this country or in England, as the Judicial Committee of the Privy Council. Now, if the Imperial Parliament had chosen, as they might have done, to declare some court in these colonies to be the final court of appeal, no one could have said for one instant that that was not giving the subject the right of final appeal to which he was entitled; and all we propose to do here is to declare that, instead of having a court of appeal in England to which the suitor can go, we have a final court of appeal here which should absolutely and finally decide the question.
Sir EDWARD BRADDON:
   Is that not begging the question?
Mr. SYMON:
   No. What particular virtue is there in the Privy Council that is not shared
   by the courts in Australia?
   Sir JOSEPH ABBOTT: More able men!
Mr. SYMON:
   More able men, says Sir Joseph Abbott.
Mr. FRASER:
   More experience!
Mr. SYMON:
   Mr. Fraser says more experience.
Mr. FRASER:
   Less liable to influence!
Mr. SYMON:
   Less liable to influence! I will relate a story told by Lord Westbury to
   illustrate the point. Lord Westbury met the late Sir William Erle, a
   distinguished Chief Justice of the Court of Common Pleas, and he said,
   "How is it you never come and sit with us in the Privy Council?" "Well,"
   was the reply, "I am old and deaf and stupid." "Oh!" said Westbury, "that's
   nothing. Chelmsford and I are very old, Napier is very deaf, and Colville is
   very stupid, but we make a very good Court of Appeal nevertheless."
   Except that I am supported by so distinguished an authority as Lord
   Westbury, I would not venture to insinuate any opinion of that kind against
   a court esteem in its proper place, and when it is right, for it has been
   admitted that it is sometimes wrong. But when we hear these extravagant
   eulogies passed upon the Privy Council in comparison with this High Court
   of Australia, which we intend to make strong and able and respected, I
   think it is doing a great injustice, and perpetrating a gross calumny on both
   the bench and bar of this country, and that in spite of the letter which an
   hon. member was good enough to show me, and which has been read by
   Sir Edward Braddon. I want to refer to the letter from Mr. Justice
   Richmond, read by Sir Joseph Abbott to-day, and which was read to the
   Convention of 1891.

An HON. MEMBER:
   It was not read, it was printed.
Mr. FRASER:
   Had it been read the majority would have been the other way.
Mr. SYMON:
   It would have had exactly the opposite effect.
Mr. KINGSTON:

There was a reply by Mr. Inglis Clarke.

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Mr. SYMON:

I am told that there was a reply to that letter-by Mr. Inglis Clarke, and it was printed. In that connection I wish to deprecate an observation which, I am sure, was good-naturedly used by my hon. friend Sir Joseph Abbott when he was rather scornfully alluding to Mr. Inglis Clarke's reply by saying that Mr. Justice Richmond had been longer on the bench than Mr. Inglis Clarke had been at the bar. I have certainly not had a very long acquaintance with Mr. Inglis Clarke, but I have had enough to know that there is no man in Australia on the bench or off who has made a more profound study of jurisprudence, or who is more capable of expressing an opinion on such matters as these now before us than that gentleman.

Mr. BARTON:

Especially when they relate to a Federal Constitution.

Mr. SYMON:

And as my hon. friend Mr. Barton observes, especially when they relate to a Federal Constitution. But I would commend this point to my hon. friend Sir Joseph Abbott, that although Mr. Justice Richmond-who, I believe, is dead now-was undoubtedly an eminent and distinguished judge, that letter which has been read is the letter of an advocate written by a judge; it is not a judicial letter, but a letter from the point of view, too, of a judge, and not of an advocate in actual practice and knowledge of his profession, because if hon. members attentively consider some of the passages of that letter they will, as I do, feel a sense of regret that so distinguished a judge should have indulged in such extraordinary and in some parts, for a letter, heated language. In the last paragraph-he does not say so in direct terms-but he implies or suggests that, looking at the present importance of the colonies and the learning of colonial lawyers, none of them are fit to sit on the Privy Council or adjudicate upon colonial questions.

Mr. DEAKIN:

What about the Chief Justice of South Australia then?

Mr. SYMON:

Yes: there is the test of the value of his letter. At this particular moment Australia has joined in sending one of her judges to take a seat on the Privy Council, in order, if you please -because it really amounts to that-to instruct the Privy Council on matters of Australian moment and assist in determining Australian questions. Surely that is the best illustration.

Mr. FRASER:
And yet we want to cut off the connection.

Mr. SYMON:

We want to keep our judges here. We do not want to send our judges to the Privy Council in order to strengthen that body and the administration of justice on colonial matters.

Sir JOSEPH ABBOTT:

You worked very hard to get it done, though. (Laughter.)

Mr. SYMON:

I did not; still I do not know but that perhaps the hon. member is not to some extent right in saying that. I think the interests of Federation were against it. But if we did ask for the appointment he refers to, surely that affords

Sir JOSEPH ABBOTT:

When you get the Chief Justice there you destroy his localism.

Mr. SYMON:

My hon. friend must see that if we in Australia consider it necessary or desirable that that tribunal which he lauds so much should be the court for dealing with colonial appeals by the presence on its bench of a colonial judge, the logical conclusion is—and this I put to my hon. friend Mr. Carruthers, who tries to be logical, with occasionally a fair amount of success—

Mr. CARRUTHERS:

We hold mutual opinions in that respect.

Mr. SYMON:

I say the result is that instead of trying to bolster up—and I use that word with all respect, for I should be

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sorry indeed that any disparaging words should escape my lips—instead of trying to build up the Privy Council in dealing with Australian appeals by sending home one or more of our judges, we had very much better keep our judges here to constitute a strong Court of Appeal in our midst. Then Sir Joseph Abbott talked about uniformity of the law. Well, really those of us who are in practice are well aware that the decisions of the Privy Council would exercise practically, if not absolutely, as much influence if cited before the High Court of Australia, if it were the final Court of Appeal, as they do now. The phrase that "the court is not bound by" is a mere façon de parler. It is a phrase we are in the habit of using. As Mr. Higgins said, great attention and weight are attributed to United States decisions, not only from the highest court of the land, but from the Supreme Courts of the States, and they are cited before English tribunals, though they are not bound by those decisions. The law administered here
would be the common law of England, as it is now, without divergence and without qualification, except as it is varied by Statute law. I have yet to learn, as Mr. Reid put it very clearly and very moderately, that the laws administered by our High Court of Australia would not have at least some weight in England. We have given statutes to England. We have had our statutes placed on the statute book of other colonies, and England has followed suit in some respects. I feel no reason to apprehend that the law which has been weighty in other courts of the realm would not be as weighty within the bounds of the Commonwealth we are attempting to create. My hon. friend said the establishment of the High Court of Australia and the discontinuance of appeals to the Privy Council would degrade our State Supreme Court. Surely he cannot have weighed that. How can it have such an effect? How can it be said that there would be one single element of degradation? He speaks of our financial interests, and we hear of the great bogie of the rights of property. I have as great a desire to maintain the rights of property as he has. I do not believe in the sacred rights of contract being wantonly interfered with. I do not believe in sacred rights of property being assailed unnecessarily, but it would lessen the power of the purse if we pass this; and if we do that, even, to a small extent, it will redound to our credit and bring upon us the commendation of those who have sent us here. Then Mr. Carruthers talked about local influences. We propose to have this federal judiciary exercising its functions in the federal territory. Does anyone mean to tell me—because this is really a suggestion of possible corruption—that the High Court would be more liable to local influences than the judges of our Supreme Courts, whose decisions are treated with respect? Would they not be less liable to be so influenced? And if they would be less liable to be so influenced, why should we not go to them for the final arbitrament of our cases? Is it necessary to go 12,000 miles away to get rid of these local influences? Is it necessary that one litigant should drag another to the other end of the earth in order to escape the possibility in some rare case—none has ever been suggested yet—in which local influences might be exerted? But then it all comes back to the real issue as put by Mr. Reid: either we are to abolish the High Court altogether or to do away with the appeal to the Privy Council. We have this morning with great care been constituting a High Court of Judiciary for the Federation; we have been establishing it with a minimum number of four judges and a Chief-Justice; we have been surrounding it with safe, guards to secure its independence, to secure its integrity, and to secure its freedom, from legislative domination. Then if we are going to keep the Privy Council for all appeals we want no such court; it is a useless expenditure of public money, because the State Courts will give their
decisions, the subordinate Federal Courts will give their decisions, and if you are going to have an appeal to the Privy Council you want no Federal High Court at all. If you strike out this clause upon which we are now engaged, then I for one am prepared to go for certainly a modification if not the absolute repeal of the provision with regard to establishing the High Court. It is an unnecessary expense, whose only justification is that we want this High Court of Judiciary in our midst with a view to deciding questions which may arise. If we are going to entrust it with the determination of all these momentous questions of constitutional law, if it, is competent to decide them, surely it is competent to decide the thousand and one comparatively small matters of litigation in relation to the ordinary affairs of life? That is what is sought to be taken away from its appellate jurisdiction. I think we should be simply inserting in this Constitution a court that would be an absolute mockery if we withdrew this power of final appeal from it. The object of the court is to decide high matters of constitutional right-constitutional interest—and we superadd to that all the other powers of appeal in order to save expense; in order that all shall be on an equal footing, and have equal opportunity of going to the nearest court in order to have their cases determined. Then again what is the High court to do if we take away this power of appeal? What are to be its duties? How long is it to sit? What power is it to have? If you take away this power you give it practically nothing. The Convention has assented to the clause which establishes this High Court, and then in the next clause it is sought to take away from it its work. I would like some hon. member to say what this High Court of Australia will have to do. Mr. Carruthers is uncompromisingly inconsistent. He says, take it away. If the Convention, in its wisdom, had declared there should be no High Court, it would have avoided the necessity of a struggle to maintain appeal to the Privy Council, which would then have been the only means of redress, although a very inconvenient one; but to carry the clause and still retain this iniquitous and burdensome power of appeal is to be utterly consistent as well as extravagant.

**Sir EDWARD BRADDON:**

Iniquitous?

**Mr. SYMON:**

Yes; absolutely iniquitous in its working in respect to poor litigants in this country. I have had some experience of its working. I do not put it upon the point as to the measure of fees here or there, but I say that no litigant can possibly instruct his advisers in England with the same efficiency or to the same degree as he can when he is on the spot. He has
got to trust to correspondence, and he has communications made by other people who are there. He has not any direct communication with these, and the whole thing is in the hands of your wealthy litigants and wealthy corporations, who are able, holding this engine of appeal over the heads-I will not mention specific cases- of some less favored men, to compel a settlement or compromise that, the principles of justice would never have tolerated. Now, I want to say a word about that so-called link. I have no wish to sever any link, and I have

Mr. FRASER:
A so-called link?

Mr. SYMON:
Yes; the Privy Council is no link connecting us with the mother-country. This Council might conduct its proceedings in Central Africa or wherever else it might be located. The Privy Council is constituted under an Imperial Act, and there is no special virtue in it. It is no link between us and the mother-country any more than any other court. Why should not this appeal be given by the Imperial Parliament, to the Queen's Bench, the Court of Appeal in England, or the House of Lords? The appointment of the Governor is a link, and if we were to interfere with the appointment of the Governor by the sovereign, we should be

on the brink, of republicanism. Here we are merely establishing one court, a Federal High Court for the necessities of Australia. All we say is, having gone to the expense of constituting this court, secured its independence, secured men of ability and probity to give its decisions, we prefer that Her Majesty -not that we-shall name that as a final Court of Appeal for Australia instead of the Privy Council.

Sir JOSEPH ABBOTT:
Do you think the Queen will ever assent to this?

Mr. SYMON:
I say emphatically yes. I think she will. I have no hesitation in believing that Her Majesty's assent will be assured if the people of Australia request this by their Constitution. Do I understand that Sir Joseph Abbott says that he will take care she does not?

Sir JOSEPH ABBOTT:
Yes.

Mr. SYMON:
Then, I submit I feel a little embarrassed on this question. I can see my hon. friend going as a sort of corporation sole-a sole ambassador-in order to implore Her Majesty not to assent to this. I do not think he would meet with the success which in other and worthier causes he would deserve.
does not seem to me that we ought to consider this for a moment. If we think that it is for the happiness, the comfort, or better government of the people of Australia, we ought to insert it and take the risk, and I for one do not feel inclined to allow my courage to ooze out because of that delicately-put threat of my friend Sir Joseph Abbott. I am, reminded that in substance, although not in phraseology, this language is used in the Canadian Act. Matters of local interest are not referable to the Privy Council. In closing the remarks I have made I would only like to resent the imputation that it would be impossible to get men competent to sit upon this bench in Australia. All I can say is that if with a population of between three and four millions you are not able to establish a court of this character, which only requires five men to make up its full complement, then I say that we are here on an errand in establishing this Constitution that may, and indeed ought to be, fruitless. We ought to be a self-contained nation in this as in everything else-a self-contained nation not in the technical sense to which my hon. friend Mr. Carruthers referred, but in the large sense in which we have all used that expression. We should be a nation to all intents and purposes under the Crown, and we ought to be self-contained as far as it is possible to be so, and one of the elements of being in that position is that we should have a High Court capable of deciding all our litigation and all our disputes. The suggestion about not being able to secure competent men is the same antiquated argument that was trotted out when these colonies got representative government. It was said: "Oh, you will not be able to find trained and competent men to conduct your public business." But we have found them; and an argument of that sort is answered by the presence here to-day of my hon. friend Sir Joseph Abbott and my bon. friend Mr. Carruthers.

Sir JOSEPH ABBOTT:
Which is the worst, a weak bench or a weak bar, and where would the bar of South Australia be if you were taken away?

Mr. SYMON:
My own view is that in New South Wales you could constitute this bench twice over.

Mr. CARRUTHERS:
A very weak bar would be left.

Mr. SYMON:
I hope my hon. friend will not reflect on the capacity of his own colony's bar or bench. Equally in Victoria you could constitute such a bench.

Sir JOSEPH ABBOTT:
You would leave no bar.

Mr. SYMON:
Whether that is so or not it is the same old argument that Australia cannot produce the same class of men as they can elsewhere. It was said so in regard even to our cricketers, but we have shown pretty conclusively what we can do in that line of life. The same thing was said of our oarsmen, and has been said over and over again in regard to other matters. Really, it is time that that argument was treated like the Trojan horse-turned out to grass.

Sir JOSEPH ABBOTT:
The Trojan horse was not turned out. He was taken in.

Mr. SYMON:
He took others in. However, the v

HON. MEMBERS:
Question, question.

Mr. HIGGINS:
Sir-

Sir WILLIAM ZEAL:
We have had quite enough of this—quite enough of it.

Sir JOSEPH ABBOTT:
You move:
That the Committee do now divide.

Mr. HIGGINS:
Notwithstanding the rather ungracious way in which my hon. friend Sir William Zeal has seen fit to treat me, I intend to have my say.

Mr. DOBSON:
If the hon. member wants to go home he can.

Sir WILLIAM ZEAL:
I shall go home, and I shall not ask you.

Several HON. MEMBERS:
Divide, divide.

Mr. HIGGINS:
My remarks will be shorter because of the speech delivered by Mr. Symon -

Sir WILLIAM ZEAL:
We have heard the same argument a dozen times.

Mr. HIGGINS:
I wish to appeal to the Chairman to allow me to proceed. I think I am entitled to speak.
The CHAIRMAN:
    The hon. member is entitled to address the Committee.

Mr. HIGGINS:
    I can assure Sir William Zeal that the debate will be made shorter if he will refrain from interrupting. Feel a misapprehension has grown up that we are trying to do something new. The object of this clause is simply to stereotype in the Act what has already existed in Canada, where there is a general right of appeal reserved to Her Majesty in Council on a decision of the Privy Council, but that right of appeal is not allowed unless the cases are of public interest. Therefore the effect of clause 73 is simply to put in plain English what is the law now in Canada.

Mr. BARTON:
    That is the whole purpose and object of the clause. My hon. friend has saved me the trouble of explaining it.

Mr. HIGGINS:
    As Sir John Downer put it in 1891 at the Sydney Convention, we were merely putting that in plain language, so that it could be easily interpreted. There are certain phrases becoming current about this subject which are scarcely applicable to the position. It is said that we are cutting one of the links which binds Australia to England. I rather like the expression "link," but if you consider it one of the irritating links—one of the fetters round the feet of the people in Australia—then, of course, it is by no means conducive to amity between the old country and ourselves. If there is an appeal to the Privy Council when one of the parties to the action is beaten he does not like that body. As a rule, both parties dislike the Council because of the expense. How, then, is it to be regarded as conducive to harmony between England and Australia I do not know. How many are affected by this appeal to the Privy Council? I undertake to say there is not one man in a hundred thousand who has an appeal to go to the Privy Council; and I am sorry to think—that Sir William Zeal, and others who agree with him, think this appeal to the Privy Council is one of the means by which the Empire is held together.

Sir WILLIAM ZEAL:
    I have not expressed an opinion on it. You have talked me out.

Mr. HIGGINS:
    We have a stronger link with the old country than this—a silken tie in the direction of language, history, and sentiment—than in this miserable right of appeal to the Privy Council. It has been put as if we should be severing ourselves from the great stream of British law if we take away this right of appeal. The Privy Council is not an English Court; it is like a back water of
the English law, and the English Courts refuse to be bound by its decisions.

Mr. BARTON:
It is practically a board.

Mr. HIGGINS:
Yes; and the judges of England sitting in the High Courts of Justice have refused to be bound by its decisions. It must not be thought that by this proposal we are cutting ourselves off from the stream of British law. Is it true that these colonies can get better law and justice from the Privy Council than from their own Supreme Courts? I remember the case of a poor woman in Victoria who suffered considerable injuries in consequence of the negligence of railway employes. She brought an action against the Government under it, and got substantial damages. The Victorian Government took the case home to the Privy Council and won it, with the result that the poor woman was ruined. Then a year or two afterwards that decision of the Council was commented upon in terms of the greatest severity by English Courts, which refused to be bound by it. The Victorian Court was right and the Privy Council wrong in the judgment of the best experts.

Mr. ISAACS:
The Victorian Government could get an appeal to the Privy Council under this clause.

Mr. HIGGINS:
If I have not been wrongly informed, I think there was great confusion introduced into the New South Wales land laws in connection with a decision of the Privy Council about fifteen years ago. I understand that a whole series of the New South Wales Acts were upset by a remarkable decision of the Council, and that about ten years afterwards the same point came up again and, without expressly overruling their former decision, the Privy Council so distinguished the decisions that it practically amounted to an overruling of the previous decision.

Mr. DOUGLAS:
Does not that occur in connection with all legal decisions?

Mr. HIGGINS:
That is a very vague question. There have been cases in which the ordinary courts of England have said they would not follow the Privy Council decision. I do not wish to speak disrespectfully of the work of the Privy Council, who have done so much work for the Empire, but when we say we are losing a valuable link with the Empire I say it is wrong. The Privy Council, up to a recent date, consisted principally of retired Indian judges, men who had no knowledge of the history and conditions of the colonies, but I admit there has been an improvement during late years. I
feel there is no answer to Sir John Downer's contention. If you give to the Parliament of Australasia power to make laws to affect the lives and property of men, there is no possible reason why you should not give to the Federal Executive and Judiciary power to administer those laws. I feel that efficiency of the Court and dignity will come with responsibility. I say there is nothing that will make the Australasian Court so strong as the feeling that its decisions are to be final and are to guide the other courts. I think too much has been made of the point that there will be a cheapening of litigation. But the English counsel has to make himself very often familiar with a long course of colonial legislation and decisions in order to work up his case, and it stands to reason that he must charge more fees than a colonial counsel. I regard it also as very likely that wherever you place the federal capital you will find that lawyers will settle there, so that they will be available for conducting cases before the High Court. Another point raised is that British capital will be terrified from investment in Australia if we keep this High Court only. Does anyone say that British capital has been kept away from the United States because the States have not got an appeal to Great Britain? We know that British capital flows more readily there than to Australia, and you will find that the securities of the States—whether Government, railway, or corporation—stand upon as high a level at any security in the world, with the exception of English consols. As British capital flows to the States it will flow to Australia, so long as Australia keeps its settled condition and shows its wholesome dread of any violent changes. I have therefore to say, although we have come to a division on the subject, and the only question is that the clause shall stand without amendment, that I feel sure that no one who has seized the idea of the importance of a Federal Court—because I say Australia is a nation under the Queen, and long may it remain so—will refuse to that national court the dignity and efficiency which will result from giving to it final jurisdiction.

HON. MEMBERS:

Divide

Mr. DOBSON:

I have only risen to claim the votes of my hon. friend Mr. Symon and the Premier of New South Wales, and will keep the Committee but a few minutes. I claim their votes for three reasons. Mr. Symon has spent his wonderful eloquence in pointing out that eminent and able lawyers will preside over the Federal Supreme Court, but he absolutely gave his case away when he said that if you allow citizens the choice as to whether they
will appeal to the Privy Council or the Supreme Court there would be no need for a Federal Supreme Court.

Mr. SYMON:
Not the choice.

Mr. DOBSON:
We simply ask you not to take away a right which every British subject now possesses. It is all very well to refer to the petition of right, but that is never used once in a century.

Mr. SYMON:
It has been used here.

Mr. DOBSON:
It may be used once in fifty years, but we are talking about the practical right to appeal to the Privy Council from the decision of a colonial court. Both Mr. Symon and Mr. Reid have declared that there will be no need for the Federal Supreme Court, and that you might as well sweep it away altogether as give the people the right of appealing to either the Federal Courts or the Privy Council. In the words of Mr. Carruthers, we are here to enlarge the rights and privileges of the people and not to put a sentence in the Bill which will curtail a privilege which many of us hold very dear indeed. I do not believe that one case out of thirty will go to the Privy Council, but if in that one case and in other cases the parties agree to reserve a law point for the decision of the Privy Council why should they be debarred from that privilege? I have such an opinion as to the eminence of our colonial judges—and there are not as many of them amongst four millions as there are amongst forty millions of people—that I believe they will win the confidence of the people of Australia without our compelling all appeals to go to them, but, instead of strengthening them, by shutting out the right of appeal to the Privy Council you will weaken them. The judges of the High Court will have power to make rules for the conduct of appeals, and they will take very good care to keep down the fees if they have to compete with the Privy Council. I do not wish to make much of this point, but the fees at home are one-third less than they are here. I can show my bills going back for the last thirty years, and on the question of cheapness it is much better to go to England than go to an Australian Court of Appeal. Then you may have a German Subject from Samoa, or a Frenchman from New Caledonia losing a case here, and being advised by English lawyers that the very point of international law or maritime law involved in their action has been missed, but they would be debarred from going to the Privy Council. I believe our judges, in spite of the opinion of
Mr. Symon and Mr. Reid, will gain the confidence of the people and secure most, of the appeals even if we allow the privilege of appeal to the Privy Council to remain, and I hope it will not be taken away.

Question-That clause 73 stand part of the Bill-put. The Committee divided.
Ayes, 22; Noes, 12. Majority, 10.
AYES.
Barton, Mr. Howe, Mr.
Berry, Sir Graham Isaacs, Mr.
Clarke, Mr. Kingston, Mr.
Cockburn, Dr. Lewis, Mr.
Deakin, Mr. O'Connor, Mr
Downer, Sir John Peacock, Mr.
Fysh, Sir Philip Quick, Dr.
Glynn, Mr. Reid, Mr.
Gordon, Mr. Symon, Mr.
Higgins, Mr. Trenwith, Mr.
Holder, Mr. Wise, Mr.
NOES.
Abbott, Sir Joseph Fraser, Mr.
Braddon, Sir Edward Grant, Mr.
Brown, Mr. Henry, Mr.
Carruthers, Mr. Turner, Sir George
Dobson, Mr. Walker, Mr.
Douglas, Mr. Zeal, Sir William

Question so resolved in the affirmative.
Clause 74-Jurisdiction of courts-as read, agreed to.
Clause 75-Original jurisdiction of High Court-as read, agreed to.
Clause 76.-Nothing in this Constitution shall be construed to authorise any suit in law or equity against the Commonwealth, or any person sued on behalf of the Commonwealth, or against a Stat or any person sued on behalf of a State, by any individual person or corporation, except by the consent of the Commonwealth, or of the State, as the case may be.

Mr. GLYNN:
I propose to move an amendment in this clause.

Mr. BARTON. Perhaps the hon. member will allow me to say that I have been considering this particular clause. Although it is in the Commonwealth Bill of 1891, and went through the consideration which that measure went through, I am not at all certain that that clause should find a place in this Bill.

Sir JOHN DOWNER:
Hear, hear. Let us strike it out.

**Mr. BARTON:**

The Judiciary Committee decided to send this clause on, and therefore the Drafting Committee thought they had no alternative but to embody it here. If, however, it is, thought that the clause should be defended it would be well to defend it now, and if it is not to be supported, let us strike it out.

**Sir JOSEPH ABBOTT:**

Supposing you do, will the individual have the right to sue the State?

**Mr. BARTON:**

Why not? This Constitution binds the Crown.

**Mr. GLYNN:**

I made a hard fight in the Judiciary Committee to get this clause left out, but I did not succeed, and if it is to be struck out I will not press my amendment.

**Mr. WISE:**

I thought it should be in.

**Mr. GLYNN:**

The hon. members agree to it being left out now.

**Mr. WISE:**

I do not agree, but if the majority is willing that it should be left out I will not object.

**Mr. GLYNN:**

This deals with the right of the subject to sue the Commonwealth without the consent of the Commonwealth. We saw what occurred in the Transvaal recently, where a subject sued the State; and judgment, was given against the State, and an attempt was made by the Parliament afterwards to practically emasculate the power of the court. If they had the power to prevent it they would have stopped the action. At present there is the remedy of petition of right against the State, if there is a breach of contract, and what I would propose is, seeing that some of our colonies have disposed of the necessity of proceeding by petition of right against the State, that we ought to authorise the Federal Parliament to pass a similar law declaring that the subject shall have the right under certain circumstances without a petition of right. I would propose an amendment:

To insert at the beginning of the section "until Parliament otherwise provides."

**Sir JOHN DOWNER:**

Strike the whole clause out.

**Mr. ISAACS:**

I would like to hear the meaning of this clause.
Mr. GLYNN:
The meaning is that a subject has not the right to sue the Commonwealth or State without the consent of the Commonwealth or of the State.

Mr. ISAACS:
I should like to hear what the chairman of the Judiciary Committee thinks of the clause.

Sir JOHN DOWNER:
No one is in favor of it.

Mr. SYMON:
I think it should be struck out.
Clause struck out.

Clause 77.-The jurisdiction of the High Court, or of any other court exercising federal jurisdiction, may be exercised by such number of judges as the Parliament prescribes.

Mr. SYMON:
I move:
To insert after "Judges " the words "and in such places."

Mr. LEWIS:
Surely the Executive should fix the place.

Mr. BARTON:
Where would the High Court, or any other court which might be vested with federal jurisdiction, sit until an Act was passed by the Parliament?

Mr. ISAACS:
Hear, hear.

Mr. BARTON:
If the Parliament-like Some physicians-delayed prescribing for a little while, the community would be sick for want of the jurisdiction of the court.

Mr. SYMON:
I think they will all be appointed pretty well simultaneously, and there would not be any difficulty. It would be convenient to leave the amendment I propose.

Mr. BARTON:
Would this not be a difficulty? The Commonwealth would be in existence for six months before the Parliament can sit. If the amendment is carried subjects of the Commonwealth anxious to bring appeals, appeals which would be substituted for the appeal to the Privy Council, would not be able to unless there is some means for the Executive to determine where the court shall sit.

Mr. WISE:
The first act of Parliament must be to pass a Judiciary Act.
Mr. SYMON:  I do not see how the High Court, or any other Federal Court, could exercise its jurisdiction until there is a Judiciary Act.

Mr. O'CONNOR:  I would point out that we ought not to fix the place for circuit under an Act of Parliament.

Mr. ISAACS:  You might fix the times too.

Mr. O'CONNOR:  It might be necessary to alter the place. You cannot say where the judges will go to circuit because principally the Court of Appeal will sit where the centre of government is. The circuits, must be left to be provided by regulations; otherwise our hands may be tied in an inconvenient way.

Mr. SYMON:  This amendment was moved in deference to the wish of Sir Samuel Griffith. At the same time I admit there is great force in what my hon. friends have said, and it would be better to leave the words out and leave Parliament or the Executive to make arrangements. I ask leave to withdraw the amendment.

Leave given.

Clause as read passed.

Clause 78-The trial of all indictable offences cognisable by any court established under the authority of this Constitution shall be by jury, and every such trial shall be held in the State where the offence has been committed and when not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

Mr. HIGGINS:  I shall vote against this clause. Trial by jury is an expedient which the Federal Parliament may or may not insist on. For my own part I think all criminal cases should be tried by jury, but still I think we should not tie the bands of the Federal Parliament, especially as there appear to be arising new conditions under which the whole system of trial by jury may be reorganised, although it would be almost impossible to change the existing system if this clause stand. All I want is not to tie the hands of the Federal Parliament, but to leave this as a question of expediency for the Federal Parliament to determine.

Clause, as read, agreed to.

Mr. BARTON:  I have a statement to make to the Committee. The Treasurers who have
been deliberating about the finance and trade provisions of the Bill have been in communication, and I believe that they have practically arrived at some provisions to be submitted to the Convention.

Mr. KINGSTON:

Hear, hear.

Mr. BARTON:

We have not yet had these placed in our hands, and when they are so placed it will be necessary for a couple of draughtsmen to detach themselves for the purpose of bringing the resolutions of the sub-committee into the shape which the Bill will require, so that we cannot now, as intended, go on with the finance and trade clauses. I propose to move their postponement till after the chapter dealing with the States has been considered, and if they are not ready then, till after the chapter dealing with new States. In the meantime we can go on with the clauses dealing with the States. I move:

That clauses 87 to 96 be postponed until after the consideration of chapter v.

Question resolved in the affirmative.

Mr. SYMON:

I ask the attention of Mr. Barton to the words in the first line of section 74:

Within the limits of the judicial power of the High Court ought to be struck out. It is an error, and might cause confusion hereafter.

Mr. BARTON:

I shall remember that. They are unnecessary words.

CHAPTER V.-THE STATES.

Clause 97.-Continuance of powers of Parliaments of the States-agreed to.

Clause 98.-Validity of existing laws-agreed to.

Clause 99.-Inconsistency of laws-agreed to.

Clause 100.-Powers to be exercised by Governors of States-agreed to.

Clause 101.-Subject to the provisions of this Constitution, the constitutions of the several States of the Commonwealth shall continue as at the establishment of the Commonwealth, until altered by or under the authority of the Parliaments thereof in accordance with the provisions of their respective Constitutions.

Dr. COCKBURN:

I move:

To strike out the words "in accordance with the provisions of their respective constitutions."

I take it that it is an inalienable principle in a Federation that the States within the Federation should be at liberty to decide themselves as to what
form of Constitution they will live under. They should not require to go to any outside authority.

Sir JOHN DOWNER:

Only to their own Parliament.

Dr. COCKBURN:

They require under this clause to have the Royal assent to any alteration of their Constitution. The Parliaments of the States will have no longer the power to deal with questions outside the Commonwealth. They will be confined to matters within the States. They will have no power whatever to, legislate in reference to navigation, immigration, or any of those matters regarding which- formerly Bills passed by the Parliaments have had to be reserved for the Royal assent. Therefore, seeing that it is regarded by all authorities, as a characteristic of Federation, and as a means of increasing the powers of self-government of the people, that the Constitutions under which the peoples of the States choose to live may be changed by them at their own will, without reference to outside authority, I propose to strike out these words.

Mr. ISAACS:

They preserve the right you speak of.

Dr. COCKBURN:

No; the States will not have the right to amend their Constitutions without appealing to some authority outside. They do not have to do that in Canada, nor in America.

Mr. DEAKIN:

Do you want our States to take the place of Canadian provinces

Sir JOHN DOWNER:

They only communicate with the Queen through the Governor-General.

Dr. COCKBURN:

I have raised this point at every opportunity. I do not wish to take up the time of the Convention, but I certainly shall move-an amendment, because the clause is not in accordance with the general provisions of Federation. The States composing the Federation should have full power to deal with local affairs. Essentially, all external relations are taken out of their jurisdiction. I do think they ought to have the power themselves to say what the Constitution under which they live shall be.

Amendment negatived.

Mr. DEAKIN:

I would like to ask Sir John Downer, who, I see, is in charge of the Bill, whether this would be the proper place to move the re-insertion of the clause which requires all communications with the Queen to be made
through the Governor-General. It was in the 1891 Bill, but was omitted by
the Constitutional Committee.
Sir JOHN DOWNER:
We, have already decided, I think, that each colony can communicate
direct, as to its own affairs.
Mr. DEAKIN:
Not in this Committee; only in the Constitutional Committee.
Sir JOHN DOWNER:
I would suggest it could, be better done as a new clause.
Mr. DEAKIN:
This is the proper place for it.
Sir JOHN DOWNER:
I do not think so.

The CHAIRMAN:
The proposition had better be put in this clause, or otherwise we will
have to go through the Bill without it.
Mr. DEAKIN:
It will be a new clause sandwiched between these clauses; but, if desired,
we can defer it till the new clauses are considered.
Clause, as read, agreed to.
Clause 102-In each State of the Commonwealth there shall be a
Governor.
Dr. COCKBURN:
I wish to move:
That the following words be added to this clause! "The Parliament of a
State may make such provisions as it thinks fit as to the manner of
appointment of the Governor of the State, and for the tenure of his office,
and for his removal from office."
Mr. DEAKIN:
In the 1891 Bill it was dealt with in a separate clause.
Dr. COCKBURN:
If the lion. member wishes to move it as a separate clause I will give
place to him.
Mr. DEAKIN:
No.
Dr. COCKBURN:
This was a separate clause in 1891. It was excised by the Constitutional
Committee, but I think a mistake was made in excising it. It would be a
mistake to deprive the States of the power of making such provision for the
appointment of its Governor as it may-think proper. If this clause stands in
its present form the appointment of Governors of the States will practically lie in the hands of the Federal Executive. The Governor-General will make the appointments. The Federal Executive and the Governor-General will have such an influence with Downing-street that practically the nomination of State Governors will lie in the hands of the Federal Executive. I think that would be a most objectionable state of things. That is practically what occurs in Canada, and it is open to grave objections. The result there is that very often appointments are bestowed on persons who are unacceptable to the various provinces. A mistake has been made in excising the clause, and I hope this Committee will restore it. In any case I will press the matter to a division.

Mr. GRANT:

Before you put the question I would suggest:

To substitute "Lieutenant-Governor" for "Governor."

I propose this amendment so that we may have some information from the Constitutional Committee, which is now represented here by Sir John Downer, as to why the word "Governor" is used. It seems to me that the term might give rise to some confusion of names, and it might be better therefore, as is done in Canada, to use the words "Lieutenant-Governor." I was in Canada when the first lieutenant-governors were appointed from local men, and so far from dissatisfaction having been shown, the community was pleased with the choice. They were selected from leading men, some of them being politicians who were anxious to retire from political strife. It would, I think, be better on behalf of the Commonwealth that eminent local men should be appointed at a moderate salary, and as a reward for services rendered to the community. I would like to see my amendment carried, unless the Constitutional Committee can give us some reasons against it.

Sir JOHN DOWNER:

The reason the word was retained is practically mixed up with the amendment of Dr. Cockburn. We do not call them lieutenant-governors, because they are governors. We wish in this Constitution to preserve the entities of the States, except so far as they are surrendered, and we say that they are to have their governors.

Mr. ISAACS:

Do you really want clause 102 at all?

Sir JOHN DOWNER:

I should think it would be as well to leave it, because it will prevent misapprehension on the subject.

Mr. BARTON:
In order that we might not be supposed to resort to the Canadian practice of having Lieutenant-Governors.

Sir JOHN DOWNER:

I really do not know. It may be that under the Canadian Constitution the States have become so emasculated that there may not be so much trouble about anything; but I fancy that these colonies are not prepared to federate unless they understand that the States are to preserve their individuality to a very considerable extent. If they are to remain with all their Houses of Parliament and all their machinery of Government, I think the same arguments will apply with equal force here. It will be very bad to have at the head of the Commonwealth a man who is bound to be mixed up in the politics of the moment, with all the powers and prejudices that they will create. There are the same arguments against the Governor of a State being appointed as there is against the Governor-General.

Mr. WISE:

I hope the amendment will be carried. It has been insisted frequently through these debates that in order to recommend this Bill to the people it will be necessary to show that there will be some compensating economies for the anticipated extra expenditure. Nothing can be more wasteful, as I think nothing can be more absurd under our Constitution, than for each of the colonies to keep up a separate Government House. I aim not going to enter into a discussion as to whether a Government House is a desirable thing in any colony; but letting that pass, we must admit that however much any colony might desire to change its present system of the appointment of its Governor, under the existing Constitution Act that process would be difficult. We are now making a change so complete as if not altogether intended to destroy the efficiency of Governors appointed from England, at all events considerably to modify the nature of their work. It seems only fitting that in making this change we should put it into the power of any State by a simple method to provide a new mode for obtaining a Governor for its own immediate requirements. In the interests of economy I hope that this clause will lead to the cessation of the practice of appointing State Governors from England, and establish the practice of choosing Governors in the provinces. I quite recognise that the amendment, if carried, will not necessarily lead to that result, but will simply put it in the power of each State to say which is the method to be adopted by which the Governors shall be elected. I shall support the amendment.

Dr. QUICK:

I will support Dr. Cockburn's amendment. In the Constitutional
Committee I voted for the omission of these words, which appear in the Commonwealth Bill of 1891, but on reconsideration I think it would be desirable to restore the words to give the various States power to determine and fix the method by which they shall appoint or elect their Governors. I think that this will be an important concession to the States which they will duly appreciate.

Mr. DOUGLAS:
I oppose the amendment, for I think it very undesirable in the interests of the people at large to have Governors elected by the people instead of being appointed by the Queen. If the amendment is not carried I will move at the end of the clause in that direction.

Mr. BARTON:
If you leave the clause as it stands that aim will be secured.

Mr. DOUGLAS:
I should like to see Australia declared a nation to-morrow, but as this is not to be, and being under Imperial rule, we should not interfere with the arrangements which exist now. If the people of any State want to make all alteration in the Constitution, they can do it by petition to the English Parliament. We know very well that it is

Mr. BARTON:
I propose to stand by the clause in this respect The clause enacting that appointment of Governor was put in this way by Sir Samuel Griffith, who said:

One reason for the clause, however, occurs to me. It is desirable that the States should know that the heads of the States are to be called Governors, and not Lieutenant-Governors or administrators. There is a great deal of difference between them. Here we are now accustomed to the term "Governor," but in olden days that was not the case. In Tasmania the Governor was formerly called Lieutenant-Governor, while the Governor of New South Wales was called the Governor-General of Australia, all the other Governors being more or less subordinate to him. My hon. friend Mr. Kingston reminds me that the Governor in South Australia was formerly called Lieutenant-Governor. There is a considerable difference between the two things.

What was running in his mind in connection with the term "Lieutenant-Governor" was the implication that the Lieutenant-Governor is subject to some other Governor. This Constitution does not propose to make the Governor of the State subject to the Governor General. It gives the Commonwealth paramount authority in respect of his own civil authority, but leaves untouched his relation to the Governor-General. Sir Samuel Griffith went on to say:
It may be thought by some hon. members merely a matter of words, perhaps; but I have heard of a controversy going on of late when the question arose as to whether an admiral would take precedence of a Lieutenant-Governor when a Lieutenant-Governor is administering the government of a colony. That is a point that occurs to me now, and it may be of importance. We indicate by this clause that there are to be Governors of States, and I think that this is the proper term to indicate that the States are sovereign.

We wish to indicate that, and we cannot have a better way of indicating it than by having this short clause. I should like to urge some of the reasons that were urged by members at the 1891 Conference. Mr. Gillies said in the Constitutional Committee where we had a long discussion on the subject:

As a reason for the insertion of this clause it was contended that the people of any State or colony should have an opportunity to determine whether the Governor should, or should not, be elected. It was argued, on the other band, that there could be no objection to the insertion of this clause, because it did not lay down the provision that there should be an election, but merely gave power to the various States to determine whether a Governor should be elected or not. This clause does a little more than that. No doubt the concluding portion may be said to be a corollary of the first portion: The Parliament of a State may make such provisions as it thinks fit as to the manner of appointment of the Governor of the State, and for the tenure of his office, and for his removal from office. I say that if that be done in any colony it completely changes the relations hitherto existing between the colonies and the Crown.

Lower down Mr. Gillies says:

If the Crown once permitted any colony to adopt a provision such as is contained in this clause, that is, if any colony were to pass a law providing that the Governor should be elected by the people, and the Imperial Parliament were to assent to that law, and the Queen's assent were also given, what would happen? As was pointed out on several occasions in the Constitutional Committee, the position would be a most inadvisable one.

This is the reason given in the debate and it is a strong one:

The party which for the moment was predominant in the province would support the election of a Governor who belonged to their side. The Governor would at once become a strong partisan, or he would not be elected.

That is to say, so long as he remained in office he would be supporting the policy of one Ministry and thwarting the policy of the other side. He goes on-
In addition to that, the whole colony would be his constituency, and he would require to canvass it from one end to the other and solicit votes in the same way as they would be solicited by any gentleman seeking a seat in a legislative assembly. Now, for a gentleman proposing to take up the independent position of a Governor, to see that fair play is given to both parties in the State, that is an extraordinary proceeding. A gentleman sitting below me contended the other day that if a Premier asked a Governor to dissolve Parliament, the Governor was bound to dissolve it at that Minister's request. That would mean if course that if the Governor was a friend of the Ministers who had absolutely helped to put him there he would be under such obligations to them that he would naturally take sides with his Ministers, and would give them as many dissolutions as he decently could. That would be an unfortunate position for the Governor; nay, worse than that.

Then he said:

As I have already told the hon. member, Sir Henry Parkes, without disrespect to him, if I were a citizen of a community which proposed to elect its Governor, I would do all that I possibly could to prevent his election as Governor. That hon. gentleman occupies a public position in this country which would make him far too powerful for the place of Governor.

That is to say; the strongest politician in the State might claim election as Governor, and being returned and identified with a party in the State, his election would at once give that party a position of predominance which would enable it to exercise power in a manner quite apart from the manner in which a Governor should act in connection with contending parties. The hon. member continued to say:

It is a stage we are ask to reach, and which I object to reach. The hon. member, if he aspired to the position of Governor, would go through the length and breadth of the colony making some of those grand-toned orations which touch the hearts of the people, and I have no doubt that he would be elected almost unanimously. After he secured his seat in the saddle it would he the most difficult thing to dislodge him. I do not think that we should create such troubles unnecessarily.

Then he went on to give several illustrations. On the other hand, he supported the retention of the clause on the ground that if, as matters stand now, any State proceeds to make a change in the selection of its Governor, it cannot pass a law to that effect, and that any law giving it the power to make a change in the manner of the choice of the Governor, would have to be one passed by the Imperial Parliament. Consequently he urged that it would be better to allow a clause of this kind, which was struck out by the
Constitutional Committee, in this case, to be inserted in the Act, so that in the Australian Constitution Governors of the States might, if the people thought well, be elected by the States. Still the question remains whether the Australian Constitution is to contain such a provision. The object is to create a system of government under which, as to over all the powers they retain, the States will be supreme and sovereign in their own sphere, and over all the powers which are given to the Commonwealth, whether original or transferred, it shall have sovereign power within that range of powers. If we are to complicate the Constitution by putting in provisions not to conserve the interests of the States, which we are fully entitled to do, but fresh clauses which give fresh powers to the States, it is a position which does not arise in the making of a Federal Constitution, and it is foreign to its purpose. In any case the authorising of the election of the Governor by the States, would result in the evils, which are so well pointed out, in the election of partisans to positions which should only be held by impartial men, and, under the circumstances, I do not think we should pave the way for such a state of things, and it is not part of our business to deal with such a thing.

Mr. WISE:

I am afraid I have unfortunately led this discussion into altogether wrong lines, as the question of elective Governors has nothing whatever to do with this question. This is not a clause to provide that the Governors of the States shall be elected, and it was only, as I see now, an unfortunate reference to my own opinion, as to how it would operate if the States were allowed to do so, that has brought about this discussion. The question is whether by this Constitution we may perhaps destroy the necessity for Governors in the several States. However that may be, when by this Constitution you do most materially modify their position, you ought in having made that change, by the same Act give to the States, which are affected, the power to adapt themselves to the new circumstances. That is why it was put in the Constitution, and that is why Sir Samuel Griffith was right in insisting upon it, and not for the purpose of expressing an opinion as to whether the Governor should be elected or not, but to put it in the power of the colonies to adapt themselves to the new circumstances.

Mr. KINGSTON:

I agree with the remarks of Mr. Wise; and I hope the amendment will be inserted. It is a fact that whilst we have the quotations from the utterances of the gentleman who was foremost in his opposition to this clause in 1891, yet we cannot help also noticing the fact that that gentleman is nut here with us to-day.
Mr. HIGGINS:
Who is that?
Mr. KINGSTON:
I need not mention his name, except to say that he was a candidate who was not elected. It is also a noteworthy fact that this particular clause was affirmed by a majority of the Convention in 1891, and that Sir Samuel Griffith, who has been largely quoted in this and other matters, was in favor of the amendment now suggested, and said towards the close of his speech:

For these reasons I say that the Constitution would be incomplete without a provision of this kind, because it would be necessary to have recourse to the Parliament of England to provide a change.

There is another noteworthy fact which I was hopeful would promote the assistance and sympathy of the Drafting Committee, and that is, that the only member of the Committee who recorded his vote voted in favor of the amendment now proposed. The way I look at it is that it is not a question of elective Governors, or anything of that sort.

Mr. HIGGINS:
It may become possible.

Mr. WISE:
Why should they not?

Mr. KINGSTON:

A lot of statements have been made in connection with the matter, and for my part I am not in favor of an elective Governor. The working of a system of popular election of our Governor in connection with our responsible government would raise many difficulties. It would be difficult to keep the Governor so elected in his proper place, and induce him to take the advice of his constitutional advisers with that humility which is proper in the discharge of his vice-regal duties. He would say that his position was somewhat superior to that of his Ministers-elected by constituencies and removable by a vote of the House of Representatives.-in view of his election by the people throughout the colony; and, under the circumstances, I am not in favor of an elective Governor. But I do think we ought to take the power of effectually making our views and sentiments on this subject known in the future. It could be done in the beat way by Parliament passing an Act declaring their wishes in this respect, and it could be either assented to or rejected as circumstances required. I do not think we have had much cause to complain in the past, but there have been occasions where there has been exhibited on the part of the Colonial Office a reluctance to consult local wishes, or even to make the Imperial
intentions known with regard to vice-regal appointments. I hope this may not be repeated, and I think the best plan will be, for the reasons I have mentioned, to take power for the local Parliaments by appropriate legislation to make their wishes on the subject of the system they desire known to the Imperial authorities. I think if that power is given we can rest assured it will be wisely exercised, and will supply a means of expression of local views on matters of considerable importance to the various provinces, which has hitherto been wanting, and which ought to be supplied in the way now proposed, and which recommended itself to the majority of the Convention in 1891.

Mr. O'CONNOR:

I cannot assent to the arguments of my friend Mr. Wise, that this Constitution will make any difference to the position of a Governor in the colonies, in regard to the discharge of his duties; nor do I think it will come anywhere near destroying the necessity for his office, and I took it that one of the arguments of my learned friend was based on that principle. The Governor would have the same powers with regard to all matters left to the State that he has now. These powers, as the population and importance of the different States advance, will become more and more important, inasmuch as they affect larger and larger populations. And it appears to me, whether under the present Constitution, or under the powers which the States will have left to them under this Constitution, it is equally necessary that the Governor should be a person not only removed from the arena of politics but from all active sympathy of politicians on every side, and above the suspicion of being influenced by local likes or dislikes or sympathies. It is said that this is only an enabling clause, that it gives the power to the Parliaments of the States to make this election if they think fit. That is true, but it is an illusory argument. It means that once you place that power in the hands of the States Parliaments, then you at once enable any Parliament which may be brought in on an agitation set up for this purpose, to at once enact a law for the appointment of a Governor by election or nomination, or in some other way. In other words, for a State to make this important change in its Constitution should be a difficult matter, and one which could only be obtained by the assent of the Imperial authorities. You are making it a matter which can be brought about by the carrying of an Act through any State legislature under the influence of some local excitement.

Dr. COCKBURN:

It is already decided that the Act must have the Queen's assent.

Mr. O'CONNOR:

I know that, but if the Act is passed by both Houses of any State, the
Queen would not refuse her assent. The Queen would never interfere with the exercise of the legislative powers of the State in any way. But if this power is left open to the States, it could very well happen that, under the influence of some popular agitation, the people unthinkingly may adopt some mode of appointing or electing their Governors, that would make it almost impossible to work the Constitutions of the States as they ought to be worked. There is a large number of people upon whom the use of the term popular election operates like a charm, and in the circumstances, they forget altogether that they are going to obtain any advantages the proposed change. But there can be no question, that, if you hand over the appointment to the people, that power can only be exercised in two ways. Either the Governor must be elected by the Executive authority or by the people. In the case of nomination, at all events, he must be the strongest man of the particular party which puts him in office, so you have in that place in the Constitution, in which a man ought to be above party influence, a partizan whom it would be difficult, and perhaps impossible, to get rid of. If you chose the mode of popular election, then you create an authority under the Constitution who would probably not feel disposed to be guided by the advice of a Ministry elected on a chance majority, but would feel that his position is that of a man who has been elected by the whole of the people of the State.

Mr. WISE:
I would ask whether this discussion on the system of the election of Governors has anything to do with the matter before the chair?

The CHAIRMAN:
It seems to me that the whole question is involved in it.

Mr. O'CONNOR:
I am sorry that my hon. friend fails to see the application of the argument. This is not only a power to elect Governors, but an invitation to the States to elect Governors.

Mr. WISE:
No one has ever proposed to elect Governors. Such an absurdity as put by the hon. gentleman has not been suggested.

Mr. O'CONNOR:
I wish to point out that it is impossible for the system of responsible government to be carried on except by some system in which the position of Governor is held by some person who stands altogether above and outside the arena of party politics. This clause is not only an enabling clause, but it is an invitation to the people of the States to either elect or
nominate their Governors, and it is impossible to suppose that you would not find, at some time or another, a clause like this taken advantage of by the leader of some extreme party in a State for the purpose of winning popularity. We know there are persons who take the view—thoughtlessly, it appears to me—that the election of Governors would be a very good thing. Therefore, it seems to me, that if the majority of us think it would not be a bad thing to have an elected Governor, in such a condition of things a nominated Governor would be an impossibility. Why, then, should we put in the hands of the States the power, in the event of some popular agitation of bringing about such a condition of things. At the present time any agitation of that sort must reach such dimensions that it is strong enough to persuade the Imperial Parliament that the power sought should be given. The change is said to be only a nominal one, but in reality it would change the affairs of Government in these colonies. For these reasons I hope the Committee will not assent to Dr. Cockburn's amendment. Circumstances as they are at present are recognised by the Federal Constitution. They will go on as now. Let us not interfere with them in any way. It is no part of our duty to make it easier for the States to amend their Constitution, and if you put it on the ground that we are really not affecting the position of the Governors of the States, I say that has not been shown. Their power will be exercised exactly in the same way as now, and the only difference will be that the number of subjects over which the local Parliament have jurisdiction will be diminished.

Mr. Wise:

Will not five Government Houses, on the same scale and style as at present, be a grotesque absurdity?

Mr. O'Connor:

If hon. members put it on that ground, I would point out that each of the colonies would have to pay for its separate establishment, and would have to decide whether there was any necessity for its reduction or not. Surely they are the best authorities to deal with that question. If they find there is any reason for a change, you may be certain that a change will be made. For my own part I cannot see that the taking away of any of these subjects will affect in any way the importance of the office or the powers to be exercised under it. Under section 97 the powers which are now vested in the Constitutions of the different States will be exercised by the Governors, with the advice of the Executive Council, except the powers which the States give; and we know that the area of jurisdiction which is given to the Government (if the Commonwealth will not practically diminish the importance and area of the State powers.
Mr. MCMILLAN:
I do not intend to say much on this question. I do not think we need enter
into the question of what the colonies would do as separate States if they
had this particular power. I do not think we have any business to intimate
in this Bill that a different mode of procedure shall go on in future to what
has ruled in the past. Is it not better to leave those States, after certain
powers have been given over, to work out for themselves what will be the
status of their Governor and in what way they will carry on their local
government.
Dr. COCKBURN:
That is what is sought to be done.
Mr. MCMILLAN:
But you do more than that. You practically embody in this Constitution a
modus operandi for doing that, whereas I consider we have no reason to
decide there shall be any change whatever.
Mr. O'CONNOR:
Hear, hear.
Mr. MCMILLAN:
That should be left entirely to them. Then, furthermore, this Act of
course as a whole will be assented to by the Queen, and it seems to be a
pity to put into it anything that might be of an objectionable character. It
seems to me we are introducing into this Bill a proposal as a guide to the
different States when they are very well able to look after their own
business. We are departing entirely from our object. I think myself that the
safest and the best way is to carry the clause as it is in the Bill, because,
while Mr. Wise talks about these various Government Houses, and the
absurdity of the little State business being kept on by these different local
Parliaments, still it is for them to say what their dignity and status will be,
and we are not, now going to forecast a much lower state than they have at
present, because they are in their own domain practically separate entities,
practically separate sovereignties, and it seems to me that by belittling
them, even inferentially, in a Bill like this, we to a certain extent go
entirely outside our own province. I fail to see why it is necessary for us to
contemplate any other system than that which now prevails, and under
which responsible government is so effective.
Sir WILLIAM ZEAL:
I move:
That the Committee do now divide.
Mr. DOBSON:
I wished to raise a point of order. I do not think the amendment is in
order.
The CHAIRMAN:

The motion is:
That the Committee do now divide. I must put it.
Question resolved in the negative.

Mr. ISAACS:

Very wrong to try and stop discussion.

Mr. SYMON:

I shall not keep the Committee long. After listening to the debate which has taken place, I cannot for the life of me see what business this clause has in the Constitution at all. I was under the impression that we were framing a Constitution which implied that the various States were to hand over something to the Federation, not that the Federation under the Constitution was going to hand over something to the States that they had not got already. I can find no other provision in the Constitution which either gives the States something they had not got before. The States have not got this power at the present moment. It is sought to confer upon the Parliament of the State power to make such provisions as it thinks fit as to the manner of appointment of the Governor of the State, and for the tenure of his office, and for his removal from office. What have we got to do with that? We are framing a Constitution for the Federation. We are not legislating or framing a Constitution for the various States; nor are we framing alterations or making reforms in the mode of the appointment of Governors or the establishment of Government Houses, or anything of that kind. It does seem to me that the discussion as to elective Governors is outside this matter altogether. At the same time, the amendment itself seems to be out of place in this Bill, and if any State, as it is entitled to, chooses to pass an Act through its own Legislature, seeking to give itself the power of appointing its own Governor, then it is at liberty to do so and to send it on to the Imperial authorities; then if the Queen's assent is given, they have got power. We ought not to interfere with that. This will be an enabling clause, no doubt, in a Constitution which will bind the whole five colonies in a particular direction, when some of them, if properly consulted, would not agree with it at all.

Mr. DOBSON:

I wish to put a point of order. I carry the argument of my friend Mr. Symon still further. I submit that the amendment is absolutely ultra vires, and if the clause is passed, and you then pass the Bill, you will be getting the Royal assent to a Bill which practically alters the Constitution of my
colony. Now Tasmania has not sent me here to consent to or to discuss such a provision. If we like to pass an amendment of the Constitution Act of Tasmania, and the Queen assents to that, with all the circumstances of our colony before her, she might exercise a wise discretion; but if you ask her to assent to a provision in globo, which alters the Constitution of each colony, and we are not sent here for any such purpose, that is a different thing. Therefore I ask you whether the motion is within the province of the work we are sent here to perform.

The CHAIRMAN:

No doubt the question is one of very great difficulty. By clause 18 of the Federal Enabling Act the duty of the Convention is stated to be the framing for Australasia of a Federal Constitution under the Crown. Now, the question which I understand the hon. gentleman submits is this: whether it is within the scope of our powers in framing that Constitution under the Crown to alter the Constitution of any of the colonies. I admit that the question is one that on the spur of the moment I have some difficulty in answering. But it seems to me that we must of necessity alter the Constitutions of the various States, inasmuch as we take from them certain powers and confer these powers on the Federal Government. In doing this we are, to a certain extent at all events, altering their Constitution. Therefore I am not prepared to say that the amendment is out of order.

My hon. friend Mr. Isaacs has pointed out to me a matter worthy of the most serious consideration in connection with this clause.

Sir WILLIAM ZEAL:

Let us divide.

The CHAIRMAN:

The proposition that the Committee divide cannot be put again for fifteen minutes.

Mr. WISE:

I would ask the attention of Mr. Barton to this matter. As the clause stands it says, "In each State there shall be a Governor." You are absolutely imposing restrictions for all time upon the States. If that clause stands, it imposes a restriction which limits the powers of the self-governing States as exercised to-day, because if we choose, with the consent of the Imperial Government, we can get a Governor changed to a Board of Advice; but if the clause stands, we cannot do it. If the clause stands, the amendment should go with it; and, if the amendment goes, the clause might go with it. The subject is, are-
Mr. BARTON:
I understand that Dr. Cockburn is willing to let the amendment go with the clause.

Dr. COCKBURN:
I will withdraw the amendment, and let the clause remain to be decided on its merits. Then, if the clause is passed, I will move my amendment.

Mr. BARTON:
I do not call that any concession at all.

Mr. WISE:
If the clause is struck out, there is no need to move the amendment.

Dr. COCKBURN:
I shall ask to have the amendment added, and then it will be competent for anyone to vote against it and the clause.

Mr. BARTON:
I will undertake to move for the omission of the clause if the hon. member will withdraw his amendment.

Dr. COCKBURN:
If that is the case, I will ask leave to withdraw my amendment.
Leave given.
Clause struck out.
Clause 103 - Appropriation of provision referring to Governor-as read, agreed to.
Clause 104-A State may cede any of its territory-as read, agreed to.
Clause 105-States not to levy import or export duties, except for certain purposes-as read, agreed to.
Clause 106.-A State shall not, without the consent of the Parliament of the Commonwealth, impose tonnage dues or raise or maintain any military or naval force, or impose any tax on property of any kind belonging to the Commonwealth; nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

Mr. HENRY:
I would like to ask Mr. Barton what effect this would have on several Marine Boards and Harbor Trusts of the colonies which are dependent for their revenues on tonnage rates. This clause, I see, provides that no tonnage duty should be imposed except by Commonwealth. What position, I would like to know, would the various Harbor Trusts and Marine Boards, which are dependent for a portion of their revenue on these tonnage dues, occupy till the Federal Commonwealth has had time to legislate upon this matter.

Mr. BARTON:
If the tonnage dues are not an infringement upon the principles of intercolonial freetrade, I take it that they would remain in force after the
establishment of the Commonwealth; but if the State proposed to take in
hand legislation on the subject, it would not be permitted to legislate on
that subject without the consent of the Parliament of the Commonwealth.

Mr. HIGGINS:
If it were only an amendment?

Mr. BARTON:
Possibly the only trouble there would be, that a period of six months
would elapse before the Commonwealth Parliament was called together
after it is established. So far as the tonnage dues, mentioned by Mr. Henry,
did not infringe upon the principles of intercolonial freedom of trade, there
would be no difficulty.

Mr. GLYNN:
I think the last few words of this clause are too comprehensive in their
meaning. In South Australia there is a lot of land which is leased with the
right of purchase, and I can see that under the latter portion of this clause
there is considerable danger of defeating the effect of direct taxation.

Mr. O'CONNOR:
In a case of that kind the reversion which is in the Crown would not be
taxed, but the letting value would be taxed.

Mr. BARTON:
I might mention that the property of the Commonwealth in that land is
the reversion upon the lease. The reversion upon the lease would not be
taxable, but the interest of the lessee in the property would be taxable.

Mr. GLYNN:
I am only pointing out a difficulty that might arise.

Mr. HENRY:
I would like to raise a question as to the right of the Commonwealth to
tax materials for State purposes. In the event of a colony importing rails,
machinery, engines, &c., for State purposes, I would like to know whether
such exports are to be free from Customs duties. Will the Federal
Parliament have a right to levy duties on materials imported for State
purposes?

Mr. BARTON:
This is a matter that was discussed very fully in the Constitutional
Committee, and I think my hon. friend Sir George Turner will remember
that I consulted the members of the Finance Committee upon it, intimating
to them the opinion of the Constitutional Committee on the point. The
words:
Impose any tax on property
do not refer to the importation of goods at all, and any amendment to
except the Customs would be unnecessary. This clause states that a State shall not, without the consent of the Parliament of the Commonwealth, impose taxation on property of any kind belonging to the Commonwealth, meaning by that property of any kind which is in hand, such as land within the Commonwealth. That has no reference to Customs duties.

Sir GEORGE TURNER:
Will articles imported by the States Governments come in free?

Mr. BARTON:
The question then arises whether articles imported by the States Governments are to come in free, but this section has nothing to do with that. Under this Bill and in the measure of 1891 I believe duties would have been collectable upon imports by any State, and after the consultation which I had with the hon. member and his colleagues on the Finance Committee the Constitutional Committee decided not to make any exemption in the case of any State.

The CHAIRMAN:
I would ask hon. members to confine themselves to the discussion of this clause.

Sir GEORGE TURNER:
I propose to carry out your desire, Sir, to restrict my remarks to this particular clause. In Victoria, as I mentioned the other day, we have an independent body called a Harbor Trust, which collects a large amount of money and, as far as I can recollect, does it in the way of tonnage dues. If we pass this clause, and we deprive this body of its revenue, they will simply have to fall back upon the Government of the State. What is the meaning of the phrase:

Impose tonnage dues?

According to the way I read the clause it means that it is not to pass any law which would put on any fresh dues.

Mr. MCMILLAN:
I suppose the States gave these rights to the harbor trust.

Sir GEORGE TURNER:
The State passes a law constituting a Harbor Trust and gives over to them the right to collect these various revenues. What I desire is to preserve that right, whatever it may be. I am in great difficulty as how this particular clause will affect that body, as well as similar bodies in other colonies which collect small sums. I would be glad if my hon. friend Mr. Barton can give me any assistance with regard to this matter, and tell us if this clause will or will not interfere with this existing body. If that be so I shall be prepared to let the clause pass, and then, before the adjourned Convention
is held, we shall have an opportunity in the different colonies of
ascertaining how these dues and rates are collected, and how this clause
will affect them, and whether we should make this amendment. In the
meantime I should like Mr. Barton to give me the real meaning of the
clause.

Mr. BARTON:

As far as I can gather from this clause and the clause of 1891, it seems to
me to refer to any future legislation on the subject:

The State shall not impose tonnage dues.

Mr. MCMILLAN:

I think these tonnage dues must be excepted if the Parliament is to take
over harbors. Tonnage dues are simply payment for services rendered, and
they do not practically come under the system of taxation at all. They are
levied for something done. If they are not excepted great trouble will
ensue, especially in regard to corporations. Is that System referred to by Sir
George Turner administered by a Minister of the Crown?

Sir GEORGE TURNER:

No.

Mr. MCMILLAN:

Does it apply then? These. are dues paid by the State as a State, but the
case mentioned is one of a corporation, in which there is a payment for
services rendered. Tolls are exacted for the services, call them dues or
wharfage rates or whatever you like; they are the same in essence.

Sir GEORGE TURNER:

If we do not guard against it corporate bodies may evade the Act, and the State may appoint corporations to do work so as to evade it.

Mr. MCMILLAN:

Something will have to be done or great trouble may ensue.

Mr. BARTON:

With reference to the question of wharfage rates, members will recollect that the United States Constitution contains a prohibition against the State levying tonnage duties without the consent of Congress. It has been decided in the case of the Packet Company v. Catlettsburg, 105 U.S., 559:

&

That would appear to be rather in favor of the exemption of the harbor trust.

Mr. HENRY:

It is within my own knowledge that there are Marine Boards in Australia, at all events in Tasmania, worked as State departments. They are nominee bodies with a Minister practically at their head.

Mr. HIGGINS:

Who gets the money?

Mr. HENRY:

The Customs officers collect the wharfage and tonnage dues, and they pass into the hands of the Government. I would like to ask Mr. Barton how it would operate in cases where the tonnage rates vary at different ports in Australia? We might have one harbor with a particular rate and another with double or treble that rate, so that we would not have an equality of trade. This is one of the difficulties which Mr. Barton and others, in considering this matter, should have placed before them. In this clause we are going to hand to the Federal Government the right to legislate with regard to tonnage dues, and it is desirable that we should know precisely what we are doing and how it is going to affect the various harbor trusts and marine boards.

Mr. BARTON:

On considering the matter, I think that the tonnage dues mentioned here-we have altered the word "duties" into "dues," and they seem to me like the word "tonnage dues" that used to prevail in the old country, such as tonnage dues on wines. We find the word referred to in Acts 9 Anne, and 10 George IV. They were tonnage dues granted to the Queen, and I think those referred to here were the same in the United States Constitution.
Whether that be so or not, the tonnage dues referred to in the clause seem to be charges for services performed. For instance, a Harbor Trust is formed and carries out improvements and as a means of recouping themselves the harbor authorities charge dues. Wharfage dues are for the use of a wharf and have they not a similar meaning in the modern acceptation of the term? One is an impost for the use of a wharf, the other for the use of a harbor on which money has been spent for the purpose of rendering it more adapted for shipping. If that is so the words may be left out, and if they are left out any tonnage due which is not a charge for services performed would be an impost interfering with the freedom of trade and intercourse, and would come under section 86; that is to say, as soon as uniform duties have been imposed, trade and intercourse shall be absolutely free. If they interfere they could only do so so far as they are of the nature of taxes. If they are only charges for services performed, as I explained in connection with clause 83, then there can be no objection to them. because charges for use of a wharf are much in the same position as charges of the post office authorities for the carriage of letters; they are payments for services. If that view is taken I shall offer no objection to it.

Sir GEORGE TURNER:

Why not for post and telegraphs?

Mr. BARTON:

Any mere service that the Commonwealth does not take over is still in the hands of the State. Clause 86 can only be infringed by something which means an interference with the freedom of trade and intercourse. Anything that is fairly construable as a payment for services performed is not handed over—the mere service can be charged for as before, because it is not an interference with trade and intercourse. In such cases as that, mere service can be charged for as before, because it is not an interference with trade or intercourse. I think we may well accept that view and leave out the words:

Impose tonnage dues or.

I move that they be left out.

Sir GEORGE TURNER:

I am glad that my hon. friend, after consideration, has taken this view, because it is very difficult indeed to understand what these words refer to and what effect they would have upon harbor trusts and similar bodies. But, as the other clauses appears to be sufficient to prevent any injustice being done, and in order to remove any doubt as to what the words really mean, it will be well to strike these out.

Amendment agreed to.
Clause, as amended, agreed to.
Clause 107-State not to coin money—as read agreed to.
Clause 108—Nor prohibit any religion —as read agreed to.
Clause 109—Protection of citizens of the Commonwealth—as read agreed to.
Clause 110—Full faith and credit shall be given, throughout the Commonwealth, to the laws, the public acts and records, and the judicial proceedings, of the States.

**Mr. DOBSON:**

I should like to ask the Drafting Committee an important question. I understand that my hon. friend Mr. Wise is not moving in another clause in accordance with his notice to insert:

Wills, intestacy.

I was going to move an amendment to add:

Lunacy.

I desire to know whether, under this section, the courts of the other colonies take cognisance of the appointment of a Receiver or Trustee of Lunacy or Curator of intestate Estates, so that upon the registration of the document making the appointment, assets and lands in different colonies can be administered. I have now two cases in my office where I want to sell land belonging to a patient in lunacy in another colony, and where I want to get land in Victoria sold, the estate having already been administered in Tasmania. I want to know whether under this section we can have some such machinery as that under the Probate Acts, where probate granted in one colony is sealed in another colony, whereby the will is practically proved in another colony, so that estates of an intestate or lunatic may be administered under the one authority.

**Mr. BARTON:**

I may mention one or two illustrations of cases decided which seem to me to be relevant to this matter, and which perhaps will serve to clear up any doubt. They were decisions based under a similar section in the United States Constitution. In Baker's "Annotated Constitution of the United States":

Record of judgment, conclusive when-Attachment.-The record of a judgment in one State is conclusive evidence in another, although it appears that the suit in which it was rendered was commenced by an attachment of property, the defendant having afterwards appeared and taken defence and judgment of one State, how enforced in another -A judgment rendered in one State does not carry with it into another State the efficacy of a judgment upon property or persons to be enforced by execution. To give it such force in another State it must be made a judgment there, and can only be executed in the latter State as its laws may
permit.

Then there is a more important decision illustrative of the principle which has been decided in another case.

No new powers are conferred on States by this clause.-By this provision "the Constitution did not mean to confer any new powers upon the States, but simply to regulate the effect of their acknowledged jurisdiction over persons and things within their territory. It did not make the judgments of other States domestic judgments to all intents and purposes, but only gave a general validity, faith, and credit to their evidence.

So I take it that the effect of this clause would be to cause the courts of the Commonwealth to take judicial notice of the laws, acts, and records of the States without the necessity of requiring them to be proved by cumbrous evidence. It would depend upon the opinion of the whole Convention as to whether the transfer to the Commonwealth of the power to make laws of intestacy and lunacy would be a wise provision. The proper place to do that would be in Clause 50. For myself, I do not think there is a necessity to deal with intestacy or lunacy in this Constitution.

Mr. DOBSON:

I thank my hon. friend for his explanation. I understood Mr. Wise was going to move an amendment as regards intestacy in clause 50, but, after consulting the Drafting Committee, decided not to do so. We want to simplify the law. The point is, if a man dies intestate in one colony, would the administrator or curator be able to register his appointment in another colony and deal with the assets there? Then, as to the case of a lunatic, when a man is declared to be a lunatic, the sheriff has to summon twelve good men and true, and, if they find the man to be insane, a trustee is appointed. If a man is declared to be a lunatic in Victoria, how are you to get hold of his assets in Brisbane, unless there is a provision which says action shall be taken in Queensland upon a record of the proceedings in Victoria being filed?

Sir JOHN DOWNER:

You can do it now

Mr. DOBSON:

The only legislation I know of is the Intercolonial Judgment Act passed by the Federal Council. We do not want to make the Federal Parliament more impotent than the Federal Council.

Mr. BARTON:

I shall give another illustration, so that we may be quite sure as to the effect of the clause. This is clearly elucidatory:

This provision and the laws of Congress in
relation thereto establish a rule of evidence rather than of jurisdiction.

It would have this effect. If there had been a suit between two parties in one State touching certain causes of action that dispute would only be taken judicial notice of in any State, but as regards the subject matter of the dispute between them it would be conclusive between them. The illustration goes on:

While they make the record of a judgment rendered in one State, after due notice, conclusive evidence in the courts of another State, or of the United States of the matter adjudged, they do not affect the jurisdiction, either of the court in which the judgment is rendered, or of the court in which it is offered in evidence. They differ from judgments recovered in a foreign country in no other respect than in not being re-examinable on their merits, nor impeachable for fraud in obtaining them, if rendered by a court having jurisdiction of the cause and of the parties.

That is the full explanation.

Mr. DOBSON:

Will you consider the other point?

Mr. BARTON:

Yes, we shall take that into consideration.

Mr. ISAACS:

Would the hon. member look at another clause which has reference to that matter almost in the same words: Sub-clause 26 of clause 50 gives the Commonwealth Parliament power to legislate for the recognition throughout the Commonwealth of the laws, the public acts and records, and the judicial proceedings of the States. That might be merely a recognition of them, but coupled with the previous sub-clause 25:

The service and execution throughout the Commonwealth of the civil and criminal process and judgments of the courts of the States.

It might mean more. But I am not quite sure that that sub-clause 26 would go to the length that Mr. Dobson wishes, by recognising them in such a way as to treat them as a judgment of every State, but it might be so. The Commonwealth Parliament might possibly exercise the power to give the same effect throughout the Commonwealth to the judgment of the State as is given in the State to the judgment itself.

Mr. BARTON:

It is more than possible that the hon. member's suggestion is correct. One clause means that as a matter of evidence judicial notice is to be taken; the other means that there is legislative power, not only to define the manner in which that shall be done, but it may also mean further than that, that there is a legislative power to cause recognition of these matters in substance as well as in evidence.
Mr. KINGSTON:
No doubt there is something in that. But I trust Mr. Dobson will further press an amendment to section 50, to give in addition power to bring a 
Clause agreed to.
Clause 111-Protection of States from invasion-agreed to.
Clause 112-Custody of offenders against laws of the Commonwealth-agreed to.

The CHAIRMAN:
We now go back to clause 87.

Mr. BARTON:
The Treasurers of the colonies have not yet placed in our hands their resolutions, but I understand they need very little more discussion.

Sir GEORGE TURNER:
We are waiting to get some prints over from the Government Printing Office. We shall let you have them to-night, but they may be late.

Mr. BARTON:
I move:
To postpone clauses 87-96 until after the consideration of chapters VI., VII., and VIII.
I wish the finance and trade clauses to take precedence of other postponed clauses so that we may get them at the earliest possible moment.
Question resolved in the affirmative.

CHAPTER VI.-NEW STATES.
Clause 113-Any of the existing colonies which have not adopted the Constitution may upon adopting this Constitution be admitted to the Commonwealth, and shall thereupon become and be a State of the Commonwealth.

Sir GEORGE TURNER:
This clause provides that any of the existing colonies may, upon adopting this Constitution, be admitted to the Commonwealth, and shall thereupon become and be a State of the Commonwealth. The next section provides for the admission of new States, with power to impose certain conditions on their admission. Is it wise that we should allow any of the existing colonies to stand aside as long as they like, for any number of years, and to ultimately come in, whether the colonies which have joined like it or not, on exactly the same conditions? Surely it is not unreasonable to say to the existing colonies: "You have a perfect right to join with us, to throw in your lot with us, participate in the advantages, share the risks, make the
losses we have to make jointly, make the enterprises we have to make jointly; but if you do not wish to do that, if you desire to stand aloof and allow us to make this Federation, we must have some say in it when you wish to join." I think that is fair and reasonable, and I should be glad if Mr. Barton will explain why this unlimited right should be given to the existing colonies, and why the Federal Parliament should not have the power to admit any existing colony on conditions which may be laid down.

Mr. DEAKIN:

Something similar to clause 114?

Sir GEORGE TURNER:

According to clause 114 new States may be admitted on terms which the judgment of the Federal Parliament might fairly decide. Certain conditions ought to be imposed by the Federal Parliament as representing the States which initiated the Federation, and which certainly ought to have some say in it. I do not desire at the present moment to move an amendment because my hon. friend may be able to give some good reason why this distinction should be drawn. If so I will be willing to fall in with it.

Mr. BARTON:

The reason of this provision is partly due to what is included in the United States Constitution as follows:

No new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress.

That section is practically the same as we have placed in this Bill—sections 133 and 114 read together. Section 113 provides a sort of locus poenitentiae that every existing colony may be allowed to come in when it likes.

Sir GEORGE TURNER:

At any time.

Mr. BARTON:

Clause 114 allows the Commonwealth to make and impose conditions, as to the extent of representation in either House of Parliament or otherwise, as it thinks fit. However we might read the parallel provisions as they appear in the American Constitutions, as they appear here it does seem as if the existing colonies not joining the Federation at first are entitled to come in under these provisions at any time, and that only new States are made subject to conditions. I think that is the meaning of the clause.

Sir GEORGE TURNER:

That is the intention.

Mr. BARTON:
That is the intention. The motive of the clause is that we may offer a fair inducement to those colonies which we want to join us to come in at the earliest moment. It is for this reason that every State that does not join under this Constitution at first, as the rest of the Bill shows, is a colony. It is a State when it joins. After this Commonwealth is formed any existing colony that joins will in a sense be a new State, because the States will be the colonies which join at-first. That is why this provision is placed in this chapter, and I think it is as convenient a place for it as any other. We are offering, not a time, but an opportunity to the other colonies which do not join with us at first, being existing colonies, to come in and join, and we offer them an absence of the conditions that we would have to impose on new States if new States had to be created. There may be difficulties existing as to the joining of other existing colonies which will be smoothed over by a provision of this Sort. If you place them all on the same footing, and make existing colonies, as well as those which are to be created hereafter, all liable to conditions, then, it seems to me, that there may be a very great discouragement to any State, such as Queensland or Western Australia, which might not decide at first, to join in the Commonwealth. But if you give them an opportunity, even for an indefinite period, to join, you are really offering them the terms of this Constitution, which, if varied from, would make it harder for them to come in.

Mr. HIGGINS:
Is not this an inducement not to join now?

Mr. BARTON:
I think not. The greatest advantage is to be gained by joining when the others join.

Mr. SYMON:
Would you limit the time?

Mr. BARTON:
No; and for this reason: This clause is not to be read with the Federal Enabling Act which will be a spent Act within a short time. Then it might be argued that this clause did limit a certain time, but that is not so. So it does not impose a definite period of time. But the Committee may think it is better to leave the provision in its present state, leaving it to the Commonwealth, if the existing colonies do not come in within a reasonable period, to fix a limit.

Mr. DEAKIN:
That would mean an amendment of the Constitution. The clause as it stands is entirely one-sided. It binds the outstanding colonies to nothing,
but it does bind the colonies who federate to the unconditional acceptance of a colony which has stood out as long as it has been to its interest to stand out, and enabling it to come in at its own will without the consent of the other States. I take it that at least the consent of the Commonwealth should be necessary before any State should be able to join in this union.

Mr. WISE:
If we begin that clause with the words "Until Parliament otherwise determines," would that meet the difficulty?

Mr. DEAKIN:
That would meet the difficulty I have just mentioned, and would certainly be a very great improvement. It would be unreasonable, as Mr. Barton indicated, to expect that all the colonies about to join can federate within the same month, or perhaps year. In the case of the United States more than twelve months elapsed before all the colonies were brought into line. A certain time limit might perhaps be fixed, but I do not know if, after all, the proposal that has been made is not better. It makes this, then, a less one-sided arrangement, which now binds the Commonwealth and does not bind the States.

Mr. O'CONNOR:
Is not this one of those things which would be better dealt with after the adjournment?

Mr. DEAKIN:
I feel strongly that it is absolutely necessary to insert the words, "Until Parliament otherwise determines." I think this is absolutely essential, for the present clause is obviously unfair on the face of it. Supposing there was a great emergency and some of the colonies came together for a common purpose—say for defence—and at great expense provided against risks. It might happen that some colony which stood out at first would step in subsequently, not to share in the risk, but only in the profits.

Sir JOHN DOWNER:
Why not strike out clause 113?

Mr. DOUGLAS:
Would the hon. member allow me to suggest to add to the clause these words:
As may from time to time be declared.

Supposing one colony comes in this year and another colony comes in three years afterwards, you would then have to make a calculation of the revenue, and the colony that was late in entering the Federation would have to pay a sort of penalty fixed on a comparative financial basis.
Mr. DEAKIN:
That would be best. The hon. member has put his finger upon a further difficulty. I understand that a financial scheme has been drafted which is to be determined by calculations made for a particular period; but these calculations will be null and void as far as the particular province coming in is concerned. Having stood out it seeks to enter the Federation, so as to dislocate the whole financial system.

Mr. BARTON:
Perhaps we had better see what the financial scheme is first, and postpone these clauses.

Mr. DOUGLAS:
I would like to ask the Leader of the House how is a colony to be admitted, and what is the proceeding to be gone through?

Mr. BARTON:
It can only be done by Act of Parliament.

Mr. ISAACS:
Whatever the financial scheme may be, I think we should deal with this clause in the way suggested, and not postpone it, and I think the view taken by my hon. friend Mr. Wise is the correct one. We may be able to incorporate the principle to which he alluded at a later period, by inserting, the words "upon such conditions as Parliament may think fit," in a subsequent portion of the clause. Whatever may be the financial scheme arranged, I think this should be done; for as the provision now stands it is offering a premium to stand out from the Commonwealth—something like a mining speculator who holds aloof until he sees which way things are going. We should all throw in our lot at once and take our chance, and not stand out till there is an opportunity of coming in afterwards, when difficulties are over, and sharing in the profits. I think we ought to deal with this question irrespective of what the financial scheme is.

Sir EDWARD BRADDON:
I hope we shall safeguard the Commonwealth. I think some provision is necessary to be taken against those colonies that are languid in the movement. We do not want to allow any colony to loun

Mr. BARTON:
I do not think it will be well to leave out clause 113 until we have made some alterations to clause 114. I am a little exercised in my mind as to the meaning of certain words in the clause, and if the legal members will give me their assistance I shall be glad. In clause 114 you will find these words:

The Parliament of the Commonwealth may make and impose such conditions as to the extent of representation in either House of Parliament, or otherwise.
Mr. WISE:
Strike them out.

Mr. BARTON:
No, do not strike them out yet; I am a little exercised as to the meaning of the words:
As to the extent of the representation in either House of the Parliament, or otherwise.
Would they not exclude the Commonwealth from making provision, except as to representation?

Mr. WISE:
You had better strike out all the words after "conditions."

Mr. SYMON:
Put in after "conditions" the word "including," and strike out "as to."

Mr. BARTON:
I think I shall move:
That clause 113 be struck out,
I shall, if that is done, move amendments to the next clause, and make the one deal with the whole matter.
Clause 113 struck out.
Clause 114-The Parliament may from time to time establish and admit to the Commonwealth new States, and may upon such establishment and admission make and impose such conditions, as to the extent of representation in either House of the Parliament or otherwise, as it thinks fit.

Mr. BARTON:
In the first line I move:
To insert after "from time to time" the words "admit to the Commonwealth any of the existing colonies and may," and strike out "and admit to Commonwealth."
Then I shall adopt Mr. Symon's suggestion, and move to insert "include" and leave out the words "or otherwise."

Mr. KINGSTON:
I think you will want to make the words read:
And may upon such admission or establishment.

Sir JOHN DOWNER:
You do not want the word "establishment."

Mr. BARTON:
I would explain this for the consideration of the Convention, that you do want the word "establishment" with regard to new States.

Mr. KINGSTON:
You want both.

Mr. BARTON:

Yes; I was explaining to Sir John Downer that we do. We are only dealing with the continent and Tasmania, as far as we know at present. There may be such a thing as the division of Western Australia and Queensland, but apart from that any new State would have to be carved out of the limits of the Commonwealth. That would consequently be matter for absolute establishment, as new States could not be created any other way.

Mr. ISAACS:

I do not know whether I caught the answer correctly, but I think Mr. Kingston wants the word "admission" repeated.

Mr. BARTON:

I move:

To insert after the word "time," where it occurs the second time, the words "admit, to the Commonwealth any of the existing colonies of (name the existing colonies which have not adopted the Constitution) and may from time to time.

Amendment agreed to.

Mr. BARTON:

I move:

To strike out the words "establishment and admission," with the view of inserting the words "admission or establishment."

Amendment agreed to.

Mr. BARTON:

I propose

In line 4 to insert before "conditions" the words "terms and."

Amendment agreed to.

Mr. BARTON:

I propose:

To leave out the words "as to," just following "conditions," with a view to putting in their place the word "including."

Amendment agreed to.

Mr. BARTON:

I propose:

In the next line to strike out "or otherwise."

Amendment agreed to.

The CHAIRMAN:

I will read the clause as amended:

The Parliament way from time to time admit to the Commonwealth any of the existing colonies [here name the colonies which have not adopted
the Constitution], and may from time to time establish new States, and may
upon such admission or establishment make and impose such terms and
conditions, including the extent of representation in either House of
Parliament, as it thinks fit.

Sir EDWARD BRADDON:

I think your grasp of this clause in its present condition shows your
perfect knowledge of the art of amendment in every possible way. It has
been done in such a way that we have not the scantiest idea of what it now
provides.

Mr. DEAKIN:

It is a mosaic.

Sir EDWARD BRADDON:

Distinctly mosaic; but I think the majority of this Convention do not
know what it is. We have embodied everything and struck out everything.

Mr. DEAKIN Give up everything, and take back all."

Sir EDWARD BRADDON:

I would

suggest that those who have not grasped this volcanic amendment in the
way in which our chairman has, should have this clause placed before them
in print, so that they may see what it is.

Mr. DEAKIN:

Have it set to slow music. (Laughter.)

The CHAIRMAN:

Perhaps Sir Edward Braddon will take my assurance that it is all right.
(Laughter.)

Mr. DOBSON:

I confess I was very much disappointed with Sir Edward Braddon's last
utterance. I thought he would be the fool to rush in where the angels fear to
tread.

Mr. DEAKIN:

Disappointed that he was not the fool?

Mr. DOBSON:

I thought he would say that here is a departure from equal representation
in the Senate. I can see why the clause should stand as it is to the extent of
equal representation in the House of Representatives, but not as to equal
representation in this Senate. It can hardly arise that Norfolk Island would
come in as a separate State, and few of us would like to give Norfolk
Island six senators. Here we are making a departure as regards new States,
inasmuch as we are giving the Federal Parliament power to alter that which
is supposed to be the very foundation of the federal edifice we are rearing.

Mr. DOUGLAS:
Before we pass this I think, with Sir Edward Braddon, we should see this clause in print.

Mr. DEAKIN:
You can have it recommitted if necessary.

Mr. DOUGLAS:
It seems to me that the wording is entirely incorrect.

Sir GRAHAM BERRY:
I would ask Mr. Barton's attention to clause 23, which we have already passed. We have provided there:
Each of the existing colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the province of South Australia shall be entitled to five representatives at the least.
That seems to conflict with the clause we are now considering.

Mr. BARTON:
No. That clause is part of the Constitution dealing with the existing colonies which become States, and the Commonwealth would not under the clause we have just dealt with be deprived of making terms and conditions which give more than five representatives if the States were entitled to more. Clause 23 deals only with the minimum number of representatives.

Mr. GLYNN:
This clause will be part of the Constitution, and will give the power to change the representation. I am afraid we made a mistake in leaving out clause 113. There should have been a distinction between existing colonies and new States. If Queensland does not come in at once and wants to come in later on she will have to make application without stating the terms on which she wishes to be admitted. The Parliament can state the terms, and it will be out of Queensland's power to revise them, and it may then be difficult for Queensland to come in.

Sir EDWARD BRADDON:
I should like Mr. Barton to tell us what this really means.

Mr. BARTON:
If the hon. member will look at section 113 he will see within brackets: [name the existing colonies which have not adopted the Constitution.]

Sir GRAHAM BERRY:
How can that possibly be done? None of the colonies have adopted the Constitution.

Mr. BARTON:
That of course can only be done when the colonies which have adopted
the Constitution are known, then their names could be filled in when application is made to the Imperial Parliament. Bearing that in mind when the imperial Parliament has legislated, clause 114 reads:

The Parliament may from time to time admit to the Commonwealth any of the existing States, and may from time to time establish new States, and may upon such admission or establishment make and im

Sir EDWARD BRADDON:

How can the representation of either House of Parliament be stated? We have agreed to the representation of every State being in the ratio of two to one, and how is the Federal Parliament to arrange a representation which may be, according to this clause as now amended, the representation of one House only, and that possibly the House of Representatives? That is the point Mr. Dobson referred to, and which concerns us of the smaller States as it affects representation of the smaller States when there may be additions to the Commonwealth by new States.

Mr. DEAKIN:

The answer is that no such bargain can be made without the consent of the smaller States, through the House in which they have the majority.

Mr. WISE:

And subject to the Constitution.

Mr. O'CONNOR:

And they could not come in unless these States like.

Sir EDWARD BRADDON. The smaller States cannot ensure a majority.

Mr. DEAKIN:

They have a majority in the Senate from the commencement.

Clause, as amended, agreed to.

Clause 115-The Parliament may make such laws as it thinks fit for the provisional administration and government of any territory surrendered by any State to and accepted by the Commonwealth, or any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

Mr. WISE:

I move:

That the following words be added at the end of the clause:

No federal territory shall be leased for a longer period than fifty years, or alienated in fee simple, except upon payment of a perpetual rent, which
shall be subject to periodic appraisement, upon the unimproved value of the land so alienated at intervals of not more than ten years.

Mr. DEAKIN:

Is "territory" the best word to use there? Territory here is given a peculiar significance in the American sense—a great area under a Government which is not a State.

Mr. WISE:

"Lands," then, I shall make it:

No lands, the property of the Commonwealth.

I do not know what reception this amendment will meet with in this Convention, but I am satisfied that there is no resolution that has been submitted to it which will touch the interests of the people outside more nearly than this.

Mr. GLYNN:

Hear, hear.

Mr. WISE:

It is desirable, if we wish to commend this Constitution to the approbation of the democratic multitude, whose votes it must receive, that we should indicate in the clearest possible manner that those principles which they have most at heart are conserved by this Constitution. No one need imagine that I am going now to enter upon any discussion of the question of land values taxation. It would be out of place altogether in an assembly of this kind to assume that there is any representative here who has not fully considered that question from every point of view. All I desire is in a definite form to bring up for acceptance or rejection by this Convention a proposal as to the future treatment of the lands which may ultimately belong to the Commonwealth. And in the amendment I have proposed I endeavor to avoid for all time to come—as we hope we are framing a Constitution now that will last for many generations—all the evils which have attended the reckless alienation of territory since the foundation of these colonies—

Mr. GLYNN:

Hear, hear.

Mr. WISE:

And to secure for the Commonwealth the growing and permanent source of revenue from that State-earned increment in the value of land which comes silently from the mere accretion of population, and from the exercise of the powers of Government. With these ends in view I have drawn an amendment which comprises two

[P.1013] starts here
fifty years, and the second provides that if alienation is allowed at all, it shall only be allowed upon such terms as will secure that a fair portion of the unearned increment of the land shall go back to the people who make that value by popular exertion. And so I propose my amendment. I think the Convention will admit I have faithfully fulfilled my promise not to enter into a large and discursive discussion. I hope, therefore, that those opposed to this will follow my example in this respect, and not enter into a discussion, which in this assemblage, at all events, would be largely academic. If this Convention rejects the amendment, I may say that those who support it will try and persuade the local Parliaments to insist on its insertion in the Bill, and if I may prophesy—though I know it is dangerous to prophesy, and in nothing more so than in politics—shall prophecy that if this amendment is rejected now every Parliament in Australia will insist on its being adopted, and that we shall have to pass it in the Convention next time.

Mr. FRASER:
You do not know the Parliaments.

Mr. BARTON:
I would only suggest with regard to my hon. friend's amendment that it—

Mr. FRASER:
He does not mean it. He is only joking.

Mr. WISE:
You will find it is no joke.

Mr. BARTON:
I have only to say this. If after the establishment of the Commonwealth the people are land nationalisers they will do what my hon. friend suggests. If they are not land nationalisers we have no business to make them so against their will.

Sir EDWARD BRADDON:
I think there is a necessity for amending line 6, It states that the Commonwealth may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit. I would ask why it should be left to the Federal Parliament to decide? The representation in this instance is to be in both Houses, not in one House or in the other. Why should we not preserve in this question the ratio of representation which has been fixed already in regard to our representation generally?

Mr. BARTON:
We have passed that clause long ago.

Sir EDWARD BRADDON:
I am discussing clause 115.
Mr. BARTON:
My hon. friend is speaking on clause 114.

Sir EDWARD BRADDON:
My hon. friend does not know his own Bill.

Mr. BARTON:
I thought you were harking back.

Sir EDWARD BRADDON:
No. I am harking forward. I would suggest to my hon. friend that it is not intended that there shall be any departure from the principle that we have bound ourselves to, and that the difficulty here may be got over:

By striking out all words after "Parliament" in the twenty-second line and inserting "in accordance with the ratio of representation provided in the Constitution."

I am not going to manifest that mistrust in the Federal Parliament which has been shown here occasionally; still I think it is desirable that we should as far as possible safeguard ourselves against the breach of that engagement which has been entered into in a previous part of this Bill. I will move to test the matter the amendment which I have suggested.

The CHAIRMAN:
Will Mr. Wise withdraw his amendment to allow this to be put?

Mr. WISE:
Yes.

Leave given.

Mr. MCMILLAN:
I think this is a very important matter, because I look forward with some hope that in future under federal administration a large portion of this continent will have to be dealt with under peculiar conditions. I do not think that

in regard to the administration of these territories, which are very peculiar in themselves, we ought to bind the Federal Parliament. I would suggest to my hon. friend that the matter might be dealt with in this way: instead of bringing in either Houses of Parliament allow of the representation of such territory to the extent and on the terms it thinks fit, leaving it entirely open as to the course to be adopted.

Mr. O’CONNOR:
That is what the section provides.

Mr. MCMILLAN:
So far as I can understand my hon. friend he wants to bring the territories practically into line with the States, which, of course, would be a great
mistake. There would be many experiments in administration owing to the peculiar conditions of these territories, and we ought not to tie the Federal Parliament under these circumstances.

Mr. DEAKIN:

I think my hon. friend Sir Edward Braddon somewhat mistakes the position. If the United States plan is followed territorial delegates would simply be entitled to enter the House of Representatives and speak there, but would not be permitted to vote. They are only agents. The territories here would consist of parts of Australia in which there was merely a nominal population. From them persons might be privileged to enter the House of Representatives in order to state their wishes, but these persons could not take any other part in the proceedings.

Mr. BARTON:

They are provisionally governed by the Commonwealth.

Sir EDWARD BRADDON:

Representation should carry with it the right to vote.

Mr. DEAKIN:

Under territorial representation if it follows the plan of the United States, as it probably would, territorial representatives would be entitled to speak in the House of Representatives, but not to vote. I think Sir Edward Braddon will see that his alarm is not well-grounded, and that whatever determination is come to in regard to the representation of territories must be settled by both Houses. The Senate will have an equal voice with the House of Representatives in determining what representation is to be given, when it is to be given, and how.

Mr. BROWN:

I hope that Sir Edward Braddon will not insist on this amendment. It appears to me that we are again doing as we have been doing very frequently during the discussion of this Bill, namely, trying to put into the Constitution things which ought to be dealt with hereafter by the Commonwealth. It is perfectly plain that as regards any territory which may require to have representation in the Commonwealth, Some special arrangement will have to be made such as that indicated by my hon. friend Mr. Deakin. To put into this clause a condition that such territory can only be represented under the terms and conditions to which the complete States are admitted will, I apprehend, be contrary to what the Convention has in view.

Mr. BARTON:

And prevent

Mr. BROWN:

In addition to that, it is showing a large amount of distrust of the wisdom
of Parliament. We shall all, through our representatives, have the opportunity of influencing decisions in the future Parliament just as we have done here. Some hon. members occasionally regard this Commonwealth Parliament as a sort of foreign and hostile body which will have to be watched, and concerning which all sorts of precautions will have to be taken to prevent it from doing mischief. Having faith in the wisdom and capacity of the Federal Parliament, we should not load the Constitution with these unnecessary details.

Mr. BARTON:

I ask the hon. member not to insist upon his amendment, which refers to territories and not to new States. It would be impossible for the Commonwealth ever to consent to the admission of territories which might be sparsely populated, and which would, according to the hon. member's proposal, be entitled to six members in the Senate. Territories or districts which are only in a primitive state of development are intended to be dealt with by a clause of this sort. They are in a transition state, and they are governed by the Commonwealth until such time as the States have reached a condition which would entitle them to representation in the Senate. Bryce says:

Besides these full members there are also eight territorial delegates, one from each of the territories, regions in the West enjoying a species of self-government, but not yet formed into States. These delegates sit and speak, but have no right to vote, being unrecognised by the Constitution. They are, in fact, merely persons whom the House under a Statute admits to its floor and permits to address it

This Constitution is on a little more liberal basis than that in this respect: the Commonwealth in the case of the secession of a territory which is cumbersome, gives power to allow the representation of it in either House of Parliament under the terms which the Parliament thinks fit. Instead of the territories being governed in a way that only entitles them to be represented as delegates there is power to give them a certain degree of representation. It is quite as much as they can have the right to expect, and this is a more liberal provision than is to be found in the American Constitution. I trust we shall not have to divide on this.

Mr. DOUGLAS:

Why should the words "either House of the Parliament" be there? What is required is to strike out:

In either House of the Parliament to the extent and to insert:

And it shall be on such terms and conditions as the Parliament shall think fit.
Sir EDWARD BRADDON:

I should not object to the clause so strenuously as I have done if it were clearly shown that representation in this instance did not carry with it the voting power which we generally understand accompanies representation. A representative is as well as being a speaking machine, a voting one, and if Mr. Barton will say in the Bill that this representative or these representatives are not to have votes, then my alarm will be dispelled. This is the fact as regards the representation of colonies under the American Constitution, but we have nothing in the clause to show that it is to be the fact here also.

Amendment negatived.

Mr. Wise's amendment was then put

Mr. HIGGINS:

My feeling is in sympathy with Mr. Wise's general intention, but I am embarrassed with the proposal at this stage. There is no doubt our duty is to frame a Constitution for Australasia, and in framing a Constitution we are giving the Federal Parliament power to acquire territory for the purposes of the Federation. It must acquire territory belonging to private persons or to the Crown, and all the resolution can apply to is as to what belongs to the Crown. It must deal with the lands under the Constitution, and I submit to my hon. friend, that his proposal is not constitution-making at all. However advisable it is to have no alienation in fee simple of these federal lands, and although we know there will be an effort to boom the land when the federal capital is fixed, we are departing from the ambit of our instructions in the Federal Enabling Acts if we adopt the proposal now. Our duty is to frame a Constitution, and for us to put in the Constitution something as to what is to be done with the property under the Constitution, is something which I cannot understand. I ask the hon. member to withdraw it. Rightly or wrongly, a great proportion of the people look with apprehension upon these views, and we do not want to frighten the people from coming into the Federation.

Mr. WISE:

It will have the opposite effect.

Mr. HIGGINS:

I feel as strongly as Mr. Wise as to the expediency of the policy indicated in his resolution, but I want to get Federation, and I do not want to deter a large portion of the people from voting "Yes" if we get a working Constitution. Mr. Wise can tell his friends that we shall try to induce the Federal Parliament to accept this system. I think Mr. Barton has struck the nail on the head when he said it
was not a matter to be considered in framing a Constitution. In framing the Constitution power is given to acquire Crown or private lands by the Federal Government, but at the same time, what is to be done by the Commonwealth is not a matter of Constitution framing.

Mr. TRENWITH:

I differ from my hon. friend on this question, as I think it is desirable that we should, if we can, put a provision in the Constitution that the lands of the Commonwealth shall always remain the lands of the Commonwealth. We have bad ample evidence of the unwisdom of selling lands in fee simple in all of the States. We have had several very remarkable instances in the colony of Victoria—quite recently, where from time to time land was required for public purposes. All the land has belonged to the people of the State, and when it is sought to be acquired for public purposes, it is always found that the people have to pay very high prices for that which should never have departed from them, and we are continually embarrassed with the difficulty. The railways are notoriously non-paying from a book-keeping point of view, and it is altogether because of the fact that in the early days we alienated a large amount of the public lands, and when we required them for public purposes we had to pay private persons inordinate prices. I feel I should not be doing right in discussing this question at the length it deserves, but I feel bound to urge one or two reasons why it would be right to put it in this Constitution at any rate at this stage, even if it were struck out subsequently. Mr. Higgins points out that in the Constitution Act we have there are provisions for the sale, letting, or otherwise dealing with Crown lands, and therefore it is unwise to to put in this Constitution that they should not be sold. Now clearly there is no departure from the Constitution to which he refers. Supposing we only made a provision for letting the lands we have only done the same thing in a different degree as has been done in the Constitution to which he referred. It has been said that if the people cannot acquire the fee simple of the land they will not develop it to the same degree as they would if they could acquire it. We have been able in Victoria to furnish an object lesson in this connection. We recently passed an Alienation Act to which we attached clauses providing for the perpetual leasing of land subject to a re-valuation every ten years. We find that that land known as the mallee country in Victoria is being taken up very largely indeed under that system, affording to the agriculturist an opportunity of using the land for agricultural purposes, and leaving to the State perpetually such unearned increment as may from time to time accrue. We all know that unexpected developments take place and land is inordinately increased in value, not through any effort of the person using it, but through some extraneous circumstances over which he has no
control, such as the discovery of a goldfield, or the development in the locality of some form of production which was not thought to be likely at the time it was alienated. The mallee land of Victoria was thought a few years ago to be absolutely worthless, and the difficulty was not to get people to buy it, but to stop on it at all, in order to destroy the rabbits and keep them from overrunning the adjoining lands. But quite recently, through two inventions, the land has become amongst the most valuable, the most easily worked, and the most remunerative in the colony, and if it had been alienated at the price that could be got for it a little while ago it would have been giving away the land to a few lucky people. If this clause is put in the Constitution now it will give us an opportunity of ascertaining what is the feeling of the Parliaments that will have to deal with the Bill. It will give us an opportunity of learning the opinions of the people through the press.

Mr. O'CONNOR:
This is not a proper use to make of this Convention.

Mr. TRENWITH:
It is a proper use.

Mr. O'CONNOR:
To test the feeling on a fanciful doctrine.

Mr. TRENWITH:
It is for us to learn between now and four months hence what is the desire of the people, and by inserting it now we should have discussion on it in a way.

Mr. BARTON:
Do you not think we would have discussion on it if we do not put it in.

Mr. TRENWITH:
No. Because if we pass it it will be made a clause in this draft which we are preparing with a view of inviting criticism. Our work just now is to deal as nearly as possible with what we think is wise with the knowledge that it will receive serious and extensive public and Parliamentary criticism in order that we might, in the light of that criticism, do what seems most in accord with the public will. It was thought desirable in previous constitutions to put provisions in for what was then the prevailing custom in regard to the sale as well as the letting of public lands. But there has grown up, and is growing up, a very emphatic and widespread feeling that a great injustice was done to the people at the inception of the colony by disposing of their right to the public lands. We are making a Constitution for lands to be dealt with by another body, and if that feeling is as general as I, Mr. Wise, and others think it is, we have a right to put in the
Constitution a provision that will guard the public property in land from being dissipated as it has been in the past. I feel this subject is so interesting and so important that it is very difficult indeed—it requires a great deal of self-abnegation—to refrain from discussing it as I should like to discuss it. But it is not proper that I should; and, having in view the shortness of the time, I will not do so. But I would urge hon. members to vote for the clause Mr. Wise has proposed; and if, as they think, it will frighten a large number of persons from coming into Federation, we can eliminate it when the second consideration of this Constitution comes on; or if, as some others think, there is such a widespread feeling in favor of it that this will popularise and even frighten away many that have that guidance from public discussion in the press, upon the platform, and in Parliament.

Mr. WALKER:
I hope that our hon. friend Mr. Wise will allow this to go to a division at once.

Mr. WISE:
I am quite agreeable.

Mr. WALKER:
Or else withdraw it. Those who have been in Australia for many years know that the fact of acquiring land on easy terms is one of the main reasons Australia has such a much larger population now than it had forty years ago. At the present time we have enormous areas in Australia practically uninhabited, and yet these lands have been offered on remarkably easy terms. It is preposterous to make this Convention a debating society for the discussion of this land question, after all the delays we have had.

Sir JOHN DOWNER:
Hear, hear.

Mr. WALKER:
If Victoria wants more land, why not let her annex the Northern Territory from South Australia? I believe she could get it for the asking.

Mr. TRENWITH:
There is only one reason, and that is that South Australia will not consent.

Mr. WALKER:
Perhaps the best thing is to give away the land so as to get the people to reside on it and occupy it, and thereby contribute to the revenue through the Customs-house. I hope that without further discussion

Dr. COCKBURN:
I do not think that this is the lace for a dissertation on the
various forms of land tenure. Still this is a special case, and not a general one. We are dealing with practically the site of the federal capital.

Mr. TRENWITH:
That, and possibly more.

Dr. COCKBURN:
Therefore the circumstances attending the consideration of this clause are altogether exceptionable. Wherever that capital is fixed there is bound to be a large influx of population, and a rise in land values to a fabulous extent.

Mr. WISE:
Hear, hear.

Dr. COCKBURN:
And we should consider how we can make the best practical arrangement, so that Federation may as far as possible pay its way.

Mr. WISE:
If you leave it to the Federal Parliament the people will rush in and get the land beforehand.

Dr. COCKBURN:
If a scheme can be proposed by which it is shown that the Federal Parliament will retain to itself as the landlord an enormous rise of prices in land, then it will be able to dispense with revenues from other directions. This is an aspect which might guide the people in considering what the cost of Federation will be.

Mr. HIGGINS:
The people cannot rush and get Crown lands when it is a federal capital.

Dr. COCKBURN:
We have to consider this matter simply as an ordinary landlord. The federal authority will be the landlord of the site of the federal capital, and it is for us to consider what is the best possible use to which the landlord can put the land. This does not necessarily touch the question of land nationalisation or of methods of land tenure. Therefore I feel compelled to vote with Mr. Wise, and in doing that I do not admit that I agree with the hon. member in all his views. I vote for the amendment because it establishes the general methods of a sound principle, which is applicable in the present instance, and will go a long way towards settling the question I have just alluded to.

Mr. HOWE:
This land question is really the basis of all public good. So fax as the land laws of each individual State are concerned, I think they should be left entirely to the Parliament of that State. Ever since I took an interest,
directly, in the politics of the State to which I belong I have advocated the leasing of our Crown lands, and, I am happy to say, Mr. Glynn, myself, and others, working shoulder to shoulder, have introduced into this country a system of leasing for a term, of leasing in perpetuity, for a fixed rent, or of giving a leasehold with right of purchase, which, instead of giving the principal part of the money to the Government, reserves it to the lessees, so that they may improve their properties, which is as good to them as if they held it in fee. The State which is to be created under this Bill is to have a Parliament which will outnumber any of the Parliaments of the other colonies, and which is to be elected by the people of all the colonies. What right has one State to say to the Parliament representing the whole people that you shall do so and so with your land? The Parliament should be allowed to deal with the land in which the federated government will sit as they like, just as we claim that we should be allowed to deal with the land in our own States. I should resent the Federal Government having the power vested in them of directing any individual State, however small, how it should dispose of its Crown land. We should never give them that right, and at the same time we should not attempt to dictate to the Federal Parliament how they should dispose of their land. You say, "Trust the people"; Mr. Deakin is always telling us to do that. I say, let the Federal Parliament deal with their lands at their sweet will and pleasure. They are appointed by the people, and will have to account to the whole of the people for the way in which they dispose of their lands.

Sir EDWARD BRADDON:

This discussion is purely academical, and it was intended to be so by Mr. Wise. He is a believer in one capital for the Commonwealth. There is but one possible capital.

Mr. TRENWITH:

There is only one Hobart.

Sir EDWARD BRADDON:

And inasmuch as it is not at all likely that that capital will have a very considerable quantity of land to dispose of-

Mr. BARTON:

Not even if you have the whole island.

Sir EDWARD BRADDON:

If we had the whole island we should make it difficult for some impecunious, if largely populated, States to acquire property there. But as a matter of fact there will not be a very large amount of unalienated land to deal with in the capital, and that amount may very well be dealt with in accordance with the ordinary laws prevailing in the Commonwealth from
end to end.

Question-That the words proposed to be added be so added—put. The Committee divided.


AYES.

Berry, Sir Graham Kingston, Mr.
Clarke, Mr. Peacock, Mr.
Cockburn, Dr. Quick, Dr.
Deakin, Mr. Reid, Mr.
Glynn, Mr. Trenwith, Mr.
Holder, Mr. Wise, Mr.
Isaacs, Mr.

NOES.

Abbott, Sir Joseph Higgins, Mr.
Barton, Mr. Howe, Mr.
Braddon, Sir Edward Lewis, Mr
Brown, Mr. McMillan, Mr.
Dobson, Mr. Moore, Mr.
Douglas, Mr. O'Connor, Mr.
Downer, Sir John Symon, Mr.
Fraser, Mr. Turner, Sir George
Fysh, Sir Philip Walker, Mr.
Grant, Mr. Zeal, Sir William
Henry, Mr.

Question so resolved in the negative.

Clause, as read, agreed to.

Clause 116.-Alteration or limits of States. Agreed to.

Clause 117. - Saving of rights of States. Agreed to.

CHAPTER VII.-MISCELLANEOUS.

Clause 118-The seat of Government of the Commonwealth shall be determined by the Parliament.

Until such determination the Parliament shall be summoned to meet at such place within the Commonwealth as a majority of the Governors of the States, or, in the event of an equal division of opinion amongst the Governors, as the Governor-General shall direct.

Mr. WALKER:

I am only going to add a few lines to the first sentence. I propose:

That the following words be added after the word "Parliament," "and shall be within an area which shall be federal territory."

That is giving effect to the intention of the Constitution Bill as in clause 104. I may say that my desire is that the federal capital shall be in some
place which is not at present a capital city, thereby removing a bone of contention, and giving us an opportunity of forming another centre of population. If the Federal Parliament thinks proper to test the principles which my hon. friend Mr. Wise advocates they can do so. But that, in my opinion, is comparatively a small matter at this stage.

Mr. Higgins:
Is it a small matter?

Mr. Barton:
I trust that the Convention will not find it necessary to add this amendment. It is far better to let that matter be settled in the future. We have a provision in clause 51, sub-section 2—that is the only one which deals with the site of the federal capital—which says that the Parliament shall, subject to the Constitution, have exclusive powers to make laws for the peace, order, and good government of the Commonwealth with respect to the following matters, including the site of the seat of government. But that does not say that the Federal Parliament is bound to take any piece of territory heretofore not inhabited, or not thickly inhabited, and turn it into a federal capital. At present it will be better to leave the hands of the Federal Parliament free, and I trust most of the hon. members will be of that opinion. We ought to leave the Federal Parliament free to determine the site of the Federal capital. My hon. friend's amendment would make it compulsory upon the Commonwealth to take some area and turn it into a federal capital. It would also practically impose this limitation, that some territory would have to be selected which is not at present a great centre of population. I am inclined to the opinion myself that it would be a good thing, in order to avoid intercolonial jealousies, that the site of the capital should not be in one of the present centres. But subject to that limitation of opinion we shall do well to allow the Commonwealth to deal with the matter itself. We should not tie its hands. It is fair to leave it in the hands of those who will be the citizens of Australia, and who ought to determine it for themselves. In the meantime we can allow the clause to stand as it is. I therefore suggest that this amendment be not carried.

Amendment negatived; clause, as read, agreed to.

Clause 119—Power to Her Majesty to authorise Governor-General to appoint deputies—as read agreed to.

Clause 120—In reckoning the numbers of the people of a State or other part of the Commonwealth aboriginal natives shall not be counted.

Dr. Cockburn:
As a general principle I think this is quite right. But in this colony, and I
suppose in some of the other colonies, there are a number of natives who are on the rolls, and they ought not to be debarred from voting.

Mr. DEAKIN:
This only determines the number of your representatives, and the aboriginal population is too small to affect that in the least degree.

Mr. BARTON:
It is only for the purpose of determining the quota.

Dr. COCKBURN:
Is that perfectly clear? Even then, as a matter of principle, they ought not to be deducted.

Mr. O'CONNOR:
The amendment you have carried already preserves their votes.

Dr. COCKBURN:
I think these natives ought to be preserved as component parts in reckoning up the people. I can point out one place where 100 or 200 of these aboriginals vote.

Mr. DEAKIN:
Well, it will take 26,000 to affect one vote.

Mr. WALKER:
I would point out to Dr. Cockburn per capita, if he leaves out these aboriginals South Australia will have so much the less to pay, whilst if they are counted South Australia will have so much the more to pay.

Clause, as read, agreed to.

CHAPTER VIII.-AMENDMENT OF THE CONSTITUTION.
Clause 121-The provisions of this Constitution shall not be altered except in the following manner:—

Any proposed law for the alteration thereof must be passed by an absolute majority of the States Assembly and of the House of Representatives, and shall thereupon be submitted to the electors of the several States qualified to vote for the election of members of the House of Representatives, not less than two nor more than three calendar months after the passage through both Houses of the proposed law.

The vote shall be taken in such manner as the Parliament prescribes.

And if the proposed alteration is approved by the electors of a majority of the States, and if the people of the States whose electors approve of the alteration are also a majority of the people of the Commonwealth, the proposed alteration shall be presented to the Governor-General for the Queen's assent.

But an alteration by which the proportionate representation of any State in either House of the Parliament or the minimum number of representatives of a State in the House of Representatives, is diminished,
shall not become law without the consent of the electors of the State.

Mr. DEAKIN:

According to the first subsection any amendment of the Constitution requires an absolute majority of the Senate and the House of Representatives, a majority of the whole of the people of the Commonwealth, and a majority of the States of which the Commonwealth is composed. It is a small matter, but under these circumstances the requirement that there should be an absolute majority of the Senate and House of Representatives is surely unnecessary. As the question of reform is practically remitted to the people, I move:

To strike out in line 2, the words "an absolute" with a view to the insertion of the word "a."

Sir EDWARD BRADDON:

I think the feeling in regard to this clause has been that it should be made as difficult as possible to amend the Constitution. The idea underlying the clause is to provide that, while an amendment of the Constitution is not made absolutely impossible, the Constitution shall not be so easily capable of amendment that in any fluctuation of public opinion, any change of feeling on the part of the people in some crisis of a temporary character, it might be changed.

Mr. DEAKIN:

A majority of the whole people, and a majority of the States.

Sir EDWARD BRADDON:

Yes; an absolute majority of the members representing the States in the Senate and House of Representatives. I do not think this is too much to ask in such an important matter as an amendment of the Constitution, and, while I would not say the Constitution should be such as could only be amended by force of arms, I hope we shall provide all necessary safeguards against its being lightly amended.

Mr. ISAACS:

I hope these words will be eliminated. I should like to point out the meaning of the clause. There is power given for the intervention of the people on the question of the amendment of their Constitution, but that power is merely by way of veto. Unless the proposed amendment of the Constitution first succeeds in passing an absolute majority of both Houses of the Legislature the proposition never reaches the people for their determination at all.

Mr. MCMILLAN:

You mean there is no initiative like there is in Switzerland.
Mr. ISAACS:

There is no initiative, but I mean something more. It is possible for an absolute majority of either House to prevent the people from expressing their views on the amendment of the Constitution. I think that is wrong. If we are to provide for a mere majority of the Legislature to alter the Constitution, then I could understand the complaints of some of my hon. friends that that was too easy a mode, but the decision of the Legislature in this case is not intended to be final, and the passing of the amendment of the Legislature is intended to be the means of ascertaining whether this proposition is of so great an importance, of such great interest, and of such necessity as to require the consultation of the people. I can quite understand that circumstances have not failed to occur in some colonial Legislatures where by some accident a proposition has passed the Houses, but has failed to get an absolute majority. I can quite understand why it is necessary in cases where the voice of Parliament is sufficient in itself to establish a new law amending the Constitution to have an absolute majority, and with much more reason than in the present case. Although we are dealing with the question of amending the Constitution, we have to recollect that it never can get passed into law without the sanction of a majority of the States and people. Now, surely that is safeguard enough.

Mr. HOWE:

An ordinary majority.

Mr. ISAACS:

This is only preliminary to getting to the people, and then you have in the States the amplest power of rejecting a proposal, and in the population you have similar power of rejecting a proposal if it is not in accord with the views of the people. In America there are loud and frequent complaints concerning the difficulty of altering the Constitution. As Mr. Moncure Conway has lately pointed out, there exists an almost intolerable state of things there, "arising," as Mr. Stead has graphically phrased it, "from the iron grasp of the dead hand." We know perfectly well the evils—I need not refer to them again—that have arisen from the difficulty of amending the American Constitution. Dr. Burgess has pointed out that. Taking the figures of one census of recent years, three millions of American people could withstand the undoubted will of forty-eight millions of their fellow-citizens, but if we are going to say here that besides running the gauntlet of discussion in the Legislature we are going to impose the condition of getting an absolute majority of both Houses, we put a wrong and unnecessary condition between the proposal and the people's will. Therefore I strongly support the amendment of Mr. Deakin,
and I hope the word "absolute" will not find a place in the final draft of the Bill.

Dr. COCKBURN:

An amendment of the Constitution should not be made too easy, but on the other hand it should not be made too difficult. In America it is too difficult. It requires a two-thirds majority of the Congress and a Convention of three-fourths of the States. This Bill only demands an absolute majority of both Houses and a majority of the States and the people.

Mr. HOWE:

But two large States can stop it for all time.

Dr. COCKBURN:

If the Parliament is to have anything to do with it, it should be in accordance with the deliberate will of the House. What is provided for is an absolute majority, and that only means one more than half of the House. It means that there is to be no catch vote, and it is well to provide against that. I cannot imagine a case where a majority of the House wishes to see an amendment carried that the majority cannot be got together to vote. It may mean a delay of a day or two, but only a day or two. The decision should rest on the deliberate will of the House instead of on a catch vote.

Mr. MCMILLAN:

I do not quite follow Mr. Isaacs in his logic. It seems to me it is a very serious matter to attempt to interfere with the whole machinery of the constitutional Government, and surely it is the initial step that should be surrounded by every possible safeguard. Mr. Isaacs seems to take it for granted that there is some pressure of the people to be brought to bear on the Parliament, and that the Parliament will block the way, but before we attempt a change of the Constitution, causing elections throughout the country which mean heavy expenditure, a great deal of unrest, and a dislocation of all business, such a thing should be initiated only by a very solemn process, meaning at the least an absolute majority of both Houses. That would necessitate the giving of proper notice of the intention to move in that direction. Surely if the matter is of such tremendous importance as to dislocate the whole of the social and business life of the community for a period it should be ushered in by every possible safe guard. I think an absolute majority is not unreasonable under the circumstances.

Mr. KINGSTON:

I would ask Mr. Barton whether it is perfectly clear what is meant by the words:

Must be passed by an absolute majority.

The general provision of our Constitution is that the second and third
readings must be carried by an absolute majority. Does this mean that it shall be sufficient that the motion:

That the Bill be now passed, and its title be as read

is carried by an absolute majority?

Mr. BARTON:
I think it is sufficient if it passes its final stage by an absolute majority.

Mr. KINGSTON:
I am inclined to think that the meaning of a clause of this description would be that the final stage of the Bill should be passed by an absolute majority. As there is room for a little doubt, and parliamentary authorities evidently differ over the point, I would suggest that Mr. Barton should consider it.

Mr. BARTON:
I will certainly do that.

Mr. FRASER:
Surely it is not to be desired that a minority of Parliament should be allowed to alter the Constitution, and I never heard of such a thing.

Mr. ISAACS:
And no one else either.

Mr. FRASER:
If you have not an absolute majority of both Houses you allow a minority to pass; the amendment. The most liberal man on earth would not ask for such a proposition as that. The reference to the United States is a different thing altogether, and has no analogy to our conditions. The 1891 Bill contained the same provision, and why should you make an alteration merely for the sake of creating strife and confusion? The Constitution should not be altered to every gust of wind that blows hither and thither.

Mr. HOWE:
Who blows? The lawyers?

Mr. FRASER:
It is not desirable that an alteration of the Constitution should be effected except at the wish of the majority of the people.

Sir WILLIAM ZEAL:
I think this clause should be altered, so that it should be necessary that a Bill altering the Constitution should be carried by an absolute majority of both Houses on its second and third readings.

Mr. BARTON:
Suppose the Bill is carried without a division?

Sir WILLIAM ZEAL:
In Victoria on similar occasions we count the House, and the Clerk has to
certify that an absolute majority of members have voted. I move:
To insert after the word "passed" the words through its second and third reading."

Mr. BARTON:
It is not necessary. Supposing they have some different mode of procedure.

Sir WILLIAM ZEAL:
If Mr. Barton does not consider my amendment necessary I withdraw it.
Mr. Deakin's amendment negatived.

Dr. COCKBURN:
I see the referendum must take place within three months after the passage of the Bill through both Houses, and it is proper there should be some limitation as to time; otherwise the question might be allowed to get cold and the educative effect of the debates be lost. This means a referendum of the whole of the Commonwealth, and is an expensive and somewhat troublesome matter. Very often we might have coming on in one or more of the States about the time the referendum was to be taken a general election either for the Senate or the House of Representatives, and it would be well to allow a little more than three months so that both may be fixed for the same time. Would it not be better to make it six months?

Mr. BARTON:
I was prepared to make it four, not less than two nor more than four.

Mr. DEAKIN:
Make it two and six. It does not matter.

Dr. COCKBURN:
It would be a greater convenience to have it six.

Mr. BARTON:
It is possible there might be a popular desire at the time to carry out an amendment of the Constitution, and the whole thing might become stale in six months, and the result would not be so satisfactory.

Dr. COCKBURN:
It might become stale if there were no election pending, but if there were such a desire for the amendment that it passed both Houses and a general election was coming on there would be no fear of it growing cold.

Mr. BARTON:
If it is the wish of the Convention I will agree to it.

Dr. COCKBURN:
I move that amendment:
That the word "six" be substituted for the word "three" in sub-section 1.
Agreed to.

Mr. BARTON:
A suggestion has been made to me by Mr. Symon, which puts the sub-
section beginning "And if the proposed alteration" in perhaps a clearer
form. Instead of putting it in the form:

If the proposed alteration or the proposed law is approved by the electors
of a majority of the States.

And so on, if it is put in a more direct narration it would be better. I will
move:

That all the words after "the" in line 12 be struck out, so that the sub-
section may be put in this form:

And if the electors of a majority of the States approve of the proposed
law, and if the people of the States whose electors approve of such law are
also a majority of the people of the Commonwealth, the proposed law shall
be presented to the Governor-General for the Queen's assent.

Mr. HIGGINS:
I submit to Mr. Barton the obvious primary meaning of "electors" is "all
the electors," and although I understand that he personally takes the view
that "electors" means "the majority of the electors," I fear that he has no
authority for accepting it in that sense. I do not wish to go against the
draughtsman's view in the matter, but it seems to me that if the consent of
"the electors" for the alteration had to be obtained the proposed alteration
would not become law unless all the electors of a majority of the States
approved the proposed law.

Mr. O'CONNOR:
It means if the State by a majority of the electors approves.

Mr. HIGGINS:
I have suggested to the draftsman who is responsible for this that the
words "the electors" means all the electors unless you say "a majority of he
electors."

Mr. LEWIS:
I should like to call attention of the Committee to the way in which this
clause is drawn. The proposed alterations must be approved by the electors
of a majority of the States. The people of the States whose electors approve
are also a majority of the Commonwealth. The proposed alteration should,
in my opinion, be approved by a majority of the States, and also by a
majority of the electors who record their votes upon the referendum that
may be taken upon the proposed law. That is a very different thing to what
is presented here. I need not delay the Committee, because the difference
will be seen at once. I have an amendment to the effect that the proposed
alteration should be approved by the electors of a majority of the States and
by a majority of the electors who vote.

Mr. BARTON:
That would not secure a majority of the Commonwealth.

Mr. LEWIS:
Under this system one large colony might join with two or three smaller ones, and their votes would override the votes of another large colony which had joined with one of the small colonies, notwithstanding that a large majority of the electors in the Commonwealth decided against the proposed alteration.

Mr. BARTON:
The proposition is that if the electors of a majority of the States approve, and if the people of the States, who are also a majority of the people of the Commonwealth approve, then the proposed law shall be presented for the Royal assent. As to the point raised by the hon. member Mr. Higgins, I think, on looking into the matter closely, that the thing is sufficiently stated in the clause. I will ask hon. members to look at the Bill of 1891, which dealt with the question by way of Conventions. The last clause of that Bill provided:

Any law for the alteration of the Constitution must be passed by an absolute majority of the Senate and House of Representatives, and shall thereupon be submitted to Conventions, to be elected by the electors of the several States qualified to vote for the election of Members of the House of Representatives.

Then in place of our sub-section 3, the 1891 Bill read:

And if the proposed amendment is approved by the Conventions of a majority of the States, and if the people of the States whose Conventions approve of the amendment are also a majority of the people of the Commonwealth, the proposed amendment shall be presented to the Governor-General for the Queen's assent.

Mr. Lewis will see that according to that section the approval of Conventions of the majority of the States must be equal to the approval of the majority of the people of the States whose members sit in these Conventions.

Mr. HIGGINS:
That is different to electors.

Mr. BARTON:
I do not think so, because the electors are summoned to vote. The clause reads:

Shall thereupon be submitted to Conventions, to be elected by the electors of the several States qualified to vote for the election of members
of the House of Representatives.

So that the electors are placed in the same position in this Bill as Conventions were in the Bill of 1891. The majority of one must be applied to the majority of the other. If the passage by the Convention is the passage by the majority, the passage by the electors is the passage by the majority.

Mr. ISAACS:
Could you not strike out electors in the first line of the third subsection?

Mr. BARTON:
That might remove any lingering difficulty, though I do not think there will be any difficulty. There would have to be a prior amendment. Starting with the third line of the third sub-section it should read:

And shall thereupon be submitted in each State to the electors of the State qualified to vote for the election to the House of Representatives.

I cannot move that now, as we have passed that part of the clause, but at a subsequent stage I shall move to do so. To meet Mr. Isaacs, I will now move:

To alter the third sub-section, so that it shall read: "And if a majority of the States approve the proposed law, and if the people of such majority of States are a majority of the people of the Commonwealth, the proposed law shall be presented to the Governor-General for the Queen's assent."

Mr. DEAKIN:
Before that is put I wish to direct attention to the point put by Mr. Lewis, which I do not think has been exactly caught. It is worthy of consideration.

Mr. LEWIS:
I suggest that it should be made to read:

If the electors of a majority of the States approve of the proposed law, and if a majority of the electors who vote on the subject also approve of the proposed law, then the proposed law shall be presented to the Governor-General for the Queen's assent.

The principles embodied in that amendment and in that of Mr. Barton are radically different.

Mr. ISAACS:
It will give a very unfair advantage to South Australia, which has women voters.

Mr. BARTON:
South Australia would count twice that way.

Dr. COCKBURN:
They only count as electors.

Mr. LEWIS:
I did not consider that phase of the question.

Dr. COCKBURN:
That principle is the right one.

Mr. LEWIS:

How are you to reckon the people of the States? Is it to be on a population basis, men, women and children?

The CHAIRMAN:

The only amendment I can put is that suggested by Mr. Barton.

Dr. COCKBURN:

And this is an amendment on that.

The CHAIRMAN:

Mr. Barton has now suggested a second amendment I do not know which be wishes to propose.

Mr. LEWIS:

If these words are struck out, and Mr. Barton's amendment becomes a substantive motion, the consideration of my amendment will be quite in order.

Mr. DEAKIN:

I was struck by the point raised by Mr. Lewis. It Seems a very fair one to raise, and a very fair one to insist upon if there were a uniform franchise through the Commonwealth. One obstacle is that in South Australia at present there is a different franchise from that obtaining in any other portion of the Australian continent, and the double voting power in that colony and in any which follow its example would be certainly unfair to the remaining States. If the franchise were uniform I do not think that the more populous States should have their abstinence from voting allowed for, as it is in this plan. It might even enable them to negative a proposal which secured, not only a majority of the States, but actually a majority of those persons who took the trouble to go to the poll. This plan would not enable a proposal to be carried unless the States in the majority were also the most populous States of the group. It is right to require a majority of the States as States. But why should you require that the people of the States whose electors approve of the alteration should also contain a majority of the people of the Commonwealth? One can conceive that if you have one State much outstripping the others in population, although Yo

Mr. LEWIS:

Can you defend that?

Mr. DEAKIN:

I do not think it is fair. I can conceive circumstances in which it would
not be. But the hon. member's proposal is not fair unless he couples with it a provision that it is only to apply after a uniform franchise has been established.

Dr. COCKBURN:

The proposal will undoubtedly be an advantage to the women of South Australia, as it will class them as electors instead of as infants. Otherwise it is a baby franchise. It will be some year or two before Federation is accomplished, and it will be some time after that before the Constitution is amended, and there will be plenty of time for the franchise to become uniform. I do not suppose there will be any amendments in the Constitution for ten years.

Mr. DEAKIN:

In America they followed pretty soon.

Dr. COCKBURN:

Say six or seven years. By that time the question of women's franchise will have been fought out and won or lost-will be won long before then, so I believe. I think this is a fair matter to be raised, otherwise the interests of the smaller States would not be protected, for it is only the population of the larger States that will count at all. It is a perfectly fair proposition to make, and I shall support the amendment. At the same time I am gratified by the improvement made on the Bill of 1891 by the introduction of the referendum.

Question-That all the words after "if" in the first line down to "alteration" in the fourth line be struck out-put and agreed to.

Mr. LEWIS:

I will now move the insertion of the words I have read.

Mr. DEAKIN:

That is an interference with our State rights.

Mr. SYMON:

That is not just, because you are not getting a majority of the people, only a majority of those who vote -a quarter of the people may vote. I suggest that we ought to reconsider that part of the agreement.

Mr. KINGSTON:

I am inclined to think it will not work well. If you are going to require that the States which consent to an alteration of the Constitution must constitute a majority of the people of the Commonwealth, what chance will the smaller States have of doing anything, even if there is almost equal division of opinion in the larger States? It maybe that New South Wales and Victoria are equally divided, but by a very small majority the alteration is negatived in those States. The alteration is affirmed by a very large majority in the other States, which altogether extinguishes the majority by
which the proposal is dealt with in the larger States. There is in point of 
fact on a balancing of all the electors voting a very considerable majority 
indeed in favor of the amendment. But because the larger States have not 
been able to affirm it under the circumstances to which I refer, and it has 
been carried against them by the most trivial majority, the thing is to be set 
at nought. Such a thing would be perfectly ridiculous. I 

think the right thing to do would be to preserve, so far as we can, the 
principle on which you have established your Parliament-have a majority 
of the States, and have a majority also of the people. Declare that as 
regards any alteration of the Constitution, if it is affirmed by a majority of 
the States, which is equal to an affirmance by the constituencies of the 
Senate, and by a majority of the people of the whole Commonwealth, 
which is equal to an affirmance by the constituencies of the House of 
Representatives, then the alteration shall be made. I understand that the 
object is to ascertain by means of the referendum what should be done in 
regard to any alteration of the Constitution. If you get two things, namely, 
a majority of the State electors who vote on the subject and a majority also 
of the electors of the whole Commonwealth in favor of the proposed 
alteration, I think that is all you ought to require.

The CHAIRMAN:
The question before the chair is "that the words proposed to be inserted 
be so inserted."

Mr. KINGSTON:
I would suggest to Mr. Barton that he should move the amendment in 
two portions. I am sure he is only desirous of ascertaining the wishes of the 
Convention in this respect. I would ask him to move it down to the portion 
which includes "by requiring a majority of the States." On that practically 
there will be a consensus of opinion on the part of the Convention. 
Subsequently Mr. Barton can move the other part, and we can then deal 
separately with that.

Mr. BARTON:
I should be glad to do anything that is reasonable, but Mr. Lewis's 
amendment as it stands is one which we cannot accept. That is the one 
which proposes first that there should be a majority of the States, and then 
a majority of the electors voting If we have five States joined together, of 
which one has female suffrage, then the electors count for double those of 
the other States. Then, in the case of a State which has the one man one 
vote system, that counts for two, and there is the difficulty. As no one can 
give me a way out of the difficulty, I think we had better adhere to the
proposal in the Bill.

Mr. Lewis's amendment negatived.

Mr. Barton's amendment agreed to.

Mr. BARTON:

I would like to draw attention to the wording of this clause which reads:

But an alteration by which the proportionate representation of any State in either House of the Parliament or the minimum number of representatives of a State in the House of Representatives, is diminished, shall not become law without the consent of the electors of that State.

It would be better to make it clear that the rights of representation of the State in the Senate and proportional representation in the House of Representatives shall be preserved. I propose:

To leave out "proportionate" in the first line and "either House of the Parliament" in the second line, and insert instead "Senate or proportional representation of the State in the House of Representatives."

Mr. SYMON:

Why not simply strike out proportionate"?

Mr. BARTON:

Perhaps that would be as well.

Mr. DEAKIN:

That will not do at all.

Mr. BARTON:

I want to make it clear that the State shall retain its rights

Mr. DEAKIN:

An objection is that the operation of the quota may reduce the number in the House of Representatives, and could you do that without an alteration of the Constitution?

Mr. SYMON:

If you leave out "proportionate" then the section must mean the representation that the State is entitled to under the Constitution. If it is proportionate then logically it will be proportionate; if it is a fixed quantity then it will be a fixed quantity.

Mr. DEAKIN:

The sub-section reads:

But an alteration by which the proportionate representation of any State in either House of the Parliament or the minimum number of representatives of a State in the House of Representatives, is diminished, shall not become law without the consent of the electors of that State.

By the operation of the quota the representation of a State in the House of
Representatives may easily be diminished. One provision appears to override the other, and my hon. friend will admit that that is undesirable. I do not say that the contention of my hon. friend Mr. Symon is untenable, but is it not doubtful?

Mr. BARTON:

I will not move my amendment. I will leave the clause as it stands.

Mr. HIGGINS:

Before the clause is finally settled I will ask Mr. Barton if this clause is seriously intended? The fact is that the proportionate representation of the State is not to be diminished without the consent of the electors of that State. What does this clause mean? Does it mean a majority of the electors of that State? - Is it the intention of the Convention deliberately, in fixing a constitution which may last for hundreds of years, to say that there shall be no change in it which shall alter the equal representation of the Senate unless the State whose representation is to be reduced concur with the alteration? We cannot tell what changes will take place, but supposing there are six colonies in the Federation a hundred years hence, and five of these have many millions of people each, and supposing Western Australia becomes like Gold Town in Max Adeler's book-a sand waste perhaps with only a few people fringing the coast, with ten millions in Tasmania, and 2,000 or 3,000 in Western Australia, do I understand the intention here is to say there shall be no change in the representation of Western Australia without her consent?

HON. MEMBERS:

Yes.

Mr. HIGGINS:

If that is the intention let us know it.

HON. MEMBERS:

We do know it.

Mr. HIGGINS:

It is simply a case like that in Max Adeler's book, where the hundred thousand people dwindled down to one nigger, who was sitting on a stump and was left with the responsibility of all the bonds to Europe. So it is possible for one colony, according to this proposal, to be wiped out and become as bare as the plains of Babylon, but still to remain in possession of the same representation. wish members to face the position which is the most absurd that any legislation can contemplate.

Sir EDWARD BRADDOX:

I recognise that Tasmania's population may in a short time be ten
millions, and I quite accept the proposition laid down in this clause. It is a fair thing, and if at any time it appears to be exceedingly unfair the necessary remedy can be applied by the Federal Parliament making the necessary amendment.

Mr. BARTON:

I still think the first of these amendments is the proper one, namely, to leave "proportionate" out of line 40. That will keep alive the representation of any State in the House of Parliament for the amendment of the Constitution. I shall move:

To strike out "proportionate."

Amendment agreed to.

Mr. ISAACS:

This clause is a vital portion of the Bill, and I should like Mr. Barton to postpone it and consider it.

The CHAIRMAN:

We cannot postpone it now.

Mr. ISAACS:

If necessary, I hope Mr. Barton will move to re-commit. It is not so much a matter for the larger States as for the smaller States. I am not sure that the word "representation" will cover the whole thing.

Mr. BARTON:

If it is found that a re-committal is necessary, and that it will not involve a long debate, I shall consent to it.

Mr. SYMON:

I think the words:

Or the minimum number of representatives of a State in the House of Representatives are unnecessary.

Mr. BARTON:

I agree with my hon. friend, and I will move to strike them out.

Sir GEORGE TURNER:

That means that

the number of members cannot be diminished.

Mr. BARTON:

Except with the consent of the electors of the State. This chapter, consisting of one section, relates solely to the Constitution. The present paragraph means that a proposal to make an alteration in the Constitution to diminish the representatives of any State in either House of Parliament shall not become law without the consent of the electors of that State.

Dr. COCKBURN:
I do not know that it means the same thing. We may wish to guard against the possibility of the House of Representatives becoming unwieldy on account of its numbers, but at the same time we must rigidly protect the statutory number of five as the minimum representation in the House of Representatives of each State and its equal representation in the Senate against reduction except with the consent of the State.

Mr. BARTON:

Supposing an alteration to the Constitution is proposed, the question which anyone would put to himself would be "Is the representation in either House of the Parliament diminished by this proposal?"

Sir EDWARD BRADDON:

I would like to ask Mr. Barton why, if he takes this view, the words were introduced at all? No doubt the words were introduced to give effect to a certain arrangement which was made as to the proportionate representation of the two Houses. If I have his assurance that these words are surplusage I shall be satisfied.

Mr. KINGSTON:

I think that to strike out the words would be both sufficient and effective. I would like to know from Mr. Barton if he means that it should not become law without the consent of the electors of the State. There is no provision for taking a poll.

Mr. BARTON:

Yes; there is a provision for a poll. It is that it shall not be effective unless the majority of the electors are in favor. It must be passed by the electors of a majority of the States, who are a majority of the people of the Commonwealth. There is only one way of carrying a proposal, and that is by a majority.

Mr. KINGSTON:

I suppose that is a majority of the people who vote, and would like the hon. member to say so.

Mr. ISAACS:

Supposing a proposal were made to alter the Constitution, not to diminish the representation of any State, but to increase the representation of all the others. That is a case hardly provided for. It would do away with equal representation.

Mr. BARTON:

The provisions already adopted make that an impossible contingency.

Mr. O'CONNOR:

Look at clause 23. It is not to be altered except on a referendum.

Mr. ISAACS:

You are speaking of altering the Constitution now.
Mr. O'CONNOR:

And you cannot alter that without this amendment.

Dr. COCKBURN:

It may be my misfortune, or it may be my fault, but I think a mistake is being made. I do ask the hon. member is it not conceivable that a time may come when both Houses may become unwieldy, and if that state of things comes to pass will it not be necessary to make a reduction all round; and would not that be an ordinary amendment of the Constitution quite different from altering the proposition or reducing the minimum of representation? I think we are making a mistake in striking out the words.

Mr. BARTON:

There can be no difficulty about this matter unless it is necessary to restore the word "proportionate." Then the words "minimum number of representatives" might be left where they are. The question is made difficult by clauses 23 and 27. In clause 23 there is a provision that there shall be two members in one House to one of the other. Then we go on to arrive at a quota which, until Parliament otherwise provides, is to be the number for each member. Then we provide in clause 27:

Subject to the provisions of this Constitution, the number of members of the House of Representatives may be from time to time increased or diminished by the Parliament.

If the Parliament, that is by the concurrence of the House of Representatives and Senate, wishes to decrease the number of the House of Representatives then the question arises whether the whole of this clause 121 is not necessary in order that that the proportionate representation of any State in either House may be preserved. Taking the proportion of one House and the proportion of the other, and then taking the liberty given to the Parliament to increase or diminish the number of the House of Representatives, although the proportion may be maintained, the one result may be to diminish the representation in both Houses. On reconsideration, therefore, I am a little inclined to think that by adopting the suggestion to leave out the word "proportionate" I made a mistake. If we keep in that word it will also be necessary to keep in minimum representation. As it has been suggested that we should re-commit the clause, perhaps it will be better to pass it now and re-commit it, as I shall probably have other amendments to suggest. I shall probably move—although I am not certain yet—to restore the word "proportionate." I ask leave to withdraw the proposed amendment.

Amendment withdrawn.
Mr. LEWIS:
I think that what is intended is that equal representation of any State in the Senate and the proportionate representation of any State in the House of Representatives shall not be interfered with. Also that the minimum number of representatives of any State in the House of Representatives should not be diminished.
Clause agreed to.
Schedule.

Mr. BARTON:
I propose that we shall simply take the schedule and then leave the postponed and the new clauses, together with the financial propositions, over till tomorrow. The financial propositions are not quite ready yet. I understand they are in print, but whatever there is will have to be considered by the Drafting Committee before it is proposed in the Bill. I would therefore like to report progress. The draughtsmen will have some work to do. I would suggest that we leave ourselves quite open to-morrow, so that if the finance clauses are not ready as soon as we could wish we may proceed with the consideration of postponed and new clauses, and then take finances if necessary.
Schedule, as read, agreed to.
Progress reported.

ADJOURNMENT.
The Convention adjourned at 10.10 p.m.
Wednesday April 21, 1897.

Notice of Motion - Address to the Queen - Commonwealth of Australia Bill - Departure of Delegates - The Draft Bill - A Petition - Adjournment.

The PRESIDENT took the chair at 10.30 a.m.

NOTICE OF MOTION.

Mr. HOLDER:
I give notice that to-morrow I will move:
That leave of absence be granted to certain hon. members specified.

ADDRESS OF CONGRATULATION TO THE QUEEN.

Mr. BROWN:
I move:
That the Standing Orders be suspended to enable me to move the following motion:—"That an Address from this Convention to Her Most Gracious Majesty Queen Victoria, congratulating Her Majesty on the completion of the sixtieth year of Her reign, be prepared for presentation to Her Majesty by the President, and that the following members of the Convention be appointed a Committee to prepare such Address, viz., the Hon. Sir R. C. Baker, the Hon. Mr. Adye Douglas, the Hon. Sir W. A. Zeal, the Hon. Sir J. P. Abbott, the Hon. Sir Graham Berry, and the mover."

Question resolved in the affirmative.

Mr. BROWN:
I presume I may take the readiness with which the consent has been given for the suspension of the Standing Orders as an indication that the motion I have read meets with the approval of the members of the Convention. I will, therefore, content myself with moving the motion, leaving anything that may seem necessary to be said on the subject till the time when the address is brought up for adoption.

Question resolved in the affirmative.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (continued from Tuesday, April 20th).

Consideration of postponed clauses.

Mr. BARTON:
I move:
That clauses 87-96 be further postponed until after the consideration of the other postponed clauses.
Question resolved in the affirmative.
Clause 13 also further postponed.
Clause 39.-Every House of Representatives shall continue for four years from the day appointed for the first meeting of the House, and no longer; but may be sooner dissolved by the Governor-General. The Parliament shall be called together not later than thirty days after the day appointed for the return of the writ for a general election.

Sir GEORGE TURNER:

The Commonwealth Bill, as it was in the year 1891, limited the duration of the House of Representatives to three years, but the Constitutional Committee, for some reason, have decided to extend that term to four years. Now, I confess that I cannot approve of that alteration, unless some good reason can be assigned for it. To begin with, we have the Senate retiring at three years and six years, and it would be wise, so far as we are able, to keep the elections as near together as may be. If we have a Parliament retiring at the end of three years, unless there happens to be a dissolution at some particular time—which is not very likely to happen in connection with the Federal Parliament—we may allow an election for senators and for representatives at certain times to take place together, and by that means save a considerable amount of expense. In addition to that, our people—the people of Australia—have got used to the period of three years, the period for which their own members are elected; and they would hardly understand why we should increase the term to four years for members of the House of Representatives. It would be thought, and fairly said, that we were simply increasing the term in order that the members elected might have a longer period before they had to go to the electors to have their actions discussed and approved or disapproved. So that, as far as I can see, I would be glad if this "four" years could be altered to "three," in order to make it uniform with our Parliament, and also with the term to which our people have become accustomed. Unless my hon. friend can show some good reason why four years should be retained, I will feel inclined to move:

That "four" be struck out and "three" inserted.

Mr. BARTON:

It was the decision of the Constitutional Committee.

Sir GEORGE TURNER:

I will move the amendment I have indicated.

Question-That the word proposed to be struck out stand as part of the clause-put and negatived.

Question-That the word "three" pro. posed to be inserted be so inserted-put and agreed to.
Clause, as amended, agreed to.

Clause 43.-Until the Parliament otherwise provides, each member, whether of the States Assembly or of the House of Representatives, shall receive an allowance for his services of four hundred pounds a year, to be reckoned from the day on which he takes his seat.

Mr. GORDON:

I move:

To strike out the word "four," in the third line, with the view of inserting "five."

The ground for the motion is that £400 a year is insufficient. While some local Parliaments are paying their resident members £300 a year, £400 is not enough for a member who has to leave-as most members of the Federal Parliament would have to do-his colony and practically abandon his business or his profession. He would have to rely either upon his private means or his parliamentary salary, which, in this case, would be inadequate. I think, if £400 a year is fixed, the choice for members of the House of Representatives will be limited to those who can afford to leave their business or profession, and to those who are prepared to depend entirely on the small parliamentary salary. While members of both of these classes are exceedingly desirable members of any Parliament, I think it would be a mistake to have the whole Parliament consisting of them, which the payment of the salary proposed would probably lead to. I think £500 is little enough; the £100 makes all the difference to the ordinary professional or business man.

Sir WILLIAM ZEAL:

£400 is quite enough.

Sir EDWARD BRADDON:

£100 too much.

Mr. GORDON:

I think it is a question on which the sense of the Committee should be taken, and, without further remark, I move the amendment.

Mr. HIGGINS:

I think that, having regard to the fact that the Federal Parliament will have much less to do than the ordinary local Parliaments after the first Parliament, £400 is sufficient. I am as strongly in favor of payment of members, on the grounds alluded to by Mr. Gordon, as any man, but I say that the work done in the States Parliaments takes far more time than will the work in the Federal Parliament, after its first meeting. It is not likely, indeed, that the Federal Parliament will sit more than two months in the year. I should like to strike out "four," with a view to the insertion of
"three." At the same time, as £400 has been fixed as a compromise, I hope it will remain at that amount as the maximum.

**Sir William Zeal:**

I consider that £400 is ample payment for the services of members. In addition to that they possess the privilege of a free railway pass. The amount proposed to be paid—£400—is twice as much as the Dominion Parliament of Canada pays its members. I trust hon. members will not support the amendment to increase the amount to £500.

**Mr. Trenwith:**

I hope that Mr. Gordon's amendment will be carried. We have no right to assume that the Federal Parliament will not have a good deal to do. All our experience teaches us that, as civilisation advances, the requirements of the people increase, and the tendency to ask Parliament to do things, that in the past have been done by private enterprise, is increasing very rapidly. I feel confident that the Federal Parliament, instead of having less to do as time goes on, will have a great deal more to do. I think that it will be found to the advantage of the States to hand over work to the central Government. Of course, I can understand the objection that any sum is too much, by those who disapprove of the principle of payment of members. But the principle of payment of members has been adopted throughout all the colonies. It was adopted after a good deal of resistance on the part of those who disapprove of it, which showed the strong growing public feeling in favor of paying members for the work they do, and of looking upon the position of a member of Parliament not merely as a position of honor, but rather regarding them as State servants who are paid for their work. We are paid not merely to reimburse us for expenses incurred, and to pay members of the Federal Parliament £500 a year would be little enough, considering that during a portion of the year they will have to be great distances from their established homes.

**Sir William Zeal:**

It will cost them nothing to travel.

**Mr. Trenwith:**

That is a very popular delusion.

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Sir William Zeal: Let them keep out of Parliament.

Mr. Trenwith: That is exactly the idea. I say let the people have the widest possible area of selection for Parliament in order that all sections may be represented.

Sir William Zeal:
To keep a lot of idle fellows doing nothing.

HON. MEMBERS: Oh, oh!

Mr. TRENWITH:

I am anxious that members of Parliament should not be idle fellows. In the non-payment days a great many members were idle fellows who looked upon a seat in Parliament as an addition to their social position, who cared very little for its worth, and in some instances who paid themselves very handsomely by the opportunities they had.

Sir WILLIAM ZEAL:

You cannot say that with truth. That is a most scandalous assertion!

Mr. TRENWITH:

It is the truth.

Sir WILLIAM ZEAL:

Quite scandalous. You have no right to make such a statement.

Mr. TRENWITH:

I do not want to initiate a discussion of this sort, but when Sir William Zeal talks about idle fellows, he brings upon himself, naturally and properly, the rejoinder I have made.

Sir EDWARD BRADDON:

A most unjust rejoinder.

Mr. TRENWITH:

In some of the colonies the best lands and water-frontages—the very eyes of the colonies, in fact—were mopped up by members of Parliament during the regime of non-payment of members.

Sir WILLIAM ZEAL:

How many of them?

Mr. TRENWITH:

As I said before I do not want to initiate a discussion of this sort.

Mr. WALKER:

What you say may be the case in Victoria, you know.

Sir WILLIAM ZEAL:

It is a gross exaggeration.

Mr. TRENWITH:

I am not speaking merely of Victoria. I lived during the early part of my life in a nice little colony which suffered in the same way.

Mr. WALKER:

Do you mean Van Diemen's Land?

Mr. TRENWITH:

I mean Tasmania. I was pointing out that the instincts of our people tend towards payment of members of Parliament for their work. My hon. friend, Sir William Zeal, interjected that we have free railway passes. I would
remark that any person who knows anything about travel must recognise that it carries with it a large amount of expense. Those who are here, away from their homes, know that if they were getting £400 a year for this work, they would be losing money, and they would not even be reimbursed for the expenditure incurred. Those who urge that the amount should be left as proposed in the Bill, are not in favor of payment of members, but are simply favorable to reimbursing members for the disbursements they make in connection with the performance of their duties.

Mr. HIGGINS:
I was always in favor of payment of members.

Mr. TRENWITH:
I feel confident that my hon. friend Mr. Higgins could not have looked thoroughly at the question or he would not have spoken as he did.

Sir WILLIAM ZEAL:
He is losing now ten times as much as he will ever get for being here, but he is bearing it cheerfully.

Mr. TRENWITH:
There are some who could not afford to lose anything at all. Parliament is to be composed, as it ought to be, of representatives of all sections of the community. There must be in Parliament some who cannot afford to lose anything at all, and who must be paid for their services, and if those services are worth having, there ought to be adequate remuneration for them. I sincerely hope that the higher figure will be adopted, not because I believe in extravagance, but because I believe that any lesser sum will not pay members of Parliament for their work.

Question-That the word "four," proposed to be struck out, stand part of the question-put. The Committee divided.

Ayes, 26; Noes, 9. Majority, 17.

AYES.
Abbott, Sir Joseph Henry, Mr.
Barton, Mr. Higgins, Mr.
Braddon, Sir Edward Holder, Mr.
Brown, Mr. Howe, Mr.
Carruthers, Mr. Lewis, Mr.
Clarke, Mr. McMillan, Mr.
Dobson, Mr. Moore, Mr.
Douglas, Mr. O'Connor, Mr.
Downer, Sir John Peacock, Mr.
Fraser, Mr. Quick, Dr.
Fysh, Sir Philip Reid, Mr.
Glynn, Mr. Walker, Mr.
Grant, Mr. Zeal, Sir William
NOES.
Berry, Sir Graham Kingston, Mr.
Cockburn, Dr. Trenwith, Mr.
Deakin, Mr. Turner, Sir George
Gordon, Mr. Wise, Mr.
Isaacs, Mr.
Question so resolved in the affirmative.
Clause, as read, passed.
CHAPTER I.
Part IV.-Provisions relating to both Houses.
Clause 46.-Any person who directly or indirectly himself, or by any person in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys, in the whole or in part, any agreement for or on account of the public service of the Commonwealth, shall be incapable of being chosen or of sitting as a member of the Senate or of the House of Representatives while he executes, holds, or enjoys the agreement, or any part or share of it, or any benefits or emolument arising from it.

Any person, being a member of the Senate or of the House of Representatives, who, in the manner or to the extent forbidden in this section, undertakes, executes, holds, enjoys, or continues to hold, or enjoy, any such agreement, shall thereupon vacate his place.

But this section does not extend to any agreement made, entered into, or accepted by, an incorporated company consisting of more than twenty person, if the agreement is made, entered into, or accepted, for the general benefit of the company.

Mr. CARRUTHERS:
I move the addition of these words:
Any person being a member of the Senate or of the House of Representatives who, directly or indirectly, accepts or receives any fee or honorarium for work done or services rendered by him for or on behalf of the Commonwealth whilst sitting as such member shall thereupon vacate his place.

This will practically bring the Commonwealth law into line with the law that holds good in Victoria. I understand that there not only is a contractor debarred, but no person can accept a fee or honorarium. As I pointed out the other night, I see no reason why lawyers or professional men should be in a better position than other members of the community. There is just as much likelihood for abuse to creep in if you allow them to accept fees or
honorariums as there is in the payment of contractors. I only desire that, in a matter of this kind, if we legislate against contractors, newspaper proprietors, merchants, and ordinary tradespeople, we should also legislate against any member of a privileged profession from doing that which is admitted to be wrong in others. I will say nothing about corruption, but if there be a principle in the matter, and it is a good principle in one case it is equally good in the other.

Mr. Wise:

I feel a certain amount of hesitation in speaking on a matter which is openly directed against the profession to which I have the honor to belong; but I should be lacking in my duty if I did not disregard any personal consideration which might induce me to keep silence and put before the Convention reasons why the old established rule which has prevailed under the British Constitution, and which has been the practice of the House of Commons and of these colonies—with the sole exception of Victoria—should be adhered to in the Constitution. The distinction between contractors and those who act on behalf of the Government in a confidential capacity must be manifest to everyone. The Commonwealth may require the services of arbitrators, engineers, or professional men of one kind or another, and there has never been in our colony or in England any practice of disqualifying men who are called upon to act in a confidential position towards the Government from receiving their fees from the fact that they hold seats in Parliament. The position of a contractor is entirely different. The interests of two contracting parties are opposed to one another, as each endeavors to secure the best of the bargain; but if a man is employed as a valuer by the Government the interests of the Government are his interests, just as much as the interests of a client are the interests of the barrister; and because of that essential difference between the two classes of cases—because in the one case, if the contractor does his duty honorably to himself, without any disregard of the rules of commercial morality, without any disregard of the rules of delicacy or honor—if he does his duty by himself he will get the best he can out of the Government. In the other case, where a man is consulted by the Commonwealth, where the honor of the Commonwealth is placed in his keeping—whether he is consulted as a physician, or a barrister, or a lawyer, or an auctioneer, or a valuator—in all of these cases there is no divergence of interest.

Sir Joseph Abbott:

Is not the object to keep members from being in the pay of the Government?

Sir William Zeal:
That is the point.

Mr. WISE:

Though this practice has prevailed in the House of Commons, and has been enforced with more or less rigidity, particularly during the last few years, there has never been any rule to prevent men employed in a confidential capacity from receiving their professional remuneration. I make no appeal that a barrister should be treated differently to others.

Sir WILLIAM ZEAL:

Yes, you do.

Mr. WISE:

I make no plea for barristers; for I put them on the same footing as engineers and valuers. We have valuers sitting in the New South Wales Parliament. I can assure the hon. member that I am speaking with accuracy, because my seat was challenged owing to my acceptance of a brief from the Government. I went to the Elections and Qualification Committee, and the whole thing was brought up. The Committee brought in a report that there was nothing inconsistent in a man sitting in Parliament, and receiving remuneration for professional services.

Mr. GORDON:

As a barrister only? Mr. WISE: No; as a barrister, or engineer, or valuer.

Mr. CARRUTHERS:

They are disqualified in our colony.

Mr. WISE:

I ought to know, because my seat was challenged. If I had known the matter would have been brought up, I could have had the documents here. It is a mistake to exclude professional men from public life.

Mr. CARRUTHERS:

Why are they better than commercial men?

Mr. WISE:

Commercial men are not excluded. A large part of the field of professional work is occupied by the Government in its many forms of administration in this country.

Sir GRAHAM BERRY:

The very reason why they should be excluded.

Mr. WISE:

What would be thought if a commercial man had to give a bond on entering Parliament that he could not trade in his own colony north of Newcastle, or in Victoria in the Western District? It would be thought a hardship.

Sir WILLIAM ZEAL:

That is an extreme case.
Mr. WISE:

To a professional man half the work that comes to him is more or less for or against the in opposition to the Government, and thus influence either the administration or a policy in favor of his client, while he is debarred from earning a fee for doing his best professionally to help the Government out of a difficulty. Yet no one proposes to prohibit members from appearing against the Government. That brings us to apply an illustration. When a professional man goes into Parliament, if not permitted to appear for the Government, he deliberately shuts himself out from half of his practice.

Mr. MCMILLAN:

Is there any proof of this ever having been abused?

Mr. WISE:

No proof. It has never to my knowledge been abused in any way whatever. In answer to the cry that we are asking for special privileges, I may say we are only asking to have the same opportunities of practising our profession that we had before going into Parliament. Supposing the Government were the only purchaser of, say, drapery goods, or the purchaser of 50 per cent. of the drapery goods that come into the colony, and there were a large number of persons employed in the sale of drapery, the position of the barrister who is asked to give up appearing for the Government would be analogous to the merchant who would be asked to give up selling to the Government. I would ask no special favor for barristers. Sir Joseph Abbott will agree with me that in our own colony the largest fees paid in one year were not to barristers at all, but to two valuers who were members of the House. The question I say has been formally decided by the Committee on Qualifications in my person, and they reported in my favor. It has been the habitual practice in our Parliament and in England.

Mr. ISAACS:

Did they report in favor of the continuance of the practice?

Mr. WISE:

They did not touch that, and so I do not know their view of that.

Sir JOSEPH ABBOTT:

It has always been a puzzle to me why this concession should be given to one branch of the profession alone. It is only a concession which has been recognised with regard to the bar in New South Wales. There we have a distinction between the bar and the lower branch of the profession. No one for a moment would dream of a solicitor who is a member of either House acting as a solicitor for any Government.
Mr. WISE:
   Unquestionably he would.
Sir JOSEPH ABBOTT:
   No such thing was ever heard of in New South Wales.
Mr. WISE:
   Because they have a Crown Solicitor.
Sir JOSEPH ABBOTT:
   If it is not allowed in New South Wales to one branch of the profession why should it be allowed to another branch?
Mr. WISE:
   I quite agree with you there.
Sir JOSEPH ABBOTT:
   The whole object of preventing members of Parliament from accepting remuneration from the Crown is to prevent the Government of the day from buying the services and support of members of Parliament. That point alone should enter into our consideration in coming to a conclusion upon the amendment proposed by Mr. Carruthers. Supposing you had a House full of lawyers-
Sir GEORGE TURNER:
   Don't.
Sir JOSEPH ABBOTT:
   What a very easy thing it would be in a country like ours, where Governments are engaged in various matters and where litigation is necessarily extensive, for a Government to divide its patronage and secure a majority.
Sir JOHN DOWNER:
   Is there any suggestion that that has ever been done?
Sir JOSEPH ABBOTT:
   They are no more incorruptible than other people?
Sir JOHN DOWNER:
   But has it ever been done?
Sir JOSEPH ABBOTT:
   What has happened in New South Wales? It is a scandal in that colony that a member of one branch of the Legislature draws between £4,000 and £5,000 a year from the Government.
Mr. WISE:
   And saves the Government £20,000 a year.
Sir JOSEPH ABBOTT:
   That is a matter of opinion. I think it is a public scandal that one man sitting in any Parliament should draw from the country between £4,000 and
£5,000 a year. At one time while drawing this amount the gentleman I refer
to was a member of the Government.

Sir JOHN DOWNER:
He probably would have earned more on the other side.

Mr. BARTON:
Because the other side generally pays better fees than the Government.

Sir JOSEPH ABBOTT:
Mr. Wise says this has been allowed in the House of Commons for many
years, and has never been questioned. It is not likely to be questioned in
such a conservative body as the House of Commons, composed, as it
mostly is, of professional men.

Mr. WISE:
They are very sensitive of their purity.

Sir JOSEPH ABBOTT:
I never heard of any adequate reason why barristers should have this
immunity.

Mr. WISE:
That is not the case; it does not apply to barristers only.

Sir JOSEPH ABBOTT:
I attach no importance to the decisions of the Committee on Elections
and Qualifications, as I have known the Committees of two different
Parliaments to give different decisions on the same statement of fact. The
Committees are appointed by the House there is no judge to preside over
them, and, though they are the best men of the House, there must always be
a majority on one side or the other, and so that tribunal is not impartial. I
know of no case-and I have been seventeen years in the Legislative
Assembly of New South Wales-where a member of the Assembly, who is a
valuator, has received fees from the Government. I do know of one case in
which a member of Parliament's seat was questioned on the ground that, as
an auctioneer, he occasionally sold property on behalf of the Government.
It was, however, proved before the Committee that the whole transaction
was done by his partner, and all the fees were received by his partner. It
was a subterfuge, of course. That just shows the value of the decisions of
this Committee. That man was allowed to keep his seat. That is the only
case I know of in which a man was allowed to receive the fees unless he
was a barrister. There is no instance of a medical man being allowed to
receive fees.

Mr. ISAACS:
I desire to express my absolute approval of Mr. Carruthers' amendment.
We should be careful to do all that is possible to separate the personal
interests of a public man from the exercise of his public duty. We should
bear in mind that it is not only important to secure that so far as we can in actual fact, but, in every way possible, we should prevent any appearance of the contrary being exercised. It has been well pointed out that in Victoria we have a provision carrying out the idea embodied in this amendment. In clause 19 of the Constitution Amendment Act of 1890 the fullest provision is made in this regard, and whilst we have already affirmed with regard to other people in clause 46 that no benefit under agreements with the Government shall be obtained by a member of Parliament, we would, unless we adopted this amendment, be drawing a distinction and making an improper and vicious exception in favor of the legal profession. I have no hesitation in saying that, in my judgment, the bulk of the legal profession do not want any such exception. And there is immense force in the observation that it would be a dangerous thing for the public if this were to be allowed to exist. We know that there are, by the exercise of much good sense amongst the people at large, a great many members of the legal profession in the various Par-

[Page 1038] starts here

liaments; but on a crucial division at a critical moment in the history of a ministry it might be either a fact-having regard to Franklin's observation on the taint of original sin—or it might lead to a suspicion where the fact did not exist, that a member had been biased or inclined at a delicate moment by a brief, or the promise of a brief. We know that some of the ablest members of the legal profession are in the various Parliaments, but I think that when they accept the position of a member of Parliament they ought to be prepared to make a sacrifice and not to take briefs for the Government.

Sir JOHN DOWNER:

That is not the point.

Mr. ISAACS:

It is an answer to one of the points that has been made—why should a lawyer when he becomes a member of Parliament be deprived of a portion of his livelihood? The public are interested in seeing and ensuring, so far as it is possible to ensure it, that no member of Parliament shall for his own personal profit allow his judgment to be warped in the slightest when he is called upon to decide on questions of public moment. I give the strongest support, so far as my mind carries me, to this amendment, and I hope it will be carried unanimously.

Mr. REID:

I hope we will not waste any more time upon this matter, which is after all not a very large one. I confess that on a fair consideration of the facts I am going to support the amendment of Mr. Carruthers.

Mr. FRASER:
Hear, hear.

Mr. REID:

At the same time I might say that in New South Wales it would have been an absolute calamity to the people of the country if during the past twenty years they had not had the opportunity of availing themselves of the services of certain eminent counsel who happened to be members of the Upper Chamber. This was owing to peculiar local circumstances; but in the Assembly no barrister, except in the case of my hon. friend, which was an exceptional one, has taken work for the Crown.

Mr. WISE:

It used to be a common practice.

Mr. REID:

It must have been away back in the dim past. I have no recollection of it. I have been in the New South Wales Parliament since 1880, and during that time no barrister who was a member of the Legislative Assembly took a brief for the Crown, except my hon. friend in an exceptional case.

Mr. WISE I did it deliberately to test the question.

Mr. REID Then my hon. friend took the brief to test the question, I myself refused a general retainer from the Commissioners of Railways because, as a matter of principle, the more free a man who represents the people is from transactions with the Government the better it is for himself and for his public usefulness. I am, therefore, cordially in sympathy with the amendment. I think that in cases heard in the federal courts there can be no such inconveniences as have arisen in New South Wales. The area of choice will be much larger, and under the circumstances I concur with the general proposition that barristers should be subject to the same restrictions as members of other professions.

Mr. WISE:

I have here the return to which I referred, showing that in New South Wales fees were paid on several occasions to arbitrators, and also to commissioners, who were sitting in Parliament. The ground on which it was held this could be done was that their interest did did not conflict with the interests of the Government.

Mr. KINGSTON:

I shal

But this section does not extend to any agreement made, entrusted with, or accepted by an

incorporated company consisting of more than twenty persons, if the agreement made is entered into or accepted for the general benefit of the Company.
That affords a facile means for getting out of the difficulty by an ant of incorporation. In our own colony a gentleman was lately unseated because he had an interest in a contract for the supply of chaff and hay. The amount involved was only £10 or £12, I believe. At the same time we know that for years in our own Legislature there has been sitting a member, much respected and deservedly respected, who has held and enjoyed a contract through the medium of an incorporated company for the manufacture and supply of locomotives—a contract involving hundreds of thousands of pounds. By limiting the matter in the way proposed we are straining at the gnat and swallowing the camel. In a matter where it is of little importance, say the supply of a bag of flour by a storekeeper to the Government, where it is not worth while to form a company, we prohibit it; but if the thing is big enough—if the profit likely to be derived by the person chiefly interested is sufficiently large to induce him to nominally associate himself with other people and go through the form of incorporation, he can do what he likes.

Mr. SYMON:

He has to resolve himself into twenty people.

Mr. KINGSTON:

He can get ten or twenty others to lend their names.

Mr. WISE:

That has been done in New South Wales.

Mr. KINGSTON:

Ought it to be done?

Mr. WISE:

Certainly not.

Mr. KINGSTON:

Well, we must strike out the words, as I suggest.

Mr. GLYNN:

Unless that is done some will vote against this.

Mr. WISE:

In that case there was no popular prejudice against them, and it was looked upon as a smart commercial act.

Mr. KINGSTON:

Of course we have here representatives of all classes. I am pleased to know that we have here a number of the profession to which I have the honor to belong, almost a majority, and if we carry this amendment we will be able to lay the flattering unction to our souls that the profession did it. They will do it in the public interests. The hon. gentleman Mr. Carruthers ought to undertake the task I have suggested. I hope we will make the thing fair all round, giving neither preference to the legal profession, nor the commercial community, nor any other profession or class.
Sir GEORGE TURNER:
I quite agree with the proposal that we should debar individuals of all classes from entering into these contracts, and I quite agree that we should prevent the formation of dummy companies for the same purpose. If it is wise to restrict individuals it is wise to restrict a company of a certain number of persons, though I would point out that twenty has not yet been fixed as the number. We have in Victoria, as my hon. friend the Attorney-General reminds me, what we call proprietary companies, which must not exceed twenty-five members. I would be willing to make the number twenty-five in this instance.

Mr. KINGSTON:
Why should we do for a company what we will not do for individuals?

Sir GEORGE TURNER:
For this reason, we would prevent a member of Parliament from becoming a member of a company. We are going too far altogether. A member may hold a number of shares in a company. That company may honestly and bond fide, without his knowledge at all, enter into some small contract with the Government, and the result is that he must lose his seat. Surely my hon. friend never intends to run mad over a proposal of this kind. While it is reasonable and proper to prevent an individual from forming a dummy company, surely we would look ridiculous if we said a member of Parliament must not be allowed to enter into any bargain with the Government as a shareholder in any company under the penalty of losing his seat. Take the case of the Metropolitan Gas Company in Victoria, which has hundreds of shareholders. The company supplies our parliamentary buildings with gas, and is it to be said that a member of Parliament who is a shareholder in the Company, and could not possibly be benefited in any way by the contract of the Government, except in the way of adding to the dividend he would receive, must either give up his interest in the company or lose his seat in Parliament. If we go a step further than preventing the dummy company, surely we would look ridiculous if we said a member of Parliament must

Mr. MCMILLAN:
I think there is a great danger involved in the proposal of my hon. friend the President. There is too much of a tendency at the present time to create professional members of Parliament, and we all know that in these countries great services are undertaken by the State. The ramifications of State business enter into the whole length and breadth of industrial life. Therefore, bow could any man be assured that any company in which he had a share would not at some time or other come under the ban of this
particular clause? Again, you would practically shut out of public life all the active-minded men engaged in the commerce and industry of the country, became every man engaged in commerce and industry who goes outside the little rut of his own particular business is generally a gentleman of that kind of calibre who makes a good public man. His interests are so widespread throughout the community that it would be impossible for him to know when they might touch the public business. To ask a man when he enters public life to sell out every share he has in a limited liability company would be an outrage. Furthermore, there are some people who cannot sell out their shares. We all know that during the last few years what are generally assets have become liabilities. Therefore to put such restrictions on the individual would really mean, to a great extent, a ban on public life. With regard to the other part of the question, it seems to me, speaking as a layman with regard to the profession of the law, that it is a very serious step to take to deprive the Crown of the best services of the best men in the country. Furthermore, I should have liked to have heard a little more argument to show that this exception on the part of the bar has been misplaced. I fail to recollect any case in which any real and substantial charge has been made against the high honor of a professional man for taking briefs owing to improper relations with the Government. Hon. members must recollect that the Government is also the head of criminal jurisdiction, and there might come a time when the greatest criminal might possibly get off because the Crown failed to get the best legal services.

Sir GEORGE TURNER:

The Crown always has its own prosecutors.

Mr. MCMILLAN:

Yes; and we all know well enough that these positions are simply the stepping-stones to higher positions at the bar. I do not pretend to know much about the legal profession, but I know all the same that we have had from time to time some of the ablest men in the legal profession members of Parliament, and I am so anxious to see the highest possible status maintained in our Federal Parliament that, just as in the case of men trading in the mercantile world, so in the case of men in the higher branch of the legal profession, no ban should be put upon them in their desire to enter public life.

Mr. FRASER:

I contend that no ban would be put upon the members of the legal profession. It is only right that there should not be the semblance of wrong-doing or suspicion of it attached to Members of Parliament, and I heartily support the amendment of Mr. Carruthers. If the profession is so limited,
and the ablest men in it are so restricted in numbers that the Crown may lose the advantages of their services, the only course open for these men, if they are associated with public life, is to retire from it.

Sir JOHN DOWNER:
That is the object.

Mr. FRASER:
A man must choose either one thing or the other. If they will be in Parliament and rest under this suspicion-I am not going to say they will be guilty of this-of getting briefs from the Crown, then I say they must choose between either remaining in Parliament and not receiving these huge briefs, or going out of Parliament and attending to their professional work. I quite endorse Sir George Turner's statement. A man might hold a share in, say, the Bank of New South Wales, or, in fact, any company, from which he might not be able to sever himself, might not be able even to sell it or dispose of it. Shares are not so easy to dispose of nowadays. That investment might debar him from entering public life, or render him liable to serious consequences. I hold that the proper thing to do is to carry the amendment.

Mr. BARTON:
What you suggest would bring about the desired result-a bad Parliament. You say: keep these able men out of Parliament.

Mr. FRASER:
I do not wish to reflect at all upon the members of the legal profession, who are most valuable, able, and conscientious men.

Mr. DEAKIN:
And so say all of us.

Mr. FRASER:
So say I. I have had to rely upon their judgment frequently, and I have never found them wanting.

Mr. PEACOCK:
Not wanting in fees.

Mr. FRASER:
They are never wanting in giving good advice to me. They tender good, honest, and bona fide advice.

Mr. REID:
Especially as to the evidence they should give.

Mr. FRASER:
I was going to say I was not sure that Parliament would be any the worse if there were fewer legal members in it. I assure you there is a strong
feeling outside in our colony, that there are too many lawyers in Parliament.

Mr. ISAACS:

The people do not show it by the elections.

Mr. PEACOCK:

You are quite right.

Mr. FRASER:

Mr. Peacock, who knows the feeling of the country in Victoria as well as any member of this Convention, says I am quite right, and the probability is that they will not send so many next time. The political pendulum goes and returns, and it will return again. At present it has gone too far in the direction I have alluded to, and I hope the amendment will be carried.

Mr. SYMON:

There has been so much said, and some of it in such exaggerated terms, as to what is called the semblance of wrongdoing, that I feel obliged to present myself to the Committee as a monument of the system as to which a great deal of abuse has been predicated, but as to which no instance of abuse has actually been related. I happened to be in Parliament for some time, and whilst there, I confess I was abandoned enough to be induced on more than one occasion to hold retainers both for and against the Government, and I am not aware that in consequence of these retainers I have deteriorated.

Mr. FRASER:

You are an exception.

Sir GEORGE TURNER:

A simon pure.

Mr. SYMON:

I am obliged to my hon. friend, but I doubt whether in this instance it is the exception which proves the rule. I am not aware that the circumstances I have mentioned ca

the federal capital will be, but it is fairly certain where it will not be. It is not likely to be in any great centre of population. I do not want to utterly destroy the hopes of some members, but we are pretty well assured it is not going to be in any great centre of population, of commercial or of legal enterprise.

Mr. HIGGINS:

Is Adelaide such a centre?

Mr. SYMON:

Adelaide is the most promising of all the fairly populated centres in the competition for the federal capital, but whatever exceptions there may be
in the rule embodied in the amendment with regard to the individual colonies, cannot apply where we are dealing with the case of the Commonwealth. If the federal capital is to be within federal territory severed from the rest of the States—at some distance from the centres of population and business, everybody who is elected to the Federal Parliament will have to go there. Now, I think the lawyers will be privileged enough over the rest of the members of the Parliament if they have the opportunity of practising in the Federal High Court, without having the additional privilege of holding Government retainers and Government briefs. Other people will be represented in the Parliament, and I hope there will be an industrial representation, and what a handicap the lawyers would have over the other members! I do not think we should make an exception in their favor, as there will be sufficient opportunities of their earning a livelihood if it has to be earned during the time that Parliament is sitting, by practising before the High Court, without acting on behalf of the Government. It has been suggested that the field of choice will be limited. It is frequently limited in a State, but in the Commonwealth there will be the whole bar of Australia to choose from, and therefore that argument does not apply at any rate with the same degree of force that it does in a State. For these reasons, and for others adduced by other members, I shall support the amendment; but I hope that the amendment with regard to the other portion of the clause will not be pressed. The Federal Parliament, if they see abuses creeping in in consequence of shareholders of public companies being members of Parliament, can impose limitations which will bring these abuses to an end. In the case put by Sir George Turner and others, the evil does not exist to the same extent—there is little or no possibility of individual corruption—but there are cases in which it may exist, and these must be provided for specially. In other cases it would be impossible for a man, if he were a shareholder in a bank, to take a seat in Parliament.

Mr. DOBSON:

I am going to vote against the amendment, and I do not care to do so without shortly explaining my views. I do so because I think the interests of the people are paramount. Mr. Reid has rightly stated that it would have been in his colony a public calamity if the choice had been limited, and for that reason I think Mr. Wise can fairly claim his vote. I quite agree that it may be a public calamity to the small colony I represent if the Government is debarred from retaining the services of the leading men who may happen to be members of Parliament. The gentleman who makes £5,000 a year out of the Government of New South Wales does so by virtue of the fact that he is the best man in his profession, and why should the people be debarred
from having his services. Now, sir, I will use another argument. We all recollect the accident to the Brighton express train in Victoria, when a great number of people of all classes were seriously injured. If Dr. Fitzgerald and other eminent doctors had been members of Parliament, were the Government to be debarred from telegraphing to them to attend these unfortunate people? If, in Tasmania, we decided to remove the bar at Strahan Harbor, on the west coast of Tasmania, or carry out some great railway

matter—we have an honorable member here with us, Mr. Grant, a gentleman living on his means—should we be debarred from giving him a fifty-guinea retainer to advise us what to do? I think the public ought to be considered in this matter before anybody.

**Sir WILLIAM ZEAL:**

That is what we are trying to do.

**Mr. DOBSON:**

I differ from the hon. member in the way he is trying to do it. Supposing Mr. Symon is a senator in the Federal Parliament, and Mr. Barton is a member of the House of Representatives for New South Wales, and during the very first Session the enormous question arises of State rights, will not the Government be desirous of giving Mr. Barton and Mr. Symon retainers? I think it would be a right thing to give retainers to the beat men, and I am not going to belittle my profession by saying there would be corruption. Is the Commonwealth to be debarred from securing the services of these gentlemen because you are going to distrust their profession and belittle the Federal Government?

**Mr. TRENWITH:**

I feel the amendment is a desirable one, and I shall vote for it; but I would be sorry to do so if I took it to be a reflection on the legal profession. I do not say that a colony suffers from lawyers being in Parliament, because I think the public have confidence in them, but it does seem to me an anomaly that one class of contractors shall be debarred and another class of contractors exempted. That is the difficulty I see. A barrister undertaking to perform a service is just as much a contractor as a man with a number of horses and drays who undertakes a work, and if it is proper that a person having a contract from the Crown should be a member of Parliament it seems to me to apply to every contract. The argument of my honorable friend Mr. Dobson, based upon the assertion of Mr. Reid, that during the past twenty years it would have been a calamity if the Parliament of New South Wales could not have had professionally the services of some of its ablest members, seems to me to be no argument at
all as now applied to the New South Wales Parliament, because the circumstances are so altered. Probably it would be no argument at all now as applied to New South Wales, because the number of able lawyers that New South Wales has now is altogether out of proportion to the number it had in its earlier history. The other argument of Mr. Dobson that, assuming that two of the most able members of this Convention—Mr. Barton and Mr. Symon—should be members of the Federal Parliament, one of them a representative of one of the Commonwealth Houses of Parliament, and the other a representative of the other, we should therefore necessarily be deprived of their services, it seems to me to be a gratuitous assumption that need not necessarily follow. I remember an instance in Victoria where an important case had to be conducted before the Privy Council, and the Attorney-General of Victoria went to England and pleaded the case on behalf of the Government. It seems to me that if we had these extremely eminent lawyers in either House, probably one or other of them would be acting in the capacity of Attorney-General for the Commonwealth Government. Therefore, in the case suggested by Mr. Dobson, we should not necessarily lose their services. But if their services were utterly beyond our disposal and were unattainable, there are, no doubt, still other members of the Australian bar whose services could be obtained, and the cause of the Commonwealth Parliament would not suffer. On the broad principle, if there is possible danger in employing one member of Parliament as a contractor for the Government, there is equal danger in employing another member of Parliament as a contractor for the Government, and what is right in one instance cannot be wrong in another instance.

Sir WILLIAM ZEAL:

I move:

That the Committee do now divide.

Question resolved in the affirmative.

Mr. GLYNN:

On a point of order, I would like to point out

The CHAIRMAN: The hon. member can not speak at this stage.

Mr. KINGSTON:

I understood that Mr. Carruthers asked that the amendment I suggested to him should be put before the last sub-section.

The CHAIRMAN: The hon. member Mr. Carruthers never asked leave to withdraw his amendment. I understood Mr. Kingston made a suggestion that something should be done.
Mr. KINGSTON:
   And the hon. member assented to it himself.
   The CHAIRMAN: He may have; but nothing was-proposed in Committee.

Mr. KINGSTON:
   He undoubtedly assented to it.
   An HON. MEMBER: Let him withdraw now.
   An HON. MEMBER: He cannot; a division is ordered.

Mr. KINGSTON:
   I would suggest that the wishes of the Committee should be consulted.
   The CHAIRMAN: There are certain Standing Orders, and I am here to uphold them.
   Amendment agreed to.

Mr. KINGSTON:
   I will ask Mr. Barton whether he will give us an opportunity to further consider this clause.

Mr. DEAKIN:
   Move something now.

Mr. SYMON:
   Move that it be struck out.

Mr. KINGSTON:
   I cannot, because Mr. Carruthers' amendment has been added to the clause. It was undoubtedly the understanding of Mr. Carruthers that it should be moved after the second paragraph, and I would respectfully suggest that the opportunity should be taken by the Committee to give effect to its wishes.

   The CHAIRMAN: I must object to its being assumed that any private understanding between members has any binding effect upon the chair or the Committee.

Mr. FRASER:
   Mr. Barton will no doubt agree to reconsider the clause if an amendment is necessary.

Mr. BARTON:
   I shall be happy to recommit any clause where there seems to be a probability of reconsideration resulting in any alteration. Where it in not likely that there will be any substantial alteration I think public interest requires that there shall not be a reconsideration. Later on I shall move that certain clauses be reconsidered, and if the majority are in favor of reconsideration, I shall propose that the reconsideration be decided upon without debate. Some of the clauses should be reconsidered for substantial reasons, but others only to make alterations in form and detail.
Clause as amended agreed to.

Clause 83.-Upon the establishment of the Commonwealth, all officers employed by the Government of any State in any department of the Public Service the control of which is by this Constitution assigned to the Commonwealth, shall become subject to the control of the Executive Government of the Commonwealth; and thereupon every such officer shall be entitled to receive from the State any gratuity, pension, or retiring allowance, payable under the law of the State on abolition of his office.

Mr. BARTON:

I have an amendment to this clause. Hon. members will recollect that there was a doubt whether the addition to the clause, beginning

And thereupon

properly conserved the rights of civil servants; and where claims were accruing but were not existing rights, and it was contemplated that the officer should remain in the service of the Commonwealth, there was a desire that provision should be made that he should be, entitled to have his claim pro tanto against the State which he had served, and have the remainder of his claim satisfied by the Commonwealth

as for the remainder of the term of service entitling him to a pension. I have endeavoured to put that into shape in the following amendment:

To leave out all words after "thereupon" and put in their place: "such officer shall, if he is not retained in the service of the Commonwealth, be entitled to receive from the State any gratuity or other compensation payable under the law of the State on abolition of his office; but if he is retained in the service of the Commonwealth he shall be entitled to retire from office at the time and upon the pension or retiring allowance permitted and provided by the law of the State on such retirement, and the pension or retiring allowance shall be paid by the State and by the Commonwealth respectively, in the proportion which his service with the State bears to the whole term of his service."

Where the office is abolished then the payment is thrown on the State.

Sir GEORGE TURNER:

Is that right?

Mr. BARTON:

I think it is, because the Commonwealth has no reason to be saddled with payment for services which it does not require. The Commonwealth is, after all, only the creation of the States, and it is the act of the States which makes this Constitution, and therefore also it is the act of the States which makes the abolition of the offices of servants not required by the Commonwealth.
Mr. SYMON:
When would the amount be paid to the officer, supposing he was transferred to the Commonwealth, and elected to remain in the service of the Commonwealth?

Mr. BARTON:
He would be entitled to any gratuity or pension of the State-abolished office at once, but if it were retirement by the Commonwealth he would not be entitled to pension or retiring allowances until his retirement.

Mr. DEAKIN:
The Drafting Committee seem to have amply provided for those particular rights of public servants. But is it not also necessary to provide that any other existing rights of public servants should be preserved to them? For instance, it is provided in Victoria that public servants cannot be dismissed unless they have had an opportunity of being heard before some tribunal appointed by the Governor-in-Council, or by a Public Service Board if there is one. Why should not that right be preserved to them? Why should not words be added here to say that any other rights existing under the provisions of the Public Service Acts of the different colonies shall be preserved as they are, at all events until the Federal Parliament have had an opportunity of dealing with the question?

Mr. BARTON:
I do not think this is the clause for that; it should be the subject for a new clause.

Mr. DEAKIN:
There are only a few words used in the Bill of 1891: all existing rights of any such officers shall be preserved. That covered these rights, and they might be held to cover the right to a fortnight's holiday in the year.

Mr. O'CONNOR:
But that would not cover the right you mention.

Mr. PEACOCK:
Would not that be a matter for the Federal Parliament?

Mr. BARTON:
I think the Federal Parliament may be safely trusted in this.

Mr. DEAKIN:
But until the Federal Parliament legislates surely all the rights they have should be kept alive without distinction.

Mr. BARTON:
I would suggest that you provide that all existing rights be preserved. As the clause is set out they would cease to have effect unless expressly provided.

Mr. ISAACS:
You want to preserve their rights to their present salaries.

Mr. BARTON:
I do not think that.

Mr. DEAKIN:

The Federal Parliament may be occupied with the tariff and other important questions for two years, and during that time they would probably be unable to pass any Public Service Act. And yet a great variety of matters must arise which would require to be dealt with on some plan.

Unless my proposition is adopted the heads of the Federal departments and Ministers generally will be quite at large. There will be nothing to give them any help in settling the little problems as they arise. I fail to see that my amendment would hamper the Federal Parliament in any way. If there is no objection I will move to add at the end of the amendment of my hon. friend:

But all other existing rights of any such officers shall be preserved.

Mr. BARTON:
Those are the words in the 1891 Bill.

Mr. DEAKIN:

They go further than the 1891 Bill. The word "other" is inserted before "existing." I will put my amendment in this form:

And all other existing and accruing rights of any such officers as shall remain in the service of the Commonwealth shall be preserved.

Mr. BARTON:

Your amendment would be wider if you left out the word "other."

Mr. DEAKIN:

I will leave it out.

Mr. BARTON:

I think we have provided for accruing rights, have we not?

Mr. DEAKIN:

Perhaps so, but it will not matter if we put it beyond question.

Mr. ISAACS:

I think it is highly important that we should have some provision such as is suggested by my hon. friend Mr. Deakin. I think it is important to put in the word "accruing." It is a principle we have adopted in Victoria. When gigantic establishments like the post office and customs are taken over there must be some hundreds and thousands of officers taken over, some of whom have rights now existing and others who have rights accruing. In Victoria when we have passed new Public Service Acts we have been very careful not to take away from a man any real interests he may have acquired when he joined the service, irrespective of whether those interests
have ripened into actual rights or remain in an inchoate state. When we transfer men to the Commonwealth it behoves us to do them no injury. We ought to preserve to them not only their existing, but their accruing rights.

Mr. REID:

The Bill defines their status in the Commonwealth. How can we interfere with that?

Mr. ISAACS:

We have done a great deal more in this Constitution than merely adhere to essential principles, and we ought to preserve to these men their rights.

Mr. PEACOCK:

The Federal Parliament will not take these men over with these rights.

Mr. ISAACS:

I think we will be doing more harm than good if we ignore rights. As States when we are entering into this bargain we must preserve honor and fairness towards our public servants, as well as towards our other creditors. I think the words proposed ought certainly to be inserted.

Mr. GORDON:

A provision of this kind will render the whole Civil Service of the Commonwealth unworkable. If we take over the civil servants of South Australia, Victoria, and New South Wales, West Australia and other colonies, each with different Civil Service Acts, with different provisions as to leave, some with pension and some without, we shall have confusion made worse confounded.

Mr. DEAKIN:

So you propose to abolish all their rights.

Mr. GORDON:

Certainly not. Let all their rights be preserved. As Mr. Peacock interjected, the Federal Government is not likely to take over officers with all these burdens; they will take new men, and present officers will be prejudiced in the matter of re-employment by the Commonwealth.

Sir EDWARD BRADDON:

Make a clear sweep of all the State civil servants.

Mr. GORDON:

How can you have men working alongside each other, doing the same work, with varying privileges? Would it be fair that a man from New South Wales doing the same work as a man from South Australia-sharing equal responsibilities-should have the prospect of a pension ahead of him, whilst the other was shut out from any such prospect? That would be the result because we have no pensions in South Australia. You must have one general Civil Service Act over the
whole Federation. All the servants must start on the same ground plan, and if you introduce inequalities such as will be introduced by five different Civil Service Acts, governing men who are doing the same work, there will be endless confusion and dissatisfaction.

Mr. TRENWITH:

That confusion is incidental to every transition stage.

Mr. REID:

Would you prevent the Commonwealth Parliament from having an absolutely uniform civil service law?

Mr. GORDON:

There must be a uniform Act, as otherwise the thing would not be workable. If we are to have anything like a satisfactory state of things in the federal service it must be fair play all round. Everybody must start on the same plan, and it will not do to give some men more privileges than others while both are doing the same class of work. You cannot shoot into the federal service civil servants from all the colonies each man having separate individual rights.

Mr. TRENWITH:

While it would be that difficult for some time, as indicated by Mr. Gordon, to adjust the different conditions running side by side, it would be unjust not to make some provision to maintain the rights already in existence. We should be doing different to what any conscientious company would do. I have in my mind now the recollection of a purchase of a railway effected by the Victorian Government from a local company, which made it a condition of purchase that the servants in the employ of the company should be guaranteed the same conditions under which they worked in the service of the Government.

Mr. BARTON:

When the East India Company was taken over by the British Government full provision was made in the Act dealing with that for the protection of the servants of the company. The same thing was done in the case of the transfer of the Victorian Savings Bank.

Mr. TRENWITH:

You cannot wipe out existing rights, and you make the Civil Service Act operate from the time it was introduced. In Victoria we have some civil servants who are entitled to pensions. We subsequently abolished the principle of paying pensions, but we did not wipe away existing rights.

Mr. GORDON:

Would it not be unjust to the servants working alongside each other?

Mr. TRENWITH:

If we decided that £100 a year or £500 a year is a proper salary for an
officer, the man who gets that salary is suffering no injustice from the fact that somebody else receives £600 a year.

Mr. PEACOCK:

He would naturally try to get up to the £600 a year.

Mr. TRENWITH:

Decidedly. Whatever the system we have, men will try to get the best remuneration they can for their services. Various States have now a large number of servants with whom they have entered into contracts for periods defined by Act of Parliament. If these servants are to be taken over, it is incumbent upon the States in justice to the people.

Sir GRAHAM BERRY:

There is no obligation to take them over.

Mr. TRENWITH:

Whether they are taken over or not there should be an obligation to treat them fairly, and where such servants are required there should be an obligation to take them over with the condition under which they were serving the State which originally employed them. If this is not done there will be a manifest injustice to a very large number of citizens of Victoria, and, without imputing selfishness or want of patriotism to the civil servants of Australia, I have no hesitation in saying we shall be inducing a large number of citizens to vote against Federation in defence of their own rights and their living, and in defence of justice.

Mr. BARTON:

If we do not provide for their just rights?

Mr. TRENWITH:

Yes.

Mr. MCMILLAN:

A very strong point.

Mr. TRENWITH:

It would be a great misfortune if we did anything to hurt the feelings of the civil service; but we shall be inducing a large number to vote against the Federation if we do not make some provision of this nature.

Mr. BARTON:

We may look a little higher than the question—although I agree with Mr. Trenwith—of whether the absence of provision for the rights of the civil servants will make this Bill popular. If there is one thing which must be paramount in framing a Constitution of this kind it is that it must be just, and I take it this Convention would be doing a great injustice if it did not provide for existing rights. I have waivered in my opinion about this matter, because I thought at one time it would be quite sufficient to provide,
inasmuch as the Commonwealth is a new creation, for the discharge of the obligation of the State in respect to the services of the servant up to the time of his becoming a servant of the Commonwealth; but, inasmuch as the whole right of the civil servant is to serve, provided his conduct continues good until the time when his pension would accrue under the law of the State, then I think it is only fair that the Commonwealth should have to provide so much of the pension or retiring allowance up to the time of the fruition of what was his inchoate right. I think our Bill will be largely judged by those who have any thought in them by the manner in which we provide for justice in the transfer of the various officers and the powers which must take place on the establishment of the Commonwealth. I am glad to find Mr. Trenwith is not one of those spurious democrats who call out for the destruction of rights, and who call themselves democrats with about as much right as the assassin calls himself a patriot. We have to provide for the enormous changes, in the social life of Australia which are to take place, and if we do things that give rise to the cry of injustice, we not only imperil this Constitution, but we throw a stain upon it which all the efforts of the Commonwealth will not remove. There is no obligation to take over these servants. I should like to point out that in the first part of the amendment it is provided that where the Commonwealth does not continue the services of an officer he is only entitled to his pension or retiring allowance upon abolition of office.

Sir GEORGE TURNER:
They take them over all the same.

Mr. BARTON:
There is a technical transfer under the Bill, but then that transfer is subject to determination at once, if necessary, and subject of course to the conservation of all existing rights. There is no obligation on the Commonwealth to continue the services of persons not required by the Government.

Sir GEORGE TURNER:
There is an obligation on the State to see that there is no injustice.

Mr. BARTON:
There is no obligation on the Commonwealth to continue the services of officers which the proper administration of the department does not require to be continued. Where the services are inchoate, and where the Commonwealth finds that its necessities require a continuance of the services of an officer the right of that officer becomes a perfect one under the Commonwealth and must be dealt with. That part of his service which was a contract with the State must be dealt with by the State, and that part which becomes a contract with the Commonwealth must be dealt with by
the Commonwealth. As to the argument that this will create pension or superannuation laws I would point out that if the Commonwealth does not provide for such it will become clear that these are expiring rights, and that there must come a time when they will die out, and therefore they are no burden on the Commonwealth. It is in the hands of the Commonwealth to provide for a pension list or not.

Mr. FRASER:

They may not take over the civil servants at all.

Mr. BARTON:

The two departments which will be taken over employing the most officers will be the Customs and post and telegraphs, and in connection with the latter most of the officers, I presume, will be taken over. Owing, however, to the abolition of the border duties many of the Customs officers must disappear, and, although there may be a distribution of the officers, it is generally admitted that their rights must be conserved. These rights, however, will gradually die out under the Commonwealth, and there can be no continuation of them, because there are only one or two colonies where these contracts, as I prefer to call them, exist, and it will be very easy to earmark officers, say, from New South Wales or Western Australia, and say that they are subject to these existing contracts.

Mr. GORDON:

My contention is that on the States should be the liability of the payment of any compensation or retiring allowance which they have contracted to pay. It is our duty to see that the civil servants do not suffer through the establishment of Federation. The burden I have referred to should be on the States, and not on the Federal Government, which should take over its servants clean and clear of any pre-existing contracts. The States which made the contracts should fulfil them.

Mr. PEACOCK:

The States will be. The Commonwealth will not take over all these people with these rights.

Mr. GORDON:

I think there should be some computation as to what their claims are, and that these should be discharged by the States, as otherwise it will turn out, as suggested by Mr. Peacock, that the Federal Government will only take over those officers to which no liability attaches, and probably men would not be employed on that ground alone. If there is a clear and unencumbered start, everybody would be on the same footing; but if the Federal Parliament have the option of taking over A, who is entitled to a pension, or B, who has no such claim, surely they will take B.
Mr. DEAKIN:
In my opinion it should be an obligation on the Commonwealth to take over all the civil servants of the departments taken over, and I have proceeded on the assumption that this must take place from the outset. The argument for economy of administration by reduction in their numbers may be urged in regard to some departments until we see the proposed financial scheme, which, as I understand it, will require the services of at least as many persons as we would dispense with on our borders by abolishing the Customs-houses. If accounts are to be kept as proposed on the per capita basis there will be no immediate reduction of the services taken over, and farther, I reiterate that in my opinion, the obligation of taking over the whole of the officers of the transferred departments ought to be imposed on the Commonwealth from the commencement.

Sir EDWARD BRADDON:
I hope we shall make ample provision for the civil servants who are to be dealt with. I have heard with some alarm the suggestions made by the honorable member Mr. Gordon, suggestions which seem to point to the wholesale sweeping away of civil servants.

Mr. PEACOCK:
Nothing of the kind,

Sir EDWARD BRADDON:
That is how it sounds to me—a very large sweeping away of the civil servants from their situations, and also the destruction of their rights and privileges.

Mr. GORDON:
The hon. member is distinctly misrepresenting me, and placing a ridiculous interpretation on my words.

Sir EDWARD BRADDON:
I am re-

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lieved to hear that the hon. member did not mean that.

Mr. GORDON:
Nor did I say it.

Sir EDWARD BRADDON:
The impression conveyed to my mind was that the hon. member thought of sweeping away the services of various States, and having one homogenous service, which would almost necessarily dispense with many who are now employed, and I say that in order to get a better service it would be monstrous to sacrifice the existing rights of those now in the service.

Mr. FRASER:
Nobody proposed it.

**Sir EDWARD BRADDOCK:**
I am glad to hear that.

**Question**—That the words proposed to be struck out stand part of the clause—negatived.

**Sir GEORGE TURNER:**
As I follow the amendment it means that the Commonwealth, after taking over the whole of the officers, have the right to retain or not to retain them; that if they retain them until they come to the age of sixty—

**Mr. BARTON:**
Or whatever age it is under the law of the State.

**Sir GEORGE TURNER:**
They get their pension, and that if they do not retain them the State has to pay compensation for abolition of office. But as the amendment is worded they may retain them for any length of time they like, or dispense with them. There is no limitation of the time when they would have the right to say we shall not retain you any longer. I could understand it if it were said that they did not propose to retain them within, say, twelve months.

**Mr. BARTON:**
Look at the word "thereupon." On that the title arises at once that fixes the time.

**Sir GEORGE TURNER:**
It seems to me that as it stands, a State may be called upon to pay a large sum for compensation for the loss of the services of an officer.

**Mr. BARTON:**
If necessary this clause can be reconsidered.

**Sir GEORGE TURNER:**
I do not think that the burdens should be placed upon the State at all.

**Mr. BARTON:**
If it is proved that the amendment will have the effect suggested by my hon. friend, I shall not hesitate, on further consideration, to move for the recommittal of the clause for the purpose of amendment.

Amendment agreed to.

The **CHAIRMAN:** We will now deal with the amendment moved by the hon. member Mr. Deakin.

**Mr. HIGGINS:**
Words very similar to these were inserted in the Civil Service Act of Victoria, in 1883, with the result that they led to great difficulties and friction between Governments and employes. Indeed no words have been so productive of difficulty. I admit the justice of the contention of my hon.
friend Mr. Deakin, that existing rights should be preserved. But we have by no means come to the solution of the difficulty. Under our Victorian Act we have a certain rule as to the order of promotion and transfers from one department to another. If the rule in the Victorian Act is that you must promote within a department by seniority and fitness, and if you have not got that rule in the same form in the other colonies, how can you apply it to the case like that alluded to by the hon. member Mr. Gordon, where you have men in the Customs of South Australia coming into the same department with the men in Victoria. Why, it will lead to legal questions which I shudder to contemplate. It will afford litigation and cases, no doubt, for the lawyers, which I am quite sure it is our business to avoid. Although it is a difficult matter, I do not propose at present to move any amendment. It can only be solved by a careful attention to details, and I am suggesting that in dealing with rights and privileges, the rights and privileges that are meant to be conserved should be defined, and that if it is intended that a man shall not have his former right to promotion within a department, say, that he was entitled to under existing law, it should be so understood. I am sure that general words of this sort will lead to trouble and confusion.

Mr. DEAKIN:

I take it that this amendment must necessarily be read to apply go far as the circumstances will permit. It is quite clear that any inchoate right that any member of the public service will have to promotion in the State department cannot obtain exactly under the Commonwealth. That is not a right we could seek to engraft on the Commonwealth. Men who join the public service under the Commonwealth, if they are men of ability, will have new fields of promotion open to them; that must weigh with those who pass out of the State service into the larger service of the Commonwealth. We do not want by any such words as these to convey the merely petty or technical rights, but the assurance that substantial justice will be done.

Mr. BARTON:

This will tend to give the Commonwealth the service of the best public servants.

Mr. DEAKIN:

I recognise the force of the hon. member's contention, and trust he will give us his help to provide that substantial justice shall be done to all public servants, and that substantially the rights and privileges they enjoy now will be preserved to them under the Commonwealth.

Mr. Deakin's amendment agreed to; clause as amended agreed to.
Clause 86.-On establishment of uniform duties of Customs and excise, trade within the Commonwealth to be free.

Mr. BARTON:

It would be better to postpone this until we get to clause 92, which deals with equality of trade, and this clause and that have intimate connection. It is difficult to say whether it should come under the head of - States or Equality of Trade." I move:

That clause 86 be postponed until after consideration of clauses 87 to 92.

Question resolved in the affirmative.

Mr. BARTON:

I should like to know whether, as the print of the new clauses begins at No. 89, the Committee of Treasurers considered that Nos. 87 and 88 were sufficient as printed.

Sir GEORGE TURNER:

Yes.

Clause 87.-Until uniform duties of Customs have been imposed, there shall be shown, in the books of the Treasury of the Commonwealth, in respect of each State:

I. The revenues collected from duties of Customs and excise, and from the performance of the services and the exercise Of the powers transferred from the State, to the Commonwealth by this Constitution:

II. The expenditure of the Commonwealth in the collection of duties of Customs and excise, the performance of the services and the exercise of the powers transferred from the State to the Commonwealth by this Constitution:

III. The balance (if any) in favor of the State:

From the balance so found in favor of each State there shall be deducted its share of the expenditure of the Commonwealth in the exercise of the original powers given to it by this Constitution, and this share shall be in the proportion of the number of the people of the State to those of the Commonwealth as shown by the latest statistics of the Commonwealth. After such deduction the surplus shown to be due to the State shall be paid to the State mouth by month.

Sir PHILIP FYSH:

I wish to call attention to the necessity for a slight amendment in sub-section 3. At present it reads that the balance, it any, in favor of the State shall be distributed in a certain way, as discovered by the remaining portion of the clause. That balance is supposed to be an annual balance; and, seeing that each State will require a monthly proportion while the annual balance is being discovered, it will be better to make the sub-section to read:
The monthly balance (if any) in favor of, the State (shall be paid to the State month by month).

Mr. Barton:

The last words of the clause make it all right, as follow:
After such deduction the surplus shown to be due to the State shall be paid to the State month by month.

Sir Philip Fysh:

It first of all presumes in sub-section 3 that a balance shall have been discovered. That balance may not be discovered by the Federal Treasurer until a whole year has expired. Therefore we want an interim balance, so that for the first year while the Federal Treasurer is discovering the position each local or State Treasurer may have a sum of money paid to him on account.

Sir George Turner:

Would not the last words in the second paragraph of the new clause 89 meet the difficulty? They read:
The federal authority shall each month pay to the several States, as nearly as practicable, the proper portion of the amount due to the same respectively.

Sir Philip Fysh:

I wish in connection with the balance to make the terms agreeable by saying:
Monthly balances in favor of any State.

Mr. Mcmillan:

Is not the general intention clear under this other clause?

Sir Philip Fysh:

I think not. It has been a difficulty with me all the way through that each local Treasurer will require certainly month by month a contribution on account of the unexpended balance which shall be discovered at the end of each year. I move:
To insert the word "monthly" in sub-section 3 before the word "balance."

Mr. Barton:

Before that is put I wish to make a verbal amendment. I move:
To insert after the word "excise" the words "and in."
That will bring it into conformity with the rest of the clause. I have no objection to Sir Philip Fysh's amendment.

Amendment agreed to.

Mr. Barton (moved by Sir Philip Fysh) agreed to.

Mr. Barton:

I move:
To insert after the word "the" and before the word "proportion" the word "numerical."

Amendment agreed to.

Mr. BARTON, I move:
To strike out the words "the number of."
Those amendments will make the clause more grammatical.
Amendment agreed to.

Mr. DOBSON:
May I call the hon. the Leader of the Convention's attention to the last sentence of this clause? There it provides that the surplus shall be paid to the States month by month. I think Sir Philip Fysh is quite correct, that the words do not tally with what is intended. It reads as if there would be a balance struck every month. So far as I know the balance will be struck yearly or half-yearly.

Sir GEORGE TURNER:
You have the words "month by month."

Mr. DOBSON:
I do not think the balance will be struck monthly. Would it not be much better to say that a yearly or half-yearly balance will be struck, and that interim payments will be made in the meantime?

Mr. BARTON:
There will be a balance each month, small or large.

Mr. DOBSON:
But some months there might be a balance on the wrong side.

Mr. BARTON:
The sub-section says "if any."

Mr. DOBSON:
I think it will be much better to say whether a balance is to be struck yearly or half-yearly, and in the meantime interim payments could be made according to what the balance would be at the end of the year.

Mr. HIGGINS:
May I indicate to the Drafting Committee that, as this clause only refers to the time until uniform duties are imposed, it also provides that the distribution of the balance is to be in proportion to the people of the States as shown by the latest statistics of the Commonwealth? Is it proposed to have the statistics of the Commonwealth as distinguished from the statistics of the States Immediately upon the enactment of the Constitution?

Mr. BARTON:
Yes. Census and statistics have been referred to the Commonwealth, and the Federal Government would have to take steps to have statistics established.
Mr. Higgins:

It is not to be left to each State, to say what its statistics are?

Mr. O'Connor:

No. The idea is expressed in the words "by the latest statistics of the Commonwealth."

Clause as amended agreed to.

Clause 88.-During the first four years after the establishment of the Commonwealth, notwithstanding anything contained in the last section, the total yearly expenditure of the Commonwealth, in the exercise of the original powers given to it by this Constitution, "I not exceed the sum of pounds; and the total yearly expenditure of the Commonwealth in the performance of the services and the exercise of the powers transferred from the States to the Commonwealth by this Constitution shall not exceed the sum of pounds.

Mr. McMillan:

I would like to say at this stage that it was clearly understood in the Finance Committee that, although we agreed as to the whole of the conclusions at which we arrived, every individual member would be perfectly free in the Committee debate to adhere to or dissent from the conclusions of the sectional Committee. I hold very strong feelings with regard to this clause, which attempts to confine within certain bounds the expenditure of the Federal Government; and in saying that, I am just as determined to be introduced which any Federal Government in an awkward financial position would not be able to get round. Furthermore, I do think that after the utterances we have heard in this Convention with regard to our trust in the Federal Parliament, and when we consider that we are not handing over our affairs to a foreign power, but simply handing them over to ourselves in our larger corporate capacity, I do think that this is to a great extent an abnegation of the principles of federalism. Therefore I would like the Convention to very carefully consider whether we should put a condition like this upon what is not merely a delegated power. I know its powers are delegated, but it is practically the national Government of Australia, and therefore it is almost impossible to say what exigencies may occur, rendering necessary this expenditure. I would further say, that if it is the desire of the Committee to pass this clause, the expenditure should be on the average of what will now be three years. I think that is the term of the Parliament, is it not?

Sir George Turner:

Yes.
Mr. MCMILLAN:

This clause is intended to apply for the first three years, the idea being that, in the flush of federal glory during the first Parliament, there will be a desire to glorify the position and to create a large and unreasonable expenditure. Therefore the clause should, at any rate, if it is passed, signify that the average expenditure should not be more than a certain sum, because hon. members can easily conceive that during the first year of the Federal Government there may be very little expense at all outside certain preliminary arrangements with a view to carrying out the first part of the Constitution. And you might be in this position, that what might be fair on the average for the three years would not be fair for one year, because the expenditure that you would reduce the Federal Government to in the first year might not be exceeded at all-in fact, they might only expend half the amount-and it would be necessary to throw that balance, at any rate, into the next and subsequent years. But while I feel as strongly as Mr. Reid and Sir George Turner can that it is necessary to put before our people the fact that there is going to be no excessive extravagance, and that nothing is to be done to increase unnecessarily the taxation of the people, still, I say, on broad principles, that a clause like this will be a blot on the Federal Constitution. I need not say more, it is only an expression of opinion, but, at the same time, I shall feel absolutely compelled to vote against the clause.

Mr. REID:

I hope everyone will emulate the admirable brevity with which Mr. McMillan has just expressed the view which we know he strongly entertains. I will imitate him, and say only a very few words. I put aside all ideas of previous Constitutions and ask myself the question, "Will this provision recommend the Constitution more to the people of Australia?" I know there is a widespread fear that this Commonwealth is being projected on a princely scale, and that the expenditure will be enormous, and you cannot get that idea out of people's heads except by some precise statement as to the limits of federal expenditure. I admit it is difficult to frame that estimate, but if you frame an estimate and leave a liberal margin above all you can think of, then I say the advantage of that scheme is this: That the financial foundation of the Commonwealth shall be laid on a prudent scale. It is during the next four months that these amounts can be clearly scrutinized in all the colonies, to see whether or not they can be altered when we meet again, if there is any necessity to do that. If cases of emergency do arise they will be fully provided for by the power the Commonwealth will have to raise money, and that power can be given
irrespective of these amounts.

Sir PHILIP FYSH:

I sympathise with the purpose which Mr. McMillan has in asking that the word "average" should be used in front of the word "expenditure." The expenditure relates first to the sum of £300,000, which is the new expenditure to be incurred by the Federal Parliament, and £1,250,000 is the sum that stands in relation to the expenditure transferred from the various States to the executive authority of the Federation. It is very true, as my hon. friend puts it, that for the first year a goodly portion of either of these expenditures is not likely to be incurred, particularly in the case of the £300,000. If then there be a smaller expenditure in the first year and an increasing expenditure in the second, third, and fourth years—provided we have in relation to the £300,000 the sum total of £900,000 for the first three years—we shall have accomplished our object, and we shall also have met the objection which Mr. McMillan has placed before the Convention. It must be apparent to hon. members that for the first year a great portion of the expenditure will simply be building up month by month, and so for the first year a goodly portion of the £300,000 might not be spent.

Sir GEORGE TURNER:

I do not think there is any objection to the insertion of the word suggested.

Sir PHILIP FYSH:

We will take it for granted then that the Treasurers are agreed upon this point, and that Mr. McMillan is right. I do not, however, follow the hon. member in his objection that this would be a blot upon the Constitution. I prefer to follow Mr. Reid, who raises the very proper objection that we have been acquainted with since the 1891 Convention, or about that period, that there would be very extravagant expenditure over this Federation. When the 1891 Bill was placed before the people of Aus-

tralia, the foremost objection to it was in connection with the expenditure of the Central Government. The first item which met our gaze was £600,000 for federal new expenditure. Since that Bill was before us we have seen the paper which was written by Sir Samuel Griffith and read before the University of Brisbane, in which he points out that in addition to the £600,000 there would necessarily be added £330,000 more in connection with navigation, and other services which will be taken over by the Federal Government. If, therefore, we are to permit the people to imagine that in connection with this Constitution we are committing them to some unknown expenditure said to be limited now to £300,000, but which in the 1891 Bill was given at £600,000, and according to Sir Samuel
Griffith's estimate was £930,000, we shall be doing a great wrong to the work we hope we are securing by bringing about this Federation. Let us therefore indicate not only to the people of Australia, but to those who will form the Federal Executive of that great Constitution—which we are determined to start, at any rate, upon something like economical principles—that our means are limited, and we can only do that by naming a maximum sum for each of these services. Now, the only question therefore is whether these maxima sums are sufficient for the purpose. Before the Parliaments of Australasia deal with this Bill, and send to the next Convention their various amendments, they will have before them the printed figures of this Convention, indicating how these amounts of £300,000 and £1,250,000 are made up, and it will be for the statisticians or officers of the various Parliaments to indicate how far the amounts will meet the requirements or how far they will be short. It will be very convenient and simple at the next Convention to reduce or add to the figures, but, above all things, let us lay down the lines that we intend the Executive Government to start their economic principles upon.

Mr. PEACOCK:
What amount do you suggest?

Sir PHILIP FYSH:
The amount suggested is £300,000 as the amount of the Federation expenditure. That amount bears a very economic comparison with the £600,000 which was included in the £2,232,000, the original estimate of the 1891 Convention. So far as the second expenditure is concerned, for services transferred, namely, for the collection of Customs, for defence, for the loss upon postal services, and all other matters in connection with navigation which are taken over, they are simply a transference from the several States of the expenditure now incurred, to the Federal Executive, when it shall relieve the local Parliaments of those various expenditures. There can be, therefore, with respect to the second item, no particular objection, because it not only covers all the items or departments taken over, but includes an actual margin of £163,000 for emergencies. We, therefore, only have to deal with the question of the £300,000, which also includes an emergency margin of £60,875. This is a problematical item, I admit, but the figures which, have been thought out by the statisticians of the various colonies, and have been agreed to by the Treasurers-can only be problematical in so far as you doubt the wisdom of the gentlemen in compiling them. If they be insufficient, as has been pointed out, the Federal Executive will have it in its own power even to break the Constitution to meet the difficulty. The question of emergencies, to which Mr. McMillan referred, does not come in with respect to the £300,000. Any emergency
expenditure must be in excess of that £300,000. It has been provided for in the Bill passed up to this point, and I will allude to one matter as a possible matter of emergency, importance, and urgency, namely, the assumption that we may get into difficulties and may have to increase the defence vote. Is it to be charged against the Commonwealth Bill that, although we have laid down £1,250,000 as the total to be expended, which includes defence, £750,000, the Executive must refrain from incur,

ring the responsibility which they should incur of increasing the amount in the face of such an emergency as the need to defend our shores. It must be apparent, therefore, that the £1,250,000 has no reference to emergency expenditure, which is provided for in another part of the Bill. I think, under the circumstances, we shall be wise in following Mr. Reid, and agreeing to these clauses, and in agreeing to both the amendments that are forthcoming.

Sir WILLIAM ZEAL:
We intend to follow him.

Sir PHILIP FYSH:
I am glad to hear it.

Mr. PEACOCK:
You are not opposing it, are you?

Sir PHILIP FYSH:
No; I am supporting it, because, like Mr. Reid, I desire that not only myself, but also all my colleagues, may be able to go to our constituencies, when we would advise them as to whether this Bill should be accepted or not, and say "You know your loo, and for the next three years your expenditure will not be more than your proportion of the £300,000." The general consensus appears to be in favor of passing the clause, and therefore I shall say nothing further. Mr. REID: There is a question as to whether we should have four years or three years.

Sir GEORGE TURNER:
Make it three years.

Mr. REID:
I will move:
To strike out the word "four" with the view of inserting the word "three."
Amendment agreed to.

Mr. REID:
I beg to move:
The insertion in the first blank of the words "three hundred thousand."

Sir GEORGE TURNER:
Will you put in the word "average"?
Mr. REID:

It is no use setting up a thing and knocking it down again. We have provided a margin in the £300,000 of £60,000 more than we could think of, and in the £1,250,000 it margin of £150,000, and the amounts will be subject to revision during the four months.

Mr. MCMILLAN:

We should put it in.

Mr. REID:

I can understand Mr. McMillan going for the word "average," as he is against the whole clause.

Mr. PEACOCK:

We will stick to the Treasurers.

Mr. MCMILLAN:

I should like the word "total" omitted, and the word "average" inserted. You may not get in working order during the first six months after the establishment of the Commonwealth, and you may be overlapping expenditure, which would cause a great many difficulties. When you consider that they can do what they like after the three years and that the real expenditure will come after that period, it does not seem to me a good thing to limit them to such an extent.

Mr. REID:

May I point out what could be done under that? The Treasurer, during the first year, could extend the amount indefinitely, and make it up during the remainder of the period.

Mr. MCMILLAN:

I will not press my amendment.

Mr. Reid's amendment agreed to.

Mr. REID:

I propose:

To insert in the blank in the last line of the clause the words "one million two hundred and fifty thousand."

Amendment agreed to; clause as amended passed. Clause 89.-During the first five years after uniform duties of Customs have been imposed the aggregate amount to be paid to the whole of the States for any year shall not be less than the aggregate amount returned to them during the year last before the imposition of such duties.

But in the books of the Treasury of the Commonwealth there shall continue to be shewn the particulars required by section 87, and an account shall be taken of all imported dutiable goods passing from one State into another State for consumption therein, and the amount of duty chargeable thereon shall, in the books of the Treasury, be accounted as revenue
collected in the State into which they pass, and not in the State in which the
port of entry is situated, so that the proportion may be ascertained in which
each State shall receive its share of the aggregate amount to be paid to the
whole of the States; and the aggregate
amount shall be distributed accordingly month by month.

Mr. REID:
On this clause will come in an arrangement which was arrived at by the
Treasurers, but for the present I will deal with the first part.

Sir GEORGE TURNER:
Propose to omit the clause. The first part is re-inserted.

Mr. REID:
In compliance with a suggestion of the Drafting Committee, I want to
propose certain verbal alterations in the first part.

Sir GEORGE TURNER:
Take the new clause paragraph by paragraph.

Mr. REID:
That is what I propose to do. In this clause the first sub-section is the
same as in the Bill, but the Drafting Committee have suggested verbal
alterations. In line 3 of the first sub-section I propose:
To insert the words "in proportion" after the word "less."

Sir GEORGE TURNER:
Sir Philip Fysh has something to say before that.

Sir PHILIP FYSHE:
I propose to call the attention of the Convention to the meaning of this
first part of the clause, and thereon hangs a very important question,
particularly as relating to the smaller States. It will be apparent from the
reading of this section that the suggestion very properly put to the
Financial Committee by Sir George Turner-and the suggestion was
respected by that Committee -that the purpose is to secure to the Treasurers
of the various States during the five years in which we are bringing our
tariffs-free-trade in New South Wales, protection in Victoria, and a
revenue tariff in Tasmania-

Sir WILLIAM ZEAL:
Your tariff is just as bad as ours.

Sir PHILIP FYSHE:
What is the use of that interjection?

Mr. PEACOCK:
He is trying to take you off the track, Sir Philip. Take no notice of it.

Sir PHILIP FYSHE:
I do not wish to discuss the question of protection and freetrade, but let
me say that with the protective duties in Victoria raised on a few articles giving exemption to a large number of articles produced in Victoria, the amount per head of population is 40s., and that the tariff of Tasmania raised for revenue purposes only, and which has very few exemptions and no percentage ad valorem on goods above 20 per cent., produces the same revenue of 40s. per head. I wish to call attention to the wise provision Sir George Turner wishes to make in the interests of every State-the smaller States and the larger States, and the smaller States need it much more than the larger—that there shall be during a certain period a sum returned to them not less than they were receiving in the year prior to the imposition of the new duties. In we leave the word "aggregate" in this clause we leave it in a doubtful position because on the assumption that £5,000,000 may be the aggregate sum found by the Federal Treasurer to be the balance which is divisible amongst the States; it is so divided on the first year, but its division through all the other five years will depend much on the subsequent portions and provisions of this clause. If you will agree to give back to each State from the Federal Treasury for five years a sum not less than it received on the year prior to the imposition of the new duties, you will then carry out, so far as all the smaller States are concerned, the very desirable provision which Sir George Turner submitted to the Financial Committee. But if you make a proportion of that aggregate, if you qualify that aggregate by saying that it shall be divided after the first year in any proportions less than, or more than the division of it in the first year, you may place the smaller States in the unfortunate position of being unable to meet their expenditure. I am obliged to anticipate the later clauses of the provisions in order to give emphasis to and to make clear what I am saying. It will be apparent as we go on, that while a uniform tariff-as it has been shown by the figures of the Sydney statisticians-may give to New South Wales 50s. per head of population, that uniform tariff collected in Tasmania will give but 30s. per head of population, and collected in Western Australia will give 160s. per head of population. I need not go on with examples. But, taking these two examples of New South Wales and Tasmania, you have a uniform tariff which, based upon the whole populations of the Commonwealth, will give 40s. per head of population, but taken on the populations of the smaller and larger colonies, and in connection with their power to consume dutiable articles-would place New South Wales in the condition of receiving in the first year 50s. per head of her population, whilst Tasmania only would receive 30s. per head of her population. What then becomes of the aggregate amount? When you divide that aggregate amount in the proportion of the provisions
hereinafter made, i.e., in proportion of 50s. New South Wales to 30s. Tasmania, we shall, instead of getting back what we received from our Customs revenue in the year prior to the imposition of the new duties - which amounted to nearly 40s. per head - get back for the first year only 30s. per head, and you will place South Australia and Tasmania - never mind the other colonies, I take these two as smaller colonies - in the awkward position of receiving back for the first and second year, at, least, a sum altogether inadequate to meet their annual expenditure.

Mr. REID:
How can you tell until you knew what the tariff is?

Sir PHILIP FYSH:
We have the figures.

Mr. WISE:
Those figures are utterly unreliable.

Mr. MCMILLAN:
Pure assumption.

Sir PHILIP FYSH:
There is a measure of doubt in the figures brought forward by Mr. Coghlan, of New South Wales, but only a measure of doubt. You may, I believe, accept them in the main, subject to the facts which may hereafter appear. But it must be apparent to every hon. member of this Convention that if you have a freetrade tariff in New South Wales, where all the goods, we will presume, enter that country for home consumption on the basis of the value of their being manufactured, it will give to that colony a much larger amount of imports for home consumption than would be the case with respect, say, to Victoria, which imported her goods chiefly as raw material without the hand of man being exercised upon them. We have as a consequence these very important facts - facts which I believe the members from Sydney will rely upon.

Mr. WISE:
I do not believe them to be facts.

Sir PHILIP FYSH:
You have the figure of your statists, capable men, and none more capable than Mr. Coghlan. For the three years 1893, 1894, and 1895 the mean value of imports for home consumption in New South Wales was £10,700,000, as against the mean value for those three years of goods imported into Victoria of £6,900,000. Challenge the facts as much as you may. I have been associated with commerce as well as being the Treasurer of a colony, and I submit that there will be found a very large disparity between these two imports, and therefore upon that basis we come back to the point that we shall in Tasmania and in other of the smaller communities
find that during the first few years of these five provided for hereafter instead of having a revenue to our credit which is at present about £340,000 per annum—because it gives some £2 per head of the population—we shall, upon a uniform tariff-bearing in mind that the uniform tariff will exclude all intercolonial products, by which we expect that the Commonwealth will lose a million—have a product of only about 30s. per head. Therefore, until you level up Tasmania from her 30s. by a gradual rise of 2s. a year for five years, we shall be in the very awkward position that the Treasurer will not know how to pay his way.

Mr. REID:

How do you know the federal tariff will not be such as will give you the same?

Sir PHILIP FYSH:

If the hon. member asks me whether the federal tariff will produce the same, I must reply that the federal tariff will, if it is uniform, until it has been in existence for some years give us less than now. Even if it be a most extravagant tariff it will give us less than we get now.

Mr. FRASER:

Are you going to move an amendment?

Sir PHILIP FYSH:

Yes.

Mr. FRASER:

Then do it quickly.

Sir PHILIP FYSH:

I have trespassed on the time less than any member. I am responsible to my colony, and I must be in a position to advise whether she should enter the Federation or keep aloof.

Mr. ISAACS:

These things are too important to be dealt with in a slovenly way.

Sir PHILIP FYSH:

I deprecate unnecessary speech. I attach very little value to very much of the speaking to which we listen in public life, because we arrive at our own conclusions mostly regardless of such speeches. I am willing to submit an amendment, but surely if I am going to ask a number of intelligent men to agree to it, I must give some reason for the opinion I hold that the amendment is necessary. My amendment, therefore, will rest upon the word "aggregate," which I suggest should be left out, and the clause altered so that it will provide that the amount for which the Federal Executive is responsible to each State shall be the amount which that State received
during the year prior to the tariff. That would accomplish the object which
Sir George Turner hood in view.

Sir GEORGE TURNER:
I had to give way in order to get a compromise.

Sir PHILIP FYSH:
Each Tines on anything like the same proportion, but that proportion
which will make Tasmania lose £100,000 as against a loss to the other
colonies of even £300,000 or £400,000 is altogether disproportionate. And,
therefore, with respect to the term "aggregate," I must test the opinion of
the Convention as to whether the clause shall not read thus:

During the first year after uniform duties of Customs have been imposed
the amount to be paid to each State for any year shall not be less than the
amount returned to each State during the year last before the imposition of
such duties.

Then we shall know our positions.

Mr. MCMILLAN:
Does not the omission of the word "aggregate" come to the same thing?

Sir PHILIP FYSH:
Practically. We shall then only want consequential amendments.

Mr. PEACOCK:
How would you deal with New South Wales, which has a freetrade
tariff?

Sir PHILIP FYSH:
"Aggregate" applies to the amount to be distributed on the year prior to
the imposition of new duties.

Mr. PEACOCK:
Hear, hear.

Sir PHILIP FYSH:
Suppose New South Wales, having adopted a freetrade tariff, will
receive any proportion on a freetrade basis she will be undoubtedly a very
small receiver, while those of us who maintain our high tariffs undoubtedly
will be proportional receivers of a much larger portion, but larger though
the proportion may be, it still leaves us in the unfortunate position that the
amount coming to Tasmania, if it is to come to us in the proportion set out
in the remaining portions of these resolutions, will be so small as compared
with what we are getting now in our normal condition of a separate State,
that you practically keep us out of Federation.

Sir GEORGE TURNER:
In the first year of the uniform tariff, New South Wales will pay a far
larger sum than in the year before.

Sir PHILIP FYSH:

Perfectly true. We go on to state that the expenditure of the Federal Executive shall be distributed in proportion to population. In the year 1891—the figures are stated by Sir Samuel Griffith—the departments now proposed to be transferred to New South Wales cost £1,050,000 a year; but Sir Samuel Griffith points out the blot of charging expenditure in proportion to population, and said in effect:

Now then, work upon this, the 1891 Bill, and you will then charge New South Wales in proportion to her population £650,000, or a difference in favor of New South Wales of £400,000.

Let us give them the advantage of all the economy that has taken place since. Every colony has put in the pruning knife and cut down its expenditure—New South Wales as well as Tasmania and Victoria. But even then with this expenditure of New South Wales totalling £1,040,000 a year—and now £840,000—there still remains the big disparity that, while you take away from New South Wales the expenditure of £840,000, you cannot charge her with the expenditure per capita without serious inequity to others. Under the Federal Commonwealth she will pay from £100,000 to £200,000 less, while we in Tasmania, not having adopted your expensive defence works—the difference being 1s. 4d. per head now paid by Tasmania against 2s. 10d., I think, being paid by Victoria—while we are collecting our Customs duties at 2½ per cent. cost, and New South Wales spends 4 per cent., you will by throwing upon us a proportional expenditure at per head of the population, a part of the difference between the cost of these defences in the two countries and the difference between the cost of the collection of Customs duties in the two countries bring about this result: that Tasmania will lose £97,000, or rather will pay £97,000 a year, that is £82,000 for her portion of the new expenditure and her portion per head of the population of the expenditure transferred, plus £15,000 which she is now making on her telegraph and postal system.

Mr. REID:

That is outside the present question.

Sir PHILIP FYSH:

This is part, and parcel of the whole thing. While we, therefore, are being placed in the position of bearing a portion of this expenditure, the other colonies are being reduced. You will place us in the unfortunate position that, while you take over the present expenditure of Tasmania—amounting to about £45,000 a year—our estimate of the proportion of the expenditure based upon population is £97,000, or a difference of £50,000. But coming back to the point with which I started, we have to lose in order
to get intercolonial freetrade £40,000 now collected in colonial products, which we are willing to give up. But this is too big a proposition. It is wise that those who are outside the financial circle - outside the Financial Committee, outside the four Treasurers who have met during the past few days - shall see the other difficulty, that if you are going to charge the expenditure in proportion to wealth - that is in proportion to the amounts which are received from the respective States from Customs - what a burden is thrown upon Western Australia. So that whichever you do, whatever alternative you take up - I will not waste the time of the Convention by going through the five alternatives - but whatever you take up, you come to the position which Mr. Holder put before you some time back, that you have to cut the Gordian knot by some very rude method. But do not cut it by a method so rude or arbitrary against the smaller States as to leave them out in the cold, leave them no alternative but to stay out of the Federation. The question of staying out of the Federation, I presume, only means an absence from the Federation for the first five years, because whatever we may lose in the first, or second, or third year, it will be a diminishing quantity, thanks to our friends from New South Wales, who propose a diminishing quantity. We shall, at the end of five years, I hope, be in a so much stronger and improved position, our trade will be increased and our revenue increased, that then possibly we may come in, because we shall at the end of five years be placed on an equality with New South Wales, on the per capita basis of dividing Customs revenue. For example, if New South Wales is capable of consuming a larger amount of imports - imports of intoxicants and narcotics - per head than Tasmania, and I admit it, then during the five years they will gradually, by the automatic operation of this sliding scale, be receiving less and less, between the 40s. per head average receipt of Customs and the 50s. the probable collection in New South Wales per head, or a difference of 20 per cent. deduction annually from the 10s. difference between 50s. and the mean of the Commonwealth 40s. They will receive less and less year by year, while Tasmania will be receiving per head of population more and more, till at the end of the fifth year we shall all be receiving 40s. per head of the population, and will be in the same position as New South Wales. But you have left me in the meantime high and dry in a position that it would be utterly impossible for Tasmanians to accept. I therefore suggest that, instead of the aggregate, there should be annually returned to each individual State during those five years a sum not less than that which it would have received on a division under clause 87 made by the Executive in the year prior to the imposition
of the new duties. I will therefore move:

To strike out the word "aggregate" in line two.

Mr. REID:

The difficulties of my hon. friend will be as nothing to the difficulties of the Commonwealth Treasurer, if this proposal is carried. It seems to me that if such provisions as these are put into this Constitution you will make it impossible for any human being to devise a financial policy for the Commonwealth at all. It will load the Commonwealth with a disastrous bungle from the first. Supposing, for instance, that the Treasurer for the Commonwealth dealing with six millions of people has to frame a Customs tariff so as to produce to Western Australia two or three years hence a revenue which it might have had for a particular year previously. When the Treasurer is making his financial policy, you will compel him to load the Commonwealth with such a gigantic system of taxation that the people will recoil from it with horror. My hon. friend's assumption is based on a contingency the nature of which we cannot tell. Why should he jump at the conclusion that the financial proposals of the Commonwealth will be such that Tasmania will be getting back less than it did before? How can he tell that until he knows what the tariff is and what the facts of trade are. A difference in tariff makes all the difference in results. No man will essay the task of moulding the financial policy for the Commonwealth without having regard to the circumstances of the States. But if you bind him down rigidly that with reference to the circumstances of one small part of Tasmania he must construct an edifice hundreds of feet higher than is required, you foredoom the finances of the Federation to failure. I do not think that any people with anything to lose would be a party to that. I am strongly opposed to the clause, but I look upon it as one which has been practically accepted by a majority of the Convention, and I am not going to take up time in disputing the wisdom of the Committee. We have been talking over these things for some days, and now the time has come to arrive at a solution of them. And in order to arrive at that solution I am accepting things which I do not approve of. But just as we are arriving at a conclusion upon the principles of give and take, my hon. friend Sir Philip Fysh makes his appearance with a stipulation which throws it all out of gear. I cannot go the way my hon. friend wants me to go. I must have some regard to the financial anxieties of the different States; but any Treasurer of the Commonwealth worthy of the name will care for those interests infinitely better than any Constitution can provide, if he is worthy of his position. It does not at all follow that the people of this Commonwealth are going to consent to a gigantic system of Customs taxation, but if the people
favor direct taxation it will be open to the Commonwealth to build up such a system. Who wants to compel the Treasurer of the Commonwealth to formulate a gigantic scheme of taxation? I do not, and I think it would be a positive danger to the Commonwealth to compel him to do any such thing. If you work out in figures the sort of total that might be expected under this amendment, I think even those inclined to support it would look aghast at the sort of financial policy which would be forced upon the Commonwealth. With the odds against me, I am trusting implicitly to the Commonwealth in this matter. The proposal that has been suggested is really equivalent to saying: "In this thing it is absurd to say you must not be guided by the interests of the Commonwealth, or by considerations of what would be a wise policy, or with regard to the symmetry of the federal edifice necessary for this great people; but you must find out the abnormal state of things, say, in a gold-digging community, and adjust the whole fabric to that fleeting condition of things." My hon. friend must not think that I have any lack of sympathy with the financial peculiarities of any country. No matter who the Treasurer may be, he will be as anxious as any one of us to see that nothing is done to land the State in a difficulty. I think we may consider that my hon. friend has put the case from one point of view, and that I have given the other. I hope we will not have a long-debate, for we are now only on the threshold of the discussion on these financial proposals.

Mr. HENRY:

I think that my hon. colleague, Sir Philip Fysh, in proposing this amendment, overlooks the fact that the surpluses arrived at under the 87th clause are accrued under separate tariffs, whereas the surpluses we are now dealing with in the 89th clause are arrived at under a uniform tariff. Does the hon. member propose that each colony, after the uniform tariff comes into force, should receive back the surplus as contributed under separate tariffs. It is obviously indefensible to put in any such claim. If I understand him right, Sir Philip Fysh is asking this Convention to consent to strike out certain words with the object of introducing other words, and that they will secure for five years a return to the several colonies of a surplus equal to the last year under separate tariffs. It is obviously unfair, under a uniform tariff, to expect the same contribution from the Federal Government as would be received under separate tariffs. That is the assumption. Notwithstanding the figures that have been thrown at us by the hon. The [P.1063] starts here

Premier New South Wales, I believe that in all probability the contribution per head of the population under a uniform tariff will be as nearly equal as possible. Therefore it is obviously unfair to expect, when the conditions are
altered, that is, when we change from the separate to the uniform tariff, that the returns shall be the same in each case. Besides, I should like to point out to this Convention and to Sir Philip Fysh that, while under the separate tariffs, roundly the New South Wales Customs tariff would be £1,500,000, Victoria, with her smaller population, would have something like a million more. On the face of it we cannot expect that New South Wales shall receive back the same proportion when the closing year of the separate tariffs period comes, when her amount is £1,500,000, while Victoria is nearer £2,500,000. It is unfair, and I am somewhat surprised that after we have thrashed the thing out in the Finance Committee, anyone should stand up and propose such an unjust thing. Even if the word "aggregate" were struck out it would not affect the sense of it, because this clause, as I understand it, provides that a sum not less than a particular amount, that is, the surpluses of the preceding year, in the aggregate, shall be secured to the States for distribution upon some equitable plan. That is the object of the clause. It is the safety-valve of the revenue of the several States. Without throwing on the Federal Government a specific and definite obligation, no matter what their revenue may be and how they raise it, of providing a sum of money sufficient for the requirements of the States, it will be unsafe for the States financially, to enter into the Federation, because this clause, which differs very materially from the 1891 clause, is essentially a safety clause for the States revenue. Under the 1891 proposals any State entering the Federation had to trust to the judgment or goodwill of the Federal Parliament Treasurer as to the surplus they might get back, and they might have had nothing. Such a result would certainly be a serious dislocation of the State finances and no State having regard to the safety of the State finances could have entered Federation. This is an important view, and it is a point that impressed me in considering the whole problem, especially in connection with such a small colony as Tasmania, heavily burdened as we are with direct taxation, the income tax, taxation on land, and other taxes, all of which are so heavy that to put an additional burden of £50,000 upon us would be disastrous to the general interests of the colony. Unless there is a specific obligation cast on the Federal Government it will not be safe for the States to enter this Federation. I am not clear that the words "in proportion" proposed to be added will really effect the purpose desired. As to the serious loss indicated by Sir Philip Fysh that Tasmania is to sustain in entering this Federation, while this clause protects our State revenues, I have no apprehension about Tasmania entering into the federal bonds under the proposals here. I should like to say a great deal in connection with this question, on which one is tempted to speak, but I have regard to the patience of this Convention, and trust they will aquit me of having
wearied them. However, I should like to direct Sir George Turner's attention specially to the fact that in the fourth line of the section it is provided:

The aggregate amount returned to them during the year last before the imposition of such duties.

It occurs to me that it is quite possible that no surplus may be returned at all.

Sir GEORGE TURNER:

There is bound to be a surplus.

Mr. HENRY:

There maybe no surplus to return.

Mr. DEAKIN:

You mean that they may keep it in their pockets.

Mr. HENRY:

No; they may not have it. I will assume that the Commonwealth is established on January 1st, 1900. Is it not possible that before the close of that

year a Customs or excise resolution may be tabled which would mean the coming into force of the Customs tariff and before any surplus was returned. It must be made clear that it is the surplus for the preceding year that is referred to.

Mr. MCMILLAN:

Would not the imposition of the duties date from that resolution?

Mr. HENRY:

But the resolution might be tabled before the year had elapsed.

Mr. O'CONNOR:

Then you get a proportion of the year.

Mr. HENRY:

I only want it made clear. I do not like the words "in proportion," as I would like to have some definite amount secured to the States.

Mr. MCMILLAN:

I will say very little, but I consider that this is the most important of the financial clauses, as it not only affects the colony of New South Wales, but the future federal Treasurer. The clauses coming afterwards contain a mechanical arrangement which will be easily worked, but if our position was difficult with the term "aggregate" placed in this clause it would be ten thousand times more difficult with it left out, because members will recollect that in the year 1895 we received from Customs duties £2,200,000, and that we will now be reduced to £1,400,000, and it would not be a great stretch of the imagination to assume that the tariff of the
future may be equal to our small tariff of 1895. I feel very strongly with regard to the position in which it places the representatives from New South Wales. I would point out to the Treasurers of the different colonies that, although I have the fullest sympathy with their fears for the future, if they look at it from a broad point of view there is no danger whatever. If we had six colonies admitted to the union, three being freetrade and three protectionist, I could understand that there might be some danger of the tariff not possibly yielding the same volume, but when we practically only have one freetrade colony in the group, and that the majority will be so largely in favor of the defence of the local Treasurers, surely there is scarcely any danger that the volume of revenue will not be raised. I do not see that it is possible to have a doubt with regard to that position; but if we take this clause -and I take it for granted the word "aggregate" will be retained-if we pass this clause we do dictate, if not the character of the tariff, to a great extent the volume or amount to be got from it, and it is a very serious thing, we will have people criticising our position and these financial clauses, and deducing certain results from them to which result and which opinion we will scarcely be able to make any adequate reply. Therefore while I feel we must compromise-and this was agreed to in committee on the basis of compromise-still I must, as a delegate for New South Wales, enter my protest against this clause, because I believe the true principle to be adopted under such a set of circumstances, and which may safely be adopted by colonies that form a majority of the group, is that which I have stated. Is it likely that by a wave of the wand we are going to alter the conditions at present existing in the majority of the colonies? Do not we know that that is the sacrifice of New South Wales? That is what we have to pass. Do we think for one moment that we are going to have an absolutely freetrade tariff in the future?

Mr. SYMON:

It may be under this clause.

Mr. MCMILLAN:

Oh, yes; it may be. We do hope the leaven of New South Wales will sufficiently leaven all the other colonies so that after a time freetrade may be established. But can any man in his common sense say that the people of these colonies are going to change their fiscal faith because they are going to enter into a Federation? Therefore, whether I divide the House or not, I must put on record that I disapprove of this clause binding up the Federal Treasury to create a revenue equal in volume to the present revenue.

Mr. HOLDER:
If you are only one colony against three, you have more than a third of the representatives.

Mr. MCMILLAN:
We are one colony against the lot. There is no doubt of that.

Sir WILLIAM ZEAL:
This debate has shown quite the contrary.

Mr. DEAKIN:
There is a freetrade section in every colony.

Mr. MCMILLAN:
I say this with all sincerity, that the true and broad-principle mode of dealing with this question is to leave it to the honor and integrity of the Federal Government.

Sir GEORGE TURNER:
When I suggested the proposal that a certain amount should each year be returned to the State Treasurers, I did so with the object in view that the State Treasury should have an opportunity of knowing that during five years they would not get back less than they had in a particular year, and also with another object in view, that the people of the colonies might also know that their State Treasurers would not be in such a position as would force the Treasury of the State to impose additional taxation, so that the passage of this Bill by the various colonies would be facilitated, the one protecting the State treasuries, the other facilitating the passage of this Bill by the people of the various colonies. My first view was that the amount to be returned to each State should not be less than the amount it had received the year before the uniform tariff, but when my hon. friends the representatives of New South Wales pointed out the difficulties, I saw that there was great force in the argument they used. The very first difficulty—the fact of inserting this clause at all—would be very injurious to them in their colony in endeavoring to pass this Bill, because they would urge, with a great show of reason, that it meant imposing on all the colonies a protectionist tariff, could be fairly answered by saying that although the clause compelled the Federal Treasurer to find a certain amount of money, it left his hand absolutely free as to the mode adopted to find it. He might find it by a low tariff, a freetrade tariff, a protective tariff, or by direct taxation. All the clause says is that each year he must provide a certain amount of money to be returned to the State Treasurers. But then another objection was pointed out, that whilst New South Wales under the freetrade tariff was collecting a small amount, as soon as the uniform tariff was imposed, no doubt they would contribute a very large sum, and they would be entitled in the division to be considered in the aggregate amount only in view of the lower amount they had contributed the year before. I
admit that that was unfair to the colony, and, by omitting the word "aggregate, that will be obviated. I believe the colony will lose a considerable amount of money. I felt that I was justified in limiting that loss, and not forcing upon New South Wales a far larger loss. And, although I felt that the State Treasurer of Victoria for the time being would not have certainly as much as I should have liked, I felt bound to agree to a compromise. Therefore, I am bound now to support the clause as it is drafted. But we must not forget this is not final, that the proposal which has been submitted will be carefully considered by the various Parliaments, by the people, and the press of the different colonies. Objections will be raised to it, and it may be that those objections will be so strong and forcible that, when we meet in four months' time, we may very well see the necessity of making some fair alterations. All we desired in bringing down this clause was that some rough and ready manner should be agreed upon, so that we could do something that would be equitable and fair to all the colonies in this very complicated matter. Although, of course, I would have rather received the full amount, I must be prepared to accept the lower amount.

As to the suggestion of Sir Philip Fysh, the course of procedure he desires to map out for Tasmania may not be carried out in its entirety. He seems to think that the colonies may lose a certain amount amongst themselves, and that Tasmania will be able to stand quietly by until the other colonies have federated-until they have overcome all the difficulties, until the inequalities of the various amounts are settled-so that each may receive a proportionate amount, according to population, and that then Tasmania will be able to step in and say, "Everything is all right, and we are with you." But that is not how it can be done. Whatever may have have been possible in that direction by the Bill as we had it before us, the Bill has now been altered, and if Tasmania sees fit to stand out at the initiation of Federation because there is a small loss, she may find in five years' time that the Federal Parliament will say, "You chose to stand out at the beginning, and if you desire to come in you will have to contribute something to make up for the loss we have sustained, and which you have not lost because you stood out." My hon. friend will see that Tasmania will not be able to walk into Federation like that. I do not desire to detain the Convention, but I urge this as a fair compromise. It is not all some of us would like, but we have agreed to it as one of the sacrifices each colony must necessarily make to gain the larger end; and I hope the Committee will agree to this subsection.

I would merely like to point out that, so far as I can understand, this may have the certain effect of keeping Tasmania out of the Federation.
Sir GEORGE TURNER:
We very much regret it.

Sir EDWARD BRADDON:
Mr. Reid and Sir George Turner have both spoken of the States making up any deficiency in revenue by direct taxation. In the case of Tasmania that would effectually bar her entry into the Federation.

Mr. REID:
I never spoke of such a thing. I spoke of the possibility of the Federal Treasurer resorting to direct taxation.

Sir EDWARD BRADDON:
That possibility is quite sufficient to act as a beacon and a warning to some of the smaller States—towards Tasmania, at any rate. In Tasmania, if I know anything about it, it is absolutely impracticable to obtain any more by direct taxation. It means, therefore, that if things are so financed that we will have to depend upon increased revenue from direct taxation for our local requirements, we shall have to refrain from entering this great Federation. I think that would be deplorable, and it might easily be avoided.

Sir GEORGE TURNER:
You will not stand out.

Sir EDWARD BRADDON:
The people may.

Mr. REID:
We will pay £20,000 a year for you if you are hard up.

Sir EDWARD BRADDON:
£20,000 a year will not see us through it.

Mr. REID:
You shall have another £10,000 afterwards if you like.

Sir EDWARD BRADDON:
This liberality is a liberality of words only. I should not like to have to depend upon liberality of that sort. We of Tasmania do not seek to come into the Federation as paupers, trusting to the charitable dole of New South Wales. What seems to me to be the initial mistake of these arrangements is that we are not insisting on it when we give up the Customs that the federal authority takes over our obligations on the consolidated debts.

Mr. WALKER:
Then move that the debts be taken over. Sir EDWARD BRADDON: I am willing to do that. Then there would be some security for its. We would then have a guarantee that the federal authority would conduct affairs with the utmost regard to economy, which is not absolutely certain if they are given a large
revenue out of which they may spend what suits them and return the balance. If we had had that initial process, the handing over of the obligation to pay the interest on the debts as a quid pro quo for the Customs revenue we yield up, we might have had some security. We are utterly without that now, and, so far as Tasmania is concerned, she cannot look to improving her position or acquiring the revenue she requires for local purposes by any addition whatever to direct taxation.

Amendment negatived.

Paragraph 1, as read, agreed to.

Paragraph 2.

Mr. Reid:

I move:

That the second paragraph in section 89 be omitted, with a view to insert the following words:

1. Subject to the last paragraph, for a period of five years after the imposition of uniform duties of Customs, the total amount of duties of Customs and excise collected in each year in any State, or estimated as hereinafter provided, as the case may require, shall be repaid to such State of the Commonwealth after deducting from the amount in proportion to the population the share of the State in the total expenditure of the Commonwealth not provided for by other means of revenue. The repayment shall be made month by month, to the several States in as nearly as practicable the proper proportions due to the same respectively.

2. For the purpose of ascertaining the proportion of revenue from Customs and excise collected in each State there shall for the first year after the imposition of uniform duties of Customs be shown in the books of the Treasury of the Commonwealth the total amount collected in each State for duties of Customs and excise.

3. During such first year the duty chargeable under the uniform tariff upon goods which are imported into any State (whether duty has or has not been actually paid thereon), and during that first year exported to any other State for consumption therein, shall be deemed to have been collected in, and shall be credited to, such other State only, and all duties of excise paid in respect of any goods manufactured in any State, and so exported to another State for consumption therein, shall be deemed to have been collected in, and shall be credited to such other State only.

4. For the purpose of estimating the amount of the Customs and excise arising in each State during each of the four years next after such first year an average shall be taken by dividing the total Customs and excise collected in the whole Commonwealth during such first year by the total
population of the Commonwealth, as shown by the latest statistics of the Commonwealth, and the result shall be deemed to be the amount contributed by each person.

5. Where the amount credited to any State during such first year is in excess of the amount of the average so ascertained, there shall in each of the next four years be deducted therefrom one-fifth part of the excess; and where the amount so credited is less than such average there shall be added to the amount one-fifth part of the sum by which the amount so credited is less than the average; and the sums so ascertained shall be the estimated amounts to be repaid in each of the four years to the States respectively.

In moving the addition of these words in place of the second paragraph in clause 89 I may say at once that I have accepted this scheme in the spirit that has been shown, I am happy to say, not only by the Treasurers of the different colonies, but by every member of the Convention. Even where we think perhaps that the interests of our respective States have been jeopardised we must not be too exacting, or else if we did it would be absolutely impossible ever to come together. I am very happy indeed to recognise the spirit that has been shown by the Treasurers and by every member of the Convention to endeavor to approach some understanding. And under the circumstances, though I do not say for a moment that the solution is satisfactory to me, I have no hesitation in saying that it is a solution which will enable me at any rate to do my best to persuade the people of New South Wales to accept it. The working of this proposal on a sliding scale has been tested by the Treasurers, and we have no doubt whatever that it will work out automatically and exactly, and the benefit of the sliding scale will be that just as those whose receipts are above the average will come down in the distribution, the States whose receipts are below the average will go up in the distribution. On the one hand it will be a protection to the States whose receipts will be considerably above the average, and at the same time alleviate the position of the States whose receipts will be below the average. I hope hon. members will accept what we have at some trouble arrived at. So far as mere verbal or trivial corrections are concerned they can well be left to another occasion. The question is this: we have a scheme which gets over the difficulty with the minimum of inconvenience in connection with border traffic during the first five years. In the original scheme accounts would be kept and great inconvenience would be caused to border traffic throughout the Commonwealth. We all understood the strong expressions of opinion against this, and recognised that it was a most undesirable state of things. One of the benefits of this suggestion will be that that evil will only be
maintained for one twelve months after the Constitution is established, so as to satisfy the people of all the colonies that the basis will be a fair one.

Sir GEORGE TURNER:
That will be for twelve months after the passing of uniform duties-not the establishment of the Commonwealth.

Mr. REID:
Twelve months after the uniform duties are imposed, because it is only in the actual operation of the federal uniform tariff that we can properly see the just position of the several States. Under all the circumstances, admitting that it is even regrettable that we should have to do it for twelve months, I hope we will all come to the conclusion that we have arrived at the minimum inconvenience in order to promote a change which may be generally satisfactory.

Mr. MCMILLAN:
Before entering into the question of the proposal made here by the four Treasurers, which I think on the whole is an excellent one, and which makes me feel that it would have been better if the original committee had been four or five instead of the number it was, I would like to ask the framers of these clauses whether there is not some essential want in them. I notice here it says:

Subject to the last sub-section, for a period of five years after the imposition of uniform duties of Customs the total amount of duties of Customs and excise collected in each year in any State, or estimated as hereinafter provided, as the case may require, shall be repaid to such State after deducting therefrom, in proportion to the population, the share of such State in the total expenditure of the Commonwealth which is not provided for by other means of revenue.

I take it that that is the special expenditure of the Commonwealth for the new machinery.

Sir GEORGE TURNER:
And for any loss which might occur on other sources.

Mr. MCMILLAN:
But is that clear? It appears to me there should be some reference to section 87, or else some reference to the other expenditure. If I read it aright, it seems to leave out altogether the other expenditure. The result of that would be that the other expenditure would be lumped.

Sir GEORGE TURNER:
It says total expenditure purposely.

Mr. MCMILLAN:
I am quite willing to leave it so then. But I would just like to say a word or two-if I may be allowed to do so without taking up much time-with
regard to the proposal of the Treasurers. I think, on the whole, it is one which is acceptable to this Convention, and at the same time it is a great sacrifice for New South Wales.

Sir WILLIAM ZEAL:
It is an equal sacrifice for Victoria.

Mr. MCMILLAN:
If I give one or two illustrations of what I mean I trust it will not be taken as unnecessary cavil, but I think it is well that we should see, at any rate, what we are doing. In a freetrade country like New South Wales it is not at all improbable that with the idea of a tariff of it certain character being imposed there will be large importations in the last year of the old regime, and those importations will tell very much upon the volume of importations into New South Wales during the first year of the new regime. On the other hand, with regard to Victoria, she may possibly speculate that the tariff may possibly be less—that it will not be Morel—and, whatever the tariff may be, the commercial instinct in a man in a colony like Victoria would be to stay his hands.

Mr. HIGGINS:
You have no commercial instincts there.

Mr. MCMILLAN:
You have legal instincts evidently. The probability is—of course no one can foresee the future—that the first year will be a very bad year comparatively for New South Wales, and that it will be comparatively a very good one for Victoria. There is no doubt in my mind that during the first year of the new regime—after the imposition of a uniform tariff—and the last year of the old tariffs everything will be extremely unsettled, and we are making a great sacrifice in stopping the book-keeping at the one year. In Committee I would have been quite willing, as I proposed, to take the bookkeeping for two years, and to accept the second year as an average. However, I am prepared to a

Mr. HOLDER:
I only have two or three words to say in addressing the Convention on these clauses. They are very long, and at first sight are apt to frighten hon. members, but I think it is better that they should be drawn as they have been, rather than that they should have been unduly condensed, for the idea is not merely to convey in legal form what has been done, but to convey it in such a form that the general public will be able to understand precisely what is intended. I wish to put it to the Convention that the task committed to the Treasurers was a comparatively simple one after all, because it was
only to deal with a period of five years. By common consent we had agreed that up to the date of the uniform tariff coming into operation the distribution should be on a certain basis, and that after five years from that it should be per capita. We knew what would be the case at the end of the five years, and it appeared to us necessary to ascertain by actual figures, and not by any estimate or ingenious device, what would be the case at the beginning of the period mentioned. Having then located, by the collection of statistics in the first year after the coming into operation of a uniform tariff, the proper amount which each State will have contributed, and other matters, it then became only a mathematical calculation how to bring the lowest up to the average and the highest down; and, though the process is a slow one, I think it is far happier to do it by slow degrees, so that at the end of five years the lowest should not go up with a jump nor the highest come down with a jump. Not only for the purposes of accuracy, but for the convenience of the State and the levelling of their financial methods, it is easier that this should be spread over the five years. My hon. friend Mr. Reid has put the matter clearly, and I will not detain the Committee any longer than to say that, on behalf of South Australia, we will heartily accept the scheme. I will not say what we so commonly hear from others, that we are going to make a big sacrifice. We expected by entering the Federation that we would have to pay something for it, and if we have to pay we shall not complain.

Sir GEORGE TURNER:

I would just like to say one word with reference to New South Wales. It may be that she is making big sacrifices, but none of us can tell what effect the uniform tariff will have on any colony, and New South Wales gains an advantage under this, because she will be able to have her expenditure taken on a population basis. We know from pamphlets we have seen, that that would be of no little benefit to that particular colony.

Sub-section 2 negatived.

Paragraphs proposed by Mr. Reid inserted.

Clause as amended passed.

Clause 90.-After the expiration of five years from the imposition of uniform duties, all surplus revenue over the expenditure of the Commonwealth shall be distributed month by month among the several States in proportion to the numbers of their people, as shown by the latest statistics of the Commonwealth.

Mr. REID:

I move to insert after "duties" these words:
Of Customs each State shall be deemed to contribute to the revenue an equal sum per head of its population and.

Amendment agreed to.

Mr. GLYNN:
I should like to ask for a little information. Does Mr. Barton think sufficient provision is made for the protection of the power to substitute direct taxation for Customs duties during the first five years? This is the first clause in which direct provision is made for the return of surpluses produced by Customs and other sources of revenue. The clauses we have dealt with seem to provide rather specifically for the deduction from the Customs revenue of general expenditure, and for dividing in certain ratios the balance left. Nothing is said about the allocation of the surpluses during the first five years produced by the addition of general sources of revenue to the Customs revenue and deducting the general expenditure. I am in doubt whether, in case the Customs duties were reduced, the power of at once raising revenue by direct taxation, so as to make up the difference is preserved, as there seems to be no direct provision for the return during the first five years of any surplus arising otherwise than from the Customs duties.

Mr. REID:
The special provisions we have just inserted can only refer to Customs, because they refer to the transit of goods; but this clause is general, because with reference to direct taxation such difficulties as transit do not arise. If there is a surplus from direct taxation it would no doubt be returned, and it is quite open for the Commonwealth to decide the method of returning it. There is absolute freedom to devise the financial system upon any basis it likes.

Clause as amended agreed to.

Clause 91-Audit of accounts-agreed to.

Clause 92-Preference shall not be given by any law or regulation of commerce or revenue to the ports of one part of the Commonwealth over the ports of another part of the Commonwealth, and any law or regulation made by the Commonwealth, or by any State, or by any authority constituted by the Commonwealth, or by any State, having the effect of derogating from freedom of trade or commerce between the different parts of the Commonwealth shall be null and void.

Mr. GORDON:
I move to amend this clause:
By adding the following words after the word "Commonwealth" in the 24th line: "or having the effect of inducing trade or commerce in any particular direction within the Commonwealth unfairly, and in particular
by one part of the Commonwealth offering greater inducement than other parts wherever the inducement offered returns no direct profit as regards the particular trade or commerce induced to that part of the Commonwealth offering the inducement"

It is a rather difficult proposition to put in writing, but it supplies a test of what a preferential rate is. The real test of a preferential rate is, does it involve loss to the colony offering it?

Sir GEORGE TURNER:
Not necessarily so.

Mr. GORDON:
I think so. No prudent manager of railways should impose a rate which would be a loss to the railways.

Mr. SYMON:
It may be a gain to the community.

Sir GEORGE TURNER:
The particular rate may be a loss, but it may be made up by the return traffic.

Mr. GORDON:
Just so; thus, you may have a rate which is called a differential rate, but which is really a preferential rate, because it is imposed on a little-used part of a line, and the loss may be made up on another portion of the line. The test of what is a preferential rate is this: Is there a loss on the particular traffic induced by this particular rate? The clause

as it stands in the Bill provides that a rate shall be both made and used for the purpose of attracting the trade of a neighboring State before it can be interfered with. That is altogether too vague, and would involve a difficult and curious investigation as to the reasons which led to the imposition of the rate. The true test is: does it involve a loss on the particular part of the line over which the goods are carried? We cannot prevent differential rates, but no differential rate should involve a lose on the traffic in respect to which this particular rate is imposed.

Mr. FRASER:
You cannot decide that.

Mr. HIGGINS:
The question is: Is the rate a non-paying rate.

Mr. TRENWITH:
Nearly all new railways are started at a loss.

Mr. GORDON:
I do not think all new railways are started at a loss.

Mr. TRENWITH:
They more often are than not.

Mr. GORDON:
We could make an exception in the case of new railways.

Mr. GRANT:
Make it "no reasonable profit," instead of no direct profit."
Mr. GORDON I have "no objection to the word "reasonable." I try to make all my propositions reasonable.

Mr. HIGGINS:
They are all so vague.

Mr. GORDON:
The best test that can possibly be applied as to what is a differential is: does it impose a loss on the railways? A subsequent section of the Bill stipulates that the rate must be both made and used for the purpose of attracting trade from a neighboring State, but that is altogether too ambiguous, and we should never get to the bottom of it.

Mr. GRANT:
I can see no objection to the amendment provided the words "no reasonable profit" are substituted for "no direct profit," as it would be very difficult for the Inter-State Commissioners to determine what is a "direct profit." All railway men would be able to agree as to what would be a reasonable remuneration in respect to a freight on any particular class of goods.

Mr. TRENWITH:
How would it be if there was no profit? Our Victorian railways are entirely non-paying.

Sir GEORGE TURNER:
Do not mention that.

Mr. GRANT:
The Inter-State Commissioners, who would doubtless be railway experts, would be able to determine what is a reasonable profit on the freight of any class of goods, and therefore there can be no objection to the amendment. I think also that the clause would be improved by inserting the word "unduly instead of "unfairly."

Sir GEORGE TURNER:
You want to make a lot of work for the lawyers.

Mr. GRANT:
We are dealing with a difficult matter, one that has required all the intelligence of our best men. The gentlemen controlling the railways are men of great intelligence and able to do the best for their own States, and we should make this clause so general that it would be of universal application, and so that there would be no loophole by which advantage
could be given to any one system of railways. I think a great improvement would be made if the amendment of my hon. friend Mr. Gordon were agreed to, and would simplify the matter if an Inter-State Commerce Commission were dealing with it.

Mr. GORDON:

I accept the suggestion of Mr. Grant to substitute "unduly" for "unfairly," and the word "reasonable" for "direct."

Mr. WISE:

I think the acceptance of this amendment may land the Convention in a considerable difficulty. We propose later on to establish a Commission of experts to deal with all these derogations from freedom of trade which we desire to abolish, and it appears to me undesirable to limit their powers by attempting to lay down definitions in this Constitution too minutely. Following the scheme of the Constitution we ought to have the largest terms, and leave them to be interpreted by the tribunal appointed for that purpose.

Mr. GORDON:

This is abroad principle.

Mr. WISE:

The broad principle is that preference shall not be given by any law or regulation of commerce or revenue to the ports of one part of the Commonwealth over the ports of another part of the Commonwealth.

Mr. GORDON:

That will not cover preferential rates.

Mr. ISAACS:

What is the meaning of "part of the Commonwealth?"

Mr. O'CONNOR:

It means one colony.

Mr. BARTON:

The hon. member refers to:

Ports of one part of the Commonwealth over ports of another part.

Mr. WISE:

I contend that these minute directions should not be placed in the Constitution. The directions proposed are ineffectual and will be mischievous. Supposing we have a low rate for a long haul, from Sydney to Bourke - and it is admitted you cannot run any railway system unless you grant low rates-the inhabitants of Dubbo, or of any of the intermediate towns, may complain that undue preference is being given to Bourke. That would be a question for the Commission to inquire into, and they will decide whether or not the preference is undue. There are recognised
technical rules as regards railway systems, but I need not go into them now. Hon. members will see them in the works dealing with the Inter-State Commission in the United States. This particular clause would relate to their powers, and it is quite clear that for a low rate for a long haul to have any effect, the goods must pass the towns I have mentioned. Are the States prepared to give up the rights they now possess? Is the Government of Victoria prepared to give up the rights they now have and put settlers in outlying districts at a great disadvantage over those living nearer Melbourne? Certainly New South Wales is not.

Mr. GORDON:
Sir Samuel Griffith said he doubted if the Bill of 1891 touched preferential rates, and this is almost the same as clauses 11 and 12 of that Bill.

Mr. BARTON:
It is a provision, in another shape, of clause 5 of section 9 of the United States Constitution, that reads:

No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

We substitute the words "part of the Commonwealth." In another place, the words "State or part of the Commonwealth," mean, I take it, territories as well as Commonwealth. Perhaps this might be amended accordingly.

Mr. FRASER:
Clause 92, to my mind, is perfectly clear. It means that the railway department, or any other department, shall not give preference to one port over any other port in the Commonwealth. It does not mean that there shall not be differential rates of carriage, because that is necessary in many parts.

Mr. ISAACS:
What does it mean?

Mr. FRASER:
It means, for instance, that you shall not favor Sydney as against Geelong, if you like, or Sydney as against Melbourne. It means that you must not favor ports in your own colony, as against those in the same colony—the port of Melbourne as against the ports of Geelong, Warrnambool, Belfast, or any other.

Sir GEORGE TURNER:
Does it interfere with our Riverina trade?

Mr. FRASER:
It does not. It does debar you from making as low a rate as possible to Echuca or Swanhill.

Mr. ISAACS:
Will you stake your reputation on that as a lawyer?

Mr. FRASER:
I say that is the meaning.

Sir GEORGE TURNER:
It is very serious to us.

Mr. FRASER:
I see no danger in it.

Sir GEORGE TURNER:
I am not satisfied with it at any rate.

Mr. WISE:
I move:
To leave out the words "part of the Commonwealth," with the view of inserting "State or territory."

I agree with the desire of Mr. Fraser that preference ought not to be given to one port over another in a State, provided that advantage is extended to every inhabitant. I do not see, however, why Victoria should not say there shall be lower port charges at Melbourne or Geelong.

Mr. GORDON:
I ask leave to temporarily withdraw my amendment, to enable Mr. Wise to move his.

Leave given.

Mr. TRENWITH:
I think the amendment suggested by Mr. Wise is extremely desirable. The words "part of the Commonwealth" are so extremely vague that they might lead to conflicts, not only between State and State, but between parts of a State and parts of a State. Clearly we have all along gone on the lines of leaving to the States the most complete autonomy wherever it is practicable, and the experience of the States with railway development, in reference to the differing distances that loads have to be hauled, renders it imperative that they must have varying rates according to varying circumstances in their own colony. Everyone who knows anything of railways knows you can carry goods over long distances at a low rate per ton, and make a profit; but that you cannot carry goods over shorter distances, at the same rates, without making a lose. Therefore, you must leave each State within its own bounds to make such conditions as the exigencies of the State demand. All that we have a right to provide is that the railways are not used to derogate from that condition we have made—that there shall be freedom of trade between the States. Anything more than that is infringing what we have been so strenuously struggling for-State
rights. I have had a good deal of experience of the difficulty of adjusting rates of carriage in order to meet the exigencies of railway management, and I feel confident that this amendment is necessary in the interests of the States, of local autonomy, in order to prevent a too great staining of the Constitution for the purpose of purely local considerations inside the States. I have in my mind a possible difficulty that may arise between the town of Geelong and the town of Melbourne. Clearly this Constitution is not designed for the purpose of adjusting differences that may occur between various sections of the States, but rather to prevent difficulties arising between the States themselves, and the amendment suggested by Mr. Wise will add clearness to the clause.

Mr. BARTON:
I will be content with the amendment if it takes this form:
Leave out "part of the Commonwealth" in both lines, and insert. "State."

Mr. WISE:
I will move it in those terms.

Mr. BARTON:
And at the end of this clause, if I may mention it now, it will be scarcely necessary to keep the words:
Between the different parts of the Commonwealth,
because the phrase in clause 86,
Throughout the Commonwealth,
In reference to freedom of trade and commerce is sufficient.

Sir GEORGE TURNER:
This is a very important clause, of which it is very difficult to understand the effect, and I desire to draw Mr. Barton's attention to the difficulties which I am afraid may arise in connection with its effect. He will be aware of the competition for traffic which is taking place with regard to Riverina, and the doubt in my mind is as to whether this will altogether shut out the rates which have been existing for some time with regard to that particular trade. He knows as well as I do the cut-throat policy which has been pursued with regard to that particular part of the Commonwealth, and while we may be perfectly prepared to leave to the Federal Parliament or to the Inter-State Commission, if brought into existence, the right to go fully into all the facts in connection with that particular portion, and endeavor to devise a scheme which would allow the trade of Riverina to go to its natural port, I do not want any words in this clause to shut out the Federal Parliament or Inter-States Commission afterwards from dealing with the question. I confess I am not very clear as to the real effect and meaning of this section, but it
might be considered in such a way as to prevent that question from being dealt with hereafter. If my hon. friend could enlighten me I should be very glad.

Mr. BARTON:

I think the words:

Preference shall not be given by any law or regulation of commerce or revenue to the ports of one part of the Commonwealth over the ports of another

would apply to such a case as Sir George Turner speaks of. It would prevent what might be called preferential rates. In other words, it would not interfere with the commerce of any part of the Commonwealth going to what may be called its natural, or geographically its most suitable port, because that could only be prevented by rates which would be in their nature preferential.

Sir GEORGE TURNER:

Or differential.

Mr. BARTON:

Take a case like this: if the principle of lower haulage for greater distance pro rata is observed and not infringed upon, that gives every facility for traffic going to its nearest or most convenient port.

Sir GEORGE TURNER:

Not necessarily.

Mr. BARTON:

I think it does sufficiently.

Sir GEORGE TURNER:

Fairly.

Mr. BARTON:

If, on the other hand, a State, not content with the geographical position which in its consequence brings certain traffic to it, wishes to give to persons outside its bounds advantages which it does not give to its own citizens for the purpose of drawing that traffic, then I should say it was an endeavor to give a preference to one part of the Commonwealth over another, and an infringement of the provisions of this section. So that, supposing Victoria and New South Wales adopted the principle of lowered rates for increased distances, and there were points A, B and C in New South Wales or Victoria-it is not material which-A being the port, B a place 15 miles away, and C a place 200 miles away, a principle could be adopted of charging less for the increased haulage between A and C than between A and B, less pro rata. But I take it that if C were outside the boundary of a State, then this provision would operate to this extent—that if it were made less in the aggregate to carry from A to C than from A to B, a
nearer point, it would have a preference. But if, on the contrary, a reasonable principle is observed, such as was laid down by the Inter-State Commission in America, as stated in Mr. Dabney's book, the principle of less charge according to distance, but so that the aggregate charge for the further point is not absolutely less than for the nearer point, I think matters would be all right.

Sir GEORGE TURNER:

The difficulty is that in New South Wales they have very long distances. In Victoria the distances are very short. The natural port of the Riverina is unquestionably Melbourne. That cannot be controverted; but, by the system which can be adopted in New South Wales keeping within its own territory, it can make differential rates. Then rates can be so framed as to come within this distinction, and yet divert that trade from its natural Course.

Mr. BARTON:

I do not think so.

Sir GEORGE TURNER:

I think it could, but if the trade were left absolutely free, it would go to its proper port—it would go to Melbourne.

Mr. BARTON:

Has there ever been a preferential rate in New South Wales except in self-defence?

Sir GEORGE TURNER:

I think there has. I think there has been an effort to get the trade from Queensland, and Queensland had to prevent it by putting on an export duty.

Mr. BARTON:

I am not saying there are no preferential rates under both systems. I am saying preferential rates have been lowered to counteract other preferential rates.

Mr. ISAACS:

On the ground of provocation.

Sir GEORGE TURNER:

We must go a step further. I, myself, recollect that Victoria opened up the whole of the Riverina, its whole trade. After that had been done, then New South Wales became anxious for it - started railways, and carried goods at such rates as to compel Victoria to cut her rates. It is a very serious position we will have to face, and which will have to be taken into account by our Commissioners. A great part of the trade and commerce
goes to Sydney annually which ought to belong to Melbourne. And, therefore, if the effect of this is, as I have read it, and as my hon. friend appears to tell us, New South Wales will be at liberty, on its very long distances, to charge rates which will enable it to attract the trade of the Riverina to Sydney. I am afraid this will be a serious blot on the Bill, and will render it very difficult to deal with in our own colony. I would be willing to leave it to the Federal Parliament to settle and put it on proper lines, but I do not like this Inter-State Commission. The matter must be settled in such a way as will allow trade to go to its natural port. Unless we can have some provision such as that I am afraid there will arise a very serious difficulty which it will be very hard indeed for us to get over.

Mr. FRASER:
Undoubtedly neither Victoria nor New South Wales under this clause could encourage the trade beyond its own State boundaries by offering a lower rate to those outside than to those within their own actual boundaries. New South Wales, by hauling wool or other produce from Hay to Sydney at a less rate than to Cootamundra, would undoubtedly have an advantage. As Sir George Turner has said, to our borders the distance is short, and we could not offer a lower rate to those beyond the Murray than we charge to our own producers. That is unquestionably a fact, and we may as well understand that and deal with it with our eyes open. We cannot charge more to our own producers in Echuca than we charge to the men across the Murray. The rates must be the same. At present everyone knows that the rates are cheaper to those across the Murray than to those on this side of that river.

Mr. BARTON:
Sixty-six per cent.

Mr. FRASER:
No; 60 per cent. is the extreme.

Mr. BARTON:
In a return laid on the table of the House, it appears that those rates are 46 and 66 per cent. cheaper.

Mr. REID:
That is what you call making trade flow to its natural channel.

Sir GEORGE TURNER:
Of course that is wrong.

Mr. FRASER:
I say that the haulage rates in New South Wales in cases of competition are lower than those in Victoria. But we need not throw stones.

Mr. REID:
Hear, hear. They are all alike.
Mr. FRASER:

Queensland, of course, has reduced her rates much lower than those of any of the colonies, and she has also put an export duty on wool crossing the border in order to divert the trade to her own railway lines. The only point that Sir George Turner need attend to is that we dare not—if this clause is passed—offer lower rates to the people across the Murray than we charge to our own people. Still the traffic would, I think, come to our own colony because the distance is so much shorter.

Mr. REID:

I do not wish to contribute much to this matter, because it has been talked of a great deal.

I quite admit that the position of Victoria in this matter is one in which they are entitled to a great deal of admiration and a certain amount of sympathy. There is no doubt that through the superior enterprise of the merchants of Melbourne many years ago they engineered, or rather pioneered, commercially speaking, our territory, and made a very resolute attempt to practically take possession of it—in a commercial sense. I have never begrudged them, but we have been learning to imitate their enterprise, and we are endeavoring to recover commercially that which belongs to us. Owing to resistance on the part of Melbourne enterprise, and aggression on the part of New South Wales—which consisted in trying to get back that which someone else had appropriated—there has been a conflict. I will not say one harsh thing about Melbourne administration at all. The present administrators of the railways find themselves hampered a great deal by what was done many years ago, and which would not have been done to such an extent if we had been a little more enterprising within our own colony. But now we are burying the hatchet and becoming one people commercially.

Sir GEORGE TURNER:

And "one country, one destiny."

Mr. REID:

Not one country exactly. This is a proposal for Federation. I would have been glad to have gone further, and make this Federation a nation, if it were possible, but that is not the point. I am quite agreeable to the two colonies being left to fight the matter out. We are quite able to fight the matter out without the assistance of Federation, if fighting is the order of the day.

Sir GEORGE TURNER:

But you say we have to bury the hatchet, we shall have nothing to fight with.
Mr. REID:
We do not want to fight, and so anxious were we to adjust the difficulties that we had a conference between the two Railway Departments, and they came to a settlement which did not suit Melbourne enterprise, although it was a very fair settlement. Of course that was set aside. Is this Constitution to put its foot down upon this fighting or not—this fighting which is to draw the trade out of one State into another State?

Sir GEORGE TURNER:
That is not the point. Draw the trade from its natural port, you mean.

Mr. REID:
You give yourself away there, because if Melbourne is the natural port of the Riverina commerce it is a wonder that the New South Wales producers can get their produce taken down to Melbourne at 50 per cent. less than the rates charged to the Victorian people for their produce.

Mr. ISAACS:
You forget the Sydney rates.

Mr. REID:
The original difficulty arose from the fact of Melbourne taking up the contract to practically commercially manage New South Wales from the Murray to Bourke. That was too big a contract for you, and you are going to lose it. We are prepared to fight you, but we want to come into this Federation, where we will have some independent body to act fairly between us. I think my hon. friend must have overlooked these words in section 95:

Rates or regulations of any railway in any State, except in cases of rates or regulations preferential in effect and made and used for the purpose of drawing traffic to that railway from the railway of a neighboring State.

Sir GEORGE TURNER:
The Finance Committee never agreed to that nor to any such thing.

Mr. REID:
I was not on the Finance Committee and I do not know, but I do not wonder that some one has blundered, considering the extraordinary proceedings of that committee. I absolve any one who thought anything about what we are doing.

Sir GEORGE TURNER:
You always upset everything we do.

Of course I do, but in this matter I had nothing to do with it. I took no part in it, and I took no part in the drawing up of the resolutions.
Mr. WISE:
   It is all for the protection of Victoria.

Sir GEORGE TURNER:
   Indeed it is not.

Mr. REID:
   How can there be a cessation of these hostilities between the railway systems if it is allowable to impose rates for the purpose of drawing traffic from one State to the railway of another State? How can such a state of things go on and peace be still maintained? It is impossible. Those who object to power being given to the Inter-State Commission to prevent rates being used to draw the traffic from the railways of one State to those of another object to all regulations on the subject, and if the regulation which they make is not to be observed, what is the use of it? We are prepared to adopt either course. We are prepared to remain as we are, using our own weapons of offence or defence, or we are prepared to hand over to a power the duty and obligation of preventing the fight, and it is more in the spirit of Federation that we should do so; but it is no use handing over this power unless you hand it over thoroughly.

Mr. DEAKIN:
   On what principle are they to go?

Mr. REID:
   Neither you nor I can tell that. I am prepared to trust our railway management to this superior authority, but I do not wish to put any limitation upon this tribunal at all. Any rate or regulation which violates the spirit of this clause I leave full power to the Inter-State Commission to annul.

Sir GEORGE TURNER:
   Are you willing to take out these words?

Mr. REID:
   Which words?

Sir GEORGE TURNER:
   Those which you read, and which were improperly put in.

Mr. REID:
   Certainly. I do not for a moment propose to give this Commission any power over the management of the railways, except when that management is being used unfairly to interfere with its natural course of business. It is absurd to say you will give them further power than that, unless you give them all the power and hand over the railways. We are not going to do that, and since we are not going to do that those who object to handing over the railways do not object to the establishment of an independent and fearless body to prevent the war of railway tariffs. We cannot go further when that
war is being prevented; we cannot go further and give them the power practically of regulating the internal management of the railways.

Mr. DEAKIN:

Will the hon. member allow me to put a question? On his plan of abolishing the war of railway tariffs, would he make it possible for the Government of New South Wales to carry goods the long distance from Albury to Sydney at a cheaper rate than they could be carried from Albury to Melbourne?

Mr. REID:

There rules. It is impossible, looking at the rates, to say that anything of the sort is going on, so many things have to be taken into consideration. Where the management of the lines is vested in a certain power that power must be allowed to run the railways on business principles, but I am willing that these business principles shall be regulated in such a way as to apply equally. I am prepared to have a tribunal to see what is fair is done.

Sir GEORGE TURNER:

And give them unlimited power.

Mr. REID:

That is impossible, if you do not give them the management of the railways altogether. It is a contradiction of terms. You must limit the exercise of their discretion to matters affecting the rival interests of the particular colonies, and you must limit them from interfering with the ordinary management of the railways.

Mr. HIGGINS:

Do not you want to take away our weapons and keep your own?

Mr. REID:

I do not think it would be a weapon for New South Wales, as it would be an independent board. I am willing to leave the whole to the Inter-States Commission to decide as to what rates in effect are preferential.

Sir GEORGE TURNER:

What is a preferential rate?

Mr. REID:

An expert in railway management could tell you that.

Mr. HIGGINS:

You claim to do as you like in your colony and prevent us doing as we like.

Mr. REID:

The Commissioners are not going to have a blind eye to what is done in New South Wales and a keen eye to what takes place in Victoria. The real
aim is that we should leave justice.

Sir GEORGE TURNER:
You tie their hands in those things in which they can do justice to Victoria.

Mr. ISAACS:
You tie their hands in Victoria and leave them free in New South Wales.

Mr. REID:
A most absurd interpretation has been placed on these words.

Mr. WISE:
Let them go out of the clause and we will get all we want.

Mr. REID:
The Drafting Committee put the words in for some good reason, and I have such a reverence for that Committee that I will not unnecessarily interfere with their work. I will appeal to Sir John Downer to say whether they were put in without good reason.

Sir JOHN DOWNER:
Certainly not.

Mr. REID:
Then I will stick to them. Mr. DEAKIN: It appears to me to be of the greatest importance to understand the Premier of New South Wales. It is possible we may be in entire agreement with him, and may be differing only about a matter of words. It is equally possible we may be differing about a matter of substance. Each colony has an interest in this question. South Australia, for instance, has the Naracoorte railway running to the sea, practically along and touching the western border of Victoria. Under this clause it is feared, or might be feared by South Australia, that while the South Australian railway authorities would be forbidden from making any preferential rates in order to enable it to obtain traffic from Victoria, because it was in another colony, we in Victoria would be allowed to make the charge from Serviceton to Melbourne less than their charge to Kingston, although it is ten times the distance. The fear of the Premier of Victoria is that each colony in such a case as this will be prohibited from carrying the goods of its neighbor, although the latter may carry those goods ten times the distance at the same rate. Each colony is to be restricted to its own produce, and it will be still possible for each to retain the traffic arising in its own colony by charging special rates. Victoria might choose to carry goods from Serviceton to Melbourne at a cheaper rate than they could reach the sea if taken through South Australia, although our distance is ten times as great. That is an anti-federal proceeding, and ought not to be
permitted.

Mr. REID:

Would you charge the name for your produce as for South Australian produce?

Mr. DEAKIN:

Yes, for the same distance. Does the Premier of New South Wales mean that the Inter-State Commissioners should be endowed with authority to consider the railway circumstances of New South Wales and determine "Here is a general mileage rate which is charged in New South Wales. It is not the same rate per mile for 200 miles as it is for the first mile, because there is a natural tapering off of the charges, but no such tapering is to be permitted if made in order that New South Wales can compete with the railway of another colony"? If that is the principle I can understand it.

Mr. REID:

Just as I answered your fiftieth question I had forgotten the other forty-nine.

Mr. DEAKIN:

No one would be more able to follow forty-nine questions than the hon. member if he so desired. Does he wish to give an Inter-State Commission power to revise rates which shall obtain all over the colony, making allowance for the natural tapering, but no further allowance to be permitted on any line to a greater degree than that which obtains all over the colony? If that is the principle I can understand it.

Mr. REID:

I can tell you my principle in a word or two.

Mr. MCMILLAN:

May there not be different conditions affecting different lines?

Mr. DEAKIN:

There may be. You might have coal on one line, and get it at a cheaper price. But, as the Premier of New South Wales says, experts and experts alone could take those details into consideration. I am trying to simplify the problem by discovering what principle the Premier of New South Wales is willing to have embodied.

Mr. REID:

The principle which I believe governs the whole clause is that it is wrong to have any railway rates or regulations made or used having the effect of drawing traffic to a railway in one State from the railway of a neighboring State.

Mr. BARTON:

The bottom of the matter is simple honesty.

Sir WILLIAM ZEAL:
I will explain it directly.

Mr. DEAKIN:

The words to which my hon. friend Mr. Reid called attention appear to my friends to relate only to the traffic from one colony being carried by the railway of a neighboring State. It imposes a restriction upon the railway of one State so far as it may seek to take traffic from the railway of another State, but it imposes no conditions upon the rates to be charged in regard to its own traffic by the railway of that other State. It is not governed by any consideration whatever for the railways of the first mentioned State.

Mr. O’CONNOR:

It is mutual.

Mr. DEAKIN:

Of course if you make it mutual then we are at one.

Mr. WISE:

It is mutual.

Mr. DEAKIN:

It reads as if it might not be mutual. While it may put a limitation on the rates to be charged upon the Naracoorte line in South Australia, it puts no such limitation between the Victorian border and Melbourne. If it is a mutual limitation, then we are agreed. I have read it independently of other hon. members on this side.

Mr. WISE:

It is mutual. I must confess I could not see what you were contending for.

Mr. BARTON:

Would my hon. friend like to leave out the words quoted?

Mr. ISAACS:

Leave it to the Parliament to say what the powers of the Inter-State Commission shall be.

Mr. REID:

That cannot be.

Mr. DEAKIN:

I agree with the Premier of New South Wales that we must have in this Bill a statement of some principle upon which the Inter-State Commission is to act. If that principle is perfect mutuality

in this matter, then I can quite understand it. Of course if one railway system is worked cheaper and better than another, then the better managed system is entitled to all the benefits which it can gain in these ways. I do not want to see any common mileage charge. Each State should have the full advantage of its circumstances.
Mr. O'CONNOR:
What part of the Bill says that there is no mutuality?

Mr. DEAKIN:
According to this clause, the Commission is to have such powers of adjudication and administration as may be necessary.

But it shall have no powers in reference to the rates or regulations of any railway in any State.

Mr. REID:
That is all right so far.

Mr. DEAKIN:
Then comes the exception.

Mr. REID:
Just so.

Mr. DEAKIN:
The clause continues:

Except in cases of rates or regulations preferential in effect and made and used for the purpose of drawing traffic to that railway from the railway of a neighboring State.

Mr. O'CONNOR:
Does that not apply to States all round, to one as well as another?

Mr. DEAKIN:
It appears to me to be capable of an unilateral construction. You start by speaking of a particular State, and you say that State is not to take traffic from the railways of a neighboring State. You seem to imply by this that each railway is to be limited to the traffic of its own State, and is not to take the traffic from a neighboring State, though that State might better serve that traffic than it would be served in its own State. For instance, some of our Wimmera country would certainly be served by t

Mr. O'CONNOR:
I cannot see any other.

Sir JOHN DOWNER:
It seems transparently in favor of freetrade.

Mr. DEAKIN:
That is all I want.

Mr. REID:
We all want the same thing. Let us during the next four months see if we can come to an agreement.

Mr. DEAKIN:
We should do so now. I say candidly that what should obtain is, that, taking the distance from Serviceton to the sea in South Australia, the rate charged on that railway should be exactly the measure of the rate charged
for a similar distance on the Victorian railways, only making a distinction for the fact that from local causes one railway might be worked a trifle more cheaply than the other. If South Australia can work her lines more cheaply than we can, let her charge a lower rate. If South Australia had a coalfield in that part of the colony she could work her line more cheaply. Apart from such local considerations and tapering rates, Victoria has no right to charge less for fifty miles than South Australia does.

Mr. O'CONNOR:

You cannot have uniform charges without taking over the railways.

Mr. DEAKIN:

That is why I have become a convert to the proposal. I think that is really what we want. In any case I go further than this clause. I think that power should be given to the Inter-State Commission, after taking into account the varying conditions of the various State railways, to arrange that the rate of carriage on all the Australian railways should be the same for the same mileage.

Sir WILLIAM ZEAL:

The clause is altogether unfair to Victoria. If the proposal some of us have made were given effect to we would assure what all the colonies desire, equal mileage rates for equal distances. This does not interest alone New South Wales and Victoria. South Australia and Queensland are equally interested. I have always contended that it is unfair that Victoria should set up unequal competition with South Australia and take away the trade which geographically belongs to her and which should go to Kingston. We also say it is wrong that Queensland should institute such a state of things as enables her to take wool from the south-western portion of her boundary into Brisbane at a cheaper rate than it could go by its natural channel to Sydney. These proposals submitted would not achieve that. They have larger aims, and propose to drive Victorian trade out of Riverina and prevent her carrying traffic on any lines in that territory.

Mr. BARTON:

How can the hon. member say that?

Sir WILLIAM ZEAL:

I say it distinctly.

Mr. BARTON:

How can the hon. member attribute to any committee of this House any design of that sort?

Sir GEORGE TURNER:

He means that is the effect.
Sir WILLIAM ZEAL:
I should be the last one to attribute to the hon. member anything but the utmost good faith and fair dealing. But the proposal in the Bill is opposed altogether to the finding of the Finance Committee, and I cannot understand how it has appeared. It was absolutely vetoed and fought against by members of the committee. Perfect mutuality and perfect fairness should be the maxim on which the railways should be worked.

Mr. BARTON:
What words does the hon. member wish omitted?

Sir WILLIAM ZEAL:
I should like to excise the whole clause.

Mr. BARTON:
And have an Inter-State Commission to do nothing?

Sir WILLIAM ZEAL:
I will not support the clause; it is the most absurd proposal I have ever heard. Expert officers from the civil service of each colony should form an Inter-State Commission; these officers could be assembled to deal with cases as they arise. They could then be disbanded, and if other circumstances arose calling for further consideration a similar Commission could be summoned.

Mr. BARTON:
Does the hon. member propose to have as occasion arises an intercolonial conference, and that only?

Sir WILLIAM ZEAL:
I propose to start with an Inter-State Commission to be composed of an expert officer from each State.

Mr. BARTON:
Is not that likely under this proposal?

Sir WILLIAM ZEAL:
No; it is proposed these men should be appointed during good behavior by the Governor-General, and only to be removed upon an address from both Houses of Parliament, and likewise to have such remuneration as Parliament from time to time determines.

Mr. BARTON:
The reason of that is that nobody shall be allowed to twist their tails.

Sir WILLIAM ZEAL:
I think their tails might be twisted just as well one way as the other; but when hon. members cannot trust competent and reputable officers of the various colonies to do their duty it will be a sad day for the Governments of the colonies. What we propose is that if the New South Wales Government charge certain rates, say for the carriage of wool from Hay to
Sydney, we should be allowed to take wool from Hay to Melbourne at a similar rate mile for mile. It seems to me that proposal is perfectly fair. I would give to South Australia a like concession, which New South Wales should concede to Victoria and Queensland to New South Wales. I am quite sure if Mr. Eddy, the eminent Railway Commissioner of New South Wales, had the charge of the whole of these railways this absurd competition would cease in a week.

Mr. REID:

Hear, hear.

Sir WILLIAM ZEAL:

And we should not require all the elaborate machinery suggested.

Mr. REID:

You will have to have somebody to deal with difficulties which will arise in determining these matters, and that somebody will have to be independent. Supposing a Melbourne Commissioner came to meet other Commissioners as an Inter-State Commission, and agreed to something which was just and right, but which Melbourne merchants and politicians denounced as ruinous to Victoria, what would his position be?

Mr. BARTON:

He would be looked on as a traitor to his colony.

Mr. REID:

As certain patriotic gentlemen have unjustly been regarded here.

Mr. BARTON:

He would be bundled out of his office.

Sir WILLIAM ZEAL:

Men from outside the colonies could be chosen if required.

Mr. REID:

That would never work.

Sir WILLIAM ZEAL:

It would be impossible to carry on the government of the colonies if such overbearing conduct on the part of Ministers of every State is to continue. I believe this difficulty might be dealt with if all the railways were under one management, but the present system complicates it. The proposal that all districts should be served from ports which are their natural outlets seems to me fair and reasonable; in other words, as I pointed out, that the south-western portions of Victoria should be served from Kingston; if the district could be served at a cheaper rate, the southern part of New South Wales should also be served by Victoria, and thus the trade of south-western Queensland would naturally gravitate to Sydney. That
would be the case if these railways were federated, and that is one—a great-
reason why I am in favor of Federation. By the plan proposed one colony
would be able to make what charges it liked and continue the present gross
inequalities and cut-throat business indefinitely. Federation cannot be
accepted on these terms. It would be quite useless to attempt to get
Victoria to agree to it. We came here for the purpose of federating and
endeavoring to bring about, a fair tariff. I am aware that people residing in
these localities get the benefit of the present ruinous competition but the
Governments are now losing heavily, and it is time this warfare was
stopped. The proposal in this clause is almost identical with the words used
by Mr. Eddy before the Finance Committee; but it is in direct antagonism
to the finding of the Committee, and I am much astonished to see a
resolution drafted which was not only condemned by the Finance
Committee, but was positively vetoed by them. I point out that the distance
between Melbourne and Sydney is 574 miles. There might be a dividing
line at say 300 miles, the traffic from that to be carried at the same rate per
mile in both colonies. If this was done the inequalities now apparent would
at once disappear. If this plan is not given effect to, the present deplorable
state of things—undue competition—will be intensified rather than
diminished.

Dr. QUICK: This clause is undoubtedly one of the most important parts
of the financial clauses of this Bill, and I think it is desirable that any doubt
or ambiguity which may exist as to its possible effect should be removed
before it is accepted. I have been carefully considering the effect of clause
95 coupled with clause 92, and have been consulting with some members
of the Convention, including several members of the Drafting Committee,
as to its effect. They seem to agree that it is desirable that cut-throat
railway competition should be stopped by this Bill, and the only question
for us to consider now is whether this clause will have that effect. Some of
my hon. friends from New South Wales seem to draw a distinction
between preferential railway rates and differential railway rates, but I
submit that railway rates which may be called differential in their form and
design, through being carried to the extreme may become preferential in
their effect. I want to know whether these differential rates carried to the
extreme would be covered by this Bill? If so I would he quite satisfied. I
would invite the attention of hon. members to a very able paper written
by Mr. Forsyth, of New South Wales, in which he illustrates the effect of
differential railway rates. He says:

Now, so long as differential rates are permitted on the railways, this
destructive competition can be as easily carried on under cover of a railway

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tariff as a Customs tariff. Some of the differential rates at present in force amount to over 100 per cent. Take as an illustration the freight of greasy wool on the western and southern lines: Bourke to Sydney (or wool from to the south and west of Bourke), 1-37d. per ton per mile; Dubbo to Sydney, 2-96d. per ton per mile; Bathurst to Sydney, 3-64d. per ton per mile; Hay to Sydney, 1-69d. per ton per mile; Junee to Sydney, 2-91d. per ton per mile; and Goulburn to Sydney 3-7d. per ton per mile. This shows that the differential rates required to compete with the Darling River traffic and the Victorian railways are more than 100 per cent below the general wool rates. A similar difference exists in the wool freights in the Albury, Quirindi, Jennings, and Narrabri districts. The differential rates on outward freights for ordinary merchandise from Sydney to competing districts are not so great as the inward freights; but they are more than 50 per cent. below the mileage rates, and together with the inwards rates cause a great reduction in the railway revenue, or what is equally bad, cause the general rates to be increased to make up the lose on the differential ones. Perhaps nothing shown the unfairness of differential rates more-whether intended to have this effect or not -than that they protect the trade of Sydney at the expense of the inland towns, as under the maximum rate a truck load of goods to Bourke is charged the same amount of freight from Bat.

I submit that these differential rates may be carried on in the name and form of differential rates, with the result that they become preferential in their effect.

Mr. BARTON:

That is an additional reason for the appointment of this Commission.

Dr. QUICK: I want to be satisfied that this clause will prevent that. So far as Victoria is concerned, I am quite willing that the system of carrying goods from Echuca to Melbourne at one rate and from Riverina to Melbourne at a reduced rate should cease, but it must be conditionally that Now South Wales and South Australia will not put on it differential rate so tapering and attenuated in its form and shape that it becomes a preferential railway rate. I want to know whether, if we carry this clause in its present shape, it will prevent New South Wales from adopting these differential rates, so tapering and attenuated in their form as practically to draw away trade that under normal conditions would gravitate to Melbourne. I want to see all doubts removed by this section.

Sir JOHN DOWNER:

It cannot be more liberal than it is.

Dr. QUICK: I am not so doubtful as some of my hon. friends are, but if we are agreed on the principle that differential and preferential railway rates should cease, then we ought to remove all doubts by putting in words
to express it. Then we will be satisfied.

Mr. TRENWITH:

The difficulty about this clause is two-fold. First of all it does not appear to be quite clear as to what we desire. Then there seems to be some doubt as to what is provided in this clause. The Hon. the Premier of New South Wales in dealing with this question uses language that we must all approve if we could be quite clear as to what he meant. He said, for instance:

What we want is to deal justly in connection with the railway rates.

We admit that that is an abstract proposition from which none of us can dissent, but we are not quite clear as to what is in the hon. gentleman's mind as to what is justice in this connection. Again, the Hon. the Premier of New South Wales said:

Can we imagine an Inter-State Commission composed, as it is, must be, of able and eminent men, giving anything but a just decision?

The Commission will be an arbitration board on these questions, but it all depends upon the way things go before the arbitrators as to what their verdict will be. This clause provides for the submission of proposals which will prevent railway rates of such a character as will nullify our decision that trade between the colonies should be absolutely free. There is just a possible doubt about that. The language of the clause is this:

The Commission shall have such powers of adjudication and administration as may be necessary for its purposes, and as the Parliament may from time to time determine; but shall have no powers in reference to the rates or regulations of any railway in any State, except in cases of rates or regulations preferential in effect, and made and used for the purpose of drawing traffic to that railway from the railway of a neighboring State.

The question is whether under this clause railway rates that were fair and equitable would, from the geographical conditions of neighboring States, or a portion of a neighboring State, naturally gravitate from the railways of that State to the railways of its nearest neighbor. Take the Riverina district, which the hon. the Premier of New South Wales has described as having been hypothecated by clever Victorian merchants. He said that by our enterprise we took possession of this traffic. and that New South Wales was now only endeavoring to get back its own. May I, with all respect, suggest to him that this traffic was created by Victoria, and although it is situated in New South Wales territory, it was practically Victorian money and enterprise that developed it.

Mr. REID:

Surely the soil that produced it should, have some say in the matter.

Mr. TRENWITH:
The question is: Is it federal or anti-federal to make such provision as will draw the trade away 100 miles from its natural port instead of allowing it to gravitate 200 miles to Melbourne, and whether under this clause it is possible for New South Wales to create differential rates of such a character as to make it more preferable to send goods from Riverina-400 miles to Sydney, rather than 200 miles to Melbourne? While it is quite right that New South Wales should have all the advantages of exceptional natural circumstances, it would be extremely anti-federal and contrary to the spirit of this Constitution throughout if they were able to make regulations with reference to one district within their own borders which would have the effect of drawing to Sydney trade which, without this regulation, would certainly go to some other port. I want to know whether it will be possible on the line to Corowa to provide a rate of carriage for 400 miles to Sydney lower than the carriage in some other direction in New South Wales for 200 miles.

Mr. GLYNN:
Not unless you have a uniform reduction in all the rates.

Mr. TRENWITH:
That is what I wish to know.

Mr. REID:
One colony might push the tariff up in order to compel another colony to do likewise.

Mr. TRENWITH:
I think it would be absurd to assume that the Inter-State Commission, or any authority, would render it imperative that all colonies should have uniform rates, because there are so many varying conditions, but it would be equally absurd, if we want intercolonial freetrade, that one State could on one line in its own territory have a rate altogether out of accord with the rates on other lines, because it happened that that party could be better served by another colony.

Mr. REID:
That would be a preferential rate.

Mr. WISE:
Would the Inter-State Commission allow it?

Mr. TRENWITH:
The point in my mind is that the clause is evidently not sufficiently clear to convey adequately and beyond all doubt what is the intention of the Convention, and something should be done to make it indisputable. As Dr. QUICK put it, differential rates should not be so constructed as to become in their operation preferential rates and to act in a manner detrimental either to the interests of the producer or to the interests of the railways of it
neighboring State.

Mr. REID The Convention knows the position in which I am placed. There is clause 69, in which I believe there may be some attempt to make it compulsory that the Commonwealth should take over the debts of the States. I wish to point out that that will completely upset the arrangements that have been arrived at, and I shall be compelled to repudiate them if this is carried. Under these circumstances it is of great consequence that this matter should be decided before I go. It is only a reasonable remark to make, as I should like to vote on such an issue, which in of vital importance to the whole movement. I hope some friendly arrangement can be made by which this clause can be postponed until after the consideration of clause 96. I look upon the matter I have referred to as the only vital matter left, and I should like to be here when it is decided.

Mr. BARTON:

If it meets the wish of the Convention, I will move:

That clauses 86, 92, 93, 94, and 95 be postponed until after the consideration of clause 96.

Question resolved in the affirmative.

Clause 96-The Parliament may, with the consent of the Parliament of any State, take over the whole or any part of the public debt of the State, and the State shall be liable to indemnify the Commonwealth in respect of the amount of the debt taken over, and thereafter the amount of interest payable in respect of the debt shall be deducted and retained from time to time from the share of the surplus revenue of the Commonwealth which would otherwise be payable to the State, or if there be no surplus revenue payable, or if such surplus revenue be insufficient, then the amount shall be charged to the State wholly or in part. Upon any conversion or renewal of the loan representing the debt any benefit or advantage in interest or otherwise arising therefrom shall be applied to the reduction of the debt.

Mr. MCMILLAN:

I should like to make an explanation. It is possible there may be some misapprehension as to the meaning of the Finance Committee in the drafting of this clause. Some say it exactly represents what they thought was intended; others say it does not. The whole thing now is open for discussion, and if any mistake has been made it can be rectified.

Mr. REID: The only thing is whether it was necessary to get the consent of all the States to taking over the debt of one State. Is not that it? I

Mr. DEAKIN:

It does not say so.
Mr. REID:

It was only the question of consent.

Mr. MCMILLAN:

I think Mr. Reid ought to say what he has to say on this clause.

Mr. REID:

I have nothing to say if no proposition is made to alter the clause by making it compulsory to take over these debts. So long as no proposition is made I have nothing to say.

Sir EDWARD BRADDON:

I quite understood Mr. Walker would move an amendment of which he has given notice, a very important motion, which would open up discussion and is of considerable importance, and has great bearing on the whole financial problem.

Mr. WALKER:

I gave notice of an amendment to this clause, but a prior notice with regard to the railways having been negatived I could not ask that it be proceeded with. It was contingent on another one. However, if it is the wish of the House, I shall be happy to move it.

Mr. REID:

There is no necessity to move it, then.

Mr. WALKER:

Out of regard for the Premier of New South Wales I wish to hasten the business. When I came to this Convention I thought I might have had the honor of a place on the Financial Committee.

Mr. REID:

So you should.

Mr. WALKER:

I have listened to the explanation by the Treasurers of their plan, and I hope it will turn out as satisfactorily as they suppose. I shall reserve my right to move in the matter at the second sitting of the Convention, four months hence.

Sir GEORGE TURNER:

I have every desire to expedite the departure of my friend the Premier of New South Wales, and I will not detain the Convention. This is an important matter, and provides something which is unwise. My own personal view is that it should he made compulsory on the Federal Government to take over all the debts, and deal with the whole question. However, in view of the position taken up by the Premier of Now South Wales, I do not feel inclined to press that very strongly, because he has said that, while he was prepared to
agree to the scheme we have adopted in connection with financial matters, he cannot see his way clear to agree to have it compulsory on the Federal Parliament to take over the debts of the States. Therefore, although I think it would be wise to compel the Parliament to take over the debts, I do not feel justified in pressing my views to a division on the matter. Parliament may, however, take over all or part of the debts of any State with the consent of that State. I think that is very unwise. I do not think they should take over the debts of one or two or three States.

Mr. DEAKIN:

Or a proportion.

Sir GEORGE TURNER:

No; I do not believe in proportion. It would be impossible to say which they should take over—the short dates, or the long dates. I simply say that if we are to give the Federal Parliament power to take over the debts, let it be the power to take over all the debts at the time the transaction is carried out. Otherwise, I think that if the debts of one State are taken over there will be a reduction of interest, or else they will be worth more because they belong to the Commonwealth, and this will give an advantage over the debts which are not taken over. If the clause is so amended so as to make it optional to take over the debts of the States, then I will not object.

Sir JOHN DOWNER:

I have always had a very strong feeling that the Commonwealth should take over all debts. I agree with Sir George Turner, that it is a very inexpedient thing to leave to the Commonwealth the power to traffic with the different States in respect of their debts. I can understand that it would have the effect of putting the State in a position of advantage that it is not entitled to. This is not a matter to be dealt with piecemeal at all. It may be a matter which the House ought to consider whether or not we do not think it would be a proper basis of this Federation. in spite of the difficulties which Mr. Reid feels at the present moment, that we should make some provision for taking over the debts.

Sir EDWARD BRADDOCK:

Hear, hear.

Sir JOHN DOWNER:

We all know what we are doing. We are handing over to the Commonwealth a large revenue with a certain surplus. We are surrounding it with wise provisions, and we are thinking over preventing the inconvenience that the different Treasurers may find will result from what has been done, but at the same time the Commonwealth actually gets possession of the money and the physical control of it, and, although they may have the responsibility, we all know, in instances of this kind, that
responsibility does not always mean a performance and a due observance of this responsibility. If the debts had been taken over there would not be any of the trouble in connection with the matter, and it would have been an immense strengthening of the Commonwealth. No one who is wanting the Commonwealth to be powerful and strong could have urged any method which could have attained his wish better. Its position would then become pre-eminent because by the very extent of its liabilities it would, as a matter of course, be entitled to the right to have corresponding obligations recognised by all the colonies. Leaving out for the moment all question of the benefits that might flow ultimately from the debts being consolidated, and the Commonwealth instead of the States be-

becoming the debtor, the mere fact that the Commonwealth represented the whole of liabilities of Australia would make the Commonwealth a power throughout every State in Australia, and give it the right to levy taxation-which would be necessary in order to enable it to pay the interest that would have to be paid--and would dignify and establish the Commonwealth in a way which could obtain in no other way. I feel, of course, there is something to be said on the other side, and I do not want to say everything that can be said-I do not think it is wise-on the other side. I believe that ultimately the Commonwealth will have to take over the debts. In this power that is given the inevitable result will be that the Commonwealth will take over the debts.

Mr. BARTON:

In due time.

Sir JOHN DOWNER:

Yes; I feel myself reluctant to do anything that would cause Mr. Reid any personal inconvenience, and make his position with regard to the future of Federation difficult. Still I think it would be well if we struck out some words.

Sir GEORGE TURNER:

I have sketched out some alterations, which would make the clause read:

The Parliament may take over the whole of the public debts of the States at the establishment of the Commonwealth, and the States respectively shall indemnify the Commonwealth in respect of the amount of the debt taken over, and thereafter the amount of interest payable in respect of the debts shall be deducted and retained from time to time from the respective shares of the surplus revenue of the Commonwealth which would otherwise be payable to the States, or if there be no surplus revenue payable, or if such surplus revenue be insufficient, then the amount shall be charged to the respective States wholly or in part. Upon any conversion or
renewal of the loans respectively representing the debts, any benefit or advantage in interest or otherwise arising therefrom shall be applied to the reduction of such debts.

Mr BARTON:
Without the consent of the States?

Mr. FRASER:
That is all very well; but you must say that the debts taken over are the present debts. It will not be proper or fair to allow that the debts five years hence—which may be increased perhaps £20,000,000 by one colony and not by another—should be taken over likewise.

Mr. SYMON:
This is not wholesale.

Mr. FRASER:
It would be better to make the present debts the debts to be taken over.

Mr. GLYNN:
After the debts are taken over they will have to borrow through the Federal Parliament.

Mr. FRASER:
You must draw a line somewhere, or there will be a danger of colonies becoming unduly extravagant. We had better confine ourselves to the clause in the 1891 Bill, which says:
Subject to the consent of all the colonial Parliaments.

Sir GEORGE TURNER:
Then any one House can block the whole thing being done.

Mr. FRASER:
But there is a great danger of log-rolling, and all sorts of evils.

Mr. BARTON:
They might be good terms as to five States and bad as to the sixth, which would have a right to resist them.

Mr. MCMILLAN:
The essential difference between those who desire to make this compulsory and those who desire to make it not compulsory on the States, and at the option with regard to time of the Federal Parliament, is that the Federal Parliament, by taking its own time, if there is any policy of conversion, may be able to get much better terms for the debts of a colony than if it was made compulsory now and its securities rose very much in the English markets.

Mr. FRASER:
There is no danger in that case. They will not part with their debentures until the due dates.

Mr. MCMILLAN:
I am not going into details, but there is no doubt that it is far better as a financial arrangement to give the Parliament of the Federation power to do this, leaving it to make all arrangements which will be most favorable to our securities.

Mr. FRASER:
Hear, hear.

Mr. MCMILLAN:
I quite see the difficulty that if you have to negotiate with each State one State may block the whole policy. Personally I am quite willing to agree to Sir George Turner's amendment, and think it would be far better in the interests of our securities than any immediate arrangement.

Mr. DEAKIN:
In 1891 I was in favor of the taking over all the State debts by the Commonwealth, and I still hold the same opinion. At the same time it presents itself to me as only one portion of a much larger financial transaction, because with it you are faced with the question of the assets and another difficult question—the regulation of future State borrowings, and the control, if any, which the commonwealth should exercise over them.

Mr. REID:
Without that control they might enter upon a new career of reckless borrowing, having got rid of their old debts.

Mr. DEAKIN:
But I feel that not only out of consideration for Mr. Reid, but on account of the perplexity of the subject, which would require to be dealt with as a whole, including the questions of assets and future borrowings, and other conditions, we are bound to accept at the present time and at this stage of this Convention some such tentative proposal as Sir John Downer alluded to. But I hesitate to accept the amendment proposed by Sir George Turner. The first part of his amendment is the proposal that the Commonwealth shall have the power to take over the debts without the consent of the States. There I am inclined to agree with him, but when he goes a step further, and says you must take all the debts or none—

Mr. SYMON:
Hear, hear.

Mr. DEAKIN:
Then surely he is seeking to impose too great a restriction upon the Federal Parliament and the Federal Government. It seems to me that unless a very large policy is entered upon it will be impossible for the Commonwealth to take over the whole of the debts at once, and yet it
might be desirable for it to take over apart of them.

Mr. SYMON:

Hear, hear.

Mr. DEAKIN:

It is suggested that the same proportion of debt in each State should be taken over say, per capita. I could understand that being advisable, but I cannot attempt, nor can any hon. member attempt, to forecast all the circumstances under which variations of this proposal may or may not become advisable. Under these circumstances it appears to me we ought to trust the Federal Parliament to the utmost. Possibly we ought to enable it to deal singly with any one State, to take certain proportions of its debts, or all its debts, or all the debts of all the States. There are dangers which will have to be considered in connection with these matters, but which we cannot hope to decide here. It seems to me that my hon. friend has added a certain restriction which, equitable as it may appear under present circumstances may become, by the action of the States themselves, utterly inequitable in the future. It is just possible that some State will plunge heavily and borrow enormously.

Mr. FRASER:

Where would they get the money from?

Sir GEORGE TURNER:

Then the Commonwealth would not take over any part.

Mr. DEAKIN:

I do not think there will be difficulty in any of the Australian Colonies obtaining any reasonable sum they may ask. And yet they might disturb the balance, so that, although you have a permanent debit against that State, for all the interest paid on its behalf you would still have difficulties in the way. I do not pretend to say what distinctions should be made, but I object to any tying of the hands of the Federal Parliament.

Mr. WISE:

May I suggest that the

object of the Premier of Victoria maybe attained by adopting these words:

The Parliament may make laws for taking over and consolidating the whole, or any part of the public debt of any State or States.

What more is wanted than that?

HON. MEMBERS: That is the same thing.

Mr. WISE:

It is the same thing, but it is put in five words instead of ten. That makes it very short, but it is exactly what Sir George Turner does not want.

Sir GEORGE TURNER:
I want the whole or none taken over.

Mr. WISE:
I submit at all events, if they are going to stand by the clause, that it is very clumsy as it stands, and that it could be improved by the adoption of what I suggest. If the clause is passed in this way we will be able to understand it.

Mr. SYMON:
I am not going to enter into a discussion as to the desirability or otherwise of taking over the public debts of the States, or as to whether it should be done under the provisions of the Constitution, or be left till later. So far as I understand the position, there is a consensus of opinion that it is undesirable either to include it in the Constitution or make it compulsory on Parliament. It is suggested that it should be made necessary to obtain the consent of the other States before taking over the debt of a State. I shall follow in the footsteps of Mr. Deakin. I think it is undesirable, if we simply vest the power in the Commonwealth, that it should be obligatory on the Commonwealth to get the sanction of the States. Sir George Turner wishes to limit the power of the Commonwealth to taking over all the debts. My hon. friend Mr. Wise will achieve his purpose and shorten the clause very much by not putting in "that the Parliament may make laws," but by leaving it simply in this way:

That the Parliament may take over the whole or part of the debt of any State.

Sir JOHN DOWNER:
I think my hon. friend rather misunderstood Mr. Deakin after all, because Mr. Deakin did not, as I understood him, say that the Parliament ought to be allowed to pick and choose amongst the various States, and to say where they think this is worth taking, "We will take it," and where it is not worth taking, "We will not take that." What Mr. Deakin said was that he did not want to compel the Commonwealth to take over the whole of the debts, but that he would allow them to take over an equal proportion of all the debts of the States, treating them alike, and in that instance he would dispense with their consent.

Mr. GLYNN:
That is not his meaning.

Mr. SYMON:
That is not what he said, it may be what he intended.

Sir JOHN DOWNER:
That is what I understood he said. However, I would agree either to the proposal which Sir George Turner makes, or to the modified proposal which I think Mr. Deakin intended, whether he said it or not. But to allow
the Commonwealth to say to one colony, "Your debt is not good enough, we will not take yours," and to another colony, "Your debt is good enough, we will take yours," and to please itself about it, would be simply intolerable.

Sir GEORGE TURNER:

It would never do.

Sir JOHN DOWNER:

It would be a source of constant disruption and unpleasantness between the States and the Commonwealth, and would work out exceedingly badly in the future. I would suggest to Sir George Turner that he might amend his amendment by saying that the Federal Parliament might take over the whole of the debts of the States, or something less than the whole, being a proportionate part of all, so that all may be treated alike.

Sir GEORGE TURNER:

It would be better to take over the whole of the debts of the establishment of the Commonwealth. I think that is the wiser course.

Sir JOHN DOWNER:

There is no doubt about it, and that is what they will have to do.

Mr. FRASER:

To my mind, the proper thing to do is to take over the whole of the debts or an equivalent part of the debts of each State, with the whole of the States' consent. If you get the whole of the States' consent, then undoubtedly it would be a legitimate and proper thing to take over the whole or a proportionate part of their public debts, so long as the part is fairly proportionate to the whole. If you do not confine yourself to that view you will be adopting a course which will create any amount of bickering between the States and the Federal Parliament hereafter. Another view is that you can take over the whole of the debts, except the debts which have been created through the extension of railways. It will be a very proper thing to my mind to leave the debts created by the construction of railways to the States themselves. The interest on a railway debt is paid by the net results from the lines, and the colonies are able to pay their debts.

Mr. MCMILLAN:

I think that unless the debts are taken over as a whole the clause bad better remain as it stands. I think it would be unfair to give the Federal Parliament power to go to a State and say, "We are going to take over 30 or 40 per cent. of your debt." You must either keep the clause as it is, requiring the consent of the State for the whole or part of its debt being
taken over, or if you are going to give full power to the Federal Parliament to take over the debt at its own option, it must be the whole debt. I do not think it would be fair to give power to the Federal Parliament to deal piecemeal with these debts, unless you put it on some certain principle.

Mr. DEAKIN:
So much per head.

Mr. MCMILLAN:
Unless you put it on the principle of simply covering the surplus revenue with the interest capitalised.

Sir GEORGE TURNER:
This is it varying amount, you know.

Mr. MCMILLAN:
It would be far better, on the whole, to make the taking over of the debt subject only to the consent of the States, and then let the Federal Parliament deal with it on a reasonable and scientific principle. I ask Sir George Turner whether, on the whole, taking everything into consideration, it would not be better to leave the clause as it is. I think this would be a, more satisfactory way of carrying out the principles we have adopted, to say that we should not interfere unnecessarily with anything connected with the State. It may be said that the public would contend that this is a matter of local concern, and there is no doubt that when the question of debts of the States comes before Parliament the question of the consolidation of the railways may also come before it, and the time for dealing with this in a large and comprehensive way will be when these various questions, which have not been absolutely remitted to them, but which they have the power to deal with, are before the Federal Parliament. I am inclined to think that the safest and best plan will be to retain the clause as it stands.

Mr. HIGGINS:
I do not think we are called upon at present to decide in this Convention whether the whole of the debts ought to be taken over or only a proportion of them. The question we have to decide is whether we ought to tie the hands of the Federal Parliament so that it cannot take over anything less than the whole. Sir John Downer has shown that there can be no picking or choosing in this matter. But then the proposal of Mr. Deakin is that you ought at least to give the Federal Parliament power to take over a ratable proportion per capita from all the States at the same time, and I can see no objection to that if the Federal Parliament sees fit. I therefore hope that the clause will be made to read thus:

The Parliament may, with the consent of the
Parliament of any State, take over any ratable proportion of the public debts of the States in proportion to the population.

It would accord with the growing feeling, of which I happen to be aware, that there should be an application of the surplus—as soon as we have ascertained how much it is likely to be—to the payment direct to our creditors of a ratable portion of the interest, which the surplus would be sufficient to cover. I think it would mean—and expert financiers will correct me if I am wrong—that it will greatly reduce the cost of paying the interest in London, and will make other savings. During the debate there has been scarcely any reference made to the point that if the debts are taken over there should be some restriction on the amount of borrowing.

Mr. DEAKIN:
I referred to it.

Mr. HIGGINS:
I shall not go into this large question now, but at the very least, if the Federation does take over the whole or any part of the debts, it ought to be able to impose terms and conditions to prevent the States borrowing beyond a certain sum without the sanction of the Federal Parliament.

Mr. GLYNN:
You must take over the assets.

Mr. HIGGINS:
I have not mixed up this matter with the question of assets at all. I am strongly as anyone in favor of taking over the railways, but I do not wish to deal with that subject now. Anyone looking at the question carefully will see that there is no necessary connection between the taking over of the assets and the taking over of the public debts. Supposing the Federal Parliament takes over the whole or any part of the debts, it would never do to allow the State to go on borrowing on the security of the assets which the Federation has to look to for its own indemnification. It would therefore be a fair thing to give the federal authority power to take over the whole or any part of the public debts on such terms and conditions as it thinks fit.

Mr. HOLDER:
The security of the Commonwealth would be their Customs and excise duties.

Mr. HIGGINS:
But supposing they had no other security, and the State wanted to go on borrowing ad libitum?

Mr. HOLDER:
It would borrow on its own assets.

Mr. HIGGINS:
On the faith merely of its revenue. We do not borrow on the security of any definite assets, but, at the same time, when the Federation accepts the primary liability to the English creditors it should be able to insist on terms and conditions before taking over the debt, and of course if terms and conditions are imposed it ought not be allowed to take over the debts without the consent of the individual State. However, sir I would like to offer as a suggestion to my friend Sir George Turner, who has moved the amendment, that he should add words to carry out what Mr. Deakin suggests, such as:

A ratable proportion of the public debts on such terms and conditions as the Federation thinks fit.

I do think that it would be important to give the power to the Federation, and also the power to impose terms and conditions in regard to future borrowings.

Mr. KINGSTON:

It would be a mistake to try to specify the precise terms on which these debts should be taken over, and therefore I sympathise with the suggestion that the latter part should be struck out, and the term might be left for adjustment to the time when the occasion for taking over the debt crops up. I sympathise with what has fallen from Mr. Fraser with regard to the propriety of taking every care to prevent this power being abused, and I think when we recollect the present debts of the colonies are £170,000,000 or £180,000,000 we cannot be too careful. I would suggest that a power of this sort ought not to be exercised without the consent of all the States. There is no doubt that as a general rule it may be put that there is the Federal Parliament representing the Common-

wealth generally, and that nothing unfair is likely to be done to the advantage of one State or prejudice of another, but it does seem to me that when you open up a field like this for financial operation—a field of £180,000,000—we should be more than ordinarily careful, for it is possible that an arrangement might be made to secure a majority both in the Senate and House of Representatives which, in connection with a matter of this sort, might be unfair to an opposing and powerless minority. Therefore we should make the clause read as follows:

The Parliament may, with the consent of the States, take over the whole or any part of the public debt of all or any of the States.

By carrying the clause in a form such as that you will give the ampest power to the Federal Parliament to make any arrangements, and at the same time, by requiring the consent of all the Parliaments, you will provide against any possible abuse of this large power which in its exercise is likely
to be attended by abuse, unless most carefully guarded.

**Mr. DOBSON:**

I think it would be a calamity if the Convention settled this without a division, because not only is this an important point to the Convention, but it is perhaps the most important part of the Bill to the people of Australia, seeing that the candidates for this Convention, both the successful and and the defeated, as well as the newspapers, held up to the people what we would gain in the rate of interest if the debts were consolidated. I hope Sir George. Turner's amendment. will be carried, not making the consent of the State necessary. This is one of those operations which must be performed at the right moment, and you must take the advice of your bankers and advisers in England, and it would be monstrous if we had to consult fourteen different Houses of Parliament where not only one State could stop it, but one single man in either House could stop the operation.

**Mr. KINGSTON:**

One man?

**Mr. DOBSON:**

One single man in any colony by voting against it can stop the Federal Parliament taking over the debts of that colony. The amendment striking out "or any part of the debts" should not be carried. I was particularly struck with the remarks of Mr. Higgins, and I often have wished that in our Constitution Acts there was that short provision in the American Act.

That the borrowing powers of each State should be limited.

I have had the temerity to suggest that extravagance is committed by the democrats, and the right to borrow unlimited sums is a power which you would give to the House which has uncontrolled financial powers; and then you talk about doing away with deadlocks. My objection to many democratic measures would cease, or I would give way with better grace, if we had in the our Constitution a provision preventing any Government, whether Federal or State, borrowing any sum far out of proportion to its assets and revenue. I should like to check the extravagance both of my liberal and democratic friends in this relation. In. reference to the remarks of Mr. Fraser, I would ask him not to be too confident as to what the London market will do in buying up our debentures. At the present time New Zealand is converting £100 1914 debentures for which she is paying £121. I believe that the New Zealand Government will, however, only make a small profit, as she has to provide a sinking fund. Sir Philip Fysh may be right after all, and if we could save 1/4 per cent. throughout the whole of Australia that would be a considerable gain. In regard to the latter portion of the clause, I think it should be struck out. All our people are looking forward to the saving in interest as part of the gain or recompense
for the loss we have to pay for federal government. It is doubtful under this cumbersome and expensive Constitution if Tasmania—which has the desire—will have the power to enter the Federation, and therefore it is not helping us over that stile. Another objection to the clause is that some of the States—Tasmania I know—have a sinking fund. We have a small one of our own, and we do not want to be saddled with two sinking funds. I hope before Mr. Reid goes we shall have a division upon it.

Mr. BARTON:

I do not want to detain my hon. friend, who is anxious to catch his train. I would like the Convention to consider a little before it passes this clause, the question of enabling the Parliament to take over the debts without the consent of the States. I was rather in favor of the Constitution providing for the taking over of the debts of the States. The financial provisions which have been arrived at by the Premiers of the various colonies and adopted by this Committee could not, I take it, have been arrived at if this Constitution now provided that at once the debts as a matter of necessity could be taken over. If that had been the provision, there would have been something arranged in the Constitution as to the terms and conditions as a matter of principle on which they should be taken over. But if that is to be left out, then the terms, conditions, and principles would, unless the consent of the Parliament is obtained, be entirely in the hands of the Parliament of the Commonwealth. I have not been in favor of tying the hands of the Parliament of the Commonwealth, but in a matter of this kind there is a good deal to be said in favor of obtaining the consent of the States as to the terms on which the debts shall be taken over, in the same way as we should obtain the consent of the States as to taking over the railways or other properties. I can see a difficulty. One can easily imagine a combination of States taking place by which a majority of the States would derive an advantage by taking over the debts, and these terms might be such as to inflict great financial loss on the other States.

Mr. DOBSON: Could that be done?

Mr. BARTON:

I do not say it could, but I think it might. One sort of terms and conditions might suit one class or colonies but not another. Take it this way. Suppose the debts and the railways were taken over. It is possible to imagine that the terms on which they might be taken over would be simply the amount involved in the construction of the railways. Another principle might be to take them over on the basis of so many years' purchase. Now between two large colonies you might have a difference of £14,000,000 or £15,000,000.
Mr. DOBSON:
You cannot suppose such an inequitable mode.

Mr. BARTON:
I think a clause might be inserted empowering the Commonwealth at a certain time, with the consent of the States, to take over the railways, but if it is right-looking at the close connection there is between the debts and the assets representing those debts—take over the debts without consent, then it would be equally right to take over the railways without consent; but if the Convention is of the opinion that the railways should not be taken over without the consent of the States, then the two things are so inter-woven that it is hard to resist the conclusion that the debts should not be taken over without the consent of the States. It is almost impossible to resist the conclusion that the two things should be treated on the same principle. The taking of them over is so much a matter of conditions and terms that the conditions and terms should be arranged with the consent of the States involved. It is easy to imagine a combination of States which would regard the taking over of the debts on a certain principle as fair and just, but though it might be of considerable advantage to those States to have them taken over in that way, other colonies might be of the opinion that the principle on which it was proposed to take them over would be against their interests. Of course, I agree fully that the Parliament we are about to create ought not to have its hands tied, but I believe if we were to provide that the debts should be immediately taken over we would need to lay down terms, conditions, and principles as to how they should be taken over. Then the States represented here would-be parties to those principles. But if we are to leave it over, and allow the Parliament of the Commonwealth to take them over without consent, then the principle which should regulate the transaction would be lost.

Mr. HIGGINS:
Would you have the whole of the States consent to the taking over of the whole or any portion of the debts?

Mr. BARTON:
No; I do not think it would be quite necessary to have the consent of the whole of the States. But I do not think the debt of any one State should be dealt with without its consent. But perhaps it would be desirable to provide for the consent of the whole of the States, as was done in the 1891 Bill. If not, then it would be a very unfair thing to say that a plan could be agreed upon in the future in the Parliament by which the interest of a State, or of two States, might be entirely ignored, according to their way of thinking, and be carried out very much to their loss, and possibly to a disastrous
Mr. HIGGINS:
I thought you were against taking over one and not another?

Mr. BARTON:
If a transfer takes place it should take place altogether, and therefore with the consent of all the States.

Mr. FRASER:
Hear, hear.

Mr. BARTON:
But if the Constitution provides for dealing with matters in a different way from that, still, as regards any State concerned, its own consent ought to be obtained to the transfer in the future. Thus if we were making a provision now for immediate operation we should have to require the consent of that State and its people in taking this Bill, because in taking this Bill by the referendum they will decide for themselves whether the provisions in it are equitable in their judgment or not. They would have to take such a principle as this into grave consideration. But it is quite conceivable that if such a proposal as is in Sir George Turner's amendment were submitted to the will of the colonies it would be found entirely objectionable. We have to look at this matter in this way: that we are entitled now to exercise our will about this matter, and to withhold our consent if we think fit, and, further, we should do so, unless the principle on which these things were to be done were clearly laid down for an immediate transfer. Therefore, is it not advisable to retain as much of that principle as possible, in order that there might be a general consent of the States? One of the State's debts perhaps might be taken over at one time and one at another, but I would much prefer one transfer with the consent of the whole of the States. I should like to suggest to Sir George Turner that the amendment in its present form would not be sufficient to provide for conversion, or consolidation, or renewal. There is a subsequent part of the amendment indicating that it is intended to give such a power. It would be better to insert words in the earlier part of the amendment, so as to give, in addition to that power to take over, power to convert, consolidate, and renew.

Sir GEORGE TURNER:
I do not see any necessity for it. Once you take the debts over, you have power to convert or consolidate.

Mr. BARTON:
In making an ovation between the lender and the person who is the debtor, supposing that the debt is transferred, in ordinary cases the borrower is entitled to be consulted before there is a new contract with
him. I am not, particular its to the form of words; but I think if this provision is to be effective it ought to be made clear that there is all ovation between

the Commonwealth taking over the debts and the lender who owns the bonds.

Sir GEORGE TURNER:

I will adopt the words.

Mr. HENRY:

I merely rise for the purpose of saying that, in my opinion, it would be the simplest way of adjusting and making safe the finances of the States and the Federation by taking over the public debts. I believe it would answer a very important purpose in securing a considerable reduction of our burden. Seeing, however, that we have adopted certain financial arrangements which make our State finances safe, I am content to join with those who will leave these questions to the Federal Parliament. I certainly think it would be much wiser to leave the federal power to arrange with any particular State, and not make it compulsory for the whole to be consolidated at the same time, its proposed by Sir George Turner. Neither do I think it an improvement to adopt the suggestion of Mr. Kingston and require the consent of every State. It is wiser to leave the whole thing in the hands of the Federal Parliament.

Mr. REID:

One State might, by some means, make better terms than others.

Mr. HENRY:

Quite so. There might be log-rolling. It will be wiser to give the Federal Parliament power to make arrangements with any State as circumstances arise, relying on the judgment and the good faith of the Federal Parliament to see that no injustice is done to any particular State by any arrangement with regard to a portion of the public debt. I call see that it will always be it question for the Federal Parliament in future borrowing, as well as in dealing with the existing public debts, as to what surplus revenue the States will have. It will depend entirely on the population and prosperity of a State as to whether it would be justified in going to the Federal Parliament and asking power to borrow for particular public works. These are things which it is impossible for the Convention to enter into and determine. The less we attempt to tie the hands of the Federal Parliament by trying to make terms for States whose conditions we cannot possibly know the better. There is a great deal to be said in reference to the whole question of future borrowing by the States. I think there is a very important distinction between the conditions of the Australian States seeking Federation and the
United States. As we all know, we have in the past, and we must in the future, borrow largely for public works such as railways. No such necessity arose in the United States, and I cannot see how it would be safe to attempt to tie the hands of the States in the matter of future borrowing for the development of their lands and industries. Where we have to borrow, we must borrow for public works. Of course, I admit that if a State desires in the future to get the benefit of cheaper borrowing, it will naturally seek power from the Federal Government, and the Federal Government will raise the money for any State purposes. But that will depend on the Federal Parliament, and will be governed by the prosperity and population of the State, and as the States progress so will they go to the Federal Parliament and ask for financial aid.

Mr. HIGGINS: Would you allow the Federal Parliament to fix terms and conditions?

Mr. HENRY: I fail to see how it is possible for this Convention to determine what the borrowing power of the Federal Parliament shall be. If a State seeks the aid of the Federal Parliament to secure more advantageous terms in the money market, then it rests with the Federal Parliament to decide, but I would not debar States from borrowing on their own revenue. It is not the assets, so called, such as railways, &c., that are the assets against the public borrowing. It is the revenues of the colony and the willingness and ability of the people to pay taxation that are the real assets. But that is beside the question. In reference to the clause under

our notice, I hope that the suggestion of Mr. Barton will be adopted, and that Sir George Turner may see that it is wiser for the States to be consulted before any portion of their public debt is taken over, and for the Federal Parliament to be allowed to take over the debt of any one State.

Mr. HOLDER: This is one of the most important questions we have discussed, and is important enough to deserve much more time being devoted to its consideration than we can bestow upon it now. There are four points to which I would direct attention, and I shall do so very briefly. The first is that we have an alternative presented to us as soon as we look at this question, that alternative being whether we shall declare in this Constitution from its coming into operation that the Commonwealth shall be responsible for the interest and principal of the public debts, or whether we shall empower the Federal Parliament to make arrangements to take over such of the debts as it may think wise. I have been astonished during the debates in this Convention to hear members advocating the former of
these two plans. I want to put it as briefly as I possibly can, that to put a provision in this Constitution that upon its coming into operation the Federal Government shall be responsible for the interest and principal of the public debts of the various States, is simply to make an enormous present amounting to millions sterling, for the effect would be to raise the value of all outstanding stock or bonds by probably 2 per cent. to the bonded stockholders, and to throw away the only advantage that the federal authority in future may hope to bargain for to the profit of the States on this question of conversion. And if there be anything in conversion, as I believe there is, it must depend upon the Federal Treasurer of the future being able to say to the bondholders, "If you like to surrender your bonds of one colony for this new stock having behind it the security of the whole Commonwealth, then we are prepared to negotiate." So I hope we shall hear no more whatever of the suggestion which some have made that the Bill should operate to make the Federation take over the whole of the responsibility as soon as it becomes law. The next point I come to is as to whether we should so provide that the surplus likely to be gained by each State should be balanced by the annual value of the debts taken over. Anyone upon looking at the matter will see that it amounts to a permanent endowment of the States by the Commonwealth. Suppose that South Australia has to receive half a million sterling per annum of the returned surplus. If the Commonwealth takes over the public debt, the interest on which would amount to half a million, it could never throw back any portion of that debt. It would practically be taken over for all time, and the Commonwealth would have to endow South Australia to the tune of half a million a year. That is saying with a vengeance what the federal tariff of the future should be. This is a very great question. Are we prepared to tie the hands of our successors for generations to come in that sort of fashion? The next point is as to the products of conversion. Besides the advantage and the benefits accruing from the exchange of local stocks for federal stocks, the question of the fall of the price of money at the time the exchange is made is also an important factor. Of course, the interest now is much lower than when the debts were incurred, and we cannot get the benefit, or anything more than an extremely small portion of the benefit, of the reduced interest until the time approaches for the stock to fall due. The people who are our creditors know well the value of money, and they will not give up what they hold to-day unless we make it worth their while to do so. We must give them a quid pro quo, and in addition something more to make the operation worth their while, and whatever we give them we lose. There is just one more point, and that is that I hope we shall
not tie the hands of the Federal Parliament in this matter by adhering to the last three and a half lines of this clause. Let us leave the whole matter free, so that the State can make the best bargain for itself. I shall not object to the later amendment proposed by Sir George Turner.

Question-That the words "with the consent of the Parliament of any State," proposed to be left out stand part of the clause-put. The Committee divided.


AYES.
Abbott, Sir Joseph Howe, Mr.
Barton, Mr. Kingston, Mr.
Carruthers, Mr. Lewis, Mr.
Cockburn, Dr. McMillan, Mr.
Douglas, Mr. O'Connor, Mr.
Gordon, Mr. Reid, Mr.
Henry, Mr. Wise, Mr.
Holder, Mr.

NOES.
Berry, Sir Graham Isaacs, Mr.
Braddon, Sir Edward Moore, Mr.
Brown, Mr. Peacock, Mr.
Deakin, Mr. Quick, Dr.
Dobson, Mr. Symon, Mr.
Downer, Sir John Taylor, Mr.
Fraser, Mr. Trenwith, Mr.
Grant, Mr. Turner, Sir George
Glynn, Mr. Walker, Mr.
Higgins, Mr. Zeal, Sir William

Question so resolved in the negative.

Sir GEORGE TURNER:
I move:
To insert after the words "take over" the words "on such terms and conditions as the Parliament may think fit."

Mr. KINGSTON:
I should like to point out that if we are not going to retain the latter part of the clause fixing the terms on which the Federal Parliament may take over the State debts, and we accept this amendment, the effect will be that the Federal Parliament, without the consent of the State, may take over the State debts on any terms it pleases,

Sir GEORGE TURNER:
That is a very good objection and I will not press it.
Amendment withdrawn.

Sir George Turner's amendment to strike out "or any part" agreed to.

The CHAIRMAN: It is now proposed:

To strike out the rest of the clause after the word "public," with a view of inserting "the debts of the State at the establishment of the Commonwealth."

Sir GEORGE TURNER:

And I move to insert a further amendment:

And may from time to time convert, renew, or consolidate such debts, or any part thereof.

Mr. WISE:

You can stop at the word "part" now.

Sir GEORGE TURNER:

Yes; the clause can end there now.

Mr. HIGGINS:

I understood after striking out the words "or any part" that it was the intention of Sir George Turner, as suggested by Mr. Deakin and Sir John Downer, to substitute the words "or a ratable proportion." If it is not his intention, I shall not move it, but I thought it was the general feeling that they should be inserted.

Mr. DEAKIN:

I refrained from moving the insertion of these words, knowing that the proposition may not be sustained when we come to consider the matter a few months hence, and I do not want to complicate it. We have only given the Federal Parliament one option, whereas a full consideration of this question requires that we should retain a number of options.

Mr. FRASER:

I think it would be much safer not to give the power of conversion at all. There is not a possibility, much less a probability, of the Federal Parliament making a profit out of the conversion of the stock, and there might be a Treasurer in power who, knowing nothing about finance, might be induced to convert it at a great loss to the nation.

Mr. MCMILLAN:

I would appeal to Sir George Turner now that he has got rid of the words "with the consent of the State," to allow full latitude to the Federal Parliament to take over the whole or any part of the public debts. I think the clause, as it now stands, will be severely criticised, as it is tying the hands of the

Federal Parliament. I would ask him to accept this compromise as he is always willing to accept a fair compromise.
Sir GEORGE TURNER:
We have already struck out the words "any part," and I feel, although I cannot claim to have the same knowledge of financial matters as Mr. McMillan, that it would be a grave mistake to do as he suggests.

The CHAIRMAN: We cannot reverse the decision of the Committee.

Mr. MCMILLAN:
Could we not, by consent, revise the words as we are approaching the end?

The CHAIRMAN: There would be no end to the proceedings if we were to reverse our decisions.

Mr. SYMON:
We might insert after the word "State" the words "I or any part of such debt."

Sir WILLIAM ZEAL:
If you take over a part of the debt you will simply throw doubt on the remainder of the security, which would damage that stock.

Mr. HIGGINS:
I move:
To insert in lieu of the words "any part," the words "a ratable proportion."

Sir GEORGE TURNER:
I will withdraw my amendment for the time being.

DEPARTURE OF DELEGATES.

Mr. BARTON:
I believe it is the sense of the Convention that as the Premier of New South Wales and the Speaker and one of his colleagues are going away tonight, we should rise for a short time in order that honorable members may see them take their departure. I am not prepared to forego dealing with the Bill to-night, as I want to see such progress made that the amended Bill may be in print to-morrow.

Sir GEORGE TURNER:
You will find it difficult to do that if you adjourn for any length of time.

Mr. BARTON:
I was proposing to adjourn until ten minutes past 9.

Sir GEORGE TURNER:
You cannot expect us to stop here until past half past 11 or 12 o'clock.

Mr. BARTON:
We have to deal with this Bill, and our numbers are being gradually reduced. A quorum is twenty-six, and the remaining labors of the Convention will have to be attended by all the remaining members in Adelaide.
Sir GEORGE TURNER:
   You will finish on Friday.

Mr. BARTON:
   Not unless you take particular pains. There will be some work after this that will require an adjournment of the Committee.

Sir GEORGE TURNER:
   Is it necessary that we should go to see them off.

Mr. BARTON:
   I do not want to lose any time as the hon. member knows, but I understood it was the sense of a majority of the Convention that we should adjourn, and felt bound to mention the matter. If the hon. member is against the suggestion, looking at his position in the Convention, I will withdraw it.

Mr. DEAKIN:
   I trust not. Sir George Turner's utterances are due only to his desire for greater expedition in our work, and we in Victoria know how relentlessly he drives us when there is work to be done. Such considerations are out of place at a moment like the present. We owe so much to Mr. Reid in the origin of this Convention and for the fair and conciliatory spirit in which he has invariably addressed himself to the business of this Convention that we can assuredly offer him the slight tribute of offering him a public good-bye. That at least is due to him and due from us to him.

Mr. KINGSTON:
   I agree with the sentiments that have fallen from Mr. Deakin, and think that we will unanimously pay Mr. Reid this small mark of our high esteem and appreciation of his enthusiastic and eloquent advocacy of Federation, his sound reasoning, his geniality, his unflagging industry, and his unfailing courtesy.

Mr. BARTON:
   No one is more sensible than I am of what Mr. Reid has done for the cause of Federation, and especially in connection with the carrying of this Federal Enabling Act, not only in the interests of the people of his own colony, but for the whole of the people of Australia.

Sir EDWARD BRADDON:
   I only desire to endorse what has been said by my hon. friends Mr. Deakin and Mr. Kingston. We owe a great deal to Mr. Reid. He has initiated this movement, and he has forwarded it in the most admirable manner by his tact as much as by his eloquence, and it is only a small compliment to bid him good-bye, and send him forth rejoicing.
Sir GEORGE TURNER:

When I interjected I certainly was under the impression that my hon. friend the Premier of New South Wales would be more pleased if we kept to our work than if we went to see him off. As that is not so, I would not attempt to stand in the way of this Convention bidding good-bye to my genial friend, and I must express the warm hope that we shall meet him again in another part of Australia-I shall not say what part -to finish the good work which he has taken such great pains in carrying out.

Mr. REID:

I had not the remotest conception of the adjournment of the Convention for the purpose of bidding me good-bye. At the same time I felt in a difficulty, because I should have been sorry to leave this Convention without personally exchanging greetings with every member of this body. Since the Convention has distinguished me by this kindly act, I can only deeply appreciate the compliment it has been pleased to pay me. I may be allowed before I go, through you, sir, to express to the public of Australia my profoundest satisfaction. as one of those who helped to bring this Convention into existence, at the conciliatory and patriotic spirit which has been shown throughout the whole of the transactions by the various delegations from the Australian colonies. I confess I came here with misgivings, but I am glad now to be able to state that our proceedings have been of such a character that I feel more confident than ever that we are really at last on the brink of that glorious-transformation which will enable us and all the people of Australia to rise to the true dignity of the destiny which lies before us.

The sittings of the Committee were suspended until 9.10 p.m.

COMMONWEALTH OF AUSTRALIA BILL.

Consideration of clause 96 resumed.

Amendment to strike out "or any part" and insert in lieu thereof "or a ratable proportion" agreed to.

Mr. HIGGINS:

It will be necessary to alter "debt" into "debts" and "State" into "States."

The CHAIRMAN: I will see that these verbal amendments are made.

The next amendment is:

To insert after "State," in the third line of the clause, the words as at the establishment of the Commonwealth.

Sir WILLIAM ZEAL:

I would like to know what is "a ratable proportion"? How can you arrange to take over all the 3 per cent., 4 per cent., 5 per cent., and 6 per cent. debts? It will be necessary, under the proposal, to have a schedule.

Mr. GLYNN:
What is the object of limiting the amount to be taken over to all the debts "at the establishment of the Commonwealth"? If the debts are taken over there must be a corresponding asset. There can be no fear of over-borrowing by the States. If we limit the amount to be taken over now, when you wish to take the railways over you will be unable to take a corresponding portion of the debt. The railways are an asset which will have to be purchased in a proper way, and the proper way would be to set off against them at proportional part of the debt so long as any debt exists. If you take over the debts against the Customs revenue you will practically have them balance up to a certain date and can make allowances as far as they do not; but supposing you want to take over the railways twenty years hence, after the debts have increased in the meantime by 10, or 15, or 20 per cent. beyond what they are at present, why debar yourself of the power to set off that increase against the purchase-money paid for the railways, because when the railways are to be taken over they must be bought, and we will undoubtedly have to take on a liability of some sort or pay cash; so that if you debar yourself from the power of taking on the increased liability after the coming into existence of the Commonwealth you will have to pay cash or issue new stock in exchange for the railways.

The CHAIRMAN: I might point out that this clause has nothing to do with the railways.

Mr. GLYNN:

I was endeavoring to show that this matter is incidental to it. The proposal will not take over any debts that are not in existence at the time of the establishment of the Commonwealth. That is a mistake, because if you buy the railways hereafter it would be an advantage to be able to take over against the railways the total debts at the time of purchase.

Mr. MCMILLAN:

Is not there a clause that the States can remit certain things to the Commonwealth?

Mr. GLYNN:

That is not the point. I again say that there is no reason to debar yourself from saying on purchasing the railways that, instead of paying for them either in cash or stock, we will take over portion of your debt. But if you do as is proposed, you do debar yourself from doing that.

Sir GEORGE TURNER:

With regard to the words:

At the establishment of the Commonwealth

I did not propose to so limit the power of the Parliament when I proposed
the amendment in the first instance, but it was suggested that the States after the establishment of the Commonwealth might enter into reckless borrowing, and I consented to place those words in the clause. I see no objection to them, and I hope that after the establishment of the Commonwealth the mode of borrowing will not be by States as States individually, but through the Commonwealth only.

Sir EDWARD BRADDON:

Hear, hear.

Mr. BARTON:

Had you not better make the amendment read:
As existing at the establishment of the Commonwealth.

Sir GEORGE TURNER:

I shall alter it to that form.

Mr. HIGGINS:

In pursuance of that amendment, for which I was secondarily responsible, I should like to add words to explain the phrase:

Ratable proportion

as follow:

The proportion to be calculated on a population basis.

They will go in here very well.

The CHAIRMAN: You had better put them at the end of the clause.

Mr. HIGGINS:

I have no objection to that.

Sir WILLIAM ZEAL:

I cannot see how this amendment of Mr. Higgins's can be carried out, because every one of these debts fall due at varying times and they carry different rates of interest. It only complicates matters and renders Federation ten times more difficult.

Question-That the words proposed to be struck out stand part of the clause-put, and negatived.

Question-That the words proposed by Sir George Turner to be inserted be so inserted-put and agreed to.

Sir GEORGE TURNER:

I now propose, in order to test the feeling of the committee:

That upon any conversion or consolidation or renewal of the loans representing the debts, any benefit or advantage in interest or otherwise accruing therefrom shall be applied to the reduction of such debts.

We have placed that part of the clause in the proposition for the purpose of endeavoring to commence a means of paying off the very large amount we owe in these colonies.

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In a very few years we will have a saving of a million a year in interest, and ultimately perhaps a million and would say "You have raised this amount on loans you have taken over from us, and it is only fair and just we should have some hand in the spending of it." I want to take away these temptations and endeavor to start a means which eventually will wipe out the debt we will owe at the time of the Federation.

Sir EDWARD BRADDON:

The amendment of the hon. member is no doubt an admirable one, but I should like to draw his attention to the fact that any gain made to the Commonwealth by the saving of interest through consolidation would have of necessity to be applied to revenue exigencies of the Commonwealth and the several States concerned. There is that point to be borne in mind. It is, I admit, of great importance if we could manage it, that the consolidated debt should be liquidated in this way. But we have also to think of our means of meeting current expenditure, and those means might be very considerably affected by the appropriation for this particular purpose of the saving effected.

Sir GEORGE TURNER:

If they did not get a saving they would have to raise the money by some other means.

Sir EDWARD BRADDON:

And it would be better, and in some cases would be the only means possible by which they could raise the amount required, that this should be taken out of the saving effected on the interest charge.

Mr. GLYNN:

I really cannot see what is the object of this provision. It seems to me that when the loans have matured there is no profit made. How are you going to estimate the advantage that has been reaped by the Commonwealth? You stop paying a certain rate of interest, and issue, instead of the old bonds, bonds which pay a less rate of interest. On what principle can you say that a certain sum has been made or has not been made? What portion are you going to set off against the increased state of solvency resulting from the change of the State as a debtor to the federal body as a debtor. The proper method it appears to me would be to convert the loans on paper at once.

Sir WILLIAM ZEAL:

You could not do that.

Mr. GLYNN:

If you have bonds—say 5 and 6 per cent. bonds—which have three or four years to run you can estimate the present value of those bonds. Estimate them on paper and then you know what you are doing. If you wait till the
loans mature how are you going to estimate the value of the conversion?

Sir WILLIAM ZEAL:
You just take what you get.

Mr. GLYNN:
The proposition is that you are to allow the State the value incidental to the conversion, but from the time the loans have been taken over till they have been paid off on their maturity, the federal body has been paying the high rate of interest. The proper method, it seems to me, is the moment you take over the debt to nominally convert that on terms of the present value of capital, and then you know exactly what you are doing.

Mr. MCMILLAN:
My chief objection to this proposal is that we are attempting to affect a policy twenty years ahead. Under ordinary circumstances very few of these loans will determine till about twenty years more, on an average. What the process will be is that you will have to save, out of your revenue, a sinking fund for the liquidation of those debts. When your loans fall in you simply have to pay so much less interest, and, after, all these old ideas about sinking funds are very illusory. While they reduce the debts on the one hand they may increase obligations on the other. There may-be a policy for the reduction of the public debt known to financiers in the future besides this very crude way introduced into this clause. It is a very great pity for us to multiply these hard and fast arrangements, which ought to be matters for the Federal Parliament.

Mr. FRASER:
I agree that the amendment of Sir George Turner is not practical. There is no doubt, as Mr. Glynn has said, that when the debentures mature the only businesslike way of dealing with them is to pay them off.

An HON. MEMBER: By borrowing money?

Mr. FRASER:
Yes.

Sir GEORGE TURNER:
At a lower rate of interest.

Mr. FRASER:
If you pay them off now the result of the transaction will be that you will pay a much less amount in interest than you paid under the old arrangement. We assume, of course, that the Federal Parliament will be able to borrow money at a cheaper rate of interest. The sinking fund as proposed in this amendment will not answer the purpose.

Sir GEORGE TURNER:
I do not propose a sinking fund.

Mr. FRASER:

The amendment of my hon. friend will not meet the object he desires to accomplish, but I do not think it will do any harm.

Sir JOHN DOWNER:

I think we had better strike this out. It is a most dangerous thing. You have got £100 on which you have to pay interest at 5 per cent., and you float a loan at 3 per cent. and you get £98 for it. If you come to reckon up the difference between 5 per cent. and 3 per cent. you will find that you have made a profit although you lose £2. You may depend upon it that in the future they will so fix their rate of interest that they will not get a premium.

Mr. FRASER:

To float as near as possible to par is an axiom of finance.

Sir JOHN DOWNER:

To say that you are actually making at present a loss on your capital, and that you are to apply any benefit from reduction of interest to the sinking fund, seems to be making this fund illusory. It would be much better to leave this to the Commonwealth.

Amendment negatived.

Mr. HIGGINS:

I desire to put in a definition of "ratable proportion," and would suggest these words:

The ratable proportion of the debts of the several States to be taken over is to be calculated on the basis of the populations of the several States as ascertained by the latest statistics of the Commonwealth.

It is true that different debts have got different rates of interest. The Commonwealth, in taking into account the debts to be taken over, will not treat any State unfairly by taking one State's debts bearing 4 per cent., and another State's debts bearing 5 per cent. There should be power given to the Federation, and I think we may trust it, to take over on the population basis the ratable proportion of the several debts of the several States.

Mr. HENRY:

This is a somewhat important amendment, and I desire to understand it. Does it mean that if one colony is entitled to say £40 per head no other colony can exceed that? It might mean that £40 per head shall be the limit. What effect will it have on the population basis?

Mr. HIGGINS:

I thought all members had gone into the question and understood it.
Supposing one colony has borrowed £30 per head, another £40, another £50, another £60, and so on, it would be possible to say we will take over £30 per head, the lowest scale of borrowing on the population all round. It is possible to say we will not go so far, but will only take £10 per head on a certain class of debts. Supposing we only take over 4 per cent. debts to the extent of £10 per head all over the Commonwealth.

Mr. KINGSTON:

Supposing there is a colony without 4 per cents.

Mr. HIGGINS:

Then they cannot do it.

Mr. KINGSTON:

There is not much advantage in it.

Mr. HIGGINS:

I only quote 4 per cent. as an example.

Mr. HOLDER:

So much per head.

Mr. HIGGINS:

Yes.

Mr. ISAACS:

That is not the amendment.

Mr. BARTON:

You ought to add to the amendment:

At the time taken over.

Mr. HIGGINS:

Yes, I will.

Mr. KINGSTON:

I suggest that we should pass this clause pro forma, and that the Drafting Committee should reconsider it.

Mr. BARTON:

I will ask the hon. member to continue spelling it with a "G."

Mr. KINGSTON:

I hope that the Drafting Committee will give the clause some attention, as I am sure when we have finished with it there will be ample scope for them to exercise their ability on it in the way of amendments.

Amendment agreed to; clause as amended passed.

Clause 92.-Preference shall not be given by any law or regulation of commerce or revenue to the ports of one part of the Commonwealth over the ports of another part of the Commonwealth, arid any law or regulation made by the Commonwealth, or by any State, or by any authority constituted by the Commonwealth, or by any State, having the effect of derogating from freedom of trade or commerce between the different parts
of the Commonwealth shall be null and void.

The CHAIRMAN: There are a number of amendments proposed to this clause. The one before the chair is that proposed by Mr. Barton, who has moved:

To strike out in the second line of the clause the words "part of the Commonwealth" with the view of inserting the word "State."

Mr. GRANT:

I hope that the words will not be struck out, as they give the clause that general application which we all desire. The amendment proposed by Mr. Gordon will meet all that Sir George Turner desires, and will make it impossible for any colony to take advantage of another in the matter of railway rates. I do not think it would be possible, without going into detail, to frame a clause which would be restrictive on the managers of the railways. We know in connection with private railways that no matter what regulations are made, or how solemnly mutual contracts are entered into, they are invariably broken. We cannot frame any clause which will have the effect of preventing one colony taking advantage of another unless we do it in the most general terms. I think Mr. Gordon's amendment will thoroughly meet the case. The first part of the clause does not seem to have any special application to railways, as the words employed

injured colony to the Inter-States Commerce Commission, which will be a most useful body, no doubt composed of experts, who will be thoroughly competent to deal with any matter brought under their notice. Consequently both Victoria and New South Wales may safely leave that Commission to do justice between the two. If we do not attempt to go into any details, but leave the clause as general as possible, so that it will apply to Queensland or Western Australia, or any States wishing to join the Federation in time to come, it will be better than attempting to give it a local bias in the interest of the more powerful colonies. I trust the words "one part of the Commonwealth," will be retained rather than "State," because the latter has a more limited application. A reason for retaining "one part of the Commonwealth" may be found in its application to inter-State ports, and give the board some control, so that one port may not be preferred to another by any rates made in its favor. In rival ports the equality of trade may be interfered with by railway or other regulations or rates. I think this board of control, which will consist of representatives of all the States, should be empowered to inquire into any special grievance which may arise in a State. The necessity for an authority of that kind is so obvious that I trust the Convention will look at the clause in the widest possible manner and give it effect so that the whole of the benefit may be
derived from equality of trade, which should be absolutely free. In a preceding clause No. 86, we endeavored to make trade absolutely free, and I think this clause will be a sequence of that one.

Mr. FRASER:
I must protest against this alteration. A "part of the Commonwealth" is of much wider significance than the word "State." It will include States. I submit that to the legal gentlemen here. If you put in "States" it will not include "part of the States of the Commonwealth."

Mr. BARTON:
Except territories, there cannot be any part of the Commonwealth that will not be a State.

Mr. FRASER:
I do not see the advisability of putting in States. It will narrow the significance of the phrase.

Mr. BARTON:
I have adopted in this amendment the form in which the clause stands in the Constitution of the United States, and I cannot remember the reason why it was departed from in 1891. There is no danger of what the hon. member fears. I have adopted it at the suggestion of one of the members opposite. There has been a decision in the corresponding clause in the United States Constitution which will explain the whole clause. This clause is a limitation upon the powers of the Congress in the regulation of commerce, and is intended to prevent what otherwise may result in the discrimination of one State against another. It is to prevent the Congress in the United States from making any law for one State which may result in the discrimination of the State against the others in matters of trade and intercourse, and to bring it in the form which is so clearly explanatory. The position in the United States is sufficient for our purpose, because there is really no reason why the legal interpretation should not be the same as in the United States. The suggestion from one of my friends opposite is a good one, and calculated to carry out the object of the clause.

Mr. SYMON:
I think Mr. Barton is mistaken as to the reference to the United States. There the word is "State."

Mr. BARTON:
My amendment is to put in the word State.

Mr. HIGGINS:
May I ask my friend Mr. Barton if he is satisfied that clause 92 taken with 95-they must be taken together-will have the effect not only of preventing the system at present in vogue of having different rates at the same station of departure which are dis-
tinctly preferential, but also of preventing a system of differential rates which will allow of the rates being so attenuated or so small as to practically effect the same purpose? I understand that there is a smaller charge for wool from Bourke to Sydney than there is to Sydney from half the distance. I want to know whether it is contemplated under clauses 92 and 95 to allow of rates which are absolutely lower for long distances than for short distances. It is all the difference in the world to us, because I think the representatives from Victoria have no desire to in any way keep up this fratricidal war if it can possibly be helped. As to this matter, none of us can throw stones. That which Victoria does against New South Wales, New South Wales does against Queensland; that which Victoria complains of against New South Wales she does against South Australia. I find here that there is a Border Tax Act in Queensland which puts an export duty of £2 10s. per ton upon all goods as they cross the border into New South Wales. Here is the way it is put by Mr. Gratton, of Brisbane:

I forward herewith for your information two copies of our Border Tax Act, which was passed for the purpose of defeating the object of the differential rates, which were quoted by the railway authorities in New South Wales to divert traffic within this colony from our own lines.

I say this not for the sake of taunt, but to show that we cannot throw stones at one another. The railway authorities have been driven into a system of trying to cut rates so as to divert the traffic into their own lines and into their own ports. So far as I am concerned, I voted in favor of the railways being absolutely federal property, so that the whole thing could be managed for Australia as a whole. We have been beaten, and I, accept the vote, and now we ought to tie their hands so far that the Federal Court shall declare null any rates that may divert the traffic from its normal course. I should be glad to consent to any clause that would have the effect of treating as an Australasian matter the whole system of traffic on the railways. That is the only way to do it. At the same time we must be very careful of the working of the clauses, because it must obviously appear-and I appeal to my friends from New South Wales who are anxious to do justice in this matter—that they cannot ask the Victorians to throw away their only weapon of defence in regard to the Riverina trade unless they throw away the weapon of offence they have in regard to the same trade. Of course the principal question between New South Wales and Victoria is as to the Riverina trade. There you have a place wedged in between two colonies. It happens to belong to New South Wales. If you simply say that Victoria must not put on rates of the sort it does at present, saying that in New South Wales wool from Echuca shall not pay less than Victorian wool
from Echuca, you rob us of the only system of defending ourselves.

Mr. BARTON:
When did you have to defend yourself against New South Wales?

Mr. HIGGINS:
I will not go into bygones. It is true that if wool is sent by the main line through Wodonga, and it happens to go to Victoria, an extra rate is put on it because the line is in New South Wales territory.

Mr. BARTON:
We cannot justify preferential rates. I do not defend them. It is my object to get rid of them.

Mr. HIGGINS:
It is not of much importance who first committed the offence. I will admit, for argument, that Victoria was the first, though if there was no war of rates that wool would go to Victoria.

Mr. WISE:
It depends from where it comes.

Mr. HIGGINS:
I am speaking in general terms.

Mr. WISE:
If grown near a railway, in the natural course of things it would go by that railway to Sydney, but if grown away from a railway it would go to Victoria.

Mr. HIGGINS:
Mr. Wise has the same object as Dr. Quick, and there should be no difficulty in coming to a conclusion as to what should be done. If we are to understand that you are going in for differential and long distance rates, but wish to be free to so attenuate the long distance rates as to practically make them preferential rates, we cannot follow you.

Mr. BARTON:
You would be able to do the same thing.

Mr. HIGGINS:
Our difficulty is that our distance is not 500 miles, as yours is. It is 200 miles.

Mr. MCMILLAN:
Do you want a differential rate to be made on the same principle as if a railway were not going towards a border?

Mr. HIGGINS:
I admit you must have long distance rates. You must have tapering rates. You must help the producer. I want to help him with regard to the ports. The worst instance I can call to mind is that of the Bourke and Dubbo,
rates. It is not a fair long distance rate to charge double the rate from Dubbo that you charge from Bourke, which is double the distance.

Mr. BARTON:

I quite agree. I have said several times that if B is nearer to A than C is, it is a preferential rate and against freetrade to charge less for carrying goods from C to A than from B to A.

Mr. HIGGINS:

I am afraid clause 95 is so drawn as to have in effect a prohibition of the Victorian system without having a prohibition of the Bourke to Dubbo system. I want to leave it to the Commission, if you are to have one, to have the power to stop, not only the Victorian, but to stop also the Bourke to Dubbo, system.

Mr. BARTON:

So it will.

Mr. HIGGINS:

I think that really Dr. Quick has done great service in this debate by his short speech, reducing the matter to simple terms. It so happens that it was the precise line on which I had determined to work in this Convention. Get the railways as well as the rivers if you can under federal control, but if you cannot, then at least try to make the railways as federal as possible.

Mr. FRASER:

We have struck out rivers.

Mr. HIGGINS:

I suggest that as we have come so near a rapprochement, and we understand one another's views fairly well, and as there is no desire on either side to take advantage of the other, and as it is to the interests of South Australia and Queensland as well as of Victoria and New South Wales, to have these railways dealt with on a broad federal basis, we might so word this as to prevent the Bourke and Dubbo system.

Mr. BARTON:

There is no doubt about it as it stands.

Mr. SYMON:

No doubt at all.

Mr. BARTON:

The only motive you can have in altering the clause is to prevent the very state of things which is met by this clause.

Mr. HIGGINS:

The Bourke and Dubbo system is this: Dubbo is half the distance to Sydney that Bourke is; yet there is a lesser rate from Bourke to Sydney for wool than from Dubbo to Sydney.
Are you sure the actual aggregate charge for the carriage of a bale of wool from Bourke to Sydney is less than that from Dubbo to Sydney?

Mr. HIGGINS:
Absolutely less. have that upon very reliable information.

Mr. WISE:
If it is desired to draw traffic along that railway from a railway in Victoria then the Inter-State-Commission would declare it to be bad; but if it is a purely local charge the Inter-State Commission would have nothing to do with it.

Mr. HIGGINS:
I think I have done good service in getting from Mr. Wise what I really believed right through. This is a mere question of misunderstanding, and the more you put things into plain language and come to close quarters with them the more likely we are to come to an honest determination. All that I want is to understand clearly that it is not to throw away the power of the Victorian Railways Commissioner to protect his claim to the Riverina trade unless the New South Wales Commissioner also throws away that weapon which has been so effective in getting that trade.

Mr. WISE:
It will result in each State giving up something.

Mr. HIGGINS:
It will also effect the result that no doubt your New South Wales rates for long distances, say 500 miles, will be less than the rate for the 200 miles or 250 miles between Riverina and Melbourne, but what we object to particularly is that you should be putting on rates which are absolutely less, not relatively less, for long distances than short ones.

Mr. O'CONNOR:
If the same long-distance rate prevails all over New South Wales why should you complain?

Mr. HIGGINS:
As far as I can ascertain, in answer to that question, you cannot well have a zone system when you have rivers to deal with. You cannot very well have a uniform long-distance rate.

Mr. BARTON:
You cannot have a uniform long-distance rate under any circumstances, unless you want the country to remain a desert.

Mr. HIGGINS:
Mr. O'Connor was not speaking of a uniform mileage rate. But you cannot have a tapering zone rate absolutely for all parts of New South
Wales, as you have river competition and other conditions coming in. I assume that you cannot have the same rate for all distances of 200 miles, for all distances of 300 miles, or all distances of 400 miles. Very well, there are such complications in the matter that I think it had better be left to experts. Let them lay down a rigid rule. As long as you have expert persons, whether the Inter-State Commission or not, absolutely directed to do what is best, without regard to the interests of the port, but with regard to the interests of the producer, I am content. And I think you can best regard the interests of the producer if you simply think how can he best get his stuff to the market on reasonable terms, not giving him the preference over other producers. I would only farther suggest this: that if Mr. Barton is, as I understand he is, convinced from the American decision that this section 92 will allow us to deal with the Bourke and Dubbo system-

Mr. BARTON: I did not say necessarily the Bourke and Dubbo system.

Mr. HIGGINS:
And if in this clause there were an alteration which my hon. friend Mr. Gordon suggested in speaking to me, if in line 3 the word "or" were substituted for "and" it will answer the purpose. It would read thus:

In reference to the rates or regulations of any railway in any State, except in cases of rates or regulations preferential in effect, or made and used for the purpose of drawing traffic to that railway from the railway of a neighboring State.

Mr. BARTON:
I want to know what objection there is to clause 92 as I proposed to amend it.

Mr. HIGGINS:
I say I accept the hon. member's assurance that it will have the effect of stopping such systems as that of Dubbo and Bourke.

Mr. BARTON:
The hon. member must not accept my assurance in too broad a sense. I tell him that I consider it is against the policy that is laid down in this clause, that there being three points-A a port, B an intermediate distant place, and C a further distant place near the railway of another State-it is an improper interference with the railways of that other State and with the freedom of the trade to carry goods from A to C at a total charge that is less than that charged from A to B. If the charge from A to C is less than the money charged for carrying from A to B, then I say if it has the effect of interfering to draw traffic to a railway from the railway of another State and it offends against the principles of free inter-State commerce, and should be prohibited. What I mean by that is fairly expressed in the case of Sands v. Maristee
River Improvement Company (123 U.S. 288). In Mr. Baker's digest-a very good book-a short statement of this principle is given as follows:

Where a river is wholly within the limits of a State, it (the State) can authorise any improvement which in its judgment will enhance its value as a means of transportation from one part of the State to another. The internal commerce of a State—that is commerce which is wholly confined within its limits—is as much under its control as foreign or inter. State commerce is under the control of the general Government.

That is to say, if commerce is inter-State commerce, and if there is a connection between two States and traffic passing along the railway lines, there cannot be any rate made which will have the effect of drawing trade from the railway of one State to the railway of another. If there is, it is against the principle laid down by the United States Courts even in the construction of the general power to regulate trade and commerce. But if the regulation or right has to do solely with the internal traffic of the State itself, and has not the effect of derogating from the freedom and intercourse expressed in this Constitution, then each State is free to deal with its own traffic. Clause 95, after giving certain powers of adjudication, says that the Commission

Shall have no powers in reference to the rates or regulations of any railway in any State, except in cases of rates or regulations preferential in effect and made and used for the purpose of drawing traffic to that railway from the railway of a neighboring State.

What is aimed at therefore is a rate which is not merely preferential in effect. Let Victoria and New South Wales each make preferential rates within their own boundaries and for the purposes of their own internal traffic; but the moment these regulations of traffic are so conducted that they have the effect of preference and the Inter-States Commission can see that they are made for the purpose of drawing trade to either State from a neighboring State, they are interdicted by the Inter-States Commission. What is really aimed at is what is aimed at also in a letter from the Victorian Railway Commissioners on August 13th, 1894, when, in reference to a protest against differential rates by the New South Wales Railway Commissioners, they say:

Adverting to your letters of the 19th June last and 25th ultimo, with respect to the rates on wool to and from Riverina, I am directed by the Acting Commissioners to say, while expressing their regret at the delay which has occurred, that as before stated, the circumstances have not been such as to admit of their dealing further with the matter than was done in their letter of the 15th June last, which they are sorry to see was regarded
as an evidence that the question had not been treated in a practical manner, and as also manifesting a lack of reciprocal feeling.

In view of the fact that any alteration this season would have caused disturbance to business arrangements already entered into, the Acting Commissioners regarded their reply as the only one they could give, and also as sufficient. The same applies also to the request that the goods rates should be altered.

The Acting Commissioners regret that they cannot but look upon the request made as tantamount to a demand for a complete surrender, without equivalent, of the principles upon which this Department has worked to retain possession of the trade in question, and for which it was the first to afford facilities.

While they admit that the geographical situation is a factor in the question, they would point out that other competition than that of your colony has to be met.

Finally, they would say, with regret, that they are not in a position to make any alteration at present; but, as previously intimated, they will be glad at the end of the present season to confer with your Commissioners as to the rates to be charged in the future.

Now we see the meaning of a preferential rate made and used for the purpose of drawing traffic from one States railway to another railway. Of course the principle is not only to retain, but to invade. I cannot help making this remark. I am quite sure, in a perfectly friendly way, that the whole attitude of our friends over there reminds me of a well-known remark made by a party to a marriage, who said, on leaving the church, "Now, recollect that what is yours is mine, and what is mine is my own."

Sir GEORGE TURNER:

You want to take away from us what we have had for years.

Mr. BARTON:

When you talk about taking away from Victoria something she has had for years, your argument would extend to this: If I possess myself of somebody else's money, it would be a good defence to say that I had kept it in my pocket for a certain number of years. If a thing is obtained by rates, which under these principles are unfair-rates which take away the traffic from the railway of one State to another State-then we say that the power should step in and interdict it. This is in accordance with the principle I
have quoted from this American authority, who states:

The internal commerce of a State—that is, commerce which is wholly confined within its limits—is as much under its control as foreign or inter-State commerce is under the control of the general government.

If it is seen that by a certain internal regulation the trade or commerce of a State is drawn away from one State to another—trade which it ought to have—then the Commission steps in and interdicts the whole thing. It is all very well for my hon. friend Mr. Higgins to say that we should not throw stones at each other. I am not doing it, nor have I any desire to do it; but when he talks about the preferential rates of New South Wales I only wish to draw attention to the fact that as between that colony and Victoria there are no preferential rates. We claim perfect freedom in regulating our own internal traffic, but the moment the Commonwealth finds that we, or any other State, are making regulations which draw away the trade from the railways of one State to those of another State it interdicts it.

Sir GEORGE TURNER:
You claim to have the whole of the trade, and geographically you are not entitled to it.

Mr. BARTON:
That is an unfair interpretation on what I have tried to put fairly more than once. Let the geographical conditions operate, and let us remember that New South Wales has railways extending for a longer length as she must do in developing her territory than Victoria. We have made these railways upon which we have expended our money, and when we have extended them into our own territory we are entitled to the legitimate traffic that flows from them. We are entitled to make our own rates for the carrying of our own traffic to such an extent as will not interfere with the principle of intercolonial freetrade. In this book there are many instances mentioned dealing with the same principle as we are arguing. I have simply quoted one because of the explicitness with which it states the matter.

Mr. ISAACS:
The question is, does it apply to regulations entirely within the State.

Mr. BARTON:
Yes; to principles operating entirely within the State. No internal regulation can have the effect of derogating from that power when they come into conflict which is reposed in the Government of the Commonwealth to regulate trade and commerce, and preserve the equality of it. That equality must be preserved, but if there is no conflict, and the thing is dealt with in one State simply for the management of its own internal traffic, and not for the purpose of derogating from this

Mr. HIGGINS:
Do you think it ought to be allowed to secure its own internal traffic to
go to Sydney even if it really should go to Victoria?

Mr. BARTON:

Members seem to have lost sight of the question they are discussing. Each State is primarily entitled to the traffic within its territory, but there is a

salutary condition imposed that where the inter-State traffic is interfered with, and where regulations are made so as to interfere with it, then these things must be interdicted. If there was a portion of New South Wales which had no connection with the Victorian railways—take that portion between Sydney and Armidale—and if there happened to be a rate imposed there which was simply a development rate for the purpose of giving a chance to the settlers, no Commission would interfere with it under the United States Constitution; but apart from this, if it affected inter-State trade and commerce and intercourse prejudicially, so as to prevent the freedom of trade operating, that would be the very point which this Commission would be appointed to deal with. We want to put a stop to things like this. Mr. Reid quoted a case in which, on one of the Victorian railways—from Echuca to Melbourne—a bale of wool could be carried from a point 250 miles in New South Wales territory to Melbourne by the Echuca line for 2s. 9d., while the grower, if he happened to be in Victoria, would have to pay 6s. 1d. to carry his wool over the line.

Sir WILLIAM ZEAL:

The same thing exists in New South Wales.

Mr. BARTON:

I wish the hon. member would remain quiet. He was very quiet while Mr. Higgins was quoting instances, and I hope he will be while I am. We must have something like federation in these matters. Let us take the return traffic on the line from Melbourne to Echuca. We find that a ton of sugar intended for consumption at a distant point in New South Wales is carried for 11s. 9d., but if it is intended for a railway-ridden Victorian who owns the railway he has to pay £0 13s. 5d. Let us apply the same to general merchandise. Ever since 1894 the regulation has been that if the goods are intended for a distant consumer in New South Wales he pays 22s. 6d. a ton, but a Victorian has to pay rates ranging up to £4 8s. 7d. I say nothing about the rebate allowed to the carriers of the New South Wales wool. Is it not easy to distinguish between a regulation of that sort giving an advantage to a citizen outside your own bounds over your own citizen, and at the same time tending to impoverish the railways of your neighbor, and a regulation dealing with internal traffic intended to develop the country? If the latter
goes farther than that the Inter-States Commission must step in and see that it is left to that.

Mr. FRASER:
I cannot allow this matter to go without some explanation.

Mr. BARTON:
It needs explanation.

Mr. FRASER:
The low rate to Hay is undoubtedly a preferential rate to secure the trade of that district. The rate to Cootamundra, which is some 254 miles less than to Hay, is 3d. per ton per mile, and there is no increase in the rate to Hay. Will anyone contend that that is not a preferential rate? I do not say that each colony is not right in gathering all its own traffic. I concede that point, but I assert all the same that if New South Wales is going to gather all its traffic in this way Victoria should not allow her geographical advantages to be stripped from her.

Sir EDWARD BRADDON:
Alter the geography.

Mr. DEAKIN:
Hand us over the territory.

Mr. FRASER:
There is no doubt that New South Wales has a perfect right to fix its own rates, and Mr. Eddy was particularly careful in his evidence before the Finance Committee to point out that the Inter-State Commission should not have the right of fixing the rates within a State's own territory. Of course if it is; conceded that New South Wales can fix the rate to Hay at any rate they like, it will divert the trade to Sydney, although geographically it belongs to Victoria. The rate for 300 miles in New South Wales must be the same as in Victoria for the same distance, otherwise Victoria will lose her geographical position. I see there is very great danger in passing this clause. There is not much danger in clause 92, because I do not think it will apply. The crux of the whole thing is in clause 95.

Mr. SYMON:
According to my friend Mr. Fraser we have come to the crux of the whole matter, and I am not sure that the convenience and time of this Convention have been met by debating clause 95 on an amendment in clause 92. The debate for all that has been, though exceedingly interesting, a little bewildering. Quite a mass of railway matters have been brought into it. We have heard of the battle of the gauges. Now we have the battle of the rates. It has been said that no one can read "Bradshaw's Railway Guide" for an hour without becoming insane, and if that is so, what may not be our
fate?

Mr. DEAKIN:

You are judging by those who quoted.

Mr. SYMON:

My friend puts a conclusion to my sentence which I should not myself have put. It would have been convenient if hon. members putting the case for Victoria had given us the benefit of some amendment which would have carried into effect their views on this question. We would then have debated it in some concrete shape. With regard to clause 92, to come back to it for one moment, the amendment that is proposed is to strike out "part" and insert the word "State." Now, at first sight, I was inclined to think that that was a desirable amendment, and there is no doubt that in the American Constitution it is "State." An alteration appears to have been made from the Bill of 1891 to adopt the words in the clause, and it does seem to me after consideration that we had better adhere to the words as they stand, that is to leave the words

"Ports of one part of the Commonwealth," &c.

The effect of Sir George Turners amendment is to narrow the operation of this clause. That would be a mistake. I submit that to the members of the Committee, because it might possibly-we cannot conceive very well how-but it might possibly interfere with that freedom of trade which the object of this clause is to secure. For instance, take our own colony, we do not desire to interfere with the trade of any colony so far as it is only local, but preference might be given to one State or to one part of the Commonwealth with the effect of derogating-to use the word in the marginal note-from that freedom of trade which we desire not merely to see throughout the Commonwealth, speaking of it as a whole, but in and through every part of it.

Mr. ISAACS:

To that extent it would be bad.

Mr. SYMON:

How would it be bad?

Mr. ISAACS Why should you interfere with the internal management?

Mr. SYMON:

We only interfere with the internal management so far as it relates to the freedom of trade. We want to allow the stream of trade to flow in its natural channels, just as we expect water to seek its own level. Possibly we cannot tell how these details will operate in the future, but that stream of trade may be interfered with by preference being given to one port of a State as against a port in another part of the State. I am not sufficiently an expert to forecast what these trade regulations may be, but I do say that you
must prohibit the Commonwealth or any State interfering so as to give preference, not merely to ports of one State against another, but to the ports in any one State. That seems to me fair, and you will only unduly restrict the clause by substituting the word "State" for the word "part." You may be opening a door for the derogation of that equality or freedom of trade which is at the root of this Constitution. That is the amendment of Sir George Turner. The amendment proposed by my friend Mr. Gordon seems to me to be a little too wide, and I would suggest for his consideration whether it might not be withdrawn, so far as this clause is concerned, with a view of his endeavoring to obtain his purpose, which is to promote the trade of the various colonies to the fullest possible extent, by some amendment to clause 95. It is impossible to tell what is undue or unreasonable, and all these are vague expressions which might cause confusion and give no practical result. In the subsection are the words:

Over the ports of another part of the Commonwealth, and any law or regulation made by the Commonwealth or by the State or by any authority constituted by the Commonwealth or by the State having the effect of derogating from freedom of trade or commerce.

What enquiry would be necessary to determine that?

Mr. WISE:
All these are matters for the Commission and not for the Constitution.

Mr. SYMON:
Exactly so; and it is introducing matters of detail, and matters of very vague detail, in a provision of the Constitution which should be left to the Commission, if it is worth its salt.

Sir GEORGE TURNER:
What of clause 95?

Mr. WISE:
That is for the protection of your people.

Sir GEORGE TURNER:
Oh; thank you! we expected it.

Mr. SYMON:
I do not now wish to refer to other matters which have been debated, but in regard to the operation of clause 95, when we arrive at that there are one or two observations which I would like to make upon the point as to one State reaping the advantage of having greater efficiency of management and greater opportunities of securing cheap labor and promote the interests of its citizens so long as it does not indulge in preferential rates, which are really dishonest, with a view of appropriating to one colony what it is not
Mr. ISAACS:

I am not going to discuss the railways. We have been discussing this clause and really talking at clause 95. I do not agree with Mr. Symon with regard to the alteration of the word "State." I prefer Mr. Barton's amendment, and for this reason: if we have it as suggested that preference is not to be given to the ports of one State as against the ports of another State, we have done all that we desire or are entitled to do in regard to this Constitution. If we say that no preference is to be given to the ports of one part of the Commonwealth against the ports of another part of the Commonwealth we may be going further than we should. It would mean that Tasmania would have no right to give preference to the port of Hobart against the port of Launceston if she thought fit, even though it would not affect the trade of Tasmania with any other State.

Mr. SYMON:

She could do that.

Mr. ISAACS:

It depends on what construction you put on this clause. At all events it would have the effect of interfering with the internal arrangements of a State. In framing a Constitution for Australia what right have we to interfere with local self-government to that extent?

Mr. FRASER:

We only want trade to go to its natural outlet.

Mr. MCMILLAN:

Do you not think when it comes to a question of commerce we should be all one?

Mr. ISAACS:

Yes, if we are going in for unification.

Mr. MCMILLAN:

You would have the fence, but leave the slip-panels down.

Mr. ISAACS:

If you carry out the extreme principle now advanced you should not confine the clause to ports, but make it apply to towns and cities.

Mr. GORDON:

I shall support the hon. member if he moves that amendment.

Mr. ISAACS:

I shall not move it, because it is contrary to our mission here.

Question-That the words "part of the Commonwealth" proposed to be struck out stand part of the question-put. The Committee divided.
Ayes, 13; Noes, 17. Majority, 4.

AYES.
Berry, Sir Graham Holder, Mr.
Cockburn, Dr. Howe, Mr.
Downer, Sir John Kingston, Mr.
Glynn, Mr. Lewis, Mr.
Gordon, Mr. Symon, Mr.
Grant, Mr. Zeal, Sir William
Higgins, Mr.

NOES.
Abbott, Sir Joseph McMillan, Mr.
Barton, Mr. O'Connor, Mr.
Braddon, Sir Edward Peacock, Mr.
Brown, Mr. Quick, Dr.
Deakin, Mr. Trenwith, Mr.
Douglas, Mr. Turner, Sir George
Fraser, Mr. Walker, Mr.
Henry, Mr. Wise, Mr.
Isaacs, Mr.

Question so resolved in the negative.
Amendment to insert "State" agreed to.

The CHAIRMAN: I shall make consequent amendments all through the clause.

Mr. GORDON:
I ask leave to withdraw my proposed amendment,
Leave given.
Clause as amended agreed to.

Clause 93.-The Parliament may make laws constituting an Inter-State Commission to execute and maintain the provisions of this Constitution relating to trade and commerce upon railways within the Commonwealth, and upon rivers flowing through, in, or between, two or more States.

Mr. HOLDER:
I should like to ask Mr. Barton to look at this clause and see whether it is just as it was intended to be in one respect. It says:

An Inter-State Commission to execute and maintain the provisions of this Constitution relating to trade and commerce upon railways.

I do not know what provisions of the Constitution there are which relate to trade and commerce on railways. What are they? If there are none I should like to have these words left out, and some words put in that the provisions of the previous clause as to equality of trade shall be maintained.
Mr. BARTON:

There is no provision relating to trade and commerce upon railways. That is not the meaning of the clause. The clause is that the Commission is constituted to execute and maintain upon the railways in the Commonwealth and upon the rivers the provisions of the Constitution relating to trade and commerce.

Sir GEORGE TURNER:

Why not transpose the words?

Mr. BARTON:

I have no objection to doing that. I propose:

To leave out the words after "maintain" down to "upon," and insert them after "the States" at the end of the clause.

Question-That the word proposed to be struck out stand part of the clause-put and negatived.

Question-That the words proposed to to be inserted be so inserted-put and agreed to.

Mr. FRASER:

I contend that it would be a very unfair thing indeed for this Convention to go so much beyond the scope of its duties as to say that private boat-owners on the rivers shall be subject to an Inter-State Commission. Why they might carry firearms on their boats to protect their rights. I think it is grossly improper to direct what boat-owners shall do. There are hundreds of them.

Mr. WISE:

It will not touch private boat-owners.

Mr. FRASER:

If you have this clause, it will enable the Inter-State Commission to fix the rates on the rivers. This is a very important matter to South Australia. It is important that the rates on their rivers shall be as cheap as possible, so that the whole traffic may follow its natural course. Why should we interfere with the river rates?

Mr. WISE:

It is only to prevent a State starting boats of its own, and charging rates to cut the traffic of other States.

Mr. ISAACS:

To defeat equality of trade.

Mr. FRASER:

If that is so I am satisfied.

Mr. HENRY:
I would like to call the attention of Mr. Barton to the question of wharfage, which I raised before, and which I understood him to say that he would consider in dealing with the Inter-State Commission. We have provided against infringement of the equality of trade, and it is in my knowledge that there is a danger, unless it is provided for in some way, that Harbor Trusts and Marine Boards may impose rates which may be protective. I would like to know whether it is possible to give the Inter-State Commission power to determine between the rival harbor trusts or Marine Boards in reference to their rates.

Mr. BARTON:

Perhaps I had better, as in a former case, cite one of the American cases which puts the matter very clearly. It is a decision on the power given to the Inter-State Commission to regulate trade and commerce. In the first place, it is laid down:

No foreign or Inter-State commerce can be carried on with the citizens of a State without a wharf, or other place within its limits, on which passengers and freight can be landed and received. The fact that each landing-place is used in a State does not confer upon such State the right to tax the capital of the companies engaged in such commerce, unless the same is within the jurisdiction of such State. The only interference by a State with such commerce which is permissible is confined to port regulations, and such measures as will ensure safety and prevent confusion in landing and receiving freights and passengers.

Again the same authority lays it down:

A city, or town, or a navigable river may exact a reasonable compensation for the use of the wharf which it owns without infringing the Constitutional provisions concerning tonnage, taxes, or regulations of commerce.

Taking the principle of these two cases together it seems clear that a State can exact its own charges for the service it renders by allowing the use of wharves, and I suppose it may make in certain cases differential charges; but not in such a way as to derogate from freedom of trade between the States. If, however, such a regulation infringed that provision, it would be declared to have no effect.

Clause as amended agreed to.

Clause 94.-The members of the Commission:

I. Shall hold office during good behavior:

II. Shall be appointed by the Governor-General by and with the advice of the Federal Executive Council:

III. May be removed by the Governor-General with such advice, but only upon an Address from both Houses of the Parliament in the same Session
praying for such removal:

IV. Shall receive such remuneration as the Parliament may from time to time determine, but such remuneration shall not be diminished during their continuance in office.

Sir WILLIAM ZEAL:

I call attention to the provisions of this clause. It appears to me that this Inter-State Commission can have only a very limited amount of work to do. It may possibly be called upon to adjudicate on a case once only in twelve months. But here it is suggested to permanently appoint this Commission—I think there should be one member appointed from each State—and these members should be appointed temporarily, and not to have a tenure of office for life.

Mr. MCMILLAN:

How do you make out it will be one from each State?

Sir WILLIAM ZEAL:

You could, if desirable, get men upon the Commission who do not live in the community in which the Commission is adjudicating, otherwise they might be biased by their surroundings and by the Government which appointed them. If, for instance, a dispute arose between South Australia and Victoria the proper persons to be appointed to this Commission would be persons resident in Western Australia and Tasmania. That would secure justice being done. I move:

To strike out sub-sections 1, 2, 3 and 4, with the view of inserting the following:-Shall be officers of the Civil Service of each State to be appointed by the Governor-General from time to time, as required, and to deal only with such matters as may be specifically referred to them. One officer only to be chosen from each State.

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Sir JOHN DOWNER:

They would not be any good at all. They would not be independent.

Sir WILLIAM ZEAL:

The hon. member is entitled to his opinion and I am entitled to mine. And I put my knowledge of this matter against his.

Sir JOHN DOWNER:

Do not get cross.

Sir WILLIAM ZEAL:

I am not in the least cross. But my amendment is, I think, an improvement upon this clause. I do not know what hon. members think, but are they going to overlook the fact that there will be numbers of officers appointed who will be paid high salaries and have no work to
perform? They have to be kept in their positions for life, and can only be removed on presentation of an address from both Houses of Parliament.

The CHAIRMAN: Before I put this amendment I venture to Suggest to the Committee to allow me to alter the wording of this amendment to make it correspond with the wording of every other clause. I refer to the words "Governor-General in Council."

Mr. DOBSON:
I will support the amendment of my hon. friend Sir William Zeal because it is in the direction of economy. Had I been in the Chamber when the previous clause was proposed, I should have moved its rejection. We are making our Constitution a great deal too cumbersome, and I see no advantage to be gained by the appointment of the Inter-States Commission commensurate with the cost that will be incurred. In nineteen cases out of twenty the men who conduct our local railways would be able to settle all these questions among themselves. It is absurd to think that on questions of rates men like Mr. Eddy and Mr. Mathieson could not agree; but, supposing they could not agree, the point could be referred to the Federal Court, and not to the Inter-States Commission. We are bringing into existence to preside over the High Court a body composed of men who will be highly paid, and who will have the confidence of the whole Commonwealth, and yet you are giving them little to do. Why should we not refer these matters to the Federal Court, whose decisions should be absolutely final? The tribunal will consist of men of judicial and political experience, and in cases of this kind they would have before them the most skilled and expert evidence, allied to which there would be their own judicial knowledge to decide the points submitted to them. I shall support the amendment.

Mr. SYMON:
I think this clause ought to be struck out. Of course, I protest against this method of dealing with such important matters as the control of the railways; but, as the Convention is not disposed to go the whole length of placing the railways under the control of the Federation, we undoubtedly must have something in existence, which will prevent these wars of rates which everybody has deplored. I should like to point out that in clause 93 power is given to the Parliament to:

Make laws constituting an Inter-State Commission to execute and maintain the provisions of this Constitution relating to trade and commerce.

That is conferring upon the Parliament practically the power to do everything in connection with the constitution of this Inter-State Commission, and it seems to me Parliament should not be restricted in any
way in relation to the tenure of office of the gentlemen whom they may appoint. If you leave clause 94, in effect you may give these gentlemen office under the Constitution which cannot be changed without an amendment of the Constitution. It would be infinitely better to leave 93 as it stands, and wipe out 94, so as to leave the Parliament a free hand to deal as fully as possible with the establishment of this Commission, its continuance in office, and its powers. If you do not do that, it may be that the Parliament may change its policy or it may decide to take over the railways, and you may be exposed to this extraordinary position that you may have appointed men with a life tenure of their office. You may be exposed to the difficulty that it may be impossible to remove them. I suggest that it should be struck out.

Mr. O'CONNOR:
I hope the Committee will not come to a hasty conclusion upon this matter.

Mr. DEAKIN:
We have not shown a disposition to come to a hasty conclusion upon any of these matters.

Mr. O'CONNOR:
This question has been raised for the first time, and it is well worth considering whether the proposal should be acceded to. It is an important question whether we should have this commission at all, and I purpose stating the reasons why this expedient has been adopted. It must be evident to members that the practical working of this principle of freedom of trade throughout the Commonwealth will be a very difficult thing indeed, unless it is in the hands of some skilled body of persons. This is not a matter of theory. It has been the experience of America and England and every other country where continuous traffic from one State to another, or one country to another has to be carried on, and the discussion here to-night should convince anyone that there are so many difficult questions involved in determining in particular cases whether a rate does interfere with freedom of trade or not. It would be impossible that that question should be left to the determination of a lawsuit in the ordinary cumbersome way in which proceedings of the law are carried on. If this restriction of freedom of trade is to be of any value at all, there must be some way of carrying it out. The Finance Committee recommended this mode of seeing to the executive of the law, and in doing that they followed the example of England and America. In America, for many years until 1878, the railways endeavored to work under the general provisions of the Constitution, but it was found
that it was a simple mockery to refer to the Constitution, because there were so many ways of evading it, as the only mode of bringing evasions to book, was the process of law. It was necessary not only to do that, but to have a tribunal to fix the rate. That can only be done by some body such as this, and it was, therefore, thought well that the body should have power not only to adjudicate on this question of rates, but should have power to fix rates, and alter them where they are an infringement of the Constitution. I do not say that it is not an arguable matter, but it is worthy of consideration. If you are to have this body to perform these duties, that body should be composed of men holding office under such a tenure as to be above political, State, or Federal influence.

**Sir GEORGE TURNER:**

No matter whether they are right or wrong, Parliament cannot interfere.

**Mr. O'CONNOR:**

Unless for misbehavior.

**Sir GEORGE TURNER:**

That is a very serious position.

**Mr. O'CONNOR:**

If it is necessary to place the Railway Commissioners in that position surely it is necessary in the case of the Inter-State Commission.

**Sir GEORGE TURNER:**

We appoint our Railway Commissioners for a fixed term.

**Mr. O'CONNOR:**

I was thinking of New South Wales.

**Mr. TREWITH:**

It is done by Parliament.

**Mr. O'CONNOR:**

I know that it is.

**Mr. TREWITH:**

Cannot you trust the Federal Parliament then?

**Mr. O'CONNOR:**

If it is necessary to have this body, it is necessary that it should be constituted in the same way that the judges are, and for that reason we place these men above all influences. The question is a very simple one. In the first place, do you think it possible to carry out the principles of this Constitution regarding the equality of trade without some body of this kind, not only to adjudicate, but to fix and alter the rates, if necessary?

**Sir GEORGE TURNER:**

We have already determined that there shall be this Commission.
Mr. O'CONNOR:

Then it must be in some such form as here described. I hope that Sir William Zeal's amendment will not be entertained for a moment.

Sir WILLIAM ZEAL:

By leave, I will withdraw my amendment.

Amendment withdrawn.

Mr. TRENWITH:

The Parliament will be elected tinder the Constitution which provides that there shall be absolute freedom of trade, and surely we have a right to assume that the Federal Parliament will desire to achieve that end. From time to time the Parliament may deem that other means should be adopted to deal with the matter, but if you carry this you will tie their hands. We have handed the management of the railways over to Commissioners, practically abrogating our right to manage them, but in this matter you may tie the hands of the Federal Parliament in a manner which may be found to be most irksome.

Mr. GRANT:

I hope the clause will not be passed, because, in the event of the federation of the railways, which many of us earnestly desire, we may tie the hands of the Federal Parliament, and give a most costly Commission a long life, or else have to pay them an enormous compensation to retire after their services had ceased to be of much value. The Federal Parliament would certainly be in a far better position to constitute that tribunal some time hence, if found necessary, than we are now. Therefore, I hope the clause will be struck out.

Clause struck out.

Clause 95.-The Commission shall have such powers of adjudication, and administration as may be necessary for its purposes and as the Parliament may from to time determine; but shall have no powers in reference to the rates or regulations of any railway in any State, except in cases of rates or regulations preferential in effect and made and used for the purpose of drawing traffic to that railway front the railway of a neighboring State.

Mr. WISE:

The Prime Minister of Victoria, Sir George Turner, used an expression which I desire to use and act in the spirit of—that in this matter we ought to be perfectly frank with one another—and I will endeavor to put my idea of what these words mean as clearly as possible. It appears to me the meaning is so clear that I am convinced that I am either looking at it in a right view, or my view has not been put before those who think differently. If we were bargaining here one against the other, I would be giving away a strong point for New South Wales, because—I say it publicly as I have Raid it
privately—if the words after "determine" are left out Victoria will be in a far
worse position.

Sir GEORGE TURNER:
We are satisfied.

Mr. WISE:
I have no objection, but it will work to our benefit and against yours. If
there is no necessity for me to explain how I will not do so.

Sir GEORGE TURNER:
I would be glad to hear the hon. member.

Mr. WISE:
The view I take of it is that the clauses run in this way: The previous
clause provided that there shall be no regulations or rates that interfere with
the freedom of trade between the States. Then we have provided for the
appointment of a Commission to execute the Constitution. The
Constitution only gives power to deal with the traffic between States, and
confers no power whatever on the Commission to deal with the internal
commerce of any State, and in order to give that power where the internal
commerce of the State is being so managed as to indirectly affect the
commerce of another State the words after the word "determine" have been
added, and I have, I think, the concurrence of the hon. member, Mr.
Higgins, that if the words after "determine" were not there, Parliament
could pass no law authorising the Commission to interfere in any way with
any rate that

might be made by the Railway Commissioners of New South Wales to any
point within their own territory, and dealing only with the products of that
colony.

Sir GEORGE TURNER:
Unless it derogated from the other parts.

Mr. WISE:
No matter what it derogated from. I have authorities from the United
States to that effect. Let me repeat. The Constitution only gives power over
the trade between States. A Commission is appointed with regard to trade
between States. The first words of section 95 only give Parliament power
to pass a law to determine the powers of the Commission within the
Constitution, and inasmuch as the Constitution confers no power whatever
to deal with the internal commerce of any State so long its the traffic is
passing from one point in the State to another point in the same State any
Act of the Commonwealth giving the Commission that power would be
void. I know nothing whatever of the drafting of the clause, but I
apprehend that in order to prevent that for which we are guided by the
decisions in America, the words after "determine" were inserted.

Sir GEORGE TURNER:
Why state:
But shall have no powers in reference to the rates and regulations of any railway in any State except?
Mr. WISE:
It is unnecessary.

Sir GEORGE TURNER:
You assume there is power.
Mr. WISE:
It is to remove any feeling of insecurity and prevent the cry that the Commission is going to interfere with purely local rates that it has been given the exceptional power to deal with the cases where the rates are preferentially drawing the traffic from one State to another.

Sir GEORGE TURNER:
How does it get at New South Wales drawing the Riverina trade from Victoria?

Mr. WISE:
I am not all expert, but can give instances, for although I am not an expert I have studied the question for many years past. We are all agreed that the greater portion of Riverina geographically belongs to Victoria. I am prepared to say that, a great portion of the trade should go entirely to Victoria. But there is an enormous bulk of trade which Victoria gets improperly that would give us more than we would lose.

Sir GEORGE TURNER:
Hear, hear. That is so.

Mr. WISE:
There are two considerations which determine the natural course of trade. One is geographical proximity, the other is traffic facilities.

Sir GEORGE TURNER:
Including freights.

Mr. WISE:
Sir George Turner need not think I am going to slur over that, but I will leave that for a moment, I put this case. The distance from a point upon the Hay line to the River Murray is, I suppose, 150 miles. I speak subject to correction. If you take a point equi-distant from the Hay line and the River Murray, and assume that the means of traffic between each place are similar, it is a matter of indifference whether the traffic from that spot-75 miles from the Hay line and 75 miles from Echuca-goes to the one or the other. Assuming that there are no reductions of freights on the Hay line it would be a matter of geographical indifference. Then suppose you take a
place five miles from the River Murray, and consequently 145 miles from the Hay line. Anybody can see at once that the natural drift of traffic five miles from the River Murray would be to Melbourne, and if the rates on the Hay line were so low that the Railway Commissioners were able to carry the goods of the man 145 miles away from their own railway and only five miles from the Victorian railway, that would be clear evidence of a design to draw traffic from Victoria to the New South Wales railways. Then reverse the position, and I can speak from my own knowledge on the point. There is a place named Uardry on the Hay line. The then owners of that run were among those who petitioned the Government of New South Wales to construct the line from Junee to Hay. There was a considerable clip, and the prospect of carrying that clip was a good inducement for them to build the line. The railway station is four miles from the woolshed on the Uardry run. That same woolshed is six or seven miles from the river. No sooner did the iron horse come into the Uardry run, and a railway station was erected four miles from the woolshed, than the Victorian Government granted to the Uardry owners a rate so low that it paid them, instead of carting the wool from the shed to the station, four miles away, to cart it seven miles to the river, then run it 822 miles down the river until it reached the Victorian Railway Station, and send it to Melbourne. The practical result was that the Victorian Government undertook the transport of the wool from the woolshed to the river and down the river, and also paid the insurance and freight for nothing. Anyone can see that that is a rate designed to draw trade, although Uardry is geographically nearer Melbourne than Sydney. It is only four miles off the railway, but is seven by road and over 800 by road and river from the Victorian Station. I have taken these two instances, which are extremes. An expert can tell, by the evidence before him, under what category you must place all cases between those two extremes. That is why I said to Sir George Turner, who was not inclined to think I was speaking seriously, that I am right. If I am right, I am not making this bargain for my own colony, but I am doing what I consider to be best in the interests of Australia.

Mr. HIGGINS:

Supposing the place is 500 miles from Sydney and 200 from Melbourne, would you fix the same rates?

Mr. WISE:

It all depends on the circumstances of every case. There are two considerations which determine the natural drift of trade. The one is geographical proximity, and the other is facilities for transport. The sole
object of the clause is to provide that facilities of transport shall be such as are given in the ordinary course of trade, as would be given under fair circumstances if the whole system were owned by one company, and to prohibit such facilities for transport being given for improper and unreasonable purposes. and for the purpose of drawing away traffic, which but for these facilities would go into other colonies. Whether a particular case would come within the meaning of this clause or not is for a tribunal of experts having, all the evidence before them to decide. The test given by Mr. Deakin is a fair one, namely, that a long distance rate should be the same mutatis mutandis to all places within a colony; not absolutely the same, because there may be a special river competing in one district, or the difficulties of hauling over a mountain range in another. Therefore I question whether it is in the interest of the whole Federation to strike out these words, which when struck out will expose this clause to the danger of criticism in Victoria, because when the matter is investigated it will be seen that the omission of these words will abolish all those weapons Victoria is using now to secure the New South Wales trade.

Sir GEORGE TURNER:

Oh, no; it will not.

Mr. WISE:

The whole question turns upon the meaning of the words "inter-state commerce." Commerce which goes from one State to another is inter-state commerce. And if one railway system attempts to draw trade from one State into another, it comes at once under the cognizance of the Inter-State Commission, but if your trade starts from a point and goes to a point within your borders—if the two terminal points are both within your borders and if the goods are the product of your own colony—the Commission could not touch it but for the subsequent words of this clause. By the insertion of these words we give for the first time to the Commission a power which the Inter-State Commission in America has not—power to investigate the rates charged

upon the New South Wales railways on New South Wales goods to see whether or not these rates infringe the general principles of this Constitution. My sole desire has been to prevent misunderstanding on this matter, and to explain it as clearly and fully as possible, and not to advocate the particular interests of any particular colony.

Mr. DEAKIN:

Hear, hear.

Sir GEORGE TURNER:

I thank my hon. friend for the trouble he has been at to explain this
question, which, it must be admitted, is a very serious one, not only for the railway traffic of Victoria, but for the city of Melbourne; because, if what I fear can happen under this particular clause, it means a very serious loss indeed to the whole of our colony. The advantage which New South Wales has is that having such a long line of railway practically within their own colony they will be able to have practically the advantage of preferential rates without their being so termed, whereas we in Victoria could not have them, because they would be termed preferential rates and be forbidden. My friend Mr. Wise has put the matter very fairly, and I am not prepared to say at the present time whether these words should remain. They are at any rate unfortunately expressed.

Mr. DEAKIN:
They put a negative instead of a positive.

Sir GEORGE TURNER:
They assume on the face of them that this Commission will have power to deal with all rates and regulations of any railway in any States, and then say that this Commission shall not deal with the whole, but only with a certain portion of them. I certainly was misled into thinking, from the way in which the clauses were framed, that the Commission would undoubtedly have power to deal with all the rates, and then that it was intended to take part of that power away from them, and only leave them a portion of it. My hon. friend assures me that that is not the reading of it. I am not prepared at the present time to say whether these words are required or not, and I therefore shall not move to strike them out, but I shall reserve to myself, at the adjourned Convention, after hearing from experts the real effect of these words, the right, if I find they ought not to be there, to urge as strongly as possible that they should be removed. I know from past experience in regard to railway matters, that even when our Commissioner was ready, from a railway point of view, to enter into a bargain with a Commissioner from another colony I have refused to sanction the bargain, because I recognised that, while it would be advantageous to the railways it would be disadvantageous to the colony.

Progress reported; Convention resumed.

THE DRAFT BILL.

Mr. BARTON:
There is a general desire to see this Bill as far as it has gone, and it will greatly assist hon. members to have a clean print to-morrow morning. I know that a motion on the matter would be informal at the present stage, but if it is the wish of the Convention, that is, if I can take your leave, Mr. President, I will give instructions to obtain a clean print.

The PRESIDENT: Certainly.
Mr. BARTON:
Then I will arrange that the Bill be printed to-night, showing the amendments so far as they have gone.

THE STATE OF BUSINESS.
Mr. BARTON:
Sir George Turner desires me to make a statement as to the course of business. It will be this - we have to deal with clause 95; then we have two postponed clauses, 15 and 86. After that there will be the clauses for reconsideration, a list of which I have read. After that we have one or two new clauses to propose, and then any new clauses which hon. members may desire to propose.

Sir GEORGE TURNER:
We ought to be able to finish to-morrow night.

Mr. BARTON:
Yes. If hon. members will give me the Bill at 12 o'clock to- [P.1121] starts here
morrow I will let them go till Friday morning.

RETURN.
Mr. HOLDER:
I beg to lay on the table a return to the order of Dr. Quick, and move that it be printed.
Question resolved in the affirmative.
ADJOURNMENT.
The Convention adjourned at 11.38 p.m.
Thursday April 22, 1897.

Address of Congratulation to the Queen - Order of Business - Leave of Absence to Delegates - Commonwealth of Australia Bill. - Adjournment.

The PRESIDENT took the chair at 10.30 a.m.

ADDRESS OF CONGRATULATION TO THE QUEEN.

Sir RICHARD BAKER:
On behalf of the Committee appointed yesterday to prepare an address to Her Most Gracious Majesty the Queen, I have to bring the address up and move that it be received and read.

Motion agreed to.

The Clerk of the Convention read the address, which was as follows:

To the Queen's Most Excellent Majesty: May it please your Majesty: We, your Majesty's loyal subjects, representatives of the colonies of New South Wales, Victoria, South Australia, Tasmania, and Western Australia in the Federal Convention of Australasia assembled, approach your Majesty with assurances of sincere attachment to your throne and person. We present to your Majesty our loyal and cordial congratulations on the length and glory of a reign unexampled in the history of your people, and we fervently hope that a federal union of the Australasian Colonies under the Crown will be a lasting and noble monument of the sixtieth anniversary of your Majesty's beneficent occupation of the throne.

Sir RICHARD BAKER:
I am not quite sure whether it is necessary to move that the address be adopted. I have not got the words before me of the resolution of yesterday.

The PRESIDENT:
I think it will be sufficient if the hon. representative were to move that the address be adopted.

Sir RICHARD BAKER:
Then I move:
That the address be adopted.

Sir JOSEPH ABBOTT:
I second that.

Question resolved in the affirmative.

ORDER OF BUSINESS.

Mr. BARTON:
I should like to remind the Convention that I got permission to have the Bill printed last night. A proof has been corrected and sent back to the
printer. The copies were to have been here at half-past 10 o'clock. They cannot possibly be long delayed, and in a few minutes hon. members will have them in their hands. In the meantime we may be able to go on with the business in hand.

LEAVE OF ABSENCE TO DELEGATES.

Mr. HOLDER:

I move:

That leave of absence for the remainder of the session be granted to the Hon. J. N. Brunker, the Hon. J. H. Carruthers, the Hon. G. H. Reid, the Hon. W. J. Lyne, the Hon. Sir Joseph Abbott, Mr. M. J. Clarke, Mr. S. Fraser, and Mr J. H. Taylor, on account of urgent private and public affairs; and to Mr. Solomon on account of illness.

Mr. DEAKIN:

I second the motion.

Motion agreed to.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (continued from Wednesday, April 21st).

Clause 95.-The Commission shall have such powers of adjudication and administration as may be necessary for its purposes, and as the Parliament may from time to time determine; but shall have no powers in reference to the rates or regulations of any railway in any State, except in cases of rates or regulations preferential in effect and made and used for the purpose of drawing traffic to that railway from the railway of a neighboring State.

Mr. HOLDER:

This is a matter in which I have taken a very considerable interest in the past, and I listened with close attention to the speech which my hon. friend Mr. Wise made last night. His argument has impressed me very much, yet I think there is just one matter he has overlooked which might have induced him to change his views very materially. Last night Mr. Wise pointed to the latter part of the clause, and suggested that that gave powers to the Inter-State Commission, which, without these words, they would not have. If these powers are the largest they have, I should be the very last to take them from the Commission. On the contrary, I desire that they should have not fewer but more powers. The largest power that the Commission will have will surely be that which will arise under section 92, which gives them authority to give effect to this portion of the Constitution as well as to other portions, and it will be their duty to see that no law or regulation of commerce or railway traffic shall give advantage to one port of a State in the Commonwealth above another port in another State of the Commonwealth.
If the Commission has power under clause 92, with the words to which I have referred, to prevent any preference being given to one State above another State, the Commission will have power to regulate the tariffs on, say, the through railway between Melbourne and Sydney, so that it would be impossible for New South Wales to carry goods from Albury to Sydney at lower rates than Victoria could carry them from south of Cootamundra to Melbourne. Lower rates would be preferential rates. If that be so, the concluding words of the section will limit the powers of the Inter-State Commission. It is because I hold that view that I would like to see the clause cease at the word "determine." Mr. Wise will see the bearing this has on the question, and to repeat what I have already said, if the powers of the Commission include all that is referred to in section 92 then the latter part of the clause is not an extension but a limitation of the powers, and ought not to remain.

Mr. Wise:
I agree that the Inter-State Commission will have power to carry out all the authority conferred by every part of this Constitution, including what is contained in section 92. I still adhere to the view I expressed last night, that the concluding portions of section 95 had to a certain extent enlarged that power, so as to extend not only to dealing with rates which prefer ports, but to all classes of rates of the character described in the concluding portion of section 95.

Mr. McMillan:
It seems to me that the time must come when we must face the difficulties of this railway question. We had for hours last night to listen to what was practically a sparring match between New South Wales and Victoria, and I think that our legal friends in the Convention might now take up a judicial attitude instead of specially pleading over this matter. Perhaps it would be better to have the position of New South Wales and Victoria exactly stated. Speaking generally, what Victoria desires is to get back her natural geographical area in the Riverina, district.

Sir William Zeal:
She never lost it.

Mr. McMillan:
That is a matter of opinion. At any rate we may have helped her very much to get it by our own operations in that particular district. The difficulty with Victoria is that under clause 95, if she is prohibited from making what are called preferential rates, and if she is not to give up the trade in Riverina coming along her own railways, she will have practically to make the same rate throughout the whole of her territory as she gives to those outside Riverina. We know well enough that you cannot have any
uniformity of railway rates throughout Australia. We know there are peculiar difficulties in each service, and to apply the same scale of charges in Victoria as in New South Wales, for various reasons, would be impossible. We come to the question with regard to what is a preferential and what is a differential rate. I think it may be allowed that purely differential rates for long distances may have no connection with the question of taking the trade from a neighboring colony. Therefore the question we have got to face is this: is it possible for there to be a reasonable differential rate on the basis of the long distance from Sydney in the Riverina district without interfering with the equality of trade. This, after all, as explained by experts, is more or less a question of railway management. It may appear to many that great losses accrue from this system of management, but we are informed that even at the present time, with these differential rates for the Riverina district, it pays the New South Wales railway system to deal with it on the present basis.

Mr. FRASER:
So it pays Victoria.

Mr. MCMILLAN:
On the other hand, if you say to New South Wales, "You must make differential rates on a certain basis, and you must make your railway rates going towards Victoria on a certain basis," the result will be that you may have a large portion of our lines which were projected into that part of our territory to meet the desires of the producers because no other colony could project them, and the result may be that all of the pods in that part of the colony may be diverted to Victoria and Melbourne, and New South Wales might have to pay the loss on that particular part of her railway system. It seems to me that you cannot put into this Constitution, by any elaborate words which the wit of man can devise, anything that can meet the varying conditions of this complicated question. The question is, are you going to give absolutely full powers to this Inter-State Commission to decide on general principles as to whether this equality of trade has been interfered with or not. I confess that this a very serious question for New South Wales, and I would point out that there are certain elements connected with one's associations with one's own colony which may lead people, under certain conditions, to divert trade to their own capital, and it seems to me we may be doing a great hardship to many settlers of New South Wales by asking them to turn a somersault, and direct their trade from Cootamundra to Melbourne instead of to Sydney. If you follow out this question to an absolute logical conclusion, it means that more or less from a central point
between Melbourne and Sydney all the trade, from the position taken up by Victoria, should be diverted to Melbourne. If there is any sense at all in the thing it means that from somewhere this side of Cootamundra the whole of the trade should be diverted to Melbourne. There is no doubt there are charges now made on the lines going towards Victoria from New South Wales, near the border, which are specially made to prohibit the traffic, and there is no doubt that these charges are absolutely anti-federal, and I am advised that the Railway Commissioners have been very anxious to remove such cause of complaint.

Mr. WISE:

On both sides.

Mr. McMILLAN:

At the same time, if we are going to leave that differential system in the hands of an inter-State body to deal with it equitably, there is no doubt that Victoria must give up what are allowed by all to be preferential rates, no matter what may be the effect on her own colony. Therefore, it seems to me that there must be to some extent general powers given to this Inter State Commission, but at the same time it will be a very serious thing—I am speaking plainly, without absolutely suggesting a remedy—if it is thought that we are giving large discretion to a Commission which would have absolute power to deal with this question on general principles. I would suggest therefore that we leave the clause as it is.

Sir WILLIAM ZEAL:

That would never do.

Mr. McMILLAN:

Subject to the direction of opinion that may take place between this and the next meeting of the Convention, I allow with Mr. Holder that it does limit the opera

Mr. DEAKIN:

I think we are very much indebted to Mr. McMillan and Mr. Wise, who spoke before him, for the perfectly candid and straightforward manner in which they addressed themselves to this question. It is by such frankness that the best understanding can be arrived at, and whatever differences of opinion there may be as to expressing one conclusion can be left for the Drafting Committee to deal with. We can leave it to our friends, who can find in that some means of pleasantly occupying their idle hours.

Mr. BARTON:

If the hon. member will find the idle hours I shall be pleased.

Mr. DEAKIN:

Very soon. It will be noticed, however, that the position is a little
complicated, owing to the fact that the views of the two hon. members as to the effect of this clause are diametrically opposed, Mr. Wise's opinion being that it is an expansion, and Mr. McMillan's that it is a limitation of the powers to be given to the Inter-State Commission by the other clauses in this Bill. That is a matter which we must presently resolve. Meanwhile, in order to see that I understand Mr. McMillan, perhaps he will allow me to put a case. If the railways of Australia were wholly taken over by the federal authority, I presume the system to be followed as between the several centres would be that at a middle point like Cootamundra-

Mr. MCMILLAN:

If the railways were federalised the whole thing would be settled.

Mr. WISE:

All this proves the advisability of taking over the railways.

Mr. DEAKIN:

If the railways were federalised then from Cootamundra, taking that as the middle point between Sydney and Melbourne, the rates would be practically the same to each capital. That would be obtained because the tapering which takes place in charges for long distances would commence from Sydney and Melbourne respectively, and balance at the midway point. That would be the position if the railways were federalised. Mr. McMillan appears to understand the proposal in this Bill to differ from that considerably—he says the tapering would continue from Melbourne to the New South Wales border, but beyond that the Victorian Government will have no power to make any tapering. It can make no allowance for goods carried for the Victorian lines between Cootamundra and Albury, because our boundary is at Albury. If I understand the hon. member aright when he speaks of the tapering rate from Sydney to Albury, he means a rate tapering only to the same extent on this line as everywhere else in New South Wales.

Mr. MCMILLAN:

Just the same as if it went into the desert.

Mr. DEAKIN:

Under these circumstances he quite frankly realises that the abolition of preferential rates in Victoria will be greatly to the advantage of New South Wales. Then the hon. member puts clearly on the other side what will be the one advantage to Victoria which we do not at present enjoy. In his opinion, under this clause, it would no longer be possible for New South Wales to charge exceptional rates for goods coming to us from Cootamundra to Albury, such as are charged now. He says that under the Inter-State Commission the charge from Cootamundra, to Albury will he
the same as for any similar distance in New South Wales, not the tapered rate, but a universally higher rate for the shorter distance. It will only be able to charge the same freight from Cootamundra to Albury as would be charged to some point the same distance from Sydney.

Mr. BARTON:
Each point is a different starting point, and therefore the rate which may be differential will not be preferential.

Mr. DEAKIN:
The same differential rate all over the country. The same rate also for any distance from Albury as for the same distance from any point in the colony; and so far as that is the policy there will be some gain to Victoria. But there is a greater loss, because our attempt to adopt differential rates for goods carried to us from beyond our borders is to be forbidden. Preferential rates really are differential rates not limited to distances within our own colony. Now we are to be limited by our boundaries.

Mr. BARTON:
The Inter-State Commission in America would allow a rate which was a mere rate for development, and did not interfere with Inter-State traffic.

Mr. DEAKIN:
Just so. Then Mr. McMillan frankly says if you give Victoria this concession in regard to rates from Cootamundra to Albury and vice versa, as against the prohibition of preferential rates in Victoria, the advantage is very large to New South Wales. He not unnaturally claims that New South Wales is entitled to have that advantage within its own territory. The question is, does that embody the view of the remaining members of the New South Wales delegation, and if it does, does it embody the views of this Convention as a whole. Unless the railways are federalised, I fear we cannot gain the substantial benefits that would accrue from having them federalised. We cannot, as far as I can see, repose in any outside body a controlling power to enter into the railway system of any State and dictate to its management what rates shall obtain, or that the same rates shall obtain as if the railways were the property of an Australian nation. If that cannot be done, is the proposal suggested by the hon. member the nearest approach to the federation of the railways that we can have. I do not think that I am well enough acquainted with the subject to definitely say that it is.

Mr. BARTON:
It must not be forgotten that the Inter-State Commission would have no power to adjudicate unless a complaint was brought before them.

Mr. DEAKIN:
I am aware of that. It seems to me that the problem we have to solve is
that just at the moment this is the utmost advance towards a federal control of the railways; but I say that we may devise something during the next three or four months that may carry the matter further, even while leaving it in the hands of the Inter-State Commission. I recognise the difficulties. I see that, while you leave the railway systems attached to the States you must allow the States to assist and foster them with all the powers they possess. I shall be glad, on further consideration, to see some proposal by which this Convention, even if not seeing its way to the federalisation of the railways, may take a longer step in advance towards complete federal control.

Mr. WISE:

Is the hon. member in a position to inform the Convention what were the reasons why the Victorian Government rejected the agreement arrived at between their Commissioner and our Commissioner for the purpose of getting rid of these rates, or does he not see that if the Railway Commissioners were able as experts to arrive at an arrangement, the Inter-State Commission could do the same?

Mr. DEAKIN:

I was not a member of that Government. Fortunately or unfortunately I am entirely in the dark as to the reasons which guided the Government, except so far as they were indicated by Sir George Turner last night. Sir George Turner pointed out that the Railway Commissioners had looked at it merely as a matter of railway management. He said other interests were greatly affected, and it was a consideration of those interests which led them to reject a proposal made on a purely railway basis. I do not propose to enter into that now. I have indicated the tentative state of my own mind. The problem will be closely studied by all of us during the recess. I understand Mr. Barton sees no objection to the proviso under discussion being retained in a positive instead of a negative form, if it be retained at all. Probably the simplest course would be to strike it out for the present.

Mr. BARTON:

The idea is to make the clause mean that the powers of the Commission "shall extend only to cases," and so on. Then Mr. Holder wants the words "and made and used" changed to "and made or used."

Mr. MCMILLAN:

If this question has such difficulties, it will help Mr. Deakin's scheme for taking over the railways.

Mr. DEAKIN:

I do not regard it as my scheme by any means. I am only a recent convert. I do not claim any credit for it. During my election campaign I
said that the idea, though excellent in principle, seemed to me to be impracticable. This discussion only shows how difficult it would be to exercise any control upon federal principles unless we take over all the railways.

**Mr. MCMILLAN:**

You may convert others, for the newest converts are generally the greatest enthusiasts.

**Mr. DEAKIN:**

Mr. McMillan made a suggestion, following Sir George Turner practically the suggestions were the same as to how we might remove a good deal of difficulty. If we can come to a clear understanding of what our respective views are now, we shall have time before we meet to ascertain the views of our Parliaments. I had prepared an amendment - a proviso removing a possible construction of the existing words. It would make the last part of the clause read:

Except in cases of rates or regulations made for the purpose of creating any preference or advantage over any port or railway of one State over any port or railway of another State.

**Mr. GORDON:**

It has been very interesting to all of us, and elucidatory of the whole question to have statements of the case between New south Wales and Victoria, as to whether the railways of Victoria have been taking business from the railways of New South Wales, or whether the New South Wales railways have been taking business from the railways of Victoria.

**Mr. MCMILLAN:**

We were especially asked that we should confine ourselves to New South Wales and Victoria as illustrative of the question.

**Mr. GORDON:**

I am not complaining, the discussion has thrown light on the whole question, but it is not simply a question as between railway and railway. One little paragraph from the report of the Sydney Railway Commissioners shows that there should he much wider outlook than as between merely the railways of Victoria and New South Wales. They say:

The preferential rates appear to have been initiated about the year 1870. Up to that time South Australia had done practically the whole of the Darling River business; but in the year named the Victorian Commissioner for Customs made a report to the Victorian Government on the prospects of diverting the Darling and Murrumbidgee traffic to Melbourne. The then Victorian Minister for Railways favorably entertained the proposals, differential rates were established, and a commission of 6d. per bale was
offered to any carrier who was able to bring 10,000 bales of wool from the
Darling during one season. This commission was gained by a Victorian f

Of course it had to cease, because from the same report it appears that the
Victorians, while charging £6 12s. for a certain class of their own goods
from Melbourne to Swan Hill, carried New South Wales goods a longer
distance for £2 3s.

Mr. FRASER:
Not a longer distance.

Mr. GORDON:
I find the hon. member is right; it is the same distance, but it was the
same class of goods. They charged from Melbourne to Echuca, on New
South Wales goods 30s., and charged their own people £4 13s.; from
Melbourne to Albury, for fourth-class goods, they charged New South
Wales people £3 6s. 10d., and their own people £5 16s. 8d. That was
undoubtedly a railway matter as between Victoria and New South Wales,
but what of our river trade which has been cut off by this cut-throat
system? It is a question not only between railway and railway, but between
railway and river.

Mr. FRASER:
Certainly.

Mr. GORDON:
The result is that the natural outlet for a great deal of this trade—the Rivers
Murray, Darling, and Murrumbidgee, which enter the sea in South
Australia—has been absolutely neglected. A great deal of the wool trade and
general goods-carrying must be diverted to either one or other of those
railways in the natural course of things, but if there were fair rates on those
Victorian and New South Wales railways a great deal of it would come
down the river from stations further up, because once the wool is on the
river water carriage is exceedingly cheap, and owing to the expense of
unloading and handling twice, and the greater expense of land carriage
over water carriage, the rivers are the proper channels for the traffic.

Mr. FRASER:
It does now.

Mr. GORDON:
More would come down but for this unhealthy and improper
competition. The clause as drawn here restricts the powers of the Inter-
State Commission to:

Cases of rates or regulations preferential in effect and made and used for
the purpose of drawing traffic to that railway from the railway of a
neighboring State.

It says nothing whatever about an improper diversion of river traffic.
question whether in this case the Inter-State Commission would have power to investigate the question of preferential railway rates designed to cut off the river trade.

Mr. FRASER:

Hear, hear.

Mr. GORDON:

I am glad the hon. member, who has had great experience, not only of general business, but also of that particular traffic, agrees with me. I put it that possibly the Victorian and New South Wales Railways Commissioners might agree together to make a special rate which would suit them both and yet kill the South Australian river traffic.

Mr. FRASER:

They would not do that. You cannot kill the water traffic.

Mr. GORDON:

They have done it at present any way. Our steamers are rotting on the banks of the river by dozens.

An HON. MEMBER:

Too many snags in it.

Mr. GORDON:

If the hon. member will only give South Australia fair play with regard to the river question she is prepared to do her duty in the matter of keeping snags out.

Mr. DEAKIN:

Even out of the Convention!

Mr. GORDON:

But while some other reasons may have operated to injure the trade which would come down the River Murray, these exceedingly cut-throat rates have been the principal cause. So far as I can see the amendment of Mr. Holder would prevent this particularly dangerous limitation. The only real test as to whether a railway rate is preferential or not is whether the traffic is carried at a loss to the railway carrying it; that is the test as between railway and railway. Then if any railway tapped any of our river districts, and such a rate was imposed as would land the railway charging it in a loss on that particular traffic, that is unfair competition with the river.

Mr. MCMILLAN:

Experts may not be able to determine what is a loss. What appears to he a loss may not really be a loss.

Mr. GORDON:

Of course, some scope must be given for railway management. Experts
should be the best judges. Looking at the matter from a common-sense standpoint. I think this generalisation may he considered correct, that if any railway touching a river carries goods at a loss, in order to divert the traffic from that river, it should he prevented.

Mr. GRANT:

Use the words "reasonable profit."

Mr. GORDON:

Mr. Grant suggests reasonable profit. I have no objection to that, though it would open the question as to what is a reasonable profit. The matter would be left very much to the Inter-State Commission. They would be like a jury, and would have to decide on the facts. If it were a new railway, some allowance would have to be made, but once a settled state of things were established the test which I have submitted, and which I think is a sound general principle, should be applied. One part of a railway may pay and another part may not. Goods carried long distances may be carried at a loss, which is made up by traffic at the other end, where the population is thicker, and traffic and trade greater. But the real test would be, is the railway diverting traffic from a river by carrying a particular line of goods at a loss? The more I look at this the more I regret that I did not adhere to the amendment I suggested yesterday, or some modification of it that would supply this test. That is the touchstone of the whole thing.

Mr. FRASER:

Who could say that the traffic was being carried at a loss?

Mr. GORDON:

The Inter-State Commission sitting as a jury.

Mr. FRASER:

They could not do it.

Mr. GORDON:

We must give them very large powers. It should be viewed from a commercial standpoint. We cannot do everything, but we can do all we can under the circumstances. We ought to adopt some basic proposition which would guide the Commission in its decisions, and the one I have suggested meets the case. This is, of course, a very important matter to New South Wales and Victoria, as we have heard in the long discussions, but it is a great deal more vital to South Australia. We have a great natural artery running to the sea.

Mr. WALKER:

Have you a good port?

Mr. GORDON:

We have an excellent port at Goolwa, and for thirty years all the wool of these rivers came down to South Australia, and the return goods went up.
But no river in the world could stand rates such as I have quoted to-day. It is simply monstrous. All I contend for is that our proper geographical position should be assured. For Federation to be of any service to South Australia we must be absolutely secure in connection with the commercial part of the bargain. Unless we are so secured, except for the advantages we should have in defence, we have nothing whatever to gain from Federation.

Mr. DEAKIN:
Commercally you have everything to gain and nothing to lose.

Mr. GORDON:
Not everything to gain.

Mr. DEAKIN:
Commercially.

Mr. GORDON:
I frankly admit-it would be fatuous to deny it—that South Australia has a great deal to gain commercially. But whether or not we get the benefits of Federation depends upon whether the commercial bargain is fair or not; in short, whether we are sufficiently protected against our more powerful neighbors. It would be idle to conceal that if Victoria and New South Wales combined together to make preferential rates we are not rich enough to contend with them. We are perfectly powerless unless we get embedded in the Constitution that the contract on commercial lines shall be absolutely fair to South Australia, which has natural geographical advantages with its ports, its river, and an extensive littoral. We cannot conceal the commanding position of our ports.

Mr. DEAKIN:
No; they are on the map.

Mr. GORDON:
Exactly. What I am so anxious about, and what I am sure hon. members from the other colonies are equally anxious about, is that, as far as possible, every colony shall have all the advantages to which it is justly entitled under this Federation. Victoria, of course, will gain from South Australia—

Mr. DEAKIN:
Intellectually we gain.

Mr. GORDON:
Yes; Victoria will gain from South Australia intellectually. We each want our share of the advantages which will ensue from the general compact. Our share of the advantage will be the advantage of our geographical position. We are not prepared to fight our more wealthy and powerful
neighbors in a war of tariffs, so that we must have embedded in this Constitution some provision that South Australia shall receive those natural advantages to which she is entitled by reason of her geographical position. I do not want to detain the Committee unduly, but the matter is so important to us that I am bound to point out that this clause, confining as it does the operations of the Inter-State Commission to the railways, will not meet our case. Not only must there be equality of trade between railway and railway, but equality of trade between river and railway.

Sir GEORGE TURNER:

I think it is wise that we adjourned the discussion on this very important subject last night, because we have an opportunity of starting fresh this morning, and starting perhaps on somewhat different lines. Mr. McMillan says that the object of Victoria is to get back her natural position in Riverina. I do not think that is so, but what we desire is to keep the natural advantages to which we are entitled by the geographical position of Riverina. We do not desire to allow the other colony by a system of differential rates, which in reality are preferential, to take away from Victoria the benefits of the trade of Riverina to which, it is apparently admitted all round, we are entitled. What we ought to desire to do may be put in this form: that whatever are the natural advantages of a port no State should be allowed to interfere so as to draw trade from its natural channel; that absolute justice should be done to all parts of the Commonwealth, leaving out imaginary boundary lines; that the people in all districts shall have conceded to them the advantages of their natural position; and that no obstruction to the free flow of traffic in its natural channel should be allowed. These words are taken from some reports which have been presented and laid before the House. It appears to me that this clause in its present form will have an effect which in all probability those who brought it forward do not desire. It is a peculiar circumstance that, while the Finance Committee made a certain recommendation, the Drafting Committee have inserted this clause, which has given rise to a very large amount of debate. The Finance Committee resolved:

That in order to deal effectively with all railway matters arising between the States, and to enforce the principles of equality of trade laid down in the Constitution, there shall be established by the Federal Parlia

For the purpose of giving effect to that resolution the Drafting Committee have prepared this clause and the proviso to it which has given rise to all the difficulties in connection with this discussion. Mr. Wise last night assured us that the object of the latter words was in reality to enlarge
the scope and authority of this Commission, and that unless we had words in the Constitution similar to those which have been proposed the Commission would be unable to deal with the rates in the various colonies which are really preferential, although they might appear nominally to be differential. The matter is a serious one, not only for Victoria, but for South Australia and New South Wales, and our only object should be, as the representatives of the various colonies in this Convention, to devise some scheme which would be fair and equitable to the people of all the colonies. I admit this is a somewhat difficult object to attain, one reason being that we have not expert knowledge ourselves which would enable us to deal more effectively with the difficulties, but we ought not to tie the hands of this new body in such a way that it will not be able to take advantage of any expert information which it may have amongst its own members, or able to obtain from evidence given to it. The clause states:

The Commission shall have such powers of adjudication and administration as may be necessary for its purposes and as the Parliament may from time to time determine.

That appears to me so far to leave the whole matter in the hands of Parliament, which at the beginning can say: "We will give to this Commission certain powers and authorities." Later on, Parliament, finding these powers and authorities are not sufficient to carry out the object in view, can increase them. If, again, Parliament discovers that these powers and authorities have been given in an improper way, and that they are exercising an improper influence they can alter them. If we are prepared to leave to Parliament to decide the large questions of freetrade and protection, or the amount of duties to be imposed, and to make alterations in them from time to time, why should we be afraid to leave it to the Federal Parliament to say from time to time what powers and privileges this body should exercise? Our energies should be bent on investing the Parliament with the full authority to give to this Commission the fullest possible powers and authority by which justice would be done to all parts of the Commonwealth. The powers of the Commission are thus stated:

The Commission shall have such powers of adjudication and administration as may be necessary for its purposes and as the Parliament may from time to time determine; but shall have no powers in reference to the rates or regulations of any railway in any State, except in cases of rates or regulations preferential in effect and made and used for the purpose of drawing traffic to that railway from the railway of a neighboring State.

Unless the rates or regulations are made and used for a certain purpose the Commission has no power to interfere with them.

Mr. HOLDER:
You have to prove the motives they had in making them.

Sir GEORGE TURNER:

Before the Commission can deal with them somebody has got to be satisfied that not alone are they preferential in effect, but something else. that they were made and used for the particular purpose. How can that possibly ever be proved? Victoria would charge New South Wales with making and using certain regulations for the purpose, but it would be utterly impossible to prove that in the manner in which it would have to be proved. Who is to be satisfied? Is it the Commission, or the Supreme Court, or the Parliament. There is not one word as to who is the person who is to be satisfied with regard to these particular matters. Not alone must the rates be made and use I for the purpose, but at the time they are made there must be the intention to improperly act. These rates may in all honesty he made for the purpose of differential rates, although they actually may be preferential in effect as regards another colony. While we might be able to show that there was an improper preference given to New South Wales goods against the railways of Victoria, unless we could go a step further and show that in addition to being preferential in effect they were actually made for the purpose of drawing the trade, and were actually being used for that purpose, we would absolutely fail. It seems to me in reading these words that we are placing ourselves absolutely at the mercy of New South Wales. We are in a difficult position now, but we have the power to fight. If New South Wales takes a certain course we can retaliate. If she takes away from us the trade which properly belongs to us in the Riverina district we can retort by taking away from her the trade from Bourke, which is in New South Wales. While we have that power we can make a fair bargain, but if we give away that power there will be a cut-throat policy, without any power on the part of Victoria to retaliate. That is a position we should not be placed in, nor do I believe that New South Wales desires to place us in that position; but I believe the effect of these words would be to place Victoria absolutely at the mercy of New South Wales with regard to traffic which we fairly claim we should have a large share of. If we proceed further we find that the regulations must be made and used for the purpose of drawing traffic from a neighboring State. In the case put by Mr. McMillan, New South Wales would fairly argue that her rates were not made for the purpose of drawing trade from Victoria, but for the purpose of retaining the traffic in New South Wales. That argument could be fairly used, and it would be a difficult one to answer while we in Victoria make the rates and cannot deny that they are made for the purpose of drawing traffic from New South Wales. The proper course will be to
leave this subject to the Federal Parliament to deal with in such a mode as the members may think just and equitable to the colonies. It is probable, then, that some scheme will be adopted by which the receipts from the competing lines will be pooled and a division made upon a basis that will be just to the various colonies without doing injury to the persons residing in the particular localities. If we carry goods from these districts at rates far below what we should carry them for it means a loss to the revenue, and the other portions of the colony would have the difficult task of making up that loss. We should be prepared to charge all portions of our colony a fair rate, and we should so arrange it that where there are disputed territories and conflicting interests they should be worked in such a manner that the receipts should form one fund, and each colony interested should receive a fair proportion of that fund. Mr. McMillan suggests that we should leave this clause as it is, and that in four months' time we should reconsider it. That is giving a fair start to the clause, and if we allow it to remain we will have great difficulty in striking it out. Members who have not studied the question will say: "The Drafting Committee have put these clauses in the Bill for some purpose, and we had better allow them to remain." If we allow them to pass now we will have far greater difficulty in striking them out in four months' time than our friends from New South Wales would have in reinserting them. Mr. Wise said last night that he had not the slightest objection to striking them out, as they

were put in for the benefit of South Australia, and Victoria, and when our friends are desirous, not only of being just, but also generous they will he equally just and generous if in four months' time we come to the conclusion they should be reinserted. The wisest course is to strike out the whole of that provision which has been put in for the good object of benefiting Victoria, as we are perfectly willing to trust to the generosity of our friends, when we come back in four months' time, if we find we have made a mistake. We are perfectly willing to trust to the Federal Parliament, because if they make a mistake they can easily rectify it, but if we place the words in the Constitution it will he very difficult to get them struck out. Even if we leave them in they should be qualified by the words:

Until Parliament otherwise determines,

So that Parliament may have the chance of dealing with the matter. I will move:

To strike out the words "but shall have no power in reference to the rates or regulations of any railways in any State, except in cases of rates or regulations preferential in effect and made and used for the purpose of drawing traffic to that railway from the railway of a neighboring State."
The CHAIRMAN:
That may cause a difficulty if the Committee determined to retain the words, because then Mr. Holder will be prevented from moving his subsequent amendment.

Sir GEORGE TURNER:
Then, as a test I will move:
To strike out the word "but."
If that is carried it will mean that the remainder of the words shall be struck out.

Mr. BARTON:
I intend to support the amendment moved by my hon. friend, but before it is carried I simply wish to state the effect of it. Clause 95 does not in itself cut down in any way the large powers of execution and maintenance of the provisions of the Constitution relating to freetrade, with regard to the railways and the rivers. In its second part, which my hon. friend wishes to leave out, it is a restriction on the powers of the Inter-State Commission, and if these words are left out which my hon. friend has moved to omit, then that restriction vanishes, and Parliament, whatever laws it makes with reference - to the powers and adjudication of the Inter-State Commission, must keep within the powers of clause 93, and therefore what will have to be maintained is this: Under the same provisions in the United States Constitution as are laid down here the State is entitled to the control of its own internal traffic.

Mr. GORDON:
I would like to ask the hon. member whether this does not amount to this, that the Commission has no power to interfere with railway rates that in effect might be preferential?

Mr. BARTON:
No. It has the effect of the maintenance of the States' individuality-that the State is absolutely sovereign with regard to the internal regulation of its own traffic, just as sovereign as the Parliament is with regard to its general powers in maintaining equality of trade; and therefore, unless there is a conflict between that internal regulation and the sovereign power of the Parliament, the State stands supreme.

Mr. GORDON:
Can I get the benefit of the hon. member's opinion, because I know Sir Samuel Griffith and Sir Henry Wrixon thought the words in the Bill of 1891 equal in strength to these, and that they would meet the position?

Mr. BARTON:
Sir Samuel Griffith and Sir Henry Wrixon were of opinion, I understand,
that what are called differential rates would not be prevented. In 1891 the
terms differential and preferential were not fully understood. The terms
were used indiscriminately, but they are now better understood. A
preferential rate will be against this Constitution, if it is preferential as
affecting any Inter-State commerce or intercourse. A discriminating rate
between one State and another will be bad, but within the limits of a State,
a rate preferential in effect, but not

Mr. KINGSTON:
I am sure the hon. member Mr. Barton will do everything in his power to
show us the effect of any amendment proposed, and I would like to
understand this as much as possible, because it seems to me that it is a
most important matter to all. It has been well put by, I think, my friend Mr.
carruthers, that freetrade is the main object of federation; and there is no
use in transferring the scene of strife from the Customs House to the
railway station. What I want to put is this. If we adopt this amendment will
the position be this: that a State can do what it pleases for the purpose of
securing to its own ports the trade and traffic which originates in that State.
Could not New South Wales adopt such a rate that, although Melbourne
may be much nearer to the locality, it may render it utterly impossible for
Melbourne to secure one ounce of the trade which originates north of the
Murray.

Mr. BARTON:
I do not say that. When the hon. member has finished I will say what I
mean.

Mr. KINGSTON:
I am glad that that is not the position. What I understand is that in this
Federation we want to do all we can for the purpose of securing that the
trade shall flow in its natural channels; and I do not see, when we are
proposing to call into existence a body of experts, who will be prepared
from time to time to consider all questions arising in the carrying out of an
important principle such as that, that we would not do well to lay down in
colloquial language a rule for their guidance by saying that the principle on
which they should be bound is that, while nothing shall be done in
derogation of freedom of trade, as we have already provided, nothing shall
be permitted to have the effect of diverting any trade or traffic from its
natural channel. This board surely will be
The Commission shall have such powers of adjudication and
administration as may be necessary for its purposes, and as the Parliament
may from time to time determine, for the purpose of preventing diversion
of trade or traffic from its natural channels.

Mr. FRASER:
That is plain enough.

Mr. KINGSTON:
I am inclined to think it is plain enough. It will certainly affirm a principle which is very dear to those who are warm advocates of Federation, and I should like my hon. friend Mr. Barton to explain what will be the effect of the amendment suggested by Sir George Turner, and whether he would have any objection to giving power to the experts to do whatever is necessary for the purpose of giving practical effect to the principle I have referred to, that nothing shall be done for the purpose of drawing trade away from channels into which, in the opinion of the Inter-State Commission, it should naturally flow.

Mr. BARTON:
I must apologise to the Convention for taking up so much time in speaking, because I want to get on with the work. I thought I had made myself clear on what I consider the legal position. As regards traffic north of the Murray, it seems to me that a Commission called into existence for executing mandatory powers such as relate to trade and commerce will have to decide within its mandate and within the provisions of clause 92 as to what is equality of trade and commerce; and if it does, and there is a rate which is repugnant to equality of trade and commerce between the States, between different parts of the Commonwealth, this Commission will abrogate that rate or declare it null and void.

Sir GEORGE TURNER:
If clause 92 is a just clause then we ought to carry it out.

Mr. BARTON:
Then, with regard to a further portion of my friend's speech, the whole of the decisions of the United States seem, so far as I have been able to examine them, to be perfectly clear on this point, and to maintain two principles. The one is that there shall be freedom and equality of trade within the Commonwealth and between State and State, and that subject to that every colony is supreme in the internal regulation of its traffic, so that if there were a rate which diverted trade from its natural channels, but only from natural channels for the purpose of the State within its individuality, and did not infringe the equality of trade and commerce within the Commonwealth, that State would be entitled to have its rates observed and recognised. Two principles are recognised, the equality of trade and the maintenance of State individuality. When the two are in conflict the
principle of equality of trade must prevail, but a State may make a
diversion within the bounds of its own State, and it has entire competence
to make internal regulations. If members will study the American decisions
they will see this is perfectly clear. I shall not support an amendment to
give the Commission power to interfere with all rates, diverting trade from
natural channels, because that would have the effect that within a State
where there is a rate which simply exists for internal traffic and does not
interfere with equality of trade within the Commonwealth, there would be
a derogation from freedom of trade. It would be depriving a State of the
control of its own internal concerns. No State would submit to that. I claim
that we have entire right to regulate our own traffic, but we must not
interfere with equality of trade within the Commonwealth, which is
paramount.

Sir WILLIAM ZEAL:
Otherwise you must give up the Riverina trade.

Mr. BARTON:
We propose to give a Commission power to deal with the question, and
they would do so fairly. I will quote from Kent's Commentaries bearing on
this point:

It had been decided in the Court of Errors of New York, in 1812, that
five several statutes of the State, passed between the years 1798 and 1811,
inclusive, and granting and securing to the plaintiffs the sole and exclusive
right of using and navigating boats by steam in the waters of the State for a
term of years, were constitutional and valid Acts. According to the doctrine
of the court in that case, the internal commerce of the State by land and
water remained entirely and exclusively within the scope of its original
sovereignty.

That was without infringing on the doctrine of freetrade. Then:

It was considered to be very difficult to draw an exact line between those
regulations which relate to external and those which relate to internal
commerce, for every regulation of the one will, directly or indirectly, affect
the other.

That is why there should be an impartial authority constituted to
determine between them. Then look at page 479:

In the construction of the power to regulate commerce, the court held that
the term meant not only traffic but intercourse, and that it included
navigation; and the power to regulate commerce was a power to regulate
navigation. Commerce among the several States meant commerce
intermingled with the States, and which might pass the external boundary
line of each State, and be introduced into the interior.

For instance, there may be inter-State commerce between States A and C,
with a State B between them; then commerce between States A and C is as much subject to regulation by the Inter-State Commission as is traffic between A and B or B and C. Then further:

It was admitted that the power did not extend to that commerce which was completely internal, and carried on between different parts of the same State, and which did not extend to or affect other States.

That is the principle.

The power was restricted to that commerce which concerned more States than one, and the completely internal commerce of the State was reserved for the State itself.

That is why my hon. friend's suggested amendment would be an infringement of that principle, because there may be many matters of railway freight in a State itself, or matters with regard to rivers or lakes in a State itself, which are so completely disjuncted from the general intercourse between State and State by way of commerce that the State has power to maintain control of them, although they may within the State divert trade from its natural channel; but whatever a State may do in that particular, it would have no right whatever to so divert goods from their natural channel as to infringe the principle of freedom and equality of intercourse between one State and another in the Federation. It would infringe the admitted principle that the powers did not extend to that commerce which was completely internal and carried on between the different parts of the same State, and which did not extend to or affect other States. But, if the clause is left as it is, or Sir George Turner's amendment is adopted, the principle will be entirely intact, and the powers of the Commission would then extend as fully to matters dealing with the navigation of rivers as to matters dealing with rates on railways. That is the principle which would really maintain things on an equality of trade. It may be Sir George Turner would rather have the clause as it stands, but if he presses to have the rest of the clause left out, then I give him my assurance that, as far as my legal opinion is worth anything, the result of his leaving them out will be to leave the provisions for equality and freedom of traffic between State and State intact, and to be maintained by the Inter-State Commission.

Mr. GORDON:

If Sir George Turner's amendment is carried, and Mr. Barton's opinion is correct, it might lead to this condition: supposing Victoria has a town five miles within her own border, which in turn is five miles from a South Australian port; and supposing she has also a port within her own border 100 miles away from this town; then she will be allowed to charge as much
for carriage over the five miles between the town and the border, in order to prevent goods going to the port five miles outside her border, as she will for the 100 miles from the town to the port within her own border. That is a concrete case, and in such a Federation as we are seeking to establish it would be simply unjust to allow such a state of things. That could not happen under the clause as it stands, but it could if Sir George Turner's amendment is carried, and the autonomy of each State in matters within its own borders is absolute. Her own traffic cannot be called inter-State traffic, and she can put on an absolutely prohibitive rate.

Mr. HOLDER:
She cannot do it under clause 92.

Mr. GORDON:
Mr. Barton's opinion is that she can.

Mr. HOWE:
It would derogate from freedom of trade.

Mr. GORDON:
I ask the opinion of the Attorney-General for Victoria as to whether or not I have properly conceived the effect of Sir George Turner's amendment.

Mr. WALKER:
I imagine that my hon. friend Mr. Barton meant to convey that the rate for carrying goods in New South Wales between Sydney and Albury would not be any different than for the same distance in any other part of New South Wales. There would be no preferential rate to draw business to Sydney. I believe that is what Mr. Barton meant.

Mr. SYMON:
I have listened with pleasure to what Mr. Barton has said in his exposition of the law as it has been applied in the United States in connection with a similar state of things. His words on that subject have been exceedingly weighty, but I confess they do not carry conviction to my own mind. I am disposed to think that the amendment of Sir George Turner will not have the effect that my hon. friend anticipates. The whole object of this section is to secure freedom of trade between the different States. Section 92 says:

Preference shall not be given by any law or regulation of commerce or revenue to the ports of one State over the ports of another State, and any law or regulation made by the Commonwealth, or by any State, or by any authority constituted by

the Commonwealth, or by any State, having the effect of derogating from freedom of trade or commerce between the different parts of the
Commonwealth shall be null and void.

Now it seems to me that no State should impose traffic rates which would have the result pointed out by my hon. friend Mr. Gordon. That would be, although within the ambit of the State, a system of rates which would have the effect of derogating from this equality of trade. Then it would be within the jurisdiction-

Mr. O'CONNOR:

Will you put that case again?

Mr. SYMON:

My hon. friend Mr. Gordon's case?

Mr. O'CONNOR:

Yes.

Mr. SYMON:

The case put was this: Supposing there is a town in Victoria five miles from the border of a neighboring colony, and another place 100 miles from that border, and that Victoria were to charge the same rate for goods from the place five miles distant as from the place 100 miles distant, would this be within the competence of Victoria or would the Inter-State Commission be entitled to interfere. That is, I think, in substance, what my hon. friend put. And he said if that were the case it would be distinctly in essence a preferential rate. But if the principle suggested by Mr. Barton were observed it would be entirely within the trade jurisdiction of the State imposing such a rate. Now, I think, on the contrary, it would be within the power of the Inter-State Commission to deal with it, if it had the effect of drawing trade which would not otherwise go to Melbourne, for instance, from the adjoining State. The effect of leaving in the words:

"but shall have no powers with reference to the rates or regulations of any railway in any State, except in cases of rates or regulations preferential in effect,"

and so on, to the end of the clause, is really to take away the power which the general enacting words at the beginning of the clause give. I think it is rather strongly against Mr. Barton's argument. It is really taking away power which would otherwise rest with the Commissioners.

Mr. BARTON:

What would be taking away their power?

Mr. SYMON:

It is a defeasance or limitation upon the power already vested in them.

Mr. BARTON:

Do you say that the clause is a restriction on the Commissioners?

Mr. SYMON:

My hon. friend has given a great amount of care and research to these
American authorities, and I confess that I have not, but at the moment they do not seem to me to bear much on the point under consideration. The clause says:

The Commission shall have such powers of adjudication and administration as may be necessary for its purposes, and as the Parliament may from time to time determine.

That as is stands gives the Commission the fullest power, subject to Parliament, of dealing with every question that might arise under section 92, which deals with the question of derogation from freedom of trade. But then, the clause goes on and takes away something that is evidently considered to have been given by the earlier words, for it says:

But shall have no powers in reference to the rates or regulations of any railway in any State, except in cases of rates or regulations preferential in effect, and made and used for the purpose of drawing traffic to that railway from the railway of a neighboring State.

Mr. BARTON:

My hon. friend agrees that that is a restriction upon the powers of the Commission?

Mr. SYMON:

Yes.

Mr. BARTON:

So I say, too.

Sir GEORGE TURNER:

Mr. Wise said the opposite last night.

Mr. BARTON:

No; it was a restriction, he said, which would benefit New South Wales.

Mr. SYMON:

While it does undoubtedly curtail the powers of the Commission it implies that but for that curtailment the Commission would have all these powers. That is to say, the earlier words of the clause would give the Commission the ampest possible jurisdiction for the purpose of regulating this equality of trade.

Mr. BARTON:

If you leave the latter portion of the clause out you give the Commission entire power to maintain equality of trade.

Mr. SYMON:

Yes, and by inserting these words you restrict their power. Then comes an exception upon an exception, and in order to limit the first exception, this second exception is that the Commission are to have no powers in reference to mere State laws affecting railway rates, unless those rates or
regulations are preferential in effect. Now if you leave out both these exceptions it seems to me that you are leaving undisturbed and undiminished in the Commission the amplest power of dealing, not only with railway rates, for instance, upon goods passing from State to State, but of dealing with rates also made by a State in relation to its own internal traffic, if the effect of those rates is to disturb equality of trade.

Mr. BARTON:

But at the same time that leaves entirely untouched internal regulations so far as they do not affect equality of trade.

Mr. SYMON:

I quite agree, but that is not intended to be touched.

Mr. BARTON:

I think there can be no objection to leaving the words out now that the matter has been discussed.

Mr. SYMON:

I felt a little oppressed with the warnings given by my hon. friend, because I am very anxious about this. Victoria seems to desire running powers over New South Wales railways-we do not go quite so far as that. We want to protect our traffic. We do not want to annex New South Wales, but we do humbly ask that New South Wales shall not annex portion of South Australia. Take the case referred to by Mr. Deakin, of the railway from Naracoorte to Lacepede Bay, which taps the traffic on a portion at least of the Western District of Victoria. If Victoria gave preferential rates, in the sense my hon. friend Mr. Barton has so clearly defined, to the people of the Western District of Victoria so as to take the whole of their wheat to Melbourne, that would be indefensible, and that is a thing that is intended to be put a stop to. South Australia would have a right to complain because they say naturally that the outlet is Lacepede Bay, and to that port wheat should go. There may, however, be a concurrence of different circumstances operating with regard to Victoria. There may be more efficient railway management, cheaper railway supplies, more perfect administration, cheaper labor, if you like, and a number of other things that would come under the heading of "management." Though I have little knowledge of railway matters, I cannot shut my eyes to the perfectly just principle that your rates may diminish according to distance. If Victoria were able, taking all the circumstances I have mentioned into consideration, to have a rate for a distance from Melbourne to the western border uniformly with the rates for similar distances elsewhere within her territory, but which would have the effect of taking wheat from Dimboola, to Melbourne on the same terms as to Lacepede Bay, she is perfectly entitled to impose those rates, and we have no right to complain.
Mr. BARTON:
She is entitled to the full benefits accruing from the superior advantages she possesses.

Mr. SYMON:
It is a just right on the part of the State to deal with its own affairs. Everything beyond that-with which we ought not to interfere-is provided for, and the principle which is to be directed and applied by the Commission is this that the moment you find rates which are founded upon a different principle, apart altogether from superiority of management, and instituted with the object of taking away the trade from that colony to which it would naturally flow, then you have preferential rates, and that the Commission can well deal with. It appears to me that there would be an advantage in striking out the words after "determine," because by their retention you are imposing too great a limitation on the discretion of the Commission, which should be left untrammelled in its operations. It will be for the Commission to determine what are differential rates, and to apply the powers with which they are invested to deal with them.

Mr. BARTON:
Our friends on the other side say it may be an advantage to New South Wales, and we think the effect may be of advantage to Victoria. Let the whole thing go now, and let it be thrashed out in the four months intervening.

Mr. SYMON:
It is like establishing a court, and putting in the same Act rules of procedure which, instead of regulating the procedure, may limit or hamper the jurisdiction.

Mr. HIGGINS:
I think we are all indebted to my hon. friend Mr. Barton for the frank way in which he put his views on this point, and we should be equally frank in putting forward our views. I am in favor of striking out of the clause the words after "determine." It will have to be considered most carefully hereafter, but I think Mr. Barton has been misled by American decisions, which are very clear and explicit upon the American Constitution as framed. I have looked at the American Constitution, and find that the clause which corresponds with clause 92 of this Bill is not the same as clause 92 at all. The clause in the American Constitution, section 9, subsection 5, says:

No tax or duty shall be laid on articles exported from any state.
That would stop the Brisbane Duties Act, by which they levy £2 per ton
on wool going to the New South Wales railways. Carrying on and elucidating the same ideas, it says:

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

We find this clause with regard to preference wedged in between the prohibition of export duties and the prohibition of clearance duties, and I need not appeal to any one to bear me out that the fact of this clause with regard to preference being wedged in between the prohibition against export duties and the prohibition of clearance duties would affect the meaning of the intervening words. Then, on the other hand, we have in clause 92 words which are not found in the American Constitution at all.

We have words which state that:

Any law or regulation made by the Commonwealth or by any State or by any authority constituted by the Commonwealth, or by any State having the effect of derogating from freedom of trade or commerce between the different parts of the Commonwealth, shall be null and void.

They have not that provision in the American Constitution, but they have a clause which provides that:

No State shall, without the consent of Congress, lay any impost or duties on imports or exports except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports shall be for the use of the Treasury of the Inter-States.

Then they have a clause which says that all duties are to be uniform, but they have not by any means got in the clause the provision which we have that all regulations ever made by the railway authorities which shall have the effect of derogating from freedom of trade and commerce, are to be null and void.

Sir JOHN DOWNER:

What is your opinion?

Mr. HIGGINS:

My opinion is that clause 92 will go further than the effect of the American decisions goes. I say that the words Mr. Symon has referred to - making null and void all laws derogating from freedom of trade and commerce-will go further than the American words go. There is nothing more misleading than trying to apply the construction of words in the laws of another country to the same words in this Bill, when we have not the same collocation in the surrounding provisions. We must, as far as possible, keep our minds free from American decisions, and try to express our own
meaning independently. It is so obscure that it becomes a mere matter of legal determination, and I do not think we should leave it to that.

Mr. GORDON:

Hear, hear.

Mr. HIGGINS:

I regret very much that Mr. Gordon did not press his amendment last night. That having been allowed to pass, I will not attempt to revive it, but I do hope that we shall adopt the suggestion of Sir George Turner for the present. The effect will be that the Commission can provide machinery to carry into effect the wholesome principle that preference shall not be given to the ports of one colony over the ports of another.

Mr. GRANT:

I support the amendment, because I think it will give the Inter-State Commerce Commission greater power in determining what are the correct principles of railway management in connection with equality of trade in every respect. I think that their decision will be based on what is just and fair rather than on abstruse legal opinions. The clause should be as general as possible, and all power should be given to the Commission, which will no doubt be partly composed of railway experts thoroughly versed in railway management, to apply those principles to the economical working of the railways.

Mr. MCMILLAN:

Are you sure they may not be lawyers?

Sir GEORGE TURNER:

They will not be financiers.

Mr. GRANT:

I do not think they all will be lawyers. The railways in the past seem to have been treated more as State machines created for political purposes, rather than commercial undertakings, which should be worked at a profit

Mr. ISAACS:

It appears to me that the excision of these words will be to enlarge the powers of the Inter-State Commission, and leave whatever powers they may have under the Constitution undiminished for carrying out the provisions of that Constitution. But I wish to say, and in the shortest possible terms, that I have serious doubts whether the Inter-State Commission will, under the terms of the sections as expressed, have all the powers that it is fondly hoped and expected it will have.

Mr. GORDON:

I have a prior amendment, if the hon. member would withdraw his for the time.

Sir GEORGE TURNER:
Certainly.
Amendment withdrawn.

Mr. GORDON:
It is to strike out all the words after "purposes." That will comprise the words:

And as the Parliament may from time to time determine.

The Parliament means both Houses, and both Houses must join in conferring these powers. If there happens to be a majority in Parliament declining to give any power at all to the Inter-State Commission things will remain as they are. If they decline to give them any powers the whole scheme fails. Suppose South Australia and New South Wales are two of the stronger colonies, and they combine with regard to a railway system that would injure another colony, and they represent the strength of the Houses, and they say "we will not give this Commission any power at all, so that they cannot do anything." Under a position like that injustice might be perpetrated.

Mr. ISAACS:
That is not to trust Parliament at all.

Sir GEORGE TURNER:
That is going too far.

Mr. GORDON:
I will test the opinion of the Committee on it. This is the point I take, that inasmuch as the whole thing might depend on the will of Parliament, and inasmuch as the majority of Parliament representing the stronger or weaker States, as the case may be, might be indisposed to remedy an injustice, the provision which leaves the whole thing at the will of Parliament may be ineffective to meet the dangers we anticipate. If we are going to leave it wide, let us leave it as wide as possible.

Sir GEORGE TURNER:
I would like to point out that my hon. friend is afraid Parliament will not give this Commission power to act. If that is so, would it not follow that the Parliament would refuse to appoint them.

Mr. KINGSTON:
We ought to make that other clause "shall."

Sir GEORGE TURNER:
The hon member fears that the Parliament may constitute an Inter-State Commission, and might refuse to give them power to act.

Mr. GORDON:
I would rather go back and make it "shall."
HON. MEMBERS:

No.

Amendment to strike out all the words after "purposes" negatived.

Amendment to strike out the word "but" agreed to.

Sir George Turner's amendment-to strike out all the words after "determine agreed to.

Clause as amended agreed to.

Clause 86.-So soon as uniform duties of Customs have been imposed trade and intercourse throughout the Commonwealth, whether by means of internal carriage or ocean navigation, shall he absolutely free.

Mr. DEAKIN:

This clause was postponed at the request of the Premier of New South Wales when I was about to move an amendment. My object was to retain in the several States the power they at present possess of prohibiting the importation of any article which they conceive to be injurious to health or otherwise obnoxious, if at the same time they prohibit the sale of any such article within the State itself. I now propose to move that the following variation of that amendment be added to the clause:

Nothing in this Constitution shall be construed to prevent any State from regulating the importation of opium or alcohol under conditions which are applicable as nearly as possible to the laws relating to opium and alcohol within the State.

I have singled out the articles named because it was said my previous amendment was too wide. In order that no objections can be raised on the ground that it in any way affected the fiscal issue, and in order to meet the objection of my hon. friend Mr. Glynn, who pointed out that it would not be desirable to require an absolute prohibition, inasmuch as these articles might be required for medicinal purposes, I have altered its last clause too. Then there is the further criticism offered by my hon. friend Mr. O'Connor, as to whether this specific proposal in regard to opium and alcohol might not be taken to imply a diminution of the police power of the States, which in the American Constitution has been held to be reserved to them. The Supreme Court of the United States decided, after mature consideration, that the police power was not ample enough to cover such a regulation of imports into a State, in view of the wider power of regulating commerce transferred to Congress. It is because I anticipate that the courts here would hold a similar opinion, and decide that the police power reserved to the States, under this Bill, was not ample enough to permit the States to prohibit the introduction of these drugs as articles of commerce, except for medicinal
purposes, that I have moved this amendment. What I seek is an affirmation of the principle: the preservation to the States of a liberty which they now enjoy. Providing this principle is affirmed, I shall be only too happy to submit to any alteration of the phraseology in which the amendment is couched, or any change in its position in the Bill which may be necessary. It was suggested to me that I should move the clause here, and I have done so.

Sir GEORGE TURNER:

What about the loss of duty that would take place in consequence of that, and which the Federation would lose if this applied in one State and not in another?

Mr. DEAKIN:

That indicates one of the reasons why the Supreme Court of the United States held that this power of regulation could not be retained by any State unless specific provision were made for its retention. That is why I ask that this power should be granted here. It is true there may be a diminution of federal revenue, and consequently a diminution of the sum returned to the State prohibiting, but this amendment faces that contingency, and says that if the people of a State desire to forfeit revenue by limiting the sale in that State, they may do so.

Mr. SYMON:

Would that not give the State power to interfere with the federal tariff?

Mr. DEAKIN:

The States have the power I ask for at present, and they should not be deprived of it simply because the Federal Government and they themselves in consequence might lose a considerable revenue.

Mr. SYMON:

Might not the State be allowed to prohibit by a heavy duty?

Mr. DEAKIN:

That is impossible. Duties can only be imposed by the Federal Government, and must apply to the Federation as a whole. My object is to allow a State to prohibit the sale of these drugs absolutely except for medicinal purposes.

Mr. SYMON:

Would it be enough to prevent importation into a State?

Mr. DEAKIN:

There is a leading case, "Lesiey v. Hardin," in which it was held that liquor might be introduced in an "original package" and sold unbroken in a prohibition state. It was to meet this difficulty that what was known, as the Wilson Act was passed in 1890 in the United States. This is purely a question of State rights, and might be settled in each State according to the
will of its people.

Mr. ISAACS:

I am heartily in sympathy with the desire of the hon. member. I want, however, to draw attention to the clause as it stands. It is not only unnecessary, but it is very dangerous. It goes much further than it is intended, and there are some expressions which, taken in connection with other portions of the Bill, are extremely large and alarming.

The clause reads:

So soon as uniform duties of Customs have been imposed trade and intercourse throughout the Commonwealth,

That will include internal trade and intercourse; it is not

Among the States,

as in another portion of the Bill, and the clause proceeds:

Whether by means of internal carriage or ocean navigation shall be absolutely free,

That is free of everything.

Mr. GLYNN:

What is the objection to that?

Mr. SYMON:

It is only the assertion of a principle.

Mr. ISAACS:

It is a very wide assertion of a principle, and goes further than is intended. Taken literally, it means "free of everything, even of a licence." You cannot charge any licence fee in connection with any trade. In clause 50, sub-clause 1, there is the amallest power of the Commonwealth to regulate trade and commerce with other countries and amongst the several States. That expression "trade and commerce" has been defined by various American decisions as of the widest possible meaning; commerce is traffic and more than traffic - intercourse. It has been held that the words comprehend every species of commercial intercourse.

Mr. MCMILLAN:

Will it prevent a poll-tax on commercial travellers?

Mr. ISAACS:

This particular clause is not in the American Constitution, and the words are very wide indeed. I think the words

Throughout the Commonwealth

should be

Among the States.

We certainly want to secure intercolonial freetrade, and to do all that is necessary to secure it, but to say that trade and intercourse throughout the
Commonwealth shall be "absolutely free" I think goes further than we intend.

**Mr. Barton:**
How would that affect bounties?

**Mr. Isaacs:**
Bounties do not prevent trade being free.

**Mr. Symon:**
Surely!

**Mr. Barton:**
If they have a protective effect are they not against free trade?

**Mr. Isaacs:**
They give a preference, they disturb equality, but they do not prevent anything coming in. This provision is really pointed at the border duties. It is intended as an indication of our adhesion to a principle that we shall not have any duties on the border to prevent the free introduction of goods, that is, that we shall have nothing that bars freedom of entry into any State of goods from any other State.

**Mr. Symon:**
Do you not take the ports as well as the borders?

**Mr. Isaacs:**
Certainly; they are on the borders. Customs duties are the same on goods whether they come over the Murray or round by boat.

**Mr. Barton:**
The border is never understood in that sense.

**Mr. Isaacs:**
That is only a question of words. What we intend to do is to prevent any State from charging importation duty on goods coming into its territory. If we use the words:

Throughout the Commonwealth,

I feel no shadow of doubt that these words will be construed as much larger than the well-known phrase expression:

Among the States.

We know what we intend, but these provisions are to be subject to judicial interpretation hereafter.

**Mr. Kingston:**
What is the precise thing you fear?

**Mr. Isaacs:**
Trade and intercourse of all kinds and throughout the Commonwealth by internal carriage or ocean navigation is to be absolutely free. Then supposing a carrier were asked to pay a licence fee, and he should say "I am not going to do anything of the kind; I can carry on my trade without
paying any duties. It is absolutely free," there would be much force in his contention, and indeed I should very much doubt whether if a licensed victualler were to say "My trade is absolutely free" anything could be done to insist upon his paying a fee.

Mr. BARTON:

May I ask the hon. member this-supposing a State makes regulations which are an infringement of trade within its own borders-I am not taking any railway case; differential rates are not in themselves an infringement—but take a case of internal regulation which restricts trade.

Mr. ISAACS:

Merely among its own people?

Mr. BARTON:

Merely among its own people.

Mr. ISAACS:

I think we have no reason whatever to interfere with the internal management of the State so long as the effect of that management does not extend to intercourse with another State.

Mr. MCMILLAN:

Would you allow an octroi duty, or tax on goods coming into a city?

Mr. ISAACS:

If it was purely confined to the State which levied it, and had no influence on foreign trade, that State should alone determine it.

Mr. MCMILLAN:

That is one of the greatest curses in France.

Mr. ISAACS:

So it may be, but it is for France to determine. We are not here to legislate for the internal management of the States, except as they, infringe the rights of other States. If we attempt to legislate for the internal management of the States we shall be launched on a very wide expedition. I say we ought to adhere to subsections 1 and 2 of clause 50:

The regulation of trade and commerce with other countries and among the several States

"Other colonies" ought to be in there, I think.

Customs and excise, and bounties, but so that duties of customs and excise, and bounties shall be uniform throughout the Commonwealth; and that no tax or duty shall be imposed on any goods exported from one State to another.

Mr. BARTON:

Could not they make duties on Customs which would be uniform
throughout the colonies, and yet chargeable on the borders of the States?

Mr. ISAACS:

Not if the exports are from one State to another. How could they in face of this sub-section? This is a distinct prohibition against the Federal Parliament imposing duties on goods exported from one State to another. They could not put duties on goods coming from one State to another either by land or sea.

Mr. BARTON:

Do you think Parliament would not impose duties throughout the Commonwealth, and levy on the borders?

Mr. ISAACS:

I do not think Parliament would attempt to do any such thing.

Mr. BARTON:

If an octroi duty could, surely a border duty could.

Mr. ISAACS:

In America they simply say in effect: "There shall not be any duties between the States," and we say:

No tax or duty shall be imposed on any goods exported from one State to another.

How can they put on a duty as between States in face of that? It is a distinct and definite prohibition. Then in clause 105 it is provided:

After uniform duties of Customs have been imposed, a State shall not levy any impost or charge on imports or exports, except such as may be necessary for executing the inspection laws of the State; and the net produce of all imposts and charges imposed by a State on imports or exports shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

The States are prevented from levying any impost on imports or exports, and the Federal Parliament is prevented.

Mr. O'CONNOR:

Where, except in clause 86?

Mr. ISAACS:

There is a distinct prohibition that no tax or duty shall be imposed on goods imported or exported from one State to another, and how then can you assert the power of the Federal Parliament to impose duties.

Mr. BARTON:

Will you refer to the second part of clause 92?

Mr. ISAACS:

That strengthens my view, and contains an announcement of nullity upon any laws which derogate from freedom of trade. That does not actually give power but it puts what is known by lawyers as a "sanction" upon law
made in contravention of the Statute itself. It should be read, too, with the sub-section of clause 50, and carries the matter very little further than sub-clause 2 of clause 50 and clause 105. But I am afraid if you use the words

Throughout the Commonwealth

they carry the matter much further. If the opinion is adhered to that the words of this section do not have the effect which I put upon them, then we should have the test of time. There is not the slightest doubt that these words will be tested hereafter and those who adhere to the opinion that they are not open to the interpretation I have placed upon them will have their opinions either justified or falsified by an authoritative tribunal. Personally I am thoroughly convinced that no provision will be more quickly tested in a Court of law than this.

Mr. O'CONNOR:

I do not think there is a more necessary provision in the whole Constitution than this, because it contains on the face of it, immediately after the law regarding the imposition of the uniform duties, a declaration that trade and intercourse shall be absolutely free when these uniform duties have once been imposed. There cannot be any question that if that prohibition was not in there, there would be a power to impose these octroi duties, duties of any kind imposing restrictions on commerce, and so long as they were not charges for services rendered by the State, there would be no power to prohibit them. There could be no objection on any ground to market dues, to wharfage dues, or to any charges of that kind which are charges for services rendered. But all these matters would not touch in any way the kind of due which has been suggested by Mr. McMillan, and which is in force in many parts of the continent. What we intend in making this declaration of freedom of trade throughout the Commonwealth is that inasmuch as every part of the Commonwealth is open to the trade of every member of the Commonwealth, that every member of the Commonwealth shall be absolutely free from trade restrictions of any kind. I fail to see that this clause can be construed in the way the hon. member indicates. For instance, with regard to the State imposing laws restricting the sale of liquor. Would that by any possible twisting of the construction---

Mr. SYMON:

You mean regulating the trade of liquor.

Mr. O'CONNOR:

Yes, or regulating it. Would that, I ask, by any possible twisting of the construction of the Act, mean that that would enable a publican to say, "I am entitled, because of this provision in the Bill, to have my trade
absolutely free"? This clause must be read in connection with its position in the Constitution, and its position comes immediately after the laws regarding uniformity of Customs duties. When you read those clauses and you take the law relating to prohibiting the State from imposing Customs duties you mean that as far as any restrictions by means of Customs duties or charges upon commerce are concerned they are absolutely free. The hon. member wishes to restrict this by substituting "several States" for "Commonwealth." I do not think this is necessary as a restriction, and it would not be advisable, because there is no possible case you can put in which any misconception could arise. Mr. Kingston put it very pertinently when he asked the hon. member to what particular objection he was referring. The hon. member could give none except in reference to publicans' licences, which, it is quite clear, is no answer to the question.

Mr. SYMON:
Do you think this will interfere with the State charging for licences to cabdrivers?

Mr. O'CONNOR:
No. This is a mere regulation, and the meaning of it is that the passing commerce of a State should be absolutely free. It amounts to nothing more than a declaration, without which it would be impossible
to say that the Commonwealth itself could put on border duties between the several States. I take it that the Committee will not be in favor of disturbing the section in the words in which it stands now. I would like to say a word with reference to my hon. friend Mr. Deakin's amendment. I am opposed altogether to the insertion of any such amendment in this Constitution. In the first place, I think it would be a very undesirable thing to single out these two articles of consumption and make a special law in reference to them. As to one of these articles of consumption we know well enough that it is one of those things the mere touching of which always arouses an amount of very strong public feeling in different quarters which we should try to avoid.

Mr. ISAACS:
That is just my argument on this clause.

Mr. O'CONNOR:
Although I thoroughly sympathise with Mr. Deakin's efforts to place a State in a position to deal with this matter exactly as it thinks fit, I would point out that there is no necessity for the insertion of any such provision to give it that power. It is quite true that it has been decided in America, in the cases to which he has made allusion, that a law prohibiting the importation of liquor in unbroken packages is against the Constitution, and so, without
some such section as this, it would be against the Constitution to prohibit
the introduction of alcohol into a State, as it would be stopping the freedom
of trade, but there is nothing to prevent the State from prohibiting the sale
of liquor within its borders. It cannot, under the Constitution, prohibit the
introduction of liquor within its bounds, but it can make a law regulating
its sale to the extent that it shall not be sold except for medicinal purposes,
and such laws in the United States have been declared to be valid. Surely
Mr. Deakin's purpose will be served if, while he cannot prevent the
introduction of liquor, he can make a law to prohibit its sale in the State.
As far as Mr. Deakin's object is concerned, it appears to me that it may be
as well attained by reason of the powers which a State now has rather than
by seeking to gain larger powers which would infringe the principles of the
Constitution. There is another objection to it. There are a large number of
powers which must remain in the hands of the States for their own
protection, for the conduct of all matters in the State which relate to the
health and morality of its inhabitants. For instance, there must be power to
deal with all questions of diseased meat, the question of dealing with fruit
pests, and the importation of fruit. In relation to these questions, the, State
has the fullest powers, and if you make a special exception in regard to
these matters of alcohol and opium, you may be restricting very largely
those powers. It would be very undesirable that the State should be
interfered with in any way on these questions, and on this ground there is a
strong objection to his amendment. There is another point of view, which
we cannot afford to disregard, and that is in what position would the
federal authority be placed if at any time a State might take it into its head
to prohibit the introduction of alcohol, and thereby cut off a large source of
revenue from the Commonwealth? Whatever may be our forms of taxation
in times to
come, I suppose that a large amount of revenue will always be derived
from alcohol, and would it be wise to put it in the power of a State or
several States to cut off that large source of revenue? It appears to me to be
on these grounds undesirable from every point of view to introduce this
amendment, especially as the hon. member's object can be attained by the
exercise of the power to prohibit the sale of liquors within the boundaries
of a State.

**Mr. KINGSTON:**

I hope there will be no refusal to Mr. Deakin of the power he desires. No
doubt there is something in the argument of Mr. O'Connor that it is just as
well to let sleeping dogs lie. Still, the question is one of importance, and I
do think that the States should have the power of keeping out of their
territory any articles which the majority of the people consider cannot be introduced without injury to the inhabitants. Mr. O'Connor has put it that the power of prohibiting the sale of these articles within the State will meet all that is desired, and at the same time he has urged that if you give them this larger power the revenue of the Commonwealth might suffer. Still, if the sale is effectually prohibited, I do not think there will be much difference as regards the revenue as if you prohibit its introduction. There will be more difficulty in detecting people in the sale than if you take the ordinary power of stopping it at your borders. I would again direct Mr. O'Connor's attention to the desirableness of transferring paragraph 4 of section 82 to section 86. The paragraph reads:

Upon the imposition of uniform duties of Customs all laws of the several States imposing duties of Customs or duties of excise, and all such laws offering bounties upon the production or export of goods shall cease to have effect.

While the clause provides that trade between the colonies shall be absolutely free, it would simplify the matter if the two were embodied in one clause.

Sir GEORGE TURNER:

There is a matter I desire to mention to Mr. Barton, but would be glad to have as many present as possible, and for that purpose I call attention to the state of the House.

The House having been constituted,

Sir GEORGE TURNER:

I desire to ask my hon. friend Mr. Barton what steps he proposes to take with regard to closing our labors. I understand there are many members who are very anxious to get away to-morrow afternoon, and if they have to go it will be much to be regretted, because in all probability we would be left without a quorum. It would be a lasting disgrace on this Convention if we did not finish our work, and I think those who wish to go should sacrifice themselves. At any rate if we apply ourselves diligently to our work, and keep our speeches as short as possible, I do not see why we cannot finish to-night; as I have asked before, let us sit right through the night and we will finish. I know my hon. friend will have to revise the Bill, but as far as the matter of mere wording or drafting is concerned, we may well leave that in abeyance until the adjourned Convention.

Mr. DEAKIN:

We must have a meeting to-morrow.

Sir GEORGE TURNER:

Yes, we must meet to-morrow. My hon. friend will have a lot of work to do when we have finished in order to see that the copy of the Bill of which
we approve is a complete copy of the work we have done. We will have to see that errors are rectified; but if we sit through to-night my hon. friend will have an opportunity to revise the work, and then if we meet for an hour or two we ought to be able to accomplish our work.

Mr. BARTON:
If we sit to say 2 o'clock to-morrow morning what opportunity will the Drafting Committee have to revise the Bill?

Sir GEORGE TURNER:
We could meet to-morrow at 12 o'clock instead of half-past 10. The only way is to sit to-night and finish the work even if we adjourn for a few hours afterwards to enable the Drafting Committee to put our work in proper shape. I would be perfectly satisfied to leave the question of mere verbiage over for consideration at the adjourned Convention.

Mr. BARTON:
I would tell my hon. friend that it is not a question of drafting; it is a question of avoiding ambiguities and inconsistencies.

Sir GEORGE TURNER:
Even if there are some patent ambiguities occasioned by the amendments we have made the public well know the reason, and there will be ample time before the next Convention.

Mr. BARTON:
I should like to point out that when this Bill has been agreed to in Committee, and reported to the Convention, and passed as far as we have to take it, it has to be submitted to the Parliaments of the various colonies, and it will also undergo a searching investigation by the press, so there should be as few inconsistencies and ambiguities as possible. It is not a question of mere drafting; it is a question of making the Bill understood by those who read it. If brevity has to be sacrificed clearness is the first essential. The Drafting Committee will have to be conceded an opportunity of bringing the Bill, before it is finally reported and adopted by the Convention, into such a form that it shall mean what it says and say what it means. That is the first thing to consider. The next thing is this: My hon. friend need go back only a few minutes to recall how difficult it is to get a quorum of this Convention, and what better chance will there be to get a quorum late at night? I have been anxious to sit late on previous occasions, but there is a difficulty now, when this Convention is thinned in its ranks, of getting a quorum, especially when it is found necessary to ring the quorum bells after the adjournment for luncheon.

Sir GEORGE TURNER:
They know they ought to be here.

Mr. BARTON:

We all know we ought to be here. Every man ought to be here in his place.

Sir WILLIAM ZEAL:

So a good many have been.

Mr. BARTON:

Sir William Zeal is of course an exception, and there are many others who may be excepted. But the proof of many not being here is the ringing of the quorum bells. As long as I can maintain a quorum I shall sit tonight, but if there is to be a division on any clause and a danger of the House being counted out then it will be my duty to adjourn. Now, all this I think arises from the fact of our not having sat late when we could have done so without being driven to it.

Mr. PEACOCK:

There was too much talk at the outset.

Mr. BARTON:

I was always in favor of sitting late at night, but I was persuaded out of it. I would like to state that the President has told me that there will be no difficulty in getting a special train on Saturday or, if necessary, on Sunday.

Mr. DOBSON:

Could we get a late train to-morrow night if we finish.

Mr. BARTON:

Yes. I would like to say that it will be necessary to give the Drafting Committee a few hours-not after a late sitting, but after a few hours' natural rest-to put the Bill into such a form as that it shall definitely pass.

Sir EDWARD BRADDON:

I think if hon. members will refrain from speaking at length there is no reason why we should not be so forward with our work at an early period to-night that we will not impose on the Drafting Committee such labor as we have no right to impose upon them.

The CHAIRMAN:

We have before us clause 86, to which Mr. Deakin has moved to add certain words.

Mr. MCMILLAN:

I wish to say a few words-

HON. MEMBERS:

Divide! divide!

Mr. BARTON:
The hon. member has not been one of the offenders.

Mr. MCMILLAN:

It would be simpler for me not to speak on this matter, because it may do me no good to speak. It seems to me that to place in the Constitution such a proposal as my hon. friend suggests would be absolutely in derogation of the freetrade throughout the Commonwealth which we propose to introduce. It will be seen by everybody that if a State had a power to do this it might interfere with the inter-state traffic because you could not put an embargo on goods coming in without having a system somewhat analogous to our present border espionage. You would render every train liable to be ransacked and the very difficulties we are trying to do away with would again be introduced.

Question-That the words proposed to be added be so added-put. The Committee divided.

Ayes, 14; Noes, 15. Majority, 1.

AYES.
Berry, Sir Graham Howe, Mr.
Coc
Deakin, Mr. Kingston, Mr.
Dobson, Mr. Lewis, Mr.
Gordon, Mr. Peacock, Mr.
Higgins, Mr. Trenwith, Mr.
Holder, Mr. Turner, Sir George

NOES.
Barton, Mr. Henry, Mr.
Braddon, Sir Edward McMillan, Mr.
Brown, Mr. Moore, Mr.
Douglas, Mr. O'Connor, Mr.
Downer, Sir John Walker, Mr.
Fraser, Mr. Wise, Mr.
Fysh, Sir Philip Zeal, Sir William
Glynn, Mr.

Question so resolved in the negative.

Clause 86 agreed to. Clause 13.-If the place of a member of the Senate becomes vacant before the expiration of his term of service the Houses of Parliament of the State he represented shall, sifting and voting together, choose a successor, who shall hold office only during the unexpired portion of the term. And if the Houses of Parliament of the State shall be in recess at the time when the vacancy occurs the Governor of the State, with the advice of the Executive Council thereof, may appoint some person to
fill the vacancy until the beginning of the next Session of the Parliament of the State.

Mr. BARTON:

I move:

To leave out after the words "choose a" all the words down to "term" inclusive, and insert in their place the words "person to fill the vacancy until the expiration of the term or until the election of a successor, as hereinafter provided, whichever first happens."

Then there will be some other slight amendments in the other part of the clause. I shall read the clause to show how it will stand if all the amendments are carried:

If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State he represented shall, sitting and voting together, choose a person to fill the vacancy until the expiration of the term or until the election of a successor, as hereinafter provided, whichever first happens.

And if the Houses of Parliament of the State shall be in recess at the time when the vacancy occurs, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to fill the vacancy until the beginning of the next session of the Parliament of the State or until the election of a successor, whichever first happens.

At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.

That is the clause which has been drawn by Mr. O'Connor to meet the views of Mr. Isaacs and others as to procuring election if possible at the next general election of the House of Representatives or the periodical election for the Senate.

Amendment agreed to.

Mr. BARTON:

I propose:

That in the 20th line the words "shall be" be omitted and the word "are" inserted in lieu thereof.

Amendment agreed to.

Mr. BARTON:

I propose:

That in line 23 the words be added "or until the election of a successor, whichever first happens."

Amendment agreed to.

Mr. BARTON:
I propose:
That the clause be amended by the addition of the following words:—'At
the next general election of members of the House of Representatives, or at
the next election of senators for the State, whichever first happens, a
successor shall, if the term has not then expired, be chosen to hold the
place from the date of his election until the expiration of the term.

Amendment agreed to; clause as amended agreed to.

Mr. BARTON:
I move to insert the following new clause to follow clause 11:
For the purpose of holding elections of members to represent any State in
the Senate, the Governor of the State may cause writs to be issued by such
persons in such form and addressed to such returning officer as he thinks
fit.

Mr. ISAACS:
Does that say the Governor of the State? In clause 40 it is the Governor-
General.

Mr. BARTON:
But the reason is that the elections for the senators are made in the State,
and are subject to such laws as the State may impose, subject to the
Constitution. The proper person to look after such elections is the
Governor of the State.

Mr. ISAACS:
The representatives are elected in the State, too. I do not quite see the
distinction.

Mr. BARTON:
There is a distinction, I think. The representatives in the House of
Representatives are to deal with the whole country, without any limitation
of States. No doubt they will look after local wants, but they are not the
representatives of State entities as senators are. I think the new clause is
one founded on reason.

Mr. ISAACS:
I think for both the Federal Houses the Governor-General ought to issue
the writs. Otherwise the clause seems to me to introduce a distinction
which, besides being anomalous, is rather to the prejudice of the Senate. I
am prepared to accept as loyally as anybody the decision of this Committee
as to the position of the States, but I am afraid the provision proposed will
be an argument against the States—that the Senate is not the National House
in any sense, that it is confined to the separate representation of States and
the fact that the governors of the States issue the writs—whereby you
introduce a difference which, to my mind, might be prejudicial to the influence of the Second Chamber. I should have thought that the Governor-General should issue the writs for both the House of Representatives and the Senate.

Sir JOHN DOWNER:
I think it is quite right as it stands.

Mr. BARTON:
Clause 11 states:
The failure of any State to provide for its representation in the Senate shall not affect the power of the Senate to proceed to the dispatch of business.

That shows clearly by implication that we cannot resist that it is for the State itself to provide for its representation in the Senate.

Mr. HOLDER:
The writs at present are issued by the Governor in Council, and I do not see why the practice should be departed from. I move:
To insert "and" after "Governor."

Mr. BARTON:
I hope my hon. friend will not press this amendment, which will be made the subject of a long discussion. The issue of writs is entirely the prerogative of the Crown. It is an incident and a consequence of the prerogative to summon Parliament, which is as much a prerogative of the Crown as the power of dissolution. It is customary in every Constitution, though there may be some exceptions, to prescribe it in this way.

Sir GEORGE TURNER:
Do you not draw a distinction between the two Houses?

Mr. BARTON:
Clause 40 deals with this. It reads:
For the purpose of holding general elections of members to serve in the House of Representatives, the Governor-General may cause writs to be issued by such persons, in such form, and addressed to such Returning Officers, as he thinks fit.

The writs shall be issued within ten days from the expiry of the Parliament, or from the proclamation of a dissolution.

Mr. HIGGINS:
This makes the Governor independent of the Ministry.

Mr. BARTON:
Precisely. In connection with the first clause under the heading of "Executive" we had a long discussion on this very point. My hon. friend Mr. Reid proposed an amendment, and a discussion ensued for an hour and a half,
after which Mr. Reid withdrew his amendment. The question was then settled definitely by the Convention, and surely we are not going back now to debate a point that has been settled. If we do the result will be that we shall be kept indefinitely here for days.

Sir GEORGE TURNER:
You make the system alike in both cases.

Mr. BARTON:
Yes.

Mr. HOLDER:
I will move my amendment, but I will not press it to a division.
Amendment negatived.

Mr. ISAACS:
In clause 10 it is provided:
The Parliament of the Commonwealth may make laws prescribing a uniform manner of choosing the members of the Senate. Subject to such laws, if any, the Parliament of each State may determine the time, place, and manner of choosing the members of that Senate.

Until such determination, and unless the Parliament of the Commonwealth otherwise provides, the laws in force in the several States for the time being, relating to the following matters, namely: The manner of conducting elections for the more numerous House of the Parliament of the State, the proceedings at such elections, Returning Officers, the periods during which elections may be continued, and offences against the laws regulating such elections shall, as nearly as practicable, apply to elections in the several States of members of the Senate.

As it stands, having regard to the previous sections, Parliament will not be able to provide that the Governor-General could issue writs. I want that to be clearly understood.

Mr. BARTON:
What does it matter?

New clause 11A, as read, agreed to.

Mr. BARTON:
I have to propose a new clause to follow clause 48 in this form:
Until the Parliament otherwise provides all questions of disputed elections arising in the Senate or House of Representatives shall be determined by a Court exercising federal jurisdiction.

We have not said "the High Court" here, because there is power in the Constitution to invest any court with federal jurisdiction, so that this clause will work in this convenient way that the Court of a State invested with federal jurisdiction may determine such a matter in any States
Mr. KINGSTON:
Is it f

Mr. BARTON:
Yes; vacancies and qualifications are left in both Houses.

Mr. SYMON:
Is it "disputed returns" or "elections"?

Mr. BARTON:
"Disputed elections." We consider that the more general term.

Sir EDWARD BRADDON:
I will ask Mr. Barton why in the case of elections to the Senate the dispute shall not be heard by the Supreme Court of the State where the case arises?

Mr. BARTON:
I think I explained that matter. The Parliament may at any time invest the Supreme Court of a State with federal jurisdiction to determine a federal matter. The clause only provides for the matter to be determined by a court exercising federal jurisdiction.

Mr. WISE:
I would like to know if Sir George Turner proposes to move his clause with regard to deadlocks. It seems to me it might come properly after clause 53.

Sir GEORGE TURNER:
Not yet.

Mr. BARTON:
Mr. Isaacs, too, has suggested to me to make an amendment in the clause I have proposed. I move to amend the proposed new clause by inserting:
After "by" the words a "Federal Court or."
Amendment agreed to; new clause 48A, as amended, agreed to.

Mr. WISE:
I move the insertion of the following new clause to follow clause 53:
If the Senate reject or fail to pass any proposed law which has pawed the House of Representatives, or pass the same with amendments with which the House of Representatives will not agree, and if the Governor should on that account dissolve the House of Representatives, and if after the said dissolution the House of Representatives again paw the said proposed law in the same or substantially the same form as before, and the Senate again reject or fail to pass the said proposed law, or pass the same with amendments with which the House of Representatives will not agree, the Governor may dissolve the Senate.
I will confine my remarks to a very few minutes, as I have already
published a memorandum on the subject. I will simply say that in framing this clause I have had in view two objects: one to preserve the independence of the Senate in all matters affecting the State interests, and to secure the dominance of the popular vote in all party questions which do not separate themselves into questions affecting the interests of one group of States against the interests of another group. In my view the advantage of this proposal is that it holds in reserve a weapon for ensuring the direct and immediate responsibility of the Senate to their constituents, and will, I apprehend, work in this way: if after a dissolution of the House of Representatives the election result in the return in the majority of the States of members favorable to the Bill which the Senate has rejected, the Senate would at once give way, because it would be apparent that if they did not, the senators would lose their seats at the dissolution. If, on the other hand, the election shows that the voters in a majority of the States are in favor of the course proposed by the Senate, then no Ministry would recommend a dissolution of the Senate, because it would be apparent that the measure was not disapproved by a majority of those who would return the senators to their positions. In other words it is an automatic method of providing that the senators shall accurately reflect the opinions of the electors of the States. In my opening speech I indicated that I was not in favor of making provision for meeting deadlocks, but my opinion was changed by listening to a speech on the subject by Sir Graham Berry. He pointed out that we are giving the Senate new power, and that the subjects of legislation may raise grave social questions, and are ensuring to it a continuity of existence which might lead to marked divergence between the views of the senators and those of their electors. There would be a tendency in a body composed of strong men, who had won their spurs in the political field, to grow out of touch with public opinion. It will be seen at once where the interests of the State are concerned, or where two States are attempting to override three others, that this proposal does not offer a way out of deadlocks except by demonstrating that the two States do not express the views entertained by the electors of the smaller States. I am not in favor of providing further means for overcoming deadlocks, as I consider that the majority of the States should be able to resist legislation which they regard as fatal to their interests as States. In other matters it seems to me a way out should be provided, and I suggest this without further amendment or complication. There must be a consequential amendment to clause 12:

To add at the commencement of line 2 of clause 12 "or meets after a dissolution."

This provides that when the Senate meets after a dissolution, the provisions of clause 12 come into effect. I have faithfully observed my
promise not to detain the Committee more than five minutes, and I trust others will follow my example.

Mr. BARTON:

Deadlocks have nearly always arisen as we know them in the past from the mixing up with taxation laws of subjects not properly included in them, from the mixing up in one Bill of more than one matter of taxation which should be dealt with in separate Bills, and from mixing in any Appropriation Acts other subjects which do not deal with the ordinary annual expenditure of the year. Every one of these things is provided for in this Constitution by subsections 2, 3, and 4 of clause 53, and so provided for that proposed laws, even receiving the assent of the Governor-General and offending against the provisions of these sub-sections, would be invalid and unconstitutional, and would be so decided to be by the High Court of Judicature. Now I cannot understand why it is so often urged against this Constitution that there is no such provision, because if you provide against the sources of deadlocks you have provided against deadlocks.

Sir GRAHAM BERRY:

New sources might arise.

Mr. BARTON:

I prefer to go on the experience of the past. We know that it is in these matters of mixing up questions of taxation together instead of keeping them in one Bill, and of tacking to an Appropriation Act some extraneous subject of expenditure, for instance, that a Bill is lost, and when it is endeavored to force it on a Second Chamber, deadlocks arise. We know that deadlocks have arisen from these causes, and I submit that the practical provision against deadlocks is that Bills embodying these provisions which have in the past been causes of deadlocks should be breaches of this Constitution, and therefore may be declared inoperative by the High Court of Australasia. These matters have all been provided for in this Bill. There may be new causes, but I put it that so far as we can ordinarily do, so far as experience guides us, this Constitution has sufficiently provided against deadlocks, and looking at the ordinary range of human affairs no other provision is necessary. I am not referring to those matters which may be settled on amendment, message, or conference. These subjects will be open as in the past, but in these three provisions carefully made for preventing the origination of deadlocks we have provided sufficiently, and may rest with them, whether we are asked to adopt the referendum or the Norwegian system, or any other.

Mr. HIGGINS:
Some hon. members perhaps may remember that at a very early stage of the Committee I circulated an amendment to clause 6 which would give the Governor-General in Council power to dissolve the Senate as well as the other House, but at the request of Mr. Barton, the leader of the Convention, I allowed the clause to pass, on the understanding that it was to be recommitted. Therefore I feel justified in dealing with this proposal of my hon. friend Mr. Wise for the dissolution of the Senate if, after the House has been dissolved, the Senate still fail to agree. I feel strongly that the words of Sir Graham Berry in his speech to this House have not been given due weight to. There is no man who understands the working of two Houses better than he; and I believe, as time goes on, the people will attach more and more weight to the words in which he pointed out the radically new conditions which will exist between the two Houses under this Constitution. We have here provisions for suggestion being given by the Senate to the other House. The Premier of New South Wales has shown that the system of giving suggestion involves this: that the Senate will, and indeed should, consider the full details of Money Bills, that it is their duty to go into them because they have the power of giving suggestions, and that being so, and if these suggestions are not acceded to, there is a great danger of a deadlock arising, a danger which never arose before. It is quite true, as Mr. Barton says, that deadlocks in the past have arisen on questions of tacking and so forth, and that we have to deal now with a totally different set of relations. But we have to deal now with the position in which the Senate are invited to give suggestions, and that if these suggestions are ignored there will be a great temptation to the exercise of the full power of veto, and, although history shows that deadlocks have arisen from those other causes, still we are now introducing new causes-causes which are almost certain to be fertile in deadlocks unless we take great care. The Premier of New South Wales stated most explicitly that he would not consent to this Constitution unless the will of the people were eventually to rule; and unless some machinery be provided which

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will let the will of the people eventually rule there is no prospect of the Constitution being accepted by the people of Australia as a whole.

Mr. DOBSON:

You cannot say that.

Mr. HIGGINS:

I have given my opinion at any rate for what it is worth. We are introducing new and dangerous conditions-conditions which never have been tried on a large scale before, and we are in great danger of being fixed with deadlock and unworkable government unless there are some means
like that to which I have referred. I am aware that some object to any mechanical contrivance for the purpose of preventing a deadlock. But all the contrivances in this Bill are mechanical; all the powers given to the Senate and for creating the Senate, all the powers given to the other House and for creating the other House are mechanical. This term "mechanical" is one of those cant phrases which are continually springing up in our politics. I feel that the ordinary objections which lie against a double dissolution will not apply to the case of a Senate elected by the widest popular franchise and a Senate which is directly responsible to the people. It has not been the practice to dissolve our Upper Houses in the colonies, because these Upper Houses are not leaning upon the people, but upon a class of the people—rightly or wrongly I am not going to say, but it is a fact. Here we have a Senate leaning upon the whole people, upon the same franchise as the other House. We have a Senate with new powers given to it, with equal powers to a much larger extent than the Upper Houses of the colonies have. All those reasons now have gone to prevent the application of the system of double dissolution to the ordinary Upper Houses. I shall have to vote against Mr. Wise's proposal for the reason that I do not think it is sufficiently strong. He says in effect that if the Senate fail to pass a proposed law the Governor could dissolve the House of Representatives and then if after that dissolution still the Senate refused to pass the proposed law the Government might dissolve the Senate. That is a very tedious, long-drawn-out process. Having regard to the fact that at the same polling-booth the same electors may deal with the Senate and the other House I do not see the least reason why both Houses should not be dissolved together, and so ascertain the will of the people together.

**Mr. WISE:**

Instead of voting against my clause why not propose an amendment, and if that is lost vote for the clause.

**Mr. HIGGINS:**

I was going to move an amendment in clause 6, but I shall move now in your amendment:

To strike out the words "and if."

Then it is not contingent upon the dissolution of the House of Representatives. Not only would there be a saving of expense by these same electors being able to put two papers in the box at the same time, but there would be the ascertainment uno flatu of the will of the country at a time when that will has to be ascertained without any unnecessary delay. As the Constitution at present stands, the House of Representatives has to last for three years, and it may be dissolved. Then it is provided that each member of the Senate is to have six years' service under the Constitution as
it at present stands. Suppo

Sir GRAHAM BERRY:

Hear, hear.

Mr. HIGGINS:

And the more rapidly you get the opinion of the people, the better.

Sir GRAHAM BERRY:

And the less likely you are to have deadlocks.

Mr. HIGGINS:

Exactly. If the Senate thought they could put the House of

Representatives to the trouble and worry and expense of a dissolution, and

felt "well, we shall not be dissolved until the House of Representatives has

had the trouble of going to the country, and we can consider our position

then, and force, perhaps, a better compromise," there would be a great

temptation to that veto or deadlock, which ought to have been avoided. I

feel that there is a great deal of cant also talked with regard to the will of

the people being variable and inconstant, and so forth. The greatest

protection we have right through all Constitutions is the inertia of the

people. It is very hard to get a new idea to circulate through and permeate

the people, or to get them to say yes or no to a principle. That apprehension

of the will of the people being variable and inconstant, and their being

liable to sudden gusts, is altogether wrong; we have a stable and settled

community which has acted in a stable and settled manner hitherto, and has

never shown itself in matters of legislation to be liable to sudden impulses

of which it repents; the only thing at all like it are the recent booms in the

last ten years or so in expenditure upon railways and the rest. Sir William

Zeal will admit that our Upper House was as eager, if not more eager, for

expenditure upon railways than-

Sir WILLIAM ZEAL:

No, we were not; we threw out a lot of your Bills.

Sir GEORGE TURNER:

Threw out our good ones and passed the bad ones.

Sir WILLIAM ZEAL:

What about the Dunkeld railway?

The CHAIRMAN:

Does the hon. member think that has anything to do with the question?

Mr. HIGGINS:

No, perhaps not. But I do object to the repetition of the everlasting cant

with regard to the will of the people being inconstant and liable to sudden

gusts and impulses in matters of legislation. We take every precaution in
having two Houses, and intermediate Stages, and discussion in the Press. Who can point to any instance of legislation by the Houses of the main principle of which the people repented afterwards? It is using the phraseology of ancient times, when the people used to meet in body, and had no representatives, and applying it to modern times when we have that representation. But this is not the time to go at length into the matter.

**Sir EDWARD BRADDON:**

Hear, hear.

**Mr. HIGGINS:**

The hon. member, might, without being rude, accept my assurance that I am not going to speak at length; there was no occasion for the "hear, hear"; and for my part I shall see that if he wishes to speak he shall suffer no interruptions of that sort.

**Mr. FRASER:**

I have listened attentively to the statement made by the leader of our Convention, and I agree with him that so far as I can see—and I have been in public life for a very long time, and I hope I can say I have not been a self-seeker, because I have refused to join many Ministries, my own private business being so great that I could not attend to it. My mind is free, and, I hope, without bias; but, in my public life, I have seen many questions upon which the public were extremely hot this Session, and in less than two Sessions went quite the other way.

**Mr. TRENWITH:**

You have thrown a wet blanket over them.

**Mr. FRASER:**

There is no wet blanket about it. In this Bill the people are the supreme rulers of both Houses, and the maximum limit the Senate can have for standing in the way of the people is three years.

**Mr. HIGGINS:**

Six years.

**Mr. FRASER:**

I am absolutely correct. The maximum limit is three years. The real limit will probably be less than two years, because a question like this—a deadlock only arising once in fifty years—under this Bill I hope it will never arise, because the causes are taken away, if both Houses are honest with one another—as I say,

the maximum term is three 3 years, but the probability is that the real limit will be less than two; can anyone say that two years is a very long time for a nation to wait over a question which is exciting a great deal of interest? Half the senators have to go before the electors every three years.
Mr. HIGGINS:
Supposing a man gives an obnoxious vote and has five years to run?

Mr. FRASER:
He has got half the members retiring every three years and going before the electors of the various States. Do you mean to tell me that half of the senators going to their constituents would not compel the Senate, if they were in the wrong, to obey the behests of the people at large? I certainly say it would, and no mechanical contrivance could do better. I think this in as good as any I have seen; but I will put another case. Suppose, for instance, that the House of Representatives sent up a Bill which was a tack. I have seen a good many tacks in my time.

Mr. HIGGINS:
That cannot be done under this Constitution.

Mr. FRASER:
Can it not? Oh, yes, indeed! I can only say I have known Governments-all Governments are supposed to be pure, and all that-and from their point of view, they may be. They think they are acting in the interests of the people, but very often they are doing a downright wrong. Suppose the House of Representatives sent up a Bill to the Senate which has a tack, and which is in contravention of the Statute we are about to pass-

Mr. TRENWITH:
Then the High Court settles it.

Mr. FRASER:
Supposing again that the Speaker of the House of Representatives says it is not a tack while the President of the Senate says it is a tack?

Mr. BARTON:
Then the Senate rejects it.

Mr. FRASER:
Then the Senate rightly rejects it. What is the next process? That, according to this amendment, the House of Representatives may be dissolved, and upon its dissolution the Senate may be dissolved, and dissolved perhaps illegally. As the whole of the people are to decide these matters, and as there can only be a delay of about two years before one-half of the Senate have to appear before the electors, when these who had given an improper vote would be sent to the right-about, I can see no necessity for an amendment of this kind. In the past deadlocks in Australia have not done much harm. There was a deadlock in Victoria very many years ago in respect of the Governor. I was a young politician at the time, and naturally enough took the popular side, which everyone now admits, was the wrong side.

Mr. TRENWITH:
How history repeats itself!

Mr. FRASER:

Everyone, both writers and thinkers, now acknowledge that the popular side was the wrong side, and that it did no good. The popular side, however, was redhot at the time, but now the majority of them are quite in accord with the feeling of the then minority.

Mr. O’CONNOR:

The hon. member who has last spoken has pointed out a most serious objection to this amendment. He puts it that there are a number of ways in which upon questions of the construction of this Bill the Senate might come into conflict with the House of Representatives, and that it is not because you have prohibitions in the Constitution against the introduction of Bills in a particular way that both Houses will agree with the interpretation of the Constitution. Probably the House of Representatives will always take the view which leans towards their powers, and probably the Senate will always take the view which leans towards their powers. Doubtless we will have the same conflicts

in regard to the construction of this Constitution that there are now about Money Bills between the two Houses. The hon. member put a very apt illustration, but I will take the case of an Appropriation Bill. An Appropriation Bill which provides for the ordinary annual services of the year cannot be touched, but then it must provide for that and nothing else. And it may be very difficult to decide whether it provides for that or for something more than that. Supposing there is a question upon which a majority of the House of Representatives have a very strong wish; a Bill is accordingly sent up to the Senate embodying in the annual Appropriation Bill something which the Senate thinks ought not to be there; the President rules that the Bill must be rejected on the ground that it is unconstitutional; the Speaker of the House of Representatives decides that the Bill is constitutional; the Bill is rejected by the Senate because it is unconstitutional; thereupon there is a dissolution, and the Bill is afterwards sent up to the Senate again, and it is again rejected. Then if this amendment is carried the Senate may be dissolved, and this means that this question which is the one affecting the construction of the Constitution, and which ought to be decided by the Federal Court, is to be submitted to the majority of the people of the country. In that way you give the go-by to this Constitution, the limitation of the powers of which is for the strengthening of the powers of both Houses.

Mr. ISAACS:

Under your system who decides that question?
Mr. O'CONNOR:

I say that if it is a question of the Appropriation Bill that must be decided by either House—if it is a matter, such as the hon. member referred to, dealing with a Bill to tack, that ought to be decided by the Federal High Court. In either case the power is one that should not be thrown into the hands of a popular majority. You are submitting a question of that kind to such an unfit tribunal as the majority of the people, no matter what we may think of them or how we may respect them, and the end to be gained is that they might decide in one way, where upon the Senate might paw the thing into law, while when it is placed before the High Court it might be dealt with in quite another way. That shows how dangerous it is to place such a power in the hands of a popular majority, and to take from the proper authorities that power of interpreting this Constitution is wresting from them the only safety and Security which the States which enter this Federation possess. Although I circulated a notice of a proposed clause which I intended to move in the case of a deadlock arising in connection with the Appropriation Bill, after listening to the discussion on this point my opinion has completely changed. I say now that to place a weapon of this kind for the ending of deadlocks in the hands of either House, or any authority in the State, would be to stifle that free discussion on questions of difference in which alone the people of the Commonwealth must look for the best result of collective wisdom. Whatever methods you adopt for getting rid of deadlocks, you must bring this result about: The party in the State which feels its power in its hands will be anxious to use it, and will at once use it for the purpose of bringing about that deadlock, which will result in a solution in favor of the party that holds the power. There can be no question that if a strong party in the country hold a view in favor of a particular measure and it is carried by large majorities, they would very soon seek to overcome the resistance of the Senate by having a dissolution-sending the Bill up again, and dissolving the Senate. That brings me to one of the strongest objections to the proposal. I quite assent to the proposition that where you have a House elected by the people -whether the House of Representa-

renewed in such a way that it will not get out of touch, and you secure that quite enough by a Senate half of which in renewable every three years. The ordinary life of the House of Representatives is three years, and you secure the admission of one-half new blood into the Senate by a process of triennial retirement of half its members. That is quite enough to keep the Senate in touch with the people on all ordinary questions. It is only in some sudden access of popular feeling on some particular question that the
Senate is likely to be out of harmony with the general body of the people, and one of the greatest safeguards we have in the Senate is that it is not liable to be immediately dissolved. In whose hands is the power of dissolution? It is in the hands of a majority of the House of Representatives—that is in the hands of the Government of the day; and if the amendment of Mr. Wise is adopted, you are placing this very strong weapon in the hands of the Government of the day, to coerce the Senate to take any view they may think fit. Can anyone doubt that it is coercion?

Mr. HIGGINS:

It is used the same way with all the Lower Houses.

Mr. O'CONNOR:

The hon. member is under a misapprehension as to the position the Senate ought to occupy. It ought to be in such a position of solidity and stability that it would not be in the power of any wielder of the power of a majority in the country to get rid of it at a moment's notice. If the power is in the hands of a majority it will be exercised in this way. The Government which has a majority will go to the country knowing that they have a majority; they will come back with all the flush and strength of that majority to the new House. The new House will send the Bill up again, and what is the position of the Senate then? They must either recede from the position they have taken up, or else practically commit the "happy dispatch." That is to say, the majority of the House of Representatives has the power, holding the sword of dissolution over the Senate, at any time to compel it to forego its views, and if you think that the House representing the States, and which should enjoy stability, security, and continuity, should be placed in such a position you will follow Mr. Wise's example and vote for the clause; but if hon. members wish to see the Senate a strong and stable body, and also sufficiently in touch with the people on all important questions, they will leave the Bill as it is.

Sir EDWARD BRADDON:

I desire to see the Senate made as strong as possible, and a body endowed with the fullest powers that we can commit to it, and because I desire to see it strong and desire to justify the powers with which it is charged, I should be inclined to favor the motion of Mr. Wise. To justify the Senate having the powers I wish to confer on it, we should bring that body into direct touch with its own electorate, and we should make it directly responsible for its actions to the whole people of these colonies, of which it is as fully representative as the other branch of the Federal Parliament. I cannot see the risk which Mr. O'Connor sees in this, inasmuch as I believe that if the members of the Senate worthily and properly represent the opinion of the several States, they have nothing
whatever to fear from a dissolution; but if they do not represent the interests and feelings of the States concerned, it is right and proper that there should be a change in the representation.

Mr. TRENWITH:
I rise to call attention to what seems to me a mistaken view which has been presented to the Convention, first of all by Mr. Barton, with reference to deadlocks. He pointed out that deadlocks had only occurred in the past from differences arising from the improper presentation of legislation to the Second Chamber. That is to say the inclusion in the Appropriation Bill of something which should not be properly included. These are certainly the deadlocks which have attracted the most attention, because of the acute nature of the inconvenience arising, but there have been continual deadlocks arising from other matters, which have been extremely irksome to the people, and which have prevented progressive legislation. There was a deadlock last Session in the Parliament to which I have the honor to belong. There was a deadlock about which the whole of the people were very much concerned. The representative House adopted a measure of social or industrial legislation called a Factories Act for the purpose of regulating the conditions under which people should work. The Second Chamber refused to carry it in the form it was thought desirable and felt to be necessary to make it effective, and then began a very serious legislative deadlock not arising from any complications connected with the Appropriation Bill or any improper tacking.

Mr. O'CONNOR:
You have got over it.

Mr. TRENWITH:
We have passed a Bill which is so emasculated that it is difficult to work, and is inoperative in some directions in which it was known that it would be inoperative. I pointed out in the discussion in the early part of this Convention that we had a deadlock with regard to the important matter of our franchise, which has existed ever since I have been intimately connected with public life or political questions. It is held by a large majority of the people of Victoria that there should be equal political power for every citizen. That has been affirmed again, and again, and again in the popular Chamber, where the people are fairly equally represented, and it has been prevented from becoming law by the actions of the Second Chamber, and there is no means in the Constitution by which we can compel obedience to the popular will.

Mr. O'CONNOR:
Then you do not want a Second Chamber.
Mr. TRENWITH:

That is another question which I do not propose to enter upon at this stage.

Mr. BARTON:

I think we admit that we want a Second Chamber in the Federation. I have said in this connection there should be two Chambers, and I have said also that ultimately—that is, when the Second Chamber has performed its proper function of delaying hasty and ill-considered legislation—ultimately the people's will should prevail. That is my position always—ultimately; not immediately, when there is any reasonable cause for delay; not if you will very soon, but at any rate ultimately and without unreasonable delay, the people's will should become law.

Sir JOHN DOWNER:

And the States must submit.

Mr. TRENWITH:

No; this amendment, at any rate, does not provide that the States shall submit. This proposal for a double dissolution provides that the States shall prevail if there is any conflict between the majority of the people and the majority of the States. I have no hesitation in saying that is wrong; but it is better to have the danger minimised than to have it in its most acute form, and Mr. Wise's proposal does provide the means by which, if a majority of the States and a majority of the people desire something, the Senate cannot prevent its achievement. Now, I have shown in our own colony, where a majority of the people are, at any rate, desirous of legislative reform, that it cannot achieve because of the lack of some mechanical process. I do not object to the term mechanical process; I think it is a good thing if we can get any mechanism that can perform a work—and for lack of some mechanical process we cannot obtain, not a knowledge of the people's will, but the realisation of their wishes. Now, this proposal is that when a conflict arises that is incurable by conference or any other method that the people's will may be obtained by a double dissolution. We have now a process by which we aim from time to time at a decision as to what is the people's will, the process of penalising the Representative House. If that would do the work, I see no reason why we should go further than that; but our experience teaches us that it does not do the work. It inflicts hardship on the representatives of the people, and therefore on the people themselves, who return a Parliament in exactly the same position as before the dissolution took place—one House in accord with the people and the other not.

Sir JOHN DOWNER:
What is the good of that?

Mr. TRENWITH:

My hon. friend asks, "What is the good of that?" I say it is good for giving a decision as to what is the people's will, but it is inadequate because it does not clothe that will with legislative authority. Then if the double dissolution took place we would team the people's will and we would have a mechanical means of clothing with legislative authority that clearly expressed will. Therefore I am in favor of this double dissolution.

My hon friend Mr. Fraser says we have done well enough, that these colonies have got along well enough in the past. Our presence here shows that is not correct. These colonies have not done well enough in the past; hence this Convention. That is in one connection. These colonies have not done well enough in the past, because these colonies have been chafing during the last twenty-five years to my knowledge under what they consider to be improper conditions in reference to their franchise, and slowly and painfully, and sometimes almost violently, they have had to seek alterations in the conditions surrounding them, with the result that there has been a gradual—a too slow and too gradual-broadening out of the franchise; and if we could have had legislative machinery such as is here proposed we could have had what we have obtained during long years much more quickly and much earlier; and if we are to create a new Constitution we ought to guard against all the causes of friction, all the causes of excitement, and all the causes of division amongst our people that have been presented in the working, of the Constitution with which we are acquainted. There has been a division in each of the colonies over the fact that when the people had taken pains to go to the polling-booth to select representatives through the machinery by which they were environed they were unable to obtain the meaning of their will, and that has created strong and angry feelings; and it is only because of the law-abiding and, long-suffering nature of the British people everywhere that we have not had violence in these colonies in connection with constitutional questions. Hon. members know that in the old country there was violence.

Mr. DOUGLAS:

When?

Mr. TRENWITH:

In 1832, and there would have been much more violence only a provision somewhat similar to what we now propose was availed of. The power to increase the Peers was not used, but it was threatened. The power to increase the Peers is very similar to the power to dissolve the Peers, because it is possible by the infusion of new members to alter the nature of its decisions. Hon. members know that in 1832, after the struggle for very
many years to do away with the rotten system of representation that had prevailed—the rotten boroughs—there was such excitement in the winds of the people that there was some violence, and there would have been more had not the king adopted a principle that we are now proposing to apply—that is, a modification of it—the power of altering the personnel of the House of Lords.

Mr. DOUGLAS:

The House of Lords was not altered in 1832.

Mr. TRENWITH:

It was altered, although it was not altered, if you will allow the expression. It was threatened with an increase of numbers sufficient to compel it to comply with the will of the people, and in the exercise of a discretion that was wise in the circumstances those

members who had been frequently and persistently resisting the will of the people remained away from the divisions and allowed the will of the people to become law. I must ask hon. members to excuse me for speaking so long.

Mr. BARTON:

Let this speech do for the referendum also.

Mr. TRENWITH:

I say with these evidences of the desire on the part of the people for more freedom, for greater facilities for giving effect to the popular will, we ought to make provision in this Constitution by which the will of the people can become law. If we do that we shall be doing something which will make it more certain that this Constitution will be adopted by the people.

Mr. DOUGLAS:

We have listened for nearly half an hour to the hon. member.

Mr. DEAKIN:

He has not been a quarter of an hour.

Mr. DOUGLAS:

He has introduced matters that have nothing to do with the question. I happened to be alive in 1832,

Mr. TRENWITH:

You know then that Lord Wellington's windows were broken if no other violence was done?

Mr. DOUGLAS:

We are raising up an image in order to knock it down again. What have the present arrangements to do with deadlocks? We are going to adopt a new regime. We are adopting a Constitution to meet circumstances
different to any we know. Why should we anticipate difficulties? The
motion will not end the difficulty which is imagined. There is no finality
about it. It says a House is to be dissolved under certain circumstances. It
does not say what is to be the result if the Senate is of the same opinion as
before, after a dissolution has occurred. Mr. Higgins's proposition is a
fallacy from beginning to end, and it is only wasting time to consider it.
When a difficulty arises let us attack it; let the Parliament, which will be
sufficiently matured, find the remedy. We are anticipating a difficulty
which may not arise for fifty years. We hear talk of the people of the
country. Who are they? The Senate represents them as much as the House
of Representatives. Because you live in a larger community, are you going
to put us down to suit you? We have as much independence of character as
you have. It is all stuff and nonsense to say Victoria has done this and that.
What made Victoria a colony? The little gold they had. We have people the
same as they have, and we have agreed to take the same qualifications, yet
we are told we do not represent the people. We are told that in England
such and such took place, but the gentlemen who tell us that know no more
about English history than they do about Grecian and Roman history. The
old system in England has to a great extent proved to be the glory of
England. From these small boroughs such men as Pitt and Canning were
sent to the House of Commons. Things may be better now than they were
then. The County of Middlesex has one eighth of the population of
England, but it has not one eighth of the representation in the House of
Commons. That is not the system of election. It is to get the views of the
generality of the people throughout the country, and not of a particular
district. Take the case of Victoria, Melbourne and suburbs could return half
the members of Victoria. Would that be a right way of proceeding? Not a
bit of it. Then do not talk to people here about people being crushed in
these matters. We ought to go upon lines entirely different from those
which have been spoken about. We are trying, it seems to me, to create a
new form of Government, different from anything that has existed. We will
not take the United States, we will not take Canada, we will not take
Switzerland or Germany, or anything else. Do not let us be put aside by
these bugbears about deadlocks. Let us go on as we have gone.

Mr. TRENWITH:
You are picking out the evils of all, and the virtues of none.

Mr. DOUGLAS:
I will not have anything to say to you. Right will take its course in spite
of all opposition.

Mr. MCMILLAN:
I do not intend to make a speech upon this occasion. But I wish to make an explanation. I am not going to decide absolutely on this question at this stage of the Convention, and intend to vote against every proposal that is brought forward. I think it would be far better for the different suggestions which have been printed, and which will doubtless be re-printed, to be fully considered during the next four months. I do not think it would be wise at this stage of the Convention.

Mr. DEAKIN:
It is Wise.

Mr. MCMILLAN:
To put in a concrete scheme in this far-reaching and important work. The great difficulty in solving this deadlock is to have a mechanical arrangement which will get out of an extreme difficulty without at the same time being a scourge in the hands of one House against the other. Because there is such a thing as creating a deadlock, and if you are not careful you will put in the power of one House-I am saying this without prejudice-

Mr. TRENWITH:
A double dissolution scourges both Houses.

Mr. MCMILLAN:
But then the people who set the works in motion do not mind that double dissolution.

Mr. DEAKIN:
They rather like it.

Mr. MCMILLAN:
There is such a thing as creating a deadlock to get a certain result, therefore, with all respect to men older than myself, I suggest that it would be far better for these different schemes to be thoroughly thrashed out during the next four months; and that we should now close this Bill without any concrete solution of this difficulty.

Mr. DEAKIN:
I do not intend to make a speech, but I wish to indicate my vote. The suggestion of Mr. Higgins appears to me to be admirable under a perfectly unified form of government, but not appropriate to such a Federal Government as we are about to establish. I regard Mr. Wise's suggestion as superior inasmuch as it enables the Senate from the election following on a dissolution of the House of Representatives to learn the feeling both of a majority of the people and of a majority of the States. The dissolution of the Senate would thus be avoided except in rare cases. The continuity of this body should be preserved as far as possible. Therefore its dissolution is a step which I hope will be rarely resorted to, and only in extreme
emergencies. I regard Mr. Wise's suggestion as infinitely more in accordance with the spirit of the Federal Constitution which we have met here to establish.

Sir JOHN DOWNER:

If the Senate had the same power as the House of Representatives, and if it were returned by the same voting qualification, I should think there was a good deal to be said in favor of the proposal that a dissolution of one House should be coupled with a dissolution of the other. But we have heard throughout—not from Mr. Wise, who has been rather going on the lines that their power should be equal—but from other gentlemen who are strong on this branch of the subject, a strong protest against any equalisation of the powers of the two bodies. But their proposal now is to dissolve the Senate, after having weakened it, when on every possible ground of reason it ought to have been equal in authority with the other House, by making it a House declaredly intended to be inferior—whether it will be only the result can show by experience; and the prognostications of my worthy friends here may prove to be mistaken. But after all there is the undoubted fact that it has not been made co-equal with the House of Representatives, as it has been in every case where a proper Federation is established, and now we are asked to provide another bit of pressure for the re-

Sir JOHN DOWNER:

That is not fair.

Sir JOHN DOWNER:

I am sure that it is not the kindest thing to say that they are incapable of understanding the difference.

Mr. DEAKIN:

You want to kill us with kindness.

Mr. ISAACS:
Either fools or rogues; is that it?

Sir JOHN DOWNER:

I should be sorry to say that anyone of them comes within that category, but there undoubtedly is constantly running through our discussions in this Convention a most singular mixing of things that are in their essence different, and always a mixing up by those who mix up for the purpose of obtaining advantages for the larger colonies. Therefore, I say, it is not an unfair suggestion to make that either their interest has beclouded their intelligence or else they are acting rather ingeniously than ingenuously. As I say, if you make the powers of the Senate just the same as in the case of the House of Representatives, the Executive might as well come from the one as from the other. They might well represent both and that being so, and there being no reason to suppose that they would wish to favor one body more than another, it would not be an unreasonable thing if the Executive sent them both to the country. When it was thought that there was such a division of opinion—which they call a deadlock—that it became necessary to ask the electors which opinion was right, and when you have taken away that true essential of the federal position, and so weakened the power of one body as to make it inferior to the other, then the authority is put in the hands of the Ministry—which is responsible to one House—to further hamper the other by sending them to their constituents for an absolutely objectless purpose, as far as I can see, for you may depend upon it the same people would go back. It would only subject them to further inconvenience, and bring an unfair pressure upon them to make them do that which they did not want to do.

Mr. ISAACS:

I must confess that I regard this as a very anxious moment for us all. I think that there is no part of our deliberations upon which we have been engaged which is fraught with greater consequences than this, and speaking as I do for the colony which I have the honor to represent in part, I say that I believe the greatest importance is attached to the presence or absence from this Constitution of some provision with regard to deadlocks. It has been the subject of serious consideration for a very long time. Throughout the whole of the election campaign, my hon. friends who are associated with me know perfectly well that the most vital interest was taken in this question, and I have read, as others have read, the expressions of public opinion in the press—more especially in that portion of the Victorian press which reflects, with the greatest accuracy, the opinions of the people—and, I feel no doubt whatever that there will be a serious danger as to the acceptance of any scheme of Federation that does not provide for some mode of settling disagreements between the two Houses of
Parliament. And it stands to reason that that is perfectly right. We all know and appreciate the immense force

of the sentiment that has brought us here together. We know that that sentiment will do much to carry us over many difficulties and many objections. We know that there is a well-settled sense of the utter absurdity that mere geographical lines or physical features should continue to sunder the fortunes and feelings of people who are really one in heart as well as interest; but behind all this sentiment there is the stern practical sense that pervades every British community. And when we go back, as we shall in a day or two, to the colonies which have sent us here, and present to them the Bill we have fashioned, the first question that will be asked is, "How is this going to work, and what will it cost?" And if we tell them there is no provision for deadlocks it will be fairly said-

Mr. BARTON:

You cannot tell them that. There is a provision against deadlocks in the Constitution.

Mr. ISAACS:

There is none in the true sense. There is a penalising provision against one House, but no provision in the proper sense of the term. This Constitution contains more like an invitation to deadlocks that we ought to provide strenuously against. We shall be confronted with this question-"In all this marvellous mechanism-cumbrous, costly, and complicated-what care has been taken to provide for harmony between the two branches of the Legislature." We shall be told that we have confided all the energies of this great people in relation to their future national development to the two branches of the Legislature, which are not framed as they are in a unitary Government upon a sense of harmony. The majority have rested these two Houses upon foundations of mutual hostility, mutual jealousy, and mutual distrust. We have endowed these Houses with power to support the antagonism to which they have been invited, and we shall in addition to that, disregard - if the advice of my hon. friends opposite is to be followed-the very plainest precepts of public safety: in short, we shall be endeavoring to test, by actual experiment in this Federation, and at fearful risk, the philosophic problem of what is to happen when an irresistible force comes into conflict with an immovable object. We have been told that absence of tacking is the preservative against the occurrence of deadlocks. In the past when there was a possibility of tacking, was it the mere fact

to claim that for its measures the approval of the great volume of the population of the Commonwealth, does any hon. gentleman believe-do you
think that the smaller States will be able long to withstand such a pressure?

Mr. SYMON:
They ought to.

Mr. ISAACS:
They ought to in one sense, but the needs of men and the requirements of a great country will not stand to criticise too closely the mere letter of a Constitution. In pregnant and unanswerable words Lowell reminds us that "Man is more than Constitutions." What was it led to the American war? Was it not in a great measure the equal division of the Senate on the slavery question and the exercise of the legal power to withstand the great body of the people? As to the smaller States I should look with some anxiety and concern at the verdict of the whole nation obtained under the dissolution of the House of Representatives. This proposal by Mr. Wise is better for the smaller States than a single dissolution, because it is an announcement in the Constitution itself that the Senate has a right to wait until the separate verdict of the States has been obtained. But that controverts a principle laid down in the Constitution that the Senate is to be a continuous body. It is a sword hung up continuously over the head of the Senate that if they do not bow to the will of the House of Representatives after a dissolution of that body that the Senate must be put to the expense, the trouble, and the turmoil of an election themselves. That is a position I should not wish to see the Senate placed in. The whole question of any dissolution is attended with a dislocation of parliamentary business, with a disarrangement of the whole of legislative procedure, and with the knowledge that the principal question at issue stands in no certainty of being decided by the people at all. I think that the double dissolution is the lesser of the two evils. I am prepared to vote for it, but I shall vote first for the resolution of Mr. Higgins for this cogent reason: that it is one expense only. The question could be decided with one effort, and it has this further recommendation: that when there is a dispute between the two Houses no one can tell till the verdict is given which of the two Houses is right and which wrong. Why should it always be assumed that the House of Representatives is wrong? It may be the fault of the Senate, and it may be the fault of the House of Representatives, and there is no more reason for sending one House to the country than the other. I shall not at this juncture detain the Committee by explaining in detail the question of the referendum, because if this proposal is not carried I shall certainly propose it; but a dissolution, either single or a double, will expose the Senate to an extreme pressure by reason of the threat to that House, as well as to the House of Representatives, that there will be a personal disability imposed upon them unless they give way—a personal temptation to weaken in the
support which they should conscientiously and honestly and fearlessly give. In the papers which have been circulated by Sir George Turner and myself there are four opportunities allowed for negotiation and friendly reconciliation. No member of either House is penalised in the smallest degree. The rights of the States are carefully preserved; no measure is to be carried unless a majority of the population and a majority of the States, large or small, accede to it; and you will find in the papers we have circulated remarkable instances of people having voted in large numbers in the most detailed, careful, and intelligent manner. This is not a question that concerns us as large or small States. It is one that concerns us all in our desire to prevent disturbances and disagreements among its people. I am sure if we go back to our populations and tell them, however huge and magnificent the structures may be which we present to them—if they come to the conclusion that the political hour cannot be truly marked by it, they will say they prefer the smaller timepieces, which have worked fairly well in the past and which they now possess. I desire to express my earnest hope that some such proposal as this will be carried. Regarding this matter as of the first importance, I hope that the difficulty of deadlocks will be averted by the presence in the Constitution of such a provision, and from its very presence I think that it will be seldom required. I heartily support the clause.

Mr. SYMON:
My hon. friend began his speech by trotting out the same old bogey as to the inability of the colony of which he is one of the foremost representatives to accept a Constitution which does not contain some such provision as this.

Mr. ISAACS:
I did not say inability. I referred to the strong feeling there was on the subject in Victoria.

Mr. SYMON:
Refusal then. He is so wedded to this dear old bogey that at the conclusion of his speech he again referred to it in connection with a metaphor about a timepiece. It seems to me that if we introduce anything in the shape of the clause proposed by Mr. Wise, we shall be disarranging the works of the timepiece, whether it is a small or a large one, and preventing the people from ascertaining the true political hour, whether we adopt this Constitution or not. I am sorry that I did not see Sir Edward Braddon in the Chamber while my hon. friend was addressing himself to the subject, because I think that the arguments which were used by Mr. Isaacs must have convinced him of the danger of the position he took up in supporting...
this amendment, on the ground that he wants to see a strong Senate. What
did my hon. friend say? He truly declares that you have got in this
Constitution the power of dissolving the House of Representatives, but
adds that upon the dissolution of the House of Representatives on any
political question the Senate is bound to give way. He said that he did not
believe that the Senate could long withstand the result of a dissolution of
the House of Representatives throughout the Australian Commonwealth. I
take leave to entirely dissent from that proposition. The Senate would he
entirely abdicating its functions if simply on account of a dissolution of the
House of Representatives it abandoned its position unless it was sure that
the election which followed upon the dissolution indicated not only the
view of the majority of the people, but of a majority of the States.

Mr. DEAKIN:
That is the way Mr. Wise puts it.

Mr. SYMON:
It is not the way in which it would work.

Mr. WISE:
Yes.

Mr. SYMON:
I will come to that point in a moment; but Mr. Isaacs lets the cat out of
the bag. He wants some scheme, either that proposed by Mr. Wise or some
other, which will be an instrument in the hands of the States with the larger
population to coerce the Senate, constituted as it is for the purpose of
protecting and representing the interests of the States. Now, Sir, not
content with the feeling that that of itself would be a sufficient power, he
goes further and says I want something more. In case that should be
insufficient I want the power placed in the hands of the Executive of the
day, responsible only to the House of Representatives, to dissolve the
Senate-to penalise them still further, to coerce them into obedience to the
will of the House of Representatives, even though a majority of the people
in the smaller States utterly dissent from it. If that is the measure of the
power which is to be confided in the Senate as representing the States as
individual entities within this Constitution-I do not want to lead any lion
into the path so far as the smaller colonies are concerned-then this
Constitution ought not to be accepted.

Mr. ISAACS:
Do you say I said that?

Mr. SYMON:
The hon. member said it would lead to the coercion of the Senate.

Mr. ISAACS:
I said I would support the other.

Mr. SYMON:
The hon. member must be consistent. He wants a dissolution of the Senate in order that it may drive them to an ignominious surrender.

Mr. WISE:
The Senate would never surrender unless it were out of touch with the people.

Mr. SYMON:
I will come to that in a minute. That would be a most unsatisfactory procedure, because you have responsible government that is responsible to one House.

Mr. WISE:
It should not be unsatisfactory to the smaller States.

Mr. SYMON:
You might have the members of the Senate defeated on a side issue. The Government might cloud the whole merits of the dispute under a war between the two Houses. The people might be told this was an attempt on the part of the Senate to dominate the House of Representatives. It would be impossible to keep clear the one issue as to the merit of the particular question, and, even if it were possible to do it, it might exactly suit the policy of the particular section who happened to be in power at the time to introduce the difficulty as one between the two Houses. But it does seem to me this matter of deadlocks has been greatly exaggerated. All these projects are the outcome of a rage for some mechanical instrument or contrivance to rigidly provide for a state of things which is admitted to be extremely unlikely to arise to affect the Senate. We are attempting to adhere to the guiding lines of the British Constitution.

Mr. HIGGINS:
There are deadlocks there.

Mr. SYMON:
When have there been deadlocks there?

Sir GRAHAM BERRY:
The supremacy of the Commons is, at any rate, admitted.

Mr. SYMON:
And the same principle, I venture to humbly submit, exactly applies to our Constitution, with this additional advantage in the Constitution we are framing-and that is the security for the public will operating upon an unchangeable body-that there is a salutary provision for periodical revision. Although it has really never happened, I can conceive of a deadlock of the worst kind occurring between a popular Chamber and a body like the House of Lords, unchangeable, unalterable, or a nominated
House holding appointment for life. But in the ease of a body like this Senate, half of whose members go to their constituents every three years, contemporaneously with the House of Representatives, I cannot see any possible difficulty to the working of a Constitution under such a system as this.

Mr. HIGGINS:

Why should you penalise one popular House for insisting upon its views and not the other?

Mr. SYMON:

You are not penalising one popular House. I object to the term "penalise." I dislike it.

Mr. ISAACS:

It is a fact.

Mr. SYMON:

It is not a fact, nor is that an appropriate use of the expression, if my hon. friend will excuse me for saying so.

Mr. ISAACS:

Oh,

Mr. SYMON:

It is not a penal dissolution. If the Government feel that the proposal or the law which they are laying before the Parliament has the will of the people behind it, and the House of Representatives differs from it, then the Government advise the Governor to dissolve the House of Representatives with the view of ascertaining or confirming the opinion which they embodied in their measure.

Mr. HIGGINS:

You have not shown yet why it should not apply to the other House?

Mr. SYMON:

First of all the Ministry is not responsible to the Senate.

Mr. ISAACS:

Is that the only reason?

Mr. SYMON:

There is the further reason that you have given the Senate in this Constitution what is called perpetuity. It is perpetuity in a sense, but, in order to secure that the Senate representing the States shall be in touch also with the people, it is provided that half of its members shall go to the people every three years, and if that is done there is ample provision to secure its, giving expression to the popular will, so far as the Senate is established for that purpose, and also to keep up its position as the special representative of the States. I was very much struck with the remark of my
hon. friend Mr. Trenwith, when he said that we had not been accustomed to these difficulties or deadlocks, and these constitutional disturbances were not very much to be feared in English-speaking communities, because of the long suffering nature of the British people. There can be no doubt that there is a great deal of truth behind that remark. It expresses a leading characteristic of the Constitution under which we have lived. It is susceptible to the expression of the people's will, and it is not by dissolution, but through the press and public opinion expressed in various ways that we owe the smoothness of the working of the British Constitution; and it is to that we owe the confidence which the English people throughout the empire repose in it. I may be pardoned for quoting from a French constitutional writer some sentences in which he sought to explain to his countrymen this peculiar feature of the British Constitution:

People are fond of talking about the stability of the English Constitution. The truth is that this Constitution is always, so to say, in a state of motion and oscillation, and that it lends itself in an extraordinary manner to the play of its different parts. Its solidity comes from its pliability. It bends, but does not break. It stands not by the strength of its affirmations, but by the studied vagueness of its preservations.

Again, he says, referring to the powers alluded to by Mr. Trenwith, of forcing new Peers into the House of Lords to do what the Government considered to be the will of the people:

All these powers are still untouched, and ready to hand for the day when a despotic majority might take a fancy to crush its adversaries. To all this no answer can be made, except that all the political organization in England rests on a parti pris of optimism and confidence. The English feel the vigor of their public spirit; they have experienced the vigilance of a free press, and the power of associations and public meetings. They flatter themselves that their political customs need no safeguards in the form of statutes.

It does seem to me we shall do much more harm than good in seeking to introduce rigid rules on the subject of possible conflicts between the two Houses, which no human being can predict will arise in the natural order of things. I think the better way is to follow the advice suggested by Mr. McMillan and leave this subject alone, at any rate for the present. No one can deny the great importance of the subject, and while Mr. Isaacs says it is an anxious moment for him, I think I can say it is an equally anxious moment to the smaller colonies if it involves a diminution of the power we shall have in the Senate. It would be more desirable that we should, after debating this question, leave it to be dealt with at the final meeting of the Convention. None of the propositions really meet the case, and if we deal
with it now we may hamper a solution of it at a later stage.

Mr. KINGSTON:

I shall support the amendment of Mr. Wise. It does not introduce any new element into the Constitution. I am perfectly prepared that the Senate should exercise its powers as regards resisting legislation so long as it represents the wishes of its constituents, but the way we have it at present is this: that whilst the House of Representatives, desiring to discharge the law, may he correctly interpreting the desires of the constituents, the best evidence as regards this fact cannot be obtained except by a dissolution which affects them only, and sends them to the constituents, while the Senate is a power entrenched in an impregnable position, so far as regards all possibility of being moved or sent back to their constituents, to find out whether they accurately represent the views of their constituents. It is all very well to say it is not a penal dissolution, but the effect is to expose the members of the popular House to an undoubted punishment, and to render them liable to lose their seats though they may be correctly interpreting the wishes of those who sent them there, and leaving the authors of the trouble absolutely untouched, and in a position where they can remain as long as they like without giving way to the wishes of those who sent them there. One would think that a proposal of this description was novel. Nothing of the sort. We have had in our history various troubles at different times in connection with these matters-no power existing to dissolve the Legislative Council, and the only way to procure a declaration of the people's wishes being to send the House of Assembly to the constituencies. The result was unfortunate trouble with the Legislative Council. It was cured by the adoption of the very principle which my friend Mr. Wise seeks to give effect to in his amendment. If hon. members will take the trouble to consult our Constitution Amendment Act of 1881, they will see that it was passed for the express purpose of dealing with questions of this sort, and that there is there given under certain conditions a power to the Governor not only to dissolve the House of Assembly, but also to dissolve the Legislative Council, or, if he pleases, to issue fresh writs for the supply of a certain number of seats in the Legislative Council. It has never been used; the moral effect has prevented anything of this sort. If we put such a provision in our Constitution, the same effect will be secured. It will be absolutely unnecessary to put it into force, but the very fact of its being there will prevent that trouble, and the Senate will not dare to act out of accord with the views of those who sent them there.

Mr. ISAACS:
Has there been more harmony in the relations of your two Houses since that provision was made?

**Mr. KINGSTON:**

Undoubtedly.

**Mr. HIGGINS:**

The effect of my amendment on Mr. Wise's new clause is that there shall be a double dissolution of the Senate and the House of Representatives at the same time. Mr. Wise, I understand, only wants to have a dissolution of the House of Representatives in the first instance.

Question-That the words "and if" proposed to be struck out stand part of the proposed new clause-put. The Committee divided.

Ayes, 24; Noes, 7. Majority, 17.

**AYES.**

Barton, Mr. Henry, Mr.
Braddon, Sir Edward Holder, Mr.
Brown, Mr. Howe, Mr.
Cockburn, Dr. Kingston, Mr.
Deakin, Mr. Lewis, Mr.
Dobson, Mr. McMillan, Mr.
Douglas, Mr. Moore, Mr.
Downer, Sir John O'Connor, Mr.
Fysh, Sir Philip Symon, Mr.
Glynn, Mr. Walker, Mr.
Gordon, Mr. Wise, Mr.
Grant, Mr. Zeal, Sir William

**NOES.**

Berry, Sir Graham Quick, Dr.
Higgins, Mr. Trenwith, Mr.
Isaacs, Mr. Turner, Sir George
Peacock, Mr.

Question so resolved in the affirmative.

Question-That the clause stand part of the Bill-put. The Committee divided.

Ayes, 11; Noes, 19. Majority, 8.

**AYES.**

Berry, Sir Graham Peacock, Mr.
Deakin, Mr. Quick, Dr.
Fysh, Sir Philip Trenwith, Mr.
Higgins, Mr. Turner, Sir George
Isaacs, Mr. Wise, Mr.
Kingston, Mr.
Mr. ISAACS:

I move the insertion of the following new clauses that I had the honor, in conjunction with Sir George Turner, to circulate for consideration:

1. (I.) If either House of Parliament shall, in two consecutive Sessions of the same Parliament, with an interval of at least six weeks between, pass and transmit to the other House, for its concurrence therein, any proposed law which such other House either fails to pass without amendment, within thirty days after receiving the same, in the second Session, or within such period passes, with any amendment not agreed to by the House transmitting the proposed law, the provisions of the following sections of this part shall apply.

   (II.) The proposed law passed and transmitted in the second Session may include any amendments agreed to by both Houses in the first Session.

2. The House in which the proposed law originated may pass a resolution that, in its opinion, the proposed law is of an urgent nature, and may transmit the resolution and the proposed law with any amendments agreed to by both Houses up to the time of transmission to the other House, with a request for further consideration.

3. If within thirty days of the transmission of the proposed law as last aforesaid, or if the Session shall end before the expiration of such period, then within thirty days of the commencement of the next Session of the same Parliament, the other House shall not pass the proposed law without amendment, or with such amendment as the House transmitting the same agrees to, the House in which the proposed law originated may resolve that the same be referred to the direct determination of the people.

4. If such last-mentioned resolution is passed, a vote of the electors of the
Commonwealth as to whether the proposed law, as last transmitted as aforesaid, shall or shall not become law shall be taken, unless in the meantime

5. Such vote shall be taken in each State separately, and if the proposed law is affirmed by a majority of States containing also a majority of the population of the Commonwealth, it shall be presented to the Governor-General for the Royal assent, as if it had been duly passed by both Houses of Parliament, and on receiving the Royal assent it shall become law. If not affirmed as aforesaid the proposed law shall not become law, and shall not be again proposed for a period of at least three years.

Clause 6.-No such vote shall be taken unless more than six months will elapse before the expiry of Parliament by effluxion of time.

I should like to point out to those gentlemen who have perhaps done me the honor to read these clauses, in very brief words what the proposal amounts to. In the first place I quite agree, on thorough reflection, with the objections raised by my hon. friend Mr. Symon, that the power ought not to be left just to the Ministry of the day, who might be naturally prejudiced in favor of the House of Representatives. I want to have absolute equality in this respect between the Houses. All I desire to see is that there shall be some means of reconciling differences of the most pronounced and prolonged nature between them. This provision is one which I think provides all the requirements necessary to prevent any hasty determination on the part of the sovereign body. In the first place it provides that if either House of Parliament shall, in two consecutive sessions with at least six weeks between them—failing a sufficient period for consideration—pass and transmit a Bill which is not agreed to absolutely, or with such amendments as are concurred in by the first House, the originating Chamber may pass a resolution that in its opinion the matter is urgent. That is done in the most inoffensive manner, but it is presumably a case which may be considered as of supreme importance to the community, a course which a legislative body may feel bound to take in the widest interest of all—the interest of the people. It passes this resolution and transmits it with the proposed law to the other House, a Bill which is not agreed to absolutely, or with such amendments as are concurred in by the first House, the originating Chamber may pass a resolution that in its opinion the matter is urgent. That is done in the most inoffensive manner, but it is presumably a case which may be considered as of supreme importance to the community, a course which a legislative body may feel bound to take in the widest interest of all—the interest of the people. It passes this resolution and transmits it with the proposed law to the other House, a Bill which is not agreed to absolutely, or with such amendments as are concurred in by the first House, the originating Chamber may pass a resolution that in its opinion the matter is urgent. That is done in the most inoffensive manner, but it is presumably a case which may be considered as of supreme importance to the community, a course which a legislative body may feel bound to take in the widest interest of all—the interest of the people. It passes this resolution and transmits it with the proposed law to the other House, with a request for further consideration. Up to that point there are three opportunities for harmony, for reconciliation and, in between, as hon. gentlemen know, there are all the ordinary Constitutional facilities for friendly negotiation, conference, and discussion. The amendments that are made by one House and agreed to by the other Chamber may be embodied in the successive Bills proposed, so
that the points of difference are reduced to a minimum. When that is sent up to the other Chamber whichever one it happens to be - it has a further opportunity to consider it, and then if it does not determine it so as to put an end to the differences existing, a resolution is passed by the originating Chamber in its discretion, that is if on full reflection and by the light of public opinion it thinks the matter of sufficient importance to take the vote of the people direct. That vote is still not to be taken if the objecting House, after consideration, sees that the measure is one to which it ought not to give its assent. If it is the House of Representatives or Senate that is concerned, neither is placed under any personal disability or subjected to any personal peril; it is free to act without having a sword over its head. A vote is taken in a manner which is eminently fair to small as well as to large States.

Sir EDWARD BRADDON:
No.

Mr. ISAACS:
If the hon. gentleman can show me that I am wrong I shall be pleased to alter my opinion. In this final vote, each State is taken separately. Tasmania is taken by itself, and so is Victoria, New South Wales, Western Australia, and South Australia. Supposing there are only five States in the Federation and South Australia, Tasmania and Western Australia are against a certain law, no matter how great the voting power of the two larger States which support the Bill it cannot be carried into law. You have here the same principle of protection as is provided in the Houses of the Legislature. What could be fairer to smaller States? If there is not a majority of the States voting for the law, then there is an end of the matter. If, however, there should be a majority of the States in favor of it, then you have of course to give equal protection to the larger population. Having your majority of, the States and a majority of the population there is no reason whatever why the law should not pass. It is also provided that:

Such vote shall be taken in each State separately, and if the proposed law is affirmed by a majority of States containing also a majority of the population of the Commonwealth, it shall be presented to the Governor-General for the Royal assent, as if it had been duty passed by both Houses of Parliament, and on receiving the Royal assent it shall become law. If not affirmed as aforesaid, the proposed law shall not become law, and shall not be again proposed for a period of at least three years.

Hon. gentlemen will see that the same principle is preserved in this clause as is established in the Houses of the Legislature, the question to be determined by the referendum being whether members of both Houses faithfully reflect the will of the constituencies. It has been said that this is a
blow at responsible government, but it is not so. Responsible government, as has been admitted on all hands, means the responsibility of the Ministry of the day to the Lower Chamber. It is never intended that there should be a referendum in the case of a dispute between the Ministry and the Lower House. It is only in the case of a momentous and prolonged dispute between the House of Representatives and the Senate that it could ever be applied, and unless the Ministry of the day have a majority in the House of Representatives it is plain there never will be a dispute at all. Therefore it has no connection whatever with the question of responsible government. It is said, too, that it is a blow to representative government, that men in Parliament will forsake their responsibility and throw the burden and duty of determining these matters upon the people; but, with great respect to the gentlemen who urge this objection, I say it is utterly misplaced, for the reason that they are, without reflection, repeating objections to what is known as the Swiss system. In Switzerland, while there is a referendum, it is in the majority of cases only resorted to after the two Houses have agreed, and the Bill does not become law until the people have also assented to it. I can understand in such a case, that members of Parliament, if asked to pass a Bill which they knew would not become law until the people had also expressed their affirmation of it, would say they would not trouble about it, as it was only tentative, and would leave it to the people who would ultimately give their decision. That would be an abandonment of the responsibility of Parliament, but here, if the Houses agree, they accept the full responsibility of their action. It is only in case when the Chambers do not mutually pass a Bill that the referendum comes into operation.

Mr. O'CONNOR:
Would it be competent for a private member to get the referendum under this?

Mr. ISAACS:
Not unless the House granted it.

Mr. O'CONNOR:
On the motion of a private member?

Mr. ISAACS:
There is nothing expressly introduced to prevent it here, but I have no objection to doing so. I wish to point out that so far from diminishing, this seems to heighten in the greatest possible manner, by reason of the momentous consequences, the responsibility which any member would feel who advocated the application of this procedure. It is not open to the objection that it is provocative of expense, because no House that values its
reputation or the seats of its members would dream of plunging the country into the expense and turmoil and dislocation of public business which a universal election would cause; but if trouble does arise between the two Houses, as our Constitutions are at present framed, the remedy provided is a dissolution, and that dissolution causes exactly the same trouble and turmoil and expense as the referendum, with this difference, that you penalise members and do not ensure a verdict upon the only point at issue. What I propose is that, instead of a dissolution, let the business of Parliament go on without interruption, and permit the ordinary legislative functions of the Chambers to proceed as usual, but if the matter is so urgent as to require in the last resort, the "Aye" or "No" of the States as States, and the people as people, let it be taken. I think the mere presence of it will prevent any necessity for any resort to it.

Mr. KINGSTON:
It will not have the same influence on members as a dissolution, because it will not affect them.

Mr. ISAACS:
To a great extent it will affect them, because they know they accept the responsibility of involving a large expense to the country. In America they have practically a referendum every four years, at great expense to the country. We know that in Switzerland this matter has gone on increasing as the years have rolled by. First in the cantons, then in 1848 in the Federal Constitution, and then in 1874 it was lifted to a still higher position than before. In America it is used by millions of people; every State save one has it in its Constitution, and if members will look at the examples of voting by the referendum which I have furnished them with they will find instances where people have voted carefully and intelligently, not in any party spirit, because the numbers indicate that, but on questions of importance, on questions affecting the Constitution, and questions outside the Constitution—in one case whether a Bill should be accepted or not, in one case whether the election of the United States senators should be by the direct vote of the people, in another whether there should be an educational qualification for voters, and in another whether the debt should be refunded. Members will thus see that this process for ascertaining the direct will of the people is applicable to nearly every form of dispute that is conceivable. I believe that it would tend to improve the political education of the people, and I believe in these days, when we have so many educational advantages, scientific improvements, the press, the telegraph, steam, railways, and various other productions of this century, bringing men, however actually
distant, into close political and social contact, that we have an easy, facile, and direct method of ascertaining the unmistakable will of the people on any subject, and we should be throwing away these advantages, which are of comparatively recent growth, if we do not adopt this obvious and honest means of reconciling the two Chambers. Representative government as we possess it is of recent growth. It is only since 1832 that the people have been really represented, as before that there were rotten boroughs and Lords of Parliament and moneyed men who possessed under their control many seats in the House of Commons. It is only since the Reform Bill, which was strengthened and largely completed in 1867 and again in 1884, that we have had one representative government in Great Britain; and when we consider that after all our parliamentary contrivance is itself mechanical, we are justified in adding to it another mechanical contrivance to prevent the first from becoming useless or clogged. Therefore, in the shortest time possible. I commend this proposal to the serious consideration of members. I need not refer at length to the various references made to the question in the House of Commons and House of Lords, but Mr. Labouchere in 1882 said that even in England the people would probably prefer the direct consultation of the people themselves rather than the deluge of debate in Parliament. The Marquis of Salisbury and other leaders of men have frequently lent their powerful advocacy to the movement, and even Mr. Lecky, conservative as he is, points out that the matter is one that not only ought to be considered seriously, but should be entertained favorably.

Mr. DOBSON But not in a Federal Constitution.

Mr. ISAACS I do not see that there is any difference in that regard. I will only quote these few words from Mr. Lecky:

If the electorate is to judge policies, it is surely less likely to err if it judges them on a clear and distinct issue. In such a case it is most likely to act independently, and not at the dictation of party wire-pullers. It is to be remembered, too, that the referendum is not intended as a substitute for representative government. All the advantages of parliamentary debate would still remain. Policies would not be thrown before the electorate in a crude, undigested, undeveloped state. All measures would still pass through Parliament, and the great majority would be finally decided by Parliament. It would only be in a few cases, after a measure had been thoroughly discussed in all its bearings-after the two Houses had given their judgment-that the nation would be called on to adjudicate. The referendum would be an appeal from a party majority, probably made up of discordant groups, to the genuine opinion of the country. It would be an appeal on a question which had been thoroughly examined, and on which
the nation had every means of arriving at a conclusion. It would be a clear and decisive verdict on a matter on which the two branches of the Legislature had differed. It is argued against the referendum that many of the differences between the two Houses are differences not of principle, but of detail. A Bill is before Parliament on the general policy of which both parties and both Houses are agreed, but one clause or amendment, dealing with a subsidiary part, produces an irreconcilable difference. The popular vote, it has been said, would he an instrument wh

Mr. GLYNN:
Was Lecky not writing from the view of a conservative?

Mr. ISAACS:
Perhaps he was, but if the people are conservative, they have a right to be conservative; and if liberal, they have a right to be liberal. Again he says:

By this simple method the referendum might be put in action, and as the appeal would he to the existing electorate no insuperable difficulties of machinery would be likely to arise.

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After summing up the arguments he says:

The foregoing arguments show that the referendum is not a question to be lightly discussed. It might furnish a remedy for great and growing evils which it is very difficult to cure, and it would do so in a way which is in full accordance with the democratic spirit of the time.

Elsewhere he urges with moving force that it is a means of enabling the people to decide on measures rather than men, a phrase we should not easily forget.

Mr. O’CONNOR:
He proposes that as a strong conservative.

Mr. ISAACS:
I do not care. I am willing to accept it as a liberal measure. He says further:

The experience, however, of Switzerland and America shows that when the referendum takes root in a country it takes political questions, to an immense degree, out of the hands of wirepullers, and makes it possible to decide them mainly, though perhaps not wholly, on their merits, without producing a change of Government or of party predominance.

Mr. MCMILLAN:
Is there not a difference between applying it generally and applying it to a dispute between the Houses?

Mr. ISAACS:
You really want it for great disputes between the Houses and not as a
general expedient. The capital fact is that the people will want to know if this great piece of legislative machinery we are now fashioning is to be in a measure rendered useless, or worse than useless, because it has all the elements of collision and none of reconciliation.

Mr. MCMILLAN:

It has never been applied.

Mr. ISAACS:

If the hon. member looks at the printed document which I have circulated he will find important amendments where the Houses have differed and the matter has been decided by the people. That document was circulated for the purpose of answering such arguments as that of the hon. member, and I am glad he has asked the question. I trust we shall adopt this means. I am sorry Mr. Wise's proposal was negatived, but I think this is better and fairer to both large and small States, and I hope we will succeed in passing this, so that both Houses will prove true and faithful servants of the people, and never as two monstrous serpents imperil in their struggles the young giant of the nation.

Mr. DOBSON:

If the referendum, as Mr. Lecky favors, had been applied in the early days to Home Rule, when Mr. Gladstone first advocated it, the will of the people would have required the separation of the United Kingdom.

Mr. ISAACS:

How does the hon. member know?

Mr. DOBSON:

Three or four years afterwards, when the whole thing had been thrashed out, the will of the people decided by an enormous majority against it.

Mr. ISAACS:

The answer to that is, I give the utmost facilities for fully thrashing it out.

The CHAIRMAN:

I take it that the sense of the Committee on these clauses will be taken by the voting on the first clause.

Question-That the new clause to be inserted be so inserted-put. The Committee divided.

Ayes, 13; Noes, 18. Majority, 5.

AYES.

Berry, Sir Graham Isaacs, Mr.
Cockburn, Dr. Kingston, Mr.
Deakin, Mr. Peacock, Mr.
Gordon, Mr. Quick, Dr.
Higgins, Mr. Trenwith, Mr.
Holder, Mr. Turner, Sir George
Howe. Mr.
NOES.
Barton, Mr. Henry, Mr.
Braddon, Sir Edward Lewis, Mr.
Brown, Mr. McMillan, Mr.
Dobson, Mr. Moore, Mr.
Douglas, Mr. O'Connor, Mr.
Downer, Sir John Symon, Mr.
Fysh, Sir Philip Walker, Mr.
Glynn, Mr. Wise, Mr.
Grant, Mr. Zeal, Sir William

Question so resolved in the negative.

Mr. ISAACS:
We will carry it next time.

Mr. SYMON:
I move the following new clause to follow clause 78:

No person holding any judicial office shall be appointed to or hold the office of Governor-General, Lieutenant-Governor, Chief Executive Officer, or Administrator of the Government, or any other executive office.

I need not say that the great tribunal we have constituted is to be, above all things, the interpreter of the Constitution, and the laws made under the Constitution and to deal with all the laws of the States in their relations to the Commonwealth, and to be the arbiter between the Executive and the people. We all wish, and have sought by this Constitution, to secure the independence and purity of the judges constituting the High Court, particularly in view of the momentous functions they will have to discharge. We all wish that justice shall be administered throughout the Commonwealth unspotted and unsuspected.

Mr. HIGGINS:
Will the clause apply to State judges?

Mr. SYMON:
The clause is sufficient to do that. Though desirable that such a principle should apply in the case of the States and their courts, it is particularly desirable in the case of the Commonwealth and the High Court.

Mr. LEWIS:
I think we should go a little further and say that no judge of the Federal Supreme Court should be capable of being elected to be a member of the Federal Parliament.

Mr. BARTON:
That is provided already.

Mr. LEWIS:

I think we might go a little further and say that no judge of any State shall be capable of being elected to the Federal Parliament.

Mr. DEAKIN:

What about State rights?

Mr. LEWIS:

That is the law in Tasmania now.

Mr. KINGSTON:

I object to this proposed clause. It seems to me that it is aimed in particular against a practice which has obtained in the States with very great advantage to all concerned. If it is a good thing in connection with the provincial Governments, it may be equally good in connection with the Federal Government. We know perfectly well that in every colony of Australia the position of Lieutenant-Governor is conferred upon the Chief Justice or senior judge of the Supreme Court.

Mr. WALKER:

It is the President or the Upper House in Queensland.

Mr. KINGSTON:

I think the course which has been more generally adopted is infinitely preferable; and, if I recollect rightly, there have been some differences in Queensland which might have been avoided had the course I am now referring to been adopted. There is no doubt whatever that the duties have been admirably discharged. They are to a very great extent of a judicial character. On a variety of occasions Australian Chief Justices have been called upon to act in the place of absent Governors, and in no case whatever have I ever heard of anything which would warrant the suggestion that any evil has resulted from the combination of the two offices; on the contrary, the greatest satisfaction has been given to all interested. I think it would be casting a reflection on a practice which has generally obtained-in Australia-if we were in our Federal Constitution to absolutely prohibit a course which has been almost invariably adopted by the Imperial Government.

Sir GEORGE TURNER:

At the risk of detaining the Committee I wish to say that I see no justification whatever for attempting to tie the hands of the Queen in the appointment of a Governor for this Commonwealth. You must have a dormant Commission, and unless you have the appointment of the Chief Justice or senior judge for the time being, some other person must be appointed. If we are to debar the occupants of the judicial bench, because their interests might clash with those of the Commonwealth, ought we then
to leave it open to appoint the President of the Senate or the Speaker of the House of Representatives, or the Premier of the Commonwealth for the time being? And there are many others whom we might debar if we are to debar the whole judiciary. Why should we put any clog at all on the appointments? Surely we can trust the home authorities to see that the appointment they make is in the interests of the Commonwealth, and not improper or likely to do any injury. But if we are to put this block on the Constitution we ought to go further, as I have indicated.

Mr. BARTON:
There is not the same reason why a person in the Legislature should not be a branch of the Legislature.

Mr. ISAACS:
Not two branches though.

Sir GEORGE TURNER:
It is just as great a risk, because it very often might happen that the Acting-Governor might feel it his duty to disagree with the advice tendered by the Ministers, and it would certainly be very peculiar if the Ministry tendered advice with regard to action taken in the Senate, and the President of the Senate was the gentleman to whom the advice was tendered, and he had to act on it. I propose:

That after the word "judicial" the following be inserted: "Or any executive or legislative officer."

Of course I will vote against the whole clause in any form, but if we are to have it then we must have it in the largest possible form.

Mr. GORDON:
That would exclude the Commander of the military forces.

Mr. ISAACS:
I think there is great force in the views of those who say that there should be no limit placed on the prerogative of the Crown to appoint all executive officer or legislative officer. The judicial officer is placed above all possible control, where he can defy any power in the Constitution. He has no reason to hope or fear from any person; and yet he is to be excluded. And we are to allow other persons, who from their position will be swayed by various considerations, to hold any office which needs one who is beyond all suspicion of partiality. Supposing the Speaker of the House of Representatives or the President of the Senate had submitted to him the question of a dissolution, what a position the Government would stand in, whereas if the Chief Justice decided the question no one would object. We will open ourselves to ridicule if we pass the provision.
Mr. SYMON:
My hon. friend does not seem to appreciate the position of a judge in a Federation. He seems to have forgotten that we are establishing a Federation.

Mr. ISAACS:
The word "Federation" is an answer to everything; it is like the word "Mesopotamia."

Mr. SYMON:
There are four judges with the Chief Justice, and you might weaken the court if you withdrew one of them. The Judge might have to sit in judgment on his own executive acts. When you look at it that is absolutely anomalous. If you have a Federal High Court it would be constituted so as to determine the validity or invalidity of executive acts. You should therefore keep it aloof from the executive. Instead of the provision being a blot on the Constitution it would be a blot on Federation to adopt the Constitution without it, or permit any Judge to hold whilst performing judicial duties the highest executive office.

Mr. ISAACS:
That is the objection Sir George Turner has to it.

Mr. SYMON:
Sir George Turner's amendment is practically reducing the whole thing to ridicule. You may just as well say that Her Majesty shall have no power to appoint a Lieutenant-Governor at all. I say let us have this tribunal free from the executive.

Sir WILLIAM ZEAL:
I would suggest that the senior Governor of the States should be chosen. Sir George Turner's amendment negatived.

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Question-That the clause proposed to be inserted be so inserted-put. The Committee divided.

Ayes, 19; Noes, 11. Majority, 7.

AYES:
Barton, Mr. Henry, Mr.
Braddon, Sir Edward Lewis, Mr.
Cockburn, Dr. McMillan, Mr.
Dobson, Mr. Moore, Mr.
Douglas, Mr. O'Connor, Mr.
Downer, Sir John Symon, Mr.
Fysh, Sir Philip Walker, Mr.
Glynn, Mr. Wise, Mr.

1920
Mr. GORDON:
I move to insert the following new clause:
Every legal practitioner duly qualified in any State shall be entitled to 
practise in the High Court, or in any Federal Court.
Question-That the clause proposed to be inserted be so inserted-put. The 
Committee divided.
Ayes, 9; Noes, 21. Majority, 12.

Mr. WALKER:
I have to propose the following new clause, to follow clause 82:
The Parliament shall take over the whole of the railways of the several 
States, excepting Tasmania and West Australia, if they desire to be excepted, and each State shall be charged with any deficiency or credited 
with any net profits on the working of such railways.
Mr. PEACOCK:
That has already been proposed.

Mr. WALKER:
I was just going to intimate that I will move that the consideration of this clause be considered four months hence. (Cheers.)

Clause withdrawn.

Mr. MCMILLAN:
I intend to propose that the following new sub-section be added to clause 50:

XXXIIa. The taking over by the Commonwealth, with the consent of the State, of the whole or any part of the railways of any State or States, upon such terms as may be arranged between the Commonwealth and the State.

XXXIIIa. Railway construction and extension with the consent of any State or States concerned.

Mr. MCMILLAN:
I now propose the following new clause, to follow clause 95:

The control and management of all railways of the Commonwealth shall be in the hands of a board, the members of which shall be appointed by the Governor in Council for such term and at such remuneration as the Parliament may from time to time fix, which remuneration shall not be reduced during their continuance in office, and who shall be removable only for misconduct or incapacity, and by the Governor in Council, upon an address from both Houses of Parliament in the same Session, praying for such removal.

There is a growing feeling with regard to this railway question amongst some members, and it seems to me that one of the great obstacles in front of this movement has been the idea that the railways might be handed over for purely political purposes by embodying in this Constitution a clause which will necessitate a board of a non-political character. I think if this project gains ground it will be more acceptable to the people of the States. I move for the insertion of the new clause.

Mr. TRENWITH:
I hope the clause will not be adopted, for the reason that we have had some experience of irresponsible boards, and there is a growing dislike to them based upon the experience of their working. I will not occupy time in discussing it, but I felt bound to express my reason for objecting to the clause.

Question-That the new clause proposed to be inserted be so inserted—put. The Committee divided.

Ayes, 12; Noes, 18. Majority, 6.
AYES.
Barton, Mr. Lewis, Mr.
Braddon, Sir Edward McMillan, Mr.
Dobson, Mr. Moore, Mr.
Fysh, Sir Philip, O'Connor, Mr.
Grant, Mr. Walker, Mr.
Henry, Mr. Wise, Mr.

NOES.
Berry, Sir Graham Howe, Mr.
Cockburn, Dr. Isaacs, Mr.
Deakin, Mr. Kingston, Mr.
Douglas, Mr. Peacock, Mr.
Downer, Sir John Quick Dr.
Glynn, Mr. Symon, Mr.
Gordon, Mr. Trenwith, Mr.
Higgins, Mr. Turner, Sir George
Holder, Mr. Zeal, Sir William

Mr. DEAKIN:
I desire to put in a new clause to follow clause 100. This is one of those omitted by the Constitutional Committee. It provides that:
All references or communications required by the Constitution of any State or otherwise to be made by the Governor of the State to the Queen shall be made through the Governor-General, as Her Majesty's representative in the Commonwealth, and the Queen's pleasure shall be made known through him.

I propose to move the insertion of that clause. It is in no sense antagonistic to States rights. It was supported by yourself, Sir, in 1891, and by other ardent defenders of State rights, and it is necessary to the proper administration of federal business. One of the difficulties the colonies have labored under in the past is that they have spoken with individual and often conflicting voices. There have been six or seven voices on what are matters of foreign policy, or are matters that affect Australia as a whole. This clause indicates the channel through which all communications would have to pass, but in no sense limits the power of any State to make any communication or statement it pleases to the Home Government. All required is that those communications should pass through one channel. By this means a unity would be given to the relations between Australia and the mother-country, and it would also be made possible for the Governor-General as such to be in constant touch, not only with the affairs of the Commonwealth, but with the affairs of the several States. It is certain that the Home Government would occasionally require the advice of the
Governor-General in addition to that of the Governors of States with regard to measures that were submitted from the several States. I do not intend to make a speech, for I take it that one and all have pretty well decided whether to support this proposal or not. It is warmly commended to us by so high an authority as Bourmot. To me, as well as to a majority in the Sydney Convention, it seemed to be absolutely essential to a proper national administration of Australasian affairs. While it imposes no burden upon t

Mr. BARTON:
This clause was in the Commonwealth Bill of 1891.

Mr. DOUGLAS:
The hon. member for Victoria has not explained, so far as I could understand, the object of sending through the Governor-General. What is to be the nature of the communications to be sent through the Governor-General?

Mr. KINGSTON:
It means sending every Bill through the Governor-General.

Mr. DOUGLAS:
Why should the States be deprived of doing what they do at present of sending the communications through their own Governor direct to the Home Government? The object of this Federation, as I understand it, is to take as little as possible from the States.

Mr. KINGSTON:
Hear, hear.

Mr. DOUGLAS:
And to allow the States to govern themselves as far as they can without the interference of the Federal Government.

Mr. KINGSTON:
Hear, hear.

Mr. DOUGLAS:
Why should you deprive a State of the assistance of communicating through its own Governor on any matters that it thinks fit and proper? The Home Government would be in possession of the federal law, and would know exactly what is going on in the colony. Why should the States be prevented from communicating with the Home Government at all?

Mr. KINGSTON:
On local affairs.

Mr. DOUGLAS:
Precisely. This matter was considered in the Constitutional Committee, and it was thought well to strike out the clause in the 1891 Bill. The
general feeling, however, is in favor of communicating through the Governor of the province, and, if I recollect a right, that was advocated very strongly by the Victorians in 1891. Unless Mr. Deakin can give us some very good reasons why they should be sent through the Governor-General I shall vote against him. Why, if a State wishes to make an alteration in the Constitution, should the document be sent through the Governor-General?

Mr. ISAACS:
I never differ from Mr. Deakin but with considerable regret. It is impossible for him to put a view he holds without cogency and force, but in this instance I have the misfortune not to entertain the same opinion as he does. It seems to me it would introduce confusion between the Government of the Commonwealth and the Government of the State. As we stand now the Governor-General will transmit all federal matters, and the Governor of the State will transmit all communications which appertain to the State as distinguished from the Federation. I can understand many cases arising which would lead to actual dispute between the Federation and the State, and I do not see why the Governor as representing the State distinctively should not be the medium of communication between the power that appoints him and the State over which he happens to preside. We should be lowering the dignity of the various States if we were to say to each Governor that though he is the representative of the Queen for the colony that he should not be at liberty to communicate direct. I know of no good reason why the clause should be re-introduced.

Mr. MOORE:
It is surprising to me that one attempt after another is made to destroy the political individuality of the States. I hope the views expressed by Mr. Isaacs will be endorsed, and that the Governors of each State will have the power of communicating direct with the Queen. Every attempt of this kind is simply to weaken the power of the State, though when we met here it was intended that we should, as far as possible, maintain the political individuality of each State, and that we should only transfer to the Federal Government that which would be required for federal purposes. I am sure this is an attack on the power provided by the Constitution for the maintenance of State rights. I hope that the hon. member will not press his motion.

Mr. DEAKIN:
I most certainly will.

Dr. COCKBURN:
Theoretically this clause would be quite correct in a Federation which
should have only one channel of communication with the outside world, but there should also be a clause providing that for matters within the State there should be no necessity to refer to an outside authority at all. If this clause is put in, the other should follow. I have already endeavored to lay down the principle that in a Federation there should be no necessity to refer to an outside authority with regard to such local matters as a change of constitution. But the Committee has rejected that; and that being the case I shall vote against this clause. If Acts which are purely local have still to receive the Royal assent it is not right that they should have to go through the Governor-General. They should not require any outside Sanction as the State Parliaments will no longer have power to deal with external affairs, but as the Committee has already decided that local Acts should still be subject to the Royal assent, then they should not necessarily be sent through the channel of the Governor-General.

Mr. Howe:

Do I understand the mover of this clause to intimate to the Committee that he has a majority?

Mr. Deakin:

No, certainly not. I have not the least idea of the numbers. I said that as we had all made up our minds it was unnecessary to go into an elaborate explanation.

Mr. Howe:

I inferred from that that you were sure of a majority. This clause will be an unnecessary interference with State rights.

Mr. Kingston:

Hear, hear.

Mr. Howe:

We have surrendered certain powers and functions to the federal authority, and surely this right should remain to the State without our having to communicate through the Governor-General on matters that really do not concern the federal authority at all. Further than that, it is red tapeism pure and simple. It will be a mode of delay. We might have some vital matter, important to the State, and if we have to send despatches through the Governor-General it might be delayed for several mails. I shall vote against the inclusion of this clause.

Mr. Barton:

I should like to make a quotation to this House from two speeches. The first was made by an hon. member who seemed to put the matter very clearly.

Mr. Isaacs:

Who was he?
Mr. BARTON:

The hon. member who is in the chair will be able to inform you. He said:

I do not think there is in this Convention a stronger advocate of State rights and State interests than I am; but still I strongly support the clause as it stands, for it seems to me that one of the very fundamental ideas of a Federation is that, so far as all outside nations are concerned, the Federation shall be one nation, that we shall be Australia to the outside world, in which expression. I include Great Britain; that we shall speak, if not with one voice, at all events, through one channel of communication to the Imperial Government; that is, as it has been put, we shall not have seven voices expressing seven different opinions, but that Her Majesty's Government in Great Britain shall communicate to Her Majesty's Government in Australia through one channel of communication only.

I should like to add to that a few expressions that fell from Sir Samuel Griffith:

I have always maintained that one of the principal reasons for establishing a Federation in Australia was because the governments were always pulling in different directions. Australia speaks with seven voices instead of with one voice. Now, the hon. gentleman,

that is, Mr. Gillies,

wishes that Australia should continue to speak with seven voices instead of with one voice.

Mr. GILLIES:

Only on matters appertaining to themselves!

Dr. COCKBURN:

On matters appertaining to themselves they should not want to communicate with the Imperial Government at all.

Sir SAMUEL GRIFFITH:

I maintain that Ministers in Australia are to be the Queen's Ministers for the Commonwealth, and any communication affecting any part of the Commonwealth which has to be made to or by the Queen, should be made with their knowledge. Without that we shall not have the voice of one Commonwealth in Australia. I maintain that this argument is quite indisputable. The hon. member's argument amounts to this: somebody will not like it; some people object to it, and it is not absolutely necessary. I admit that it is not absolutely necessary; but I say it is necessary if we are going to establish a real Commonwealth in Australia.

Mr. MOORE:

That would be unification pure and simple.

Mr. BARTON:
An hon. member behind me says that would be unification pure and simple. One of the strong principles of a Federation is that it shall speak through one channel of communication with the outside world. The speaker goes on:

I think the idea is that there is to be but one government for Australia.
That is not unification, but one government for Australia as regards the outside world.

And that we shall have nothing more to do with the Imperial Government except the link of the Crown. We recognise the Crown, but do not desire to have the Governments of Australia all trying to attract the attention of the Secretary of State in Downing-street.

Mr. GILLIES:
We cannot prevent them from having Agents-General.

Sir SAMUEL GRIFFITH:
Certainly not; but the Agents-General will be limited to their functions as commercial agents.

Mr. GILLIES:
Will they?

Sir SAMUEL GRIFFITH:
They will no longer be diplomatic agents. I maintain that Australia in to have only one diplomatic existence, and, therefore, only one diplomatic head, and one diplomatic mouthpiece in any other part of the world. Those are my reasons. I hope the matter will not be considered a light one. I think it is very important indeed.

I have quoted, I suppose, from two of the most strong, definite, and clear champions of State rights, and it would be futile for me to add another word.

Mr. KINGSTON:
I thoroughly agree with the idea that the Federation should speak with one voice on behalf of Australia generally, but this belief is qualified by another, that it should only speak in national affairs, and that it should leave State and local affairs to the management of the States themselves, and not interfere in the slightest degree. I have though

Mr. ISAACS:
A circumlocution office.

Mr. KINGSTON:
A circumlocution office! It would be bad enough if it were only a circumlocution office, but I am inclined to think that it is not intended as a mere idle form, but that the Governor-General and the Federal Government shall have the opportunity of communicating their views to the Colonial Office. Either one of two things. At the best a waste of time, at the worst a
course of action calculated to produce great friction between the State Governments and the Federal Government. I have simply spoken of these documents going from the States Governors through the Federal Government to the Colonial Office. But the reverse holds good—back they would come through the Federal Government to the various States, and fancy—the point has been put to me by another member, for which I am obliged—our receiving advice as regards matters purely of local concern, say as regards the assent to our Bills or the disallowance of a Bill, or the appointment of a Governor, not first hand from the authority with which we have a right to communicate, but coming through an authority to which we owe no allegiance, and which, though supreme within the orbit of its own jurisdiction, should not be permitted to interfere in matters with which it has absolutely no concern.

Sir EDWARD BRADDON:

I think it has been generally recognised that the States are in this Federation to retain their complete autonomy, and I do not know any member of this Convention who has held this view more strongly than Mr. Deakin. Mr. Deakin has held, and held rightly, that every matter which can better be left to the States than transferred to the Commonwealth for its control should be left to the States, that in that matter the States should be masters of their own destinies and their own proceedings. I cannot conceive of any more serious blow that could be dealt at the Government of these States, and therefore at the autonomy we desire to preserve for them, than by allowing this interference as between the home authorities and the State through the Governor-General upon purely State matters. It might very well be that the States would have to refer some amendment of their Constitution. They would in such a case under this proposal have to refer that amendment of their local Constitution for the Royal assent through the Governor-General. I think that would be not only to the detriment of the interests of the States, so far as their system of government was concerned, but that it would be an exceedingly ridiculous, roundabout, and cumbrous procedure.

Proposed new clause negatived.

Dr. COCKBURN:

I wish to move two new clauses to follow clause 103. Their object is to prevent anybody from occupying the dual position of a member of a State Parliament and a member of the Federal Parliament. Such a position must necessarily mean a divided allegiance. The State Parliament may for the time being be opposed to the Federal Parliament. Then, again, the local Parliaments may be sitting at the same time as the Federal Parliament, or it
might be that a State Parliament would have to hurry through its work in order to enable some of its members to get to the scene of their other work in the Federal Parliament. Mr. Higgins has clearly shown that one of the reasons of the degradation of the State Parliaments in America lay in the fact that they were mixed up with federal politics. Unless a provision of the nature I am about to submit is inserted, the work of the State Parliaments will have to be made subordinate altogether to the work of the Federal Parliament. I therefore move the insertion of the following new clauses, which formed part of the Bill of 1891:

A member of the Senate or House of Representatives shall not be capable of being chosen or of sitting as a member of any House of Parliament of a State.

If a member of a House of the Parliament of a State is, with his own consent, chosen as a member of either House of the Parliament of the Commonwealth, his place in the first-mentioned House of Parliament shall become vacant.

Mr. Higgins:

As my name has been mentioned in connection with this, I would just like to say one or two words. I feel strongly how the State Parliaments in America have been degraded by having federal politics introduced; but, to my idea, though I may be wrong, the work of the Federal Parliament will be very much less than we imagine, and I am perfectly prepared to leave it to the electors of the State Parliament to say whether they will trust their affairs in the hands of those who occupy seats there. It will be a great inconvenience as well as a loss to the electors of the colonies if they are not able to assist in the moulding of the Federal Parliament and its legislation. I hope that perfect liberty of choice will be left to the electors so that they may select men whom they think can best do their duty.

Sir Edward Braddon:

I hope this clause will not be inserted. This was argued out very fully in the Constitutional Committee, and it was shown pretty clearly that it would not only have the effect of limiting the selection of members of the Federal Parliament, but to a considerable extent would cause a deterioration in the efficiency of the States Parliament. I think we should leave it to the judgment of the people of the States, who, after all, are the arbiters in this case, to say what should be done.

Proposed clauses negatived.

Dr. Quick:

I have a new clause to propose, to follow clause 120 under the heading
"Miscellaneous." It reads:

Until the Parliament otherwise provides, if any person votes or attempts to vote more than once at any election held under this Constitution, he shall be guilty of an offence against the electoral law of the State in which he votes, or attempts to vote, and shall be liable to a penalty not exceeding fifty pounds, or to imprisonment for a period not exceeding three calendar months, and the provisions of this section may be enforced in any court having jurisdiction in respect of electoral offences in the State.

It is provided by section 9 that no person shall vote more than once for the election of senators, and, according to section 29, no man shall vote more than once for the election for the House of Representatives. Clause 10 provides:

The Parliament of the Commonwealth may make laws prescribing a uniform manner of choosing the members of the Senate. Subject to such laws, if any, the Parliament of each State may determine the time, place, and manner of choosing the members for that State. Until such determination, and unless the Parliament of the Commonwealth otherwise provides, the laws in force in the several States for the time being, relating to the following matters, namely: The manner of conducting elections for the more numerous House of the Parliament of the State, the proceedings at such elections, returning officers, the periods during which elections may be continued, and offences against the laws regulating such elections shall as nearly as practicable, apply to elections in the several States of members of the Senate.

Then clause 41 enacts:

Until the Parliament otherwise provides, the laws in force in the several States for the time being, relating to the following matters, namely: The manner of conducting elections for the more numerous House of the Parliament of the State, the proceedings at such elections, the returning officers, the periods during which elections may be continued, the execution of new writs in case of places vacated otherwise than by dissolution, and offences against the laws regulating such elections, shall as nearly as am practicable apply to elections in the several States of members of the House of Representatives.

The object of this clause is substantially to meet special cases in Victoria, Tasmania, Western Australia, and Queensland, where there is no local law providing penalties for voting twice. In New South Wales and South Australia this provision would hardly be necessary, but it is absolutely essential that some provision of the kind should be made for the colonies I have mentioned, otherwise equal voting will be practically a dead letter. For instance, supposing in Victoria any person votes twice for an election
of senators, or members of the House of Representatives, there is no law under which he could be prosecuted and there is no guarantee that a local law will he passed. This Constitution must be independent of the possibility or probability of any such local law being passed. Otherwise there will be a doubt, and a feeling of insecurity as to the reality of this provision. I have proposed this to meet a special case, and it may be unsymmetrical to put it in any Constitution, but I cannot see any way out of it. Some provision is necessary to meet the case of three colonies, and unless something is done the law abolishing plural voting will be a dead letter.

Mr. BARTON:

At first I thought it would be necessary to have some provision of this sort, but now I think it is unnecessary. In the clause it is prescribed that

an elector "shall have only one vote"; as to the Senate and as to the House of Representatives I intend to move, on the recommittal of the clause, that the matter shall be turned into a direct prohibition; that is, that "no elector shall vote more than once." A breach will be a Statutory misdemeanor, and the offender can be punished, this being an Imperial Statute, in the same way as he would be for a breach of any other Imperial Statute applying to the colonies, such as the merchant shipping laws. Lest there should be any doubt in connection with the giving of a vote, when there is a distinct law against it, there is a passage in Russell on "Crimes," which the legal members of the Convention will be satisfied with. It is in the fifth edition, page 192:

Where an offence is not so at common law, but made an offence by Act of Parliament, an indictment will lie where there is a substantive prohibitory clause in such Statute, though there be afterward a particular provision and a particular remedy given. Thus, an unqualified person may be indicted for acting as an attorney contrary to the 6 and 7 Vict., c. 73, a. 2, although sec. 35 and sec. 36 enact that in case any person shall so act he shall be incapable of recovering his fees, and such offence shall be deemed a contempt of court, and punishable accordingly.

That is to say, although the Statute provides a distinct means of punishment, yet if by the disregard of the prohibition a misdemeanor is committed, a court can convict the offender of that misdemeanor and may fine or imprison him. The passage continues:

And it is stated as an established principle that when a new offence is created by an Act of Parliament and a penalty is annexed to it by a separate and substantive clause, it is not necessary for the prosecutor to sue for the penalty, but he may proceed on the prior clause on the ground of its being a
misdemeanor; and wherever a Statute forbids the doing of a thing, the doing of it wilfully, although without any corrupt motive, is indictable.

Wherever the Statute, as I intend to ask the House to make it in this case, says that no elector shall vote more than once, there is a distinct prohibition, and voting more than once wilfully will be a crime and misdemeanor, and the courts will be able to punish by fine or imprisonment. They will have the distinct power. There is in all of these colonies an electoral law, and power to alter it, until Parliament otherwise provides, and if there are not distinct provisions for punishment for such offences, it is still in the power of the State law to subject the offenders to such punishment as it prescribes. But even if that were not done, the case is distinctly met by the Statutory prohibition, which will be imposed by the form in which we propose to put it, and, I think, my hon. friend will agree that his new clause will not be necessary.

Mr. ISAACS:
I suppose you propose to put in words to make it a misdemeanor.

Mr. BARTON:
If necessary; but where the statute expressly forbids it is a misdemeanor without further words.

& Without any corrupt motive is it indictable?

Mr. BARTON:
Although there may be no corruption in the doing of the act, if it is done intentionally it is indictable.

Mr. HIGGINS:
What words do you propose to put in?

Mr. BARTON:
I propose to alter the words "each elector shall have only one vote" to "no elector shall vote more than once," and that being a distinct statutory prohibition will meet the case.

Dr. QUICK:
In view of the proposed amendment I beg to withdraw the proposition.

Sir EDWARD BRADDON:
I only wish to point out that at our last elections in Tasmania we adopted the Hare-Spence system in the cities of Hobart and Launceston, and we provided a penalty of £50.

Sir GEORGE TURNER:
I did not think you had any wicked people over there.

Sir EDWARD BRADDON:
We thought they might come from Victoria. Clause withdrawn.

PREAMBLE.
Whereas the people of [here name the colonies which have adopted the
Constitution] have agreed to form one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established: And whereas it is expedient to make provision for the admission into the Commonwealth of other Australasian Colonies and possessions of Her Majesty: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:—

Mr. DEAKIN:

On the question of the preamble I have already called the attention of Mr. Barton to a change made in the opening expression. In the original Bill it was:

Have agreed to unite in one Federal Commonwealth.

But here it is:

Have agreed to form one indissoluble Federal Commonwealth.

The introduction of the word "indissoluble" is a decided improvement; but in other respects I beg to suggest that the words "agreed to form" are, to use an expression of Mr. Barton in referring to another matter, not so stately an opening as:

Agreed to unite in one federal Commonwealth.

If I may be permitted to refer to clause 3 we find the words:

Shall be united in a Federal Constitution.

Both of these are legal expressions, and it appears to me, if I may be so bold as to offer a suggestion to gentlemen who have far more experience in drafting than I have had, and to whose judgment I willingly bow, that they are legal rather than expressive, they do not appeal to the common understanding to a layman.

Mr. BARTON:

To save time, I may say that I will willingly accept the amendment.

Mr. DEAKIN:

I do not propose to move an amendment, but I merely suggest it.

Word "form" struck out and "unite in" substituted.

Mr. GLYNN:

I have an amendment which I move, not on my own unsupported initiative, but at the suggestion of other members of this Convention. It is:

That before the word "have" on the second line of the preamble the words "invoking Divine Providence" be inserted.

I only wish that I could with ease command language appropriate to the solemnity of the amendment, for the occasion is one unique in its
character, and calling for the exercise of perfect choice of words, and the
use of them in a spirit of deepest reverence. But I trust the Convention will
overlook my personal shortcomings, and accept my assurance of a desire to
approach the subject with becoming delicacy. We must, I am sure, all
agree, whatever may be the decision of the Convention as to the propriety
of passing the motion, that we cannot ignore the evidence afforded by the
petitions of a widespread desire that the spirit of the proposal should be
accepted; we cannot pass over in silence the almost unanimous request of
the members of so many creeds, of one aim and hope, that the supremacy
of God should be recognised, and His blessing invoked, in the opening
lines of our Constitution. It is from a belief that we should give expression
to that desire in the Convention, and that a consensus upon the great central
fact of faith and feeling, strengthens, rather than weakens, the security of
liberty of thought, that I move this amendment. Let me state some of the
reasons that should operate for its acceptance. We have taken the first great
step towards Federation. The draft of our Constitution is practically
complete. Never was the birth of a nation blessed by the conjunction of
such auspicious stars, never did the opening of a national life give such
promise of endurance and strength, as mark the coming of Australia. The
American Union was, in its primary objects, a defensive alliance—the issue
of fear; begotten of a sense of danger from isolation and diversity, and a
keen consciousness of necessity in the struggle for life. Stripped of the
romance of rebellion and the glamor of success, the movement which was
crowned with the Constitution of 1787, was not the outcome of a wild and
ennobling impulse

[P.1185] starts here

of patriotism, a fight for a great ideal. It was, as Mr. Lecky reminds us, in
words which I cannot remember, but whose effect I can give, the method
of commonplace and calculating men, of commercial instincts and narrow
ambitions. The Swiss Federation was not the product of a splendid
foresight and love, but the fruit of 600 years of dissension and dangers, the
expression of a reluctant sense of an indispensable condition to the
permanence of national life. But ours is the creation of desire, the product
of prudence and passion—of passion for the larger life and nobler aims, and
prudence that can build before the breaking of the storm. The foundations
of our national edifice are being laid in times of peace; the invisible hand
of Providence is in the tracing of our plans. Should we not, at the, very
inception of our great work, give some outward recognition of the Divine
guidance that we feel? This spirit of reverence for the Unseen pervades all
the relations of our civil life. It is felt in the forms in our courts of justice,
in the language of our Statutes, in the oath that binds the sovereign to the
observance of our liberties, in the recognition of the Sabbath, in the rubrics of our guilds and social orders, in the anthem through which on every public occasion we invoke a blessing on our executive head, in our domestic observances, in the offices of courtesy at our meetings and partings, and in the time-honored motto of the nation. Says Burke:

We know, and, what is better, we feel inwardly that religion is the basis of civil society.

The ancients, who, in the edifices of the mind and marble, have left us such noble exemplars for our guidance, invoked, under a sense of its all-pervading power, the direction of the Divine mind. Pagans though they were, and as yet but seeing dimly, they felt that the breath of a Divine Being-

That pure breath of life, that spirit of man, which God inspired, as Milton says—was the life of their establishments. It is of this that Cicero speaks when he writes of that great elemental law at the back of all human ordinances, that eternal principle which governs the entire universe, wisely commanding what is right and prohibiting what is wrong, and which he calls the mind of God. He says:

Let this, therefore, be a fundamental principle in all societies, that the gods are the supreme lords and governors of all things—that all events are directed by their influence, and wisdom, and Divine power.

Right through the ages we find this universal sense of Divine inspiration—this feeling, that a wisdom beyond that of man shapes the destiny of states; that the institutions of men are but the imperfect instruments of a Divine and beneficent energy, helping their higher aims. Should we not, Sir, grant the prayer of the many petitions that have been presented to us, by recognising at the opening of our great future our dependence upon God—should we not fix in our Constitution the elements of reverence and strength, by expressing our share of the universal sense, that a Divine idea animates all our higher objects, and that the guiding hand of Providence leads our wanderings towards the dawn? In doing so we will be but acting on what a great statesman called, the uniformly considered sense of mankind. He continues:

That sense, not only like a wise architect, hath built up the august fabric of States, but, like a provident proprietor, to preserve the structure from profanation and ruin as a sacred temple, purged from all the impurities of fraud, and violence, and injustice, and tyranny, hath solemnly and for ever consecrated the Commonwealth and all that officiate in it. This consecration is made that all who administer in the government of men, in which they stand in the person of God himself, should have high and worthy notions of their function and destination; that their hope should be
full of immortality; that they should not look to the paltry pelf of the moment, nor to the temporary and transient praise of the vulgar, but to a solid permanent existence in the permanent part of their nature, and to a permanent fame and glory in the example they leave as a rich inheritance to the world.

It was from a consciousness of the moral

anarchy of the world's unguided course, that all races of man saw, in their various gradations of light, the vision of an eternal Justice behind the veil of things, whose intimations kept down the rebellious hearts of earth's children. It was this that made them consecrate their national purposes to God; that their hands might grow strong, and their minds be illumined, by the grace of that power divine through which alone, as Plato says, the poet sings:

We give like children, and the Almighty plan, Controls the forward children of weak man.

Under a sense of this great truth, expressed some thousand years ago, I ask you to grant the prayer of these petitions; to grant it in a hope, that the justice we wish to execute may be rendered certain in our work, and our union abiding and fruitful by the blessing of the Supreme Being.

Mr. DOUGLAS:

There is no doubt the sermon of the hon. gentleman would have been exceedingly interesting provided it had been given in another place, but why we should be called upon to invoke the Divine blessing I cannot understand. To do so is not the proper way of carrying out the religious idea at all. Certain ceremonies are adopted in certain old countries because it has been the custom. In several modern constitutions which have been adopted—for instance, those of the United States and Canada—this ceremony has not been provided for. Nothing can make religion more ridiculous than to have the form without the substance. Prayers in the House of Commons are a mere farce. We are asked to put in words which would create difficulty, annoyance, and vexation, and instead of doing good would do harm. It will not make people religious to put two or three words like these into an Act of Parliament, and it will not make this Parliament religious. We might as well say that all business here or elsewhere should be commenced with prayer. And we might go further and say that we should go on our knees during the prayer. Instead of doing good to persons this would have the opposite effect. Nothing does more harm to religion than to make an outward show of it. I hope we will not put in words to make it appear that we have invoked the Divine blessing on our proceedings. All that has been done since the Bill of 1891, that was drafted six years ago,
has gone on very well, and we shall go on very well for years without these words.

Mr. BARTON:

I do not want a motion of this kind if it can be avoided, and I still think it would be a wise and gracious thing of my hon. friend not to press this motion. It is not with any feeling of irreverence that I say this, but because I think there are some occasions on which the invocation of the Deity is more reverently left out than made. There are, no doubt, a large number of electors who will go to the poll, when they vote to agree to this union, invoking Divine guidance. Still it is not our place to enquire, after the vote is over, into the hearts and minds of the electors. It is not for us

Sir EDWARD BRADDON:

Hear, hear.

Mr. BARTON:

It is surely not according to the religious convictions of anyone that we should attribute feelings to others as to which we are in perfect ignorance? We cannot know that anyone will have those feelings before the action has occurred; we should not know the feelings that anyone had had even if the action had already occurred. How can it then be either logically, or truly, or fairly said that the electors of Australia have invoked the Divine guidance? We put these words into the mouth of the Imperial Parliament -we, the Convention, who have had no instructions upon this point, except that there have been certain petitions presented, are inviting the Imperial Parliament to declare that persons 12,000 miles away had invoked the Divine guidance. Can we honestly and truthfully assure the Imperial Parliament of that? If not, why suggest to them to use these words? I am not suggesting for a moment that there will not be a very large number of electors who before going to the poll will offer up some kind of prayer, according to their religious convictions, and no man will honor them the less for doing that; but can we inquire into the proportion of those who do or do not do this? Can we attribute to those who do and to those who do not that the one or the other are in a majority, or affirm that those who create this Constitution have, before they created it, gone to the foot of their Creator and asked for Divine guidance? What is the ordinary feeling of a man on going to the poll? He will probably go in the spirit of opposition to somebody, and meaning to support somebody else; if he does that under the electoral law of New South Wales he will probably scratch somebody's name out. I do not think when a man scratches out the name of his adversary he is invoking the Divine guidance, except in the sense that he may want to place the person to whom he gives
his support into a position that will be the direct antithesis of that in which he wants to place the other person.

An HON. MEMBER:

That is no argument.

Mr. BARTON:

I am told that that is not an argument. It is an argument in the sense that we cannot predicate—any more than we can predict—of people what their views and intentions are. The whole mode of government, the whole province of the State, is secular. The whole business that is transacted by any community—however deeply Christian, unless it has an established church, unless religion is interwoven expressly and professedly with all its actions—is secular business as distinguished from religious business. The whole duty is to render unto Caesar the things that are Caesar's, and unto God the things that are God's. That is the line of division maintained in every State in which there is not a predominant church government which dictates to all civil institutions. In these colonies, where State aid to religion has long been abolished, this line of demarcation is most definitely observed, and there is no justification for inserting into your secular documents of State provisions or expressions which refer to matters best dealt with by the churches, and which every righteous citizen will deal with in his church and at his time of worship, and not intrude into those matters which are themselves secular, and in themselves cannot be anything but secular. I should like to see debate avoided on a matter of this sort, and it was only with the greatest reluctance that I undertook to express my own opinions. It is because I should think that I was not doing justice to myself if I allowed this to pass without comment that I have risen. It is not in any spirit of irreverence, but rather in a spirit of protest against the introduction of such a motion on such an occasion that I have risen. I am quite sure there is no hon. member of this Convention who to conciliate the support of any denomination or any class would take the action that is now being taken. If that is generously allowed, and it may be fully allowed, then clearly others may debate this matter without being misunderstood, and no irreligious feeling must be attributed to those who, not agreeing with the proposal, claim as strong a right to maintain their religious convictions and express them at the proper time. We ought to avoid a long debate, and have no division. The best plan which can be adopted as to a proposal of this kind, which is so likely to create dissension foreign to the objects of any church, or any Christian community, is that secular expressions should be left to secular matters while prayer should be
left to its proper place.

Mr. WALKER:

With all due deference to my hon. friend Mr. Barton, I cannot forget that I presented a petition from several thousand inhabitants of New South Wales asking that there should be some recognition of the Divine Sovereignty in this Constitution. It is within the knowledge of most of the members of this Convention that in the Church of England there have been prayers that the deliberations of this Convention might tend to the benefit of the whole of these colonies. I know that has also been done in other churches, and therefore I do think that in a sense it is true there has been a public, desire for God's blessing upon our work. I would remind this Committee that at the opening of the Convention, or shortly after, the President read a telegram he received from the Secretary or State for the Colonies, on behalf of Her Majesty, in which, if I remember rightly, there is an allusion to the guidance of Divine Providence. It seems to me only fair that this motion should be considered. I may say that I have the authority of the Premier of New South Wales, Mr. Reid, also that of Mr. Carruthers and Sir Joseph Abbott, for saying that, had they been here, they would have supported Mr. Glynn in his proposal. It seems to me that there will be no harm in mentioning here that at the Convention in Bathurst the following clause was carried unanimously:

That this Convention, acknowledging the government of this world by Divine Providence, commends the cause of Australian Federation to all those who desire to promote the material, moral, and social advancement of the people of Australia.

We are all aware that even on the coins that we circulate every day with Her Majesty's image on are the words "By the Grace of God, Defender of the Faith"; and I do think we are only consistent in making some acknowledgment such as in the words proposed by Mr. Glynn. I trust that this Committee will not divide, but will accept the proposition unanimously.

Mr. GLYNN:

Before the matter is put, I quite recognise the fair spirit in which this proposition has been accepted by the Convention. I agree with Mr. Barton that the question is one which should not be debated, but I have done my duty in having, at the request, reflected by these petitions, of a very large body outside this Convention, and of members of this Convention, some of whom have left the colony to-day to return to their homes, brought forward this resolution. I would be very sorry to push it if hon. members think it is a matter of propriety and should not be considered at the present time. I did not act on personal initiative in bringing this matter forward, but wished
not to pass over in pure silence the numerous petitions regarding this question which have been presented to the Convention. Now having mentioned the matter, perhaps I should ask permission to withdraw. I do so because this is the beginning of the work, and I do not want a motion of this sort to be put with the possibility of unripe discussion. Our voices ought to be unanimous either in favor of its acceptance or rejection. I ask leave to withdraw the amendment, and the feeling adduced would be an excellent test of the possibility of a provision of this sort being accepted later on if that permission were granted me.

Sir GEORGE TURNER:
That lets it go forth to the outside world that we are all against it going in.

Mr. GLYNN:
If hon. members wish me to push it, no one is more willing to do so; but I understand it is the sense of this Convention that it will be better to let the matter drop at present. If I accurately interpret the feeling of this Convention, the best test I can make is to ask leave to withdraw the amendment. If not, one vote, refusing a withdrawal, will settle the matter.

Sir WILLIAM ZEAL:
I shall object to that. Without wishing to controvert what Mr. Barton has said, I may remark that I have had very strong representations made to me by my constituents to support this request, and I cannot do any other.

Question—that the words proposed to be inserted be so inserted—put. The Committee divided.


AYES.
Deakin, Mr. Peacock, Mr.
Glynn, Mr. Quick, Dr.
Holder, Mr. Turner, Sir George
Howe, Mr. Walker, Mr.
Isaacs, Mr. Zeal, Sir William
Moore, Mr.

NOES.
Barton, Mr. Grant, Mr.
Berry, Sir Graham Henry, Mr.
Braddon, Sir Edward Higgins, Mr.
Brown, Mr. Kingston. Mr.
Cockburn, Dr. McMillan, Mr.
Douglas, Mr. O'Connor, Mr.
Mr. BARTON:

I wish to move:
That clauses 9, 12, 23, 25, 29, 36, 47, 48, 52, 54, 67, 82, 84, and 121 be recommitted.

Question resolved in the affirmative.

Mr. WALKER:

I move:
That clause 14 be recommitted.

Question resolved in the affirmative.

Mr. MCMILLAN:

I move:
That clause 50 be recommitted.

Question resolved in the affirmative.

Sir EDWARD BRADDOCK:

I move:
That clauses 73 and 107 be recommitted.

Question resolved in the affirmative.

Mr. HOWE:

I move:
That clause 13 be recommitted.

Question resolved in the affirmative.

Clause 1.-The legislative powers of the Commonwealth shall be vested in a Federal Parliament, which shall consist of Her Majesty, a Senate, and a House of Representatives, and which is hereinafter called "The Parliament," or "The Parliament of the Commonwealth."

Mr. BARTON:

I find that the term "Her Majesty" appears in this clause, and as "the Queen" is the expression variably used now

Question resolved in the affirmative.

Clause as amended passed.

Clause 8.-"Privileges, &c., of Houses."

Mr. BARTON:

I move:
To strike out "respectively" from the second line.
Amendment agreed to.

**Mr. BARTON:**

I move:
To strike out "and of the committees and members thereof respectively,"
and insert "and of its members and committees.
Amendment agreed to.
Clause as amended agreed to.
Clause 9.-Senate.
Clause 9.-The Senate shall be composed of six members for each State,
and each member shall have one vote.
The members for each State dull be directly chosen by the people of the
State as one electorate.
The members shall be chosen for a term of six years, and the names of
the members chosen by each State shall be certified by the Governor to the
Governor-General.
The Parliament shall have power, from time to time, to increase or
diminish the number of members for each State, but so that the equal
representation of the several States shall be maintained and that no State
shall have less than six members.
The qualification of members of the Senate shall be in each State that
which is prescribed by this Constitution or by the Parliament as the
qualification for electors of members of the House of Representatives, but
in the choosing of senators each elector shall have only one vote.

**Mr. BARTON:**

I propose:
To add at the end of the clause the words "and
if any elector votes more than once he shall be guilty of a misdemeanor."

**Mr. HIGGINS:**

I would call attention to one difficulty. If there are a dozen men who vote
twice and are guilty of a misdemeanor there is nothing to show that the
votes are not to be counted notwithstanding.

**Mr. BARTON:**

I will put my amendment in a different form. I will first move:
To strike out the word "only."
Amendment agreed to.

**Mr. BARTON:**

I will now move:
To insert after the words "have one vote" the words "for as many persons
as are to be elected."
Amendment agreed to.

Mr. BARTON:
I will next move:
To add at the end of the clause the words "and if any elector votes more than once he shall be guilty of a misdemeanor."

Dr. QUICK:
I would suggest that Mr. Barton put in "more than once at the same election."

Mr. BARTON:
It is only multiplying words.
Amendment agreed to.

The CHAIRMAN:
Do I understand that the word "senators" is to take the place of "members of the Senate"?

Mr. BARTON:
Yes.

Mr. KINGSTON:
I would ask Mr. Barton if he is going to insert a provision here?

Mr. BARTON:
About regulations?

Mr. KINGSTON:
Yes.

Mr. BARTON:
No, not here. There is a proper place for that. Dr. Quick has a motion on it. I do not think it is in this clause.

Dr. QUICK:
No. "Miscellaneous."

Mr. BARTON:
We think it will not be necessary.
Clause as amended agreed to.

Clause 12.-As soon as practicable after the Senate first meets the members chosen for each State shall be divided by lot into two classes. The places of the members of the first class shall be vacated at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the commencement of their term of service as herein declared, so that one-half may be chosen every third year.

For the purposes of this section the term of service of a member shall begin on and be reckoned from the first day of January next succeeding the day of his election, except in the case of the first election, when it shall be reckoned from the first day of January preceding the day of his election.
The election to fill the places of members retiring by rotation shall be made in the year preceding the day on which they are to retire.

Mr. BARTON:

In that clause I wish:

To omit the last phrase of the first paragraph, "so that one-half may be chosen every third year," and insert in its place, "and afterwards there shall be an election every third year accordingly."

I wish to convey the idea that these elections will take place every three years right on from the first time. A suggestion was made by the hon. member Mr. Deakin that we should make some provision whereby the members who were lowest on the poll should be those to retire first. But none of them would retire for three years, and there is no guarantee that any of them would be lower in the confidence of the electors after the expiration of three years. We thought that once members were elected to any Assembly they should be treated all alike, and that to make any discrimination after their election as to the number of votes cast would be foreign to the policy of any legislative body. We thought, therefore, that the retirement should be by lot.

Amendment agreed to.

Clause 13.-How vacancies filled.

Mr. HOWE:

I would ask the Leader of the Convention to kindly indicate the amendment in this clause.

Mr. BARTON:

I move verbal amendments to make the clause read:

If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State he represented shall, sitting and voting together, choose a person to fill the vacancy until the expiration of the term or until the election of a senator as hereinafter provided, whichever first happens. And if the Houses of Parliament of the State shall be in recess at the time when the vacancy occurs the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to fill the vacancy until the beginning of the next Session of the Parliament of the State or until the election of a successor, whichever first happens.

At the next general election of members of the House of Representatives, or at the next election of senators of the State, whichever first happens, a successor shall, if the term has not then expired, he chosen to hold the place from the date of his election until the expiration of the term.

Amendments agreed to and clause passed.
Clause 14.-The qualifications of a member of the Senate shall be those of a member of the House of Representatives.

Mr. WALKER:
I move:
To strike out all the words after "Senate."
If that is carried I shall move to make the age qualification 25 instead of 21.

Sir EDWARD BRADDON:
The age of a candidate for a seat in the Senate was designedly made the same as for a candidate for the House of Representatives, and both alike are elected by the full suffrage of the people. Such a hard-and-fast rule as Mr. Walker proposes might exclude some modern Pitt.

Mr. WALKER:
It might also include some well-known athlete or footballer who for the time has got the voice of the people. To say that such a man should be able to get £400 a year for six years is a mere farce.

Mr. O'CONNOR:
Make it a misdemeanor to be a footballer.

Amendment negatived; clause as read agreed to.

Clause 23.-The House of Representatives shall be composed of members directly chosen by the people of the several States, according to their respective numbers; as nearly as practicable there shall be two members of the House of Representatives for every one member of the Senate.

Until the Parliament otherwise provides, each State shall have one member for each quota of its people. The quota shall, whenever necessary, be ascertained by dividing the population of the Commonwealth as shown by the latest statistics of the Commonwealth by twice the number of members of the Senate, and the number of members to which each State is entitled shall be determined by dividing the population of the State as shown by the latest statistics of the Commonwealth by the quota.

But each of the existing colonies of New South Wales, New Zealand, Queensland, Tasmanian, Victoria, and Western Australia, and the province of South Australia, shall be entitled to five representatives at the least.

Mr. BARTON:
There was some doubt as to whether the words:
until Parliament otherwise provides,
governed the remainder of the paragraph as to the method of ascertaining the quota.

To make it clear I will move:
To strike out of lines 22 and 23 the words "each State shall have one member for each quota of its people," and insert in lieu thereof the words
"For the method of determining the number of members for each State there shall be one member for each quota of the people of the State, and"

Mr. ISAACS:
That will make one sentence of the subsection?

Mr. BARTON:
Yes.

Amendment agreed to; clause as amended agreed to.

Clause 25.-When upon the apportionment of representatives it is found that after dividing the number of the people of a State by the quota in respect of which a State is entitled to one representative there remains a surplus greater than one-half of such number, the State shall have one more representative.

Mr. BARTON:
I have a verbal amendment to make in this clause. I move:
To omit the words "in respect of which a State is entitled to one representative,"
because the meaning of "quota" is sufficient as given in the previous clause 23.

Amendment agreed to.

Mr. BARTON:
I move now:
To strike out "number" and insert "quota."

Mr. ISAACS:
Is not that more than a verbal amendment? It seems to be a distinct alteration of the meaning.

Mr. BARTON:
The mistake was that after the introduction of the word "quota," the word "number" was left in, when it too, should have been altered to "quota." The word should be "quota," and not "number."

Amendment agreed to.

Clause 29.-Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification for electors of the more numerous House of the Parliament of the State. But in the choosing of such members each elector shall have only one vote, and no elector who has at the establishment of the Commonwealth, or who afterwards acquires a right to vote at elections for the more numerous House of the Parliament of the State, shall be prevented by any law of the Commonwealth from exercising such right at elections for the House of Representatives.
Mr. BARTON:
I wish to insert here, after the words "only one vote," the same words as were inserted at the end of clause 9.

Dr. QUICK:
Care should be taken to distinguish the provisions in this section from that in regard to the Senate, because under this section an election may take place in single or plural electorates, according to the local law.

Mr. BARTON:
If you say "for as many members as are to be elected," it will meet the case of single or plural electorates. Supposing the colony is in one division, or there are a number of electorates, according to the divisions made in the colony, then a person can only vote in either case in one electoral division; if they are single electorates he can vote for one member only, but if two are to be elected, his one vote can be given to two candidates.

Mr. ISAACS:
I am afraid that, supposing the colony of New South Wales has a representation of twenty-six members, and is divided into twenty-six different electorates, if you word the clause in this way an elector may be able to vote in all twenty-six electorates, which is what we wish to prevent. He should not vote more than once.

Mr. WALKER:
Do you want single electorates?

Mr. ISAACS:
We want to provide some words that will not allow him to vote in more electoral divisions than one.

Mr. WALKER:
Supposing there are several members wanted?

Mr. ISAACS:
He can, of course, vote for the full number in that electoral division.

Dr. QUICK:
I think the following words would meet the case:
And in the choosing of such members no elector shall vote more than once.
That is following the words in the Federal Enabling Act.

Mr. BARTON:
We have used this term in a previous clause:
Each elector shall have only one vote.

Dr. QUICK:
That does not meet the case of single electorates.

Mr. SYMON:
Would it not be better to make it read:
Each elector shall have only one vote for as many members as are to be elected in every one electoral district.

Sir JOHN DOWNER:
Then you might have plurality of voting.

Mr. ISAACS:
No.

Mr. BARTON:
If he can only vote once he cannot vote in two electoral places. How will this read:
Shall have only one vote for as many persons as are to be elected in the electoral division for which he is qualified.

Sir GEORGE TURNER:
You then make him vote for the whole lot. Would not that stop plumping?

Mr. BARTON:
He would have one vote for each member to be elected.

Mr. HOLDER:
Why not make it:
Shall only vote once.

Mr. BARTON:
I think we have got it in a better form.

Mr. ISAACS:
Are you going to leave out the word "only"?

Mr. BARTON:
Yes.

The CHAIRMAN:
There is a small matter here. In the second line are the words:
The qualification of electors.
And in the fourth line:
The qualification for electors.

Mr. BARTON:
It should be:
The qualification of electors
in both cases. My amendment will read:
For as many persons as are to be elected in an electoral division for each colony, and if any elector vote more than once he shall be guilty of a misdemeanor.
Sir GEORGE TURNER:
    You allow him to qualify for more than one electorate?

Mr. BARTON:
    This stops a man from voting more than once.

Sir GEORGE TURNER:
    The amendment says he can vote once in the electorate in which he is qualified.

Mr. BARTON:
    That does not matter; he can only vote in one, even if he is qualified in a dozen electorates.

Sir GEORGE TURNER:
    The word "the" should be used instead of "any."

Mr. BARTON:
    I am not going to discuss such a trivial matter as the words "the" or "any."

Sir GEORGE TURNER:
    That is not the proper way to treat us.

Mr. BARTON:
    After my hon. friend made such a powerful appeal to me this afternoon to try and push on, I do not see why we should quarrel over the words "the" or "any."

Mr. KINGSTON:
    I do not wish to take part in any quarrel-

Mr. BARTON:
    My hon. friend is a mere lamb.

Mr. KINGSTON:
    But I rise for the purpose of pouring oil upon the waters, lest they should become troubled. We attach a good deal of importance to the declaration that the principle of one man one vote should be embodied in this Constitution, so as to do away with plural voting. I would ask Mr. Barton if there is any necessity for the alteration proposed. He has the clause in very nice shape as it is. The mode in which he had fixed the provision up previously commended itself to the good sense of a large majority, and I trust he will not alter it.

Sir EDWARD BRADDON:
    I hope that Mr. Barton will accept the advice that has been just tendered to him. The clause as it previously appeared-without paying particular attention to prepositions or anything of that sort-laid it down that one man was to have one vote. While we stick to that we stick to the thing we desire to see secured, and we do not wish one man to hold one vote for any
number of electoral divisions in which he may have qualifications.

Mr. BARTON:
I would remind my hon. friend that the amendment exactly provides for what he wants.

Sir WILLIAM ZEAL:
I trust hon. members will be considerate to Mr. Barton, and that there will be no attack.

Mr. BARTON:
We are quite ready for any amount of attack.

Sir WILLIAM ZEAL:
Mr. Barton has a very difficult position to fill, and I trust hon. members will recognise that.

Mr. HIGGINS:
If they were all as kind as you.

Amendment agreed to; clause as amended agreed to.

Mr. BARTON:
Hon. members will recollect that there was an amendment carried in this clause at the instance of my hon. friend Mr. Holder, to this effect:

No elector who has at the establishment of the Commonwealth, or who afterwards acquires a right to vote at elections for the more numerous House of the Parliament of the State, shall be prevented by any law of the Commonwealth from exercising such right at elections for the House of Representatives.

There are a number of members who did not sufficiently consider that this applied to the preservation of any suffrage after the date of the establishment of the Commonwealth, and preventing it being interfered with by the Parliament of the Commonwealth. There are some hon. members who are in favor of preserving the suffrage existing at the date of the Commonwealth, and not interfering with it, so that any person who has for instance a vote under adult suffrage or female suffrage, should not have a vote taken away while it lasts. On the other hand the various States may amend their electoral laws after the date of the establishment of the Commonwealth; and some members who voted for this provision have told me that they did not sufficiently consider that after the date of the establishment of the Commonwealth the State might alter its law. Supposing female suffrage were taken away by South Australia, there is no reason why it should.

No elector, entitled to a qualification existing at the establishment of the Commonwealth to vote at elections for the more numerous House of the Parliament of the State shall, whilst that qualification continues, be
deprived by any law of the Commonwealth of the right to vote at elections for the House of Representatives.

Sir GEORGE TURNER:
Why not make it the suffrage at the time the uniform law is made. Whatever the qualifications are at the time the Federal Parliament makes the uniform law, they should be preserved.

Mr. BARTON:
Perhaps the hon. member did not catch what I was saying—that before or after the establishment of the Commonwealth a State may make a suffrage which would be totally distasteful to the rest of the colonies. I am not speaking of adult suffrage. Supposing we take some extension, which may include persons of age whom the other colonies would certainly not include, or might include persons who are not of age. These are the only extensions beyond adult suffrage which are likely to be made if ever made. I am not going to say what anyone's anticipations may be upon the question, because we all have our own opinions; but my hon. friend has not seen this, that if the extension is made by the Parliament of the State, before or after the establishment of the Commonwealth, and before the Commonwealth has made a law, the Commonwealth cannot make a uniform law unless it grants all over the Commonwealth such an extension. That would practically prevent the Parliament of the Commonwealth, if such an inapt extension were made in one State, from ever making a uniform suffrage, unless the suffrage in this offending State were by the State itself regulated back to something reasonable. It cannot be the intention of hon. members to tie the hands of the Federal Parliament in that way. No one wants to interfere with the adult suffrage in South Australia, but surely it is the right of the Commonwealth to make such a uniform suffrage as would not compel it to grant every extension that should be wilfully and captiously made by any State.

Mr. ISAACS:
Will you indicate what the alteration is? I did not catch it.

Mr. BARTON:
I wish to make the test on the day of the establishment of the Commonwealth. That is the true sense of the matter. I have put the case of an extension. Put the converse. Supposing a State took away the suffrage in a particular case, what would be the result?

Mr. PEACOCK:
Before the Commonwealth legislation?

Mr. BARTON:
Yes; as Mr. Holder expressed it, I have endeavoured to carry it out. Sir George Turner will see by the amendment of Mr. Holder, that if a State,
having conferred a certain suffrage, before or at the date of the establishment of the Commonwealth, took it away before the Parliament of the Commonwealth legislated, yet, notwithstanding the taking away of that suffrage, under the amendment as it stands the Parliament of the Commonwealth could not touch the claim of the person to vote who had once acquired the suffrage, because:

No elector who has at the establishment of the Commonwealth, or who afterwards acquires a right to vote at elections for the more numerous House of the Parliament of the State, shall be prevented by any law of the Commonwealth from exercising such right at elections for the House of Representatives.

So that, if a person who had the right to vote at the date of establishment of the Commonwealth for his own Legislative Assembly, which alone, under the Act, gives him power to vote for the House of Representatives, has had it taken away from him in his own State, he can still claim to exercise it, and vote for the House of Representatives of the Commonwealth. That is not the intention which any member had, and for that reason I proposed the amendment. Under it, the right would go on whilst it continues; but, if it happens to be taken away by the will of the State, the voter cannot set up a claim to vote for the House of Representatives.

Mr. HOLDER:

I do not mind accepting the words which Mr. Barton suggests, provided that if the State withdraws any franchise which they have given, that withdrawal shall have effect in this matter. The effect of the amendment will be what I desire, and what I think the majority of the Committee desire. I will take a moment in putting the point to the Committee. There is a stage up to which the franchise is purely a State question, and the regulation of the franchise is within the power and authority of the State. The moment that ends is when the Federal Parliament passed a law fixing the franchise. What I want is that so long as the State is free to fix the franchise, any franchise they give shall be protected afterwards. I will put it as clearly as I am able. We will suppose that the Federation comes into operation two years from this date. What some members want is, that during those two years the different Parliaments shall be perfectly free to alter the franchise, and whatever they do shall be protected. But the right to alter the franchise will not cease two years from to-day, but will continue up to the time that the Federal Parliament makes a franchise. What I want to know is, why should we draw a line where none should be drawn?

Mr. MCMILLAN:
By protecting everyone up to the establishment of the Commonwealth no injustice would be done.

Mr. HOLDER:

The right of the State to alter the franchise continues not up to the time of the formation of the Commonwealth, but up to the time that the Federal Parliament frames a franchise, and I want all the rights granted up to that time preserved in the future.

Mr. PEACOCK:

If the Federal Legislature has legislated?

Mr. HOLDER:

No. I want the States to have their rights with regard to the franchise unimpaired up to the day when the federal franchise is indicated, and that whatever the franchise shall be at that date it shall be preserved, and so that no person having a right up to that date shall have it taken from him, and that this shall apply not only to South Australia but also to other colonies who may widen their franchise before a federal franchise is provided.

Mr. O'CONNOR:

That is what the amendment carries out.

Mr. HOLDER:

No. it does not. I am afraid I must have one more attempt at it. Mr. O'Connor says that the amendment carries out what I have twice stated, but I say it does not. The amendment operates to stop the power of the State to grant a permanent franchise when the federal authority comes into being, but I say the power of the State to make a franchise is, according to the Bill, up to the time when the federal franchise is adopted. I recognise that there is some danger that the States may withdraw the franchise, and just as we admit the right of the State to extend the franchise, we must recognise its right to curtail it.

Sir GEORGE TURNER:

I think there is some little misapprehension with regard to what is desired in this matter, although it ham been very clearly put by Mr. Holder. The other night Mr Holder said:

What I wish is that these rights Should be preserved which have been acquired up to the time that the Commonwealth makes its franchise.

That appears plain. My friends have not carried that out because they have only given rights up to the establishment of the Commonwealth, and there may be a period of two or three years before a uniform franchise is adopted. What would happen is this: In South Australia at the establishment of the Commonwealth the women have the franchise, and they would have the right to vote, but the women of Victoria would be
refused that right although they might be entitled to it before the uniform franchise is brought into operation. To strike out the words "at the establishment of the Commonwealth," and insert "at the time of the passing of the uniform law" will meet all the difficulties. I trust my friend will make that alteration.

Mr. HIGGINS:

I think what is desired could be easily achieved by an alteration of the words there. The words are:

And no elector who has at the establishment of the Commonwealth or who afterwards acquires a right to vote at elections for the more numerous House of the Parliament of the State

shall be deprived of a vote. It should be "at the time Parliament provides the franchise." It is only a small alteration of the words. There is a probability of some change of the franchise in Victoria if the House of which Sir William Zeal is an ornament is agreeable.

Sir JOHN DOWNER:

Those who form the uniform franchise know what it is all over the colony, and they know Parliament will have the power to make a uniform franchise on the basis of the most liberal franchise in the colonies. Suppose a colony has got a franchise which it wants the other colonies to adopt, and it says to the Federal Parliament-"Well, you can only make it uniform franchise according to our basis. If you do not, do it on that we will establish another franchise still lower, and then you will not be able to form one except on the still lower basis. And they can use this as a constant threat and intimidation until actually, in self-defence, the Legislature would be bound to give in to perhaps one of the weakest sections in order to get a uniform franchise. If you fix it by the Constitution it will be all right.

Sir GEORGE TURNER:

It does not follow they are to give to everybody else the rights these people have.

Mr. BARTON:

Is it not enough to give them the right that exists?

Sir JOHN DOWNER:

If they fix a uniform franchise they must not take away the right of any colony to its own franchise, and if they fix a uniform franchise it would logically follow that a uniform franchise must be the franchise of that particular colony.

Mr. BARTON:

The Parliament cannot fix a franchise for the Commonwealth unless it is uniform.

Sir JOHN DOWNER:
I am only putting the point of view whether it is not best to fix the status at the time the Commonwealth is formed.

Mr. HOLDER:
I would ask you, Sir, to divide the amendment, so that if necessary we may have an opportunity of voting on:
"While the qualification continues."

The CHAIRMAN:
I Will put the insertion of the words first. If they are inserted the rest of the clause can be struck out.

Mr. HIGGINS:
Before the clause is put I think we had better make up our minds as to whether we are going to restrict the right of federal qualifications existing at the establishment of the Commonwealth.

Mr. BARTON:
And continuing.

Mr. HIGGINS:
I accept that principle, which I think is fair. But there is still one point in which the hon. member Mr. Holder goes beyond the intentions of the House at the last meeting.

Mr. HOLDER:
No.

Mr. HIGGINS:
What I understand Mr. Holder wants is that the Federal Parliament shall preserve rights which exist at the establishment of the Commonwealth.

Mr. HOLDER:
No.

Mr. HIGGINS:
Do not the hon. member's words mean that?

Mr. KINGSTON:
No.

Mr. HIGGINS:
If the words of Mr. Barton are inserted I would suggest that in place of the words:
Existing at the establishment of the Commonwealth,
these words should be inserted:
Existing at the time when the Parliament makes provision for the franchise.

Mr. HOLDER:
That is going back to mine.
Mr. SYMON:

I take it that the time at which those rights are ascertained is the time when the Federal Parliament takes the matter up by establishing a uniform franchise or making other provision and the only apprehension which is suggested, so far as regards the extension of the suffrage, is that it may be conferred upon persons under age. If you have adult suffrage the only extension would be downward in age, and that, I think, is not an apprehension worth guarding against. On the other hand, I do see, if we limit the operation of this section to the establishment of the Commonwealth, it might exclude some other colony from getting the benefit under this Constitution of adult suffrage if adopted before the Federal Parliament dealt with the franchise. While we do not want to force any colony to accept it, we do not want to put any colony in the position that it shall not enlarge its suffrage. I will support Mr. Holder's amendment.

Mr. ISAACS:

As Mr. Barton's amendment stands now, I should like to ask whether it will be limited to the particular individuals who want to possess the right, as it says:

No elector who has the right shall be deprived.

Mr. SYMON:

So it does.

Mr. ISAACS:

That was not intended.

Mr. BARTON:

In deference to Mr. Isaacs I have made my amendment read:

No qualification existing at the establishment of the Commonwealth to vote at elections for the more numerous House of the Parliament of the State shall, while that qualification continues, be taken away by any law of the Commonwealth at elections for the House of Representatives.

Amendment negatived.

Mr. HOLDER:

I now move:

To insert after the word "shall," the words whilst the qualification continues."

Amendment agreed to; clause, as amended, agreed to.

Clause 36.-Upon the happening-of a vacancy in the House of Representatives, the Speaker shall issue his writ for the election of a new member.

In the case of a vacancy by death or resignation happening when the Parliament is not in Session, or during an adjournment of the House for a period of which a part longer than seven days is unexpired, the Speaker, or,
if there is no Speaker or if he is absent from the Commonwealth, the Governor-General, shall issue a writ.

Mr. BARTON:
This is a clause altered in the passage of the Bill, and in which it was left to us to make consequential alterations. I move:
To strike out the words from "in" down to "Speaker" where first used, inclusive.
That will make it read:
Upon the happening of a vacancy in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or, if there is no Speaker or if he is absent from the Commonwealth, the Governor-General shall issue a writ.
Amendment agreed to.

Mr. BARTON:
It is also suggested to alter the word "a" at the end to "the."

The CHAIRMAN:
I shall make that as a consequential amendment.

Clause as amended agreed to.

Clause 47-If a member of the Senate or of the House of Representatives accepts any office of profit under the Crown, not being one of the offices of State hold during the pleasure of the Governor-General, and the holders of which are by this Constitution declared to be capable of being chosen and of sitting as members of either House of the Parliament, or accepts any pension payable out of any of the revenues of the Commonwealth during the pleasure of the Crown, his place shall thereupon become vacant, and no person holding any such office, except as aforesaid, or holding or enjoying any such pension, shall be capable of being chosen or of sitting as a member of either House of the Parliament.

Until Parliament otherwise provides, no person, being a member, or within six months of his coaxing to be a member, shall be qualified or permitted to accept or hold any office the acceptance or holding of which would, under this section, render a person incapable of being chosen or of sitting as a member.

But this section does not apply to a person who is in receipt only of pay, half-pay, or a pension, as an officer or member of the Queen's navy or army, or who receives a new commission in the Queen's navy or army, or an increase of pay on a new commission, or who is in receipt only of pay as an officer or member of the military or naval forces of the
Commonwealth, and whose services are not wholly employed by the Commonwealth.

Mr. BARTON:

When this was going through Committee the following paragraph was inserted between paragraph 1 and 2 as a new second paragraph:

Until Parliament otherwise provides, no person, being a member, or within six months of his ceasing to be a member, shall be qualified or permitted to accept or hold any office the acceptance or holding of which would, under this section, render a person incapable of being chosen or of sitting as a member.

If another division is taken I shall be found as before voting against the amendment inserted at the instance of Sir William Zeal. There was a considerable debate about this, and a close division, 18 to 15; and one or two members who voted for it have intimated to my hon. and learned friend Mr. O'Connor, that on reconsideration they did not think they should have voted for it, and that if it were recommitted they would vote the other way.

Sir GEORGE TURNER:

Rather unfair when so many have gone away.

Mr. BARTON:

But I do not even know whether those numbers are here. It was under the circumstances I mentioned that I agreed to recommit the clause. I shall make no motion myself, and if no one makes a motion that clause can pass as it stands.

Mr. ISAACS:

Has Mr. Barton considered the point that under this clause as it stands a member of a State Parliament would not be debarred from becoming a member of the Federal Parliament, but a minister of the Crown would be.

Mr. BARTON:

I have considered the matter, and thought it better not to make provision for it. Because if a Minister of a State Parliament is debarred, as in receipt of an office of profit under the Crown, from being in the Federal Parliament, that is nothing more than what is right.

Mr. O'CONNOR:

Hear, hear.

Mr. BARTON:

I think we should launch ourselves into a very extraordinary state of things if we had a Minister in one Parliament as the Minister of a State, who might take such a course as next day in the Federal Parliament might cause him to be called upon to be at the head of a Federal Ministry. Those positions cannot be held together. Then why not leave things untouched?
Mr. KINGSTON:
I entirely disagree with the views expressed by my hon. friend. We permit a member of a local Parliament to become a member of the Federal Parliament, and why should we attach a disqualification to a member who stands so well with his fellow members that he has been raised to a Ministerial office. But I recognise that this is not the time to thrash the matter out.

Clause as read agreed to.

Clause 48.—If any person by this Constitution declared to be incapable of sitting in the Senate or the House of Representatives sits as a member of either House, he shall, for every day on which he sits, be liable to pay the sum of one hundred pounds to any person who may sue for it in any court of competent jurisdiction.

Mr. BARTON:
Sir William Zeal pointed out that there ought to be a penalty of disqualification, and I will propose the following amendment:

That after the word "Representatives" in the second line there be inserted "or disqualified or prohibited from accepting or holding any office."

Sir GEORGE TURNER:
There is no penalty for accepting it, is there? He simply loses him seat.

Mr. BARTON:
For every day he holds office he is liable to pay £100.
Amendment agreed to.

Mr. BARTON:
I propose:
That after the word "House" in line three of the clause there be inserted "or accept or hold such office."
Amendment agreed to.

Mr. BARTON:
I propose:
That after the word "States" there be inserted "or hold such office."
Amendment agreed to.

Mr. BARTON:
That was under clause 82. It comes later on.
Mr. MCMILLAN:

I propose to introduce two sub-sections in this clause simply to give the Parliament of the Commonwealth power, with the consent of the States, to take over the railways of the different States. I therefore move to insert the following new sub-section as 32A:

The taking over by the Commonwealth with the consent of the State of the whole or any part of the railways of any State or States upon such terms as may be arranged between the Commonwealth and the State.

Mr. DEAKIN:

On this sub-section I take the opportunity of saying that at an earlier stage t

Sub-section agreed to.

Mr. MCMILLAN:

I now move to insert the following new sub-section as 32B:

Railway construction and extension with the consent of any State or States concerned.

Mr. WISE:

I would like to mention so that it may be considered before the next Convention meets that there does not appear to be any sufficient power in this clause to take over public works situated within one State, but which in the opinion of the Federal Parliament can be properly utilised to the advantage of the whole Commonwealth. I do not think there is power either expressly or impliedly given to construct within the boundaries of any State such public works with the consent of that State as may be for the common advantage of the whole Commonwealth. I throw out these observations so that this matter may be considered during recess. No doubt when it comes up before the several Parliaments attention will be given to it, and it is possible that some amendments on the Bill may then be moved.

Sub-section agreed to; clause as amended agreed to.

Clause 52.-Proposed laws having for their main object the appropriation of any part of the public revenue or moneys, or the imposition of any tax or impost, shall originate in the House of Representatives.

Mr. BARTON:

I have asked for a reconsideration of this clause, because a question has arisen with reference to it. I do not want to in any way unsettle the previous determination, but just bring it forward to see whether or not we perfectly understood the meaning of it. There is no party object in this, nor is it done to put the larger States against the smaller. Clause 53 states that laws imposing taxation shall deal with the imposition of taxation only. The clause reads:
Proposed laws having for their main object the appropriation, &c.

Inasmuch as laws imposing taxation can only have the one object, and that is levying taxation, one would think that we should have limited this clause to this wording:

Proposed laws having for their object the imposition of taxation, &c.

There appears to be an inconsistency here, and I do not think I need say anything more about it.

Sir GEORGE TURNER:
What suggestion do you make?

Mr. BARTON:
If it were put into this form:
Having for their object the imposition,
I think that would better meet the case. There can only be one object of a Tax Bill and that is imposing taxation.

Sir GEORGE TURNER:
Supposing you make it read this way:
Proposed laws for the imposition of any tax or impost, and proposed laws having for their main object the appropriation of any part of the public revenue,
and so on.

Mr. BARTON:
Perhaps that would be better. It will make the meaning clearer.

Mr. KINGSTON:
I could sympathise with any attempt made to restore the clause to its original shape. But its present form having been decided by a full Committee, it would scarcely be the proper thing to alter the principle of it now in this House.

Mr. BARTON:
I would riot attempt to make any alteration in substance. I have not made any proposal myself, and I will refrain from doing so.

Clause agreed to.

Clause 54.-It shall not be lawful for the Senate or the House of Representatives to Pass any vote, resolution, or proposed law for the appropriation of any part of the public revenue or moneys to any purpose which has not been first recommended to the House concerned by message of the Governor-General in the Session in which the vote, resolution, or law is proposed.

Mr. BARTON:
I move
To strike out "concerned," and insert "in which the proposal for appropriation originated."
Amendment agreed to.
Clause as amended agreed to.

Clause 57.-A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent, the Governor-General makes known by speech or message to each of the Houses of the Parliament, or by proclamation, that it has received the assent of the Queen in Council. An entry of every such speech, message, or proclamation shall be made in the journals of each House.

Dr. COCKBURN:
This is a clause copied from a clause in the Canadian Constitution with regard to the reservation of Bills for the Queen's assent, but its exercise has fallen into disuse, and since 1878 the instructions to the Governor-Generals of Canada have not contained a list of the Bills which have to be reserved for the Royal assent. The result is now that no Bills are reserved, and I think it would be a pity to introduce an obsolete clause into this Constitution. I should like to ask Mr. Barton whether he does not think it would be best to strike it out, or at least to alter it in such a way that it will not be possible for the veto to be exercised simply by delay. Unless in two years the Royal assent is declared, the measure becomes null and void, and the clause practically provides for veto by pigeon-holing. Such a power as the veto should be exercised directly, and I should like either to excise the clause or so to alter it as to make the veto, in cases of reservation, a power to be exercised directly, and not simply by the effluxion of time. I think, as the clause has fallen into disuse in Canada, there is no reason for having it here.

Sir GEORGE TURNER:
What will be the effect of striking it out?

Dr. COCKBURN:
We will be in the same position as Canada. It in a question of great importance. The present practice is very undesirable. We may pass a law and hear nothing about it, and the result may be that in two years it becomes null and void because no action has been taken by the authorities in Downing-street. When the veto is exercised it should be exercised directly, and I will vote against the clause.

Mr. ISAACS:
It is all a matter of the Governor's instructions.

Dr. COCKBURN:
I ask that the voices may be taken on the clause.

Mr. BARTON:
These two clauses stand together as constitutional provisions since 5 and 6 Victoria, chapter 76, and they exist as clause 57, with the exception that the word "Bill" is substituted for "proposed laws" in the Constitution of Canada. It is perfectly true, as stated by Dr. Cockburn, that in the instructions to the Governor-General of Canada there is no list of laws that are to be reserved, but it is competent for the Governor-General to reserve any laws, and there are many which he would reserve. The reason that there is no particular trouble about the reservation of laws in Canada is very plain. Canada is within a few days' sail of England-fast boats can cross in five or six days-and before it is necessary to give assent to a Bill it is easy for the Governor-General to send a despatch describing the character and nature of the law, and to obtain his instructions by despatch in return. In these colonies it might take six months, and it is necessary for the Governor to reserve Bills which he could not describe by cable, and to communicate with England. An our circumstances are different to those in Canada, I think we should agree with the clause, and if the Governor-General receives similar instructions, and if the law falls into desuetude, so much the better.

Sir EDWARD BRADDON:
The authorities in Downing-street cannot be accused of not forwarding legislation when it is necessary. I can give an example arising out of the Electoral Act passed for the last general elections in Tasmania, which received the Royal assent, not on a copy of the Bill but on a cablegram describing its provisions.
Clause agreed to.

Clause 67.-On the establishment of the Commonwealth the control of the following departments of the Public Service shall be assumed and taken over by the Executive Government of the Commonwealth, and the Commonwealth shall assume the obligations of any State or States with respect to such matters, that is to say:
- Customs and excise:
- Posts and telegraphs:
- Military and naval defence:
- Ocean beacons and buoys, and ocean lighthouses and lightships:

Mr. BARTON:
The amendments to this clause are verbal. I wish to move:
To insert after the word "Service" the words in each State."
Amendment agreed to.

Mr. BARTON:
I move:
To strike out the words "be assumed and taken over by" with a view of
inserting "become transferred to."
Amendment agreed to.

Mr. BARTON:
Then in the fourth and fifth lines of that clause I move:
To leave out the words "and the Commonwealth shall assume the
obligations of any State or States with respect to such matters."
Agreed to.

Mr. BARTON:
I move:
To insert "the obligations of each State in respect of the departments
transferred shall thereupon be assumed by the Commonwealth."

Mr. HIGGINS:
This is a matter I called attention to before, but I only wish to understand
what really is meant to be done. Is it seriously meant that fixed debts
bearing interest which are put down to debit of defence, military, or naval,
that these fixed debts are to be taken over
by the Commonwealth? I indicated before that this was the fear as between
the States. I want to know, is it intended or is it not? I take it that
"obligations" means debts.

Mr. O'CONNOR:
The intention is only to take the obligations which the department has
directly incurred—that is contracts that are subsisting, debts which have
been incurred, but that would not apply to a debt which had been incurred
for the particular work. In that case the money is borrowed generally,
debentures are issued, or in some other way. That is not a debt that would
be taken over.

Sir GEORGE TURNER:
"Obligations" is a bad word to use.

Mr. O'CONNOR:
There is no other word that really covers everything. It is not only a
liability, but also an obligation of any kind. There can be no difficulty
about obligations.

Mr. HIGGINS:
It is obligations in respect of certain matters.

Mr. O'CONNOR:
No; that has been altered in respect of the departments transferred.

Mr. HIGGINS:
That is even stronger.

Mr. KINGSTON:
Will the States be relieved by a clause of this description referring to
naval defence as regards all their liabilities. For instance, there is the liability to the Imperial Government on account of the Australian Naval Squadron?

Mr. O'CONNOR:
As I understand that liability it is a liability by all the colonies. I think there is a joint agreement by all the colonies. That agreement is entered into by no particular department, but by the State for naval defence. There is no doubt that it belongs to this subject, but the position of the agreement is this: It expires at the end of the year. The ten years are up at the end of this year, but it continues notwithstanding for two years' after notice has been given. I take it that that is a matter in which some arrangement would be come to between the States and the Commonwealth and the Imperial Government. That is a matter which you could not provide for in it Constitution like this. Probably before the Commonwealth is established some arrangement would be made between the Imperial Government, the Commonwealth, and the States, by which obligations or contracts will be continued. I support the insertion of the words:

The obligations of each State in respect of the departments transferred shall thereupon be assumed by the Commonwealth.

Mr. HIGGINS:
It is very ambiguous.

Sir GEORGE TURNER:
Let it go.

An HON. MEMBER:
It can be altered at the next Convention.

Amendment agreed to.

Mr. GORDON:
I would ask Mr. O'Connor whether or not an obligation in connection with these departments would imply an obligation on the part of the Commonwealth to fulfil contracts of servants of the departments?

Mr. O'CONNOR:
I take it that any contract which is in existence must be taken over. But I do not think that a civil servant is in the position of a contractor.

Clause as amended agreed to.

Clause 73.-No appeals to the Queen in Council except in certain cases.

Sir EDWARD BRADDON. This clause on a previous occasion passed without debate, and without the opportunity being presented to me to move an amendment.

An HON. MEMBER:
Oh, do not speak now.

Sir EDWARD BRADDON:
I propose to be brief and merely to move to allow of the continuance of appeals to the Queen in Council.

Mr. PEACOCK:
If you do that in this clause you must do it all along the line.

Sir GEORGE TURNER:
Is it not better to leave this over to the adjourned Convention? It is not fair to discuss this seeing that so many members are away.

Sir EDWARD BRADDON:
Very well. I have established the fact that I have entered a mild protest against that clause as it stands in the Bill.

Clause as read agreed to.

Clause 74.-Within the limits of the judicial power of the High Court the Parliament may from time to time:

I. Define the jurisdiction to be exercised by the federal courts other than the High Court:

II. Prescribe whether the jurisdiction of the federal courts shall be exclusive of, or concurrent with, that which may belong to or be vested in the courts of the States:

III. Invest the courts of the States with Federal jurisdiction within such limits, or in respect of such matters, as it thinks fit.

Mr. BARTON:
At the suggestion of Mr. Symon, I move:

To strike out of the first line the words "of the High Court."

Mr. SYMON:
Leave out all the words in the line.

Mr. BARTON:
I do not think we need to do that.

Amendment agreed to.

Clause as amended agreed to.

Clause 82.-The Parliament shall have the sole power and authority, subject to the provisions of this Constitution, to impose customs duties, to impose duties of excise, and to grant bounties upon the production or export of goods.

But this exclusive power shall not come into force until uniform duties of customs have been imposed by the Parliament.

Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth.

Upon the imposition of uniform duties of customs all laws of the several
States imposing duties of customs or duties of excise, and all such laws offering bounties upon the production or export of goods shall cease to have effect.

The control and collection of duties of customs and excise and the payment of bounties shall nevertheless pass to the Executive Government of the Commonwealth upon the establishment of the Commonwealth.

Mr. BARTON:
I promised Sir George Turner that this clause would be reconsidered.

Sir GEORGE TURNER:
I only desire to protect existing bounties. I understand that Mr. Holder wishes to go farther than I do.

Mr. BARTON:
The effect of the law is to protect them.

Mr. HOLDER:
I am not inclined to move at this stage, but I shall do so at a later meeting.

Sir GEORGE TURNER:
I shall follow your example.

Mr. BARTON:
I move:
To insert after the words "of the" in the last line of the clause the words "Parliament of the."

Amendment agreed to.

Mr. HIGGINS:
I think the existing contracts for bounties will be protected by the operation of the law, but I think mining bounties for mining machinery and other purposes should be specified. I move:
That the following new sub-section be added "This section shall not apply to bounties or aids to mining for gold, silver, or other metals."

Amendment agreed to; clause as amended agreed to.

Clause 84.-All lands, buildings, works, and materials necessarily appertaining to, or used in connection with, any department of the Public Service the control of which is by this Constitution assigned to the Commonwealth, shall, from the establishment of the Commonwealth, be taken over by and vest in the Commonwealth, either absolutely, or, in the case of the departments controlling customs and excise and bounties, for such time as may be necessary.

The fair value thereof, or of the use thereof, as the case may be, shall be paid by the Commonwealth to the State from which they are taken over. Such value shall be ascertained by mutual agreement, or, if no agreement can be made, in the manner in which the value of land, or of an interest in
land, taken by the Government of the State for the like public purposes is
ascertained under the laws of the State at the establishment of the
Commonwealth.

Mr. BARTON:
This clause as it stands, as military and naval departments have to be
transferred, would not include vessels, which would no doubt have to be
transferred also. I have used the comprehensive term vessels, which will com-
prehend everything that is likely to go over.

Mr. PEACOCK:
You do not want the vessels to go over?

Mr. BARTON:
I do not mean "upset." I want the first part of the clause to read:
All lands, buildings, works, vessels, materials, and things necessarily
appertaining to.

Sir GEORGE TURNER:
That's broad enough.

Mr. BARTON:
I move:
To insert the word "vessel" after the word "works."
Amendment agreed to.

Mr. BARTON:
I move:
To omit the word "and" before the word "materials," and insert after the
word "materials" the words "and things."
Amendment agreed to.

Mr. BARTON:
I now move: To strike out the word "assigned" and insert "transferred."
Amendment agreed to.
Clause as amended agreed to.

Clause 107.-State not to coin money.

Sir EDWARD BRADDON:
Will this clause prevent a State from coining money by arrangement with
the Home authorities and the Royal Mint?

Sir JOHN DOWNER:
Of course it will.

Sir EDWARD BRADDON:
Then it is preventing something which has been recognised as possible
and practicable by British authorities.

Mr. BARTON:
We have given over under clause 50 currency, coinage, and legal tender to the Commonwealth, and it is a proper consequence to say that no State shall go on coining money. Where there is any existing mint the probability is that it will go on coining for the Commonwealth.

Clause as read agreed to.

Clause 121.-The provisions of this Constitution shall not be altered except in the following manner:—

Any proposed law for the alteration thereof must be pased by an absolute majority of the Senate and of the House of Representati

The vote shall be taken in much manner its the Parliament prescribes.

And if the majority of the States approve the proposed law, and if the people of such majority of States are it majority of the people of the Commonwealth, the proposed law shall be presented to the Governor-General for the Queen's assent.

But an alteration by which the representation of any State in either House of the Parliament or the minimum number of representatives of a State in this House of Representatives, is diminished, shall not become law without the consent of the electors of that state.

Mr. BARTON:

There is a little difficulty in this clause, but I would like to mention one thing first. I was asked to strike out the word "proportionate" in the first line, but I have come to the conclusion that I did wrong, and that the word ought to remain. But before that, there is one important point about which I would like to have the attention of members, especially those interested in women's suffrage. A very important point was raised by Mr. Lewis. He pointed out that as the clause stands, "and if a majority of the people of the States which approved a proposed law are also a majority of the people of the Commonwealth," the provision might operate so that a minority of the Commonwealth might in some extreme cases rule the roost, simply because a vote having been carried by majorities in the three States which constituted it, their people might be a majority of the Commonwealth; although there might be cases in which the majority ruling would not be voting for the referendum as electors. That raised a great trouble. Mr. Lewis suggested a way out of the difficulty—that it if the proposed law is approved by a majority of the States, and if the electors who approve the alteration are a majority of the Commonwealth," then it shall be carried. But it was pointed out that it would not be fair to make it operate as things stand, because until the Commonwealth adopted a uniform suffrage, the result is that the electors of South Australia would count twice—for men and women both. There is
only one way out of this difficulty, and that is to make the clause read like this:

And if a majority of the States and a majority of the electors of the Commonwealth approve the proposed law, the proposed law shall be presented to the Governor-General for the Queen's assent, and until the qualification of electors for members of the House of Representatives becomes uniform throughout the Commonwealth the votes of male electors only shall be counted for the purposes of this question.

I admit the difficulty at once, and this is the only way out of it that I can see. There is no taking a vote from any woman in South Australia.

Mr. ISAACS:

How are you going to find out the votes of women as distinguished from those of men? You will have to use different voting-papers.

Mr. BARTON:

It will be a difficulty, I admit.

Mr. GORDON:

They are known approximately now.

Mr. BARTON:

A provision might be made to prevent ballot papers on these questions being given to women. Something like this will have to be done, or else we will be thrown back to the original provision. This is a very serious difficulty, and I have not seen any way out of it, except the way I have suggested. Of course, my proposal may have to be modified, and I am not putting it as final. It is one of the most important clauses in this Constitution. The difficulty is not removed by the clause as it stands; it is not removed by Mr. Lewis's suggestion, because under the hon. member's proposal the women of South Australia would vote with the men, and South Australia would therefore have double voting power as against any other colony. The remaining proposal is the one I have just made, which, in accordance with Mr. Isaacs' suggestion, would have to be modified with reference to discrimination being made at the ballot-box. I do not suppose the question to be asked at the ballot-box would be that in Artemus Ward's book, "Air you a man?"

Mr. TRENEWITH:

What is the objection to taking the total population of the States?

Mr. BARTON:

I will come to that in a moment. What I wish to say now is that under the proposal there is no deprivation to the women of South Australia. They have at present their right to vote for all the concerns of the State. If the Commonwealth is created they have all their electoral rights conserved to them under this Constitution. The only thing would be that whether they
were allowed to vote or not, the voting would have to be so regulated that South Australia would only be allowed her proper strength in taking the referendum.

Mr. HOLDER:
Divide her voting power by two.

Mr. BARTON:
But the question arises: are we to single out one State and say that until a uniform suffrage is adopted its voting strength shall be divided by two?

Mr. ISAACS:
Would the hon. gentleman mind giving an example of how it is unjust to take a population basis.

Mr. BARTON:
There is a paper which has been drawn out which seems to elucidate the matter very clearly. Take a referendum vote which is carried by a majority in Victoria, South Australia, and Tasmania. The population of these three States is a majority of the Commonwealth. Now suppose that in Victoria 51,000 voted for the proposition, that 21,000 voted for it in South Australia, and 15,000 in Tasmania, while in New South Wales and Queensland, which are perhaps dead against the proposal only 5,000 in each voted for it.

Mr. TRENWITH:
That is it very improbable contingency.

Mr. BARTON:
Against it in Victoria 49,000 perhaps voted, in New South Wales 95,000, in Queensland 25,000 in South Australia 20,000, and in Tasmania 14,000. In that case Victoria, Tasmania, and South Australia would carry the vote on a majority in each State by narrow majorities. In the three States having a majority of the population there would be cast 97,000 votes by the three States, while against the referendum there would be 203,000 votes. Under the clause as it stands the result would be that, inasmuch as there is, in three States out of five, a majority of those who voted in favor of the thing, you have a majority secured, and you also have a majority of the population secured, because those three States between them contain such a majority. Yet on that voting there has been a majority of more than two to one against the proposal. That is not at all an impossible case, and we are here to provide for contingencies. If we take a combination of three States on some grave question the result might come in that way. This is why I brought this so prominently before hon. members, so that we may find a way out of the difficulty.

Mr. DEAKIN:
Some days ago I was one of those who was struck, on consideration, by the fact that it was possible to be confronted by such a problem as has just been presented to us. We ought to realise that the proposition of my hon. friend Mr. Barton means an entire change in principle in the Bill of 1891 as to the making of amendments in the Constitution. This is one of the most important provisions of the Bill. As adopted in 1891, it ran:

And if the proposed amendment is approved by the Conventions of a majority of the States, and if the people of the States whose Conventions approve of the amendment are also a majority of the people of the Commonwealth, the proposed amendment shall be presented to the Governor-General for the Queen's assent.

Under this scheme a very large State, by mere abstinence on the part of its electors, might render the vote of a large majority of those who went to the poll fruitless. It does not provide for the rule of the majority. On consideration it appeared to me that this was unjust, and that the suggestion made by Mr. Lewis, the hon. member for Tasmania, was just, inasmuch as it provided for the complete carrying out of the axiom requiring a majority of the States and a majority of the people's vote. The only difficulty in the way of Mr. Lewis's proposal was the franchise of South Australia. I differ from Mr. Barton in believing that the votes of female electors of South Australia must be taken into account. Both male and female votes must go to form the majority of the State. But when the question arises whether in addition to having a majority of the States you have a majority of the people. Then in order to put South Australia on a fair basis you must omit the female votes, because the majority has to be a majority upon a uniform franchise.

Mr. O'CONNOR:
That is begging the question if you are agreeing to this proposal, because it assumes that you count the male votes only.

Mr. DEAKIN:
I agree with the amendment because it appears to me to be a great improvement on the proposal of 1891. That was inequitable, while this is equitable. With regard to the counting of the votes in South Australia there could be two separate ballot boxes, one for the male and one for the female votes.

Sir GEORGE TURNER:
That will not do. They would be sure to make many mistakes. Have different colored papers.

Mr. DEAKIN:
Different colored papers would perhaps be simpler, but even then you have to trust to the administrative integrity of the returning officers not to
give the male voting papers to females. There are two or three means by which this could be done. We must be satisfied that only the male votes are counted in the majority of the electors until adult franchise is adopted in the remaining States.

Mr. HOLDER:

I am sorry I was unable to be here when this clause first came up. More than a week ago I circulated a printed amendment, providing for the very matter which Mr. Barton has brought under our notice. I was busy with the other Treasurers in dealing with the financial question when the matter came up, or I should have given some facts and figures which I had prepared. I have not overlooked the difficulty of the female vote. I should have suggested a referendum on the basis of the clause as it stands in print, and this was the result that I worked out. In Victoria, Tasmania, and South Australia there might be a majority of votes cast in favor of the question referred say 186,000 in favor and 82,000 against. In New South Wales and South Australia let us suppose the voting is 130,000 for, and 160,000 against. There is a majority of the States therefore on the affirmative side, but, seeing that the population of Victoria, Tasmania and South Australia was only 1,478,000, while the other States which gave the majority against the proposal had 1,659,000, although three States voted for it, and the majority of voters voted for it, the question would be lost. The totals I conceived to be given were 266,000 for and 242,000 against, and still, although there was a considerable majority of voters in favor, and three States in favor against two, it must, under the Bill as it stands, be lost. That is quite intolerable, and we should be prepared to accept a more equitable plan by which the majority of States and voters who vote shall carry it.

Mr. WISE:

Three words of alteration will do the whole thing.

Mr. HOLDER:

The best plan will be to provide that where there is adult suffrage the result shall be divided by two. That will do away with the necessity for having different colored papers for male and female voters or to have a ballot-box for each. To divide the "ayes" and the "noes" by two would overcome the men difficulty connected with the matter, and neither section of the voters would fail to influence the result.

Mr. O'CONNOR:

I think we are all agreed that until we have uniform voting we will have to devise some means by which we will count the male votes only. I would suggest that we provide in the early part of the clause that any proposed law shall be submitted to the male electors of the several States qualified to
vote, and make a proviso that when the qualification of voters throughout Australia is uniform it shall be submitted to all persons

Mr. ISAACS:
That makes the women suffer because the other States have not given them the right to vote.

Mr. O'CONNOR:
That is the cause of the whole difficulty.

Mr. DEAKIN:
We must allow women to have their vote to ascertain whether there is a majority in the State.

Mr. O'CONNOR:
If you adopt the method proposed by Mr. Holder you do not get an accurate estimate.

Mr. HIGGINS:
It would be a very substantial one.

Mr. ISAACS:
It would be a rough and ready way of meeting the difficulty.

Mr. O'CONNOR:
If your object is to eliminate the woman's vote why ask them to vote at all? Why cause them the trouble to come to the poll?

Mr. ISAACS:
We do not want to eliminate her.

Mr. TRENWITH:
In order to obtain the opinion of the women you allow them to vote with the men and divide the result by two.

Mr. O'CONNOR:
I think in this matter that we should be largely guided by the views of South Australia, and if Mr. Holder thinks that his plan will be most acceptable I shall offer no objection to it.

Mr. WISE:
There is a much simpler way of meeting the difficulty, and one which will meet the case put by Mr. Higgins. It is to insert after the word "if" the words "a majority of the electors voting and." It would require the Bill to be passed by a majority of the States, and that that majority should be a majority of the whole. With the exception of South Australia it becomes negligible.

Mr. KINGSTON:
I am sure the suggestion by my hon. friend, Mr. Holder, that instead of making any provision for excluding our women we should put the votes
together and divide it by two is a fair one to the other States. In fact South Australia may be considered to be making a sacrifice for their sakes.

Sir GEORGE TURNER:
It is the only sacrifice it makes in the whole thing.

Mr. TRENWITH:
They Sacrifice their women.

Mr. KINGSTON:
There are not so many women as men on the roll, and I doubt if the proportion of those who vote is quite equal to the proportion of males.

Mr. DEAKIN:
More superior from what I have seen of them.

Mr. KINGSTON:
Equal in value, no doubt. So soon as the other colonies adopt this suggestion there will be no difficulty in the matter. The South Australian suggestion appears to me to be very fair and very liberal indeed. I am much struck with what has fallen from Mr. Wise. You can reckon that it is as broad as it is long. You do not find all the women voting on the one Side. The votes on one side will to some extent counteract those on the other.

Mr. ISAACS:
If it does not make any difference to you, we would prefer the halving.

Mr. KINGSTON:
We would prefer to have effect given to Mr. Wise's proposal.

Mr. HIGGINS:
Anyone in favor of woman suffrage would support an inducement to put themselves on an equality with South Australia.

Mr. KINGSTON:
They ought to level up.

Mr. HIGGINS:
Yes; but it is out of the question. I should not object to have these votes counted, but I think Mr. Holder has proposed a rough and ready way of dealing with the difficulty which we ought to accept. Apparently it will meet the views of South Australia as well. Theme figures which Mr. Barton has read, and which were handed by me to Mr. O'Connor, were not mine; but, curiously enough, they were the, figures worked out by an intelligent spectator in the gallery. I think that intelligent spectator has prevented us from falling into a gross error.

The CHAIRMAN:
There is no amendment before the chair at all.

Mr. HOLDER:
Following upon what Mr. Wise said just now, I would suggest that the
sub-section should read:

And if a majority of the States approve the proposed law, and also a majority of the persons voting, the proposed law shall be presented to the Governor-General for the Queen's assent.

Mr. BARTON:

It has been suggested that the difficulty could be overcome by the following amendment, which I will move:

To strike out sub-section 4, with the view of inserting the following sub-section: And if a majority of the States and a majority of the electors voting approve the proposed law, the proposed law shall be presented to the Governor-General for the Queen's assent; but, until the qualification of electors of Members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the votes for and against the proposed law shall be counted in any State in which adult suffrage prevails.

Amendment agreed to.

Mr. BARTON:

It is irregular, I know, to go back with the clause, but as this is the last stage of our proceedings I should like to move:

To insert after "submitted" the words "in each State;" to strike out "several" in the next line and to alter the next word, "States," into "State."

Amendment agreed to.

Mr. BARTON:

I move:

To re-insert the word "proportionate" in the first line of the fourth sub-section.

Amendment agreed to.

Mr. BARTON:

I move:

To strike out at the and of the clause "the electors of that State," and insert "a majority of the electors voting in that State."

Amendment agreed to.

Clause as amended agreed to.

The CHAIRMAN:

That I report the Bill with amendments. (Loud cheers.)

Question resolved in the affirmative.

Convention resumed.

Bill reported; consideration of the Report made an Order of the Day for the following day.

ADJOURNMENT.
Mr. BARTON:

I move:
That this Convention, at its rising, adjourn till 2 o'clock to-morrow.

There is a good deal of work for the printer, and a little work for the Drafting Committee; but the work for the House will be nothing but formal, and will take not much more than half an hour.

Question resolved in the affirmative.

Convention at 11.8 p.m. adjourned till 2 o'clock on Friday afternoon.
Friday April 23, 1897.


The PRESIDENT took the chair at 2 p.m.

PETITION.

Sir GEORGE TURNER:
I desire to present a petition from the Council of Churches in Victoria praying for a reconsideration of the question of the recognition of God in the preamble of the Constitution. I move
That it be received.
Petition received.

BUSINESS OF THE HOUSE.

Mr. BARTON:
I move:
That the Standing Orders be suspended in order to enable motions connected with the business of the House to be moved.
Motion agreed to.

ABSENCE OF THE PRESIDENT.

Mr. BARTON:
I move:
That this Convention, in caw of the absence of the President, appoints the Ron. Sir Richard Chaffey Baker, K.C.M.G., to perform the duties of President during such absence.
Motion agreed to.

ADJOURNMENT OF CONVENTION.

Mr. BARTON:
I move:
That this Convention, on its rising, do adjourn till Wednesday, the 5th May next, and that, at its rising on that day, it do further adjourn till Thursday, September 2nd, at 12 o'clock noon.

Mr. MCMILLAN:
I second the motion.
Motion agreed to.

ADJOURNED SITTINGS OF THE CONVENTION.

Sir GEORGE TURNER:
I move:
That this Convention approves of Parliament House, Sydney, as the place for the adjourned meetings of this Convention, to commence on September 2nd next.

Motion agreed to.

PAPERS.

Mr. HOLDER:
I beg to lay on the table—Australasian Statistics, also Expenditure of the Commonwealth; and I move. That the papers be printed.

Motion agreed to.

MESSAGE OF CONGRATULATION.

The PRESIDENT:
I desire to acquaint the Convention of the fact that I have received a message of congratulation to the Convention from the executive of the South Australian Literary Societies' Union, which I will hand to the Clerk, 'and probably some representative will move that it be entered on the minutes.

Mr. BARTON:
I move:
That it be entered on the minutes.

Motion agreed to.

The message was as follows:

14th April, 1897.

The President of the Federal Convention, Adelaide.

Sir—I have the honor, by direction, to forward the following resolution carried at a recent meeting of the executive of the Literary Societies, Union—

That the executive of the South Australian Literary Societies' Union, representing 1,000 members, views with satisfaction the assembling of the Federal Convention in Adelaide, and earnestly hopes that the result of its deliberations will be for the permanent advantage of the whole of Australia.—I am, &c.,

J. LANGDON BONYTHON,
President of the Union.

COMMONWEALTH OF AUSTRALIA BILL.

Mr. BARTON:
I move:
That the draft Constitution Bill be recommitted for the purpose of reconsidering clauses 5, 9, 30, 84, 87, and for the insertion of a new clause.

In tabling this motion I assure the Convention that there is no intention to
make any substantial alteration in the Bill.

Question so resolved in the affirmative.

In Committee.

Clause 5.-The term "The States" shall be taken to mean such of the Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia, as for the time being form part of the Commonwealth, and such other States as may hereafter be admitted into the Commonwealth, and each of such Colonies so forming part of the Commonwealth shall be hereafter designated a State."

Mr. BARTON:
I move
In line 15 to strike out the word "other," and insert the words "Colonies or States."
Amendment agreed to.

Mr. BARTON:
In the same line I move:
To insert after "into" and before "the" the words "or established by."
Amendment agreed to.

Mr. BARTON:
I propose
To omit in the next line the words "colonies so forming part," with a view of inserting in lieu thereof "parts."
Amendment agreed to.

Clause as amended agreed to.

Clause 9.-The Senate Shall be composed of six senators for each State, and each senator shall have one vote.

The senators shall be directly chosen by the people of the State an one electorate.

The senators shall be chosen for a term of six years, and the names of the senators chosen by each State shall be certified by the Governor to the Governor-General.

The Parliament shall have power, from time to time, to increase or diminish the number of senators for each State, but so that the equal representation of the several States "I be maintained and that no State shall have less than six senators.

The qualification of electors of senators shall be in each state that which is prescribed by this Constitution or by the Parliament as the qualification for electors of members of the House of Representatives, but in the choosing of senators each elector shall have one vote for as many persons as are to be elected, and if any elector votes more than once he shall be...
guilty of a misdemeanor.

Mr. BARTON: I move:

To omit the words "have one vote for as many persons as are to be elected" in line 36, and to insert in lieu thereof "vote only once."

Amendment agreed to.

Clause as amended agreed to.

Clause 30—Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of the Parliament of the State. But in the choosing of such members each elector "I have one vote for as many persons as are to be elected in any electoral divisions for which he is qualified to vote, and if an elector votes more than once he shall be guilty of a misdemeanor, and no elector who has at the establishment of the Commonwealth, or who afterwards acquires a right to vote at elections for the more numerous House of the Parliament of the State, shall whilst the qualification continues, be prevented by any law of the Commonwealth from exercising such right at elections for the House of Representatives.

Mr. BARTON:

In this clause I move the same amendment as before, for the purposes of the House of Representatives as for the purposes of the Senate. I move:

To strike out "shall have one vote for as many persons as are to be elected in any electoral division for which he is qualified to vote," and to insert "vote only once."

Amendment agreed to.

Mr. ISAACS:

In this clause Mr. Holder moved an amendment that we discussed last night, preserving the rights of persons who have at present the right to vote. That right is conserved as regards the House of Representatives, but is it also conserved as regards the Senate?

Sir JOHN DOWNER:

Undoubtedly.

Mr. BARTON:

Yes, because the qualification for the Senate is the same as for the House of Representatives.

Mr. ISAACS:

The qualification is given in clause 30, and we wish that no person shall be deprived of his vote. It is not making a qualification, but conserving a right outside the qualification. I do not think the right is properly conserved, but if the South Australians think the rights of women voters is
sufficiently guarded, I am satisfied.

Mr. BARTON:
   It is enough for present purposes.

Mr. HOLDER:
   We might stop at the word "right," in the last line but one of the clause.

Mr. BARTON:
   That would be saying where an elector otherwise acquired a right of voting for the Legislative Assembly of his own colony the Commonwealth could not deprive him of the right of voting. I think the provision at the end of clause 9 will cover the case. If it does not we can amend in September.

Sir GEORGE TURNER:
   Hear, hear.
   Leave us something to do then.
   Clause as amended agreed to.

Clause 84-The Commonwealth to have exclusive power to levy duties of customs and excise and offer bounties after a certain time.

Mr. BARTON:
   I wish to omit the third paragraph for the purpose of converting it into a new clause to stand after clause 87. That will bring it into its proper position.
   Amendment agreed to.
   Clause as amended agreed to.

Mr. BARTON:
   I move:
   To insert the following new clause to follow clause 87:—"Uniform duties of Customs shall be imposed within two years after the establishment of the Commonwealth."
   Clause inserted.

Clause 97.-The Parliament may take over the whole, or it ratable proportion, of the public debts of the States as existing at the establishment of the Commonwealth, and may from time to time convert, renew, or consolidate such debts, or any part thereof; and the States respectively shall indemnify the Commonwealth in respect of the amount of the debts taken over, and thereafter the amount of interest payable in respect of the debts shall be deducted and retained from time to time from the respective shares of the surplus revenue of the Commonwealth which would otherwise be payable to the States, or if then be no surplus revenue payable, or if such surplus revenue be insufficient, then the amount shall be charged to the respective States wholly or in part. The ratable proportion of the debts of the several States to be taken over is to be calculated on the basis of the populations of the several States as ascertained by the latest statistics of the
Commonwealth.

Mr. BARTON:

There is a little amendment necessary in this clause. Where a surplus does not exist it provides for the amount of interest in respect to the debts to be charged to the respective States. The Commonwealth has to pay month by month to the State, but if there is no provision that the State has to pay in case there is no surplus the section will be insufficient. I move:

To insert the words "and paid by" after the words "charged to."

Amendment agreed to.
Clause as amended passed.

Mr. BARTON:

I move:

The report be adopted.

Motion resolved in the affirmative.

Mr. BARTON:

Mr. President-In moving

That the draft Constitution, as passed by this Convention, be now approved.

I have to congratulate you and the members of the Convention on the termination of this part of our labors. No doubt we may have to undergo labors, if not at, long perhaps as anxious, or even more so, in the second Session of this Convention, but I think that you are to be congratulated upon the fact that under your presidency such remarkable work has been done as has been done within the last month, and that the members and the colonies that they represent are to be congratulated also upon the reasonable prospects of Federation which I think are indicated in the form in which the Bill is now before the country. (Cheers.) No doubt there are matters with regard to which each delegation in its turn is disappointed, but this work of Federation is a work in which sacrifice must be made in order that general pin may ensue. We all lose something; we all gain something, not only in the method and manner of Federation, but our gain is limitless, if we are to consider, as we must, what the outcome of Federation will be to all these colonies. I am not going to make a long speech, but if we can only realise to ourselves that, with the broadening of the mind, the quickening of patriotic impulse, the wider view of affairs, the greater feeling of intercolonial amity and friendship, that attend a meeting of this kind, we are some way on the road to understanding what the results of
Federation itself may be to each and all of these colonies. It is in that sense and with that feeling that I congratulate you, sir, and this Convention. You, sir, have presided over our deliberations with marked ability and success. The work that has been done under you by this Convention has been characterised on the part of members by an anxious desire to produce a Bill worthy of the reputation of every member of this Convention, and by a still more anxious desire that Federation shall not be imperilled by an extreme pushing of any one view or opinion. We all know that extreme advocacy of views and opinions, if carried to excess, is by its very extremity a peril to the cause; and we must realise, therefore, that where any particular view has not been carried to its extreme, we may have the consolation of seeing that those who do not agree with us are more likely, by the moderating effect of this Convention, to enter the Federation which we hope must ensue. I beg to move:

That the draft Constitution, so passed by this Convention, be now approved.

Sir GEORGE TURNER:

I have much pleasure in seconding the motion proposed by my hon. friend Mr. Barton, and in doing so I join with him in congratulating you, sir, upon having had the privilege of presiding over this body and of watching the important work which it has done. I think we ought not in passing to forget to add a word of praise to the Chairman of Committees, for the very able way in which he has carried out his duties. (Hear, hear.) There are others, we ought not to forget. There are the officers who have worked at times when they ought to have had holidays; and while at the first meeting we heard some little complaints with regard to "Hansard," I think that those who have looked at the later reports will be perfectly satisfied that, as soon as the gentlemen forming the "Hansard" staff better understood their duties, their reports were very satisfactory.

Mr. BARTON:

Very much improved. (Hear, hear.)

Sir GEORGE TURNER:

I am glad to think with my hon. friend, that we have not pushed our own particular views too far. We met here with the view of endeavoring to compromise as far as possible; and while many of us had to press points which we thought were necessary for the interests of our respective colonies, I feel now that we will one and all use our earnest endeavors to persuade the people of the various colonies that the bargain that has been made—though perhaps some slight amendments will be suggested hereafter—is one that every colony will take
advantage of as far as it can. It cannot be said that all the colonies have always have voted solidly together, because on important questions members have seen fit to vote in a manner different to that in which other members for the same colony have done. Had it been otherwise it would have given rise to suspicion, for it might have been said that members voted one way simply because 'they represented particular colonies and had not carefully studied the questions. I believe, though, that all the votes were given honestly, and in the belief that we were doing the right thing in the interest of what we soon hope will be United Australia. Although a feeling of suspicion might exist because votes were not, said on particular questions, I do think that a wise step was taken by casting the votes, not en bloc, but in the manner I have indicated, not for the interest of any particular colony, but for the greater interest of the whole of the Commonwealth. I would refer especially to the vote which was taken with regard to the question of the Senate, and, although some of the small colonies did not vote solidly on that occasion, I think it was very wise that they did not; because I feel certain that if the larger colonies had found that a solid vote was given on that question by the smaller colonies against the larger ones, only one result would have occurred, and that is, so far as equal representation of the colonies in the Senate is concerned, the larger colonies would have had to vote against it. I am very glad that votes were given in the way I have indicated, and I trust that when we meet in Sydney we will carry on work in the same friendly manner, and do the work as well. as we have done it here; and, if we do, I feel sure when we have finished our labors we will have a Bill which we will be able to take back to our colonies and honestly ask the people of Australia to vote solidly in favor of it.

Sir EDWARD BRADDON:

I cordially endorse all that has fallen from the leader, Mr. Barton, and Sir George in the way of congratulating yourself, Mr. President, and the Chairman of Committees, Sir Richard Baker, for the way in which you have discharged the onerous duties committed to you. And now is as convenient an opportunity as any other we will have to renew the expressions of confidence we have already given forth in the leader of the Convention.

Several HON. MEMBERS:

Hear, hear.

Sir EDWARD BRADDON:

To Mr. Barton, I am sure wisely, we committed the charge of this Bill at the outset of our proceedings, and he, I am sure we all unanimously hold,
has discharged his duties in a way to ensure to the fullest extent the confidence of the Convention.

Sir WILLIAM ZEAL:
Also to Mr. O'Connor and Sir John Downer.

Sir EDWARD BRADDON:
Yes; we owe much to the other members of the Drafting Committee. We owe a great deal to them, because when members who have not had the work of drafting cast upon them, and who may have thought we had reason to complain of the long hours we have been occupied in our work, have been relieved of our work, members of the Drafting Committee have been sent back to their chambers to keep abreast of the labors of the Convention. I wish to express in the strongest terms the sense of obligation we rest under to these gentlemen. As regards the work of this Convention, of course it is only tentative, and, I cannot help saying, is in some degree imperfect. I could have wished that the Bill we were going to put forth before the people should have been such as would have denied criticism instead of inviting it.

Mr. PEACOCK:
That is impossible.

Sir EDWARD BRADDON:
Anyway that is what I should have preferred. However, we have to meet again, and at that adjourned meeting I hope the work which has been so well done, and which has been done in such an admirable spirit, and which has been done I am sure by hon. members generally with a full sense of the importance of the occasion, and with a desire animating them all to ensure Federation, that that work will receive its seal at the adjourned Convention, even if it receives, as I hope it will receive, a considerable amount of amendment.

Sir RICHARD BAKER:
Having had very little to say during the great work which this Convention has done, it may not perhaps be out of place for me to make a few remarks, in the first place I thank Sir George Turner for the appreciative sentences which he uttered concerning myself, and the Convention generally for the cheers with which they were greeted. As Sir Edward Braddon has said, the work we have done is tentative; and we are not yet arrived at a stage in which it would be proper to offer criticism on the result of our labors. It is said that bystanders see most of the game, and perhaps the statement is correct. At all events it in probable that those who do not take part in the discussion, but are in a position to watch the various actors and to consider the various speeches, perhaps more clearly see the
workings of what has been going on. And as Chairman of Committees, I feel I am fully justified in stating that there has been a gradual—if I may coin an expression—rapprochement amongst the members of this convention towards the principles of a true Federation. It seems to me to be a most hopeful sign that as our deliberations have progressed those members who came here strongly imbued with extreme ideas have gradually become more moderate, until I venture to think that if now the opinions of every member of this Convention were reduced to writing and put on record they would be seen to more closely approach the ideal of a Federation than when we commenced our labors. I say, sir, that that is a hopeful sign, and it is my sincere trust and hope, as one who has taken great interest in this movement for a considerable time, that when we meet again that rapprochement will be continued, and we shall be more of one mind even than we are at present.

Mr. Holder:

I wish to add a word of congratulation to you, sir, upon the work which has been done under your presidency; but I specially rose to express on behalf of the South Australian members of this Convention—and I know at the same time that the feelings which they have are shared by all the other representatives—their thanks to the Hon. Mr. Barton for the way in which he has carried out the very onerous duties entrusted to him. We all felt when we chose him to do the work that he would be capable of doing it, but all the expectations that we formed then have been surpassed by the great ability he has shown. By the tact and skill he has displayed in managing the work, and by the general assistance he has rendered to the whole Convention in gradually perfecting this measure, he has earned our deepest gratitude and placed us under a very heavy obligation; and not only us, but also all those outside whom we represent. I share heartily in the hope which has been expressed that the work done by this Convention may find favor in the eyes of those who have to review it. I look forward to the time when in the various houses of the legislature throughout the colonies our work will first come under review. I hope all those members of this Convention who have seats in those houses will be able fully and freely to assist in passing measure; and that when the final stage comes of reference to the public vote, we may be able to heartily recommend to the electors of the various colonies the scheme that we have framed. I agree with the remarks as to the satisfactory nature, on the whole, of the measure we have before us. I am glad there is yet another stage, and I hope that when that stage has been reached we shall be able to congratulate ourselves not only upon the

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measure which we have before us to-day, but on something which is even more perfect than that; and that not much time will elapse before we finally see our work crowned by the inauguration of that Federation we have labored to bring about.

Mr. DEAKIN:

I rise, not for the purpose of reiterating acknowledgments of our indebtedness with which I heartily concur, whether they relate, Mr. President, to your own discharge of your duties or to the deep obligations we all lie under to the leader of this Convention and to his associates on the Drafting Committee. I desire to add only one other word of thanks, in which, without arrogance, I may claim to speak for every visiting representative to this city, for the superb hospitality, the unwearying kindness, the inexhaustible attention which we have received in this colony on every hand from our first hour to our last. I do not know how adequately to express the admiration I feel for your parliamentary organisation, its splendid chamber or its officers, from those who sit at the table of the House to the many in its antechambers. Never has it been my privilege to enter a public department in which the same efficiency was discoverable in every quarter. Having lamely endeavored to express what many feel and could better express, may I follow the line of thought which has been suggested by the remarks of more than one speaker who has preceded me. It would not be an incorrect expression to say that this Convention is about to go into recess. Yet it would be wholly incorrect in another aspect, because the duties and responsibilities of members of this Convention by no means cease from now till the 2nd September next. On the contrary, the stage of public criticism, of press criticism, and more especially of parliamentary criticism, in each State will afford unequalled opportunities for our continuance of the work which we have commenced here. These may prove of the highest value and advantage to this great cause if the members of this Convention convey to their several colonies a full and fair presentation of the varied views which have been advocated here. They are not called upon for a mere repetition of their own opinions when these are the views which their respective colonies already share. It is quite unnecessary, in my opinion, for the Victorian representatives in this Convention when they return to their local Parliament, to defend their antagonism to the extensive powers in relation to finance given to the Senate, or their assertion of the absolute wisdom and necessity for some provision against deadlocks. There will be little need for them to reiterate their opinions on these subjects, because those opinions are already shared by, the great majority of their bearers. And so in every other colony. But if we take upon ourselves, so far as our capacity will permit, the task of
translating to our fellow members in our own Parliaments the views which are uncongenial and unfamiliar to them—for instance, in Victoria, the views held by the representatives of the less populous colonies as to the necessity for entrusting great powers to the Second Chamber, and as to the danger surrounding some methods of removing deadlocks—we shall be doing work which needs to be done, and which we ought to be best qualified to do. If the representatives of each colony will look upon themselves as representatives of this Convention charged with the duty of conveying to their own Parliament and their own people the views opposed to their own—views which in common with theirs have helped to shape this Bill—they will still continue to fulfil federal duties no less important than those discharged in this Chamber. For my own part I hope that, when entering the Parliament of Victoria I shall do so with a sense of responsibility and obligation to the members of this Convention with whom I have had the misfortune to differ, to be discharged only by a faithful citation of their arguments. I can

best express my sense of the spirit with which they have met us, and of the amity which seems destined to be born of this Convention when I draw from that, not only a happy augury for the future, but the further resolution not to increase the differences of opinion which exist in this Convention, but, so far as possible, to explain and minimise them. Our Parliaments may then send us back to the next meeting of this Convention, not in any sense as delegates, but distinctly as representatives. Here members have urged again and again that the time for compromise had not come; assuredly at the next meeting of this Convention, if ever, the time for compromise will come and must be seized or it will pass away forever. Consequently, if we can obtain such an expression of opinion from our own Parliaments as will enable us to meet our fellow representatives with a full appreciation of their difficulties, we ought to be in a position to arrive at an honorable settlement of all our differences. The adjourned meeting would then be hold under better auspices than attended this meeting. I can imagine no more propitious season at which such a consummation could be brought about than this year, the Diamond Jubilee of Her Majesty's prosperous reign. The proofs we have had of the interest felt in other parts of the Empire in the meetings of this Convention should encourage us to approach our task from the broadest standpoint of patriotism. We are here as citizens of Australia—the federated Australia yet to be—but we also meet as citizens of an empire whose future fortunes must always be associated with the organisation of its great dependencies abroad. We have had an illustrious example of the success of such a union in Canada, and we have
had a warning example of an opposite character in the dangers and
difficulties now surrounding the British colonies in South Africa. The
circumstances of our own States should furnish a sufficient impulse to us
to follow the example of Canada and not that of South Africa in
performing our part towards the consolidation of that Empire within the
scope and sweep of whose world-wide dominion our own future
development in most amply secured. The best prophecy of the growth of a
Federal spirit in this gathering appears in the perfectly disinterested votes
which prevented what would otherwise have meant the absolute defeat of
the prospects of the movement in the more populous colonies. To you, sir,
to Mr. Glynn, and to the three members of Tasmania, by whose aid we are
enabled to submit, If not a perfect scheme, at least one which can be fairly
considered by Now South Wales and Victoria, I personally tender a sincere
tribute of thanks.

Mr. SYMON:
That is not a very politic remark.

Mr. DEAKIN:
My statement springs from a deep sense of public obligation. It cannot be
impolitic. It to the tribute of an individual representative speaking his own
mind, though I believe the sentiment expressed will be widely shared in all
the colonies. Of this we shall know more when we meet again. Our
responsibility in this Convention has not ended. venture to repeat to this
meeting the conviction that our federal task, far from being suspended
now, will be continuous from this hour until we assemble in Sydney next
September.

Mr. DOBSON:
I think there is one duty left to be done, and, as I am leaving Adelaide
this afternoon, I am reminded of what took place on our arrival five weeks
ago. The morning we arrived at the Murray Bridge I found a copy of one of
your leading journals on my breakfast table. I had the pleasure of perusing
this journal, and since we have arrived here the proprietors of that paper
have sent us copies regularly. We owe a deep debt of gratitude to the press
for the way in which they have dealt with the subject of Federation, and
also for their uniform courtesy, and the aid which they have given to us. I
trust I join my

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congratulations with those of other members, and I desire to thank you and
your Ministerial colleagues and your members of Parliament, and the
citizens of Adelaide generally for their uniform courtesy, their extreme
thoughtfulness and kindness, and unbounded hospitality. During the next
six months the press will be able to play a greater part in bringing about the
Federation of the colonies than any of the delegates present, public men, or legislatures. I am quite sure they will be able to rise to the occasion, and will understand that this Constitution must be based upon ideas which alone make for progress, and that true progress comes by a fusion of democratic and conservative principles, and when you have that fusion I believe then, and only then, you will have a sound and enduring Constitution.

Mr. BARTON:

I should like to make an explanation. It would be generally expected by members that votes of thanks would be passed to you, Mr. President, to the able Chairman of Committees, and to the Clerk of this Convention and his assistants, for their industrious and zealous work, but the reason why that proposal in not being made is that it is considered advisable that expressions of that kind should be deferred to the proper place at the next sitting of the Convention. I should like to express my acknowledgments to Sir George Turner and other members of the Convention who have spoken so much, and so much too kindly, of my work done as Leader of the Convention, and I can assure them their expressions were not heard by me unmoved. I have endeavored at all times to advance the cause which I think now every leading public man in Australasia has at heart, and I think the cause has been advanced. It is a satisfaction to me to recollect that, at a little gathering in the Town Hall, Melbourne, while on the way here, when the New South Wales delegates had the pleasure of being introduced to their colleagues from Victoria and Tasmania, I expressed the conviction that the work of this Convention could be got through within the period of a month, and it is exactly a month to-day since we opened our sittings. I should like to say this: Some of my colleagues in this Convention have expressed their thanks to the members of the committee associated with me in the preparation of the Bill, and I wish to express emphatically my thanks to them also. Their collaboration has been marked by an extreme feeling of patriotism, a deep sense of honor, and a thorough feeling of the importance of the work assigned to them, and their industry has been equal to the ability with which they have helped me in labors by no means slight. If there is any member of the Convention who thinks, in the warmth of debate, I may have discharged words in my expressions which seem to be too warm for the occasion, I can only say in the words of Shakespeare:

O Cassius, you are yoked with a lamb
That carries anger as the flint bears fire;
Who, much enforced, shows a hasty spark,
And straight is cold again.

The PRESIDENT:
Before putting the motion I should like to say a few words. I desire to acknowledge the kindly references of the Leader of the Convention, Mr. Barton, and other speakers, to the South Australian Government and also myself in my capacity as President. As regards the Government, I can only say we have endeavored, so far as we could to give expression to what we were sure was the wish of South Australia, that the representatives of the other colonies should be warmly welcomed, and I can only regret that the industry of the Convention has been such that we have not had the time or opportunity for this purpose that we could have desired. As regards my duties in this chair, I desire to tender my warmest thanks to the members of the Convention for the courtesy and kindness they have shown me, and which has made my office one of the pleasantest,

as it has been one of the most honorable that man could occupy. I recognise that an additional honor has been conferred upon me by entrusting me with the duty of presenting to Her Most Gracious Majesty the congratulations of this Convention. That duty, with the permission of Providence, I will most faithfully discharge. I will only add this, that I am sanguine, equally with other speakers, that we have made a most substantial advance towards the accomplishment of Australian Federation, and I look with confidence to the result of the adjourned meeting which is to be held shortly. Again, members of the Convention, I thank you.

Question resolved in the affirmative.

Mr. BARTON:

I beg to move:

That copies of the draft Constitution and the minutes of proceedings of the Committee

I hope in due course, through the proper channel, these proceedings will reach the hands of Her Majesty's Secretary of State for the Colonies; because I believe whatever may lead to our legislative independence, so long as it affirms the relation of of amity and loyalty which exists between all these colonies and the mother country will be viewed with extreme favor by all those interested in the dear old land, in the strengthening and welding together, and in the continued affection between one part and another of the whole Empire.

Question resolved in the affirmative.

ADJOURNMENT OF THE CONVENTION.

The PRESIDENT:

Now that our proceedings are temporarily closed, I declare this Convention adjourned until May 5th, and afterwards till September 2nd, at Sydney. I call for three cheers for the Queen.
Hon. members rising in their places gave three cheers for the Queen.
Wednesday MAY 6, 1897.

No Quorum - Adjournment.

The ACTING-PRESIDENT (Sir Richard Baker) took the chair at 10.80 a.m.
There being no quorum, the Acting-President ordered the bells to be rung.

ADJOURNMENT.
There being no quorum at 10.35 a.m., the ACTING-PRESIDENT said: I declare that this Convention stands adjourned until September 2nd, at noon, at Parliament House, in Sydney, in New South Wales.
APPENDIX: Commonwealth of Australia Bill.

Copy of Federal Constitution under the Crown, framed and approved by the Australasian Federal Convention, at Adelaide, South Australia, 22nd March to 23rd April, 1897.

E. G. BLACKMORE, C. C. KINGSTON,
Clerk. President.

DRAFT OF A BILL
To Constitute the Commonwealth of Australia.

Preamble.

WHEREAS the people of [here name the Colonies which have adopted the Constitution] have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established: And whereas it is expedient to make provision for the admission into the Commonwealth of other Australasian Colonies and possessions of Her Majesty: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as The Constitution of the Commonwealth of Australia."

Act to bind Crown.

Application of provisions shall extend to the Queens Successors.

2. This Act shall bind the Crown, and its provisions referring to Her Majesty the Queen shall extend to Her heirs and Successors in the Sovereignty of the United Kingdom of Great Britain and Ireland.

Constitution of the Commonwealth of Australia.

Power to proclaim Commonwealth of Australia.

3. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honorable Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being later than six months after the passing of this Act, the people of [here name the Colonies which have adopted the Constitution] (hereinafter severally included in the expression "he said Colonies") shall be united in a Federal Constitution under the name of "The Commonwealth of Australia": and on and after that day the Commonwealth shall be established under that name.

Commencement of Act.

4. Unless it is otherwise expressed or implied, this Act shall commence
and have effect on and from the day so appointed in the Queen's Proclamation; and the name "The Commonwealth of Australia" or "The Commonwealth" shall be taken to mean the Commonwealth of Australia as constituted under this Act.

States.

5. The term "The States" shall be taken to mean such of the Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia, as for the time being form part of the Commonwealth, and such Colonies or States as may hereafter be admitted into or established by the Commonwealth, and each of such parts of the Commonwealth shall be hereafter designated a "State."

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Repeal of 48 and 49 Vict., chap. 60.


But any such law may be repealed as to any State by The Parliament of the Commonwealth, and may be repealed as to any Colony, not being a State, by the Parliament thereof.

Operation of the Constitution and laws of the Commonwealth.

7. The Constitution established by this Act, and all laws made by The Parliament of the Commonwealth in pursuance of the powers conferred by the Constitution, and all treaties made by the Commonwealth, shall, according to their tenour, be binding on the Courts, Judges, and people, of every State, and of every part of the Commonwealth, anything in the laws of any State to the contrary notwithstanding; and the laws and treaties of the Commonwealth shall be in force on board of all British ships whose last port of clearance or whose port of destination is in the Commonwealth.

Constitution.

8. The Constitution of the Commonwealth shall be as follows:—

THE CONSTITUTION.

Division of Constitution.

This Constitution is divided into Chapters and Parts as follows:—

CHAPTER I.-THE PARLIAMENT.

PART I.-General:

PART II.-The Senate:

PART III.-The House of Representatives:

PART IV.-Provisions relating to both Houses:

PART V.-Powers of the Parliament:
CHAPTER I.
PART I.
CHAPTER I.
THE PARLIAMENT.
PART I.-GENERAL.
Legislative powers.
1. The legislative powers of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives, and which is hereinafter called "The Parliament," or "The Parliament of the Commonwealth."

Governor-General.
2. The Queen may, from time to time, appoint a Governor-General, who shall be Her Majesty's representative in the Commonwealth, and who shall have and may exercise in the Commonwealth during the Queen's pleasure, and subject to the provisions of this Constitution, such powers and functions of the Queen as Her Majesty may think fit to assign to him.

Salary of Governor-General.
3. Until The Parliament otherwise provides, the annual salary of the Governor-General shall be Ten Thousand Pounds, and shall be payable to the Queen out of the Consolidated Revenue Fund of the Commonwealth.

The salary of a Governor-General shall not be altered during his continuance in office.

Application of provisions relating to Governor-General.
4. The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the Queen may appoint to be the Chief Executive Officer or Administrator of the Government of the Commonwealth, by whatever title he is designated; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the Government of the Commonwealth.
Oath of allegiance.

Schedule.

5. Every member of the Senate and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the Schedule to this Constitution.

Governor-General to fix time and places for holding Session of Parliament.

Power of dissolution of House of Representatives.

6. The Governor-General may appoint such times for holding the first and every other Session of The Parliament as he may think fit, giving sufficient notice thereof, and may also from time to time, by Proclamation or, otherwise, prorogue The Parliament, and may in like manner dissolve the House of Representatives.

First Session of Parliament.

The Parliament shall be called together not later than six months after the establishment of the Commonwealth.

Yearly Session of Parliament.

7. There shall be a Session of The Parliament once at least in every year, so that twelve months shall not intervene between the last sitting of The Parliament in one Session, and it first sitting in the next Session.

Privileges, &c., of Houses.

8. The privileges, immunities, and powers of the Senate and of the House of Representatives, and of the members and the Committees of each House shall be such as are from time to time declared by The Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and Committees, at the establishment of the Commonwealth.

PART II.

PART II.-THE SENATE.

The Senate.

9. The Senate shall be composed of six senators for each State, and each senator shall have one vote.

The senator's shall be directly chosen by the people of the State as one electorate.

The senators shall be chosen for a term of, six years, and the names of the senators chosen by each State shall be certified by the Governor to the Governor-General.

The Parliament shall have power, from time to time, to increase or diminish the number of senators for each State, but so that the equal
representation of the several States shall be maintained and that no State shall have less than six senators.

The qualification of electors of senators shall be in each State that which is prescribed by this Constitution or by The Parliament as the qualification for electors of members of the House of Representatives, but in the choosing of senators each elector shall vote only once, and if an elector votes more than once he shall be guilty of a misdemeanour.

Mode of election of Senators.

10. The Parliament of the Commonwealth may make laws prescribing a uniform manner of choosing the senators. Subject to such laws, if any, the Parliament of each State may determine the time, place, and manner of choosing the senators for that State.

Continuance of existing election laws until The Parliament otherwise provides.

Until such determination, and unless The Parliament of the Commonwealth otherwise provides, the laws in force in the several States for the time being, relating to the following matters, namely: The manner of conducting elections for the more numerous House of the Parliament of the State, the proceedings at such elections, Returning Officers, the periods during which elections may be continued, and offences against the laws regulating such elections shall, as nearly as practicable, apply to elections in the several States of Senators.

Failure of a State to choose members not prevent business.

11. The failure of any State to provide for its representation in the Senate shall not affect the power of the Senate to proceed to the despatch of business.

Issue of writs.

12. For the purpose of holding elections of members to represent any State in the Senate the Governor of the State may cause writs to be issued by such persons, in such form and addressed to such Returning Officers as he thinks fit.

Retirement of members.

13. As soon as practicable after the Senate first meets the senators chosen for each State shall he divided by lot into two classes. The places of the senators of the first class shall be vacated at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the commencement of their term of service as herein declared, and afterwards there shall be an election every third year accordingly.

For the purposes of this section the term of service of a senator shall
begin on and be reckoned from the first day of January next succeeding the
day of his election, except in the case of the first election, when it shall be
reckoned from the first day of January preceding the day of his election.
The election to fill the places of senators retiring by rotation shall be made
in the year preceding the day on which they are to retire.

How vacancies filled.
14. If the place of a senator becomes vacant before the expiration of his
term of service the Houses of Parliament of the State he represented shall,
sitting and voting together, choose a person to fill the vacancy until the
expiration of the term or until the election of a successor as hereinafter
provided whichever first happens. And if the Houses of Parliament of the
State are in recess at the time when the vacancy occurs the Governor of the
State, with the advice of the Executive Council thereof, may appoint a
person to fill the vacancy until the beginning of the next Session of the
Parliament of the State or until the election of a successor, whichever first
happens. At the next general election of members of the House of
Representatives, or at the next election of senators for the State, whichever
first happens, a successor shall, if the term has not then expired, be chosen
to hold the place from the date of his election until the expiration of the
term.

Qualification of member.
16. The qualifications of a senator shall be those of a member of the
House of Representatives.

Election of President of the Senate.
16. The Senate shall, at its first meeting and before proceeding to the
despach of any other business, choose a member to be President of the
Senate; and as often as the office of President becomes vacant the Senate
shall again choose a member to be the President; and the President shall
preside at all meetings of the Senate; and the choice of the President shall
be made known to the Governor-General by a deputation of the Senate.

The President may be removed from office by a vote of the Senate. He
may resign his office; and upon his ceasing to be a member his office shall
become vacant.

Absence of President provided for.
17. The Senate may choose a member to perform the duties of the
President in his absence.

Resignation of place in Senate.
18. A senator may, by writing addressed to the President, or to the
Governor-General if there is no President, or if the President is absent from
the Commonwealth, resign his place, which thereupon shall become
vacant.

Disqualification of member by absence.
19. The place of a senator shall become vacant if for two consecutive months of any Session of The Parliament he, without the permission of the Senate entered on its Journals, fails to attend the Senate.

Vacancy in Senate to be notified to Governor of State.
20. Upon the happening of a vacancy in the Senate the President, or if there is no President, or if the President is absent from the Commonwealth, the Governor-General shall forthwith notify the same to the Governor of the State in the representation of which the vacancy has happened.

Questions as to qualifications, and vacancies in States Assembly.
21. Until the Parliament otherwise provides, any question respecting the qualification of a senator, or a vacancy in the Senate, shall be determined by the Senate.

Quorum of Senate.
22. The presence of at least one-third of the whole number of senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

Voting in Senate.
23. Questions arising in the Senate shall be determined by a majority of votes, and the President shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative.

PART III.
PART III.-THE HOUSE OF REPRESENTATIVES.
Constitution of House of Representatives.
24. The House of Representatives shall be composed of members directly chosen by the people of the several States, according to their respective numbers; as nearly as practicable there shall be two members of the House of Representatives for every one member of the Senate.

Until the Parliament otherwise provides for the method of determining the number of members for each quota there shall be one member for each quota of the people of the State, and the quota shall, whenever necessary be ascertained by dividing the population of the Commonwealth as shewn by the latest statistics of the Commonwealth by twice the number of the members of the Senate, and the number of members to which each State is entitled shall be determined by dividing the population of the State as shown by the latest statistics of the Commonwealth by the quota.

But each of the existing Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia shall be entitled to five Representatives at the least.
Provision for case of persons not allowed to vote.

25. In ascertaining the number of the people of any State, so as to determine the number of members to which the State is entitled, there shall be deducted from the whole number of the people of the State the number of the people of any race not entitled to vote at elections for the more numerous House of the Parliament of the State.

Mode of calculating number of members.

26. When upon the apportionment of Representatives it is found that after dividing the number of the people of a State by the quota there remains a surplus greater than one-half of such quota, the State shall have one more representative.

Representatives in first Parliament.

27. Notwithstanding anything in section 24, the number of members to be chosen by each State at the first election shall be as follows: [To be determined according to latest statistical returns at the date of the passing of the Act, and in rotation to the quota referred to in previous sections.]

Increase of number of House of Representatives.

28. Subject to the provisions of this Constitution, the number of members of the House of Representatives maybe from time to time increased or diminished by the Parliament.

Electoral divisions.

29. Until the Parliament otherwise provides, the electoral divisions of the several States for the purpose of returning members of the House of Representatives, and the number of members to be chosen for each electoral division, shall be determined from time to time by the Parliaments of the several States. Until division each State shall be one electorate.

Qualification of electors.

30. Until The Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of the Parliament of the State. But in the choosing of such members each elector shall vote only once, and if any elector votes more than once he shall be guilty of a misdemeanour, and no elector who has at the establishment of the Commonwealth, or who afterwards acquires a right to vote at elections for the more numerous House of the Parliament of the State, shall, whilst the qualification continues, be prevented by any law of the Commonwealth from exercising such right at elections for the House of Representatives.

Qualifications of members of House of Representatives.

31. Until The Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows:—
I. He must be of the full age of twenty-one years, and must when chosen be an elector entitled to vote in some State at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is elected:

II. He must be either a natural born subject of the Queen, or a subject of the Queen naturalised by or under a law of Great Britain and Ireland, or of one of the said Colonies, or of the Commonwealth, or of a State, at least five years before he is elected.

Members of States Assembly ineligible for House of Representatives.

32. A member of the Senate shall not be capable of being chosen or of sitting as a member of the House of Representatives.

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Election of Speaker of the House of Representatives.

33. The House of Representatives shall, at its first meeting after every general election, and before proceeding to the dispatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker; and the Speaker shall preside at all meetings of the House; and the choice of the Speaker shall be made known to the Governor-General by a deputation of the House.

The Speaker may be removed from office by a vote of the House, or may resign his office.

Absence of Speaker provided for.

34. The House of Representatives may choose a member to perform the duties of the Speaker during his absence.

Resignation of place in House of Representatives.

35. A member may, by writing addressed to the Speaker, or to the Governor-General if there is no Speaker or if the Speaker is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

Vacancy by absence of member.

36. The place of a member shall become vacant if for two consecutive months of any Session of The Parliament he, without permission of the House entered on its Journals, fails to attend the House.

Issue of new writs.

37. Upon the happening of a vacancy in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or, if there is no Speaker or if he is absent from the Commonwealth, the Governor-General shall issue the writ.

Quorum of House of Representatives.
38. The presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

Voting in House of Representatives.

39. Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker; and when the votes are equal the Speaker shall have a casting-vote, but otherwise he shall not vote.

Duration of House of Representatives.

40. Every House of Representatives shall continue

The Parliament shall be called together not later than thirty days after the day appointed for the return of the writ for a general election.

Writs for general election.

41. For the purpose of holding general elections of members to serve in the House of Representatives, the Governor-General may cause writs to be issued by such persons, in such form, and addressed to such Returning Officers, as he thinks fit.

The writs shall be issued within ten days from the expiry of a Parliament, or from the proclamation of a dissolution.

Continuance of existing election laws until The Parliament otherwise provides.

42. Until The Parliament otherwise provides, the laws in force in the several States for the time being, relating to the following matters, namely: The manner of conducting elections for the more numerous House of the Parliament of the State, the proceedings at such elections, the Returning Officers, the periods during which elections may be continued, the execution of new writs in case of places vacated otherwise than by dissolution, and offences against the laws regulating such elections, shall as nearly as practicable apply to elections in the several States of members of the House of Representatives.

Questions as to qualifications and vacancies.

43. Until the Parliament otherwise provides, any Question respecting the qualification of a member or a vacancy in the House of Representatives shall be determined by the House.

PART IV.

PART IV.-PROVISIONS RELATING TO BOTH HOUSES.

Allowance to members.

44. Until The Parliament otherwise provides, each member, whether of the Senate or of the House of Representatives, shall receive an allowance for his services of Four Hundred Pounds a year, to be reckoned from the
day on which he taken his seat.

Disqualification of members.

45. Any person:

I. Who has taken an oath or made a declaration or acknowledgment of allegiance, obedience, or adherence, to a foreign power, or has done any act whereby he has become a subject or a citizen, or entitled to the rights or privileges of a subject or a citizen, of a foreign power: or

II. Who is an undischarged bankrupt or insolvent, or a public defaulter:

or

III. Who is attainted of treason, or convicted of felony or of any infamous Crime:

shall be incapable of being chosen or of sitting as a member of the Senate or of the House of Representatives until the disability is removed by a grant of a discharge, or the expiration or remission of the sentence, or a pardon, or release, or otherwise.

Place to become vacant on happening of certain disqualifications.

46. If a member of the Senate or of the House of Representatives:

I. Takes an oath or makes a declaration or acknowledgment of allegiance, obedience, or adherence to a foreign power, or does act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign power: or

II. Is adjudged bankrupt or insolvent, or takes the benefit of any law relating to bankrupt or insolvent debtors, whether by assignment, composition, or otherwise, or becomes a public defaulter: or

III. Is attainted of treason or convicted of felony or of any infamous crime:

his place shall thereupon become vacant.

Disqualifying contractors and persons interested in contracts.

47. Any person who directly or indirectly himself, or by any person in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys, in the whole or in part, any agreement for or on account of the public service of the Commonwealth, shall be incapable of being chosen or of sitting as a member of the Senate or of the House of Representatives while he executes, holds, or enjoys the agreement; or any part or share of it, or any benefit or emolument arising from it.

Any person, being a member of the Senate or of the House of Representatives, who, in the manner or to the extent forbidden in this section, undertakes, executes, holds, enjoys, or continues to hold, or enjoy, any such agreement, shall thereupon vacate his place.

Proviso exempting members of trading companies.

But this section does not extend to any agreement made, entered into, or
accepted by, an incorporated company consisting of more than twenty
persons, if the agreement is made, entered into, or accepted, for the general
benefit of the company.

Any person being a member of the Senate or of the House of
Representatives who, directly or indirectly, accepts or receives any fee or
honorarium for work done or services rendered by him for or on behalf of
the Commonwealth, whilst sitting as such member, Shall thereupon vacate
his place.

Place to become vacant on accepting office of profit.

48. If a member of the Senate or of the House of Representatives accepts
any office of profit under the Crown, not being one of the offices of State
held during the pleasure of the Governor-General, and the holders of which
are by this Constitution declared to be capable of being chosen and of
sitting as members of either House of The Parliament, or accepts any
pension payable out of any of the revenues of the Commonwealth during
the pleasure of the Crown, his place shall thereupon become vacant, and no
person holding any such office, except as afore-said, or holding or enjoying
any such pension, shall be capable of being chosen or of sitting as a
member of either House of The Parliament.

Until The Parliament otherwise provides, no person, being a member, or
within Six months of his ceasing to be a member, shall be qualified or
permitted to accept or hold any office the acceptance or holding of which
would, under this section, render a person incapable of being chosen or of
sitting as a member.

Exceptions.

But this section does not apply to a person who is in receipt only of pay,
half-pay, or a pension, as an officer or member of the Queen's navy or
army, or who receives a new commission in the Queen's navy or army, or
an increase of pay on a new commission, or who is in receipt only of pay
as an officer or member of the military or naval forces of the
Commonwealth, and whose services are not wholly employed by the
Commonwealth.

Penalty for sitting when disqualified.

49. If any person by this Constitution declared to be incapable of sitting
in the Senate or the House of Representatives, or disqualified or prohibited
from accepting or holding any office, sits as a member of either House, or
accepts or holds such office, he shall, for every day on which he sits or
holds such office, be liable to pay the sum of One Hundred Pounds to any
person who may sue for it in any court of competent jurisdiction.

Disputed elections.
50. Until The Parliament otherwise provides, all questions of disputed elections arising in the Senate or the House of Representatives shall be determined by a Federal Court or a court exercising Federal jurisdiction Standing rules and orders to be made.

51. The Senate and the House of Representatives may each of them from time to time adopt standing rules and orders as to the following matters:
   I. The orderly conduct of the business of the Senate and of the House of Representatives respectively:
   II. The mode in which the Senate and the House of Representatives shall confer, correspond, and communicate with each other relative to votes or proposed laws:
   III. The manner in which notices of proposed laws, resolutions, and other business intended to be submitted to the Senate and the House of Representatives respectively may be published for general information:
   IV. The manner in which proposed laws are to be introduced, passed, numbered, and intituled:
   V. The proper presentation of any proposed laws passed by the Senate and the House of Representatives to the Governor-General for his assent: and
   VI. The conduct of all business and proceedings of the Senate and the House of Representatives severally and collectively.

PART V.

PART V.-POWERS OF THE PARLIAMENT.

Legislative powers of the Parliament.

52. The Parliament shall, subject to the provisions of this Constitution, have full power and authority to make laws for the peace, order, and good government of the Commonwealth, with respect to all or any of the matters following, that is to say:—
   I. The regulation of trade and commerce with other countries, and among the several States:
   II. Customs and excise and bounties, but so that duties of customs and excise and bounties shall be uniform throughout the Commonwealth, and that no tax or duty shall be imposed on any goods exported from one State to another:
   III. Raising money by any other mode or system of taxation; but so that such taxation shall be uniform throughout the Commonwealth:
   IV. Borrowing money on the public credit of the Commonwealth:
   V. Postal, telegraphic, telephonic and other like services:
   VI. The military and naval defence of the Commonwealth and the several States and the calling out of the forces to execute and maintain the laws of the Commonwealth:
VII. Munitions of war:

VIII. Navigation and shipping:

IX. Ocean beacons and buoys, and ocean lighthouses and lightships:

X. Astronomical and meteorological observations:

XI. Quarantine:

XII. Fisheries in Australian waters beyond territorial limits:

XIII. Census and statistics:

XIV. Currency, coinage, and legal tender:

XV. Banking, the incorporation of banks, and the issue of paper money:

XVI. Insurance, excluding State Insurance not extending beyond the limits of the State concerned:

XVII. Weights and measures

XVIII. Bills of exchange and promissory notes:

XIX. Bankruptcy and insolvency:

XX. Copyrights and patents of inventions, designs, and trade marks:

XXI. Naturalisation and aliens:

XXII. Foreign corporations, and trading or financial corporations formed in any State or part of the Commonwealth:

XXIII. Marriage and divorce:

XXIV. Parental rights, and the custody and guardianship of infants:

XXV. The service and execution throughout the Commonwealth of the civil and criminal process and judgments of the courts of the States:

XXVI. The recognition throughout the Commonwealth of the laws, the public acts and records, and the judicial proceedings, of the States:

XXVII. Immigration and emigration:

XXVIII. The influx of criminals:

XXIX. External affairs and treaties:

XXX. The relations of the Commonwealth to the islands of the Pacific:

XXXI. The control and regulation of the navigation of the River Murray, and the use of the waters thereof from where it first forms the boundary between Victoria and New South Wales to the sea:

XXXII. The co...

XXXIII. The taking over by the Commonwealth with the consent of the State, of the whole or any part of the railways of any State or States upon such terms as may be arranged between the Commonwealth and the State.

XXXIV. Railway construction and extension with the consent of any State or States concerned:

XXXV. Matters referred to The Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to the State or States by whose Parliament or Parliaments the
matter was referred, and to such other States as may afterwards adopt the law:

XXXVI. The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States concerned, of any legislative powers which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia:

XXXVII. Any matters necessary for, or incidental to, the carrying into execution of the foregoing powers or of any other powers vested by this Constitution in The Parliament or the Executive Government of the Commonwealth or in any department or officer thereof.

Exclusive powers of The Parliament.

53. The Parliament shall, subject to the provisions of this Constitution, have exclusive powers to make laws for the peace, order, and good government of the Commonwealth with respect to the following matters:—

I. The affairs of the people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community; but so that this power shall not extend to authorise legislation with respect to the affairs of the aboriginal native race in any State:

II. The government of any territory which by the surrender of any State or States and the acceptance of the Commonwealth becomes the seat of Government of the Commonwealth, and the exercise of like authority over all places acquired by the Commonwealth, with the consent of the State in which such places are situate, for the construction of forts, magazines, arsenals, dockyards, quarantine stations, or for any other purposes of general concern:

III. Matters relating to any department or departments of the Public Service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth:

IV. Such other matters as are by this Constitution declared to be within the exclusive powers of The Parliament.

Money Bills.

54. Proposed laws having for their main object the appropriation of any part of the public revenue or moneys, or the imposition of any tax or impost, shall originate in the House of Representatives.

Appropriation and Tax Bills.

55. (1) The Senate shall have equal power with the House of Representatives in respect of all proposed laws, except laws imposing
taxation and laws appropriating the necessary supplies for the ordinary annual services of the Government, which the Senate may affirm or reject, but may not amend. But the Senate may not amend any proposed law in such a manner as to increase any proposed charge or burden on the people.

(2) Laws imposing taxation shall deal with the imposition of taxation only.

(3) Laws imposing taxation, except laws imposing duties of customs on imports or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only.

(4) The expenditure for services other than the ordinary annual services of the Government shall not be authorised by the same law as that which appropriates the supplies for the annual services, but shall be authorised by a separate law or laws.

(5) In the case of a proposed law which the Senate may not amend, the Senate may at any stage return it to the House of Representatives with a message requesting the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications.

Recommendation of money votes.

56. It shall not be lawful for the Senate or the House of Representatives to pass any vote, resolution, or proposed law, for the appropriation of any part of the public revenue or moneys to any purpose which has not been first recommended to the House in which the proposal for appropriation originated by message of the Governor-General in the Session in which the vote, resolution, or law is proposed.

Royal Assent.
Royal assent to Bills.

57. When a proposed law passed by the Houses of The Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to the provisions of this Constitution, either that he assents to it in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure to be made known.

Governor-General.
Amendments.

The Governor-General may return to the House of The Parliament in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend to be made in such law, and the Houses may deal with the proposed amendments as
they think fit.

Disallowance by Order in Council of law assented to by Governor-General.

58. When the Governor-General assents to a law in the Queen's name, he shall by the first convenient opportunity send an authentic copy to the Queen, and if the Queen in Council within one year after the receipt thereof thinks fit to disallow the law, such disallowance on being made known by the Governor-General, by speech or message, to each of the Houses of The Parliament, or by Proclamation, shall annul the law from and after the day when the disallowance is so made known.

Signification of Queen's pleasure on Bill reserved.

59. A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General. for the Queen's assent the Governor-General makes known by speech or message to each of the Houses of The Parliament, or by Proclamation, that it has received the assent of the Queen in Council.

An entry of every such speech, message, or Proclamation, shall be made in the Journals of each House.

CHAPTER II.

THE EXECUTIVE GOVERNMENT.

Executive power to be vested in the Queen.

60. The executive power and authority of the Commonwealth is vested in the Queen, and shall be exercised by the Governor-General as the Queen's representative.

Constitution of Executive Council for Commonwealth.

61. There shall be a Council to aid and advise the Governor-General in the government of the Commonwealth, and such Council shall be styled the Federal Executive Council; and the persons who are to be members of the Council shall be from time to time chosen and summoned by the Governor-General and sworn as executive councillors, and shall hold office during his pleasure.

Application of provisions referring to Governor-General.

62. The provisions of this Constitution referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Federal Executive Council.

The Executive Government.

Ministers of State.

63. For the administration of the executive government of the Commonwealth, the Governor-General may, from time to time, appoint officers to administer such departments of State of the Commonwealth as
the Governor-General in Council may from time to time establish, and such officers shall hold office during the pleasure of the Governor-General, and shall be capable of being chosen and of sitting as members of either House of The Parliament.

Such officers shall be members of the Federal Executive Council, and shall be the Queen's Ministers of State for the Commonwealth.

Ministers to sit in Parliament.

After the first general election no Minister of State shall hold office for a longer period than three calendar months unless he shall be or become a member of one of the Houses of The Parliament.

Number of Ministers.

64. Until the Parliament otherwise provides, the number of Ministers of State who may sit in either House shall not exceed seven, who shall hold such offices, and by such designation, as the Parliament from time to time prescribes, or, in the absence of provision, as the Governor-General from time to time directs.

Salaries of Ministers.

65. Until the Parliament otherwise provides, there shall be payable to the Queen, out of the consolidated revenue fund of the Commonwealth, for the salaries of such officers the sum of Twelve Thousand Pounds a year.

Appointment of civil servants.

66. Until the Parliament otherwise provides, the appointment and removal of all other officers of the Government of the Commonwealth shall be vested in the Governor-General in Council.

Authority of Executive.

67. The executive power and authority of the Commonwealth shall extend to the execution of the provisions of this Constitution, and of the laws of the Commonwealth.

Command of military and naval forces.

68. The command in chief of all the military and naval forces of the Commonwealth is hereby vested in the Governor-General as the Queen's representative.

Immediate assumption of control of certain departments.

69. On the establishment of the Commonwealth the control of the following departments of the Public Service in each State shall become transferred to the Executive Government of the Commonwealth, that is to say:—

Customs and excise:

Posts and telegraphs:
Military and naval defence:
Ocean beacons and buoys, and ocean lighthouses and lightships:
Quarantine.

The obligations of each State in respect of the Departments transferred shall thereupon be assumed by the Commonwealth.

Powers under existing law to be exercised by Governor-General with advice of Executive Council.

70. All powers and functions which are at the date of the establishment of the Commonwealth vested in the Governor of a colony with or without the advice of his Executive Council, or in any officer or authority in a colony, shall, so far as the same continue in existence and need to be exercised in relation to the government of the Commonwealth, with respect to any matters which, under this Constitution, pass to the Executive Government of the Commonwealth, vest in the Governor-General, with the advice of the Federal Executive Council, or in the officer or authority exercising similar powers or functions in, or under, the Executive Government of the Commonwealth.

CHAPTER III.

THE FEDERAL JUDICATURE.

Judicial power and Courts.

71. The judicial power of the Commonwealth shall be vested in one Supreme Court, to be called the High Court of Australia, and in such other courts as The Parliament may from time to time create or invest with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than four, as The Parliament may from time to time prescribe.

Judges tenure, appointment, removal, and remuneration.

72. The Justices of the High Court and of the other courts created by the Parliament:
I. Shall hold their offices during good behavior:
II. Shall be appointed by the Governor-General in Council
III. Shall not be removed except for misbehavior or incapacity, and then only by the Governor-General in Council, upon an Address from both Houses of The Parliament in the same Session praying for such removal:
IV. Shall receive such remuneration as The Parliament may from time to time fix; but such remuneration shall not be diminished during their continuance in office.

Extent of judicial power.

73. The judicial power shall extend to all matters:—
I. Arising under this Constitution, or involving its interpretation
II. Arising under any laws made by The Parliament:

III. Arising under any treaty:

IV. Of admiralty and maritime jurisdiction:

V. Affecting the public ministers, consuls, or other representatives of other countries:

VI. In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:

VII. In which a writ of mandamus or prohibition is sought against an officer of the Commonwealth:

VIII. Between States:

IX. Relating to the same subject matter claimed under the laws of different States.

Appellate jurisdiction of High Court.

74. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as The Parliament may from time to time prescribe, to hear and determine appeals from all judgments, decrees, orders, and sentences of any other federal Court, or court exercising federal jurisdiction, or of the Supreme Court of any State, whether any such court is a court of appeal or of original jurisdiction; and the judgment of the High Court in all such cases shall be final and conclusive.

Until The Parliament otherwise provides, the conditions and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

No appeals to the Queen in Council except in certain cases.

75. No appeal shall be allowed to the Queen in Council from any court of any State or from the High Court or any other federal court, except that the Queen may, in any matter in which the public interests of the Commonwealth, or of any State, or of any other part of Her dominions, are concerned, grant leave to appeal to the Queen in Council from the High Court.

Jurisdiction of Courts.

76. Within the limits of the judicial power The Parliament may from time to time:

I. Define the jurisdiction to be exercised by the federal courts other than the High Court:

II. Prescribe whether the jurisdiction of the federal courts shall be exclusive of, or concurrent with, that which may belong to or be vested in the courts of the States:

III. Invest the courts of the States with federal jurisdiction within such
limits, or in respect of such matters, as it thinks fit.

Original jurisdiction of High Court.

77. In all matters:
I. Affecting public ministers, consuls, or other representatives of other countries:
II. Arising under any treaty:
III. Between States:
IV. In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:
V. In which a writ of mandamus or prohibition is sought against an officer of the Commonwealth:
the High Court shall have original as well as appellate jurisdiction.
Additional original jurisdiction may be conferred.
The Parliament may confer original jurisdiction on the High Court in other matters within the judicial power.

Number of judges.

78. The jurisdiction of the High Court, or of any other court exercising federal jurisdiction, may be exercised by such number of judges as The Parliament prescribes.

Trial by jury.

79. The trial of all indictable offences cognisable by any court established under the authority of this Constitution shall be by jury, and every such trial shall be held in the State where the offence has been committed, and when not committed within any State the trial shall be held at such place or places as The Parliament prescribes.

 Judges not to be Governor-General, &c.

80. No person holding any judicial office shall be appointed to or hold the office of Governor-General, Lieutenant-Governor, Chief Executive Officer, or Administrator of the Government, or any other executive office.

CHAPTER IV.

FINANCE AND TRADE.
Consolidated revenue fund.

81. All revenues raised or received by the Executive Government of the Commonwealth, under the authority of this Constitution, shall form one Consolidated Revenue Fund to be appropriated for the Public Service of the Commonwealth in the manner and subject to the charges provided by this Constitution.

Expenses of collection.

82. The Consolidated Revenue Fund shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof; which costs, charges, and expenses, shall form the first
Money to be appropriated by law.

83. No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law and by warrant countersigned by the Chief Officer of Audit of the Commonwealth.

The Commonwealth to have exclusive power to levy duties of customs and excise, and offer bounties after a certain time.

84. The Parliament shall have the sole power and authority, subject to the provisions of this Constitution, to impose customs duties, to impose duties of excise and to grant bounties upon the production or export of goods.

But this exclusive power shall not come into force until uniform duties of customs have been imposed by The Parliament.

Upon the imposition of uniform duties of customs all laws of the several States imposing duties of customs or duties of excise, and all such laws offering bounties upon the production or export of goods, shall cease to have effect.

The control and collection of duties of customs and excise and the control of the payment of bounties shall nevertheless pass to the Executive Government of the Commonwealth upon the establishment of the Commonwealth.

This section shall not apply to bounties or aids to mining for gold, silver, or other metals.

Transfer of officers.

85. Upon the establishment of the Commonwealth, all officers employed by the Government of any State in any department of the Public Service the control of which is by this Constitution assigned to the Commonwealth, shall become subject to the control of the Executive Government of the Commonwealth; and thereupon any such officer shall, if he is not retained in the service of the Commonwealth, be entitled to receive from the State any gratuity or other compensation payable under the law of the State on abolition of his office; but if he is retained in the service of the Commonwealth he shall be entitled to retire from office at the time and upon the pension or retiring allowance permitted and provided by the law of the State on such retirement, and the pension or retiring allowance shall be paid by the State and by the Commonwealth respectively in the proportion which his service with the State bears to the whole term of his service, and all existing and accruing rights of any officers so retained in the service of the Commonwealth shall be preserved.
Transfer of land, buildings, vessels, &c.

86. All lands, buildings, works, vessels, materials, and things necessarily appertaining to, or used in connection with, any department of the Public Service the control of which is by this Constitution transferred to the Commonwealth, shall, from the establishment of the Commonwealth, be taken over by and vest in the Commonwealth, either absolutely, or, in the case of the departments controlling customs and excise and bounties, for such time as may be necessary.

The fair value thereof, or of the use thereof, as the case may be, shall be paid by the Commonwealth to the State from which they are taken over. Such value shall be ascertained by mutual agreement, or, if no agreement can be made, in the manner in which the value of land, or of an interest in land taken by the Government of the State for the like public purposes is ascertained under the laws of the State at the establishment of the Commonwealth.

Collection of existing duties of customs and excise.

87. Until uniform duties of customs have been imposed, the powers of the Parliaments of the several States existing at the establishment of the Commonwealth, respecting the imposition of duties of customs, the imposition of duties of excise, and the offering of bounties upon the production or export of goods, and the collection and payment thereof respectively, shall continue.

Until uniform duties have been imposed, the laws of the several States in force at the establishment of the Commonwealth respecting duties of customs, duties of excise, and bounties, and the collection and payment thereof shall remain in force, subject to such alterations of the amount of duties or bounties as the Parliaments of the several States may make from time to time; and the duties and bounties shall continue to be collected and paid as theretofore, but by the officers of the Commonwealth.

Uniform duties of customs.

88. Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth.

On establishment of uniform duties of Customs and excise, trade within the Commonwealth to be free.

89. So soon as uniform duties of customs have been imposed trade and intercourse throughout the Commonwealth, whether by means of internal carriage or ocean navigation, shall be absolutely free.

Accounts to be kept.

90. Until uniform duties of customs have been imposed, there shall be shewn, in the books of the Treasury of the Commonwealth, in respect of
each State:—

I. The revenues collected from duties of customs and excise, and from the performance of the services and the exercise of the powers transferred from the State to the Commonwealth by this Constitution:

II. The expenditure of the Commonwealth in the collection of duties of customs and excise, and in the performance of the services and the exercise of the powers transferred from the State to the Commonwealth by this Constitution:

III. The monthly balance (if any) in favor of the State.

Balance to be paid to States after deduction.

From the balance so found in each State there shall be deducted its share of the expenditure of the Commonwealth in the exercise of the original powers given to it by this constitution, and this share shall be in the numerical proportion of the people of the State to those of the Commonwealth as shewn by the latest statistics of the Commonwealth. After such deduction the surplus shewn to be due to the State.

91. During the first three years after the establishment of the Commonwealth, notwithstanding anything contained in the last section, the total yearly expenditure of the Commonwealth, in the exercise of the original powers given to it by this Constitution, shall not exceed the sum of Three Hundred Thousand Pounds; and the total yearly expenditure of the Commonwealth in the performance of the services and the exercise of the powers transferred from the States to the Commonwealth by this Constitution shall not exceed the sum of One Million Two Hundred and Fifty Thousand Pounds.

Payment to each State for five years after uniform tariffs.

92. During the first five years after uniform duties of customs have been imposed the aggregate amount to be paid to the whole of the States for any year shall not be less than the aggregate amount returned to them during the year last before the imposition of such duties.

I. Subject to the last paragraph, for a period of five years after the imposition of uniform duties of customs, the total amount of duties of customs and excise collected in each year in any State, or estimated as hereinafter provided, as the case may require, shall be repaid to such State of the Commonwealth, after deducting from the amount, in proportion to the population, the share of the State in the total expenditure of the Commonwealth not provided for by other means of revenue. The repayment shall be made month by month to the several States, in as nearly as practicable, the proper proportions:
II. For the purpose of ascertaining the proportion of revenue from customs and excise collected in each State there shall for the first year after the imposition of uniform duties of customs be shewn in the books of the Treasury of the Commonwealth the total amount collected in each State for duties of customs and excise:

III. During such first year the duty chargeable under the uniform tariff upon goods which are imported into any State (whether duty has or has not been actually paid thereon), and during that year exported to any other State for consumption therein, shall be deemed to have been collected in and shall be credited to, such other State only; and all duties of excise paid in respect of any goods manufactured in any State, and so exported to another State for consumption therein, shall be deemed to have been collected in, and shall be credited to, such other State only:

IV. For the purpose of estimating the amount of the customs and excise arising in each State during each of the four years next after such first year, an average shall be taken by dividing the total customs and excise collected in the whole Commonwealth during such first year by the total population of the Commonwealth, as shewn by the latest statistics of the Commonwealth, and the result shall be deemed to be the amount contributed by each person:

V. Where the amount credited to any State during such first year is in excess of the amount of the average so ascertained, there shall in each of the next four years be deducted there-from one-fifth part of the excess; and where the amount so credited is less than such average, there shall be added to the amount one-fifth part of the sum by which the amount so credited is less than the average; and the sums so ascertained shall be the estimated amounts to be repaid in each of the four years to the States respectively.

Distribution of surplus.

93. After the expiration of five years from the imposition of uniform duties of customs, each State shall be deemed to contribute to the revenue an equal sum per head of its population, and all surplus revenue over the expenditure of the Commonwealth shall be distributed mouth by month among the several States in proportion to the numbers of their people as shewn by the latest statistics of the Commonwealth.

Audit of accounts.

94. Until The Parliament otherwise provides, the laws in force in the several colonies at the establishment of the Commonwealth with respect to the receipt of revenue and the expenditure of money on account of the Government of the colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of
money on account of the Commonwealth in the respective States in the
same manner as if the Commonwealth, or the Government or an officer of
the Commonwealth, were mentioned therein whenever a colony, or the
Government or an officer of a colony, is mentioned or referred to.

Equality of Trade.

No derogation from freedom of trade.

95. Preference shall not be given by any law or regulation of commerce
or revenue to the ports of one State over the ports of another State, and any
law or regulation made by the Commonwealth, or by any State, or by any
authority constituted by the Commonwealth, or by any State, having the
effect of derogating from freedom of trade or commerce between the
different parts of the Commonwealth shall be null and void.

Inter-State Commission.

96. The Parliament may make laws constituting an inter-State
Commission to execute and maintain upon railways within the
Commonwealth, and upon rivers flowing through, in, or between, two or
more States, the provisions of this Constitution relating to trade and
commerce.

Powers of Commission.

97. The Commission shall have such powers of adjudication and
administration as may be necessary for its purposes and as The Parliament
may from time to time determine.

Taking over public debts of States.

98. The Parliament may take over the whole, or a rateable proportion, of
the public debts of the States as existing at the establishment of the
Commonwealth, and may from time to time convert, renew, or consolidate
such debts, or any part thereof; and the States respectively shall indemnify
the Commonwealth in respect of the amount of the debt's taken over, and
thereafter the amount of interest payable in respect of the debts shall be
deducted and retained from time to time from the respective shares of the
surplus revenue of the Commonwealth which would otherwise be payable
to the States, or if there be no surplus revenue payable, or if such surplus
revenue be insufficient, then the amount shall be charged to and paid by
the respective States wholly or in part. The rateable proportion or the debts
of the several States to be taken over is to be calculated on the basis of the
populations of the several States as ascertained by the latest statistics of the
Commonwealth.

CHAPTER V.

THE STATES.

Continuance of powers of Parliaments of the States.
99. All powers which at the establishment of the Commonwealth are vested in the Parliaments of the several colonies, and which are not by this Constitution exclusively vested in The Parliament of the Commonwealth, or withdrawn from the Parliament of the several States are reserved to, and shall remain vested in, the Parliaments of the States respectively.

Validity of existing laws.

100. All laws in force in any of the colonies relating to any of the matters declared by this Constitution to be within the legislative powers of The Parliament of the Commonwealth shall, except as otherwise provided by this Constitution, continue in force in the States respectively, and may be repealed or altered by the Parliaments of the States, until provision is made in that behalf by The Parliament of the Commonwealth.

Inconsistency of laws.

101. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Powers to be exercised by Governors of States.

102. All powers and functions which are, at the establishment of the Commonwealth, vested in the Governors of the colonies respectively, shall, so far as the same are capable of being exercised after the establishment of the Commonwealth, in relation to the government of the States, continue to be vested in the Governors of the States respectively.

Saving of Constitutions.

103. Subject to the provisions of this Constitution, the constitutions of the several States of the Commonwealth shall continue as at the establishment of the Commonwealth, until altered by or under the authority of the Parliaments thereof in accordance with the provisions of their respective constitutions.

Application of provisions referring to Governor.

104. The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other the chief executive officer or administrator of the government of the State, by whatever title he is designated.

A State may cede any of its territory.

105. The Parliament of a State may at any time surrender any part of the State to the Commonwealth, and upon such surrender and the acceptance thereof by the Commonwealth such part of the State shall become and be subject to the exclusive jurisdiction of the Commonwealth.

States not to levy import or export duties, except for certain purposes:

106. After uniform duties of customs have been imposed, a State shall
not levy any impost or charge on imports or exports, except such as may be necessary for executing the inspection laws of the State; and the net produce of all imposts and charges imposed by a State on imports or exports shall be for the use of the Commonwealth; and any such inspection laws may be annulled by The Parliament of the Commonwealth.

Nor maintain forces, nor tax the property of the Commonwealth.

107. A State shall not, without the consent of The Parliament of the Commonwealth, raise or maintain any military or naval force, or impose any tax on property of any kind belonging to the Commonwealth; nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

State not to coi money:

108. A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

Nor prohibit any religion.

109. A State shall not make any law prohibiting the free exercise of any religion.

Protection of citizens of the Commonwealth.

110. A State shall not make or enforce any law abridging any privilege or immunity of citizens of other States of the Commonwealth, nor shall a State deny to any person, within its jurisdiction, the equal protection of the laws.

Recognition of acts of State or various States.

111. Full faith and credit shall be given, throughout the Commonwealth, to the laws, the public acts and records, and the judicial proceedings, of the States.

Protection of States from invasion and domestic violence.

112. The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of a State, against domestic violence.

Custody of offenders against laws of the Commonwealth.

113. Every State shall make provision for the detention and punishment in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and The Parliament of the Commonwealth may make laws to give effect to this provision.

CHAPTER VI.

NEW STATES.

New States may be admitted to the Commonwealth.

114. The Parliament may from time to time admit to the Commonwealth any of the existing colonies of [name the existing colonies which have not adopted the Constitution] and may from time to time establish new States,
and may upon such admission or establishment make and impose such terms and conditions, including the extent of representation in either House of The Parliament, as it thinks fit.

Provisional government of territories.

115. The Parliament may make such laws as it thinks fit for the provisional administration and government of any territory surrendered by any State to and accepted by the Commonwealth, or any territory placed by the Queen under the authority of and accepted by the Commonwealth, or of

Alteration of limits of States.

116. The Parliament of the Commonwealth may, from time to time, with the consent of the Parliament of a State, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed to, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

Saving of rights of States.

117. A new State shall not be formed by separation of territory from a State without the consent of the Parliament thereof, nor shall a State be formed by the union of two or more States or parts of States, or the limits of a State be altered, without the consent of the Parliament or Parliaments of the State or States affected.

CHAPTER VII.

MISCELLANEOUS.

Seat of Government.

118. The seat of Government of the Commonwealth shall be determined by The Parliament.

Until such determination The Parliament shall be summoned to meet at such place within the Commonwealth as a majority of the Governors of the States, or, in the event of an equal division of opinion amongst the Governors, as the Governor-General shall direct.

Power to Her Majesty to authorise Governor-General to appoint deputies

119. The Queen may authorise the Governor-General from time to time to appoint any person or any persons jointly or severally to be his deputy or deputies within any part or parts of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such of the powers and functions of the Governor-General as he deems it necessary or expedient to assign to such deputy or deputies, subject to any limitations or directions expressed or given by the Queen; but the appointment of such deputy or deputies shall not affect the exercise by the Governor-General
himself of any power or function.

Aborigines of Australia not to be counted in reckoning population.

120. In reckoning the numbers of the people of a State or other part of the Commonwealth aboriginal natives shall not be counted.

CHAPTER VII.

AMENDMENT OF THE CONSTITUTION.

Mode of amending the Constitution.

121. The provisions of this Constitution shall not be altered except in the following manner:—

Any proposed law for the alteration thereof must be pawed by an absolute majority of the Senate and of the House of Representatives, and shall thereupon be submitted in each State to the electors qualified to vote for the election of members of the-House of Representatives, not less than two nor more than six calendar months after the passage through both Houses of the proposed law.

The vote shall be taken in such manner as The Parliament prescribes.

And if a majority of the States and a majority of the electors voting approve the proposed law, it shall be presented to the Governor-General for the Queen's assent. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth only one-half the votes for and against the proposed law shall be counted in any State in which adult suffrage prevails.

But an alteration by which the proportionate representation of any State in either House of The Parliament or the minimum number of representatives of a State in the House of Representatives, is diminished, shall not become law without the consent of the majority of the electors voting in that State.

THE SCHEDULE.

OATH.

I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her Heirs and successors according to law. SO HELP ME GOD!

AFFIRMATION.

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her Heirs and successors according to law.

(NOTE.- The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be Substituted from time to time.)